

SUBJECT: School finance, teacher salaries, and property tax relief

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Sadler, Dutton, Dunnam, Grusendorf, Hochberg, Lengefeld, Oliveira, Olivo, Smith  
0 nays

SENATE VOTE: On final passage, April 28 — voice vote (Barrientos recorded nay)

WITNESSES: (*On committee substitute, final version:*)  
For — Kent Caperton, Small and Rural School Finance Coalition; Bill Carpenter, Fast Growth School Coalition; Bill Grusendorf, Texas Association of Rural Schools; Davis Dunn, Texas Association of School Boards; Wayne Pierce, Texas Association of Mid-Size Schools; Lonnie Hollingsworth, Texas Classroom Teachers Association; Jay Levin, Texas State Teachers Association; Eric Hartman, Texas Federation of Teachers; Mike McLamore, Association of Texas Professional Educators  
  
Against — None

BACKGROUND: Since its adoption in 1876, the Texas Constitution has required the state to support public education:

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools. (Art. 7, sec. 1)

Long before the Texas school finance system was challenged in court, it had been criticized widely and modified many times. In 1987, a Texas district court ruled that the school finance system was unconstitutional because it failed to provide an efficient system for education. In October 1989, the Texas Supreme Court unanimously ruled the finance system unconstitutional on efficiency grounds (*Edgewood I*). While the district court had held that the constitution mandated that all districts be allowed equal access to revenues at

all levels of taxation, the Supreme Court adopted a less stringent standard, holding that school district revenues must be only *substantially equal* at similar levels of tax effort to be constitutional.

In response to *Edgewood I* and under severe time constraints imposed by the court, the Legislature enacted SB 1 in 1990. That law required that 95 percent of all students be in a wealth-neutral system by 1995. The district court considered SB 1 in July 1990 and again found the system unconstitutional for not providing an efficient system. The Supreme Court reviewed that decision and affirmed it in *Edgewood II*. The court noted that the SB 1 changes were merely a “band-aid” approach and that the whole system must be changed to fix the problems.

The Legislature later enacted SB 351, which established a system of 188 county education districts (CEDs) across the state. SB 351 authorized each CED to levy a tax rate based on the state’s assessment of the district’s property wealth and to distribute the revenue on a per-student basis. The local-share rate would have increased each year for the subsequent five years. The Supreme Court in *Edgewood III* did not decide whether SB 351 created an efficient system, but instead declared it unconstitutional for establishing a statewide property tax.

In response to *Edgewood III*, the Legislature proposed three constitutional amendments for the May 1993 ballot allowing a CED tax rate of \$1 per \$100 of property wealth. Voters rejected all three measures by substantial margins. The 1993 Legislature then enacted SB 7, the current school finance system. In January 1995, the Supreme Court found the system created by SB 7 to be constitutionally acceptable in *Edgewood IV*.

Under the Foundation School Program (FSP), two tiers of school finance are designed to provide state aid to school districts based on their local property wealth per student and their level of tax effort. Tier 1 was designed to fund the “basic program” of the education system. It covers local taxation up to 86 cents per \$100 of property valuation. Every district is guaranteed to raise from local revenues and state aid \$28 per student per penny of tax effort, or a basic allotment of \$2,396 per student. Tier 2 covers tax rates between 87 cents and \$1.50 and is designed to create a guaranteed yield for tax efforts above the cost of the basic program. All districts in Tier 2 are guaranteed to earn from state and local sources \$21 per student per penny of tax effort.

While not officially named so, “Tier 3” covers tax rates over \$1.50. There is no guarantee of state revenue yield in Tier 3 and, except for some statutory exceptions, Tier 3 revenues may be used only for debt service.

SB 7 limited district revenues in all three tiers to \$28 per student per penny of tax effort, or \$280,000 of taxable property wealth per student. All revenue raised above this limit is subject to recapture by one of five options outlined in the statute. The most popular options allow a district to buy attendance credits from the state or from another district to lower its property wealth to the \$280,000 limit. Some districts also contract with neighboring districts to educate students from the neighboring district.

SB 7 also imposed a tax limit on all school districts. Districts may not levy tax rates of more than \$1.50 per \$100 value on property without a statutory exemption. The \$1.50 limit applies only to funds raised for maintenance and operations (M&O). Funds raised to pay debt service (interest and sinking fund or I&S) may push the tax rate higher than \$1.50, but the state does not equalize funds raised above the \$1.50 limit.

In 1997, HB 4 by Craddick and a companion constitutional amendment approved by Texas voters provided \$1 billion in continuing property-tax relief by increasing the standard homestead exemption from \$5,000 of the value of the property to \$15,000. It also removed from recapture any revenues raised by a district above the \$1.50 rate cap. The legislation also constitutionally dedicated all revenues from the state lottery to public education.

HB 4 also established the Instructional Facilities Allotment (IFA), which provides a guaranteed yield of \$28 per student per penny of tax effort for construction of new facilities. One significant difference in calculating the IFA and the FSP is that guaranteed yield for the IFA is based on average daily attendance (ADA) for the district, while Tier 1 and 2 funding is based on a weighted average daily attendance (WADA), which includes multiplying factors for various special programs such as special education and bilingual education. Because weighting students increases the number of students, \$28 per ADA is roughly equivalent to \$21 (the Tier 2 level) per WADA.

The 75th Legislature appropriated \$200 million to fund the IFA during fiscal 1998-99. For additional projects to be funded, the state would have to

appropriate additional funds and continue to fund the projects already approved until those debts were paid, usually within 20 years.

The state funding formulas use many different calculations and weights to correct for variances that increase the cost of education. All districts are adjusted by the cost-of-education index, which considers teacher salaries in contiguous districts, county population, district type, percentage of low-income students, and number of students. Many districts receive small, sparse, or medium-sized district allowances if they have less than a certain number of students. Students are weighted depending on the special programs they require, such as special education, career and technology (vocational education), compensatory education, bilingual/English as a Second Language, and gifted and talented programs. Once district and student weights are calculated, a district receives its WADA amount, used for most school finance formulas.

Teacher compensation is the single largest budget item for school districts, comprising, on average, more than 60 percent of a district's operating budget. Teacher salaries are based on a state-mandated minimum salary schedule, established in Education Code, chapter 28, that provides for minimum salary increases based on the number of years of service up to 20 years. The minimum salary schedule is based on funding for the FSP and must be increased when money is added to the FSP. That same formula also increases the number of days of service required when the minimum salary goes up. Roughly every three additional days' worth of pay increases the minimum number of days by one day.

Many school districts pay teachers a supplement above the minimum salary schedule. Such supplements, however, are not uniform and are not always based on the salary schedule, so if the minimum salary goes up, a teacher who is earning above that amount may not receive that increase without district approval. However, districts usually feel pressure to increase salaries whenever the minimum salary schedule is increased. Because of the wide variety of districts, every district may have a slightly different teacher compensation plan. Some districts include differential pay for teachers in certain fields, while others carry out salary increases beyond the 20 years mandated in state law. Some districts award bonuses or differentials for additional certificates, degrees, or course work.

POINT BY  
POINT  
ANALYSIS:

***DIGEST SUMMARY***

CSSB 4 would provide a statutory framework for adding nearly \$3.8 billion into the public education system. These funds would be used to raise teacher salaries and to increase the basic allotment to school districts. Every teacher, librarian, counselor, and nurse in every district would be guaranteed \$3,000 a year above any raise they normally would have received for the 1999-2000 school year. The plan would compress current tax rates by increasing state funding to provide property-tax rate reductions and equalize additional current debt-tax rates over the \$1.50 cap. Overall, the bill would provide nearly \$1.2 billion in property tax relief.

The bill would increase the Tier 2 guaranteed yield from \$21 per weighted student per penny of tax effort to \$24.75 after the compression of current tax rates. This would direct additional funding to districts to spend at their discretion. It also would increase the equalized wealth level (the level at which recapture begins) from \$280,000 of property wealth per student to \$295,000. It would include additional hold-harmless provisions for chapter 41 (recapture) districts.

The bill would include transitional teacher salary aid to fund increases in districts that would not receive adequate funding through the finance formulas, and it would increase aid to districts with rapidly declining property values. It would extend the current IFA and would create an additional facilities allotment for fast-growing school districts.

CSSB 4 also would create the Student Success Initiative, which would require students in third, fifth, and eighth grades to pass certain Texas Assessment of Academic Skills (TAAS) tests to be promoted to the next grade, unless that promotion were approved by a grade-placement committee. The bill would create competitive grant programs for pre-kindergarten, kindergarten, Head Start, and second-chance ninth grade programs.

**Supporters say** CSSB 4 would represent the largest infusion of state dollars into public education in history. The bill has four main components: increasing teacher salaries, providing additional funding to school districts, reducing property tax rates, and providing funding to target program areas. Because a finite amount of money is available to spend for these four purposes, a balancing of interests must be achieved that provides some money

to all four, but the amount provided for any one element cannot meet all the goals or needs of those who support funding those individual elements.

CSSB 4 would significantly increase the equity in the school finance system. About 90 percent of students would be in the equalized system and more than 98 percent of revenue would be equalized. These figures are much better than the model under current law, which would place 83 percent of students in the equalized system and keep 95 percent of revenue equalized. Districts that would benefit most from the bill would be the poorest districts that receive Tier 2 funding. While it could take two years for some districts to realize the additional funding, the significant increases in the basic allotment and the guaranteed yield would provide those districts with significantly more revenues than are available under the current system.

Some may argue that one element or another should be reduced to increase funding to another element, but that should be avoided. The funding elements have been designed and balanced so as to provide the greatest yield to all four elements at the same time. All four are equally important. Some may argue that if any element should be reduced, it is the property tax element, which would provide minimal yearly savings to individual taxpayers. However, the actual money saved by taxpayers would be only part of the benefits provided by the tax rate compression. Reducing rates by an average of 6 cents would help to expand the space between the average M&O tax rate and the \$1.50 tax-rate cap. That space is essential to giving districts meaningful control to set their tax rates and to avoid a determination that the school finance system creates an unconstitutional statewide property tax.

**Opponents say** the property tax relief included in CSSB 4 is meaningless because it is not coupled with meaningful restrictions on districts preventing them from raising rates to swallow up the rate reduction. The average property taxpayer would see a tax rate compression equal to 6 cents per \$100 valuation under the plan, but the tax rollback rate (the rate at which a district must call an election to authorize the increase of taxes) would not be altered, allowing districts to raise rates up to 8 cents over the amount they would have received in the prior year had the new funding elements been in place. This means that these rate reductions, while small to begin with, could be wiped out in many districts, resulting in “phantom tax relief.” The money would be spent by the state for property tax relief, but the taxpayers would not see the benefits of that relief.

Rather than focus on providing tax cuts that the average taxpayer barely would notice, that money should be directed to other areas in need, such as salaries or other additional district needs. Under this bill, a taxpayer in an average district would save \$60 per year on a tax bill for a residence with a taxable value of \$100,000, before any additional increases at the local level. Other property taxpayers, including businesses, would see similar rate reductions based on their property valuations. That money should be allocated by the Legislature to priority funding elements rather than be left as a windfall to the districts.

While CSSB 4 would provide additional money to districts and teachers, the tax rate compression and associated equalized funding caps actually would cause some districts to need additional funds in the second year of the biennium that they would have to raise without being able to draw down state funds. This money would be needed because of the natural increase in costs from year to year. Because of this second-year shortfall and the lack of state aid for such shortfalls, many districts would have to increase tax rates to a level that essentially would wipe out any savings taxpayers might receive in the first year.

**Other opponents say** because of the hold-harmless provisions and the increase in the equalized wealth level, the group of districts that likely would benefit most from this program are the property-wealthy districts. These formulas should be redesigned to provide the most benefits to non-property-wealthy districts or to force the property-wealthy districts to bring their revenues down into the equalized system.

### ***TEACHER SALARIES***

**Current law** provides a minimum teacher salary schedule for classroom teachers and full-time librarians. The minimum salary is based on the amount of money included in the FSP. As that amount is increased, the minimum salary schedule is raised. A minimum number for days of service in a teacher contract also is based on increases to the FSP. For each three additional days of pay that would be received under the minimum salary schedule, the minimum number of days of service increases by one day.

**CSSB 4** would require increases in all teacher salaries, modify the minimum

salary schedule accordingly, extend the minimum salary schedule and teacher salary increases to full-time counselors and school nurses, and establish a fixed minimum number of service days.

For the 1999-2000 school year, every teacher, librarian, counselor, and nurse would be paid at least \$3,000 more than they otherwise would have received for that year. The \$3,000 would be in addition to any increases for years of experience, career-ladder supplement, local district supplement, or any other form of compensation that the person would have received. In future years, the district could not decrease that amount so long as the teacher was employed by the same district, and, in fact, would have to increase that teacher's salary every year in an amount equal to the amount required on the minimum salary schedule for moving up each step.

It would cost the state approximately \$1.8 billion to fund the salary increases for teachers, librarian, counselors, and nurses and the accompanying impact on the Teacher Retirement System.

The minimum salary schedule no longer would be based on the amount in the FSP divided by average daily attendance, but instead would be calculated according to the total amount of state and local funding per weighted student in Tiers 1 and 2 of the school finance system. The commissioner of education would have to determine that amount no later than June 1 of each year. The monthly salary factors in the minimum salary schedule would be modified to conform with this change and still generate a \$3,000 increase for each teacher on the schedule.

The bill would set the minimum number of days of service at 187 days.

**Supporters say** Texas teacher salaries average 38th in the nation and are about \$6,000 per year below the national average. Teachers in Texas are leaving the profession at an alarming rate, often being lured to other fields by higher pay. Teacher shortages are especially prevalent in specialized fields such as math, science, special education, and bilingual education. These teachers have special skills highly valued in the private workforce, and they are not paid enough to stay in the public school system.

CSSB 4 is the best way for the state to provide a teacher salary increase to every teacher in every district and still achieve the state's other goals to



increase money to districts, fund targeted programs, and provide property tax relief. The mechanism in this bill would ensure that every teacher would get a raise of at least \$3,000 over and above any normal step increase they would have received in moving up the salary schedule. The plan also would use the current school finance system to deliver the money needed to districts. That would ensure that districts had maximum flexibility with funds in future years, but that districts would provide adequate funding for continued increases in teacher salaries.

CSSB 4 would be much better than the Senate-passed version of the bill in ensuring teacher salary increases. While the Senate version promised a \$4,000 increase in the minimum salary schedule, fewer than half of all teachers are paid the minimum. Other teachers would see a smaller increase or no increase at all. By spreading the increase to all teachers and including counselors and librarians, CSSB 4 would create a more equitable raise for school employees and would help to recruit and retain additional qualified people in the public school system.

Teachers have asked that the indexing of the minimum number of days of service be eliminated because that calculation is unfair to many teachers. Because it is tied to increases in the minimum salary schedule, only teachers at the minimum salary schedule would be paid extra for additional days of service. Those paid above minimum could be forced to work additional days but might not necessarily receive any increase in pay for such an adjustment. A far better approach would be to set a fixed number that could be modified each session at the Legislature's discretion. Those who originally developed the proposal to index the minimum salary schedule and number of days of service argue that if one index is eliminated, both must be eliminated.

**Opponents say** the amount of money included for teacher salary increases in CSSB 4, while appreciable, is still inadequate to ensure that Texas teachers are paid adequately. Texas teachers earn, on average, \$6,000 below the national average. Even adjusted for the cost of living in Texas, a \$3,000 raise would not be enough to bring teachers up to the national average. Rather than providing relatively insignificant property tax reductions to individual taxpayers, it would be better to increase funding for teachers.

CSSB 4 would make a significant change in eliminating the indexing of the minimum salary schedule to the amount of money provided through the FSP.

This indexing is necessary to ensure that when school districts receive additional revenue, a significant portion of that revenue is passed on to teachers in the form of salary increases. Over the past 10 years, increases in teacher salaries have not kept pace with increases in district revenues. The indexing of the minimum salary schedule provides that connection.

**Other opponents say** an earlier version of CSSB 4 would have proposed the use of a “teacher allotment” to fund the increases in teacher salaries. This method would be preferable to the CSSB 4 method, because it would establish a continuing definite amount in the school finance system that would be dedicated to teacher compensation. While teacher pay is the largest single item in a district’s budget, teacher pay increases have not kept pace with district revenue increases. As district revenues go up, less and less of that money is being passed on to teachers. By creating a separate allotment, the Legislature could ensure direct funding of teacher pay increases.

**The Senate version of SB 4** would have increased the minimum salary schedule by \$4,000 per year. For districts not paying at the minimum salary schedule, the Senate version would have required that 60 percent of all new money sent to a district as a result of the passage of the bill be used to increase teacher salaries. That amount would have had to be audited during the annual audit of districts. The Senate version would have modified the calculation of the schedule to consider all state and local funds per weighted student. It would not have included full-time counselors or school nurses on the minimum salary schedule. It would have established the minimum service at 187 days.

### ***EQUALIZED WEALTH LEVEL AND BASIC ALLOTMENT (TIER 1)***

**Current law** provides for an equalized wealth level of \$280,000 and a basic allotment of \$2,396 per student. The equalized wealth level is the property wealth per student that a district may have before it must exercise one of the five recapture options to reduce its wealth level to \$280,000. The basic allotment, roughly equivalent to the amount of money a district should receive in Tier 1 of the school finance system, is a core component of most school

finance formulas and determines how much money a district receives per weighted student.

**CSSB 4** would increase the equalized wealth level to \$295,000 and increase the basic allotment proportionately to \$2,537 per student.

**Supporters say** the increase in the basic allotment would be the primary funding mechanism for delivering the additional revenue to fund additional salary increases for teachers. By flowing the money through the basic allotment, it would remain equalized but allow every teacher in every district to receive the salary increase without regard to the property wealth of the district or the amount the district pays above the minimum salary schedule. The increase in the equalized wealth level would be proportionate to the increase in the basic allotment and would maintain balance in the system.

Normally, an increase in the equalized wealth level without commensurate increases in the basic allotment or the Tier 2 guaranteed yield would make the system more unequal. However, CSSB 4 would more than compensate for that effect by increasing the basic allotment proportionately and by increasing the guaranteed yield more than proportionately to reduce the gap between Tier 2 and chapter 41 districts.

**Opponents say** the basic allotment is supposed to be a measure of the cost per student to run an accredited program in Texas. While the Legislative Budget Board (LBB) conducts biennial studies of the cost to run such a program, the Legislature never has made a serious effort to determine the actual cost of providing adequate funding for public education. The current numbers are based simply on the amount of money the state can afford to provide, with the understanding that additional funding is necessary to run most schools. Until there is an examination of the adequacy of funding, the public school finance system will be subject to challenge as not meeting the constitutional requirement of funding public schools.

**Other opponents say** that without a larger increase in the equalized wealth level, many districts with rising property values still might be subject to recapture. The largest of these districts would be the Austin ISD. To avoid the possibility of these districts being included in the recapture system over the next biennium, the equalized wealth level should be raised to \$310,000.

**The Senate version of SB 4** would have increased the equalized wealth level to \$300,000 and increased the basic allotment to \$2,435 per student.

### ***GUARANTEED YIELD AND TAX RATE COMPRESSION (TIER 2)***

**Current law** provides for a Tier 2 guaranteed yield of \$21 per weighted student per penny of tax effort.

**CSSB 4** would compress tax rates. A district that now receives Tier 2 funds at \$21 per weighted student per penny of tax effort would have its tax rate recomputed by the commissioner so that the district would receive the same amount of money that it would have received in the 1999-2000 school year with the tax rate applicable for that year. The tax rate would be reduced because the recomputation would be based on a guaranteed yield of \$23.10 instead of \$21. The reduction would vary from district to district but would result in an average 6-cent rate reduction statewide. That compression would cost \$732 million for fiscal 2000-01.

After the rate compression, CSSB 4 would increase the Tier 2 guaranteed yield to \$24.75 per weighted student per penny of tax effort at a biennial cost of \$865 million.

**Supporters say** the tax rate compression system established in CSSB 4 would be the best system to deliver property tax cuts and additional state aid and to continue to equalize the school finance system. The rate compression would work by providing additional state aid to districts based on a higher guaranteed yield but resulting in the same total revenue amount. That increased state aid would require districts to reduce tax rates to drop down to the same revenue as they had without the aid.

This system would provide the greatest rate reductions to districts with the highest tax rates and lowest wealth levels. Rate compression would help to equalize old debt that previously was unequalized. It also would extend the life of the school finance system by bringing districts back down farther from the \$1.50 M&O rate cap. Without such a reduction, when districts were forced to tax at the same rate to finance the system, the system could be in

danger of being struck down as an unconstitutional statewide property tax. If districts had meaningful discretion in setting their rates, that argument would not be applicable.

Once the district's tax rates were compressed to provide tax reductions and additional room for future growth under the cap, additional state aid would be added on top of the compressed rates to provide districts with more money to fund their needs beyond increasing teacher salaries. This aid would be delivered though the increased guaranteed yield amount.

The rate compression and Tier 2 plan would increase equity in the system significantly by closing the gap between Tier 2 and chapter 41 districts. It also would direct relief to the low-property-wealth districts. While it could have some negative impact on gap districts (those that raise more than the guaranteed yield but less than the equalized wealth level) in the first biennium, those impacts would not be as large in future years because the gap would be lessened and more districts would be contained in the equalized system. While gap districts might not receive significant increases through this Tier 2 allotment, they still would receive substantially higher revenues in Tier 1 though the new basic allotment.

**Opponents say** the tax rate compression mandated in CSSB 4 could deprive many districts of the ability to draw down state aid to fund increased costs over the biennium. Once the biennium was over, most districts would receive significant increases in funding because of being able to take advantage of the increased guaranteed yield amount. However, because of the lag in how district rates draw down state aid, districts whose rates were compressed would not be able to draw down state aid on rate increases in the next biennium. A poor district that received substantially less than the Tier 2 level would have to increase rates significantly in the second year of the biennium to make up for predicted shortfalls.

The increase in the Tier 2 allotment, while helping to close the gap between the Tier 2 and chapter 41 districts, would do little to help districts that would remain in the gap after the increase. Those districts would have the hardest time making up for shortfalls in revenue because they would receive very small tax-rate reductions due to compression and would receive the smallest proportion of new money under the bill. Those districts, many of whom are

large and fast-growing suburban districts, would have much less ability to make up for shortfalls in funding.

**Other opponents say** an earlier version of CSSB 4 would have provided a \$500-per-teacher allotment to districts to use at their discretion. The money could have been used for additional teacher pay or as needed for other instructional needs. Some districts would prefer this funding to the increased Tier 2 allotment because all districts would receive the benefits of the allotment. Such an allotment also would recognize that districts incur costs based on instructional units as well as student units.

**The Senate version of SB 4** would have increased the Tier 2 guaranteed yield to \$23.10 per weighted student per penny of tax effort.

### ***OLD DEBT (TIER 3)***

**Current law** does not equalize taxes raised above the \$1.50 cap in the school finance system. Except for certain statutory exceptions, tax rates above that cap may be used only for debt service.

**CSSB 4** would equalize any remaining debt-tax rates above \$1.50 after Tier 2 rates were compressed. For debt to be eligible for equalization, taxes for such debt would have to have been levied first before the 1997-98 school year. These tax rates would be equalized at a guaranteed yield of \$23.10 per weighted student per penny of tax effort at a cost of \$144 million for the biennium. Taxes collected to pay for facilities under the IFA or a tax increment fund would not be eligible for equalization.

**Supporters say** because of the significant rate compressions in Tier 2, less would be needed to equalize debt taxes above the \$1.50 rate cap than was required under the Senate-passed plan. This equalization still would be an essential component of the plan and would provide significant property tax savings to districts that had unequalized debt above the cap. Without equalization, districts would have to fund that debt service entirely with local revenue, but with an equalized revenue level of \$23.10, direct savings would be passed on to the district's taxpayers.

**Opponents say** CSSB 4 unfairly would exclude districts that have issued new debt since 1997. The likely purpose of this cutoff was to exclude districts that would have been able to receive equalized funding under the IFA, enacted in 1997. However, not all districts that have issued bonds since then have had those amounts equalized, because a finite amount has been available for IFA funding. Limiting districts' access to the old debt equalization would unfairly penalize districts that have had to issue debt in the past two years.

**The Senate version of SB 4** would have created a third tier for funding debt service above the \$1.50 rate cap. The debt would have been equalized at \$35 per unweighted student per penny of tax effort, a rate slightly higher than \$23.10 per weighted student per penny. All debt issued before the 1999-2000 school year would have been eligible for equalization, but districts would have been eligible for a maximum of 7 cents of debt-tax equalization. Because the Senate-passed version did not provide for tax rate compression, significantly more money would have been necessary to equalize debt taxes. The Senate version would have provided \$670 million for such equalization during fiscal 2000-01.

### ***INSTRUCTIONAL FACILITIES ALLOTMENT (IFA) AND FAST-GROWTH ALLOTMENT***

**Current law** includes the IFA, enacted in 1997 to provide a guaranteed yield of \$28 per unweighted student per penny of tax effort. To receive this allotment, districts are weighted on the basis of wealth and must apply to the commissioner for assistance. The program provided \$200 million for fiscal 1998-99, and that funding will continue until the bonds for which those taxes are collected are paid.

**CSSB 4** would increase the guaranteed yield amount in the IFA to \$33 per unweighted student per penny of tax effort. That increase would be proportionate to the increase in the guaranteed yield. The conference committee report for HB 1, the general appropriations bill for fiscal 2000-01, would include \$150 million in additional funding for new facilities for the biennium and continued support of the IFA assistance to districts in fiscal 1998-99.

CSSB 4 also would establish a fast-growth allotment to help districts experiencing rapid growth pay for the facilities they need to serve expanding school populations. Under the bill, in the first year of operation of a new instructional facility, a district would receive a \$400 allotment per student attending a new instructional facility. In the second year of operation, each additional student attending that facility would generate an allotment of \$400. The total amount that could be appropriated to all districts in any one school year would be \$40 million. The commissioner would have to reduce the allotment to each district if more than \$40 million would be required based on the number of students.

**Supporters say** additional state funding for facilities is one of the items that all school districts need most. Poorer districts need help building facilities because of their difficulty in generating revenue from tax collections, and many suburban districts need help because of their explosive growth. By separating the IFA from other funding mechanisms, districts above the \$1.50 cap can receive assistance, and those under the cap can receive funding equal to the amounts they could have received for Tier 2 aid. According to LBB, this additional funding would contribute to the construction of more than \$2.5 billion worth of new instructional facilities.

The fast-growth allotment would help districts with rapidly growing enrollments defray some of the operating expenses associated with opening new instructional facilities. Because of the way debt service is structured under the school finance system, these districts can receive bonds and state assistance under the IFA to pay for the construction of facilities, but those bonds do not cover many of the necessary items of personal property or capital equipment that new instructional facilities require. The allotment proposed in CSSB 4 would help alleviate some of those start-up costs by providing a per-student allotment to fund many of the items needed in the first and second years of a new facility. By creating a competitive grant program for the allotment and allowing the commissioner to reduce the allotment to cover additional districts, this program would help districts with the greatest need while capping the total expense to the state at \$40 million per year.

**Opponents say** IFA funding is a continuing obligation imposed on future legislatures that will require funding for 20 years or longer. The new funding added for the current biennium would set a dangerous precedent that could pressure future legislatures not only to fund previously obligated bonds but



also to add continually to the amounts available to fund new construction. If future legislatures continued to fund the IFA at an additional \$200 million each biennium, by the tenth year of the program, the state's cost would rise to \$1 billion per biennium. The IFA does not help districts whose property wealth per student is above the equalized wealth level, regardless of their need to build new facilities or the amount of taxes they already collect.

The fast-growth allotment would direct to a specific population funds that normally would be available to all districts. Whether or not that population was deserving, the nature of the equalized finance system would mean that as few dollars as possible should be provided through districts outside of the equalized funding system.

**The Senate version of SB 4** would have included similar programs, but the fast-growth allotment would have been funded at \$500 per student with a cap of \$50 million per school year.

### ***HOLD-HARMLESS PROVISIONS***

**Under current law**, districts that are subject to recapture under chapter 41 of the Education Code have been held harmless for the amount of M&O revenue per weighted student that the district had in the 1992-93 school year, before the enactment of SB 7 created the recapture system. This "chapter 41 hold-harmless" provision has been extended each biennium since enactment.

HJR 4, approved in 1997, raised the constitutional homestead exemption from \$5,000 to \$15,000, and its companion legislation, HB 4, created a hold-harmless provision to compensate districts for losses due to that exemption increase that were not covered otherwise in the school finance system. HB 4 also increased the minimum salary schedule based on the increase in the FSP and established a hold-harmless provision for districts paying at the minimum that otherwise would not be able to cover the increase in the schedule. Both the homestead exemption and teacher salary hold-harmless provisions are due to expire September 1, 1999.

**CSSB 4** would extend the chapter 41 hold-harmless provision for two more years and would index that amount to account for the new equalized wealth level. This hold-harmless provision would cost an estimated \$35 million for

fiscal 2000-01. The bill also would extend the HJR 4 homestead hold-harmless provision indefinitely, at a cost of \$45 million per year.

CSSB 4 also would establish a new provision for teacher salary transition and would extend the previous teacher salary transition aid. Under the bill, if 80 percent of all new money that a district received would not be enough to cover the required increase in teacher salaries, the state would have to provide aid to bring the district to that level. This aid would cost an estimated \$65 million for fiscal 2000-01. In addition, if the amount a district needed to maintain the teacher salary increases mandated by HB 4 would not be funded by 20 percent of the new money the district received under CSSB 4, the state would have to provide additional transition aid to the district. The fiscal note for CSSB 4 did not assign a definite cost for this item. Both transition aid programs would be computed by the commissioner, and both would expire September 1, 2001.

**Supporters say** the various hold-harmless provisions are essential to ensure that districts do not have to reduce services because of lost state aid or increased recapture.

The chapter 41 hold-harmless provision should be continued because those districts should be allowed to continue to provide the level of services to which students have become accustomed. With the increases in the equalized wealth level and other changes in the financing of these districts, this hold-harmless amount has been falling since its enactment. As the school finance system grows more equitable, these districts will be brought into the system. The adjustment for the new equalized wealth level is necessary to ensure that districts would not be penalized under the new level. This hold-harmless provision would remain a temporary program and would not be continued indefinitely, as under the Senate-passed version.

The transition aid for teacher salaries benefits primarily low-wealth districts that pay on or near the minimum salary schedule. These districts might not receive enough funds under the formulas to cover all of the mandated costs for additional teacher salaries included in CSSB 4 or those enacted in 1997 under HB 4. This transition aid would be temporary and would not be carried on indefinitely. Districts that need to raise more money to cover these salaries should be able to meet those amounts in the next biennium with the new guaranteed yield amount.

The teacher salary transition aid also would be computed differently from past aid calculations to be based on the amount a district needed to receive overall, rather than the amount needed above base. Previous transitional aid formulas included a disincentive for districts to pay above base because the districts would not be eligible for the transitional aid. CSSB 4 would alleviate that problem to the benefit of increased teacher salaries.

The continuation of the homestead hold-harmless provision would be a permanent allotment and should remain so until taxable value in the district increased enough to alleviate the effects of the additional exemption. Unlike the chapter 41 hold-harmless provision, this one would not be due to the characteristics of the district but would be imposed as a permanent property-value reduction by the state. Because the state would mandate the reduction in values, it should ensure that it would cover losses to districts that resulted from the exemption.

**Opponents say** the chapter 41 hold-harmless provision should not be extended. Many of the districts that would benefit from this provision are already spending much more money per student than districts in the rest of the state ever could hope to spend. If Texas is to have an efficient system, it should not spend its limited resources subsidizing the inflated budgets of a few districts, but instead should spread that money to all districts to raise the overall guaranteed yield level. The purpose of the hold-harmless provision was to give these districts an opportunity to ease down their budgets to the level allowed under the equalized wealth system. They have not done so and should not be rewarded for that failure.

Likewise, the transitional teacher salary aid for the 1997 enactment of HB 4 would be problematic because those districts should have budgeted properly to account for those needs in the coming biennium. The prior transitional aid was intended to be for only two years and should not be continued.

**Other opponents say** the chapter 41 hold-harmless provision should be continued indefinitely. These districts should be allowed to continue to receive the revenue per weighted student that they have been receiving to educate those students. The amount is still indexed to the pre-SB 7 amount that those districts received. They have not been able to increase that amount. It would be unfair to students in those districts to deny them these revenues

that they generate. When the state extends the hold-harmless provision for only two years, it suggests that those revenues could disappear at any time.

**The Senate version of SB 4** would have extended indefinitely the chapter 41 hold-harmless provision, included a teacher salary hold-harmless for districts paying at or near the minimum salary schedule, and included continued hold-harmless provisions for the 1997 homestead exemption increase.

### ***ADJUSTMENTS FOR DECLINING PROPERTY VALUES***

**Current law** under Education Code, secs. 41.002(b) and 42.252(e), allows the commissioner of education to appropriate additional funds to districts whose property values decline more than 4 percent annually. The general appropriations act for fiscal 1998-99 provided \$21 million in general revenue to be distributed to districts for property-value declines. It also authorized the commissioner to distribute up to \$26 million of excess FSP funds each fiscal year to districts that experience property-value declines. Those funds are available for distribution only if there are excess funds in the FSP.

**CSSB 4** would consolidate property-value decline calculations into Education Code, sec. 42.2521, that would apply to all elements of the FSP and the IFA. It would allow the same calculation of adjustments for property-value declines greater than 4 percent from one year to the next, to the extent that money was available. If sufficient funds were not appropriated to fund the declining values, the commissioner could use the adjustment method now available under sec. 42.253(h) to distribute excess FSP funds. The conference committee report to HB 1, the general appropriations bill for fiscal 2000-01, would include an additional \$133 million to be used to assist school districts with declining property values.

**Supporters say** property-value calculations pose a problem for districts that may suffer declines in taxable property value from one year to the next. The system determines the amount of state funding to which a district is entitled based on the previous year's property value, but districts collect their local share of school funding from local tax revenues based on the current year's property appraisal. For most districts — those with an increase in property values — the system creates a slight windfall. Districts that experience

declines in property values, however, may have to raise their tax rates to make up for the shortfall of state funding.

This additional funding is needed to cover projected losses in many school districts due to low oil prices. Many districts rely on minerals such as oil for a significant portion of their property tax revenues, and their property-value estimates are based on mineral values that fluctuate on global markets. The funding proposed would be used only if property values actually declined. If oil prices rose and the values assessed by these districts did not fall below those on which their funding was based, this appropriation would lapse to general revenue and would cost the state nothing. The increase is based on the comptroller's estimate of the total losses that districts might experience due to oil-price declines.

Consolidating the various declining-property-value calculations would make it easier to determine the amounts needed to fund such declines and would treat all districts with declining values equally.

**Opponents say** this funding uncertainty could be eliminated if school funding were based on districts' current property values rather than on the previous year's values. It is unfair that the state does not require districts that benefit from the lag in property-value determinations to return that money to the state, while the state does help districts that suffer from declines.

**Other opponents say** the amount included in CSSB 4 for declining-value districts may not cover the full amount of property-value declines. Some districts that experience declines, particularly in the second year of the biennium, could be unable to receive enough state funding to make up for property-value declines.

**The Senate version of SB 4** would have included similar provisions for rapidly declining property values but would not have included an adjustment for declining values under the IFA.

### ***ROLLBACK RATES AND EFFECTIVE TAX RATE CALCULATION***

**Current law** requires a district to receive voter approval to adopt a tax-rate increase higher than the calculated rollback rate. The rollback rate generally is calculated at the amount that a district would need in order to receive the same amount of funding with this year's property values as it received in the previous year, plus 8 cents and any rate necessary for debt service.

**CSSB 4** would allow the calculation of the rollback rate to include the amount of revenue that would have been available to a district in the preceding year had the chapter 41 and chapter 42 funding elements of the current year been applicable in the preceding year. The bill would adjust the rollback rate for the 1999 tax year to take into consideration the tax compression required in the bill. It would apply different calculations to chapter 41 and chapter 42 districts, but only to allow for comparable rollback rates. The rollback rate still would be allowed at up to 8 cents.

**Supporters say** these provisions would continue the current rollback provisions, only adjusted for the tax compression required under CSSB 4. These provisions would provide the greatest amount of flexibility to districts to retain control over their tax revenues but also would ensure that the tax rate compression would result in property tax savings to taxpayers.

The CSSB 4 rollback provisions are much simpler than the complicated graduated system enacted in the Senate version of SB 4 and would allow easy understanding and calculation of rollback rates. The bill would not require districts to publish more complicated tax-rate notices, as the Senate-passed version would have required.

While a rollback rate of up to 8 cents would allow districts to raise rates that would, in some cases, eliminate tax savings caused by rate compression, this amount is necessary to allow districts to have meaningful control over their tax revenues. Reducing the amount by which districts could increase rates before requiring a rollback election could cause some districts to experience shortfalls in funding that would necessitate cutting certain services.

**Opponents say** the 8-cent rollback rate would allow many districts to take

back completely any tax savings passed on to taxpayers by the expensive tax rate compression required by this bill. Under CSSB 4, the average tax rate after compression would be reduced by 6 cents, but with an 8-cent rollback rate, districts could swallow up that reduction, and many taxpayers would receive no tax savings. To provide meaningful tax relief, this bill would have to include more stringent rollback provisions akin to those in SB 4 as passed by the Senate. If districts need to increase rates to make up for shortfalls, they should have to receive voter approval for such increases.

**The Senate version of SB 4** would have established specific publication and notice requirements for district budget and tax rate meetings. It would have reduced the overall rollback rate calculation to 6 cents above the preceding year's amount. For the 1999 tax year, it would have allowed a 3-cent increase only but would have allowed districts that pay social security for teacher salaries to include in the rate calculation the increased amount required by the bill.

### ***MAINTENANCE TAX-BASED NOTES***

**Current law** allows school districts to obtain notes for maintenance purposes by pledging current and past delinquent taxes as security for such loans. Districts also can obtain maintenance tax loans that are payable from available funds of the district.

**CSSB 4** would allow a district to pledge past, current, or future delinquent taxes as security for a loan to be used for maintenance expenses. It also would allow the pledge of future available M&O taxes as security for maintenance tax loans. Notes issued under either program would have to mature within 20 years.

The bill would expand the acceptable uses of maintenance loans specifically to include environmental cleanup, asbestos removal, and maintenance and repair of heating, air conditioning, water, sanitation, roofing, flooring, electrical, and other building systems of existing school properties. The bill would expand the definition of personal property to include all labor and materials incident to the installation of that personal property, and it would allow a governmental agency to contract for such labor and materials.

These provisions also are included in HB 2687 by Coleman, which was reported favorably as substituted by the House Public Education Committee on April 20.

**Supporters say** many schools have a tremendous backlog of maintenance needs for existing school buildings. Current law, however, limits the ability of districts to secure loans to pay for such maintenance costs, and most districts can pay for maintenance costs only with cash in their budgets. This limits the ability of districts to pay for expensive repairs that should be paid out over time because those repairs normally would last for several years. If districts cannot pay for those repairs within their current-year budgets, they defer those maintenance costs until the time that they issue bonds for the construction of new buildings. That deferral increases the amount of bonds on which the voters must vote and raises questions by taxpayers of why districts have waited so long to perform needed maintenance.

By allowing districts to borrow for ongoing maintenance on existing buildings with short-term obligations, CSSB 4 would increase the flexibility of districts to structure their finances in the most effective and efficient ways. The use of future delinquent taxes, which are generally predictable, and the use of future M&O taxes beyond one year would allow a district to pay for expensive repairs and maintenance contracts over time without necessarily having to put such obligations before the voters with additional taxes. These expenses could be afforded with regular tax collections, but because of their cost, they need to be spread over the period in which the item or service purchased would be used.

While voters would not have to approve the loans secured under this bill, the expenses that would be paid under these loans would be for maintenance projects that voters had approved. Many small or slow-growth districts have a hard time obtaining voter approval for bonds that cover only maintenance when that is all they need. These maintenance expenses could help to extend the life of buildings. Performing regular maintenance rather than waiting for one large deferred-maintenance bond issue could save the district money by avoiding costlier repairs.

With the expanded definition of personal property, school districts, as well as other governmental bodies, could issue contractual obligations to pay for the installation of equipment with the same issue. This would allow districts to



avoid using current operating budgets to install equipment that could be purchased under a loan or bond. While the current law has been interpreted not to cover the labor and materials incident to installation, those costs should be included in the cost of the equipment and should be treated the same so that districts and other governmental bodies would not have to use two different financing methods to pay for one piece of equipment.

**Opponents say** school districts should have to get voter approval before committing to long-term debt. CSSB 4 would allow districts to circumvent voter approval for loans of up to 20 years for existing facilities.

Loans secured by future delinquent taxes are problematic because it should be difficult to predict the cash flow generated by such loans. The purpose of allowing such loans was to allow districts to pay for necessary expenses until those taxes were collected, usually within one year. Allowing those taxes to be pledged for up to 20 years could be an unsound fiscal policy.

**The Senate version of SB 4** did not include provisions related to maintenance tax-based notes.

### ***STUDENT SUCCESS INITIATIVE (ENDING SOCIAL PROMOTION)***

**Current law** provides, under Education Code, sec. 28.021, that students may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level. The Texas Education Agency (TEA) has developed a reading diagnostic instrument to judge reading abilities in kindergarten and the first and second grades.

**CSSB 4** would create a new Student Success Initiative. Beginning in the 1999-2000 school year, kindergarten students who failed to perform at or above grade level on TEA's reading diagnostic instrument would be placed in an accelerated reading instruction program. This requirement would apply to all public schools and open-enrollment charter schools.

Before placement in an accelerated reading program, the district would have to notify the student's parent or guardian either in person or by mail and

would have to make the notice clear and available in both English and the parent's or guardian's native language. Students in the special education program would have to participate in an accelerated reading program as directed by that student's admission, review, and dismissal (ARD) committee. The accelerated instruction program would be expanded to the first grade in 2000-01 and to second grade in 2001-02.

To implement notices to parents of performance on the reading diagnostic or to require an accelerated reading instruction program, the commissioner of education would have to certify that sufficient funds had been appropriated statewide for those purposes. The commissioner's certification would be required by July 1 of each school year. Of the amount certified, no more than 15 percent could be used for indirect costs. The amounts sent to districts for these programs and the amounts spent on indirect costs would have to be verified as part of the normal district audit.

For students in the third, fifth, and eighth grades to be promoted to the next grade level, they would have to perform satisfactorily on certain TAAS tests for that grade level. Third graders would have to pass the reading test beginning in the 2002-03 school year, and fifth and eighth graders would have to pass the reading and mathematics tests beginning in the 2004-05 and 2007-08 school years, respectively.

Students who failed to perform satisfactorily on a test in those grades would get at least two more opportunities to take the test. Each time the student failed to perform satisfactorily, the student would be assigned to an accelerated instruction program for that subject area or areas. The student's parent or guardian would have to be notified of the student's assignment to an accelerated program, the student's failure to pass the required test, and the possibility that the student might be retained at the same grade level for continued failures. CSSB 4 would require TEA to ensure that the grades of each test administered were returned to the district within 10 days after the test materials were sent to the agency or the test contractor.

After a student failed a test for a second time, but before the test was administered a third time, a grade-placement committee would be convened to prescribe the accelerated instruction program to be provided to the student. The grade-placement committee would have to include the principal or a designee, the teacher of the subject of the test, and the student's parent or

guardian. Districts would have to provide notice of the time and place of the committee meeting and the purpose of the meeting.

If, after the third attempt, the student still did not perform satisfactorily on the test, the student would be held back in the next school year. A parent could appeal the decision to retain the student by making a request to the grade-placement committee. Districts would have to inform parents of the ability to make such an appeal. Using standards adopted by the district's board of trustees, the grade-placement committee could recommend promotion if the student were given continued accelerated instruction to be able to perform at grade level. The decision to promote a student would have to be unanimous. The timeline for a grade-placement decision would be established by rule. The decision of the grade-placement committee would be final and unappealable, and the process would not create a property interest in promotion that could be the basis of a suit if promotion were denied. This process would not prohibit the retention of students at any grade level who passed the TAAS tests.

Regardless of whether a student was promoted, a student who failed to pass the required tests after three attempts would be assigned to an accelerated instruction program during the next school year as prescribed by the student's grade-placement committee. The plan would be designed to ensure that the student would be performing at the appropriate grade level by the end of the school year. The student's progress could be monitored throughout the year. Districts and open-enrollment charter schools providing accelerated instruction would have to provide transportation.

The decision of whether to assign a special education student to an accelerated instruction program or whether to promote or retain such a student would be left to that student's ARD committee.

Any notices provided to parents or guardians would have to be provided in person or by mail. Written notices would have to be clear and easy to understand in both English and the parent's native language.

The commissioner could adopt any rules necessary to carry out this program. For the provisions to apply, the commissioner would have to certify that sufficient funds were appropriated outside of the FSP for the purposes of the

program. If sufficient funds were not appropriated, districts would not have to provide accelerated instruction.

As part of the accountability system, CSSB 4 would establish a new performance indicator of the number of students, by grade level, that were provided accelerated instruction, the results of tests administered to those students, the number of students promoted by their grade-placement committees, which tests those students failed to pass, and their results on the TAAS tests administered in the subsequent year. The commissioner would have to establish performance standards based on this indicator.

The commissioner would have to issue a report by December 1, 2000, reviewing the enrollment of students in accelerated instruction programs, the quality and availability of such programs, and the professional development of teachers in such programs.

**Supporters say** social promotion lowers the performance standards of students in Texas public schools, deprives the students of the additional help they need to be successful in school, and undercuts the state's accountability system. According to figures released by TEA, in 1997, at least 42,000 third graders failed to pass the reading portion of the TAAS test but still were promoted to the fourth grade. In 1998, that number fell to 32,000. Regardless of the number, though, these students are not being served by simply being passed on to the next grade without having the reading skills necessary to perform at grade level. Instead, these students should be diagnosed early to detect any reading difficulties, and they should receive intensive, accelerated instruction to increase their reading proficiency to grade level.

CSSB 4 would help ensure that every child could read at grade level by the third grade by instituting a structured program in kindergarten through second grade of reading diagnostics and accelerated reading instruction for students who needed more help in developing reading skills. These programs, coupled with additional professional development programs for reading teachers in these grade levels, would allow students entering kindergarten in the next school year to have the very best instruction and assessment of reading proficiency that the state could provide. By the time these students reached the third grade for the first "must pass" test, they would be the best prepared and best assessed students Texas ever had produced.

To ensure that these students continued to progress through grade levels, they would need to continue to demonstrate their mastery at grade level in the fifth and eighth grades. Those grades are also key turning points at which mastery of skills is essential to continued success in later grades. Students who successfully completed the eighth grade TAAS or had additional accelerated instruction to complete the ninth-grade TAAS (assuming enactment of SB 103 by Bivins or similar legislation creating a ninth-grade TAAS) would be well on their way to being able to pass the exit-level TAAS test required for a high school diploma.

The grade-placement committee process established in CSSB 4 would ensure that the best interests of the child were examined in determining the accelerated instruction program to prescribe for the child and in assessing whether that student should be promoted to the next grade level without having passed the required test. The new performance indicator established by this bill would help to track students promoted by the grade-placement committee and would ensure that they could perform at grade level by the time the next TAAS was administered in the next year.

Because the grade-placement committee would be individualized for each student, the committee could determine whether it would be in the child's best interests to be promoted to the next grade level or held back. While some research suggests that students may not be helped academically by being retained, it is more detrimental to promote students who do not have the necessary skills to succeed in the next grade level.

This legislation, while it would increase the pressure to perform well on the TAAS test, would not overly inflate the importance of that test. The TAAS test is designed to be aligned with the curriculum and to test the objectives that a student should have mastered by the end of the grade level. The TAAS is already a high-stakes test. Performance results on the TAAS are reported in the accountability system that determines school ratings. While individual students might feel some additional anxiety in taking these tests, the schools themselves would not necessarily feel any additional pressure. The bill would help to alleviate some of the pressure on students to pass the test by giving them many chances to pass the test and by providing them with additional instruction to help them perform better the next time they take the test. The most important aspect of the TAAS is not whether it drives the state

accountability system, but whether it accurately measures the ability of students to progress academically in school.

The TAAS test does not distract students from the essential knowledge and skills that they should be learning in the classroom. The test actually increases the focus on those skills to ensure that students are learning them and not simply going to school without acquiring the skills they need to succeed in progressive grade levels.

This program would be an expensive undertaking to ensure that every student that needed additional help would receive accelerated instruction. Because of the possibility of future lack of funding, CSSB 4 would make the program's requirements contingent upon the commissioner's finding that adequate funds to support the program were available outside of the FSP. This would ensure that if students faced the prospect of being held back because of their performance on the TAAS, adequate resources would be available to ensure that students could get the help they needed to pass those tests. Before the students who would be subject to these requirements made it to the third grade, the Legislature would have two regular sessions to evaluate the program and to determine whether it should be continued.

**Opponents say** the social promotion initiative would increase the high-stakes nature of the TAAS test and result in massive numbers of students being held back from promotion. Numerous studies have concluded that it is detrimental to a student's development and success in school to be held back when the student could be promoted to the next grade level. The problem with using the TAAS test as a barrier to promotion is that it overrides the decision of the student's teacher, who is better able to determine that student's ability to succeed in the next grade level.

Intervention and assessment in early grades for reading proficiency is helpful, but the method proposed in CSSB 4 would place too much pressure on five-, six-, and seven-year-olds to perform well on a standardized test. Students in this age range should receive additional instruction when they need it, but the determination of whether to receive additional help should be left to the child's reading teacher, not to a test.

The grade-placement committee would not be a viable means of allowing the promotion of students who failed to pass the test after three attempts. Under

CSSB 4, the principal or a designee would have to serve on the committee. To promote a student who had failed, the decision of the committee would have to be unanimous. Because principals are acutely aware of the fact that any student promoted after failing the test would end up on the school's report card and that the student's future performance would be tracked and assessed to that school, many principals would be reluctant to promote any students regardless of their ability to perform at grade level. Therefore, the TAAS would be an absolute bar to promotion in nearly all cases.

This program would be very expensive and its costs would grow exponentially as the program was expanded in each grade level. The nearly \$200 million price tag for the first two years does not take into consideration the expensive summer school and additional accelerated instruction programs that would be required after the third, fifth, and eighth grades if this program were extended. The Legislature should examine carefully the prudence of requiring future legislatures to expand this program.

**Other opponents say** if the purpose of this initiative is to ensure that all students perform at grade level, there is no reason not to implement the program immediately across all grade levels. There is no reason that the entering kindergarten class of 1999-2000 should be given additional help and instruction that students who entered kindergarten this year will not receive. While it would be very costly to implement the program across all grades immediately, that would be the eventual goal of the program. If this program would help students, every Texas student should receive the benefits.

**The Senate version of SB 4** included no provisions related to the Student Success Initiative. SB 1 by Bivins, passed by the Senate on February 18, would establish a nearly identical program to that in CSSB 4. SB 1 as engrossed would require the reading instruction program to be "research-based." It would allow a ratio of up to 16 students per teacher in an accelerated instruction group. Under SB 1 as engrossed, a student who failed to perform satisfactorily on the test the first time would have to be screened for dyslexia and related disorders unless previously diagnosed. CSSB 4 would add the ability of the ARD committee to determine the manner of accelerated instruction for a student who failed to pass the required tests and to determine whether the student would be promoted or retained.

### ***EARLY EDUCATION PROGRAMS***

**Current law** does not mandate attendance in kindergarten. Many districts provide kindergarten programs, but some provide only half-day programs. According to TEA, about 290,000 students attend a kindergarten program. Of that number, about 57,000 attend half-day programs. Another 20,000 students likely are not attending a kindergarten program in the public school system. Districts must offer half-day pre-kindergarten programs if the district has more than 15 students eligible to receive pre-kindergarten services. Eligible students are those who cannot speak and comprehend English, are educationally disadvantaged (eligible to receive funding under the federal free and reduced lunch program), or are defined as homeless.

The federal Head Start program provides for early childhood care and education in certain schools.

**CSSB 4** would establish a competitive grant program to implement or expand kindergarten and pre-kindergarten programs to a full-day basis or to implement new pre-kindergarten programs. Funds could be used to pay teachers and to acquire material for such programs. Grant priority would be given to districts in which third-grade TAAS performance was below the state average. The grant program would be funded at about \$200 million for fiscal 2000-01.

The bill would create a similar grant program to allow districts to add an additional education component to federally funded Head Start programs in the district. The Head Start grant program would be funded at approximately \$15 million for fiscal 2000-01. The commissioner could establish rules for the awarding of grants to both programs.

**Supporters say** providing additional help in early childhood education is an essential component for later success in school. Many districts that would like to offer additional programs are limited in doing so because of funding. By establishing a competitive grant program for additional funding for these programs, the state could provide help to districts that need it most without usurping local control in deciding whether or not to institute a mandatory kindergarten or pre-kindergarten program.



Coupled with the Student Success Initiative that would require students to be able to read at grade level by the third grade, these additional grants for kindergarten and pre-kindergarten services would help students who needed additional help to receive that instruction as early as possible. Research has shown that early intervention can make a significant difference in the ability of students to perform on grade level later in their academic careers.

**Opponents say** because this program would be only a grant program and would not mandate kindergarten and pre-kindergarten, students in many districts would not receive the benefits of these funds even though they might need that kind of help to succeed in school. While it would cost more money now, the program could be expanded to require kindergarten attendance for all students and to ensure that students received the instruction they needed.

**The Senate version of SB 4** did not include funding for kindergarten or pre-kindergarten programs, nor did SB 1.

### ***NINTH GRADE SECOND-CHANCE PROGRAM***

**CSSB 4** would create a competitive grant program to allow districts to provide a “second chance” program for students who had not earned enough credits to advance from the ninth to the tenth grade. Once a program was established, the district, with the consent of the student’s parent or guardian, could assign the student to the program. The maximum length of the program would be 210 instruction days.

Programs would have to emphasize basic skills in required foundation curriculum areas and offer students the ability to increase necessary credits. Grants could be awarded to individual districts or groups of districts, and the programs could be provided by the district or an entity contracting with the district. The commissioner would have to assess the program annually and could discontinue it if it did not produce progress in the district.

The commissioner could establish rules to administer the grant program and could establish minimum standards for performance. In awarding grants, the commissioner would have to take into consideration the district’s Tier 2 funding. The program would be funded at \$85 million for fiscal 2000-01.

**Supporters say** the ninth grade is a bottleneck in the current system. Many students are promoted to that grade, but a significant number do not progress to the tenth grade, either because of lack of credits or because they drop out of school. This program would enable districts with the greatest need to target students in that grade and give them the extra help they needed to progress to the next grade level and, eventually, to graduation.

Because this program would be a competitive grant, like the kindergarten and pre-kindergarten programs, it would be directed to districts that were willing to provide these programs and that had many students who needed this help. The grant also would take into consideration a district's property wealth in awarding grants to ensure that districts with the greatest need got the additional help.

**Opponents say** this program, if instituted, should be made available to all districts and not limited to districts awarded a grant. Also, students identified as needing additional help should be able to receive that help no matter what grade they are in. Establishing this program could allow eighth grade teachers to allow students to continue on to the ninth grade without necessarily having the skills that the students needed to succeed.

Some suggest that the bottleneck in ninth grade is a function of the exit-level TAAS being administered in the tenth grade and inadequate preparation in earlier grades. To alleviate the bottleneck, all of these areas should be examined rather than simply concentrating additional funds into one grade.

**The Senate version of SB 4** did not include a ninth-grade grant program.

### ***OTHER PROVISIONS***

**Compensatory education set-asides.** Compensatory education funds support many programs designed to help at-risk students. These funds are based on the number of students who qualify for the federal free and reduced lunch program. The commissioner of education sets aside a portion of these funds to support various programs, including the TAAS test administration, programs for gifted and talented students, pregnancy education, counseling services, communities in schools, extended-year programs, and juvenile- justice

alternative education programs. LBB estimates that more than \$306 million will be used for compensatory education set-asides in fiscal 2000-01. Funds set aside are deducted from the compensatory education allotment and reduce the amount of money available to be distributed to districts.

**CSSB 4** would eliminate the reduction in weighted average daily attendance (WADA) caused by compensatory education set-asides. Reducing WADA because of compensatory education set-asides reduces the amount of state aid to districts. To stop this reduction, the state would have to contribute to the funding of set-asides. For the 1999-2000 and 2000-01 school years, however, the commissioner would have to reduce the guaranteed yield amount enough to cover the costs of such programs. After the 2000-01 school year, such an adjustment by the commissioner would not be available.

**Supporters say** the change in compensatory education funding has been needed for several years as the set-asides have grown. Many programs have been funded through the set-asides because any additional costs actually result in a net positive impact to the state because of the reduction in overall allotments. Also, wealthy districts benefit from the programs funded as set-asides but do not contribute to their funding.

In its 1999 FSP Fiscal and Policy Study, LBB recommended modifying the compensatory education set-asides to equalize the funding for such programs among all districts. Forcing the state to pay for its share of the set-asides after the current biennium would encourage the next Legislature to scrutinize the use of the set-aside programs and to determine the best means of funding these programs.

**Opponents say** after the next biennium, when the commissioner would be allowed to fund set-asides from the FSP, not allowing the set-asides to reduce the WADA amount in the school finance system could result in significant costs to the state. This change would result in the next legislature having to re-examine the set-aside programs as a whole and to change their funding mechanism or add more general revenue to fund such programs. The cost of one of the set-aside programs, the TAAS test, would increase significantly over the next decade as new tests were added and additional tests were given under this bill and other legislation being considered by the 76th Legislature. In the next biennium, the decrease in the guaranteed yield level required by

this provision would mean that districts would receive less than the \$24.75 amount provided in the bill.

**Repealing the cost-of-education index adjustment and resource cost study.**

The cost-of-education index (CEI) is an adjustment to school finance formulas that accounts for differences in resource costs that are beyond the control of the district. The CEI is based on a 1991 analysis of factors affecting variation in teacher payroll costs among districts. Components of the CEI include the average starting salary of teachers in contiguous districts, the percent of economically disadvantaged students, and the district size. The index factor given to districts based on the 1991 analysis never has been recomputed.

**CSSB 4** would repeal the CEI effective September 1, 2001. It would allow the commissioner to increase the basic allotment and guaranteed yield to districts so that the same amount of funds that would have been distributed under the CEI had the index not been repealed would be distributed through the school finance formulas.

CSSB 4 would require the Charles A. Dana Center at the University of Texas at Austin to conduct a study of the resource costs and costs of education beyond the control of the district. The center would have to report by November 1, 2000, alternative means of recognizing such costs and would have to include at least one option that would require a smaller appropriation than that required by the CEI. TEA and Texas A&M University would have to help the center perform the study.

**Supporters say** the CEI is no longer a valid index to adjust the school finance formula based on costs beyond the district's control in educating students. The purpose of repealing the CEI effective in 2001 would not be to change the school finance system radically but to force the Legislature to study the current index and to update it appropriately. The Dana Center study would provide the Legislature with alternatives to the CEI.

**Opponents say** placing in law that the CEI would be eliminated could alter substantially the budget planning that districts do to set their tax rates before the legislative session. The Dana Center study or another study is appropriate to study updating the CEI, but some funding for the study should be included to allow the center to perform the bill's requirements.

**Optional homestead exemption adjustment.** Districts are permitted by the Texas Constitution, Art. 8, sec. 1-b(e) and by Tax Code, sec. 11.13(n) to exempt from property taxation a percentage of the market valuation of a residence homestead not to exceed 20 percent.

**CSSB 4** would allow the state to fund up to one-half of the total dollar amount of the optional residential homestead exemption based on amounts certified by the comptroller. For the commissioner to provide such funding, funds would have to be appropriated specifically for that purpose, or the commissioner would have to certify that excess funds were available in the FSP. In determining whether excess funds existed, the commissioner would have to give first priority to excess funds to districts experiencing rapid declines in property values. If some funds were available but not enough to fund one-half of the optional exemption, the commissioner could fund a lesser fraction. The cost of this funding would be at least \$110 million per year, according to LBB estimates.

**Supporters say** this proposal would provide additional funding to districts that use the optional percentage-based homestead exemption only if excess funds were available for such allotments. This never would result in any additional costs to the FSP. These districts are penalized under the current finance system because such exemptions are not included in the calculation of state aid, even though such exemptions reduce the amount of revenue that a district may collect.

This allotment would not increase the number of districts opting to use this optional exemption, because the funding lag in the school finance system would mean that a district would experience significant revenue declines the year after enacting such an exemption that would be alleviated only partially if money were available for this allotment.

**Opponents say** the optional percentage-based homestead exemption is a regressive system that provides additional tax relief to the wealthiest homeowners. Districts that offer this exemption do so with the knowledge that it is not funded in the FSP, and they set their tax rates accordingly. Allowing the possibility of partial state funding for this exemption would make it difficult for these districts to set their tax rates.

It is not accurate to say that this allotment would not result in a cost to the state. While the allotment would be drawn only from excess funds in the current biennium, those funds left over in one biennium are used in the next biennium to fund shortfalls or for increased aid or additional programs. This allotment would encourage more districts to use the optional percentage-based homestead exemption, which rewards wealthy taxpayers to the detriment of others.

**Revising the recapture option of interdistrict transfers.** Currently, a district subject to recapture may contract with another district to educate students from that district, thus increasing the first district's student population and decreasing its overall property wealth per student.

**CSSB 4** would allow recapture districts also to count students that transfer to that district who are not charged any tuition in the calculation of the district's WADA in order to reduce the district's wealth per student. The recapture district would not have to enter into a contract with the district in which the student resided. The bill also would allow a recapture district that pays tuition to another district to educate students residing in the recapture district to apply that tuition toward reducing the district's wealth per student.

**Supporters say** many recapture districts that would like to use the recapture option of interdistrict transfers have been hampered by the strict restrictions on such transfers, including the required contracts. **CSSB 4** would simplify that procedure and allow additional use of this recapture option without harming the recapture system. All districts using this option would have to provide adequate documentation, and the bill would include sufficient safeguards to ensure that students were not double-counted.

**Adjusted property value for districts not offering every grade.** Some small districts do not offer classes at all grade levels, particularly high school grades, and instead contract with another district to educate those students. **CSSB 4** would include an adjustment to such a district's property value that would be based on the amount required to be paid to the district educating the students.

**The Senate version of SB 4** would have included the property value adjustment for districts not offering every grade.

**Effective date.** CSSB 4 would take effect September 1, 1999, except as noted above.

### ***OTHER PROPOSALS***

The following proposals are not included in CSSB 4, but some argue that they should be included in this comprehensive revision of the school finance system.

**Vouchers and school-choice scholarships.** Two different proposals being considered would enhance school choice and competition in the public school system, according to supporters.

One proposal is similar to SB 10 by Bivins, which was reported favorably by the Senate Education Committee on March 29 but has not been considered by the full Senate. That proposal would provide a limited voucher test program that would examine the viability of using publicly funded vouchers to give students the opportunity to attend private schools. These students would be selected on the basis of poor performance of their district in the accountability system or because of the student's economic disadvantage. A student awarded a scholarship would have to continue TAAS testing to compare the relative performance of the voucher students to those that remained in the public school system.

A second proposal, similar to HB 99 by Howard, left pending in the House Public Education Committee, would provide franchise tax credits to corporations that provided scholarships for students to attend private schools.

**Supporters** of these proposals assert that enhanced school choice provides students in low-performing public schools with the opportunity to improve their achievement by putting them in a better learning environment. In the long run, the pressure exerted on public schools by competition with private schools would force better teacher pay, leaner and more efficient administration, and eventually better public schools.

Increased competition would promote efficiency in schools and innovation in learning programs to attract students. Charter schools already use competition

to promote new learning environments for students not successful in the traditional school structure. Increasing students' access to innovative private schools would expand the pool of competitive ideas from which parents and students could draw.

A voucher pilot project could be targeted to needy students and could include safeguards to ensure that private schools given public funding to educate students would provide the services those students needed. Limiting the scope and the length of the experiment would ensure a reasoned examination of the costs and benefits of a publicly funded voucher program that would determine whether such a program actually increased academic achievement.

A tax credit for voucher scholarship programs would promote school choice and save money for the state. It would encourage private corporations to develop and help fund school-choice scholarships to provide targeted funding to students. Because the amount of the credit would be less than the amount that it costs to fund a student in the public school system with state money, the state would save on costs. Local districts also would save money by not having to educate that student. Other states have enacted similar tax credits.

**Opponents** of publicly funded private-school education assert that using public dollars to subsidize private schools would not improve the public schools but rather would lead to their eventual demise. As the best students left public schools to attend private ones, those who remained would face a system with fewer dollars to spend on the neediest students. No convincing evidence has been presented to show that private schools provide a better academic environment than public schools.

Competition with private schools might spur some public schools to change some policies or procedures to staunch the flow of students leaving their schools. But with dramatically reduced budgets per pupil and an increasing percentage of students for whom education costs would increase, the level of innovation that these schools could undertake would be limited significantly. Public schools would be caught in a downward spiral that could lead to their ultimate destruction.

There has been no definitive decision from the U.S. Supreme Court about the constitutionality of using public funds to pay for education at religious private schools.



A voucher pilot program would not provide additional choices for students in rural areas without private schools. In many rural areas, the public school is the only school available. Forcing all taxpayers to pay for a program that would benefit only those in certain areas of the state would be an unfair burden on rural taxpayers. The greatest beneficiaries of a voucher program ultimately would be those already paying to attend private schools. No matter how limited a voucher program might be initially, pressure eventually would build from those who already were paying to send their children to private schools to have that cost subsidized by the government.

A voucher tax-credit program would cost local districts significant revenue. The cost of paying private tuition would not be less than or equal to the cost saved by not educating the same child in public schools. Removing students from public schools would not reduce those schools' fixed costs. When voucher students left a public school, the costs associated with educating those student would not fall. The school still would have the costs of debt service for facilities, maintenance and upkeep, and the remaining staff. These costs no longer would be equalized by state funding but would fall entirely on local districts.

**Other opponents** of voucher programs assert that vouchers would hurt private schools by increasing government control and eventually could lower the standards and eliminate the uniqueness of private schools. Once private schools accepted publicly funded vouchers, they would have to accept an increasing level of government regulation over their operations. Controls initially might be limited to checking for safety compliance and requiring financial reports. However, some proposals would require that students in private schools be tested using the TAAS or other tests given to children in public schools. Such testing could force private schools to alter their curricula or instructional practices to fit into the public school mold.

**Teacher retirement and health care.** The Teacher Retirement System (TRS) administers retirement benefits for teachers. The current structure of TRS requires members to contribute 6.4 percent of their salaries to the system and provides a 2 percent retirement multiplier. In comparison, the Employees Retirement System for state employees requires members to contribute 6.0 percent of their salaries and provides a 2.25 percent multiplier.

TRS operates a group insurance program for retired public school employees, often called TRS-Care. According to TRS, when the program was established in 1985, projections assumed that the fund could run out of money in 10 years. TRS-Care now serves more than 100,000 retirees and nearly 20,000 dependents. Current projections indicate a deficit of between \$76 million and \$115 million in TRS-Care for fiscal 2001. During the 75th Legislature, TRS-Care was projected to be depleted by December 2000. The Legislature directed no additional funds to the program, although HB 2644 by Telford changed TRS governing statutes and programs and implemented changes to increase TRS-Care's flexibility and to reduce costs. By fiscal 2008, the deficit is projected to reach more than \$2 billion.

The House Joint Interim Committee on TRS-Care recommended continuing the program and asked the 76th Legislature to examine various options for restructuring TRS-Care. The plans presented offer 10-year projections of the total cost of the TRS-Care system ranging from \$4.6 billion to \$10.4 billion. Maintaining the status quo and providing additional general revenue to alleviate shortfalls would result in a total plan cost of \$5.3 billion through fiscal 2009, with \$3.6 billion in funding from the state.

**Supporters** of proposals to increase the TRS multiplier and decrease the deficit in TRS-Care say these proposals should be included in CSSB 4 and funded by reducing the property-tax relief proposed in the bill. CSSB 4 would increase pay for current teachers substantially but would do little to help retired teachers or those nearing retirement. To enhance the status of the teaching profession, the bill should establish an adequate retirement and health-care system.

SB 4 as passed by the Senate would have included a 2.2 multiplier for TRS at an annual cost to the state of more than \$120 million. SB 1128 by Armbrister, currently in conference committee, would increase the TRS multiplier to 2.2.

**Opponents** say retired teachers and those nearing retirement deserve more money, but only so much money is available to accomplish the Legislature's goals for the next biennium. One of those goals is property-tax relief. The Legislature should continue to examine in future years making changes to the TRS and TRS-Care systems, but such changes are not within the available budget for the next biennium.

**The Senate version of SB 4** included three programs that some argue should be included in CSSB 4: a master reading teacher grant program, a prohibition of using TAAS test contractors to provide textbooks, and a study of moving the starting date of the academic year to after September 1.

**Supporters say** the master reading teacher grant program would provide additional allotments to individual teachers, to certain low-performing districts, and to the State Board of Educator Certification for administrative costs. The program would promote additional certification of teachers as reading specialists to enhance the quality of reading instruction in public schools. The grants would be awarded competitively and would encourage teachers to obtain additional training to be eligible for such grants.

**Supporters say** prohibiting TAAS contractors from contracting for textbook sales would draw a clear line between instruction and assessment in public schools and would promote the independence of textbook sellers. Allowing test contractors to enter that market would put other textbook publishers at a competitive disadvantage.

**Supporters say** studying the effects of a law that would require the school year to begin after September 1 would allow the state to determine whether it would be in the best interests of the public education system to enact such a requirement. Those who support the requirement suggest that the current school calendar, which often begins in early to mid-August, has detrimental economic impacts on teachers and the tourist industry. This proposal is similar to SB 40 by Lucio, which passed the Senate on April 8 on the Local and Uncontested Calendar but was left pending in the House Public Education Committee on April 22.