

# HOUSE JOURNAL

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EIGHTY-THIRD LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

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THIRTY-NINTH DAY — TUESDAY, MARCH 26, 2013

The house met at 9 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 94).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Absent — Burnam; Reynolds.

The speaker recognized Representative Taylor who introduced Sam Dennis, senior pastor, ParkwayHills Baptist Church, Plano, who offered the invocation.

The speaker recognized Representative D. Miller who led the house in the pledges of allegiance to the United States and Texas flags.

### REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Workman and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

### CAPITOL PHYSICIAN

The speaker recognized Representative Isaac who presented Dr. Fred Merian of Wimberly as the "Doctor for the Day."

The house welcomed Dr. Merian and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Stickland in the chair)

#### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

#### **HCR 93 - ADOPTED**

**(by Perry and Frullo)**

Representative Perry moved to suspend all necessary rules to take up and consider at this time **HCR 93**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 93**, In memory of Steven Jones of Lubbock.

**HCR 93** was unanimously adopted by a rising vote.

On motion of Representative Frullo, the names of all the members of the house were added to **HCR 93** as signers thereof.

#### **INTRODUCTION OF GUESTS**

The chair recognized Representative Perry who introduced family members of Steven Jones.

#### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of important business:

Reynolds on motion of White.

#### **HR 1105 - ADOPTED**

**(by Frullo and Perry)**

Representative Frullo moved to suspend all necessary rules to take up and consider at this time **HR 1105**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1105**, Recognizing March 26, 2013, as Lubbock Day at the State Capitol.

**HR 1105** was adopted.

On motion of Representative Perry, the names of all the members of the house were added to **HR 1105** as signers thereof.

#### **INTRODUCTION OF GUESTS**

The chair recognized Representative Frullo who introduced a delegation from Lubbock.

**HR 403 - ADOPTED**  
**(by Callegari, Zerwas, et al.)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 403**.

The motion prevailed.

The following resolution was laid before the house:

**HR 403**, Congratulating the Katy High School football team on winning the 2012 UIL 5A Division 2 state championship.

**HR 403** was adopted.

On motion of Representatives Murphy and Zerwas, the names of all the members of the house were added to **HR 403** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Callegari who introduced coaches and players of the Katy High School football team.

**HR 397 - ADOPTED**  
**(by Callegari, Zerwas, et al.)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 397**.

The motion prevailed.

The following resolution was laid before the house:

**HR 397**, Congratulating Katy High School head football coach Gary Joseph on being named the 2012 National Coach of the Year by American Football Monthly.

**HR 397** was adopted.

On motion of Representatives Fletcher, Murphy, and Zerwas, the names of all the members of the house were added to **HR 397** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Callegari who introduced Gary Joseph and members of his family.

**HR 639 - PREVIOUSLY ADOPTED**  
**(by Strama)**

The chair laid out the following previously adopted resolution:

**HR 639**, Recognizing March 26, 2013, as Texas Partnership for Out of School Time Day at the State Capitol.

On motion of Representative Howard, the names of all the members of the house were added to **HR 639** as signers thereof.

**HR 643 - PREVIOUSLY ADOPTED**  
**(by Smith and Raymond)**

The chair laid out the following previously adopted resolution:

**HR 643**, Commending artist Ken Pridgeon of Baytown for painting portraits of fallen service members from the Lone Star State and donating the prints to their families.

On motion of Representatives Raymond and Smith, the names of all the members of the house were added to **HR 643** as signers thereof.

**INTRODUCTION OF GUEST**

The chair recognized Representative Smith who introduced Ken Pridgeon.

(Burnam now present)

**HR 1068 - ADOPTED**  
**(by Kolkhorst)**

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 1068**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1068**, Recognizing March 26, 2013, as Burleson County Day at the State Capitol.

**HR 1068** was adopted.

On motion of Representative Kleinschmidt, the names of all the members of the house were added to **HR 1068** as signers thereof.

(Speaker in the chair)

**PARLIAMENTARY INQUIRY**

REPRESENTATIVE TAYLOR: Can I file another amendment to this bill?

SPEAKER STRAUS: Mr. Taylor, there's a calendar rule on this bill.

TAYLOR: Okay, so the calendar rule would prevent me from filing another amendment to this bill at this time, is that correct?

SPEAKER: That's correct.

TAYLOR: Okay. Yesterday, I noticed two committee chairs come and ask for an exemption to the five-day posting rule. So, they needed to do that. Why?

SPEAKER: Because it was a rule suspension that was called for in the rules.

TAYLOR: And so, a bill that was heard without having been posted five days ahead of time would be out of order?

SPEAKER: Mr. Taylor, we'd have to take a look at the situation—not necessarily.

TAYLOR: Okay, but those committee chairmen, I think Chairman Cook and Chairman Hilderbran yesterday, acted under the rules—if they had not done that, the bills that they'd heard in committee would have been out of order, correct?

SPEAKER: They may have heard the bills in some other way, so I can't answer your question.

TAYLOR: Okay, so if a bill is heard for the first time without having been posted, then it would be in violation of the five-day posting rule.

SPEAKER: Not necessarily. Senate bills can be referred.

TAYLOR: Okay, but if it's a house bill, it must be posted five days before it's heard?

SPEAKER: Not necessarily, Mr. Taylor.

TAYLOR: Okay, well then in what instances does it not have to be posted?

SPEAKER: It could be posted for a formal meeting, it could be an announcement from the floor.

TAYLOR: But wouldn't that be the house assenting to not having the five-day posting rule?

SPEAKER: It could also be posted for more than two hours, in a formal meeting.

TAYLOR: Right, but a formal meeting—the five-day posting rule, as I understand it, because of the requirement in the rules for—conspicuously posted, so that the public can know about the meeting?

SPEAKER: Mr. Taylor, I'd be happy to talk to you about any specific bill or situation that you have in mind.

TAYLOR: No, I just want the members to be clear—we do have calendar rules in the rule book, right? We have calendar rules?

SPEAKER: Yes.

TAYLOR: And those that are not in compliance with the calendar rule are ruled out of order, are they not?

SPEAKER: That's possible.

TAYLOR: Okay, sometimes they have to follow the calendar rule and sometimes they don't have to follow the calendar rules?

SPEAKER: Mr. Taylor, amendments to amendments can be filed.

TAYLOR: Right, but going back to bills, the rules in the rules book that deal with calendars apply to bills, correct?

SPEAKER: Mr. Taylor, the calendar rule on this bill was not a rule from the Calendars Committee. It was a suspension on the floor of the house rules.

### **REMARKS ORDERED PRINTED**

Representative Taylor moved to print remarks between Speaker Straus and Representative Taylor.

The motion prevailed.

**HR 807 - PREVIOUSLY ADOPTED**  
**(by Dukes)**

The chair laid out the following previously adopted resolution:

**HR 807**, Honoring the National Women of Achievement–Austin Metroplex Chapter on the occasion of its 25th anniversary.

(Cortez in the chair)

On motion of Representative McClendon, the names of all the members of the house were added to **HR 807** as signers thereof.

(Speaker in the chair)

**GENERAL STATE CALENDAR**  
**HOUSE BILLS**  
**SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 5 ON SECOND READING**  
**(by Aycock, Deshotel, J. Davis, Villarreal, Callegari, et al.)**

**CSHB 5**, A bill to be entitled An Act relating to public school accountability, including assessment, and curriculum requirements.

**Amendment No. 1**

Representative Aycock offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 8

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 1, line 17, between "the" and "foundation", insert "distinguished level of achievement under the".

(2) On page 2, between lines 19 and 20, add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. (a) Section 28.006(j), Education Code, is amended to read as follows:

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.301(c)(4) [~~39.301(e)(5)~~] and may implement interventions or sanctions under Subchapter E, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(b) This section applies beginning with the 2014-2015 school year.

(3) On page 4, line 24, between "(b-14)," and "(c-1)", insert "(b-15)".

(4) On page 11, between lines 25 and 26, insert the following:

(b-15) A student may satisfy an elective credit required under Subsection (b-1)(6) with a credit earned to satisfy the additional curriculum requirements for the distinguished level of achievement under the foundation high school program or an endorsement under Subsection (c-1). This subsection may apply to more than one elective credit.

(5) On page 12, line 26, after the period, add the following:  
Each school district must make available to high school students courses that allow a student to complete the curriculum requirements for at least one endorsement under Subsection (c-1).

(6) On page 23, line 25, between "Section 39.025" and the period, insert "and may not be used as a condition for graduation".

(7) On page 30, line 1, strike "[~~adopted under Section 39.023(e)~~] may" and substitute "shall [adopted under Section 39.023(e) may]".

(8) On page 30, lines 8-9, strike "[~~a preliminary American College Test (ACT) assessment~~] may" and substitute "shall [a preliminary American College Test (ACT) assessment may]".

(9) On page 28, line 13, between "(a-1)," and "(b),", insert "(a-2),".

(10) On page 30, between lines 21 and 22, insert the following:

(a-2) This subsection applies only to a student who, before entering the ninth grade in the 2011-2012 or 2012-2013 school year, completed a course before the 2011-2012 school year in a subject for which the student received high school credit and for which an end-of-course assessment instrument under Section 39.023 is required during the 2013-2014 school year or a later school year, such as Algebra I. The commissioner shall determine a method by which a student's satisfactory performance on an end-of-course assessment instrument for a course in the same general subject area in which the student is enrolled during or after the ninth grade, such as geometry, shall be used to satisfy the requirements for the end-of-course assessment instrument for the course completed before entering the ninth grade and before the 2011-2012 school year. The commissioner shall adopt rules as necessary for the administration of this section. This subsection expires September 1, 2016 [~~In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end of course assessment instruments to graduate under the recommended high school program].~~

(11) On page 34, lines 12 and 13, strike "Section 39.053(c), Education Code, is amended" and substitute "Section 39.053, Education Code, is amended by amending Subsection (c) and adding Subsection (d-2)".

(12) On page 35, between lines 23 and 24, insert the following:

(d-2) An end-of-course assessment instrument adopted under Section 39.023(c-2) may not be used as an indicator of student achievement in determining the performance rating of a school district or campus under Section 39.054.

(13) On page 43, line 18, strike "2013-2014" and substitute "2014-2015".

(14) On page 44, line 14, strike "2013-2014" and substitute "2014-2015".

(15) On page 44, line 27, strike "2013-2014" and substitute "2014-2015".

(16) On page 45, line 16, strike "2013-2014" and substitute "2014-2015".

(17) Strike page 68, line 24, through page 69, line 5, and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. (a) Effective September 1, 2013, Section 39.025(a-3), Education Code, is repealed.

(b) Effective September 1, 2014, the following provisions of the Education Code are repealed:

- (1) Section 28.002(q);
- (2) Sections 28.025(b-6), (b-8), and (g);
- (3) Section 39.0822; and
- (4) Sections 39.0823(b) and (c).

(18) On page 69, between lines 21 and 22, add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. Not later than October 1, 2013, the commissioner of education shall adopt rules to administer Sections 39.025(a-1) and (a-2), Education Code, as amended by this Act.

(19) Renumber SECTIONS of the bill appropriately.

## **Amendment No. 2**

Representatives Branch, E. Rodriguez, and Villarreal offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Aycock (page 8 of the amendment packet) on page 4 of the amendment, by striking line 8 and substituting the following:

(19) Add the following appropriately numbered SECTIONS to the bill:

SECTION \_\_\_\_\_. (a) Section 7.010(c), Education Code, is amended to read as follows:

(c) The electronic student records system must permit an authorized state or district official or an authorized representative of an institution of higher education to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

- (1) course or grade completion;
- (2) teachers of record;
- (3) assessment instrument results;

(4) receipt of special education services, including placement in a special education program and the individualized education program developed; and

(5) personal graduation plan as described by Section 28.0212 or 28.02121, as applicable.

(b) This section applies beginning with the 2014-2015 school year.

SECTION \_\_\_\_\_. (a) Section 12.111(b), Education Code, is amended to read as follows:

(b) A charter holder of an open-enrollment charter school shall consider including in the school's charter a requirement that the school develop and administer personal graduation plans under Sections [Section] 28.0212 and 28.02121.

(b) This section applies beginning with the 2014-2015 school year.

SECTION \_\_\_\_\_. (a) The heading to Section 28.0212, Education Code, is amended to read as follows:

Sec. 28.0212. JUNIOR HIGH OR MIDDLE SCHOOL PERSONAL GRADUATION PLAN.

(b) This section applies beginning with the 2014-2015 school year.

SECTION \_\_\_\_\_. (a) Sections 28.0212(a) and (b), Education Code, are amended to read as follows:

(a) A principal of a junior high or middle school shall designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan for each student enrolled in the [a] junior high or [r] middle[~~-or high~~] school who:

(1) does not perform satisfactorily on an assessment instrument administered under Subchapter B, Chapter 39; or

(2) is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level nine, as determined by the district.

(b) A personal graduation plan under this section must:

(1) identify educational goals for the student;

(2) include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;

(3) include an intensive instruction program described by Section 28.0213;

(4) address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and

(5) provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, on-line instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

(b) This section applies beginning with the 2014-2015 school year.

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.02121 to read as follows:

Sec. 28.02121. HIGH SCHOOL PERSONAL GRADUATION PLAN. (a) The agency, in consultation with the Texas Workforce Commission and the Texas Higher Education Coordinating Board, shall prepare and make available to each school district in English and Spanish information that explains the advantages of the distinguished level of achievement described by Section 28.025(b-14) and each endorsement described by Section 28.025(c-1).

(b) A school district shall publish the information provided to the district under Subsection (a) on the Internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students.

(c) A principal of a high school shall designate a guidance counselor or school administrator to review personal graduation plan options with each student entering grade nine together with that student's parent or guardian. The personal graduation plan options reviewed must include the distinguished level of achievement described by Section 28.025(b-14) and the endorsements described by Section 28.025(c-1). Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a personal graduation plan for the student.

(d) A personal graduation plan under Subsection (c) must identify a course of study that:

(1) promotes:

(A) college and workforce readiness; and

(B) career placement and advancement; and

(2) facilitates the student's transition from secondary to postsecondary education.

(e) A school district may not prevent a student and the student's parent or guardian from confirming a personal graduation plan that includes pursuit of a distinguished level of achievement or an endorsement.

(f) A student may amend the student's personal graduation plan after the initial confirmation of the plan under this section.

(b) This section applies beginning with the 2014-2015 school year.

SECTION \_\_\_\_\_. (a) Section 39.235(b), Education Code, is amended to read as follows:

(b) Before awarding a grant under this section, the commissioner may require a campus or school district to:

(1) obtain local matching funds; or

(2) meet other conditions, including developing a personal graduation plan under Section 28.0212 for each student enrolled at the campus or in a district middle or [ ] junior high [~~or high~~] school.

(b) This section applies beginning with the 2014-2015 school year.

(2) On page 69, line 4, strike "and".

(3) On page 69, line 5, between "(2)" and "Sections 28.025(b-6)", insert the following:

Sections 28.0212(e) and (g); and

(3)

(20) Renumber SECTIONS of the bill appropriately.

### **Amendment No. 3**

Representative Martinez Fischer offered the following substitute amendment for Amendment No. 2:

Amend Amendment No. 2 to **CSHB 5** by E. Rodriguez (page 160 of the amendment packet) on page 4 of the amendment, line 9, after the period, by inserting "If a student amends the student's personal graduation plan, the school shall send written notice to the student's parents regarding the change."

Amendment No. 3 was adopted.

Amendment No. 2, as substituted, was adopted.

#### **Amendment No. 4**

Representative Martinez Fischer offered the following amendment to Amendment No. 1:

Amend the Aycock amendment, as amended by Martinez Fischer and E. Rodriguez, on page 3, line 16, by inserting, after the underlined period, the following:

The information must contain an explanation:

(1) concerning the benefits of choosing a high school personal graduation plan that includes the distinguished level of achievement under the foundation high school program and includes one or more endorsements to enable the student to achieve a class rank in the top ten percent for students at the campus; and

(2) that encourages parents, to the greatest extent practicable, to have the student choose a high school personal graduation plan described by Subsection (1).

Amendment No. 4 was adopted.

Amendment No. 1, as amended, was adopted.

#### **Amendment No. 5**

Representative McClendon offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 16

Amend **CSHB 5** (house committee report) as follows:

(1) Strike the recital to SECTION 2 (page 2, lines 1-2) and substitute the following:

SECTION 2. (a) Sections 28.002(a) and (f), Education Code, are amended to read as follows:

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

(A) English language arts;

(B) mathematics;

(C) science; ~~and~~

(D) social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and

(E) adult responsibility education; and

(2) an enrichment curriculum that includes:

- (A) to the extent possible, languages other than English;
- (B) health, with emphasis on the importance of proper nutrition and exercise;
- (C) physical education;
- (D) fine arts;
- (E) career and technology education;
- (F) technology applications; and
- (G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0028 to read as follows:

Sec. 28.0028. ADVISORY PANEL REQUIRED TO DEVELOP CURRICULUM FOR ADULT RESPONSIBILITY. (a) Not later than January 1, 2014, the agency shall establish an advisory panel under this section to develop the required foundation curriculum to teach students skills in social, emotional, and behavioral interaction to prepare students for adult responsibility. A primary purpose of the adult responsibility curriculum is to teach students advanced methods of thinking, speaking, learning, and reasoning, including methods for:

- (1) effective, nonviolent communication;
- (2) problem solving;
- (3) setting appropriate boundaries and priorities; and
- (4) creative decision making.

(b) The commissioner shall appoint members to the advisory panel after consulting with the lieutenant governor, speaker of the house of representatives, and the chairs of standing committees of the senate and the house of representatives with primary jurisdiction over public education. The advisory panel shall consist of nine members as follows:

- (1) three members who have professional or practical expertise or experience in social and emotional development and education;
- (2) three members who are active educators; and
- (3) three members who are business representatives or members of the community.

(c) The appointed members of the advisory panel serve staggered three-year terms. The commissioner shall appoint the initial members to a three-year term. Following the initial term, the commissioner shall appoint the members to terms of one, two, or three years as necessary so that one-third of the appointed advisory panel members' terms expire each year.

(d) The commissioner shall designate one member of the advisory panel as the presiding officer.

(e) A member of the advisory panel serves on a voluntary basis without compensation.

(f) The advisory panel may begin meeting after the commissioner appoints at least five members to the panel.

(g) Not later than January 1, 2015, the advisory panel shall develop the curriculum as required by this section and report to the commissioner and the legislature as provided by this subsection. The report must include recommendations regarding:

(1) whether the adult responsibility curriculum should be incorporated into existing classes or provided in separate classes before, during, or after the school day;

(2) the professional requirements for educators who provide adult responsibility curriculum instruction;

(3) appropriate testing practices for measuring student progress in the adult responsibility curriculum; and

(4) other considerations as determined appropriate by the advisory panel.

(h) The commissioner shall report the recommendations provided under Subsection (g) to the State Board of Education.

(i) Not later than September 1, 2015, the State Board of Education by rule shall revise the essential knowledge and skills as provided by Section 28.002(c) to include the adult responsibility curriculum developed under this section based on the recommendations of the advisory panel under Subsection (g). The State Board of Education shall require school districts to provide instruction in the adult responsibility curriculum for:

(1) kindergarten through grade five beginning with the 2016-2017 school year;

(2) grade six through grade eight beginning with the 2018-2019 school year; and

(3) grade nine through grade 12 beginning with the 2020-2021 school year.

(j) The advisory panel shall deliver a biennial report to the commissioner and the legislature that:

(1) assesses the state's progress in meeting the goals stated in the curriculum plans developed under this section; and

(2) recommends legislative action to assist the state in meeting those goals.

(k) This section expires September 1, 2022.

Representative Aycock moved to table Amendment No. 5.

The motion to table prevailed by (Record 95): 97 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto;

Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Perez; Pickett; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds.

Absent — Nevárez; Oliveira.

### STATEMENT OF VOTE

When Record No. 95 was taken, my vote failed to register. I would have voted yes.

Nevárez

#### Amendment No. 6

Representative Bell offered the following amendment to **CSHB 5**:

Floor Packet Page No. 22

Amend **CSHB 5** (house committee printing) on page 2 by striking lines 1-17 and substituting the following:

SECTION 2. (a) Section 28.002, Education Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) A school district may offer courses for local credit in addition to those in the required curriculum. The State Board of Education shall be flexible in approving a course for credit for high school graduation under this subsection. 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 and community leaders to develop and provide the courses; and

(2) the course or other activity allows students to enter:

(A) a career or technology training program in the district's region of the state;

(B) an institution of higher education without remediation;

(C) an apprenticeship training program; or

(D) an internship required as part of accreditation toward an industry-recognized credential or certificate for course credit.

(f-1) Each school district shall annually report to the agency the names of the courses, programs, institutions of higher education, and internships in which the district's students have enrolled under Subsection (f). The agency shall make available information provided under this subsection to other districts.

Amendment No. 6 was adopted.

**Amendment No. 7**

Representative J. Rodriguez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 24

Amend **CSHB 5** (house committee report) as follows:

(1) On page 2, line 1, strike "Section 28.002(f), Education Code, is", and substitute "Sections 28.002(c) and (f), Education Code, are".

(2) On page 2, between lines 2 and 3, insert the following:

(c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course.

Amendment No. 7 was adopted.

**Amendment No. 8**

Representative Burnam offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 25

Amend **CSHB 5** as follows:

(1) In SECTION 2 of the bill, on page 2, line 11, between "business" and "and", insert ", labor".

(2) In SECTION 5 of the bill, on page 12, line 26, between "business" and "and", insert ", labor".

Amendment No. 8 was adopted. (Laubenberg, Leach, Phillips, Sanford, Springer, and E. S. Turner recorded voting no.)

**Amendment No. 9**

Representatives E. Rodriguez and Branch offered the following amendment to **CSHB 5**:

Floor Packet Page No. 27

Amend **CSHB 5** (house committee printing) as follows:

(1) Strike page 2, line 20, through page 4, line 18, and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. (a) Section 28.014, Education Code, is amended to read as follows:

Sec. 28.014. COLLEGE PREPARATORY COURSES. (a) Each school district shall partner with at least one institution of higher education to develop and provide ~~[The commissioner of education and the commissioner of higher education shall develop and recommend to the State Board of Education for adoption under Section 28.002 the essential knowledge and skills of]~~ courses in college preparatory mathematics ~~[, science, social studies,]~~ and English language arts. The courses must be designed:

(1) for students at the 12th grade level whose performance on:

(A) ~~[who do not meet college readiness standards on]~~ an end-of-course assessment instrument required under Section 39.023(c) or an end-of-course assessment instrument adopted under Section 39.023(c-2) does not meet college readiness standards; or

(B) coursework, a college entrance examination, or an assessment instrument designated under Section 51.3062(c) indicates that the student is not ready to perform entry-level college coursework; and

(2) to prepare students for success in entry-level college courses.

(b) A course developed under this section must be provided:

(1) on the campus of the high school offering the course; or

(2) as an online course through an institution of higher education with which the school district partners as provided by Subsection (a).

(c) Appropriate faculty of each high school offering courses under this section and appropriate faculty of each institution of higher education with which the school district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations. The commissioner of education, in coordination with the commissioner of higher education, may adopt rules to administer this subsection.

(d) Each school district shall provide a notice to each district student to whom Subsection (a) applies and the student's parent or guardian regarding the benefits of enrolling in a course under this section.

(e) A student who successfully completes an English language arts [a] course developed under this section may use the credit earned in the course toward satisfying the advanced English language arts [applicable mathematics or science] curriculum requirement for the foundation [recommended or advanced] high school program under Section 28.025(b-1)(1) [28.025]. A student who successfully completes a mathematics course developed under this section may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Section 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Section 28.025(b-1)(2).

(f) A course provided under this section may be offered for dual credit at the discretion of the institution of higher education with which a school district partners under this section.

(g) Each school district, in consultation with each institution of higher education with which the district partners, shall develop or purchase ~~(e) The agency, in consultation with the Texas Higher Education Coordinating Board, shall adopt an end of course assessment instrument for each course developed~~

~~under this section to ensure the rigor of the course. A school district shall, in accordance with State Board of Education rules, administer the end of course assessment instrument to a student enrolled in a course developed under this section. Each school district shall adopt a policy that requires a student's performance on the end of course assessment instrument to account for 15 percent of the student's final grade for the course. A student's performance on an end of course assessment instrument administered under this subsection may be used, on a scale of 0-40, in calculating whether the student satisfies the graduation requirements established under Section 39.025.~~

~~[(d) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end of course assessment instrument administered under Subsection (e) to be used for purposes of Section 51.3062. The questions must be developed in a manner consistent with any college readiness standards adopted under Sections 39.223 and 51.3062.~~

~~[(e) The State Board of Education shall adopt] instructional materials for a course developed under this section consistent ~~[in accordance]~~ with Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.~~

~~[(h) ~~(f)~~] To the extent applicable, a district ~~[the commissioner]~~ shall draw from curricula and instructional materials developed under Section ~~[Sections]~~ 28.008 ~~[and 61.0763]~~ in developing a course and related instructional materials under this section. A ~~[Not later than September 1, 2010, the State Board of Education shall adopt essential knowledge and skills for each course developed under this section. The State Board of Education shall make each]~~ course developed under this section and the related instructional materials shall be made available to students ~~[school districts]~~ not later than the 2014-2015 school year. ~~[As required by Subsection (e), a school district shall adopt a policy requiring a student's performance on an end of course assessment instrument administered under that subsection to account for 15 percent of the student's grade for a course developed under this section not later than the 2014-2015 school year.]~~ This subsection expires September 1, 2015.~~

(2) On page 4, line 19, strike "2014-2015" and substitute "2013-2014".

(3) On page 20, between lines 2 and 3, insert the following appropriately numbered SECTIONS:

SECTION \_\_\_\_\_. (a) Section 31.0211(c), Education Code, is amended to read as follows:

(c) Subject to Subsection (d), funds allotted under this section may be used to:

(1) purchase:

(A) materials on the list adopted by the commissioner, as provided by Section 31.0231;

(B) instructional materials, regardless of whether the instructional materials are on the list adopted under Section 31.024;

(C) consumable instructional materials, including workbooks;

(D) instructional materials for use in bilingual education classes, as provided by Section 31.029;

(E) instructional materials for use in college preparatory courses under Section 28.014, as provided by Section 31.031;

(F) supplemental instructional materials, as provided by Section 31.035;

(G) [~~F~~] state-developed open-source instructional materials, as provided by Subchapter B-1;

(H) [~~G~~] instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011; and

(I) [~~H~~] technological equipment necessary to support the use of materials included on the list adopted by the commissioner under Section 31.0231 or any instructional materials purchased with an allotment under this section; and

(2) pay:

(A) for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use; and

(B) the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

(b) This section applies beginning with the 2014-2015 school year.

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.031 to read as follows:

Sec. 31.031. COLLEGE PREPARATORY INSTRUCTIONAL MATERIALS. (a) A school district may purchase with the district's instructional materials allotment or otherwise acquire instructional materials for use in college preparatory courses under Section 28.014.

(b) The commissioner shall adopt rules regarding the purchase of instructional materials under this section.

(b) This section applies beginning with the 2014-2015 school year.

(4) On page 29, line 20, between "(a-1)" and "The" insert the following:

A student enrolled in a college preparatory course under Section 28.014 who satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c) administered at the end of the college preparatory course satisfies the requirements concerning an end-of-course assessment in an equivalent course as prescribed by Subsection (a).

(5) On page 34, lines 12-13, strike "Section 39.053(c), Education Code, is amended" and substitute "Section 39.053, Education Code, is amended by amending Subsection (c) and adding Subsection (c-1)".

(6) On page 35, between lines 23 and 24, insert the following:

(c-1) The commissioner by rule shall determine a method by which a student's performance may be included in determining the performance rating of a school district or campus under Section 39.054 if, before the student graduates, the student:

(1) satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or

(2) performs satisfactorily on an assessment instrument under Section 39.023(c), notwithstanding Subsection (d).

(7) On page 52, lines 4-5, strike "Section 51.3062(q-1), Education Code, is amended" and substitute "Section 51.3062, Education Code, is amended by amending Subsection (q-1) and adding Subsection (q-2)".

(8) On page 52, between lines 14 and 15, insert the following:

(q-2) A student who successfully completes a college preparatory course under Section 28.014 is exempt from the requirements of this section with respect to the content area of the course. The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

(9) Renumber SECTIONS of the bill appropriately.

#### **Amendment No. 10**

Representative Isaac offered the following amendment to Amendment No. 9:

Amend Floor Amendment No. 9 (page 27 of the pre-filed amendments packet) as follows:

(1) On page 1, line 29, between "(2)" and "as", insert "through distance learning or".

(2) On page 1, line 29, between "course" and "through" insert "provided".

Amendment No. 10 was adopted.

Amendment No. 9, as amended, was adopted.

#### **Amendment No. 11**

Representative Patrick offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 35

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 2, line 20, strike "Sections 28.014(a), (c)," and substitute "Sections 28.014(c)".

(2) Strike page 2, line 22, through page 3, line 6.

(3) Strike page 21, line 24, through page 22, line 10, and renumber subsequent SECTIONS of the bill accordingly.

(4) On page 22, line 11, strike ", (c-2),".

(5) On page 23, line 12, strike "specified in this subsection and Subsection (c-2)".

(6) Strike page 23, line 14, through page 24, line 17, and substitute the following:

(c-3) In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:

(1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and

(2) the spring administration of end-of-course assessment instruments under Subsection (c) or an assessment instrument under Section 39.02611 to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instrument ~~instruments~~ in ~~English I,~~ English II, ~~and English III~~ must be permitted to occur at an earlier date.

(7) On page 24, lines 20-21, strike "Sections 39.0233(a) and (b), Education Code, are" and substitute "Section 39.0233(a), Education Code, is".

(8) On page 24, line 25, strike "Sections ~~Section~~ 39.023(c) and (c-2)" and substitute "Section 39.023(c)".

(9) On page 25, strike lines 3-14.

(10) Strike page 25, line 17, through page 28, line 11, and renumber subsequent SECTIONS of the bill accordingly.

(11) On page 31, strike lines 3-8 and substitute the following:

(a) ~~may~~ ~~shall~~ retake the assessment instrument. ~~[A student who fails to perform satisfactorily on an Algebra II or English III end-of-course assessment instrument under the college readiness performance standard, as provided under Section 39.024(b), may retake the assessment instrument. Any other student may retake an end-of-course assessment instrument for any reason.]~~ A student is

(12) On page 33, between lines 12 and 13, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02611 to read as follows:

Sec. 39.02611. ADDITIONAL OPTIONAL COLLEGE PREPARATION ASSESSMENT. (a) In addition to the college preparation assessment instruments authorized or required by Section 39.0261, the agency, in consultation with the Texas Higher Education Coordinating Board, shall coordinate the administration to a student at the student's option of an assessment designated under Section 51.3062(c) for purposes of determining the student's readiness to enroll in freshman-level academic coursework at an institution of higher education.

(b) If a student fails to satisfy the applicable college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f), the school district or open-enrollment charter school in which the student is enrolled may, in consultation with an institution of higher education, develop a plan to prepare the student for success in performing freshman-level academic coursework.

(c) A student's performance on an assessment instrument administered under this section may not be used:

(1) for the purpose of determining admission into an institution of higher education; or

(2) in determining a student's class rank for the purpose of high school graduation.

(b) This section applies beginning with the 2013-2014 school year.

(13) Strike page 33, line 13, through page 34, line 11, and renumber subsequent SECTIONS of the bill accordingly.

(14) On page 46, lines 18-19 and lines 23-25, strike "or on end-of-course assessment instruments adopted under Section 39.023(c-2)" each place it appears.

(15) On page 52, lines 4-5, strike "Section 51.3062(q-1), Education Code, is amended" and substitute "Section 51.3062, Education Code, is amended by amending Subsection (i) and adding Subsection (q-2)".

(16) On page 52, strike lines 6-16 and substitute the following:

(i) The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework, except that the institution may not require enrollment in developmental coursework with respect to a student [~~previously determined under Subsection (q-1) or~~] determined by any institution of higher education to have met college-readiness standards. An institution that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

(q-2) A student who satisfies the applicable college readiness benchmarks prescribed by the board under Subsection (f) on an assessment administered under Section 39.02611 is exempt from the requirements of this section with respect to the applicable content area. The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

(b) This section applies beginning with the 2013-2014 school year.

(17) On page 58, line 9, strike "51.3062(p), (q), or (q-1)" and substitute "51.3062(p) or [ ] (q) [~~or (q-1)~~]".

(18) Strike page 68, line 26, through page 69, line 1, and substitute the following:

- (1) Sections 39.024(b), (c), (d), (e), (f), (g), (h), and (i);
- (2) Section 39.0241(a-2);
- (3) Section 39.0242;
- (4) Section 39.025(a-2), (a-3), and (c-2);
- (5) Section 39.0822;
- (6) Sections 39.0823(b) and (c); and
- (7) Section 51.3062(q-1).

Amendment No. 11 was withdrawn.

### **Amendment No. 12**

Representative Gooden offered the following amendment to **CSHB 5**:

Floor Packet Page No. 39

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 3, lines 13-14, between "may" and "~~shall~~", insert "not".

(2) On page 22, line 21, strike "and may ~~shall~~" and substitute ". A school district may not ~~and shall~~".

Amendment No. 12 was withdrawn.

#### **Amendment No. 13**

Representative Martinez Fischer offered the following amendment to **CSHB 5**:

Floor Packet Page No. 40

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 3, lines 13-14, between "may" and "~~shall~~", insert "not".

(2) On page 22, line 21, strike "and may ~~shall~~" and substitute ". A school district may not ~~and shall~~".

Amendment No. 13 was withdrawn.

#### **Amendment No. 14**

Representatives Strama, Branch, and Burnam offered the following amendment to **CSHB 5**:

Floor Packet Page No. 41

Amend **CSHB 5** (house committee report) as follows:

(1) On page 4, line 23, between "(b-5)," and "(b-7)", insert "(b-6),".

(2) On page 5, strike lines 11-25 and substitute the following:

(b) A school district shall ensure that each student enrolls in the courses necessary to complete the curriculum requirements identified by the State Board of Education under Subsection (a) for the distinguished level of achievement under the foundation ~~[recommended or advanced]~~ high school program unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the foundation ~~[minimum]~~ high school program and the student:

(1) is at least 16 years of age;

(2) has completed two credits required for graduation in each subject of the foundation curriculum under Section 28.002(a)(1); or

(3) has failed to be promoted to the tenth grade one or more times as determined by the school district.

(3) On page 9, between lines 1 and 2, insert the following:

(b-6) Before a student's parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the foundation ~~[minimum]~~ high school program as provided by Subsection (b), a school district must provide written notice to the parent or person standing in

parental relation explaining the benefits of the distinguished level of achievement under the foundation [recommended] high school program. The notice shall be developed by the agency and must:

(1) be printed in English and Spanish; and

(2) require that the student's parent or person standing in parental relation to the student sign a confirmation of receipt and return the confirmation to the student's campus.

(4) On page 69, line 5, strike "Sections 28.025(b-6), (b-8)," and substitute "Sections 28.025(b-8)".

Representative Aycock moved to table Amendment No. 14.

The motion to table prevailed by (Record 96): 97 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Callegari; Capriglione; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Dutton; Eiland; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Guerra; Guillen; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Lozano; Miller, D.; Miller, R.; Morrison; Muñoz; Murphy; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Ritter; Rodriguez, E.; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Thompson, E.; Toth; Turner, E.S.; Villarreal; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Branch; Burnam; Canales; Carter; Coleman; Collier; Cortez; Davis, Y.; Dukes; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Gooden; Gutierrez; Hernandez Luna; Herrero; Howard; Isaac; Johnson; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Naishtat; Nevárez; Perez; Pickett; Riddle; Rodriguez, J.; Rose; Strama; Taylor; Thompson, S.; Turner, C.; Turner, S.; Villalba; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds.

Absent — Button.

### **Amendment No. 15**

Representative Patrick offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 35

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 2, line 20, strike "Sections 28.014(a), (c)," and substitute "Sections 28.014(c)".

(2) Strike page 2, line 22, through page 3, line 6.

(3) Strike page 21, line 24, through page 22, line 10, and renumber subsequent SECTIONS of the bill accordingly.

(4) On page 22, line 11, strike ", (c-2),".

(5) On page 23, line 12, strike "specified in this subsection and Subsection (c-2)".

(6) Strike page 23, line 14, through page 24, line 17, and substitute the following:

(c-3) In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:

(1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and

(2) the spring administration of end-of-course assessment instruments under Subsection (c) or an assessment instrument under Section 39.02611 to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instrument [~~instruments~~] in [~~English I,~~] English II[, ~~and English III~~] must be permitted to occur at an earlier date.

(7) On page 24, lines 20-21, strike "Sections 39.0233(a) and (b), Education Code, are" and substitute "Section 39.0233(a), Education Code, is".

(8) On page 24, line 25, strike "Sections [~~Section~~] 39.023(c) and (c-2)" and substitute "Section 39.023(c)".

(9) On page 25, strike lines 3-14.

(10) Strike page 25, line 17, through page 28, line 11, and renumber subsequent SECTIONS of the bill accordingly.

(11) On page 31, strike lines 3-8 and substitute the following:

(a) may [~~shall~~] retake the assessment instrument. [~~A student who fails to perform satisfactorily on an Algebra II or English III end-of-course assessment instrument under the college readiness performance standard, as provided under Section 39.024(b), may retake the assessment instrument. Any other student may retake an end-of-course assessment instrument for any reason.~~] A student is

(12) On page 33, between lines 12 and 13, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.02611 to read as follows:

Sec. 39.02611. ADDITIONAL OPTIONAL COLLEGE PREPARATION ASSESSMENT. (a) In addition to the college preparation assessment instruments authorized or required by Section 39.0261, the agency, in consultation with the Texas Higher Education Coordinating Board, shall coordinate the administration to a student at the student's option of an assessment designated under Section 51.3062(c) for purposes of determining the student's readiness to enroll in freshman-level academic coursework at an institution of higher education.

(b) If a student fails to satisfy the applicable college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f), the school district or open-enrollment charter school in which the student is enrolled may, in consultation with an institution of higher education, develop a plan to prepare the student for success in performing freshman-level academic coursework.

(c) A student's performance on an assessment instrument administered under this section may not be used:

(1) for the purpose of determining admission into an institution of higher education; or

(2) in determining a student's class rank for the purpose of high school graduation.

(b) This section applies beginning with the 2013-2014 school year.

(13) Strike page 33, line 13, through page 34, line 11, and renumber subsequent SECTIONS of the bill accordingly.

(14) On page 46, lines 18-19 and lines 23-25, strike "or on end-of-course assessment instruments adopted under Section 39.023(c-2)" each place it appears.

(15) On page 52, lines 4-5, strike "Section 51.3062(q-1), Education Code, is amended" and substitute "Section 51.3062, Education Code, is amended by amending Subsection (i) and adding Subsection (q-2)".

(16) On page 52, strike lines 6-16 and substitute the following:

(i) The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework, except that the institution may not require enrollment in developmental coursework with respect to a student [~~previously determined under Subsection (q-1) or~~] determined by any institution of higher education to have met college-readiness standards. An institution that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

(q-2) A student who satisfies the applicable college readiness benchmarks prescribed by the board under Subsection (f) on an assessment administered under Section 39.02611 is exempt from the requirements of this section with respect to the applicable content area. The commissioner of higher education by rule shall establish the period for which an exemption under this subsection is valid.

(b) This section applies beginning with the 2013-2014 school year.

(17) On page 58, line 9, strike "51.3062(p), (q), or (q-1)" and substitute "51.3062(p) or [ ] (q) [ ] or (q-1)".

(18) Strike page 68, line 26, through page 69, line 1, and substitute the following:

- (1) Sections 39.024(b), (c), (d), (e), (f), (g), (h), and (i);
- (2) Section 39.0241(a-2);
- (3) Section 39.0242;

- (4) Section 39.025(a-2), (a-3), and (c-2);
- (5) Section 39.0822;
- (6) Sections 39.0823(b) and (c); and
- (7) Section 51.3062(q-1).

(Ritter in the chair)

### **Amendment No. 16**

Representative Patrick offered the following amendment to Amendment No. 15:

Amend Floor Amendment No. 15 (page 35 of the pre-filed amendments packet) by adding the following appropriately numbered item to the bill and renumbering subsequent items accordingly:

( ) Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0243 to read as follows:

Sec. 39.0243. COLLEGE READINESS ASSESSMENT STUDY. (a) The agency and the Texas Higher Education Coordinating Board jointly shall conduct a study of the feasibility and costs of:

(1) assessing college readiness of public high school students by substituting the instruments designated for use by institutions of higher education in assessing students readiness to enroll in freshman-level academic coursework under Section 51.3062 for the Algebra II and English III end-of-course assessments used to measure college readiness under Section 39.024(b); and

(2) providing for a school district or open-enrollment charter school, in cooperation with an institution of higher education, to develop a college readiness preparation plan for students who do not demonstrate readiness to enroll in freshman-level academic course work.

Amendment No. 16 was adopted.

Amendment No. 15, as amended, was adopted.

### **Amendment No. 17**

Representative Patrick offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 43

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 4, line 23, between "(b-5)," and "(b-7)", insert "(b-6),".

(2) On page 9, between lines 1 and 2, insert the following:

(b-6) The State Board of Education by rule shall require that one or more credits offered in the required curriculum under Subsection (b-1) include a research writing component. [Before a student's parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the minimum high school program as provided by Subsection (b),

~~a school district must provide written notice to the parent or person standing in parental relation explaining the benefits of the recommended high school program. The notice shall be developed by the agency and must:~~

~~[(1) be printed in English and Spanish; and~~

~~[(2) require that the student's parent or person standing in parental relation to the student sign a confirmation of receipt and return the confirmation to the student's campus.]~~

(3) On page 22, lines 11-12, strike "Sections 39.023(c), (c-2), and (c-3), Education Code, are amended" and substitute "Section 39.023, Education Code, is amended by amending Subsections (c), (c-2), and (c-3) and adding Subsection (c-7)".

(4) On page 24, between lines 17 and 18, insert the following:

(c-7) The English II end-of-course assessment instrument required under Subsection (c) may assess only reading unless assessment of writing also is required by federal law.

(5) On page 69, line 5, strike "Sections 28.025(b-6), (b-8)," and substitute "Sections 28.025(b-8)".

Representative Aycock moved to table Amendment No. 17.

The motion to table prevailed by (Record 97): 128 Yeas, 16 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dutton; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Márquez; Martinez; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Murphy; Oliveira; Orr; Otto; Paddie; Parker; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler; Zerwas.

Nays — Burnam; Collier; Cortez; Dukes; González, M.; Hernandez Luna; Johnson; Lucio; Martinez Fischer; McClendon; Muñoz; Naishtat; Nevárez; Patrick; Rodriguez, J.; Strama.

Present, not voting — Mr. Speaker; Ritter(C).

Absent, Excused — Reynolds.

Absent — Anchia; Eiland; Rodriguez, E.

**Amendment No. 18**

Representative Bell offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 44

Amend **CSHB 5** (house committee report) as follows:

(1) On page 4, line 24, between "(b-14)," and "(c-1)," insert "(b-15),".

(2) On page 11, between lines 25 and 26, insert the following:

(b-15) The State Board of Education shall adopt rules to ensure that a student may comply with the curriculum requirements under Subsection (b-1) by successfully completing an advanced career and technical course, including a course that may lead to an industry-recognized credential or certificate or an associate degree.

**Amendment No. 19**

Representative Bell offered the following amendment to Amendment No. 18:

Amend Floor Amendment No. 18 to **CSHB 5** by Bell (on page 44 of the amendment packet) as follows:

(1) On page 1 of the amendment, strike lines 6-7 and substitute the following:

(b-15) The State Board of Education shall adopt rules to

(2) On page 1 of the amendment, line 9, strike "(b-1)" and substitute "(b-1)(6)".

Amendment No. 19 was adopted.

Amendment No. 18, as amended, was adopted.

**Amendment No. 20**

Representative Lozano offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 46

Amend **CSHB 5** (house committee report) as follows:

(1) On page 4, line 24, between "(b-14)," and "(c-1)," insert "(b-15),".

(2) On page 11, between lines 25 and 26, insert the following:

(b-15) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum requirements under Subsection (b-1) by successfully completing a dual credit course.

Amendment No. 20 was adopted.

**Amendment No. 21**

Representative Allen offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 49

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 4, line 24, between "(e-1)," and "(h)", insert "(e-2), (e-3),".

(2) On page 13, following line 27, insert the following:

(e-2) At the end of each school year, each school district shall report through the Public Education Information Management System (PEIMS) the number of district students who, during that school year, were:

- (1) enrolled in the foundation high school program;
- (2) pursuing the distinguished level of achievement under the foundation high school program as provided by Subsection (b-14); and
- (3) enrolled in a program to earn an endorsement described by Subsection (c-1).

(e-3) Information reported under Subsection (e-2) must be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29.

### **Amendment No. 22**

Representative Strama offered the following amendment to Amendment No. 21:

Amend Amendment No. 21 by Allen to **CSHB 5** (prefiled amendment packet page 13) as follows:

(1) In Item (2) add after (e-2) the following:

(e-3) The commissioner shall report for each campus the number of students that graduate under:

- (1) the foundation high school program;
- (2) the foundation high school program earning an endorsement under Section 28.025 (c-1) and which endorsement earned; and
- (3) the foundation high school program earning a distinguished level of achievement under Section 28.025 (b-14) and which endorsement earned.

(2) In Item (2) strike "(e-3)" and replace with "(e-4)".

(3) In Item (2) add "and (e-3)" after "under Subsection (e-2)".

Amendment No. 22 was withdrawn.

Amendment No. 21 was withdrawn.

### **Amendment No. 23**

Representative S. Turner offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 50

Amend **CSHB 5** (house committee report) by striking page 5, lines 11-25, and substituting the following:

(b) A school district shall ensure that each student enrolls in the courses necessary to complete the curriculum requirements identified by the State Board of Education under Subsection (a) for the distinguished level of achievement under the foundation ~~[recommended or advanced]~~ high school program unless the student and ~~[ ]~~ the student's parent or other person standing in parental relation to the student ~~[, and a school counselor or school administrator]~~ agree in writing signed by each party that the student should be permitted to take courses under the foundation ~~[minimum]~~ high school program ~~[and the student:~~

~~[(1) is at least 16 years of age;~~

~~(2) has completed two credits required for graduation in each subject of the foundation curriculum under Section 28.002(a)(1); or~~

~~(3) has failed to be promoted to the tenth grade one or more times as determined by the school district].~~

Amendment No. 23 was withdrawn.

#### **Amendment No. 24**

Representative Burnam offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 54

Amend **CSHB 5** (house committee printing) on page 5, line 14, after "program", by inserting: "and the courses necessary to complete the curriculum requirements established under Subsection (b-14) for the distinguished level of achievement under the foundation high school program, unless the student and the student's parent or legal guardian:

(1) are provided with the information required to be provided under Section 33.007(b) in a language in which the parent or legal guardian is proficient, or the information is conveyed to the parent or legal guardian by a translator provided by the school district who is proficient in the same language in which the parent or legal guardian is proficient.; and

(2) agree in writing signed by the student and the student's parent or legal guardian that each party understands that the student should be permitted to successfully complete the foundation high school program without meeting the requirements of the distinguished level of achievement established under Subsection (b-14)".

Amendment No. 24 was withdrawn.

#### **Amendment No. 25**

Representative J. Davis offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 59

Amend **CSHB 5** (house committee report) as follows:

(1) On page 7, line 13, strike "and" and substitute "[~~and~~"].

(2) On page 7, line 15, strike the period and substitute "; and".

(3) On page 7, between lines 15 and 16, insert the following:

(9) the curriculum requirements for at least one endorsement under Subsection (c-1).

(4) On page 11, line 21, after the semicolon, insert "and".

(5) On page 11, line 23, strike "; and" and substitute "":

(6) On page 11, strike lines 24 and 25.

Amendment No. 25 was withdrawn.

#### **Amendment No. 26**

Representative C. Turner offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 60

Amend **CSHB 5** (house committee report) as follows:

- (1) On page 7, line 3, strike "seven" and substitute "six and one-half".
- (2) On page 7, line 13, strike "and" and substitute "[and]".
- (3) On page 7, line 15, strike the period and substitute "; and".
- (4) On page 7, between lines 15 and 16, insert the following:  
(9) one-half credit in health under Section 28.002(a)(2)(B).

(5) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 28.004(e), Education Code, is amended to read as follows:

(e) Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the board of trustees with the advice of the local school health advisory council and must:

(1) present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;

(2) devote more attention to abstinence from sexual activity than to any other behavior;

(3) emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;

(4) direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; ~~[and]~~

(5) teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content; and

(6) contain only information verified or supported by research that is:

(A) conducted in compliance with accepted scientific methods;

(B) published in peer-reviewed journals, if appropriate;

(C) recognized as medically accurate, objective, and complete by mainstream professional organizations and agencies with expertise in the relevant field, including the federal Centers for Disease Control and Prevention and the United States Department of Health and Human Services; and

(D) proven through rigorous, scientific evaluation to achieve positive outcomes on measures of sexual risk behavior or its health consequences.

(b) This section applies beginning with the 2013-2014 school year.

Representative Aycock moved to table Amendment No. 26.

The motion to table prevailed by (Record 98): 95 Yeas, 50 Nays, 2 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Kacal; Keffer; King, K.; King, P.; King, S.; Kleinschmidt; Klick; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Miller, D.; Miller, R.; Morrison; Muñoz; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; Villarreal; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Carter; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guerra; Gutierrez; Hernandez Luna; Herrero; Howard; Isaac; Johnson; King, T.; Kolkhorst; Lucio; Márquez; Martínez; Martínez Fischer; McClendon; Menéndez; Miles; Moody; Naishtat; Nevárez; Oliveira; Perez; Pickett; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Thompson, S.; Turner, C.; Turner, S.; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Ritter(C).

Absent, Excused — Reynolds.

Absent — Fallon; Guillen.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 98. I intended to vote yes.

Guerra

I was shown voting no on Record No. 98. I intended to vote yes.

Kolkhorst

### Amendment No. 27

Representative Branch offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 63

Amend **CSHB 5** on page 8, line 14, between "requirements" and the period, by inserting "provided that each approved course prepares students to enter the workforce successfully or postsecondary education without remediation".

(Speaker pro tempore in the chair)

Amendment No. 27 was adopted.

### Amendment No. 28

Representatives Villarreal and Branch offered the following amendment to **CSHB 5**:

Floor Packet Page No. 64

Amend **CSHB 5** (house committee report) as follows:

(1) On page 9, strike lines 2 through 10 and substitute the following:

(b-7) The State Board of Education, in coordination with the Texas Higher Education Coordinating Board, shall adopt rules to ensure that a student may comply with the curriculum requirements under the foundation [minimum, recommended, or advanced] high school program or for an endorsement under Subsection (c-1) [for each subject of the foundation curriculum under Section 28.002(a)(1) and for languages other than English under Section 28.002(a)(2)(A)] by successfully completing appropriate courses in the core curriculum of an institution of higher education under Section 61.822. Notwithstanding Subsection (b-14) or (c) of this section, Section 39.025, or any other provision of this code and notwithstanding any school district policy, a student who has completed the core curriculum of an institution of higher education under Section 61.822, as certified by the institution in accordance with commissioner rule, is considered to have earned a distinguished level of achievement under the foundation high school program and is entitled to receive a high school diploma from the appropriate high school as that high school is determined in accordance with commissioner rule. A student who is considered to have earned a distinguished level of achievement under the foundation high school program under this subsection may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student completes the core curriculum.

(2) On page 15, line 4, strike "completed" and substitute "earned a distinguished level of achievement under [completed]".

(3) On page 15, line 9, immediately after the period, insert the following:

The student may apply for admission to an institution of higher education for the first semester or other academic term after the semester or other academic term in which the student earns a diploma through the pilot program.

Amendment No. 28 was adopted.

### **Amendment No. 29**

Representative Farney offered the following amendment to **CSHB 5**:

Floor Packet Page No. 67

Amend **CSHB 5** (house committee report) on page 9, by striking lines 11-22 and substituting the following:

(b-9) A school district may allow [The agency shall establish a pilot program allowing] a student [attending school in a county with a population of more than one million and in which more than 75 percent of the population resides in a single municipality] to satisfy the fine arts credit required under Subsection (b-1)(7) [(b-1)(3)(A)] by participating in a community-based fine arts program not provided by the school district in which the student is enrolled. The fine arts program may be provided on or off a school campus and outside the regular school day. The fine arts program must provide instruction in the essential knowledge and skills identified for the fine arts curriculum under Section

~~28.002(c). [Not later than December 1, 2010, the agency shall provide to the legislature a report regarding the pilot program, including the feasibility of expanding the pilot program statewide.]~~

Amendment No. 29 was adopted.

### **Amendment No. 30**

Representative Patrick offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 68

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 11, line 21, immediately following the semicolon, insert "and".

(2) On page 11, line 23, strike "; and" and substitute an underlined period.

(3) On page 11, lines 24-25, strike "(4) the curriculum requirements for at least one endorsement under Subsection (c-1)."

### **AMENDMENT NO. 30 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE S. KING: Representative Patrick, have you heard from members on this floor from their school districts on how the endorsement component would affect their districts?

REPRESENTATIVE PATRICK: Yes. There are a number of small and rural districts represented by this body in which it has been reported to me that they have, for example, only one agriculture and business teacher. Another school district, one high school, two teachers and one teacher for business and accounting. Another high school reported that they have a pathway of agriculture, livestock production, advanced animal sciences, and so forth. So, for the students that are seeking the distinguished level, which translates to eligibility for top 10 percent, they're going to have to go through the pathways that exist in their school district.

S. KING: So, are you saying that if they do not have an endorsement either, one, that they're interested in or, two, that's available, they would no longer be considered for the top 10 percent?

PATRICK: They would not be eligible for the top 10 percent if they do not complete an endorsement, as proposed by **HB 5**. What this amendment does is say that all students who complete the foundation program and, in addition, Algebra II and one advanced science, would be eligible for the top 10 percent.

S. KING: And that is without an endorsement. Is there anything in this bill that has an option for the endorsement, or is that the whole purpose of your bill—or your amendment?

PATRICK: The amendment does not do away with endorsements.

S. KING: Correct.

PATRICK: The amendment simply says you do not have to have an endorsement to be eligible for the top 10 percent.

S. KING: So, does that mean that students that, prior to this bill, without passing your amendment, would no longer be available or qualified to seek the top 10 percent designation if they could not comply with this endorsement? Is that correct?

PATRICK: That is correct.

S. KING: How many students do you think that might include—you mentioned over half the school districts are rural, or not metropolitan, so they would, perhaps, not have the capacity for the amendment—I mean the endorsements. Is that correct?

PATRICK: Yes, the majority of school districts in the State of Texas have less than 1,000 pupils in the whole school district. Some high schools have 200 or fewer students, and because of that they are not able to provide the array of endorsements that we have suggested are required. We're talking about the majority of districts—we're not talking about the majority of students. The majority of students are in our urban areas and they have access to these things, but we're talking about the majority of districts represented by this body.

S. KING: So, in your opinion—one last question. Does this have a negative impact on the rural students of the State of Texas in regard to them being able to be qualified for the top 10 percent admission to a public university?

PATRICK: The rural and small districts do not have the endorsement pathways that would be available to give students in those districts the choices that they deserve, to pick the areas that are described in the bill, for example, STEM. That's not widely available. The most popular pathway in the state is agriculture, at the present time.

REPRESENTATIVE ANDERSON: Let me ask you a question that may have already been dealt with here, but—so, you're saying that currently there's a number of schools, particularly in rural areas, that do not have access to endorsement options as far as pathways?

PATRICK: That's correct. Because of the limited number of courses that they are able to offer, they can afford to offer, and, more importantly, they have the teachers to teach the classes, they all report back to me that they struggle with finding teachers, presently.

ANDERSON: Okay, and so, that would make it a much higher hurdle for those students in rural school districts to be able to attain the top 10?

PATRICK: That's correct. The endorsements are required, one endorsement or more, to be eligible for the top 10 percent. What my amendment simply does is say that you would be eligible for the top 10 percent if you have completed the foundation programs and attained distinguished level by completing Algebra II and an advanced science. It gives students the option of adding endorsements, and also in the bill, the performance acknowledgement options are mentioned. We haven't talked much about that today, but if a student completed dual credit, AP or IB, PSAT, ACT, SAT, etc., this performance acknowledgement option and

the endorsement options are yet to be established by the SBOE. We do not know what courses those will involve, but it will be approximately six courses, which would take away all the electives that a student would have.

ANDERSON: These options would actually increase the flexibility of **HB 5** as far as its ability to reach more school districts?

PATRICK: That would be the goal, yes. Thank you.

ANDERSON: You bet. In your opinion—and this may be a difficult question—how long do you think it would take, say the average community under 1,000 population, to be able to offer the endorsement options both either in teachers or in space—classroom space or in curriculum?

PATRICK: If **HB 5** passes and it's not amended per my amendment, I would hope that they could do that quickly. Whether that's actually going to occur I'm not sure, because it's also a matter of cost to the district, and so, as Chairman Aycock mentioned, there would be cost involved for the district.

ANDERSON: So, it may be a year, it may be two years, it may be five years—those youngsters in those rural communities may not have access to this, consequently would be denied access to the top 10 for five or 10 years—for their whole high school career.

PATRICK: Or for some period of time, until they were able to add these courses to their curriculum, and until that time comes they will be limiting their students to the endorsements or pathways that they currently have.

Representative Aycock moved to table Amendment No. 30.

The motion to table prevailed by (Record 99): 113 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Allen; Alvarado; Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Dutton; Elkins; Fallon; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; Guerra; Harless; Harper-Brown; Herrero; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Martinez; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Murphy; Nevárez; Orr; Otto; Paddie; Parker; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; White; Workman; Zedler; Zerwas.

Nays — Alonzo; Anderson; Burnam; Coleman; Collier; Cortez; Davis, Y.; Eiland; Farias; González, M.; Gonzalez, N.; Gooden; Guillen; Gutierrez; Hernandez Luna; Howard; Johnson; King, S.; Márquez; Martinez Fischer; Muñoz; Naishtat; Patrick; Rodriguez, J.; Rose; Strama; Walle; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C).

Absent, Excused — Reynolds.

Absent — Anchia; Canales; Dukes; Oliveira; Rodriguez, E.; Vo.

### STATEMENTS OF VOTE

When Record No. 99 was taken, I was in the house but away from my desk. I would have voted yes.

Canales

I was shown voting no on Record No. 99. I intended to vote yes.

S. King

### HR 1134 - ADOPTED (by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1134**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1134**, In memory of Frank Thompson, Jr., of Houston.

**HR 1134** was unanimously adopted by a rising vote.

On motion of Representative Dutton, the names of all the members of the house were added to **HR 1134** as signers thereof.

### CSHB 5 - (consideration continued)

#### Amendment No. 31

Representative Branch offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 69

Amend **CSHB 5** (house committee printing) on page 12 by striking lines 23-26 and substituting the following:

(c-2) In adopting rules under Subsection (c-1), the State Board of Education shall:

(1) require a student in order to earn any endorsement to successfully complete four credits in mathematics, which must include:

(A) the courses described by Subsection (b-1)(2); and

(B) an additional advanced mathematics course authorized under Subsection (b-2) or an advanced career and technology course designated by the State Board of Education as containing substantively similar and rigorous academic content to such an advanced mathematics course; and

(2) develop additional curriculum requirements for each endorsement with the direct participation of educators and business and industry representatives.

Amendment No. 31 was adopted.

**Amendment No. 32**

Representative J. Rodriguez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 70

Amend **CSHB 5** (house committee report) as follows:

(1) On page 12, line 26, strike "representatives" and insert "representatives, and shall require each school district to report to the agency the categories of endorsements under Subsection (c-1) for which the district offers all courses for curriculum requirements, as determined by board rule".

(2) Add the appropriately numbered SECTION to the bill and renumber subsequent SECTIONS in the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 39.332(b), Education Code, is amended by amending Subdivision (23) and adding Subdivision (24) to read as follows:

(23) The report must contain an evaluation of the availability of categories of endorsements under Section 28.025(c-1), including the following information for each school district:

(A) the categories of endorsements under Section 28.025(c-1) for which the district offers all courses for curriculum requirements as determined by board rule; and

(B) the district's economic, geographic, and demographic information, as determined by the commissioner.

(24) The report must contain any additional information considered important by the commissioner or the State Board of Education.

(b) This section applies beginning with the 2014-2015 school year.

Amendment No. 32 was adopted.

**Amendment No. 33**

Representative Button offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 72

Amend **CSHB 5** (house committee report) as follows:

(1) On page 15, line 12, strike "Section 28.027(b), Education Code, is", and substitute "Sections 28.027(a) and (b), Education Code, are".

(2) On page 15, between lines 13 and 14, insert the following:

(a) In this section, "applied STEM course" means an applied science, technology, engineering, or mathematics course offered as part of a school district's career and technology education or technology applications curriculum.

(3) On page 60, line 10, strike "career and technology education", and substitute "career and technology education or technology applications".

Amendment No. 33 was adopted.

**Amendment No. 34**

Representative Herrero offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 74

Amend **CSHB 5** (house committee report) as follows:

(1) On page 20, strike lines 9 and 10, and substitute the following:

SECTION 14. (a) Section 33.007, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(2) On page 21, between lines 21 and 22, insert the following:

(d) The legislature shall appropriate sufficient funds for school districts and open-enrollment charter schools to fulfill the counseling requirements under this section. The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purpose of this section.

(Speaker in the chair)

Representative Aycock moved to table Amendment No. 34.

The motion to table prevailed by (Record 100): 98 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Dutton; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Davis, Y.; Dukes; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; King, T.; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Perez; Raymond; Rodriguez, J.; Rose; Strama; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds.

Absent — Cortez; Oliveira; Rodriguez, E.

### **Amendment No. 35**

Representative Menéndez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 83

Amend Section 39.023 on page 22 by adding:

Sec. 39.023. **ADOPTION AND ADMINISTRATION OF INSTRUMENTS.** (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and

science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:

~~(1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;~~

~~(2) reading, annually in grades three through eight;~~

~~(3) writing, including spelling and grammar, in grades four and seven;~~

~~(4) social studies, in grade eight;~~

~~(5) science, in grades five and eight; and~~ any [other] subject and grade required by federal law.

Amendment No. 35 was withdrawn.

### **Amendment No. 36**

Representative Strama offered the following amendment to **CSHB 5**:

Floor Packet Page No. 84

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 22, strike lines 11 and 12 and substitute the following:

SECTION 16. (a) Section 39.023, Education Code, is amended by amending Subsections (c), (c-2), (c-3), and (e) and adding Subsections (e-1), (e-2), (e-3), and (e-4) to read as follows:

(2) On page 24, between lines 17 and 18, insert the following:

(e) Under rules adopted by the State Board of Education, beginning with the 2014-2015 school year, as possible [every third year], the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (c-2), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year.

(e-1) Under rules adopted by the State Board of Education, for the 2012-2013 school year, the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. This subsection expires December 31, 2013.

(e-2) Under rules adopted by the State Board of Education, for the 2013-2014 school year, the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (b), (c), (c-2), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument and any assessment instrument covering a subject or course for which the questions and answer keys for the 2012-2013 assessment instrument covering that subject or course were released, after the last time the instrument is administered for the 2013-2014 school year. This subsection expires December 31, 2014.

(e-3) Under rules adopted by the State Board of Education, for the 2013-2014 school year, the agency each year shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l) during the 2011-2012 school year after the last time any assessment instrument is administered for the 2013-2014 school year. This subsection expires December 31, 2014.

(e-4) To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

### **Amendment No. 37**

Representative Huberty offered the following amendment to Amendment No. 36:

Amend Floor Amendment No. 36 to **CSHB 5** (page 84 of the amendment packet) as follows:

(1) On page 1 of the amendment, line 5, strike "Subsections (c), (c-2), (c-3), and (e)" and substitute "Subsection (e)".

(2) On page 1 of the amendment, strike lines 9-16, and substitute the following:

(e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (c-2), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score. During the 2014-2015 and 2015-2016 school years, the agency shall release the question and answer keys to assessment instruments as described by this section each year.

(3) On page 1 of the amendment, line 17, strike "State Board of Education" and substitute "commissioner".

(4) On page 1 of the amendment, line 25, strike "State Board of Education" and substitute "commissioner".

(5) On page 2 of the amendment, line 7, strike "State Board of Education" and substitute "commissioner".

Representative Strama moved to table Amendment No. 37.

The motion to table was lost by (Record 101): 45 Yeas, 102 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson;

King, T.; Lucio; Márquez; Martinez; Martinez Fischer; Menéndez; Miles; Moody; Naishtat; Nevárez; Oliveira; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Nays — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; McClendon; Miller, D.; Miller, R.; Morrison; Muñoz; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds.

Absent — Alonzo.

Amendment No. 37 was adopted.

Amendment No. 36, as amended, was adopted.

### **Amendment No. 38**

Representative Simmons offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 86

Amend **CSHB 5** as follows:

(1) On page 22, line 11, strike "39.023(c)," and substitute "39.023(b), (c)."

(2) On page 22, between lines 12 and 13, insert the following:

(b) ~~Each [The agency shall develop or adopt appropriate criterion referenced alternative assessment instruments to be administered to each]~~ student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, shall be administered appropriate assessment instruments, including assessment instruments approved by the commissioner that measure growth as determined by the student's individualized education program.

### **Amendment No. 39**

Representative Simmons offered the following amendment to Amendment No. 38:

Amend Floor Amendment No. 38 to **CSHB 5** by Simmons (page 86 of the amendment packet) by striking lines 6-16 and substituting the following:

(b) The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, including assessment instruments approved by the commissioner that measure growth. The assessment instruments developed or adopted under this subsection, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students under this subsection.

Amendment No. 39 was adopted.

Amendment No. 38, as amended, was adopted.

#### **Amendment No. 40**

Representatives C. Turner and Kolkhorst offered the following amendment to **CSHB 5**:

Floor Packet Page No. 88

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 22, lines 11-12, strike "Sections 39.023(c), (c-2), and (c-3), Education Code, are amended" and substitute "Section 39.023, Education Code, is amended by amending Subsections (c), (c-2), and (c-3) and adding Subsection (b-1)".

(2) On page 22, between lines 12 and 13, insert the following:

(b-1) A teacher may not be required to prepare assessment tasks or materials for a student who will be administered an alternative assessment instrument developed or adopted as required under Subsection (b). A teacher shall provide presentation supports in the administration of an assessment instrument described by this subsection.

#### **Amendment No. 41**

Representatives Ratliff, C. Turner, and Kolkhorst offered the following amendment to Amendment No. 40:

Amend Floor Amendment No. 40 to **CSHB 5** by C. Turner (page 88 of the amendment packet) on page 1 of the amendment, by striking lines 8-13 and substituting the following:

(b-1) The agency, in conjunction with appropriate interested persons, shall redevelop assessment instruments adopted or developed under Subsection (b) for administration to significantly cognitively disabled students in a manner consistent with federal law. An assessment instrument under this subsection may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument. Assessment instruments adopted or developed under this subsection shall be administered not later than the 2014-2015 school year.

Amendment No. 41 was adopted.

Amendment No. 40, as amended, was adopted.

**Amendment No. 42**

Representative Strama offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 89

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 3, lines 3-4, strike "an end-of-course assessment instrument adopted under Section 39.023".

(2) On page 23, strike lines 14-25 and substitute the following:

(c-2) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra II, geometry, chemistry, physics, English I, English III, world geography, and world history. The Algebra II and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments. The State Board of Education shall administer the assessment instruments primarily for the purpose of diagnosing the academic strengths and deficiencies of students. [The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c)-] A district may require a student's performance on an end-of-course assessment instrument adopted under this subsection to be ~~[is not]~~ subject to the performance requirements established under Subsection (c) ~~[or Section 39.025]~~.

(3) On page 24, lines 9-10, strike "the end-of-course assessment instrument in Algebra II under Subsection".

(4) On page 24, lines 13-14, strike "~~[English I,]~~ English II ~~[, and English III]~~" and substitute "English I, English II, and English III".

(5) On page 24, line 14, strike "; and" and substitute "."

(6) On page 24, strike lines 15-17.

(7) On page 25, line 21, strike "adopted ~~[required]~~" and substitute "required".

(8) Strike page 25, line 27, through page 28, line 11.

(9) On page 28, line 13, between "(a-1)," and "(b)", insert "(a-2),".

(10) On page 30, between lines 21 and 22, insert the following:

(a-2) The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c-2) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c-2) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. For each scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on an assessment instrument administered under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. Performance on an assessment instrument under this subsection may not be used as a condition for graduation. [In addition to the cumulative score

~~requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program.]~~

(11) On page 32, lines 4-5, strike "Section 39.025(a), Education Code, is amended" and substitute "Sections 39.025(a) and (a-2), Education Code, are amended".

(12) On page 33, between lines 10 and 11, insert the following:

(a-2) The commissioner shall adopt rules requiring a student participating in the foundation high school program under Section 28.025 to be administered an end-of-course assessment instrument listed in Section 39.023(c-2) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. For each scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on an assessment instrument administered under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. Performance on an assessment instrument under this subsection may not be used as a condition for graduation. ~~[In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program.]~~

(13) On page 34, between lines 11 and 12, insert the following appropriately numbered section:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.038 to read as follows:

Sec. 39.038. ASSESSMENT INSTRUMENTS CONTRACT. The commissioner shall review the contract with the current provider of assessment instruments and shall determine whether to terminate, rebid or renegotiate the contract based on public input.

(14) Strike page 33, line 13, through page 34, line 2.

(15) On page 34, line 17, between "(c)," and "and", insert "(c-2),".

(16) On page 46, lines 18-19, strike "or (l) or on end-of-course assessment instruments adopted under Section 39.023(c-2)," and substitute "(c-2), or (l),".

(17) On page 46, lines 23-25, strike "or (l) or on end-of-course assessment instruments adopted under Section 39.023(c-2)," and substitute "(c-2), or (l),".

(18) On page 68, line 26, strike "Sections 39.025(a-2) and (a-3)" and substitute "Section 39.025(a-3)".

(19) Renumber SECTIONS of the bill appropriately.

### **Amendment No. 43**

Representative Strama offered the following amendment to Amendment No. 42:

Amend Amendment No. 42 by Strama to **CSHB 5** (amendment packet page 89) as follows:

(1) In item (2) strike all of (c-2) and replace with the following:

(c-2) The agency shall also adopt an end-of-course assessment instrument for a secondary-level course in Algebra II, which shall be administered to a student at the student's option. The agency shall also adopt end-of-course assessment instruments for secondary-level courses in geometry, English I, and English III, which shall be administered to students enrolled in those courses. The Algebra II and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments. The State Board of Education shall administer the assessment instruments primarily for the purpose of diagnosing the academic strengths and deficiencies of students. [The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c).] A district may require a student's performance on an end-of-course assessment instrument adopted under this subsection to be [is not] subject to the performance requirements established under Subsection (c) [or Section 39.025].

(2) Strike item (7) from the amendment.

(3) In item (10), strike (a-2) and replace with the following:

(a-2) The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c-2) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c-2) only for a course in which the student is enrolled, for which an end-of-course assessment instrument is not optional for a student, and for which an end-of-course assessment instrument is administered. The commissioner shall adopt rules allowing a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c-2) and allowing a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c-2) only for a course in which the student is enrolled, for which an end-of-course assessment instrument is optional for a student, and for which an end-of-course assessment instrument is administered. For each scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on an assessment instrument administered under this subsection and optional assessment instruments administered under Section 39.023(c-2) that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. Performance on an assessment instrument under this subsection may not be used as a condition for graduation. [In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or

~~exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program.]~~

(4) In item (12), strike (a-2) and replace with the following:

(a-2) The commissioner shall adopt rules requiring a student participating in the foundation high school program under Section 28.025 to be administered an end-of-course assessment instrument listed in Section 39.023(c-2) only for a course in which the student is enrolled, for which an end-of-course assessment instrument is not optional for a student, and for which an end-of-course assessment instrument is administered. The commissioner shall adopt rules allowing a student participating in the foundation high school program under Section 28.025 to be administered an end-of-course assessment instrument listed in Section 39.023(c-2) only for a course in which the student is enrolled, for which an end-of-course assessment instrument is optional for a student, and for which an end-of-course assessment instrument is administered. For each scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on an assessment instrument administered under this subsection and optional assessment instruments administered under Section 39.023(c-2) that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. Performance on an assessment instrument under this subsection may not be used as a condition for graduation. [In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program.]

(5) Strike item (15) and replace with the following:

On page 46, line 18, add "(c-2)" between "(c)" and "or".

(6) Strike item (16) and replace with the following:

On page 46, line 23, add "(c-2)" between "(c)" and "or".

Amendment No. 43 was adopted.

(Márquez in the chair)

Representative Aycok moved to table Amendment No. 42, as amended.

The motion to table prevailed by (Record 102): 129 Yeas, 16 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Ashby; Aycok; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; Gooden; Guerra; Guillen; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel;

Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Martinez; McClendon; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villarreal; White; Workman; Zedler; Zerwas.

Nays — Anderson; Burnam; Canales; Coleman; González, M.; Gonzalez, N.; Gutierrez; Herrero; Howard; Martinez Fischer; Strama; Thompson, S.; Villalba; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Márquez(C).

Absent, Excused — Reynolds.

Absent — Anchia; Menéndez.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 102. I intended to vote yes.

Canales

I was shown voting no on Record No. 102. I intended to vote yes.

Herrero

### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

### CSHB 5 - (consideration continued)

#### Amendment No. 44

Representative Strama offered the following amendment to **CSHB 5**:

Floor Packet Page No. 93

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 22, line 11, strike "and (c-3)" and substitute "(c-3), and (h)".

(2) On page 24, lines 11-12, strike "not earlier than the first full week in May" and substitute "during the latest practicable [~~not earlier than the first full~~] week as determined by the commissioner, but no earlier than the third full week in May".

(3) On page 24, line 13, strike "English II" and substitute "English II Writing".

(4) On page 24, line 16, strike "English III" and substitute "English III Writing".

(5) On page 24, line 17, strike "first full week in May" and substitute "final week of the school year".

(6) On page 24, between lines 17 and 18, insert the following:

(h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section [~~at the earliest possible date determined by the State Board of Education but~~] not later than the 21st day after the date the assessment instrument is administered [~~beginning of the subsequent school year~~].

Amendment No. 44 was adopted.

#### **Amendment No. 45**

Representative Menéndez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 95

Amend Section 16 on page 24 add the following:

(b) The Texas Education Agency must disclose to teachers the results of their end-of-course assessment scores no later than Aug 8th of the following school year. And renumber the remaining sections accordingly.

Amendment No. 45 was withdrawn.

#### **Amendment No. 46**

Representative Strama offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 96

Amend **CSHB 5** (house committee printing) on page 25, between lines 16 and 17, by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 39.0234, Education Code, is amended to read as follows:

Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY COMPUTER. (a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer. Except as provided by Subsection (b), the [The] commissioner may not require a school district or open-enrollment charter school to administer an assessment instrument by computer.

(b) A school district, including a disciplinary alternative education program provided by the district, or a juvenile justice alternative education program shall provide to a student eligible to retake an end-of-course assessment instrument the opportunity to retake that assessment instrument by computer at any reasonable time. The commissioner may adopt rules as necessary to administer this subsection.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 46 was withdrawn.

#### **Amendment No. 47**

Representative Strama offered the following amendment to **CSHB 5**:

Floor Packet Page No. 100

Amend **CSHB 5** (house committee printing) on page 29, line 23, between "ACT," and "or", by inserting "a Common Core State Standards assessment instrument".

Representative Huberty moved to table Amendment No. 47.

The motion to table prevailed by (Record 103): 108 Yeas, 34 Nays, 2 Present, not voting.

Yeas — Allen; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Fallon; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Martinez; McClendon; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Thompson, E.; Toth; Turner, S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Davis, Y.; Dukes; Dutton; Farias; González, M.; Gonzalez, N.; Guillen; Gutierrez; Herrero; Howard; Johnson; Lucio; Martinez Fischer; Menéndez; Miles; Naishtat; Nevárez; Perez; Rodriguez, J.; Strama; Taylor; Thompson, S.; Turner, C.; Turner, E.S.; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Márquez(C).

Absent, Excused — Reynolds.

Absent — Cortez; Hernandez Luna; Klick; Rodriguez, E.; Wu.

#### STATEMENTS OF VOTE

When Record No. 103 was taken, my vote failed to register. I would have voted yes.

Klick

I was shown voting yes on Record No. 103. I intended to vote no.

Rose

#### Amendment No. 48

Representative M. González offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 101

Amend **CSHB 5** (house committee report) as follows:

(1) On page 33, between lines 12 and 13, insert the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. (a) Section 39.027, Education Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) Unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Subsection (a)(1), (2), or (3).

(b) This section applies beginning with the 2013-2014 school year.

(2) On page 69, between lines 21 and 22, insert the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. Section 39.027(a-2), Education Code, as added by this Act, applies to a student regardless of the date on which the student initially enrolled in a school in the United States.

(3) Renumber SECTIONS of the bill appropriately.

Amendment No. 48 was adopted.

#### **Amendment No. 49**

Representative Menéndez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 104

Amend Section 23 on page 33 subsection c line 22, immediately before the words "to determine" insert:  
in combination with an average grade in foundation classes.

Amendment No. 49 was withdrawn.

#### **Amendment No. 50**

Representative Harper-Brown offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 105

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 34, line 12, strike "Section 39.053(c), Education Code, is" and substitute "Sections 39.053(c) and (g-1), Education Code, are".

(2) On page 35, between lines 23 and 24, insert the following:

(g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:

(1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;

(2) students who were previously reported to the state as dropouts, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out;

(3) students in attendance who are not in membership for purposes of average daily attendance;

(4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);

(5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and

(6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.

(3) On page 37, between lines 16 and 17, add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0541 to read as follows:

Sec. 39.0541. STANDARDS FOR EVALUATING COMPLETION AND DROPOUT RATES. For purposes of evaluating a school district or campus or an open-enrollment charter school for adequate yearly progress under the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.) and, notwithstanding Section 39.053(c)(2), for accountability under this chapter and for performance under an agency performance-based monitoring analysis system:

(1) a student who graduates from a school district campus or open-enrollment charter school is considered a high school graduate of the campus or school regardless of whether the student graduates with the student's ninth grade cohort; and

(2) consistent with Section 39.053(g-1)(2), a student who was previously reported to the state as a dropout, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out, shall be excluded in computing completion and dropout rates.

(b) This section applies beginning with the 2013-2014 school year.

(4) Renumber SECTIONS of the bill appropriately.

Amendment No. 50 was withdrawn.

### **Amendment No. 51**

Representative Gonzales offered the following amendment to **CSHB 5**:

Floor Packet Page No. 107

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 35, line 21, strike "and".

(2) On page 35, strike lines 22-23 and substitute the following:

(4) the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the foundation high school program;

(5) the percentage of students who successfully completed the curriculum requirements for an endorsement under Section 28.025(c-1); and

(6) at least three additional indicators of student achievement to evaluate district and campus performance.

Amendment No. 51 was adopted.

### **Amendment No. 52**

Representative Patrick offered the following amendment to **CSHB 5**:

Floor Packet Page No. 108

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 35, strike lines 22-23 and substitute the following:

(4) at least three additional indicators of student achievement, other than through statewide assessment, to evaluate district and campus performance.

Amendment No. 52 was withdrawn.

**Amendment No. 53**

Representative Capriglione offered the following amendment to **CSHB 5**:

Floor Packet Page No. 110

Amend **CSHB 5** (house committee report) as follows:

(1) On page 35, between lines 23 and 24, insert the following:

(A) an indicator adopted under this subsection that would measure improvements in student achievement cannot negatively affect the commissioner's review of a school district or campus if that district or campus is already achieving at the highest level for that indicator.

Amendment No. 53 was adopted.

**Amendment No. 54**

Representative Herrero offered the following amendment to **CSHB 5**:

Floor Packet Page No. 112

Amend **CSHB 5** as follows:

(1) In SECTION 25 of the bill, on page 35, line 23, between "achievement" and "to", insert "that are not based on indicators otherwise required under this subsection".

(2) In SECTION 27 of the bill, on page 37, line 13, strike ", to the greatest extent possible,".

Amendment No. 54 was withdrawn.

**Amendment No. 55**

Representative Guillen offered the following amendment to **CSHB 5**:

Floor Packet Page No. 115

Amend **CSHB 5** (house committee report) as follows:

(1) On page 36, lines 18 and 19, strike "Sections 39.054(a) and (b), Education Code, are amended" and substitute "Section 39.054, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (g)".

(2) On page 37, between lines 14 and 15, insert the following:

(g) This subsection applies notwithstanding any other provision of this chapter. This subsection applies only to a student of limited English proficiency, as defined by Section 29.052, and only to an assessment instrument administered under Section 39.023(a), (b), or (l). In evaluating school district and campus performance under this section on the basis of the student achievement indicator under Section 39.053(c)(1), the commissioner may not consider performance on

an assessment instrument administered to a student for the first year after the student's initial enrollment in a school in the United States. Unless a student receives at least 90 days of instruction during a school year, that school year is not considered for purposes of initial enrollment. During each of the two years following the first year after the student's initial enrollment in a school in the United States, in evaluating performance under this section on the basis of the student achievement indicator under Section 39.053(c)(1), the commissioner shall consider the student as performing satisfactorily on an assessment instrument if the student has shown annual improvement in student achievement.

#### **Amendment No. 56**

Representative Guillen offered the following amendment to Amendment No. 55:

Amend Floor Amendment No. 55 to **CSHB 5** by Guillen (page 115 of the amendment packet) on page 1, line 18, by striking "90" and substituting "60".

Amendment No. 56 was withdrawn.

Amendment No. 55 was withdrawn.

#### **Amendment No. 57**

Representative Harper-Brown offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 105

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 34, line 12, strike "Section 39.053(c), Education Code, is" and substitute "Sections 39.053(c) and (g-1), Education Code, are".

(2) On page 35, between lines 23 and 24, insert the following:

(g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:

(1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;

(2) students who were previously reported to the state as dropouts, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out;

(3) students in attendance who are not in membership for purposes of average daily attendance;

(4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);

(5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and

(6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.

(3) On page 37, between lines 16 and 17, add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.0541 to read as follows:

Sec. 39.0541. STANDARDS FOR EVALUATING COMPLETION AND DROPOUT RATES. For purposes of evaluating a school district or campus or an open-enrollment charter school for adequate yearly progress under the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.) and, notwithstanding Section 39.053(c)(2), for accountability under this chapter and for performance under an agency performance-based monitoring analysis system:

(1) a student who graduates from a school district campus or open-enrollment charter school is considered a high school graduate of the campus or school regardless of whether the student graduates with the student's ninth grade cohort; and

(2) consistent with Section 39.053(g-1)(2), a student who was previously reported to the state as a dropout, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out, shall be excluded in computing completion and dropout rates.

(b) This section applies beginning with the 2013-2014 school year.

(4) Renumber SECTIONS of the bill appropriately.

Amendment No. 57 was adopted.

#### **Amendment No. 58**

Representative E. Rodriguez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 114

Amend **CSHB 5** (house committee report) on page 35, line 23, between "performance" and the period by inserting ", which must include either:

(A) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument in reading, writing, or mathematics designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or

(B) the number of students who earn:

(i) at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(ii) at least 30 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(iii) an associate's degree; or

(iv) an industry certification".

Amendment No. 58 was withdrawn.

#### **Amendment No. 59**

Representative Phillips offered the following amendment to **CSHB 5**:

Floor Packet Page No. 123

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 36, line 22, strike "of".

(2) On page 36, strike lines 23-25.

(3) On page 36, strike lines 26-27 and substitute the following:  
that reflects exemplary, recognized, acceptable, [performance] or

(4) On page 37, lines 24-25, strike "an acceptable performance rating of A, B, or C, or an unacceptable performance rating of F" and substitute "a performance rating that reflects exemplary, recognized, acceptable, or unacceptable performance".

(5) On page 42, strike lines 9-14 and substitute the following:  
financial accountability rating that reflects exemplary, recognized, acceptable, or unacceptable performance.

(6) On page 42, line 16, strike "a failing" and substitute "an unacceptable".

(7) On page 44, line 19, strike "a failing" and substitute "an unacceptable".

#### **AMENDMENT NO. 59 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE C. TURNER: Chairman Aycock, while we're on this topic, I met with some superintendents in my area on Friday about **HB 5** and they were overall, of course, very supportive of the bill. But one of the questions that they had that I told them if I had the opportunity to try to establish legislative intent was on this topic of the new rating system, the "A" through "F." As I understand it, **HB 5**, as it stands right now, gives the TEA commissioner wide discretion on how schools will conform to the new system—what constitutes an "A," what constitutes a "B," etc.

REPRESENTATIVE AYCOCK: It gives him rulemaking authority. There are some guidances and limitations on that, especially regarding the academic testing piece, and we require that he use something in that first letter besides just testing—that it be other measures outside of testing.

C. TURNER: Okay, so on the other measures outside of testing, is that where the agency will have some rulemaking discretion?

AYCOCK: Yes, and just to be clear, so that everybody on the floor is well-informed on the subject, the commissioner and his staff are presently developing what is called an indexing system. Members, it is important you understand this. The commissioner and his staff have been kind enough to start developing an indexing system. And it is, even by their own admission, very complicated, but it is very much better than what we have presently. It has a growth measure in it. It has "closing the gaps" measures in it. It has other things in it that are far better than our present one-word, how-you-did-on-the-test metric. I am encouraged that Commissioner Williams will go to the trouble of developing an indexing system that is not just test-based, but is based on other measures as well. And I'm confident at the end of the day, when that indexing system is fully fleshed out, it will rate that first letter in a much superior way compared to what we're doing presently.

C. TURNER: So, Chairman Aycock, you believe that the indexing system that the commissioner is devising will be reflective of what your intent is with the legislation?

AYCOCK: I am hopeful and encouraged it will, and if it's not, I suppose we'll be back in two years talking about it again.

C. TURNER: And finally, Chairman Aycock, one of the concerns the people in my district have raised was transitioning from the current system to a letter-grade system—there would be some concern to educate the parents and the public on what the new ratings mean. And would it be your intent that TEA takes some responsibility in communicating to the people of Texas, parents in particular, what these new letter-grade ratings will mean once they're rolled out?

AYCOCK: I would be hopeful, at least on the TEA website, and hopefully broader than that, there would be information on how that indexing system is developed, how it's functioning, and what the cut points are for those various grades. And then I would presume that the districts would make that information available. If somebody gets a "D" on their academic rating, I suspect there's going to be a lot of conversation in the community about how they got that. And that is the intent. Most of you know I stand here in front of the body frequently and talk about how I support schools and superintendents and teachers, and I do. But I honestly believe that an indexing system based on clarity of a letter grade is in fact a beneficial thing in the long run. And I realize the transition will be tough for a year or two.

### REMARKS ORDERED PRINTED

Representative C. Turner moved to print remarks between Representative Aycock and Representative C. Turner.

The motion prevailed.

Amendment No. 59 was withdrawn.

#### **Amendment No. 60**

Representative Herrero offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 112

Amend **CSHB 5** as follows:

(1) In SECTION 25 of the bill, on page 35, line 23, between "achievement" and "to", insert "that are not based on indicators otherwise required under this subsection".

(2) In SECTION 27 of the bill, on page 37, line 13, strike "to the greatest extent possible".

Representative Aycock moved to table Amendment No. 60.

The motion to table prevailed by (Record 104): 104 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Canales; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Miller, D.; Miller, R.; Morrison; Muñoz; Murphy; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; Villarreal; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guillen; Gutierrez; Hernandez Luna; Herrero; Johnson; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Naishtat; Nevárez; Perez; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Thompson, S.; Turner, C.; Turner, S.; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Márquez(C).

Absent, Excused — Reynolds.

Absent — Anchia; King, T.; Sanford.

### STATEMENT OF VOTE

When Record No. 104 was taken, I was in the house but away from my desk. I would have voted yes.

Sanford

### Amendment No. 61

Representative E. Rodriguez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 114

Amend **CSHB 5** (house committee report) on page 35, line 23, between "performance" and the period by inserting ", which must include either:

(A) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument in reading, writing, or mathematics designated by the Texas Higher Education Coordinating Board under Section 51.3062(c); or

(B) the number of students who earn:

(i) at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(ii) at least 30 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(iii) an associate's degree; or

(iv) an industry certification".

Amendment No. 61 was adopted.

### **Amendment No. 62**

Representative Villalba offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 124

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 36, line 23, between "C," and "or," insert "D,".

(2) On page 36, line 27, strike "F letter performance rating" and substitute "D and F letter performance ratings".

(3) On page 37, line 25, between "rating of" and "F", insert "D or F".

(4) On page 42, line 9, between "C," and "or," insert "D,".

(5) On page 42, lines 13-14, strike "F letter performance rating as a failing rating" and substitute "D and F letter performance ratings as failing ratings".

(Speaker in the chair)

Amendment No. 62 was adopted.

### **Amendment No. 63**

Representative Wu offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 125

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 37, line 2, between "campus" and "shall", insert "and any distinction designations awarded to the district under Section 39.2021 or to the campus under Section 39.203".

(2) Insert the following appropriately numbered SECTION to the bill and redesignate subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter G, Chapter 39, Education Code, is amended by adding Section 39.2021 to read as follows:

Sec. 39.2021. DISTINCTION DESIGNATION FOR CERTAIN LOW-PERFORMING DISTRICTS. The commissioner shall award a school district that receives a performance rating of F under Section 39.054(a) for a school year a distinction designation if, among districts that also received a performance rating of F for that school year, the district ranks in the top 50 percent of districts for:

(1) student achievement, as described under Section 39.034;

(2) eliminating performance differentials between student subpopulations in accordance with rules adopted for the campus distinction designation under Section 39.203(b); and

(3) the college readiness performance standards as described under Section 39.0241.

(b) This section applies beginning with the 2013-2014 school year.

(3) On page 48, between lines 16 and 17, insert the following:

(e) In addition to the distinction designations otherwise described by this section, the commissioner shall award a designation for outstanding performance in student improvement to a campus that is ranked in the top 25 percent of campuses in this state for annual student improvement, as measured under Section 39.034.

(f) In addition to the distinction designations otherwise described by this section, the commissioner shall award a campus that receives a performance rating of F under Section 39.054(a) for a school year a distinction designation if, among campuses that also received a performance rating of F for that school year, the campus ranks in the top 50 percent of campuses for:

(1) student achievement, as described under Section 39.034;

(2) eliminating performance differentials between student subpopulations in accordance with rules adopted for the campus distinction designation under Section 39.203(b); and

(3) the college readiness performance standards as described under Section 39.0241.

#### **Amendment No. 64**

Representative Wu offered the following amendment to Amendment No. 63:

Amend Floor Amendment No. 63 to **CSHB 5** (page 125 of the pre-filed amendment packet) as follows:

(1) On page 1, lines 3 and 4, strike "to the district under Section 39.2021 or".

(2) Strike Item (2) of the amendment (page 1, line 5 through line 25 and renumber subsequent items of the amendment accordingly.

(3) Strike Item (3), Subsection (e) of the amendment (page 1, line 28 through page 2, line 4) and renumber subsequent items of the amendment accordingly.

(4) On page 2, line 8, between "designation" and "if", insert "to be labeled as: Closing the Gap".

Amendment No. 64 was adopted.

Representative Aycock moved to table Amendment No. 63, as amended.

The motion to table prevailed by (Record 105): 95 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Miller, D.; Miller, R.; Morrison; Murphy; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter;

Sanford; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guerra; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Perez; Pickett; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Taylor; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds.

Absent — Perry; Schaefer.

### STATEMENT OF VOTE

When Record No. 105 was taken, I was in the house but away from my desk. I would have voted yes.

Perry

#### Amendment No. 65

Representative Menéndez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 95

Amend Section 16 on page 24 add the following:

(b) The Texas Education Agency must disclose to teachers the results of their end-of-course assessment scores no later than Aug 8th of the following school year. And renumber the remaining sections accordingly.

#### Amendment No. 66

Representative Menéndez offered the following amendment to Amendment No. 65:

Amend Floor Amendment No. 65 to **CSHB 5** by Menéndez (page 95 of the amendment packet) on page 1 of the amendment, line 1, by striking the text after "Amend" and substituting the following:

**CSHB 5** as follows:

(1) On page 22, line 11, strike "and (c-3)" and substitute "(c-3), and (h)".

(2) On page 24, between lines 27 and 28, insert the following:

(h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section at the earliest possible date determined by the State Board of Education but not later than the beginning of the subsequent school year. The school district shall disclose to each district teacher the results of assessment instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

Amendment No. 66 was adopted.

Amendment No. 65, as amended, was adopted.

**REMARKS ORDERED PRINTED**

Representative Patrick moved to print remarks between Representative S. King and Representative Patrick and between Representative Anderson and Representative Patrick on Amendment No. 30.

The motion prevailed.

**Amendment No. 67**

Representative Huberty offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 127

Amend **CSHB 5** (house committee report) on page 37, line 25, between "F" and "." by inserting "for both overall performance and each individual evaluation factor listed under Subsection (b)".

Amendment No. 67 was adopted.

**Amendment No. 68**

Representative Button offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 128

Amend **CSHB 5** (house committee printing) as follows:

- (1) On page 38, line 10, strike "and".
- (2) On page 38, between lines 11 and 12, insert the following:  
(F) the digital learning environment; and

Amendment No. 68 was adopted.

**Amendment No. 69**

Representative Farias offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 129

Amend **CSHB 5** (house committee report) as follows:

- (1) On page 38, line 10, strike "and".
- (2) On page 38, between lines 11 and 12, insert the following:  
(F) dropout prevention strategies; and

Amendment No. 69 was adopted.

**Amendment No. 70**

Representative Cortez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 130

Amend **CSHB 5** as follows:

- (1) On page 38, line 10, strike "and".
- (2) On page 38, between lines 11 and 12, insert the following:  
(F) educational programs for gifted and talented students; and

Amendment No. 70 was adopted.

**Amendment No. 71**

Representative Vo offered the following amendment to **CSHB 5**:

Floor Packet Page No. 131

Amend **CSHB 5** (house committee printing) as follows:

- (1) On page 38, line 11, strike "and".
- (2) On page 38, line 14, strike the underlined period and substitute "; and".
- (3) On page 38, between lines 14 and 15, insert the following:

(3) the methods employed and extent of the efforts made by each campus to inform parents concerning and encourage parents to attend meetings conducted at each campus during the school year.

(b-1) The commissioner by rule shall define "meetings" for purposes of this section. The definition may include a:

- (1) meeting of a parent-teacher association;
- (2) meeting of the board of trustees of the school district;
- (3) parent-teacher conference;
- (4) campus open house event;
- (5) school-sponsored entertainment event featuring students, such as an orchestra or band concert, theater production, or athletic event; and
- (6) University Interscholastic League competition.

- (4) On page 39, between lines 2 and 3, insert the following:

(e) A school district shall collect from each district campus the information described by Subsection (b)(3) and data on the number of parents who have attended campus meetings during the school year and shall submit a report concerning that information to the commissioner. The information provided to the commissioner under this subsection must be used in developing criteria under Subsection (d)(1) with respect to evaluating a campus under Subsection (b)(3).

### **Amendment No. 72**

Representative Vo offered the following amendment to Amendment No. 71:

Amend Amendment No. 71 by Vo (page 131 of the pre-filed amendments packet) by striking page 1, line 22, through the end of the amendment.

Amendment No. 72 was adopted.

Representative Huberty moved to table Amendment No. 71, as amended.

The motion to table prevailed by (Record 106): 99 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Miller, D.; Miller, R.; Morrison; Murphy; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff;

Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Davis, Y.; Dukes; Dutton; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guerra; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Nevárez; Perez; Raymond; Rodriguez, J.; Rose; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds.

Absent — Cortez; Johnson; King, S.; Naishtat; Rodriguez, E.

### STATEMENTS OF VOTE

When Record No. 106 was taken, my vote failed to register. I would have voted no.

Cortez

When Record No. 106 was taken, my vote failed to register. I would have voted yes.

S. King

#### Amendment No. 73

Representative Menéndez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 134

Amend **CSHB 5** SECTION 28 by adding the following on page 39, line 4:

(c) This section does not apply unless the legislature appropriates sufficient funds from general revenue to the Texas Education Agency for a statewide application.

Amendment No. 73 was withdrawn.

#### Amendment No. 74

Representative Walle offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 136

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 40, line 26, strike "or" and substitute "[~~or~~]".

(2) Strike page 40, line 27, through page 41, line 1, and substitute the following:

(12) when a disproportionate number of students of a particular demographic group is graduating with a particular category of endorsement under Section 28.025(c-1);

(13) when an excessive number of students is graduating with a particular category of endorsement under Section 28.025(c-1); or

(14) [~~13~~] as the commissioner otherwise determines necessary.

Amendment No. 74 was adopted.

**Amendment No. 75**

Representative Capriglione offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 137

Amend **CSHB 5** (house committee report) as follows:

(1) On page 41, line 5, between "Subsections" and "(d)" insert "(b-1)".

(2) On page 42, between lines 3 and 4, insert the following:

(b-1) In adopting uniform indicators under Subsection (b), the commissioner by rule shall adopt an indicator that recognizes a school district or open-enrollment charter school that publishes the district's or school's check register on the district's or school's Internet website. A district or school achieves the highest level of financial management performance under this indicator by updating its published check register at least monthly. A district or school that updates its register less frequently achieves a lower level of financial management performance as provided by rule.

Amendment No. 75 was adopted.

**Amendment No. 76**

Representative Herrero offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 138

Amend **CSHB 5** (house committee report) as follows:

(1) On page 41, line 16, strike "and", and substitute "[and]".

(2) On page 41, between lines 19 and 20, insert the following:

(c) prohibit a school voucher program or tax credit scholarship on a school district or open-enrollment charter school;

Amendment No. 76 was withdrawn.

**Amendment No. 77**

Representative Allen offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 139

Amend **CSHB 5** (house committee printing) on page 42, line 3, after the period, by adding the following:

Any reference to a teacher in an indicator adopted by the commissioner under this subsection means a classroom teacher.

Amendment No. 77 was adopted.

**Amendment No. 78**

Representative Menéndez offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 140

Amend **CSHB 5** SECTION 30 by adding the following on page 43, line 20:

(c) This section does not apply unless the legislature appropriates sufficient funds from general revenue to the Texas Education Agency for a statewide application.

Amendment No. 78 was withdrawn.

**Amendment No. 79**

Representative Herrero offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 141

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 44, line 18, strike "(a)".

(2) On page 44, strike lines 24-26.

Amendment No. 79 was withdrawn.

**Amendment No. 80**

Representative Farias offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 142

Amend **CSHB 5** (house committee report) on page 44, lines 22 and 23, by striking "identify problems" and substituting "identify the specific areas of financial weaknesses, such as financial weaknesses in transportation, curriculum, or teacher development,".

Amendment No. 80 was adopted.

**Amendment No. 81**

Representative C. Turner offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 144

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 45, between lines 17 and 18, insert the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. Sections 39.116(a), (b), (e), (f), and (g), Education Code, are amended to read as follows:

(a) During the period of transition to the accreditation system established under **HB 3**, Acts of the 81st Legislature, Regular Session, 2009, to be implemented in August 2013, the commissioner may suspend assignment of accreditation statuses and performance ratings for the 2011-2012 and 2012-2013 school years [~~year~~].

(b) As soon as practicable following the 2012-2013 [~~2011-2012~~] school year, the commissioner shall report district and campus performance under the student achievement indicators under Sections 39.053(c)(1)(A) and (B).

(e) During the 2011-2012, [~~and~~] 2012-2013, and 2013-2014 school years, the commissioner shall continue to implement interventions and sanctions for districts and campuses identified as having unacceptable performance in the 2010-2011 school year in accordance with the performance standards applicable during the 2010-2011 school year and may increase or decrease the level of interventions and sanctions based on an evaluation of the district's or campus's performance.

(f) For purposes of determining multiple years of unacceptable performance and required district and campus interventions and sanctions under this subchapter, the performance ratings and accreditation statuses issued in the 2010-2011 and 2013-2014 [~~2012-2013~~] school years shall be considered consecutive.

(g) This section expires September 1, 2015 [~~2014~~].

(2) On page 68, line 24, between "(a)" and "Effective", insert the following: Section 39.116(c), Education Code, is repealed.

(b)

(3) On page 69, line 2, strike "(b)" and substitute "(c)".

(4) Renumber SECTIONS of the bill appropriately.

Amendment No. 81 was withdrawn.

**Amendment No. 82**

Representative Bell offered the following amendment to **CSHB 5**:

Floor Packet Page No. 146

Amend **CSHB 5** (house committee report) as follows:

- (1) On page 46, line 27, strike "and".
- (2) Between page 46, line 27, and page 47, line 1, insert the following:
  - (2) percentages of:

(A) students who earned a nationally or internationally recognized business or industry certification or license;

(B) students who completed a coherent sequence of career and technical courses;

(C) students who completed a dual credit course or an articulated postsecondary course provided for local credit;

(D) students who achieved applicable College Readiness Benchmarks or the equivalent on the Preliminary Scholastic Assessment Test (PSAT), the Scholastic Assessment Test (SAT), the American College Test (ACT), or the ACT-Plan assessment program; and

(E) students who received a score on either an advanced placement test or an international baccalaureate examination to be awarded college credit; and

- (3) On page 47, line 1, strike "(2)" and substitute "(3) [(2)]".

Amendment No. 82 was adopted.

**Amendment No. 83**

Representative Walle offered the following amendment to **CSHB 5**:

Floor Packet Page No. 150

Amend **CSHB 5** (house committee printing) as follows:

- (1) On page 50, line 17, strike "and" and substitute "~~and~~".
- (2) On page 50, line 21, between "course" and the period insert:

; and

(12) for each campus, the number of students, disaggregated by major student subpopulations, that graduate:

(A) under the foundation high school program;

(B) under the distinguished level of achievement under the foundation high school program; and

(C) with each category of endorsement under Section 28.025(c-1)

Amendment No. 83 was adopted.

**Amendment No. 84**

Representative Allen offered the following amendment to **CSHB 5**:

Floor Packet Page No. 49

Amend **CSHB 5** (house committee printing) as follows:

(1) On page 4, line 24, between "(e-1)," and "(h)", insert "(e-2), (e-3),".

(2) On page 13, following line 27, insert the following:

(e-2) At the end of each school year, each school district shall report through the Public Education Information Management System (PEIMS) the number of district students who, during that school year, were:

(1) enrolled in the foundation high school program;

(2) pursuing the distinguished level of achievement under the foundation high school program as provided by Subsection (b-14); and

(3) enrolled in a program to earn an endorsement described by Subsection (c-1).

(e-3) Information reported under Subsection (e-2) must be disaggregated by all student groups served by the district, including categories of race, ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29.

Amendment No. 84 was adopted.

#### **Amendment No. 85**

Representative S. Turner offered the following amendment to **CSHB 5**:

Floor Packet Page No. 159

Amend **CSHB 5** (house committee report) as follows:

(1) On page 53, line 8, strike "distinguished level of achievement under the".

(2) On page 53, line 12, strike "distinguished level of achievement under the".

(3) On page 53, lines 26-27, strike "distinguished level of achievement under the".

(4) On page 54, lines 15-16, strike "distinguished level of achievement under the".

(5) On page 56, line 15, strike "distinguished level of achievement under the".

Amendment No. 85 was withdrawn.

#### **Amendment No. 86**

Representative Giddings offered the following amendment to **CSHB 5**:

Floor Packet Page No. 168

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 7.056(e), Education Code, is amended to read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or
- (3) a requirement, restriction, or prohibition relating to:
  - (A) essential knowledge or skills under Section 28.002 or high school graduation requirements under Section 28.025;
  - (B) public school accountability as provided by Subchapters B, C, D, E, and J, Chapter 39;
  - (C) extracurricular activities under Section 33.081 or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812;
  - (D) health and safety under Chapter 38;
  - (E) purchasing under Subchapter B, Chapter 44;
  - (F) elementary school class size limits, except as provided by Section 25.112;
  - (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
  - (H) at-risk programs under Subchapter C, Chapter 29;
  - (I) prekindergarten programs under Subchapter E, Chapter 29;
  - (J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;
  - (K) special education programs under Subchapter A, Chapter 29;
  - (L) bilingual education programs under Subchapter B, Chapter 29;

[✕]

(M) the requirements for the first day of instruction under Section 25.0811; or

(N) assignment of a student to a teacher under Section 28.0215, except as provided by Subsection (f) of that section.

(b) This section applies beginning with the 2013-2014 school year.

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0215 to read as follows:

Sec. 28.0215. REQUIREMENTS FOR ASSIGNMENT OF STUDENTS TO TEACHERS. (a) This section applies only to a school district with an enrollment of 5,000 or more students.

(b) A student in kindergarten through grade six may not be assigned for two consecutive school years to a teacher who:

(1) has less than one year of teaching experience; or

(2) does not hold the appropriate certificate required under Section 21.003.

(c) In a subject for which a student is assessed under Section 39.023(a) or (c), a student in grades 7 through 12 may not be assigned for two consecutive years to a teacher who:

(1) has less than one year of teaching experience; or

(2) does not hold the appropriate certificate required under Section 21.003.

(d) The requirement imposed by Subsection (b) or (c) does not apply if the student's parent or other person standing in parental relation to the student and a school counselor or school administrator agree otherwise regarding assignment of the student to a teacher.

(e) Subsection (b) or (c) does not apply to the first year a student transfers into a school district.

(f) The commissioner may grant a waiver from the requirements of this section to a school district if the commissioner finds that extreme circumstances in the district warrant the waiver. The commissioner may adopt rules as necessary to implement this section.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 86 was withdrawn.

### **Amendment No. 87**

Representative Branch offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 175

Amend **CSHB 5** by adding a new SECTION 2 to read as follows and by renumbering subsequent sections appropriately:

SECTION 2. Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.064 to read as follows:

Sec. 7.064. CAREER AND TECHNOLOGY CONSORTIUM. (a) The commissioner shall investigate available options for the state to join a consortium of states for the purpose of developing sequences of academically rigorous career and technology courses in career areas that are high-demand, high-wage career areas in this state.

(b) The curricula for the courses must include the appropriate essential knowledge and skills adopted under Subchapter A, Chapter 28.

(c) If the commissioner determines that joining a consortium of states for this purpose would be beneficial for the educational and career success of students in the state, the commissioner may join the consortium on behalf of the state.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Zerwas on motion of Callegari.

### **CSHB 5 - (consideration continued)**

Amendment No. 87 was adopted.

### **Amendment No. 88**

Representative Farrar offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 133

Amend **CSHB 5** (house committee report) on page 39, between lines 2 and 3, by inserting the following:

(e) The criteria developed under Subsection (d)(1) for parental involvement programs must include an evaluation of whether and to what extent a campus offers an opportunity to educate a student's parent or guardian regarding student preparation for assessment instruments administered under Section 39.023(c); whether and to what extent a campus offers an opportunity for students to participate in community service projects; and whether and to what extent the school offers after-school tutoring services or makes information available to students regarding entities that offer free tutoring services.

#### **Amendment No. 89**

Representative Farrar offered the following amendment to Amendment No. 88:

Amend the Farrar Amendment No. 88 by striking the entirety of the original amendment and replacing it with the following:

Amend **CSHB 5**, as follows:

On page 38, line 8 add of **CSHB 5** after "; "such as:"

1. opportunities for parents to assist students in preparing for assessments under 39.023
2. tutoring programs that support students taking assessments under 39.023, and
3. opportunities for students to participate in community service projects.

Amendment No. 89 was adopted.

Amendment No. 88, as amended, was adopted.

#### **Amendment No. 90**

Representative Moody offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 189

Amend **CSHB 5** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.418 to read as follows:

Sec. 21.418. CERTAIN INCENTIVES AND SALARY CONTINGENCIES PROHIBITED. (a) Subject to Subsection (b), a school district may not:

(1) offer or reward a financial incentive to an educator that is contingent on student performance on an assessment instrument administered under Chapter 39; or

(2) make any portion of an educator's salary contingent on student performance on an assessment instrument administered under Chapter 39.

(b) This section does not affect the use of any federal funds disbursed for a purpose otherwise prohibited under Subsection (a).

(b) This section applies beginning with the 2013-2014 school year.

SECTION \_\_\_\_\_. (a) Section 21.702(b), Education Code, is amended to read as follows:

(b) In establishing the program, the commissioner shall adopt program guidelines in accordance with this subchapter for a school district to follow in developing a local awards plan under Section 21.704. The guidelines must prohibit a school district from making awards on the basis of student performance on an assessment instrument administered under Chapter 39, as prohibited under Section 21.418.

(b) This section applies beginning with the 2013-2014 school year.

Representative Aycock moved to table Amendment No. 90.

The motion to table prevailed by (Record 107): 80 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Button; Callegari; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Dukes; Elkins; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Gonzales; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Kacal; Keffer; King, K.; King, S.; Kleinschmidt; Klick; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Lewis; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simpson; Smith; Smithee; Stephenson; Strama; Taylor; Thompson, S.; Villalba; White; Workman; Zedler.

Nays — Allen; Alonzo; Alvarado; Burnam; Canales; Capriglione; Coleman; Collier; Cortez; Dale; Davis, Y.; Dutton; Eiland; Fallon; Farias; Farrar; Giddings; Goldman; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Isaac; Johnson; King, P.; King, T.; Krause; Leach; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Perez; Pickett; Raymond; Rodriguez, J.; Rose; Sanford; Simmons; Springer; Stickland; Thompson, E.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds; Zerwas.

Absent — Anchia; McClendon; Rodriguez, E.

### **Amendment No. 91**

Representatives J. Davis and S. King offered the following amendment to **CSHB 5**:

Floor Packet Page No. 202

Amend **CSHB 5** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 25.083, Education Code, is amended to read as follows:

Sec. 25.083. SCHOOL DAY INTERRUPTIONS. (a) The board of trustees of each school district shall adopt and strictly enforce a policy limiting interruptions of classes during the school day for nonacademic activities such as announcements and sales promotions. At a minimum, the policy must limit announcements other than emergency announcements to once during the school day.

(b) The board of trustees of each school district shall adopt and strictly enforce a policy limiting the removal of students from class for remedial tutoring or test preparation. A district may not remove a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than 10 percent of the school days on which the class is offered, unless the student's parent or another person standing in parental relation to the student provides to the district written consent for removal from class for such purpose.

(b) This section applies beginning with the 2013-2014 school year.

SECTION \_\_\_\_\_. (a) The heading to Section 25.092, Education Code, is amended to read as follows:

Sec. 25.092. MINIMUM ATTENDANCE FOR CLASS CREDIT OR FINAL GRADE.

(b) This section applies beginning with the 2013-2014 school year.

SECTION \_\_\_\_\_. (a) Sections 25.092(a), (a-1), (b), and (d), Education Code, are amended to read as follows:

(a) Except as provided by this section, a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered.

(a-1) A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class. A student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit or a final grade under this subsection without the consent of the judge presiding over the student's case.

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit or a final grade by students who are in attendance fewer than the number of days required under Subsection (a) and have not earned class credit or a final grade under Subsection (a-1). Classroom teachers shall comprise a majority of the membership of the committee. A committee may give class credit or a final grade to a student because of extenuating circumstances. Each board of trustees shall establish guidelines to determine what constitutes extenuating circumstances and shall adopt policies establishing alternative ways for students to make up work or regain credit or a final grade lost because of absences. The alternative ways must include at least one option that does not require a student to pay a fee authorized under Section 11.158(a)(15). A certified public school employee may not be

assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

(d) If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board of trustees. The decision of the board may be appealed by trial de novo to the district court of the county in which the school district's central administrative office is located.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 91 was adopted.

### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Transportation meeting is canceled.

### CSHB 5 - (consideration continued)

#### Amendment No. 92

Representative Farney offered the following amendment to **CSHB 5**:

Floor Packet Page No. 206

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.00222 to read as follows:

Sec. 28.00222. INCREASE IN CAREER AND TECHNOLOGY EDUCATION COURSES. (a) Not later than September 1, 2014, the State Board of Education shall ensure that the number of approved career and technology education courses is at least equal to twice the number of approved courses on September 1, 2013.

(b) Not later than January 1, 2015, the commissioner shall review and report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the legislature with primary responsibility over public primary and secondary education regarding the progress of increasing the number of courses approved for the career and technology education curriculum. The commissioner shall include in the report a detailed description of any new courses, including instructional materials and required equipment, if any.

(c) This section expires September 1, 2017.

(b) This section applies beginning with the 2013-2014 school year.

#### Amendment No. 93

Representative Farney offered the following amendment to Amendment No. 92:

Amend Amendment No. 92 to **CSHB 5** by Farney as follows:

(1) On page 1, strike lines 8-10 of the amendment and substitute "State Board of Education shall ensure that at least six advanced career and technology education courses are approved to satisfy a fourth credit in mathematics".

(2) On page 1, line 21 of the amendment, strike "2017" and substitute "2015".

Amendment No. 93 was adopted.

Amendment No. 92, as amended, was adopted.

#### **Amendment No. 94**

Representative Alonzo offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 210

Amend **CSHB 5** (house committee report) by inserting the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0256 to read as follows:

Sec. 28.0256. TEXAS STATE SEAL OF BILINGUALISM AND BILITERACY. (a) In this section, "seal" means the Texas State Seal of Bilingualism and Biliteracy established under Subsection (b).

(b) The agency shall establish a seal to recognize high school graduates who have attained a high level of proficiency in comprehending, speaking, reading, and writing in both English and a language other than English.

(c) A student earns the seal if the student:

(1) earns a distinguished level of achievement under the foundation high school program under Section 28.025(b-14);

(2) completes the curriculum requirements for English language arts under Section 28.025(b-1)(1) with a grade point average in those courses of at least 3.0 on a four-point scale;

(3) demonstrates proficiency in a language other than English by:

(A) earning a passing score on an advanced placement or international baccalaureate test for a language other than English; or

(B) completing four credits in the same language in a language other than English under Section 28.002(a)(2)(A) with a grade point average in those courses of at least 3.0 on a four-point scale; and

(4) if the student is enrolled in a school district that has implemented a dual language immersion program under Section 28.0051, completes at least six credits in the dual language immersion program after entering the sixth grade, including three credits that satisfy foundation curriculum requirements under Section 28.002(a)(1).

(d) The agency shall prepare and deliver to a participating school district an insignia that can be affixed or stamped on the diploma or transcript of a student who has satisfied requirements for earning the seal.

(e) The board of trustees of a school district may choose whether to offer the seal to students who satisfy the requirements for earning the seal.

(f) Each school district that offers the seal to an eligible student shall:

(1) maintain appropriate records to identify students who have earned the seal; and

(2) affix the seal's insignia to the diploma or transcript of each student who has satisfied requirements for earning the seal.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 94 was withdrawn.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Business and Industry meeting is canceled.

**CSHB 5 - (consideration continued)****Amendment No. 95**

Representative Dukes offered the following amendment to **CSHB 5**:

Floor Packet Page No. 212

Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.030 to read as follows:

Sec. 28.030. HIGH SCHOOL STUDENT SURVEY. (a) The agency shall post on the agency's Internet website a survey to be completed by high school students. The information requested by the survey must include:

- (1) the student's race, ethnicity, socioeconomic status, and gender;
  - (2) the name of the school district the student attends;
  - (3) whether the student is bilingual;
  - (4) details regarding the student's graduation plan, including whether the student will graduate under the foundation high school program or the distinguished level of achievement under the foundation high school program and the reason the student selected the graduation plan;
  - (5) any endorsement described by Section 28.025(c-1) earned by the student and the reason the student selected the endorsement; and
  - (6) the postgraduation plans of the student, including whether the student will attend a community college, institution of higher education, or trade school and any workforce goals of the student, and the student's reasons for choosing those particular postgraduation plans.
- (b) A school district shall require each student to complete the survey before the student graduates from high school.

(b) This section applies beginning with the 2017-2018 school year.

Amendment No. 95 was adopted.

**Amendment No. 96**

Representative Flynn offered the following amendment to **CSHB 5**:

Floor Packet Page No. 214

Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Subsection (a), Section 29.004, Education Code, is amended to read as follows:

(a) A written report of a full individual and initial evaluation of a student for purposes of special education services shall be completed not later than the 60th school [calendar] day following the date on which the school district, in accordance with 20 U.S.C. Section 1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian.

Amendment No. 96 was withdrawn.

**Amendment No. 97**

Representative Giddings offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 219

Amend **CSHB 5** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 29.081, Education Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) Each district shall provide additional accelerated instruction to a student in each subject in which the student has failed to perform satisfactorily on an end-of-course assessment instrument as required under Section 39.025 for the student to graduate. The accelerated instruction shall be provided before the next scheduled administration of the assessment instrument and at no cost to the student.

(b-2) A district shall separately budget sufficient funds, including funds under Section 42.152, to provide accelerated instruction under Subsection (b-1). A district may not budget funds received under Section 42.152 for any other purpose until it has adopted a budget to support additional accelerated instruction under Subsection (b-1).

(b-3) A district shall evaluate the effectiveness of accelerated instruction programs under Subsection (b-1) and hold a public hearing once each year to consider the results.

(b) This section applies beginning with the 2013-2014 school year.

(Speaker pro tempore in the chair)

Representative Aycock moved to table Amendment No. 97.

The motion to table prevailed by (Record 108): 93 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Lozano; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Toth; Turner, E.S.; Villalba; White; Workman; Zedler.

Nays — Allen; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guillen; Gutierrez; Hernandez Luna; Howard; Johnson; Longoria; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Perez; Pickett; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C).

Absent, Excused — Reynolds; Zerwas.

Absent — Alonzo; Anderson; Herrero; Simpson; Thompson, E.; Thompson, S.; Turner, C.

### STATEMENTS OF VOTE

When Record No. 108 was taken, my vote failed to register. I would have voted yes.

Anderson

When Record No. 108 was taken, my vote failed to register. I would have voted yes.

E. Thompson

When Record No. 108 was taken, I was temporarily out of the house chamber. I would have voted no.

S. Thompson

### Amendment No. 98

Representative C. Turner offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 221

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS in the bill accordingly:

SECTION \_\_\_\_\_. Section 29.182(b), Education Code, is amended to read as follows:

(b) The state plan must include procedures designed to ensure that:

(1) all secondary and postsecondary students have the opportunity to participate in career and technology education programs;

(2) the state complies with requirements for supplemental federal career and technology education funding; ~~and~~

(3) career and technology education is established as a part of the total education system of this state and constitutes an option for student learning that provides a rigorous course of study consistent with the required curriculum under Section 28.002 and under which a student may receive specific education in a career and technology program that:

(A) incorporates competencies leading to academic and technical skill attainment;

(B) leads to:

- (i) an industry-recognized license, credential, or certificate; or
- (ii) at the postsecondary level, an associate or baccalaureate

degree;

(C) includes opportunities for students to earn college credit for coursework; and

(D) includes, as an integral part of the program, participation by students and teachers in activities of career and technical student organizations supported by the agency and the State Board of Education; and

(4) a school district provides, to the greatest extent possible, to a student participating in a career and technology education program opportunities to enroll in dual credit courses as part of the program.

### **Amendment No. 99**

Representative C. Turner offered the following amendment to Amendment No. 98:

Amend Amendment No. 98 to **CSHB 5** by C. Turner (page 221 of the prefiled amendment packet) on page 2 of the amendment, line 6, between "courses" and "as", by inserting "designed to lead to a degree, license, or certification".

Amendment No. 99 was adopted.

Amendment No. 98, as amended, was adopted.

### **Amendment No. 100**

Representative J. Davis offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 223

Amend **CSHB 5** (house committee report) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The heading to Section 29.190, Education Code, is amended to read as follows:

Sec. 29.190. SUBSIDY FOR MANUFACTURING CERTIFICATION EXAMINATION.

SECTION \_\_\_\_\_. (a) Sections 29.190(a) and (c), Education Code, are amended to read as follows:

(a) A student is entitled to a subsidy under this section if:

(1) the student:

(A) successfully completes the career and technology program of a school district in which the student receives training and instruction for employment [~~in a current or emerging high demand, high wage, high skill occupation, as determined under Subsection (c)~~]; or

(B) is enrolled in a special education program under Subchapter A;

and

(2) the student passes a certification examination to qualify for a license or certificate for an [the] occupation in the manufacturing industry [~~and~~]

~~[(3) the student submits to the district a written application in the form, time, and manner required by the district for the district to subsidize the cost of an examination described by Subdivision (2)].~~

(c) On approval by the commissioner, the agency shall pay each school district an amount equal to the cost paid by the district ~~[or student]~~ for the certification examination. To obtain reimbursement for a subsidy paid under this section, a district must:

(1) pay the fee for the examination ~~[or pay the student the amount of the fee paid by the student for the examination];~~ and

(2) submit to the commissioner a written application on a form prescribed by the commissioner stating the amount of the fee paid under Subdivision (1) for the certification examination.

(b) This section applies beginning with the 2013-2014 school year.

(2) On page 68, between lines 25 and 26, insert the following appropriately numbered subdivision and renumber subsequent subdivisions accordingly:

( ) Sections 29.190(b) and (e);

Amendment No. 100 was adopted.

### **Amendment No. 101**

Representative Patrick offered the following amendment to **CSHB 5**:

Floor Packet Page No. 252

Amend **CSHB 5** (house committee printing) as follows:

(1) Insert the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. (a) Section 39.0232, Education Code, is amended to read as follows:

Sec. 39.0232. USE OF END-OF-COURSE ASSESSMENT INSTRUMENT AS PLACEMENT INSTRUMENT; CERTAIN USES PROHIBITED. (a) To the extent practicable, the agency shall ensure that any high school end-of-course assessment instrument developed by the agency is developed in such a manner that the assessment instrument may be used to determine the appropriate placement of a student in a course of the same subject matter at an institution of higher education.

(b) A student's performance on an end-of-course assessment instrument may not be used:

(1) in determining the student's class ranking for any purpose, including entitlement to automatic college admission under Section 51.803 or 51.804; or

(2) as a sole criterion in the determination of whether to admit the student to a general academic teaching institution in this state.

(c) Subsection (b)(2) does not prohibit a general academic teaching institution from implementing an admission policy that takes into consideration a student's performance on an end-of-course assessment instrument in addition to other criteria.

(d) In this section, "general academic teaching institution" has the meaning assigned by Section 61.003.

(b) This section applies beginning with the 2013-2014 school year.

(2) On page 55, line 3, strike "Subsection (g)" and substitute "Subsections (a-1) and (g)".

(3) On page 55, between lines 21 and 22, insert the following:

(a-1) Notwithstanding Subsection (a) or any other provision of this section, a student is not required to perform at or above a satisfactory level on end-of-course assessment instruments adopted under Section 39.023(c) or (c-2) in order to be eligible to apply to a general academic teaching institution.

(4) Renumber subsequent SECTIONS accordingly.

#### **Amendment No. 102**

Representative Patrick offered the following amendment to Amendment No. 101:

Amend Floor Amendment No. 101 to **CSHB 5** by Patrick (page 252-253 of the amendment packet) by striking item (3), page 2 of the amendment, lines 1-7 and renumbering subsequent items accordingly.

Amendment No. 102 was adopted.

Amendment No. 101, as amended, was adopted.

#### **Amendment No. 103**

Representative Phillips offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 255

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0237 to read as follows:

Sec. 39.0237. PROHIBITED SCHOOL DISTRICT ACTION DURING ADMINISTRATION OF ASSESSMENT INSTRUMENTS. On a date on which an assessment instrument under Section 39.023 is administered, a school district may not:

(1) excuse or dismiss from school a student who is not administered an assessment instrument on that date;

(2) restrict the recess of a student who is not administered an assessment instrument on that date; or

(3) prohibit a student who is not administered an assessment instrument on that date from speaking during the student's lunch period, unless the district has adopted a policy that prohibits all students from speaking during the lunch period every day.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 103 was withdrawn.

#### **Amendment No. 104**

Representative P. King offered the following amendment to **CSHB 5**:

Floor Packet Page No. 256

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 39.026, Education Code, is amended to read as follows:

Sec. 39.026. LOCAL OPTION. (a) In addition to the assessment instruments adopted by the agency and administered by the State Board of Education, a school district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A norm-referenced assessment instrument adopted under this section must be economical, nationally recognized, and state-approved.

(b) This subsection applies only to administration of assessment instruments to students at the third, fourth, fifth, sixth, seventh, or eighth grade level. Notwithstanding any other provision of this title, the board of trustees of a school district may provide for limiting administration to district students of assessment instruments required under Section 39.023 to only those subjects and only at those grade levels required by federal law.

(c) This subsection applies only to administration of assessment instruments to students at the third, fourth, fifth, sixth, seventh, or eighth grade level. Notwithstanding any other provision of this title, subject to approval by the commissioner, the board of trustees of a school district may adopt and provide for administration of an economical criterion-referenced assessment instrument in place of any assessment instrument required under Section 39.023 that is adopted by the agency.

(d) If there is a conflict between this section and federal law or regulations, the agency shall seek a waiver from the application of conflicting federal law or regulations.

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

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 104 was withdrawn.

### **Amendment No. 105**

Representative Villarreal offered the following amendment to **CSHB 5**:

Floor Packet Page No. 260

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0263 to read as follows:

Sec. 39.0263. ADMINISTRATION OF DISTRICT-REQUIRED BENCHMARK ASSESSMENT INSTRUMENTS TO PREPARE STUDENTS FOR STATE-ADMINISTERED ASSESSMENT INSTRUMENTS. (a) In this

section, "benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

(b) Except as provided by Subsection (c), a school district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

(c) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

(d) A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with commissioner rule, may request administration to the student of additional benchmark assessment instruments.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 105 was adopted.

#### **Amendment No. 106**

Representative Deshotel offered the following amendment to **CSHB 5**:

Floor Packet Page No. 261

Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.038 to read as follows:

Sec. 39.038. PROHIBITION ON POLITICAL CONTRIBUTION OR ACTIVITY BY CERTAIN CONTRACTORS. (a) A person who is an agent of an entity that has been contracted to develop or implement assessment instruments required under Section 39.023 commits an offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on the State Board of Education.

(b) A person who is an agent of an entity that has been contracted to develop or implement assessment instruments required under Section 39.023 commits an offense if the person serves as a member of a formal or informal advisory committee established by the commissioner, agency staff, or the State Board of Education to advise the commissioner, agency staff, or the State Board of Education regarding policies or implementation of the requirements of this subchapter.

(c) An offense under this section is a Class B misdemeanor.

(b) This section applies September 1, 2013.

Amendment No. 106 was adopted by (Record 109): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.(C); Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Reynolds; Zerwas.

#### **Amendment No. 107**

Representative C. Turner offered the following amendment to **CSHB 5**:

Floor Packet Page No. 262

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.038 to read as follows:

Sec. 39.038. RESTRICTION ON APPOINTMENTS TO ADVISORY COMMITTEES. The commissioner may not appoint a person to a committee or panel that advises the commissioner or agency regarding state accountability systems under this title or the content or administration of an assessment instrument if the person is reimbursed, retained, or employed by an assessment instrument vendor.

SECTION \_\_\_\_\_. If, on September 1, 2013, a person is serving on a committee or panel that advises the commissioner of education or the Texas Education Agency who would not be eligible for appointment under Section 39.038, Education Code, as added by this Act, the person's position on the committee or panel becomes vacant and shall be filled in accordance with applicable law.

Amendment No. 107 was adopted.

#### **Amendment No. 108**

Representative Moody offered the following amendment to **CSHB 5**:

Floor Packet Page No. 265

Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.038 to read as follows:

Sec. 39.038. AUDIT OF ASSESSMENT INSTRUMENT DEVELOPERS.  
(a) The state auditor shall conduct a review of the qualifications of each person who develops assessment instruments under this subchapter.

(b) The review must evaluate the suitability of the person to develop assessment instruments, including by:

(1) examining the education qualifications of the developers and person grading the exams; and

(2) identifying potential conflicts of interest between the employees, consultants, or registered lobbyists of the person and:

(A) the agency;

(B) the Texas Higher Education Coordinating Board; or

(C) State Board of Education committees, task forces, or review boards.

(b) This section applies beginning with the 2013-2014 school year.

Amendment No. 108 was withdrawn.

#### **Amendment No. 109**

Representative Burnam offered the following amendment to **CSHB 5**:

Floor Packet Page No. 266

Amend **CSHB 5** (house committee printing) by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.039 to read as follows:

Sec. 39.039. GRANT PROGRAM FOR ASSESSMENT INSTRUMENT FEES. (a) The commissioner by rule shall establish a grant program under which each educationally disadvantaged student may take, without cost to the student:

(1) an advanced placement test;

(2) an international baccalaureate examination; or

(3) any assessment instrument that may be used to satisfy the requirements for an assessment instrument administered under Section 39.023(a), (c), or (l).

(b) Under the grant program, all fees associated with the administration of an assessment instrument shall be paid using only funds appropriated for the purpose from the Texas Enterprise Fund.

(b) This section takes effect September 1, 2013.

SECTION \_\_\_\_\_. (a) Section 481.078, Government Code, is amended by amending Subsection (c) and adding Subsection (d-2) to read as follows:

(c) Except as provided by Subsections (d), ~~and~~ (d-1), and (d-2), the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

(d-2) The fund may be used for the grant program established under Section 39.039, Education Code, for the payment of fees associated with the administration of assessment instruments described under that section.

(b) This section takes effect September 1, 2013.

Representative Aycock moved to table Amendment No. 109.

The motion to table prevailed by (Record 110): 95 Yeas, 48 Nays, 2 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Guerra; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Johnson; Kacal; Keffer; King, K.; King, P.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guillen; Hernandez Luna; Herrero; Howard; Isaac; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Perez; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C).

Absent, Excused — Reynolds; Zerwas.

Absent — Gutierrez; King, S.; Pickett.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 110. I intended to vote no.

Johnson

When Record No. 110 was taken, I was temporarily out of the house chamber. I would have voted yes.

S. King

#### Amendment No. 110

Representative Dutton offered the following amendment to **CSHB 5**:

Floor Packet Page No. 268

Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 39, is amended by adding Section 39.0531 to read as follows:

Sec. 39.0531. STUDENTS EVALUATED FOR PURPOSES OF ACCOUNTABILITY RATINGS. Notwithstanding any other law, for purposes of evaluating school district and campus performance under Section 39.053(c), only the performance of African-American males may be considered.

(b) This section applies beginning with the 2013-2014 school year.

### **Amendment No. 111**

Representative Dutton offered the following amendment to Amendment No. 110:

Amend Floor Amendment No. 110 to **CSHB 5** by Dutton (page 268 of the amendment packet) on page 1 of the amendment, line 10, after the period, by adding "If no African-American males are enrolled at a school district campus or open-enrollment charter school campus, Section 39.053(c) does not apply to that campus."

Amendment No. 111 was adopted.

### **Amendment No. 110 - Point of Order**

Representative Isaac raised a point of order against further consideration of Amendment No. 110, as amended, under Article I, Section 3a of the Texas Constitution.

The chair overruled the point of order and submitted the following statement:

Representative Isaac raised a point of order against further consideration of Amendment No. 110 to **CSHB 5**, asserting that Amendment No. 110 violates Article I, Section 3a of the Texas Constitution. Specifically, Representative Isaac asserts that the amendment violates the equal rights of students and is discriminatory. The point of order is overruled because this assertion constitutes a substantive constitutional challenge to the amendment requiring resolution of whether the pending measure violates the state or federal constitution, rather than a challenge to the house's procedures allowed by the house rules or the constitution by which a bill or amendment is being considered. The chair continues its long-standing practice of respectfully declining to rule on this point. See 82 H.J. Reg. 956 (2011), (explaining that a substantive point of order is precisely the type of constitutional point "traditionally not ruled on"); 62 H.J. Reg. 2845 (1971), (declining, based on house precedent, to entertain a point of order that raised a substantive constitutional challenge).

Representative Aycock moved to table Amendment No. 110, as amended.

The motion to table prevailed.

**Amendment No. 112**

Representative Gonzales offered the following amendment to **CSHB 5**:

Floor Packet Page No. 271

Amend **CSHB 5** (house committee report) on page 39 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 39.056, Education Code, is amended to read as follows:

(d) The agency shall give written notice to the superintendent and the board of trustees of a school district of any impending investigation of the district's accreditation.

(e) The investigators shall report orally and in writing to the board of trustees of the school district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

(f) A district which takes action with regard to the recommendations provided by the investigators as prescribed by subsection (e) shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using improvement techniques that are goal oriented and research-based.

Amendment No. 112 was adopted.

**Amendment No. 113**

Representative Gutierrez offered the following amendment to **CSHB 5**:

Floor Packet Page No. 297

Amend **CSHB 5** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) In this section, "agency" means the Texas Education Agency.

(b) The agency shall conduct a study to determine if a cost benefit or efficiency would result from the consolidation of school districts in Bexar County. In conducting the study, the agency shall consider the consolidation of all school districts with a majority of district territory in Bexar County to:

- (1) one school district; and
- (2) five school districts.

(c) Not later than December 1, 2014, the agency shall:

- (1) publish the results of the study on the agency's Internet website; and
- (2) deliver a written report of the results of the study to:

(A) the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing legislative committee with primary jurisdiction over public education;

(B) the mayor of San Antonio; and

(C) the board of trustees of each school district with a majority of territory in Bexar County.

(d) This section expires September 1, 2015.

Amendment No. 113 was withdrawn.

#### **Amendment No. 114**

Representative Herrero offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 303

Amend **CSHB 5** (house committee report) by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Notwithstanding any other provision of this Act, this Act takes effect only if:

(1) for the 2013-2014 and 2014-2015 school years:

(A) the basic allotment under Section 42.101(a), Education Code, is at least \$4,765;

(B) the regular program adjustment factor under Section 42.101(c-3), Education Code, is 1.0;

(C) the percentage specified under Section 42.2516(i), Education Code, is 100.00; and

(D) the dollar amount guaranteed level of state and local funds per student of tax effort ("GL") under Section 42.302, Education Code, is at least the amount specified in that section as it existed January 1, 2013; and

(2) the amount appropriated in the General Appropriations Act to the Texas Education Agency for the Foundation School Program for the state fiscal biennium ending August 31, 2015, is sufficient to provide the full amount of funding to which school districts are entitled.

(b) If the conditions specified in Subsection (a) of this section are not satisfied, this Act has no effect.

Representative Aycock moved to table Amendment No. 114.

The motion to table prevailed by (Record 111): 94 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, G.; Branch; Burkett; Button; Callegari; Capriglione; Carter; Clardy; Cook; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Deshotel; Elkins; Fallon; Farney; Fletcher; Flynn; Frank; Frullo; Geren; Goldman; Gonzales; Gooden; Harless; Harper-Brown; Hilderbran; Huberty; Hughes; Hunter; Isaac; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Lozano; Miller, D.; Miller, R.; Morrison; Murphy; Orr; Otto; Paddie; Parker; Patrick; Perry; Phillips; Pitts; Price; Raney; Ratliff; Riddle; Ritter; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Toth; Turner, E.S.; Villalba; White; Workman; Zedler.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Canales; Coleman; Collier; Cortez; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Giddings; González, M.; Gonzalez, N.; Guerra; Guillen; Gutierrez; Hernandez Luna; Herrero; Howard; Johnson; Longoria; Lucio; Márquez; Martínez; Martínez Fischer; McClendon; Menéndez; Miles; Moody; Muñoz; Naishtat; Nevárez; Oliveira; Perez; Raymond; Rodriguez, E.; Rodriguez, J.; Rose; Strama; Thompson, S.; Turner, C.; Turner, S.; Villarreal; Vo; Walle; Wu.

Present, not voting — Mr. Speaker; Bonnen, D.(C).

Absent, Excused — Reynolds; Zerwas.

Absent — Pickett.

### **Amendment No. 115**

Representatives Burnam, Strama, and Walle offered the following amendment to **CSHB 5**:

Floor Packet Page No. 54

Amend **CSHB 5** (house committee printing) on page 5, line 14, after "program", by inserting: "and the courses necessary to complete the curriculum requirements established under Subsection (b-14) for the distinguished level of achievement under the foundation high school program, unless the student and the student's parent or legal guardian:

(1) are provided with the information required to be provided under Section 33.007(b) in a language in which the parent or legal guardian is proficient, or the information is conveyed to the parent or legal guardian by a translator provided by the school district who is proficient in the same language in which the parent or legal guardian is proficient.; and

(2) agree in writing signed by the student and the student's parent or legal guardian that each party understands that the student should be permitted to successfully complete the foundation high school program without meeting the requirements of the distinguished level of achievement established under Subsection (b-14)".

### **Amendment No. 116**

Representative Lucio offered the following amendment to Amendment No. 115:

Amend Floor Amendment No. 115 to **CSHB 5** by Burnam (page 54 of the amendment packet) as follows:

(1) On page 1 of the amendment, strike the last two lines of added Subdivision (1) and substitute "language in which the parent or legal guardian is proficient, except that the district is required to provide the information according to this subdivision only if the district has enrolled in any one particular grade at least 20 students who primarily speak the language in which the information is to be provided; and".

Amendment No. 116 was adopted. (Laubenberg, Leach, Phillips, Springer, and Stickland recorded voting no.)

Amendment No. 115, as amended, was adopted. (Laubenberg, Leach, Phillips, Springer, and Stickland recorded voting no.)

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today because of important business:

Hilderbran on motion of Crownover.

### **CSHB 5 - (consideration continued)**

#### **Amendment No. 117**

Representative Villarreal offered the following amendment to **CSHB 5**:  
Floor Packet Page No. 296

Amend **CSHB 5** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) The Texas Education Agency, in collaboration with the Texas Higher Education Coordinating Board and the Texas Workforce Commission, shall review implementation of the changes made by this Act to the curriculum requirements for high school graduation. The review must include an evaluation of the effect of the changes on high school graduation rates, college readiness, college admissions, college completion, obtainment of workforce certificates, employment rates, and earnings.

(b) The commissioner of education shall submit an initial report regarding the review to the governor, lieutenant governor, and members of the legislature not later than December 1, 2015. The commissioner of education shall submit a final report regarding the review to the governor, lieutenant governor, and members of the legislature not later than December 1, 2017.

#### **Amendment No. 118**

Representative Villarreal offered the following amendment to Amendment No. 117:

Amend the Villarreal amendment to **CSHB 5** (page 296 of the prefiled amendment packet) on page 1 of the amendment as follows:

(1) On line 6 of the amendment, strike "review" and substitute ", through an external evaluator at a center for education research authorized by Section 1.005, evaluate the".

(2) On line of the amendment 8, strike "review must include an evaluation of the" and substitute "evaluation must include an estimation this Act's".

(3) On line 9 of the amendment, strike "of the changes".

Amendment No. 118 was adopted.

Amendment No. 117, as amended, was adopted.

(Hilderbran now present)

(Speaker in the chair)

**CSHB 5**, as amended, was passed to engrossment by (Record 112): 145 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martínez; Martínez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler.

Nays — Gonzalez, N.; Strama.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds; Zerwas.

**HB 281 ON SECOND READING**  
**(by Lucio, Carter, and Alvarado)**

**HB 281**, A bill to be entitled An Act relating to the right of one immediate family member of certain deceased peace officers to make an oral statement regarding the terms of a plea bargain agreement.

**Amendment No. 1**

Representative Moody offered the following amendment to **HB 281**:

Amend **HB 281** (house committee printing) as follows:

(1) On page 1, lines 21-22, between "who" and "dies", insert ", in the course of lawfully discharging an official duty,".

(2) On page 1, line 23, between "returned" and "is", insert "for an offense under Section 19.02, 19.03, 19.04, or 49.08, Penal Code,".

(3) On page 2, line 5, between "dies" and "as", insert "in the course of lawfully discharging an official duty".

(4) On page 2, line 6, strike "of the defendant" and substitute "described by Subsection (a)".

Amendment No. 1 was adopted.

**HB 281**, as amended, was passed to engrossment by (Record 113): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds; Zerwas.

**HB 677 ON SECOND READING**  
**(by Geren, Frullo, Price, Orr, Kuempel, et al.)**

**HB 677**, A bill to be entitled An Act relating to the regulation and enforcement of dam safety by the Texas Commission on Environmental Quality.

**HB 677** was passed to engrossment by (Record 114): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Ashby; Aycock; Bell; Bohac; Bonnen, D.; Bonnen, G.; Branch; Burkett; Burnam; Button; Callegari; Canales; Capriglione; Carter; Clardy; Coleman; Collier; Cook; Cortez; Craddick; Creighton; Crownover; Dale; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González, M.; Gonzalez, N.; Gooden; Guerra; Guillen; Gutierrez; Harless; Harper-Brown; Hernandez Luna; Herrero; Hilderbran; Howard; Huberty; Hughes; Hunter; Isaac; Johnson; Kacal; Keffer; King, K.; King, P.; King, S.; King, T.; Kleinschmidt; Klick; Kolkhorst; Krause; Kuempel; Larson; Laubenberg; Lavender; Leach; Lewis; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Menéndez; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Orr; Otto; Paddie; Parker; Patrick; Perez; Perry; Phillips; Pickett; Pitts; Price; Raney; Ratliff; Raymond; Riddle; Ritter; Rodriguez, E.; Rodriguez, J.; Rose; Sanford; Schaefer; Sheets; Sheffield, J.; Sheffield, R.; Simmons; Simpson; Smith; Smithee; Springer; Stephenson; Stickland; Strama; Taylor; Thompson, E.; Thompson, S.; Toth; Turner, C.; Turner, E.S.; Turner, S.; Villalba; Villarreal; Vo; Walle; White; Workman; Wu; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Reynolds; Zerwas.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 114. I intended to vote no.

Ratliff

### HR 1122 - ADOPTED

(by **Stickland**)

Representative Stickland moved to suspend all necessary rules to take up and consider at this time **HR 1122**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1122**, Congratulating Lieutenant Danny Neill on his retirement from the Eules Police Department.

**HR 1122** was adopted.

### HR 1133 - ADOPTED

(by **Collier**)

Representative Stickland moved to suspend all necessary rules to take up and consider at this time **HR 1133**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1133**, Recognizing March 26, 2013, as House District 95 Day at the State Capitol.

**HR 1133** was adopted.

### BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES CORRECTIONS IN REFERRAL

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

### ADJOURNMENT

Representative Sanford moved that the house adjourn until 10 a.m. tomorrow in memory of Thayer Horn.

The motion prevailed.

The house accordingly, at 7:01 p.m., adjourned until 10 a.m. tomorrow.

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**ADDENDUM**

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**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**HB 3025** (By Zedler), Relating to the authority of the governing body of a local authority to impose a civil penalty for certain violations recorded by an automated traffic control system or a photographic traffic signal enforcement system.

To Urban Affairs.

**HB 3117** (By Burkett), Relating to the authority of the attorney general to settle certain civil suits initiated by a local government.

To Environmental Regulation.

**HB 3119** (By Burkett), Relating to contingent fee contracts for representation of local governments in certain environmental enforcement actions.

To Environmental Regulation.

**HB 3781** (By Isaac), Relating to prohibiting the use of money from the Texas Enterprise Fund or the Texas emerging technology fund for compensation to executives.

To Economic and Small Business Development.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

**HB 2613** (By Walle), Relating to access to criminal history record information by a public defender's office and the office of capital writs and to an exemption for those offices from fees imposed for processing inquiries for that information.

To Criminal Jurisprudence.

**HB 3077** (By R. Miller), Relating to display of the Honor and Remember flat.

To Defense and Veterans' Affairs.

**HB 3572** (By Hilderbran), Relating to the administration, collection, and enforcement of taxes on the wholesale and retail sale of certain alcoholic beverages; imposing a tax on sales of alcoholic beverages at the wholesale level.

To Ways and Means.

**HB 3782** (By Isaac), Relating to the major events and events trust fund.

To Economic and Small Business Development.

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1****MESSAGE FROM THE SENATE**

SENATE CHAMBER

Austin, Texas

Tuesday, March 26, 2013 - 1

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:****SB 7** Nelson

Relating to improving the delivery and quality of certain health and human services, including the delivery and quality of Medicaid acute care services and long-term services and supports.

**SB 188** Huffman

Relating to interception of wire, oral, or electronic communications for law enforcement purposes.

**SB 344** Whitmire

Relating to the procedure for an application for a writ of habeas corpus based on relevant scientific evidence.

**SB 515** Eltife

Relating to the sale and production of malt liquor, ale, and beer by the holder of a brewpub license.

**SB 518** Eltife

Relating to the authority of certain brewers and manufacturers to sell beer and ale to ultimate consumers.

**SB 581** Carona

Relating to procedures for securing the deposit of public funds.

**SB 639** Carona

Relating to the sale of beer, ale, and malt liquor by a brewer or beer manufacturer to a wholesaler or distributor and contractual agreements between those entities.

**SB 770** Uresti

Relating to a prohibition against naming public property after certain elected officials and former elected officials.

Respectfully,

Patsy Spaw

Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Tuesday, March 26, 2013 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 93** Perry SPONSOR: Duncan  
In memory of Steven Jones of Lubbock.

**SB 12** Huffman  
Relating to the admissibility of evidence of other similar offenses in the prosecution of certain sexual offenses.

**SB 204** Nichols  
Relating to the continuation and functions of the Texas Board of Professional Engineers; changing a fee.

**SB 281** Estes  
Relating to the administration and powers of the Red River Authority of Texas.

**SB 380** Schwertner  
Relating to the recording of an informal settlement conference to resolve a complaint to the Texas Medical Board against a physician.

**SB 441** Birdwell  
Relating to the establishment of the Texas Fast Start Program to promote rapid delivery of workforce education and development.

**SB 825** Whitmire  
Relating to disciplinary standards and procedures applicable to grievances alleging certain prosecutorial misconduct.

**SB 874** Hegar  
Relating to the operation of health care sharing ministries.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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APPENDIX

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**March 25**

Agriculture and Livestock - **HB 749**

Culture, Recreation, and Tourism - **HB 263, HB 1106, HCR 31**

Economic and Small Business Development - **HB 362**

Homeland Security and Public Safety - **HB 75, HB 434, HB 1090, HB 1658**

Human Services - **HB 591**

Insurance - **HB 361, HB 949, HB 1902, HB 1905**

International Trade and Intergovernmental Affairs - **HCR 55**

Land and Resource Management - **HB 611, HB 724**

Licensing and Administrative Procedures - **HB 338, HB 610**

State Affairs - **HB 898, HB 994**