

Texas School Quick Tip

Fabulous Prizes to be Awarded In Two Elementary Art Contests

Top prizes (other prizes will also be awarded):

➔ **Texas General Land Office:** A Caribbean cruise and two United Airlines round-trip tickets for the grand prize winner — and identical prizes for the winner's teacher. **Deadline: March 3.**

➔ **Texas Commission on Environmental Quality:** A laptop computer for the grand prize winner and a tablet for the student's teacher. **Deadline: March 5.**

Info: texednews.com/21/2/1.html



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Issue 2

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Legislative Update

87th Legislature Begins

The 87th Legislature began as scheduled on Tuesday, Jan. 12, the first day of its 140-day session, with mostly opening day ceremonies, including lots of swearing-in activities in both chambers. The House elected state Rep. **Dade Phelan**, R-Beaumont, as its speaker, via a 143-2 vote.

Attendance was strictly limited, and passing a 15-minute COVID-19 test was required before entry to the state Capitol — and there was a heavy law enforcement presence in the wake of what happened at the U.S. Capitol. (The Texas Capitol officially reopened to the public on a capacity-limited basis on Jan. 4 following the shutdown due to the pandemic 10 months ago. Free rapid COVID-19 testing is available, but is not required for entry.)

Except for a couple of House and Senate organizational meetings during the opening week to adopt rules and take care of other organizational matters — both chambers won't meet again until Jan. 26.

Biennial Revenue Estimate

The day before the session began, state Comptroller **Glenn Hegar** released the biennial revenue estimate that, among other things, projects the state will end the current fiscal year, ending Aug. 31, 2021, with a budget deficit of \$950 million, far less than the \$5 billion deficit that was projected by Hegar in July.

Hegar's budget estimates do not include the 5 percent budget reductions in current fiscal year spending legislative leaders asked state agencies to make, with **Foundation School Program** spending and a couple of other areas exempted. Hegar indicated that these cuts could save the state about \$1 billion, enough to cover the projected budget deficit.

He estimated that the state will generate \$119.58 billion in various revenue sources during the upcoming biennium and that, after required set-asides, the Legislature should have \$112.53 billion to craft the upcoming two-year budget.

State Attorney General **Ken Paxton** also issued (Jan.

11) an opinion (**KP-0347**) stating, among other things, that the Texas Constitution requires that when the Legislature meets, the Capitol "must be open and accessible to the public."

As of the end of the session's first day, a total of 1,459 bills and resolutions had been filed. The session ends on May 31.

More info: texednews.com/21/2/2.html

TEA News

More info about all of the following is at: texednews.com/21/2/3.html

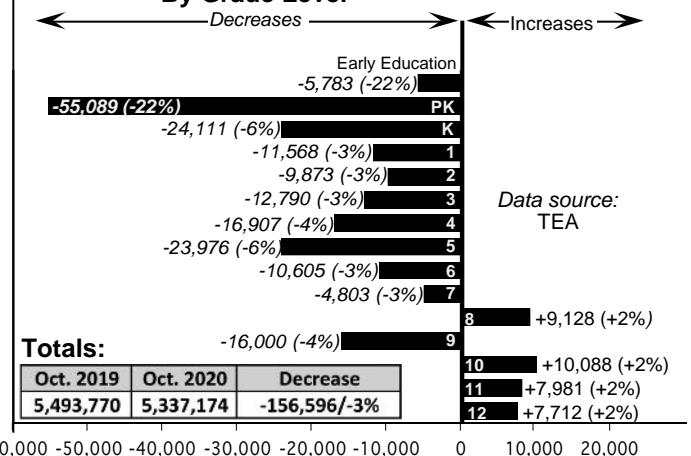
Declines Impact Youngest Students the Most TEA Releases Enrollment Data

The TEA released (Jan. 7) enrollment data comparing the state's public school enrollment from October 2019 to October 2020, and data reflecting how many students are receiving instruction on campus or remotely.

The data reflects that Texas school enrollments declined by 156,596 (3 percent) from October 2019, when compared to October 2020. *See graphic below.*

Continued, Page 2

October 2019 to October 2020 Enrollment Changes By Grade Level



TEA News, Continued from Page 1*Other highlights:*

- More than half of the enrollment decline (54 percent) is represented by early education, PK and kindergarten, which are considered “optional enrollment grades.” Early child and PK enrollments, by themselves, each reflected 22 percent enrollment declines.
- Enrollment in the mandatory-attendance grades (1 to 12), when taken together, declined by 1 percent.

The TEA also reported that as of October 2020, 54 percent of students were receiving instruction on campus, and 46 percent were receiving remote instruction.

The TEA says it will update the enrollment data in late February (which will include an analysis by student demographic groups) and in late April.

Savings Totaled About \$73.08 Per Student Statewide Report Says ESCs Saved ISDs and Charters \$396+ Million During the 2018-19 Fiscal Year

The state’s 20 regional education service centers (ESC) collectively saved the state’s 1,207 ISDs and charters just over \$396 million during the 2018-19 fiscal year, the latest year for which audited ESC budget data is available.

That amounts to a savings of about \$73.08 per student statewide for ISDs and charters.

The data is contained in a just-released legislatively required TEA report on ESC cost savings to ISDs and charters — a report that has been released every two years just prior to the start of each regular legislative session since the 2011 session.

The calculated 2018-19 savings were grouped in these four broad categories: 1) **\$195.99 million for business services**, 2) **\$129.6 million for state-law required core services**, 3) **\$41.2 million for state initiatives** as designated by the education commissioner and 4) **\$30.8 million for technology services**.

Contracts Worth More than \$965 Million

The report estimates that ESC partnered with more than 8,200 businesses for contracts worth more than \$965 million during Fiscal Year 2018-19, which produced an estimated \$377 million in cost savings for ISDs and charters.

Of the \$696.7 million in funding received by ESCs for 2018-19, nearly half (48 percent) was from federal grants, and 42 percent was from local ISD and charter sources.

The remaining sources of ESC revenue was derived from state contracts and grants (8.8 percent) and legislative appropriations (1.7 percent).

The report notes that direct legislative appropriations to ESCs have declined over time.

Direct legislative appropriations to ESCs for each year of the current biennium and the prior biennium totaled \$11.88 million per year. In contrast, ESC appropriations for the biennium that included the 1999-20 and 2000-01 school years totaled just over \$59 million per year.

The report also provides summary data on the numbers of full-time equivalent employees working at ESCs and related fiscal data.

COVID-19 Assistance

Although the report focuses on 2018-19, a good deal of space is devoted to the critical role ESCs have been playing in assisting ISDs and charters during the COVID-19 pandemic that began affecting Texas schools last spring.

The report does not evaluate the quality of the services and products provided to ISDs and charters by ESCs.

But an annual **UT Austin** survey cited in the report noted that for most items, 90 percent of all ISDs and charters expressed that they were “*very satisfied*” or “*satisfied*” with the various services provided by ESCs.

Coronavirus News

More info about all of the following is at:
texaseducationnews.com/21/2/4.html

Except for School Nurses

No Special Vaccine Priority for School Staff

Guidance issued (Jan. 7) by the TEA says that teachers and other school staff “*as a profession*” are not eligible to be first — or even second — in line for COVID-19 vaccination eligibility.

The exception continues to be for school nurses, who are in the top-tier “**Phase 1A**” group to receive vaccinations first.

But, educators and others who meet specific eligibility requirements can receive vaccinations if they fall under **Phase 1B**, a category that includes those 65 and older and individuals (16 or older) with a chronic medical condition that puts them at severe risk of contracting COVID-19, the advisory says.

State health authorities reported that as of Jan. 3, Texas public schools reported 64,574 positive COVID-19 cases among students, and 38,011 positive staff cases.

Under Latest COVID-19 Relief Package

New Federal Funds Head to Texas Schools

The U.S. Department of Education (USDE) recently announced that as a result of the **Coronavirus Response and Relief Supplemental Appropriations Act** that Congress passed and President Trump signed, Texas is expected to receive:

- **\$5.5 billion of supplemental coronavirus relief funding.** Texas school districts and charters will receive \$4.9 billion (as allocated by the TEA) and the TEA will receive \$552 million for administration.

Betsy DeVos, in a statement issued just prior to her abrupt resignation as U.S. secretary of education only days before President Trump’s tenure was to end, said the additional funding can be used to measure student progress, identify students who have fallen behind, and provide students with differentiated instruction and learning resources that will bring students up to grade level.

- **\$134.3 million in supplemental Governor’s Emergency Education Relief II (GEER II) funding**, a program that gives governors wide ranging authority on how the funds can be spent, such as for public schools and higher ed.

Under a separate part of the GEER II program — the **Emergency Assistance for Non-Public Schools (EANS)** — Texas will receive an additional \$153.2 million to provide services, as authorized by the governor, to eligible non-public schools to address the impact of COVID-19.

SBEC News

No COVID-19 Era Increases Reported In Educator Contract Abandonment Cases

TEA staff told SBEC's board during its December meeting that the agency hasn't seen an uptick so far in contract abandonment cases reported to SBEC by school boards. The briefing came as staff provided data on various SBEC statistics for the fiscal year ending Aug. 31, 2020.

SBEC Enforcement Director **Laura Moriarty** told the board that for the first quarter of the current fiscal year that began on Sept. 1, 2020 (September to November), there have been 38 contract abandonment cases referred to SBEC compared to 138 cases reported for the first quarter of the prior fiscal year (September to November of 2019), a 73 percent decrease.

Moriarty said most of the 38 cases (76 percent) were from **Houston ISD**. "Most other districts are not reporting," Moriarty said.

Note: Under SBEC rules, an educator can be sanctioned with *up to* a year's suspension of his or her educator's certificate *only if*: **1)** the educator quits without "good cause" with less than 45 days to go before the start of the next instructional day of the upcoming school year, *and if* **2)** the educator's school board doesn't accept the resignation and instead files a complaint with SBEC.

When asked what is meant by the first instructional day of the upcoming school year, the response from TEA staff was that this means the first day when students are required to be in school, not when (for instance) professional development begins.

Staff cautioned, however, that due to many districts getting a late start for their school year — thus pushing the first instructional day later than normal — there could still be contract abandonment cases filed later.

But **Pearland ISD** Superintendent **John Kelly** said that many districts, instead of opening contract abandonment cases, are being sensitive to educators who need to quit due to a pandemic-related issue.

TEA staff told the board last October that under SBEC rules, the only COVID-19 related "good cause" reasons for abandoning a contract — and thus escaping the possibility of a certification sanction — are: **1)** the serious illness of the educator or of a close family member, or **2)** a significant change in the educator's family needs that require the educator to relocate or devote more time than allowed by current employment. (See *TEN*, Oct. 19, 2020, Page 1.)

A special SBEC board meeting is tentatively planned for this summer to discuss what changes, if any, need to be made to contract abandonment rules.

More info: [texednews.com/21/2/5.html](https://www.texednews.com/21/2/5.html)

Other News

More info about all of the following is at: [texednews.com/21/2/6.html](https://www.texednews.com/21/2/6.html)

➔ **Charged** — Houston-area media reported that former **New Caney ISD** superintendent **Kenn Franklin** has been charged on an allegation that he stole more than \$2,500 from his former district.

Franklin is accused of submitting fictitious expense sheets at least 22 times during 2020, adding up to well over \$2,500 in reimbursements, court records reflect.

Franklin was reportedly arrested on Jan 7, and bonded out of the Montgomery County jail the same day.

Franklin reportedly told an investigator during an interview that he didn't live up to expectations, and the stresses of taking care of his elderly parents, along with this wife living three hours away, took its toll.

The district said Franklin submitted his resignation on Nov. 16.

The 16,110-student NCISD is about 30 miles northeast of Houston.

- ➔ **Retiring** — **James B. Crow** recently announced his plans to retire as **Texas Association of School Boards** executive director after serving more than 25 years in the position, effective Aug. 31, 2021.
- ➔ **Summer meals** — The **Texas Department of Agriculture** (TDA), in a report to the Legislature, says that a number of "barriers" are keeping Texas ISDs and charters that are otherwise mandated to provide summer meal programs for students from doing so.

Note: A state law passed in 2011 requires ISDs and charters to participate in federally funded summer meal programs — or request a waiver — if 50 percent or more of their students are eligible to receive free or reduced-price meals in the *National School Lunch Program*.

For Summer 2019, 510 (67 percent) of the 761 ISDs/chararters that were required to offer summer meals did so — as did, for 2020, 522 (68 percent) of the 771 ISDs/chararters that were required to participate.

Most of the ISDs and charters that didn't participate received waivers from the TDA.

According to the waiver requests, "insurmountable transportation costs" continued to be the most common obstacle keeping districts from participating. (Transportation concerns were cited in 74 percent of the waiver requests submitted in 2019, increasing to 76 percent in 2020.)

The 67-page report lists the school districts and charters that are required to participate in the program, and whether they participated or were granted a waiver — and provides federal school meal reimbursement info.

The Courts

More info about all of the following is at: [texednews.com/21/2/7.html](https://www.texednews.com/21/2/7.html)

Texas Twelfth Court of Appeals (Tyler) ISD Loses Property Tax Exemption Appeal

Ruling: An ISD can't force the dismissal of a lawsuit filed by several taxpayers seeking repayment of a portion of property taxes collected from them — and other "similarly situated" taxpayers in the ISD — due to the district's illegally repealing its local option homestead exemption (LOHE) in 2015. **Kilgore ISD v. Sheila Anderson, et al., No. 12-20-00133-CV**. Issued Dec. 22.

A three-member *Twelfth Court* panel unanimously upheld a decision by a trial court judge, who sided with several KISD taxpayers, over the district's decision in 2015 to repeal its decades-old LOHE 14 days after the governor signed 2015's **SB1** property tax/school funding law.

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ADDRESS SERVICE REQUESTED

- ➔ TEA Reports Student Enrollment Decline
- ➔ ESC Generated Cost Savings Calculated
- ➔ Ex-Superintendent Charged with Theft

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The Courts, Continued from Page 3

The property owners sued seeking refunds for themselves and other KISD taxpayers, as a class action, of the portion of the property taxes they paid due to the district repealing its LOHE from 2015 to the end of the 2019 calendar year.

The trial judge ruled for the plaintiffs, and additionally ordered the district to pay the plaintiff's court and attorney costs.

Rejected Arguments

The justices upheld the trial judge's rulings that *rejected* KISD's arguments that:

- ➔ KISD was legally allowed to repeal its LOHE in 2015 because its school board did not formally vote to "adopt" its LOHE in 2014 — and instead had merely allowed the LOHE that had been approved some time in the 1980s to continue through 2014.
- ➔ The taxpayers who filed suit should have completed the administrative appeals process before filing suit.
- ➔ It would be too burdensome to "turn back the clock" to recalculate the amount owed taxpayers for prior years of refunds.

For various reasons, the *Twelfth Court* panel found each of the district's arguments to be legally faulty.

\$4 Million in Reserves

East Texas media reported that KISD currently has about \$4 million in set-aside reserves to cover refunds if ordered by a court once appeals have ended.

This is the latest in a series of court decisions involving KISD and other districts that have upheld claims made in taxpayer lawsuits (that were supported by the state attorney general) that ISDs were legally prohibited from reducing or repealing their LOHEs they had on the books in 2014, even if the ISDs did so between the time SB1 was signed and the enabling constitutional amendment passed.

U.S. Fifth Circuit Court of Appeals

Teacher's ADA Violation Claim Dismissed

Ruling: A federal magistrate's dismissal of a teacher's claim that she was forced to quit in violation of the Americans with Disabilities Act (ADA) is *upheld*. **Rachel Willard v. Friendswood ISD, No. 20-40273.** Issued Jan. 5. Ordered "not published."

"Constructively Discharged"

Willard claimed she was "constructively discharged" from her position as a first-grade teacher in violation of the ADA and was subjected to a hostile work environment.

The *Fifth Circuit* disagreed, by noting that to support a "constructive discharge" claim, Willard was required to (but didn't) show that FISD discriminated against her to the point where her working conditions became so intolerable that a reasonable person in the employee's position would have felt compelled to resign.

Instead, the evidence (including her sworn deposition) reflected Willard was offered the chance to return as a PK co-teacher, and there was no evidence that the new position was a demotion or came with a reduced salary, the justices noted.

The justices also concluded that — based on the magistrate's findings — Willard's hostile work environment claim "fares no better."

Attorney General

Issued Opinion:

Elections (KP-0346) — Discussing candidate filing deadline issues related to **Gov. Abbott's** suspending provisions of the Election Code to allow political subdivisions to postpone their May 2, 2020, elections to Nov. 3, 2020. The opinion suggests that the Legislature might want to amend the *Election Code* to clarify the issues raised in the request for the opinion, should similar circumstances occur again.

More info: texednews.com/21/2/8.html

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