

TACRAO Legislative Issues Committee 2020-2021 Report

TACRAO Legislative Issues Committee Members:

Sam Carrell, Chair- University of Texas at Tyler
Jodie Rexroat, Co-Chair, Chair-Elect – Southern Methodist University
Chris Reed- Texas A&M University
Jennielle Strother- Concordia University-Texas
Sarina Willis- Prairie View A&M University
Robert Jenkins- University of Texas Health Science Center at Houston

The 2020-2021 TACRAO Legislative Committee's first meeting was held after the end of the virtual annual conference in November 2020. Through the 140-day session and the three subsequent special sessions the Committee monitored the Texas Legislative Online (TLO) website and provided updates to the TACRAO membership.

The 87th Legislature wrapped up its session on May 21 after considering more than 10,000 pieces of legislation of which 1,034 were passed and signed by the Governor. Many bills were focused on dealing with issues related to pandemic relief and infrastructure issues related to the freeze that occurred in February throughout Texas. At the beginning of the session, the Texas Comptroller released a revenue estimate of \$248.5 billion which was a 5.2% decrease from 2020-2021. The 2022-23 state budget plan included spending approximately \$8.6 billion on higher education, a \$486 million increase on FY 2020-2021. The budget stayed within the constitutional limits and leaves approximately \$10 billion dollars in the rainy-day fund.

Below are some of the more significant bills affecting higher education that passed the 2020 Regular Session and subsequent special sessions.

Formula Funding

SB959 by Zaffirini/ Effective 1 September 2021

This bill requires the THECB in making its recommendations regarding student success measures for performance-based funding to consider courses for certification or licensure requiring less than 360 contact hours. This bill amends the current law relating to student success-based funding recommendations for certain continuing workforce education courses offered by junior colleges. The hope is that by doing such colleges will be able to maintain or expand these programs to aid in a shortage of skilled trade laborers and increase opportunities for low-income students to enter shorter-term educational programs that lead to good-paying jobs.

SB1230 by Taylor/Effective 1 September 2021

This bill established the Texas Commission on Community College Finance which will study state appropriations (formula funding for instruction, healthcare employee group insurance proportionality, etc.) for public community and junior colleges and to make recommendations for consideration by the 88th Texas Legislature for establishing a state funding formula and funding levels sufficient for sustaining viable community college education and training offerings throughout the state and improve student outcomes in alignment with state postsecondary goals.

- Commission to be composed of 12 members including: four members appointed by the governor, three members appointed by the lieutenant governor; three members appointed by the speaker of the Texas House of Representatives; one member appointed by the board of the Texas Association of Community College, and one member appointed by the board of the Community College Association of Texas Trustees.
- Memberships to be made up of public junior college faculty and administrators, as well as business leaders, other stakeholders, and members of the Texas house
- Commission is to examine trend and forecast data, seek stakeholder input, and account for equity in student outcomes and make recommendations on : 1) the components of state funding for public junior colleges including contact hour funding formulas 2) the feasibility of establishing shared service agreements or interinstitutional collaborations through which institutions of higher education are authorized to perform administrative services (other than direct instruction and student support services) for other institutions of higher education for a fee or other consideration.
- Commission to submit a final report and recommendations not later than November 1, 2022.

SB1531 by West/ Effective on 1 September 2021

This bill amends the Education Code to lower the threshold for excessive undergraduate credit hours for a student enrolled in an associate degree program from 30 credit hours in excess of the total number required for the student's degree program to 15 credit hours in excess of that required total. A public institution of higher education may charge a resident student tuition at a rate higher than the standard resident tuition rate for credit hours that exceed the threshold. The bill establishes that a student not enrolled in a degree program is considered to be enrolled in a baccalaureate degree program for purposes of determining excessive credit hours.

- The bill's provision regarding tuition rates would begin with the Fall 2023 semester and the provision regarding funding recommendations would apply beginning with the state fiscal biennium beginning September 1, 2023.

Workforce Credentials

HB 33 by Dominguez, Tinderholt, Morales, Eddie, Ellzey, Cortez/ Effective 1 September 2021

This bill facilitates the award of postsecondary course credit, leading to workforce credentialing based on military experience, education and training and to prepare veterans for employment in certain industries.

- The TWC shall evaluate program of study or course offered by career schools or colleges leading to industry-based certifications or other workforce credentials to identify programs or course for which skills obtained through military experience, education or training frequently align.
- The TWC shall publish on its website a list of programs of study or courses identified by the commission and the relevant military experience, education or training that may align with those programs or courses.
- To receive approval from the TWC, a college or career school that offers such course and programs will have to grant the appropriate credit to a student for skills gained through military service unless the college or school is able to demonstrate that the student's military experience did not appropriately align with the course or program.
- Requires the TWC to identify, develop, and support methods to facilitate the awarding of credit based on military experience toward such courses and programs under the College Credit for Heroes Program.
- This bill also pertains a provision for the Texas Veterans Commission to develop and administer a program to aid veterans seeking a certification or training to prepare for employment in the energy industry.

SB1102 by Creighton/ Effective Immediately

Due to the unemployment crisis stemming from the COVID-19 crisis and the mismatch between workforce needs and skilled worker, this bill seeks to assist workforce, students and displaced workers in attaining in-demand skills for available occupations in their region. The Bill establishes the Texas Reskilling and Upskilling through Education (TRUE) program. The program is a collaboration between colleges and business partners across the state to rapidly provide well-designed short-term credentials thus arming student/workers with the credentials needed to fill high-demand industry needs that have shifted due to COVID.

- A competitive grant program administered by THECB.
- Rule-making authority granted to THECB
- Requires THECB to award grants to eligible entities for creating, redesigning, or expanding workforce training programs and delivering education and workforce training that: lead to postsecondary industry certifications, workforce credentials in high -demand occupations, are developed/provided in consultation with employers in high-demand occupations and create pathways to employment for students.
- Efforts should be made to ensure regional diversification and does not duplicate existing program offerings in a region.
- The THECB in collaboration with eligible entities, TWC and private employers, identify existing and new postsecondary industry certifications or other workforce credentials valued in high-demand occupations.

HB 885 by Harris, Ellzey, Dominguez/ Effective Immediately

This bill clarifies the guidelines for the THECB to approve the offering of baccalaureate degree programs at public junior colleges.

- Requires that the public junior college district have a taxable property valuation amount of not less than \$6 billion in the preceding year and received a positive assessment of the overall financial health of the district as reported by the THECB.

HB3348 by Pacheco, Middleton, Campos, Cortez, Allison/Effective Immediately

This bill caps the number of baccalaureate degree programs that a public junior college may offer.

- The cap is set at five baccalaureate degree programs

Dual Credit

SB788 by Creighton, Powell/Effective on 1 September 2021

Directs the THECB, TEA and TWC to develop and make available an additional model FERPA-compliant data-sharing agreement for voluntary use by school systems and postsecondary institutions involving a third party.

SB1277 by West/Effective Immediately

Requires school districts and public institutions of higher education that offer dual credit programs to designate at least one employee to provide academic advising for each student enrolled in a dual credit course prior to enrollment. The bill hopes to strengthen student advising and ensure that students have the resources they need to enrolled in courses aligned with their desired higher education pathway and succeed academically in the course for which they enroll.

Miscellaneous

HB1027 by Parker, Howard, Raney/Effective 1 September 2021

Concerns the dissemination of course material. Course material is defined as a textbook, supplemental material or open educational resource.

- An institution will 1) compile a course schedule indicating each course offered by the institution for the semester 2) provide in a prominent location in the schedule a link to an Internet website that contains a list of the required and recommended course materials that specifies as applicable and to the extent practicable: the retail price, author, the publisher or provider, most recent copyright date, ISB Number, if material is open educational resource, associated fees (technology/library/printing) not later than 30 days before the first day of classes.
- Provision is for both public and private institutions

SB 165 by Blanco/Effective immediately

Allows a student at an institution of higher education to drop more than six courses without being penalized if a disaster declaration by the governor results in a bar or limit on in-person course attendance.

- The bill is retroactive for Spring 2020 and any summer term of the 20-21 Academic year and prohibits an institution of higher education from counting courses toward the 6 Drop rule that were dropped by a student because of a bar or limit on in-person course attendance due to the COVID-19 pandemic.
- Rulemaking authority granted to THECB

SB279 by Hinojosa/Effective immediately

Requires certain contact information for suicide prevention to be printed on all public-school student ID cards for grades 7-12; as well as community colleges and public universities. The goal is to foster suicide prevention through greater awareness and provide an easily accessible suicide prevention telephone hotline number of the ID.

SB937 by Campbell/Effective Immediately

Amends the Texas Education Code regarding excused absences at institutions of higher education due to a service member's military service. This will change the statute in Section 51.9111 from "active" to "required" and as such would cover service to the state-on-state active duty (SAD) orders, inactive drill time (IDT) and time serviced during annual training (AT). Rulemaking authority is granted to the THECB.

SB1227 by Taylor/Effective Immediately

Adopts a uniform statewide credit-granting policy for CLEP based on ACE recommendations to remove roadblocks for students and support the 60x30TX higher education strategic plan.

- The bill does allow for institutions to determine higher CLEP scores cutoffs to determine if students are sufficiently prepared for advanced college courses.
- Applies to entering freshman at public institutions beginning with the Spring 2022 semester.

SB1385 by Creighton/Effective 1 July 2021

This bill allows student athletes at Texas institutions of higher education to earn compensation for their name, image, and likeness. States have been hopeful for uniform legislation or at least guidelines from the United States Congress and NCAA but after continued silence on that front many states chose to pass their own legislation regarding NIL in an effort to state competitive in the athletic recruiting market. On July 1, 2021, the NCAA did finally release a statement but in short, it suggests that athletes follow legislation passed by their state. Source: [NCAA Interim NIL Policy](#)

- An institution may not prohibit a student athlete from earning compensation for the use of their NIL or obtaining professional representation for contracts or legal matters related to their NIL
- Defines that scholarships, grants or similar financial assistance awarded to a student athlete by an institution to cover cost of attendance is not considered compensation for the purposes of the bill

- A student may not be disqualified for scholarships, grants, or similar financial assistance due to earning compensation from their NIL when the student is not engaged in official team activities or from obtaining professional representation.
- Institutions may not prescribe a team contract for an athletic program that prohibits or prevents a student athlete from using their NIL for a commercial purpose when not engaged in official team activities.
- Student athletes is required to disclose to the institution any proposed contract for NIL before entering the contract
- Student athletes are prohibited from entering a NIL contract that includes any provision that is in conflict with the athlete's team contract or a provision of an institutional contract, a policy of the athletic department or the honor code of the institution
- Student athletes are prohibited for earning NIL compensation in exchange for athletic performance or attendance at the institution, by the institution, in exchange for property owned by the institution, or in exchanged for an endorsement of alcohol, tobacco products, e-cigarettes or any other type of nicotine delivery device, anabolic steroids, sports betting, casino gambling, a firearm that the student athlete cannot legally purchase or a sexually oriented business.
- Student athlete is prohibited from entering any contract that extends beyond the athlete's participation in the intercollegiate athletic program
- Institutions must require a student athlete to attend a financial literacy workshop at the beginning of the student's first and third academic years at the institution. The workshop must be at least 5 hours in duration and include information on financial aid, debt management, time management, budgeting and academic resources available to the student.
- Prohibits an individual, corporate entity or other organization from entering into any arrangement with regards to NIL with a prospective student athlete prior to their enrollment or as a means of recruitment.

SB1371 by Huffman/Effective Immediately

This bill was made to address a potential conflict in the reporting requirements in SB 212 (86th Leg.) in relation to the existing law. It amends the current law related to the reporting of certain incidents of sexual harassment, sexual assault, dating violence, or stalking at certain public or private institutions of higher education.

- Requires that the report include all information concerning the incident known to the reporting person that is relevant to the investigation and redress of the incident including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.
- Provides that a campus peace officer employed by a postsecondary educational institution who received information regarding an incident from an alleged victim who chooses to complete a pseudonym form, Code of Criminal Procedure in making a report is required to state only the type of incident reported and is prohibited from including the victim's name, phone number, address, or other information that may directly or indirectly reveal the victim's identity.

SB1860 by Powell/Effective 1 September 2021

The federal Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA), passed in December of 2020, included the Free Application for Federal Student Aid (FAFSA) Simplification Act, the largest rewrite of federal student financial need calculations since 1991. As result of this legislation, the FAFSA used by students and institutions of higher education to determine eligibility for most federal financial aid will be extensively revised beginning with applications for aid in the 2023-2024 academic year.

- In the 86th Leg. HB 2140 required the THECB to create an electronic version of the Texas Application for State Financial Aid (TASFA) and was to begin with applications for aid submitted in the 2022-2023 academic term. However, the FAFSA Simplification Act take effect with respect to applications for aid for the 2023-2024 academic year.
- Since TASFA mirrors FAFSA, and that simplification will not be ready until 2023-2024 academic year so SB 1860 (87th Leg.) 1) delays implementation of the electronic TASFA to applications submitted for the 2023-2024 academic year, 2) delays implementation of the electronic TASFA requirement to align with implementation of the new FAFSA, 3) students will continue to have full access to the existing fillable PDF TASFA for the 2023-2023 academic year.

SB1888 by Creighton/Effective immediately

Amends existing statute to permit public universities to offer early admissions to high-potential, college-ready Texas high school students in an effort to keep these students in Texas for their college careers making it far more likely that they will enter the Texas workforce; bolstering the state's economy.

- Requires TEA and THECB to establish the Texas First Early High School Completion Program to allow public high school students who demonstrate early readiness for college to graduate early from high school.
- Re-designates that the assessments will be established by the THECB rather than institutions
- Authorizes a school district or open-enrollment charter school to issue a high school diploma to a student under the program if, using the standards established under (TEC Sec 28.0253) Subsection (c) , the student demonstrates mastery of and early readiness for college in each of the subject areas described by that subsection and in a language other than English, notwithstanding any other local or state requirements.
- Provides that a student who earns a high school diploma through the program is considered to have earned a distinguished level of achievement under the foundation high school program.
- Requires a school district or open-enrollment charter school, upon a student's initial enrollment in high school to provide to the student and the student's parent or guardian information regarding the requirements to earn a high school diploma under the program and the Texas First Scholarship Program.
- Requires the TEA and THECB to jointly prepare and post on their websites a publication that includes information regarding the requirement to earn a high school diploma under this program and the Texas First Scholarship Program.
- Eligibility for the Texas First Scholarship award requires that a student 1) be a Texas resident at determined by THECB rules, 2) to have graduated early from high school under the Texas First Early High School Completion Program and to comply with the financial aid application required for high school graduation.

- Amount of the scholarship will be determined by the number of semesters that a student graduated early, and the state credit awarded to the student expires at the end of the first academic year following the student's graduation from high school.
- Requires the THECB, at least once a year, to submit to the commissioner a report on state credit awarded under the program during the preceding academic year. The report is to include each student who used the state credit during the academic year, the school district or open-enrollment charter school from which each student graduated from high school, and the amount of the state credit used by each student during that academic year.
- Requires THECB to begin awarding scholarships as added by this Act, beginning with the 2021-2022 academic year.

A complete summary of Higher Education Legislation passed during the 87th legislative session compiled by the Texas Higher Education Coordinating Board can be found at:

<https://reportcenter.highered.texas.gov/training-materials/presentations/summary-of-higher-education-legislation-87r/>

On July 13, 2021, at the TACRAO Summer Meeting held virtually, Sam Carroll, provided an update prepared by the Legislative Issues Committee on State legislation.

Interim charges usually come out in the fall or winter and the committee will continue to follow negotiated rule making, reports and working groups initiated by the 87th legislative session.

Respectfully submitted by:

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