



# ATPE Input on HB 3 and SB 4

Relating to public school finance reform

**April 25, 2019**

The **Association of Texas Professional Educators (ATPE)** welcomes this opportunity to offer input to the Senate Education Committee on House Bill (HB) 3 by Rep. Dan Huberty and Senate Bill (SB) 4 by Sen. Larry Taylor.

ATPE appreciates the 86th Legislature's attention to the importance of improving our state's school finance system, increasing teacher pay, and providing homeowners with needed property tax relief. We applaud the time and effort that has gone into both studying these issues over the interim and the drafting and perfecting of legislation during this session. Both bills being heard today reflect the legislature's prioritization of these critical issues and hard work to craft solutions. ATPE is optimistic that the House and Senate will reach a compromise this session that will generate meaningful relief and, most importantly, pathways for increased student success, and we hope to provide additional input on such a compromise.

**HB 3 and SB 4 share several positive provisions that ATPE would like to recognize first:**

- We are very supportive of the emphasis that both bills place on early childhood education, including the early reading allotment and additional provisions to assist school districts in funding full-day pre-K programs.
- We appreciate that both bills prioritize state funding that targets educationally disadvantaged students and English language learners.
- The incentive aid for year-round schools that would help districts provide extra instructional days to extend student learning could be a game changer when it comes to combatting summer learning lags and the education gap to which they contribute.
- Additionally, the bills' proposed student-based allotments for dyslexia disorders and bilingual education/dual language learners are beneficial for directing funds to programs that will improve student outcomes.
- ATPE appreciates that the two bills provide grant funding to promote the development and implementation of blended learning programs.
- Both bills provide money to reimburse school districts for paying the costs of exams for students who seek a certification or professional licensure.
- Recognizing that poverty is a spectrum and addressing it through a spectrum compensatory education allotment was one of the most innovative ideas to come out of the Texas

Commission on Public School Finance last year, and ATPE is glad that both bills incorporate this concept.

- ATPE also greatly appreciates that rolling portions of the existing school finance system that haven't been updated in decades, such as the high school allotment and cost of education index, into an increased basic allotment serves to simplify, streamline, and modernize a complex system.

**Chairman Taylor's newly proposed substitute language for SB 4 also includes some additional changes from HB 3 that ATPE supports in principle:**

- The Senate's bill calls for a study on geographic variations in the cost of education due to factors outside the control of school districts. The study would include a review of cost drivers as well, which we believe would be very valuable.
- SB 4 provides school districts with additional funding through a Dropout Recovery School Allotment, funding to offset costs for teachers applying for national board certification, and reimbursement for the costs of administering college preparatory assessments.
- SB 4 prioritizes funding, at least in the short term, for efforts to improve certain high-need campuses through its "Accelerated Campus Excellence" (ACE) Turnaround Plan Allotment.
- SB 4 enables children of educators to qualify for funded pre-Kindergarten programs.

Before we turn our attention to some of the more troubling differences between HB 3 and SB 4, we want to acknowledge that **both bills aim to increase compensation for certain educators, which is not only an ATPE legislative priority, but also a necessity, we believe, for improving the recruitment and retention of high-quality teachers in Texas**. The bills take substantially differing approaches, each with pros and cons.

### **Educator Pay Raise Provisions:**

SB 4, and in particular the committee's proposed substitute language for the bill, calls for creation of a new Classroom Teacher and Librarian Allotment. The bill would provide annually to each school district \$5,000 per teacher or librarian, plus funding representing the district's obligation to pay into TRS or Social Security on behalf of those educators.

Much like the well-publicized SB 3 that the Senate has already passed but the House has not yet considered, **SB 4 would require all such classroom teachers and librarians to receive a \$5,000 pay raise above their existing salaries. However, unlike SB 3, the Senate proposal for SB 4 only ensures the true pass-through nature of the pay raise for the 2019-20 school year. SB 4 does not entitle those educators to receive any such pay raise beyond the first year.** Its Classroom Teacher and Librarian Allotment would simply flow the money to districts each with a requirement that it be used, generally, "for classroom teacher and full-time librarian salaries and benefits." As a result, this compensation-related proposal in SB 4 has two major flaws:

1. First, the loosely worded language of **the SB 4 substitute makes it possible for districts to pick and choose which teachers or librarians might receive the proceeds of the**

**allotment** through increased salary and/or benefits and to what extent. One teacher might receive a \$10,000 raise, while another teacher receives nothing. It is clear that with their passage of SB 3, senators intended for every Texas teacher and librarian to receive a significant raise; the language in SB 4 should be tightened to remain consistent with this intent.

2. Moreover, SB 4 includes no language to prevent districts from using the \$5,000 allotment to *supplant* other existing funding in its compensation of teachers and librarians after year one. This means that **it would be possible under SB 4 for this new allotment to provide no additional compensation benefit whatsoever to individual educators beyond year one.** SB 3 was amended in the Senate Finance Committee so as to avoid this problem, and the language in SB 4 should be amended similarly to ensure that eligible educators get to keep the benefit of the intended raise in the out years.

By contrast, HB 3 as passed by the House requires school districts to spend at least 25 percent of any increase in the basic allotment on salary increases for all of their full-time employees except for administrators. One-quarter of those salary increases may be doled out at the district's discretion, while 75 percent of the increases must be funded in an across-the-board manner giving an equal amount to each eligible employee. Without restricting its compensation language to full-time classroom teachers and librarians, **HB 3 would make a positive impact on a much larger population of educators, reflecting the collaborative contributions of the entire education community to student success. However, the average pay raise provided for by HB 3 would be smaller than the \$5,000 increase that teachers and librarians would receive in the 2019-20 school year under SB 4.**

HB 3 attempts to ensure that future increases to the basic allotment will correspondingly produce increases in salary for the vast majority of public school employees. The House bill also endeavors to strike a compromise in that HB 3 calls for both across-the-board salary increases and flexibility for districts to use a portion of their increased state funding for more discretionary compensation decisions. Nevertheless, HB 3 is not without its own design flaws.

Insofar as public education is a collaborative endeavor, ATPE supports providing true pass-through raises to a broader cohort of the education community, including at the very least all those who are covered by the state's minimum salary schedule. While this may necessitate some reduction in the amount of each individual's pay raise, we believe that the raise should be closer to the Senate's proposed amount than what is provided under the House bill. Additionally, while there are multiple ways to structure a raise, ATPE believes it is important to choose one that will not require districts to spend more than the new dollars they are receiving from the state in order to provide a legislatively mandated pay raise.

### **Merit Pay and Changes to Teacher Appraisal Laws:**

The proposed substitute language for **SB 4 also contemplates a new merit pay program that would reward only a select few teachers, but would mandate wholesale changes to the manner in which educators are evaluated in Texas.** ATPE has serious concerns about structural changes to the laws governing teacher appraisals that are proposed in this Senate bill. We voiced similar objections to nearly identical changes that were proposed in the original version of HB 3 as filed, which the House wisely chose to remove from the bill.

Texas law has long provided for a state-recommended teacher appraisal system that is adopted through commissioner rule. Nearly a decade ago, our state began the difficult process of overhauling

the state-recommended appraisal system, which had not been updated since the 1997 implementation of the Professional Development and Appraisal System (PDAS), after federal officials declared the PDAS to be noncompliant with the No Child Left Behind Act. The result, following years of legislative debates, stakeholder reviews, research, piloting, rulemaking, and even litigation, was the launch of the Texas Teacher Evaluation and Support System (T-TESS) in the 2016-17 school year. Commissioner's rules implementing T-TESS were finalized in 2017, less than two years ago, and they included language developed as a result of a settlement of litigation against the Texas Education Agency (TEA) regarding the prescribed use of certain student growth measures in teacher evaluations. Considering the relative youth of the T-TESS and the years of effort and expense that went into its creation, it is unclear why legislators would want to modify the state's appraisal-related statutes now in the context of a school finance bill.

Much like HB 3 in its original version as filed, **the Senate's proposed language for SB 4 proposes unnecessary state-mandated policy shifts regarding the evaluation of teachers and the purpose of those evaluations, including increasing the emphasis on more controversial student performance measures.** The inclusion of this component of the bill, potentially reigniting conflicts over the rulemaking language associated with T-TESS and forcing school districts to expend additional time and money revisiting their own evaluation policies that were developed around the still relatively new T-TESS framework, is counterproductive to the legislature's goal of modernizing and improving the way we fund our public schools while also offering needed tax relief to homeowners. The House recognized the potential harm that would ensue from including these unnecessary statutory changes in HB 3 and removed them from the House bill. ATPE hopes that the Senate will take similar action and refrain from moving forward the proposed merit pay plan and changes to teacher evaluation laws.

**Of particular concern to ATPE is the Senate's proposed new Subchapter P of Chapter 21 of the Texas Education Code**, which presents a number of difficulties in its attempt to identify and reward the state's educators who are deemed by commissioner rule to be the most effective. Rather than encouraging districts to innovate and develop their own differentiated pay plans at the local level with input from educators within each community, the Senate language imposes a top-down, agency-driven system of ranking teachers for purposes of determining their worth. The bill gives the commissioner of education unprecedented latitude to make such determinations. The SB 4 substitute language transfers to the commissioner of education substantial authority that has historically rested with either the elected legislature or State Board of Education. Considering that the commissioner is an officer appointed by the governor and is not even required to have any experience as an educator, ATPE members have concerns about expanding the scope of the commissioner's rulemaking authority, especially over determining how taxpayer funds should be spent. Granting such unfettered and unilateral decision-making power to a single appointed government official who is never held accountable to voters is disconcerting, especially in light of SB 4's numerous passages exempting the commissioner's rulemaking exercises from certain checks and balances outlined in the Government Code and prohibiting any appeal of the commissioner's decisions.

**The following are some specific concerns about this portion of SB 4:**

- First, under the Senate's proposed language, designations of merit that could warrant additional pay would apply *only* to a teacher of record who instructs a minimum number of students. This restriction would have the effect of arbitrarily barring from the merit pay program certain teachers who provide vital instruction, including many educators who provide instruction to students with special needs and often teach smaller classes.
- Also, language in this section that is meant to highlight opportunities for nationally board-certified teachers to qualify for a designation of "recognized" appears to limit the designation

*only* to those teachers who are nationally board certified and also meet the other criteria of the program. Given the relatively small number of teachers who achieve national board certification, this would limit the opportunity to become designated as a “recognized” teacher to an extraordinarily small population of Texas educators. The same limitation was found in the original version of HB 3 as filed, which ATPE pointed out in our testimony to the House Public Education Committee. ATPE assumed that this was simply a drafting error, but we are alarmed to see the same odd language appearing in this newer version of SB 4, and we are forced to question whether the Senate truly intends for “recognized” designations to be offered only to teachers who achieve national board certification.

- SB 4’s outline of criteria that districts “must” use to identify potential candidates for a designation of merit is overly prescriptive and includes controversial and largely speculative methods beyond the scope of T-TESS, such as “student perception surveys” of teachers. Of immense concern, the bill limits the commissioner to approving only evaluation systems capable of ranking teachers on a statewide basis, and as a practical matter, the only data currently available that would allow educators to be ranked statewide are STAAR test results. Nearly identical language was found in HB 3 as filed, but was removed from that bill after numerous witnesses protested the bill’s emphasis on using student test scores for high-stakes purposes. ATPE appreciates that the Senate has added new language to its bill that would prevent school districts and the commissioner from relying “solely” on students’ STAAR test scores to determine which teachers are eligible for designations and merit pay. However, this addition provides little comfort since it already would have been impossible for the state or districts to rely “solely” on student test scores in the implementation of this program. The fact remains that STAAR test results could still form the *primary* rationale for decisions about merit pay and designations for teachers and overwhelmingly influence those determinations under this bill. ATPE opposes the use of student standardized test scores as the determining factor in educator compensation decisions, and we hope the committee will consider the prevailing opinions of numerous parents, educators, and even legislators who have voiced concerns about our state’s overemphasis on student test score data that is of questionable validity. **In the area of high-stakes testing, SB 4 represents a step in the wrong direction.**
- As previously noted, SB 4 also gives the commissioner broad power in his approval process for school districts’ evaluation systems that would be used to identify teachers who qualify for a designation, including the ability to reject a district’s process after the fact and render its prequalification of teachers to be null and void. With the bill’s insistence that the commissioner’s decisions will be final in all cases, will not create any property rights, and will not be subject to appeal, this raises questions about due process in matters involving teacher pay. What is the consequence for an individual teacher who has already received additional pay based on her district’s determination that she merits a designation under this subchapter if the district is forced to repay money to the state upon failing to meet the commissioner’s verification standards? Similar problems were presented in HB 3 as filed, which the House opted to remove from its bill. ATPE also points that unlike HB 3 as filed, the Senate’s proposed language does not even require the commissioner to partner with an institution of higher education in conducting his verification.
- Finally, **ATPE members strenuously oppose SB 4’s requirement that school districts share all their teacher evaluations with the Texas Education Agency.** Similar provisions were included in HB 3 as filed, but only for the purpose of furthering TEA investigations, and the House prudently removed that language from its bill. The Senate’s proposed SB 4 substitute does not even limit such sharing for investigatory purposes, instead calling for a blanket mandate for sharing all teacher appraisals with the agency. Teacher evaluation is

intended to foster a robust conversation between educators and their administrators and mentors for the purpose of improving their practice. Particularly with respect to the state's recommended appraisal system of T-TESS, TEA officials have gone out of their way during and since the inception of that system to emphasize the formative and supportive nature of its design. Removing the confidentiality of evaluations by forcing school districts to provide them automatically to TEA will destroy their utility in driving improvement in teacher quality.

### **Conclusions:**

Both SB 4 and HB 3 call for major improvements to the funding of our public schools, with changes that would greatly benefit Texas students.

ATPE appreciates the Senate's inclusion of a \$5,000 allotment for teachers and librarians in SB 4, but we are disappointed that this provision is written in such a manner that it does not guarantee that any teacher or librarian will see an increase in their compensation beyond a single, one-year bump, as districts could simply absorb the allotment into their budgets and use them to supplant other funds. We would prefer to see the Senate adopt language more in line with what it passed in SB 3 earlier this session. The House has structured its pay raise language very differently in HB 3, offering a smaller pay raise for a much larger segment of the educator community. ATPE hopes that the House and Senate can reach a compromise on a bill that provides a meaningful, guaranteed, lasting pay raise to as many educators as possible.

Chairman Taylor is proposing in SB 4 dramatic modification of the state's approach to teacher appraisal and a new system of merit pay designations that by design will rely heavily (although not "solely") on students' standardized test performance. The proposal is very similar to language that was placed in the original version of HB 3 as filed, but removed in response to feedback from ATPE, individual teachers, and many other public education stakeholders. SB 4 would reward only a very small minority of classroom teachers through its controversial merit pay system at a very high cost to educator morale. We know that this is not the intent of the bill's author, and ATPE would welcome an opportunity to work on compromise language that would incorporate a more collaborative approach, as was reflected in the changes made to HB 3 before it was passed almost unanimously by the House.

**A comprehensive reform of the state's funding system would have a profoundly positive impact on Texas's more than 5.4 million public schoolchildren. ATPE would welcome any opportunities to work on helping lawmakers craft a viable compromise between HB 3 and SB 4 as this important legislation moves forward. On behalf of the approximately 100,000 members of the public education community that we represent, ATPE appreciates your consideration of our input.**

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*The Association of Texas Professional Educators (ATPE) has been a strong voice for Texas educators since 1980. It is the leading educators' association in Texas with approximately 100,000 members statewide. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for 5 million public schoolchildren. ATPE is the ally and the voice of Texas public school educators. For additional information, please contact ATPE Governmental Relations at (800) 777-2873 or [government@atpe.org](mailto:government@atpe.org).*