



**Response to the House Appropriations Committee
Article III Sub-Committee's Formal Request for
Information on Interim Charge 1 and 2**

September 30, 2020

The Association of Texas Professional Educators (ATPE) offers the following input to the House Appropriations Committee's Article III Subcommittee regarding Interim Charges 1 and 2, which call for monitoring agencies and programs covered by the state's public education budget, overseeing implementation of related legislation, and evaluating the ongoing costs associated with implementing House Bill (HB) 3 passed in 2019.

As a leading advocate for public education and the largest educator association in Texas, ATPE is grateful that much of the state's critical public education spending has been exempted from the call for interim spending cuts during the 2021 fiscal year (the 2020-21 school year). We also appreciate the numerous statements from lawmakers on both sides of the aisle assuring school board members, parents, and educators that education funding will be maintained at current levels in the upcoming budget. These assurances are particularly meaningful considering the anticipated fiscal pressure facing lawmakers as they draft the next state budget. Texas Comptroller Glenn Hegar has already predicted Texas will end the current budget cycle with a \$4.6 billion deficit, and state revenues may still be depressed at the onset of the next fiscal cycle, adding to that total.

ATPE supports a public education funding system that is equitable and adequate to provide every student an equal opportunity to receive an exemplary public education. In its passage of HB 3 last year, the Legislature took substantial steps toward meeting that same goal. **ATPE urges the 87th Legislature to use every tool at its command, including using up 100% of the state's Economic Stabilization Fund (commonly called the "Rainy Day Fund") to maintain the progress made toward adequately and equitably funding public education.** However, ATPE understands the COVID-19 pandemic has forced us all to make difficult decisions, and this committee may be forced to trim the next budget if the economic downturn persists well into 2021.

ATPE has long believed that when budget cuts are necessary, the goal should be to minimize the negative impacts on vulnerable populations, such as at-risk or economically disadvantaged students. This means protecting state-funded programs that directly benefit students. The largest of these programs is the Foundation School Program (FSP). However, there are smaller programs such as Communities in Schools (CIS), which provides mental health services and runs dropout prevention efforts, and the Windham School District, which serves incarcerated youth, that are funded outside the FSP. By making strategic cuts to programs that primarily impact adults or serve less critical needs, the state could reduce harm to students, particularly those with higher needs.

There are other programs such as the alternative certification program Teach for America or physical fitness assessments, for example, that could be cut during the upcoming biennium with

fewer negative impacts to students. **Should cuts to PK–12 education spending prove necessary, three areas the Legislature should consider first are testing and accountability, charter expansion, and the continued rollout of the HB 3 merit pay program known as the Teacher Incentive Allotment.**

Testing and Accountability:

High-stakes student testing has consistently ranked among the top three concerns voiced by ATPE members. Test results can shape the direction of a student’s education future and life. The outsized role of standardized tests influences how students are taught, textbooks are written, courses are designed, money is dedicated, and time is spent.

Although much standardized testing in Texas is mandated by the federal government through the Elementary and Secondary Education Act (ESEA), it is worth noting Texas requires more testing and attaches more high stakes to its testing than necessary to meet the demands of federal law. Federal law requires testing in reading/language arts and mathematics for all students in grades 3-8 and once in high school, as well as in science at least once in each of grades 3-5, 6-9, and 10-12. Texas can and is scheduled next year to eliminate the stand-alone fourth and seventh grade writing tests; our state also could eliminate the eighth grade social studies and high school U.S. history tests. The state could also specify that any student taking a PSAT, PreACT, SAT, or ACT exam in high school may use that test to satisfy the federal requirements and be exempted from taking a STAAR exam. For students taking the PreACT and ACT, that change would eliminate all state testing at the secondary level. Students taking the PSAT and SAT would still need to take a science test in 10th, 11th or 12th grade, unless they took a science AP placement exam as a substitute. For the 2020-21 school year only, the state could also eliminate the science exam by moving it from eighth to ninth grade. Other savings measures could include a reduction in retesting, use of a previous year’s test to cut costs on test item development, and relaxing test security and test administration training that are expensive for districts.

COVID-19 demands that testing and accountability be examined through a new lens, at least for the near-term future. When the pandemic forced schools to close their doors and move students to a remote learning environment in spring 2020, it was immediately clear it would be impossible for states to carry out standardized testing requirements. The U.S. Department of Education prudently waived federal testing and accountability requirements for the 2019-20 school year. Under orders from Gov. Greg Abbott, the State of Texas Assessments of Academic Readiness (STAAR) were not administered, and Texas schools were officially “Not Rated: Declared State of Disaster” for the 2019-20 school year.

In July 2020, the ATPE House of Delegates adopted a resolution to “urge the State of Texas and the U.S. Department of Education to waive requirements to administer the 2020-21 STAAR and TELPAS due to the disruption of in-person instruction caused by the COVID-19 pandemic.” Not only will those tests take up too much time and attention this year—resources needed for remediation and emotional support as students deal with impact of COVID-19—but also the tests will yield flawed and incomplete data that could unfairly punish students, educators, and entire schools.

As of late September 2020, many Texas students still have not returned to physical classrooms. Teachers are struggling to teach in-person classes and provide virtual lessons for those students still at home. Many students and staff are dealing with the effects of the pandemic on the learning environment, fears of the disease, economic setbacks, and even the illness or

death of loved ones. Against this harsh backdrop is the looming obligation of STAAR testing and its attached consequences. Other states have pressed forward in advocating for a second-year waiver of the federal requirements, and Texas should follow suit.

The lingering effects of the COVID-19 pandemic make it unreasonable to force schools to prioritize testing at a time when the state has a mounting budget deficit, and pandemic-related costs are still adding up for school districts. The state's contract with a testing vendor to provide the 2020-21 STAAR test alone is projected to cost between \$70 and \$90 million, and that does not even take into account the tens if not hundreds of millions of dollars spent annually by districts and charters to administer STAAR. **ATPE recommends the state take advantage of the opportunity for substantial savings by foregoing standardized testing this year to the extent possible and minimizing testing requirements and costs moving forward.**

Charter Expansion:

ATPE joined a coalition of education groups urging the commissioner of education to impose a moratorium on charter expansions during the pandemic this year. We wrote in our August 31 letter, "Each student who leaves a school district to enroll in a charter school costs the state, on average, \$1,150 more, because charter schools have a much higher entitlement level than most school districts in which they operate." This is in part because, unlike school districts that rely on local property taxes for a substantial portion of their funding, charter operators receive 100% of their non-federal funding directly from the state budget.

Although \$1,150 dollars may not seem like much, consider that this year alone the commissioner has authorized five new charter operators, granted expansion amendments for 49 new charter campuses, and has expansion amendments for 27 more campuses pending. Altogether, the commissioner could obligate the state to pay an additional \$66 million or more per year at a time when Texas faces a \$4.6 billion budget deficit. With many districts fearing a loss in funding that would force them to lay off staff, it is worth noting that \$66 million equates to annual wages for over 1,300 Texas teachers at an average salary of \$50,000 per year.

Under current law, the commissioner of education has the sole authority to grant charter amendments, including expansion amendments. Although the State Board of Education (SBOE) has been granted veto authority over granting charters to new operators, multiple members of the board have expressed uncertainty about the intended scope of that authority. ATPE recommends the Legislature expand the SBOE's veto authority to include oversight and approval of charter amendments and make clear that the SBOE, as the only elected body involved in the charter authorization process, has a duty to represent the voting public on matters related to charter authorization and expansion. Additionally, in light of our current fiscal crisis, **the Legislature at a minimum should place a moratorium on granting charters to new operators or approving new expansion amendments during the next biennium, and lawmakers should consider capping charter enrollment for existing charter holders at current levels until we recover from the recession.**

Teacher Incentive Allotment (TIA) Implementation:

HB 3 took big steps forward in improving educator compensation, which is needed to improve the prestige of the profession and attract and retain high-quality educators. The bill addressed educator compensation from three angles: increasing the Minimum Salary Schedule, tying educator compensation increases to increases in school funding via the Basic Allotment, and enacting a performance pay program, the Teacher Incentive Allotment (TIA). ATPE supported many aspects of HB 3, including funding to increase base compensation for educators. **We are**

recommending that the Legislature ensure funding is in place to maintain those educator salary increases under HB 3 and encourage districts to distribute any future additional funding in the form of permanent raises. We are less enthusiastic about maintaining funding for a merit pay program that has not been widely embraced by the profession and is less likely to effect long-term positive changes in educator compensation on a statewide level.

The TIA was designed to provide funds for districts to create optional performance-based pay programs at the local level. ATPE expressed reservations early on regarding three aspects of the TIA. First, we worried about the program's excessive reliance on data derived from students' standardized test results—a concern that is only magnified by COVID-19's impact on the reliability of testing data as noted above. Second, by tying substantial financial incentives for school districts and educators to teacher appraisals, the program could negatively impact the state's evaluation system, which was designed to give teachers honest feedback to help them hone their craft. Finally, we noted the TIA offers no guarantee of additional funding to any teacher who earns a merit designation because TIA funds flow to the district, not to individual educators. (Districts must use at least 90% of the TIA funds they receive on teacher compensation, but they are not required to increase the compensation of the teacher who earned the designation, and they are allowed to spend the funds on teachers who have not earned a merit designation.)

Proponents of the TIA are quick to note one of the program's main goals is incentivizing the placement of high-quality teachers in high-poverty campuses. Although ensuring at-risk students have access to high-quality teachers is a noble goal, accomplishing this goal does not require the use of a flawed system of merit designations. **ATPE supports differentiated pay programs that offer educators extra compensation for extra work or acceptance of a more challenging or high-need position, but opposes systems that sort and rank teachers primarily based on measures of student performance that are at best one-dimensional and at worst inaccurate.**

Further, the continued rollout of the TIA carries a significant cost to the Foundation School Program (FSP). The TIA program is expected to cost the agency approximately \$150 million in its first biennium, a cost that could easily jump into the billions as its rollout proceeds. The additional money Texas will spend to implement the TIA in the next budget cycle are funds that could otherwise be used to offset the unexpected costs incurred by school districts because of the pandemic. For example, just last week the Texas Education Agency posted a hiring notice for a new Director of Teacher Compensation Strategy who would help the agency implement the TIA and receive an annual salary of \$69,414.96 to \$93,405.96 plus benefits; that same amount could pay for 900 days of substitute teachers necessitated by COVID-19.

With the state likely to face significant budgetary pressures next session, and considering the controversial nature of the TIA and its many potential pitfalls, ATPE recommends the Legislature halt its implementation until state and district budgets have stabilized.

Other ATPE Recommendations:

In addition to our recommendations above, ATPE believes the Article III Subcommittee, in coordination with House leadership, could consider other potential savings in TEA agency-level spending. As the part of the public education system furthest from the students the system is

tasked to educate, TEA should operate with a light touch. Over the past several years, the agency has steadily moved beyond its role of monitoring, providing technical assistance with an eye toward best practices, and administering the distribution of FSP funding. The assumption of more authority and the management of more programmatic content has encroached upon the role of school districts and education service centers, each closer to the students they serve, and has also necessitated additional agency staff and cost. During these lean times, the Legislature should consider whether it might be better to allocate some of those dollars back to the institutions actually teaching Texas students—our public school districts.

Beyond PK-12 education funding, the Article III Subcommittee also oversees the budget for the Teacher Retirement System of Texas (TRS). Retired and active teachers alike greatly appreciated the prudent fiscal action taken by the 86th Legislature through last year's Senate Bill (SB) 12 to increase contributions to the TRS pension fund. The increased contributions dramatically reduced the timeframe for paying down the fund's unfunded liability and immediately improved the fund's actuarial soundness. Reducing the fund's debt burden by instituting more appropriate contribution levels helps ensure the state will be able to maintain the highest possible credit rating, saving Texas taxpayers billions in interest payments over time, while maintaining the state's promise of a sound and secure retirement system for more than one million active and retired TRS members. Increased contribution rates also reduce the burden and uncertainty of paying for benefits and debt reduction by maintaining a higher rate of return on the fund's investment income, thus making the fund less susceptible over time to market downturns.

Unfortunately, it is still too early to say whether the fund will be impacted by the current economic uncertainty or a potential wave of retirements caused by COVID-19. In either event, however, higher contributions and less dependence on investment returns would put the fund in a better position to handle any crisis. **ATPE is encouraged that TRS was instructed to put the contribution increases called for in SB 12 into the agency's base budget request. We ask the Legislature to stay the course begun by the 86th Legislature and continue funding scheduled increases to the state's contribution rate for the betterment of educators and the state.**

ATPE appreciates the opportunity to provide feedback during this process and invites subcommittee members and their staff to contact ATPE Governmental Relations at (800) 777-2873 or government@atpe.org for any additional information.