

BILL ANALYSIS

C.S.H.B. 3
By: Huberty
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The state's current school finance system is structured around funding formulas that are ordinarily revised only in response to court decisions finding one or more parts of the system unconstitutional under the Texas Constitution. In the opinion of many, the current school finance system does not meet the needs of Texas public school students. The Texas Commission on Public School Finance, established by the 85th Legislature, found that roughly 22 percent of Texas eighth graders will go on to achieve a post-secondary credential six years following their scheduled high school graduation. For low-income Texas students, who are reported to represent approximately six out of every 10 public school students in Texas, the commission found that such post-secondary completion rates are around 12 percent.

The Texas Constitution mandates that the legislature establish and make suitable provision for the support and maintenance of an efficient system of public free schools. C.S.H.B. 3 seeks to meet that mandate and address the inefficiencies of the current school finance system by modernizing the funding formulas to rebalance the state's share of public education funding, readjusting outdated or otherwise inefficient elements of the school finance system to invest available funding in students, and improving the system's equitable administration with meaningful investment in low-income and other historically underperforming student groups to support improvements in student achievement and teacher quality.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the state auditor in SECTION 1.001 of this bill and to the commissioner of education in SECTIONS 1.004, 1.010, 1.020, 2.002, 2.005, 2.011, and 2.019 of this bill.

ANALYSIS

C.S.H.B. 3 revises the public school finance system and makes other changes relating to public schools. To the extent of any conflict, the bill prevails over another Act of the 86th Legislature, Regular Session, 2019, regardless of the relative dates of enactment.

Public School Finance

Article 1 of C.S.H.B. 3 makes changes relating to the financing of the public school system.

General Funding Provisions

C.S.H.B. 3 amends the Education Code to change the order in which funds are applied to finance the foundation school program by requiring state available school funds to be applied before locally generated property tax revenue and state funds appropriated for purposes of public school education. The bill transfers the responsibility to adopt rules as necessary to implement and administer the foundation school program from the State Board of Education (SBOE) to the commissioner of education. The bill establishes that the sum of the foundation school program maintenance and operations (M&O) costs for all accredited public school districts in Texas constitutes the total M&O cost of the foundation school program.

Allotments and Reimbursements

C.S.H.B. 3 revises the basic allotment by increasing the dollar amount on which the allotment is based from \$4,765 to \$6,030 and by replacing a district's compressed tax rate with the district's tier one M&O tax rate as a component of the calculation. The bill changes the multiplier applied to the state compression percentage to calculate the state maximum compressed tax rate from \$1.50 to \$1.00. The bill repeals provisions relating to the gifted and talented student allotment; the high school allotment; the cost of education adjustment to the basic allotment; and certain increases in indirect cost allotments pertaining to the special education, compensatory education, bilingual education, and career and technology education allotments.

C.S.H.B. 3 entitles a special-purpose school district operated by a general academic teaching institution to an allotment for each full-time equivalent student, as determined by the commissioner, who resides in Texas and is enrolled in the district in an amount equal to the maximum amount of the basic allotment. The bill authorizes such a district to decline to receive the funding. The bill prohibits a district that receives the funding for a school year from charging tuition or fees to students enrolled in the district who are Texas residents for that school year, other than fees authorized by statute for an independent school district. The bill provides for the manner of allocation and distribution of such funding.

C.S.H.B. 3 replaces the small and mid-sized district adjustment to the basic allotment with a small and mid-sized district allotment that is additional to the basic allotment. The bill sets out the respective methods for calculating the small and mid-sized district allotment for the following districts:

- a district that has fewer than 1,600 students in average daily attendance (ADA); and
- a district that offers a kindergarten through grade 12 program and has less than 5,000 students in ADA.

C.S.H.B. 3 transfers rulemaking authority relating to the special education allotment from the SBOE to the commissioner. The bill provides for the calculation of the special education allotment to reflect a district's small and mid-sized district allotment, if applicable. The bill requires the commissioner, if the commissioner determines that the total amount of funding under the special education allotment for any school year is less than the amount required under certain federal law, to increase the total amount of funding under that allotment for that school year as necessary to comply with the federal requirement. The bill requires the commissioner, if the amount of funding available for the allotment is insufficient for such compliance purposes, to reduce other foundation school program funding in the appropriate manner provided by statute to achieve the necessary amount of special education allotment funding.

C.S.H.B. 3 entitles a district to an annual allotment with a funding weight of 0.1 for each student the district serves who has been identified as having dyslexia or a related disorder and who meets other specified criteria relating to instruction received or permitted modifications and accommodations. The bill authorizes a district to receive funding for a student under the dyslexia allotment and the special education allotment if the student satisfies the requirements for both allotments.

C.S.H.B. 3 revises the portion of the compensatory education allotment attributable to educationally disadvantaged students by entitling a district to such an allotment for each student who is educationally disadvantaged and resides in an economically disadvantaged census block, as determined by the commissioner, and requiring the commissioner to establish a five-tier index of funding weights ranging from 0.225 to 0.275 according to the relative severity of economic disadvantage in such blocks. The bill sets out certain requirements for the development of that index and for determining and reporting the census block in which an educationally disadvantaged student resides. The bill requires the commissioner, not later than March 1 of each year, to review and if necessary update the index to be used for the following school year, based on the most recent estimates published by the U.S. Census Bureau, and to notify each district of any changes to the index. The bill requires any state agency with relevant information to assist the commissioner in performing the commissioner's duties relating to the compensatory education allotment. The bill entitles a district to an allotment with a funding weight of 0.225 for each educationally disadvantaged student who resides in a census block for which insufficient data is available to evaluate the level of economic disadvantage in the block. The bill establishes that, for a student who qualifies for a compensatory education allotment under multiple applicable provisions, a district is entitled to an allotment for the student under the provision that would result in the greatest amount of funding. The bill increases the compensatory education allotment funding weight for a student who does not have a disability and resides in a residential placement facility in a district where the student's parent or legal guardian does not reside from 0.2 to 0.275 if the student is educationally disadvantaged. The bill removes provisions relating to the authorized uses of compensatory education allotment funds, associated reporting and auditing procedures, and an evaluation of the effectiveness of accelerated instruction and support programs for students at risk of dropping out of school.

C.S.H.B. 3 requires the commissioner to establish an advisory committee whose members are appointed by the commissioner to advise the Texas Education Agency (TEA) in adopting rules for the compensatory education allotment. An advisory committee member is not entitled to receive compensation or reimbursement for expenses, and the bill exempts the advisory committee from Government Code provisions relating to state agency advisory committees. These provisions take effect on passage, or, if the bill does not receive the necessary vote, September 1, 2019. These provisions expire and the advisory committee is abolished September 1, 2021.

C.S.H.B. 3 changes the bilingual education allotment funding weight from 0.1 to the following scale of weights:

- 0.05 for a student who is not of limited English proficiency and is in a bilingual education program using a dual language immersion/two-way program model; and
- for a student who is of limited English proficiency:
 - 0.1 if the student is in a bilingual education program not using a dual language immersion/one-way or two-way model; or
 - 0.15 if the student is in a bilingual education program using such a model.

The bill removes provisions relating to the authorized uses of bilingual allotment funds and associated reporting and auditing procedures.

C.S.H.B. 3 extends the applicable grade levels of students enrolled in qualifying programs for purposes of the career and technology education allotment from grades nine through 12 to grades six through 12. The bill removes provisions relating to the authorized uses of career and technology allotment funds, a certain cost-benefit comparison, and a certain set-aside to support regional career and technology education planning. The bill clarifies that for the purposes of the allotment, "career and technology education class" and "career and technology education program" include technology applications courses.

C.S.H.B. 3 entitles a district to an annual early education allotment with a funding weight of 0.1 for each student in ADA in kindergarten through third grade who is educationally disadvantaged or who is a student of limited English proficiency and is in a bilingual education or special

language program. The district is entitled to an allotment on each basis for which a student qualifies. The bill restricts the use of allotment funds to programs and services designed to improve student performance in reading and mathematics in prekindergarten through third grade. The bill authorizes a district to receive funding for a student under the early education allotment and under the compensatory education and bilingual education allotments, as applicable, if the student satisfies the requirements of each applicable allotment.

C.S.H.B. 3 changes the basis on which the transportation allotment is calculated for a district or county operating a regular transportation system from the daily cost of operating and maintaining the system per regular eligible student and the linear density of the system to a rate per mile per regular eligible student set by the legislature in the General Appropriations Act. The bill expands the definition of "regular eligible student" for purposes of the allotment to include a homeless child or youth, as defined by federal law. The bill requires the reimbursement of a district on a per-mile basis for the following costs:

- transporting a dual credit student to another campus in the district, a campus in another district, or a postsecondary educational institution for purposes of attending the course, if the course is not available at the student's campus; and
- transporting career and technology education students from a district campus to a location at which students are provided work-based learning under the district's career and technology program.

C.S.H.B. 3, with regard to the new instructional facilities allotment, makes the following changes:

- raises the cap on the amount per school year that may be appropriated for purposes of the allotment from \$25 million to \$100 million;
- removes a provision relating to a certain discretionary supplemental appropriation; and
- removes a provision entitling a district subject to recapture to a credit under the allotment.

C.S.H.B. 3 entitles a district to an educator effectiveness allotment with a funding weight of 0.012 applied as follows:

- per student in ADA at a district campus that is located in a census block assigned the greatest weight for the compensatory education allotment; or
- if the district qualifies as a rural school district, per student in ADA in the district.

The bill prohibits a district campus from receiving an allotment under both grounds for eligibility and restricts the use of allotment funds to incentivizing and providing pay increases to effective classroom teachers to teach at high needs campuses, at rural districts or schools, and in areas experiencing a critical shortage of teachers. The bill sets out requirements for the collaborative development and publication on the district website of a policy regarding the district's use of the funds. The bill requires TEA to conduct an evaluation of the effectiveness of the allotment and requires a district that receives allotment funding to participate in that evaluation. The bill provides for the confidentiality of information received by TEA in conducting the evaluation and prohibits the use of that information in evaluating individual teachers.

C.S.H.B. 3 entitles a district to reimbursements for the amount of fees paid by the district for the administration of certain elective college preparation tests taken by students in the 11th or 12th grades and for the amount of a subsidy paid by the district for certain certification examinations taken by students.

Efficiency Audit

C.S.H.B. 3 requires a district board of trustees to conduct an efficiency audit before seeking voter approval to adopt an M&O tax rate for the district at an election held for that purpose. The bill requires a district to pay for the costs associated with the audit. The bill sets out requirements for the selection of an auditor, including duties of the state auditor, and for the district's provision to the auditor of documents, records, and personnel and requires the auditor, once selected, to

maintain independence from the district and complete the audit not later than three months after the date the auditor was selected. If the auditor does not timely complete the audit, the district may hold an election to adopt an M&O tax rate without the results of the audit. The bill requires the audit results to be posted on the district website before the applicable tax election, unless the auditor does not complete the audit within the required time period. The bill authorizes the state auditor to adopt rules as necessary to implement these requirements. These provisions take effect on passage, or, if the bill does not receive the necessary vote, September 1, 2019.

M&O Tax Rates

C.S.H.B. 3 changes the maximum maintenance tax rate per \$100 of taxable value that may be adopted by a district for any year from the sum of \$0.17 and the product of the state compression percentage multiplied by \$1.50 to \$1.17. The bill sets a district's tier one M&O tax rate as the number of cents levied by the district for M&O purposes that does not exceed the product of the state compression percentage multiplied by \$1.00 and establishes that a district's enrichment tax rate consists of the following two components:

- the first eight cents of additional M&O tax effort that exceeds the district's tier one M&O tax rate; and
- any cents of additional M&O tax effort that exceeds the sum of the district's tier one M&O tax rate and those first eight cents.

The bill adds a temporary provision set to expire September 1, 2021, capping a district's enrichment tax rate at six cents over the district's tier one M&O tax rate for the 2019-2020 school year and at seven cents over that rate for the 2020-2021 school year.

C.S.H.B. 3 removes a requirement for a district to raise its total tier one local share to be eligible to receive foundation school fund payments.

C.S.H.B. 3 sets the maximum maintenance tax rate for a district that, on the basis of the district's levy for the 2005 tax year of maintenance tax exceeding \$1.50 per \$100 of taxable value, is excepted from the standard maximum rate formula at the sum of \$0.17 and 66.67 percent of the maintenance tax rate levied by the district for the 2005 tax year. For such a district, revenue generated from any cents of maintenance tax effort that exceeds \$1.17 per \$100 of taxable value is not subject to the limit on local revenue in excess of the district's entitlement. The bill sets the tier one M&O tax rate of such a district at the product of the state compression percentage multiplied by 66.67 percent of the maintenance tax rate levied by the district for the 2005 tax year.

C.S.H.B. 3 provides the method of determining a district's tier one M&O tax rate for the 2019-2020 school year if the district had a tier one M&O tax rate for the 2018-2019 school year was less than \$1.00 per \$100 of taxable value. This provision expires September 1, 2020.

State Compression Percentage

C.S.H.B. 3 redefines the state compression percentage as the percentage of the rate of \$1.00 per \$100 valuation of taxable property at which a district must levy an M&O tax to receive the full amount of the tier one allotment to which the district is entitled and sets that percentage at 96 percent, unless a lower percentage is set by appropriation for a school year.

Tier Two Entitlement

C.S.H.B. 3 changes the statutory provision establishing the purpose of the guaranteed yield component of the foundation school program to refer instead to the tier two component. The bill revises a district's guaranteed level of state and local funds per weighted student per cent of tax effort, which is the basis for calculating the district's tier two allotment of state funding, as follows:

- with regard to the component known as the golden penny yield:

- increases the range of district tax effort to which the yield applies from the first six cents by which the district's M&O tax rate exceeds the tax rate required to generate the district's local fund assignment, referred to by the bill as the district's tier one M&O tax rate, to the first eight cents by which the district's M&O tax rate exceeds that required tax rate;
- removes formula language linking the yield to the tax revenue of the Austin Independent School District; and
- sets the yield instead as the greater of the amount of district tax revenue per weighted student per cent of tax effort available to a district at the 96th percentile of wealth per weighted student or the amount that results from multiplying the basic allotment by 0.016; and
- with regard to the component known as the copper penny yield:
 - makes that yield applicable to any additional cents of district M&O tax effort beyond the first eight cents; and
 - changes the yield from \$31.95 to the amount that results from multiplying the basic allotment by 0.008.

C.S.H.B. 3, in temporary provisions expiring September 1, 2021, sets a transition schedule that entitles a district to a golden penny yield for the first six cents by which the district's M&O tax rate exceeds the district's tier one tax rate for the 2019-2020 school year, and for the first seven cents for the 2020-2021 school year.

C.S.H.B. 3 requires a district, for a school year in which the district's copper penny yield results in a greater amount of state and local revenue per weighted student per cent of tax effort than for the preceding school year, to reduce the component of the district's enrichment tax rate attributable to copper penny tax effort for that tax year to a rate that results in the amount of state and local revenue per weighted student per cent of tax effort available to the district for the preceding year. The bill establishes that a district is not entitled to the amount equal to such an increase of revenue during the tax year in which the district must reduce the district's tax rate. These provisions do not apply if the amount of state funds appropriated for a school year specifically excludes the amount necessary to provide the copper penny yield.

Replacement of Equalized Wealth Level

C.S.H.B. 3 repeals statutory provisions establishing the equalized wealth level and its component categories for purposes of state funding recapture and sets out provisions relating to the local revenue level in excess of entitlement for the same purposes. The bill requires a district whose tier one revenue level, which is the district's tier one local share, exceeds the district's tier one entitlement less the district's distribution from the state available school fund to reduce the district's tier one revenue level to a level that does not exceed that amount. The bill requires TEA, if the sum of such a district's M&O tax collections for the current tax year minus the district's tier one revenue level is less than the amount of the district's tier one entitlement, to adjust the amount of the district's tier one revenue level to ensure that the district retains the amount of local funds necessary for that entitlement. The bill authorizes the use of state aid to which a district is entitled under the foundation school program, other than the district's tier one or tier two entitlement or available school fund allocation, to offset an amount by which the district must reduce the district's tier one revenue level. Any amount of state aid used as an offset reduces the amount of state aid to which the district is entitled. The bill entitles a district to retain the total amount of the district's tier two local share attributable to golden penny tax effort except that, in any school year for which the amount of state funds appropriated specifically excludes the amount necessary to provide the golden penny yield, a district may only retain the amount of the district's tier two local share attributable to golden penny tax effort that is equal to the amount of revenue that would be generated based on the amount appropriated for the tier two guaranteed level. The bill requires a district whose tier two local share attributable to copper penny tax effort exceeds the copper penny yield amount prescribed by the bill to reduce the district's revenue accordingly.

Attendance Credit

C.S.H.B. 3 changes references to the purchase of attendance credits for recapture purposes to refer instead to the purchase of attendance credit and replaces provisions establishing the conceptual nature and cost of such credit in terms of a nominal number of students in weighted average daily attendance with provisions establishing that nature and cost in terms of a dollar amount. The bill repeals provisions relating to the early agreement credit and relating to an automatic credit against the cost of attendance credits to compensate for disaster remediation costs.

ADA Calculations

C.S.H.B. 3 establishes that ADA for a district that operates a required free full-day prekindergarten program is one-half of the ADA otherwise calculated for a district that does not operate a flexible year or flexible school day program. The bill removes the expiration date from a statutory provision authorizing the commissioner to waive requirements or adopt rules relating to ADA to assist districts in implementing specified legislation.

Incentive for Additional Instructional Days

C.S.H.B. 3 requires the commissioner to increase a district's or open-enrollment charter school's ADA for purposes of calculating state funding if the district or charter school provides the required minimum number of minutes of operational and instructional time over at least 180 days of instruction and offers an additional 30 days of half-day instruction for students enrolled in prekindergarten through fifth grade. The bill provides the method of calculating the increased ADA and authorizes the commissioner to provide the incentive of such an increase, or a proportionally reduced incentive, to a district or charter school that intended to meet the qualifying instruction time requirement, but due to circumstances beyond the district's or charter school's control was unable to do so. The bill requires the commissioner to adopt rules necessary for the implementation of the incentive and establishes that a district that adopts a year-round system is eligible for the incentive if the district meets the applicable criteria. These provisions do not prohibit a district from providing the required minimum number of minutes of required operational and instructional time over fewer than 180 days of instruction.

Miscellaneous Provisions

C.S.H.B. 3 requires a district entitled to additional state aid for tax increment financing payments to provide certain pertinent information to TEA. The bill establishes that this additional state aid entitlement and certain provisions relating to the exercise of options for reducing a district's local revenue level for recapture purposes do not apply to a district payment for an obligation refinanced or renewed after September 1, 2019.

C.S.H.B. 3 extends the conditions on the commissioner's authority to provide foundation school program funding to a district based on a taxable value of property for the district that deducts one-half of the total dollar amount of certain prorated residence homestead exemptions in the applicable year to apply also to the provision of state assistance with instructional facilities and payment of existing debt. The bill revises provisions setting out funding sources for state reimbursement for disaster remediation costs to remove the distinction between districts subject and not subject to recapture.

C.S.H.B. 3 repeals provisions relating to the tax rate conversion fund, additional state aid for staff salary increases, additional state aid for a certain increase in a residence homestead exemption and limitation on tax increases, and the effect of state aid for a school year in which a district first exceeds the equalized wealth level. The bill repeals provisions requiring the SBOE to establish standards for adequacy of school facilities and requiring all facilities constructed

after September 1, 1992, to meet the standards in order to be financed with state or local tax funds.

C.S.H.B. 3 adjusts the method of calculating certain amounts appropriated to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf to compensate for reductions, attributable to the bill's changes relating to the state compression percentage and the components of M&O tax, in districts' share of the costs for students enrolled in those schools.

C.S.H.B. 3 removes certain statutory provisions relating to the rules that the commissioner may adopt with regard to recapture options

Charter School Funding Provisions

C.S.H.B. 3 revises provisions relating to the applicability of certain adjustments and allotments with regard to a charter holder's entitlement to foundation school program funding for a charter school.

Commissioner Authority to Resolve Certain Unintended Consequences

C.S.H.B. 3 authorizes the commissioner to adjust a district's funding entitlement under the foundation school program if the funding formulas used to determine the district's entitlement result in an unanticipated loss or gain for a district, subject to the condition that the commissioner notifies and receives approval from the Legislative Budget Board (LBB) before making such an adjustment. The bill requires the commissioner, if the commissioner makes such an adjustment, to provide to the legislature an explanation regarding the changes necessary to resolve the unintended consequences. The commissioner's authority to make such an adjustment ends beginning with the 2021-2022 school year, and these provisions expire September 1, 2023.

Formula Transition Grant

C.S.H.B. 3 entitles a district to a formula transition grant in the form of an annual allotment in the amount equal to the difference, if applicable, that results from subtracting the district's total M&O revenue per student in ADA for the school year for the current school year from the lesser of the following:

- the district's total M&O tax revenue per student in ADA for the 2018-2019 school year; or
- 125 percent of the statewide average amount of M&O revenue per student in ADA for the 2018-2019 school year.

The bill sets out certain requirements regarding the calculation of M&O revenue for purposes of the grant and establishes that a decision by the commissioner relating to the grant is final and may not be appealed. This entitlement ends beginning with the 2022-2023 school year, and these provisions expire September 1, 2024.

Hold Harmless Repeal and Equalized Wealth Transition Grant

C.S.H.B. 3 repeals provisions relating to the hold harmless recapture reduction. The bill entitles a district to an equalized wealth transition grant in the form of an annual allotment in an amount equal to the amount of additional revenue the district received for the 2018-2019 school year under that reduction. The bill provides for the amount of the allotment to progressively decrease for each of the four school years from 2020-2021 to 2023-2024. These transition grants expire September 1, 2024.

LBB Determinations Regarding Public School Finance

C.S.H.B. 3 repeals provisions requiring the LBB to adopt rules for the calculation of certain

equalized funding elements for each year of a biennium and to report the equalized funding elements to the commissioner and the legislature.

C.S.H.B. 3 amends the Government Code to require the LBB, before submitting the budget of estimated appropriations, to make certain determinations regarding the estimated state share of the foundation school program and regarding the state compression percentage and authorizes the LBB to include those determinations in the general appropriations bill. The bill requires the LBB to include the recommended state compression percentage in its budget recommendations.

TRS Contributions for Certain Members

C.S.H.B. 3 requires an employing district or charter school to pay the state's contribution to the Teacher Retirement System of Texas (TRS) on the portion of a member's salary that exceeds the statutory minimum salary for members who would be entitled to the statutory minimum salary for certain school personnel if the member was employed by a district subject to the schedule instead of being employed by a charter school or by a district that has adopted a local innovation plan that exempts the district's employees from the schedule. The bill extends the requirements for an employing district to pay such a contribution for members entitled to the statutory minimum salary and for members who would have been entitled to that salary under certain former statutory provisions to apply to charter schools.

Rollback Tax Rate

C.S.H.B. 3 amends the Tax Code to revise provisions relating to district rollback tax rates. Among other provisions, the bill sets out the method for calculating the rollback tax rate for the 2020 and subsequent tax years, a transitional calculation method for the 2019 tax year, an alternate calculation method for the 2020 tax year for a district that unanimously votes to adopt a specified M&O tax rate, and an alternate calculation method for a district that had a specified M&O tax rate for the 2005 tax year. The bill revises associated ballot language and election date requirements and establishes the duration of a tax rate adopted under exceptions to the election procedures due to the occurrence of a disaster. These provisions apply beginning with the 2019 tax year.

Public Education

Article 2 of C.S.H.B. 3 makes changes relating to the operation of the public school system. These provisions take effect on passage, or, if the bill does not receive the necessary vote, September 1, 2019. Except as otherwise provided, these provisions apply beginning with the 2019-2020 school year.

Early Childhood Literacy and Mathematics Proficiency Plans

C.S.H.B. 3 amends the Education Code to require the board of trustees of each district to adopt early childhood literacy and mathematics proficiency plans that set specific annual goals for the following five school years to reach quantifiable goals for student performance in reading and mathematics at each campus. The bill sets out requirements relating to the content and review of those plans and authorizes each plan to set separate goals for students in a bilingual education or special language program. The bill authorizes the commissioner to adopt rules as necessary to implement these provisions. The bill expressly subjects a charter school to the requirements relating to the early childhood literacy and mathematics proficiency plans.

Prekindergarten Classes

C.S.H.B. 3 changes the requirement for a district to offer free half-day prekindergarten classes to certain children to require a district to offer instead free full-day prekindergarten classes, which must comply with statutory high quality prekindergarten program standards, for eligible children

who are at least four years of age. The bill authorizes a district to offer free half-day prekindergarten classes for eligible children under four years of age and to offer an additional half-day of classes for those children on a tuition or district-funded basis. The bill revises conditions governing exemptions from statutory provisions relating to free prekindergarten programs by doing the following:

- changing the authorization for the commissioner to exempt a district to a requirement, provided the requisite conditions are met;
- specifying that an exemption may relate to all or any part of applicable requirements, including those relating to high quality prekindergarten programs;
- including as an alternate qualifying determination by the commissioner a determination that implementing any part of the requirements would result in fewer eligible children being enrolled in a free prekindergarten class;
- making a district's exemption conditional on the district's having solicited and considered at a public meeting proposals for partnerships with public or private entities regarding required prekindergarten classes; and
- limiting the duration of an exemption to three school years and the permitted number of renewals to one.

C.S.H.B. 3 extends the commissioner's authority to adopt rules for kindergarten and prekindergarten programs regarding minutes of operation requirements to apply to rules governing such programs generally and exempts such rules from a certain requirement for rules increasing costs to regulated persons. The bill repeals provisions relating to the high-quality prekindergarten grant program. The bill includes an element relating to district exemptions from the full-day prekindergarten requirement among Public Education Information Management System (PEIMS) reporting requirements for prekindergarten classes.

Reading Diagnosis

C.S.H.B. 3 revises the requirements for the adoption of tests to diagnose student reading development and comprehension. The bill excludes kindergarten as a grade level for which a district-level committee may adopt a list of diagnostic reading tests for use in addition to the tests on the list adopted by the commissioner and authorizes the commissioner instead to approve an alternative diagnostic reading test for kindergarten students that complies with applicable requirements. The bill requires the commissioner by rule to determine the performance on the test adopted by the commissioner that indicates kindergarten readiness and exempts such rules from a certain requirement for rules increasing costs to regulated persons. The bill authorizes the commissioner to adopt rules as necessary to implement statutory provisions relating to reading diagnosis, revises certain such provisions, and repeals a prohibition against the use of diagnostic reading tests for purposes of educator appraisals and incentives or purposes of public school accountability. These provisions apply beginning with the 2020-2021 school year.

College, Career, and Military Readiness

C.S.H.B. 3 authorizes the commissioner to enter into agreements with appropriate entities as necessary to provide for the collection of data regarding college, career, and military readiness of public school students. The bill specifies that an eligible certification examination for which a student may qualify for a state subsidy is an examination to qualify for a license or certificate that is an industry certification for purposes of public school system accountability. The bill authorizes high school students to select and take the Texas Success Initiative diagnostic test once at state cost in the spring of the 11th grade or during the 12th grade as an alternative to one of certain college readiness tests and excludes the authorization to take such tests at state cost from the applicability of a provision requiring legislative appropriation.

Blended Learning Grant Program

C.S.H.B. 3 requires the commissioner to establish a grant program from appropriated or

available funds to assist districts and charter schools in developing and implementing effective blended learning models that combine classroom and online instruction. The bill sets out requirements and other provisions relating to the program, including a requirement to prioritize awarding grants to districts that have the highest enrollment of educationally disadvantaged students. The bill requires the commissioner to adopt rules as necessary to implement the grant program but prohibits the commissioner from imposing any requirements on a district's plan to implement a blended learning model other than those prescribed by the bill.

Academic Services Grant Program

C.S.H.B. 3 requires the commissioner to establish and administer a grant program from appropriated or available funds to provide funding to districts and charter schools for eligible students to obtain academic services that supplement the student's public education, promote and improve the student's overall academic performance, and exceed the level of services that the student's applicable committee has determined to be necessary for the student to receive a free appropriate public education. The bill sets out the following eligibility criteria for a student to participate in the grant program:

- the student is enrolled in a district or charter school and was enrolled in that district or charter school during the entire preceding school year;
- the student is educationally disadvantaged;
- the student has one or more of the following disabilities: dyslexia, autism, a speech disability, or a learning disability; and
- for one or more of those disabilities, an individualized education program has been developed for the student or the student is covered by certain provisions of the federal Rehabilitation Act of 1973.

C.S.H.B. 3 sets out requirements and other provisions relating to the academic services grant program. The bill requires the commissioner to adopt rules as necessary to implement the grant program. The bill adds a temporary provision set to expire September 1, 2021, requiring TEA, not later than December 30, 2020, to review the performance of the grant program and submit to the legislature a report on TEA's conclusions.

School Attendance Relating to Additional Instructional Days Incentive

C.S.H.B. 3 establishes that attendance is not compulsory by statute for any additional instructional days eligible for the applicable incentive established under the bill's provisions.

Gifted and Talented Student Program Certification

C.S.H.B. 3 requires each district to certify annually to the commissioner that the district has established a program for gifted and talented students. The bill provides for a reduction in foundation school program funding as a penalty for a district that fails to comply with this requirement.

Repeal of Certain Pilot Programs

C.S.H.B. 3 repeals provisions relating to the intensive technology-based academic intervention pilot program and the intensive summer pilot program.

Reporting Requirements

C.S.H.B. 3 expands the required contents of the early education reports made available by TEA to include certain kindergarten reading diagnostic information and certain data relating to performance on statewide standardized tests in third grade reading and mathematics.

C.S.H.B. 3 requires a district's annual educational performance report to include the progress of the district and each district campus toward meeting the goals set in the district's early childhood

literacy and mathematics proficiency plans.

Conforming Changes

C.S.H.B. 3 amends the Education, Government, Human Resources, Insurance, Penal, and Tax Codes to make conforming changes.

Budget Notice Transition Provision

C.S.H.B. 3 authorizes a district that took action to comply with requirements for publishing notice of the district's budget and proposed tax rate meeting for the 2019 tax year before the bill's effective date to amend the district's previously published notices to comply with the changes made to the district's permissible and proposed tax rates as a result of the bill by posting those changes on the district's website. A district that complied with the law in effect at the time of the district's original publication may hold the district's scheduled public hearing as originally published.

Repealers

C.S.H.B. 3 repeals the following provisions of the Education Code:

- Sections 28.006(d-1) and (e)
- Section 29.097
- Section 29.098
- Section 29.165
- Section 29.166
- Sections 29.203(g)(1) and (3)
- Section 39.233
- Section 39.234
- the headings to Chapters 41 and 42
- the heading to Subchapter A, Chapter 41
- Section 41.002
- Section 41.0041
- the heading to Subchapter D, Chapter 41
- Section 41.0931
- Section 41.098
- the heading to Subchapter E, Chapter 41
- the heading to Subchapter A, Chapter 42
- the heading to Section 42.006
- Section 42.007
- the heading to Subchapter B, Chapter 42
- Section 42.102
- Section 42.103
- Section 42.104
- the heading to Subchapter C, Chapter 42
- Section 42.1541
- Section 42.156
- Section 42.160
- the heading to Subchapter E, Chapter 42
- Section 42.2513
- Section 42.2517
- Section 42.2518
- Section 42.262
- the headings to Subchapters F and G, Chapter 42
- Section 42.352

C.S.H.B. 3 repeals the following provisions of the Tax Code:

- Section 26.08(p)
- Section 312.210(c)

EFFECTIVE DATE

Except as otherwise provided, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Article 1

The substitute includes provisions relating to a required district efficiency audit before an M&O tax rate election may be held.

The substitute includes certain further revisions relating to foundation school funding for charter schools and makes charter schools explicitly eligible for the additional instructional days incentive.

The substitute makes the following changes with regard to foundation school program adjustments and allotments:

- includes an allotment for a special-purpose district operated by a general academic teaching institution;
- does not include the student population category of 450 or fewer in the calculation of the small and mid-sized district allotment;
- includes small and mid-sized district allotment funding as a component of the calculation of special education allotment funding;
- does not retain language relating to the commissioner's authority to increase indirect cost allotments pertaining to the special education allotment from the related provision repealed by the bill;
- makes changes to the compensatory education allotment for educationally disadvantaged students, including changes relating to the funding weight for such a student who resides in a residential placement facility, the funding weight for such a student whose census block status cannot be determined, and the method of determining a student's census block;
- limits eligibility for the bilingual education allotment for a student who is not of limited English proficiency to students in programs using certain types of models;
- renames the new early reading allotment as the early education allotment, limits eligibility for students in a bilingual education or special language program to students of limited English proficiency, and specifies the purposes for which the allotment funds must be used; and
- includes homeless students among those eligible for the transportation allotment and provides for reimbursement for transporting career and technology education students to certain work locations.

The substitute includes a requirement for the commissioner to establish a compensatory education allotment advisory committee to assist TEA in adopting rules for that allotment.

The substitute makes the following changes relating to M&O tax:

- simplifies the standard maintenance tax rate cap by setting it at \$1.17;
- clarifies progressive increases for school years 2019-2020 and 2020-2021 from the

- current six golden pennies to reach eight golden pennies in the 2021-2022 school year;
- includes an alternate formula for a district that had an M&O tax rate lower than \$1.00 for the 2018-2019 school year; and
- does not include the alternate formula for a district whose M&O tax rate for the 2018-2019 school year does not comply with the enrichment tax limitations set by the bill.

The substitute, for purposes of the tier two allotment, revises the descriptions defining the guaranteed level of state and local funds generated by the golden penny and copper penny components of M&O tax effort, including by setting a minimum golden penny yield based on the 96th percentile of wealth per weighted student. The substitute includes a stepped transition for the school years 2019-2020 and 2020-2021 to correspond with the progressive increases in the M&O golden pennies.

The substitute removes a requirement for a district to raise its total tier one local share to be eligible to receive foundation school fund payments.

The substitute makes certain revisions and clarifications to provisions governing the determination of whether a district is subject to recapture.

The substitute repeals the hold harmless recapture reduction immediately rather than phasing it out gradually. To compensate districts for funds the districts would otherwise have received under that reduction, the substitute includes a series of decreasing equalized wealth transition grants set to expire after the 2023-2024 school year.

The substitute does not rename the rollback tax rate as the ratification tax rate but retains the existing name. The substitute makes certain revisions to the methods of calculating this tax rate.

The substitute changes the basis of calculation for the formula transition grant from students in weighted average daily attendance to students in ADA and provides further specifications of what funding must be considered in determining a district's applicable M&O revenue.

The substitute makes the following changes relating to commissioner authority:

- provides for the continuation of a provision granting certain waiver and rulemaking authority to the commissioner in the context of ADA determinations by removing the expiration date on that authority;
- removes certain statutory provisions relating to the rules that the commissioner may adopt with regard to recapture options; and
- with regard to the authority to resolve unintended consequences from the bill's changes to school finance formulas:
 - requires the commissioner to notify and receive approval from the LBB before making an adjustment on those grounds instead of requiring notification to the LBB and the office of the governor and authorizing the adjustment if those entities do not disapprove within a certain timeframe; and
 - shortens the period during which the commissioner may make such adjustments.

The substitute does not include language specifying that the LBB estimate of the state share includes the instructional materials and technology allotment.

The substitute does not include the educator salary transition allotment, which was for the purpose of a minimum salary increase that is also not included in the substitute.

The substitute retains an educator effectiveness allotment but changes the system for allocating the allotment funds. Among other changes, the substitute allocates the funds by means of a constant funding weight; requires the funds to be used to incentivize and provide pay increases to effective classroom teachers to teach in certain high needs, rural, and shortage areas; and

provides for a district to develop a policy for distribution with local stakeholder input. The substitute does not include a provision entitling a school district to reimbursement for certain fees relating to educator effectiveness.

The substitute includes the repeal of provisions relating to the tax rate conversion fund and the repeal of provisions requiring the SBOE to establish standards for adequacy of school facilities.

Article 2

The substitute expands requirements relating to the early childhood literacy plan to require each district to adopt early childhood literacy and mathematics proficiency plans. The substitute changes the requirement for the plans relating to the inclusion of annual goals for aggregate student growth on certain tests.

The substitute does not include the following:

- provisions relating to the issuance of recognized, exemplary, or master teacher designations;
- certain changes regarding teacher appraisals;
- the repeal of the existing subject area master teacher designations; and
- the creation of a separate minimum salary schedule for classroom teachers with higher salary levels throughout.

The substitute includes a change that replaces an authorization for the commissioner to exempt a district from the application of requirements relating to prekindergarten classes under certain conditions with a requirement for the commissioner to do so.

The substitute makes a charter school explicitly eligible for the blended learning grant program.

The substitute renames the enhancement services grant program as the academic services grant program, makes charter schools explicitly eligible for funding under the program, and makes certain other revisions relating to student eligibility and the operation of the program.

The substitute does not include the requirement for TEA to produce a certain annual educational progress report.

The substitute changes the type of progress required to be included in a district's annual performance report.

Procedural Provisions

The substitute includes procedures for a district that publishes certain hearing notice before the bill's effective date.

The substitute makes certain changes to the bill's effective date, including providing for the immediate effect of the bill's Article 2 provisions if the bill receives the necessary vote.

The substitute does not include language relating to a conflict between its provisions and nonsubstantive additions to and corrections in enacted codes. The substitute instead refers to its prevalence over any act of the legislature regardless of the relative dates of enactment.