

## **BILL ANALYSIS**

C.S.S.B. 568  
By: Bettencourt  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Public education advocates across Texas have called on the legislature to address issues relating to special education funding and services. The bill sponsor has informed the committee that a number of bills in the 88th Legislative Session relating to special education had bipartisan support and would have provided significant funding and reforms based on recommendations by the Texas Special Education Funding Commission in its 2022 report.

C.S.S.B. 568 seeks to implement these recommendations and enact significant special education funding reform, including by providing for the transition from a placement-based funding model to a service intensity-based model, establishing a full individual and initial evaluation allotment, and increasing the special education transportation reimbursement rate and the college, career, or military readiness outcomes bonus for students receiving special education services. Among other provisions, the bill also revises the supplemental special education services program as a parent-directed program, reestablishes a grant program relating to dyslexia, and requires school boards to discuss the performance of students with disabilities at least annually to ensure these students are not being forgotten or lost in the system.

### **CRIMINAL JUSTICE IMPACT**

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

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTIONS 7, 9, 12, 16, 17, 24, 34, 41, 45, 46, 53, 55, 56, and 63 of this bill and that rulemaking authority previously granted to the commissioner is modified in SECTION 18 of this bill.

It is also the committee's opinion that rulemaking authority is expressly granted to the Texas Education Agency (TEA) in SECTIONS 6, 27, and 52 of this bill and that rulemaking authority previously granted to TEA is modified in SECTION 21 of this bill.

### **ANALYSIS**

C.S.S.B. 568 amends the Education Code to revise and set out provisions relating to special education in public schools, including funding for special education under the foundation school program.

#### **Foundation High School Program Level of Achievement**

C.S.S.B. 568 establishes that a student who is enrolled in a special education program may earn the distinguished level of achievement by successfully completing all applicable curriculum

requirements with or without modification of the curriculum and specifies that modification of that curriculum, if applicable, must be documented in the student's individualized education program (IEP). The bill further specifies that the modification of that curriculum, if applicable, for purposes of earning an endorsement on a student's transcript must be documented in the student's IEP.

### **Implementation of Special Education Law**

C.S.S.B. 568 removes and revises provisions requiring the Texas Education Agency (TEA) to develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in Texas that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of 3 and 21 and requiring TEA to develop and implement a related statewide plan with specified programmatic content designed to achieve certain objectives. Accordingly, in place of those general provisions, the bill requires TEA, as the state education agency responsible for carrying out the purposes of provisions of the federal Individuals with Disabilities Education Act (IDEA) relating to services for school-aged children, to develop, and revise as necessary, a comprehensive system to ensure statewide and local compliance with federal and state law related to special education.

C.S.S.B. 568 requires such a comprehensive system to focus on maximizing student outcomes and to include the pursuit of strategies to meet statewide special education and related services personnel needs and to include rulemaking, technical assistance, guidance documents, monitoring protocols, data elements necessary for statewide reporting, and other resources as necessary to implement and ensure compliance with federal and state law related to special education. Moreover, the bill requires the comprehensive system to include certain elements that are substantially the same as or similar to the objectives established under current law for the specified programmatic content of the statewide design or plan. Accordingly, the bill revises and clarifies those elements and adds others to provide that the comprehensive system must include the following:

- providing services primarily through public school districts and shared services arrangements, supplemented by regional education service centers;
- facilitating interagency coordination when other state agencies are involved in the delivery of instructional or related services to students with disabilities;
- ensuring that regional education service centers throughout the state maintain a regional support function, which may include procedures for service centers to assist districts in identifying existing public or private educational or related services in each region, cooperatively developing programs for students with disabilities, providing to or obtaining for districts special equipment, delivering services, and facilitating the placement of students with disabilities who cannot be appropriately served in their resident districts;
- effectively monitoring and periodically conducting site visits of all districts to ensure that, as follows:
  - applicable rules are applied in a consistent and uniform manner;
  - districts are complying with those rules; and
  - annual statistical reports filed by the districts and not otherwise available through PEIMS are accurate and complete; and
- providing training and technical assistance to ensure that:
  - appropriately trained personnel are involved in the diagnostic and evaluative procedures operating in all districts and that those personnel routinely serve on district multidisciplinary evaluation teams and admissions, review, and dismissal (ARD) committees;
  - an IEP for each student with a disability is properly developed, implemented, and maintained in the least restrictive environment that is appropriate to meet the student's educational needs;

- when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes;
- each student with a disability is provided necessary related services;
- an individual assigned to act as a surrogate parent for a child with a disability, as provided by applicable federal law, is required to take specified actions, which are unchanged by the bill, regarding the child's education; and
- each district develops a process to be used by a teacher who instructs a student with a disability in a general education classroom setting for the teacher to take specified actions, which are unchanged by the bill, regarding the student's IEP.

Furthermore, the bill requires the training and technical assistance to ensure the following:

- that appropriately trained personnel are available to students with disabilities who have significant behavioral support needs, including by providing behavioral support training for a paraprofessional or teacher placed in a classroom or other setting that is intended to provide specialized behavioral supports to a student with a disability, as needed or at regular intervals as provided in the student's IEP; and
- that districts have an opportunity to request technical assistance from TEA or a regional education service center in establishing classroom environments conducive to learning for students with disabilities, including environments for students whose data indicate behavior that significantly impedes the student's own learning and the learning of other students.

C.S.S.B. 568 removes the requirements for the statewide plan to include procedures designed to do the following but does not make them applicable to the comprehensive system revised under the bill's provisions:

- ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities; and
- periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives.

### **Annual Meeting on Special Education**

C.S.S.B. 568 requires the board of trustees of a district or the governing body of an open-enrollment charter school, at least once each year, to include during a public meeting a discussion of the performance of students receiving special education services at the district or school. The bill requires TEA by rule to adopt a set of performance indicators for measuring and evaluating the quality of learning and achievement for students receiving special education services at the district or charter school to be considered at such a meeting. The bill requires that the indicators include performance on the college, career, or military readiness outcomes described by statutory provisions relating to the annual bonus based on those outcomes.

### **Special Education Eligibility Criteria**

C.S.S.B. 568 revises the conditions under which a student is eligible to participate in a district's special education program as follows:

- removes the requirement for TEA to reference contemporary diagnostic or evaluative terminologies and techniques in developing specific eligibility criteria and requires TEA instead to develop such criteria in accordance with federal law;
- with respect to eligibility for a student who is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services:
  - replaces the reference to a student with an auditory impairment with a reference to a student who is deaf or hard of hearing or is deaf-blind; and
  - clarifies that the students are eligible from birth through 21 years of age;

- makes a student from three through nine years of age eligible for the program if the student is experiencing developmental delays, as described by IDEA and defined by commissioner of education rule; and
- replaces a specific list of disabilities qualifying a student who is at least 3 but not more than 21 years of age for the program if the disability prevents the student from being adequately or safely educated in public school without the provision of special services with a reference to the disabilities described in a provision of IDEA defining "child with a disability" and clarifies that the specified age bracket applies to students from 3 years of age through 21 years of age.

### **Individualized Education Program**

C.S.S.B. 568 updates terminology relating to the provision of a child's IEP by removing a reference to "pervasive development disorder" and by replacing language relating to a parent who is unable to speak English with language referring to a parent whose primary language is a language other than English.

### **Model Form for IEP**

C.S.S.B. 568 authorizes the commissioner, from federal money appropriated or otherwise available for the purpose, to develop or procure TEA's model form for use in developing an IEP in a digital format and requires the commissioner, if applicable, to adopt rules regarding district use of the form in that digital format.

### **Information Regarding State Supported Living Centers**

C.S.S.B. 568 requires the Health and Human Services Commission (HHSC), in collaboration with TEA and stakeholders who represent the full continuum of educational residential placement options, to develop and provide to TEA materials regarding educational residential placement options for children who may qualify for placement in a state supported living center, as defined by reference to the Health and Safety Code provisions generally applicable to mental health and intellectual disability services. The bill requires TEA to make the developed materials available to districts and requires a district, at a meeting of a child's ARD committee at which residential placement is discussed, to provide the materials to the child's parent.

### **Special Education Continuing Advisory Committee**

C.S.S.B. 568 revises the provisions establishing the composition of the special education continuing advisory committee appointed by the governor as follows:

- removes the requirement that the committee be composed of 17 members and updates the provision establishing staggered terms for that number of members to reflect that removal and to set out a revised method of staggering members' terms; and
- requires the governor to appoint an unspecified number of members of the committee consistent with the provisions of IDEA applicable to state advisory panels and retains the requirement under current law that at least one appointed member be a director of special education programs for a district.

### **General Supervision and Compliance**

C.S.S.B. 568 revises requirements relating to a comprehensive system for monitoring district compliance with federal and state laws relating to special education as follows:

- replaces the requirement for TEA to adopt such a system with a requirement for TEA to develop such a system;
- requires the system to include a comprehensive cyclical process and a targeted risk-based process;
- removes the following requirements:

- that the monitoring system provide for an ongoing analysis of district special education data and of complaints filed with TEA concerning special education services;
- that the system provide for inspections of districts at district facilities; and
- that TEA use the information obtained through analysis of district data and from the complaints management system to determine the appropriate schedule for and extent of the inspection;
- clarifies that obtaining information from parents and teachers of students in special education programs is part of the monitoring process rather than for the purposes of completing an inspection; and
- requires TEA to establish criteria and instruments for use in determining district compliance with special education laws.

The bill authorizes TEA, as part of the monitoring system, to require a district to obtain specialized technical assistance for a documented noncompliance issue or if data indicates that technical assistance is needed, such as an incident involving injury to staff or students by a student receiving special education services or data indicating an excessive number of restraints are used on students receiving special education services.

C.S.S.B. 568 replaces the requirement for TEA to develop and implement a system of sanctions for districts whose most recent monitoring visit shows a failure to comply with major requirements of IDEA, federal regulations, state statutes, or TEA requirements necessary to carry out federal law or regulations or state law relating to special education with a requirement for TEA to develop and implement a system of interventions and sanctions for districts that TEA identifies as being in noncompliance with those laws, rules, or regulations. Accordingly, the bill does the following:

- specifies that TEA must establish a system of progressive sanctions and enforcement provisions to apply to districts that remain in noncompliance for more than one year and removes the requirement under current law that the first stage of those sanctions begin with annual or more frequent monitoring visits;
- replaces the current provision authorizing a range of sanctions up to the withholding of funds with a provision requiring that the sanctions range in severity and authorizing that range to include the withholding of funds; and
- gives TEA the option to direct that withheld funds be used to provide, through alternative arrangements, services to students and staff members in the applicable district as an alternative to TEA using the funds to provide such services through those alternative arrangements.

The bill removes the provision in current law establishing that statutory provisions relating to special education compliance do not create an obligation for or impose a requirement on a district or charter school that is not also created or imposed under another state law or a federal law.

## **Residential Placements and Facilities**

### Contracts for Services for Students in Residential and Day Placement Programs

C.S.S.B. 568 revises provisions relating to the authority of a district, shared services arrangement unit, or regional education service center to contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. The bill includes contracts for day placement programs among contracts that must be approved by the commissioner and clarifies that the contracts are for the provision of services to students with disabilities in a residential or day placement program. The bill requires the commissioner to set minimum standards for and develop and update as necessary a list of approved facilities, institutions, agencies, or businesses inside or outside of Texas with which a district, shared services arrangement unit, or regional education service center may contract for the provision of such services. The bill includes a programmatic evaluation of costs among the other required actions the commissioner must take before approving a contract and the bill also

provides for the application for approval by the commissioner of an entity not on the list of approved entities.

C.S.S.B. 568 establishes a September 1, 2027, expiration date for the statutory provision currently authorizing costs of an approved contract for residential placement to be paid from a combination of federal, state, and local funds and setting the local share and state share of the total contract cost.

C.S.S.B. 568 extends to any private facility the applicability of the current authorization for a student's care or treatment in a private residential facility to be paid from state and federal education funds if the student's placement involves a private facility in which the education program is provided by the district. The bill includes a business among entities with which a district may contract for the provision of education services to students with disabilities. Under the bill's provisions, a district's annual reevaluation of a contract for the provision of education services must include standards and expectations that must be met to reintegrate the student to the general education setting. The bill requires entities with whom the district contracts to periodically report to TEA the same information that must be reported under current law to the district on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that TEA requires in order to fulfill its obligations under applicable state special education law.

C.S.S.B. 568 requires the commissioner to adopt rules for residential and day placement of students receiving special education services.

These provisions relating to contracts for services for students in residential and day placement programs apply beginning with the 2026-2027 school year.

#### Memorandum of Understanding Regarding Students With Disabilities

C.S.S.B. 568 removes the requirement for the memorandum of understanding (MOU) adopted by TEA, HHSC, the Department of Family and Protective Services, and the Texas Juvenile Justice Department regarding students with disabilities in residential facilities to be adopted by rule.

#### Noneducational Community-Based Support Services Grants for Students With Disabilities

C.S.S.B. 568 revises provisions relating to the allocation of noneducational community-based support services funds appropriated for such services for certain students with disabilities by designating such allocated funds as noneducational community-based services grants, by replacing TEA with the commissioner as the entity responsible for establishing procedures and criteria relating to the allocation of such grants, and by requiring those procedures to be established by rule. The bill further revises these provisions as follows:

- changes the authorized grant recipients from districts to students, as eligible under the bill's revised grant eligibility criteria, and their families;
- with respect to the eligibility criteria for a grant, makes eligible for a grant a student with a disability who is placed by the student's ARD committee in a commissioner-approved residential program or who is placed by the committee in a day placement program and is at risk of being placed in such a residential program and removes as a basis for eligibility whether a student with a disability would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of the applicable support services;
- prohibits the support services from being related to the provision of a free appropriate public education to the student;
- authorizes the inclusion of behavioral and other disability-related supports for the student's family as support services;

- specifies that the provision of the support services does not supersede or limit the responsibility of a district to provide or pay for costs to enable any student to receive a free appropriate public education in the least restrictive environment; and
- removes the prohibition against the support services being used for a student with disabilities who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons.

The bill requires a district to notify the parent of an eligible student of the availability of the grant and to designate a campus or district staff member to assist families of eligible students in accessing grants. The bill requires the commissioner, on request by an eligible student's parent, to create an account for the student to access a grant through which the parent may request payment for approved support services.

C.S.S.B. 568 requires the commissioner, in adopting rules relating to noneducational community-based support services grants, to adopt rules and guidelines detailing the process to access grant money and the amount of each grant, including a process for a parent to apply for an increase in the grant amount. The bill authorizes the commissioner to designate a regional education service center to administer the grants.

### **Representation in Special Education Due Process Hearing**

C.S.S.B. 568 specifies that commissioner rules relating to the additional qualifications and requirements for a representative who is not an attorney licensed in Texas in a special education due process hearing must include requirements that the representative have knowledge of all special education dispute resolution options available to parents and further specifies that such required knowledge includes knowledge regarding due process generally, in addition to the knowledge required under current law regarding due process rules, hearings, and procedure.

### **IEP Facilitation**

C.S.S.B. 568 replaces the requirement for TEA to develop rules applicable to the administration of a state IEP facilitation project with a requirement for TEA to adopt rules applicable to state-administered IEP facilitation and removes references to such IEP facilitation as a project in provisions relating to those rules. The bill specifies that the required provision of an independent IEP facilitator serves as a dispute resolution method that may be used to avoid a potential dispute between a district and parent of a child with a disability.

### **Grant Program Providing Training in Dyslexia for Teachers and Staff**

C.S.S.B. 568 requires the commissioner, from money appropriated or otherwise available for the purpose, to establish a program to award grants each school year to districts and charter schools to increase local capacity to appropriately serve students with dyslexia. The bill makes a district, including a district acting through a district charter, and a charter school, including a charter school that primarily serves students with disabilities, eligible to apply for a grant if the district or school submits to the commissioner a proposal on the use of grant funds that, as follows:

- incorporates evidence-based and research-based design; and
- increases local capacity to appropriately serve students with dyslexia by providing training to intervention staff resulting in appropriate credentialing related to dyslexia, with priority for training staff to earn the credentials necessary to become a licensed dyslexia therapist or certified academic language therapist, or high-quality training to classroom teachers and administrators in meeting the needs of students with dyslexia.

The bill requires the commissioner to create an external panel of stakeholders, including parents of students with disabilities, to provide assistance in the selection of applications for the award of grants.

C.S.S.B. 568 establishes that a grant awarded to a district or charter school under the grant program for providing training in dyslexia to teachers and staff is in addition to the foundation school program money that the district or charter school is otherwise entitled to receive. The bill prohibits such a grant from coming out of foundation school program money. The bill also does the following:

- authorizes the commissioner and any selected grant recipient to accept gifts, grants, and donations from any public or private source, person, or group to implement and administer the grant;
- prohibits the commissioner and any selected grant recipient from requiring any financial contribution from parents to implement and administer the grant; and
- authorizes a regional education service center to administer awarded grants.

### **Rulemaking Authority**

C.S.S.B. 568 authorizes the commissioner to adopt rules as necessary to implement the state's special education program as revised under the bill's provisions.

### **Parent-Directed Services for Students Receiving Special Education Services**

#### Parent-Directed Program

C.S.S.B. 568 designates the supplemental special education services program as a parent-directed program, established and administered by TEA by rule, for students receiving special education services through which a parent may direct supplemental services and supplemental instructional materials for the parent's student who meets the program eligibility requirements. The parent-directed program is subject to the statutory provisions that currently govern the supplemental special education services and instructional materials program, including a provision requiring the commissioner to adopt rules as necessary to implement the program. The bill removes the phrase "special education" from each instance of "supplemental special education services" and "supplemental special education instructional materials" in those statutory provisions but does not change the meaning of the terms.

C.S.S.B. 568 authorizes a student to receive one grant under the parent-directed program unless the legislature appropriates money for an additional grant in the General Appropriations Act. The bill requires TEA, if it receives more acceptable applications for the grant for a school year than available funding for that school year, to award grants in the order in which the applications were received and place remaining students on a waitlist for the subsequent school year.

C.S.S.B. 568 requires TEA to maintain an online user-friendly application system for parents to apply for a grant under the parent-directed program.

C.S.S.B. 568, with respect to the provision in current law conditioning the requirement that TEA approve each student who meets the program eligibility criteria and assign a program account to the student on available funding, removes that condition and requires that the approval and assignment be made without condition.

#### Parent-Directed Services for Students Receiving Special Education Services Grant

C.S.S.B. 568, in addition to changing the nature of the supplemental special education services and instructional materials program to a parent-directed program as previously described, makes changes relating to the amount of a program grant by removing the requirement for TEA to provide each approved student a grant of not more than \$1,500 and by requiring that the grant be provided instead under the foundation school program as provided by the bill.

Accordingly, C.S.S.B. 568, effective September 1, 2025, creates the grant for parent-directed services for students receiving special education services and does the following:



- entitles a student to whom TEA awards a grant to receive an amount of \$1,500 or a greater amount provided by appropriation;
- requires the legislature to include in the appropriations for the foundation school program state aid sufficient for TEA to award such grants in the amount specified by the bill;
- authorizes a student to receive one such grant unless the legislature appropriates money for an additional grant in the General Appropriations Act;
- entitles a regional education service center designated to administer the parent-directed program for a school year to an amount equal to four percent of each grant awarded for such a program for that school year;
- establishes that a determination of the commissioner under the bill provisions establishing the grant amount is final and may not be appealed;
- sets out a temporary provision set to expire September 1, 2026, that caps the total amount of grants provided under these provisions for the 2025-2026 school year at \$150 million; and
- otherwise caps the total amount of grants provided under these provisions at \$80 million per school year.

The bill requires the commissioner to award a grant for the 2025-2026 school year to each eligible applicant who applied but was not accepted for the 2024-2025 school year.

#### Program Participant, Provider, and Vendor Autonomy

C.S.S.B. 568 establishes that a provider of supplemental services or vendor of supplemental instructional materials that receives money distributed under the parent-directed program is not a recipient of federal financial assistance on the basis of receiving that money.

C.S.S.B. 568 prohibits a rule adopted or action taken related to the program by an individual, governmental entity, court of law, or program administrator from doing the following:

- considering the actions of a provider of supplemental services, vendor of supplemental instructional materials, or program participant to be the actions of an agent of state government;
- limiting the following:
  - a provider of supplemental services' ability to determine the methods used to educate the provider's students or to exercise the provider's religious or institutional values; or
  - a program participant's ability to determine the participant's educational content or to exercise the participant's religious values;
- obligating a provider of supplemental services or program participant to act contrary to the provider's or participant's religious or institutional values, as applicable;
- imposing any regulation on a provider of supplemental services, vendor of supplemental instructional materials, or program participant beyond those regulations necessary to enforce the requirements of the program; or
- requiring as a condition of receiving money distributed under the program:
  - that a provider of supplemental services modify the provider's creed, practices, admissions policies, curriculum, performance standards, employment policies, or assessments; or
  - that a program participant modify the participant's creed, practices, curriculum, performance standards, or assessments.

C.S.S.B. 568 establishes that, in a proceeding challenging a rule adopted by a state agency or officer under the parent-directed program, the agency or officer has the burden of proof to establish by clear and convincing evidence that the rule:

- is necessary to implement or enforce the parent-directed program as provided by applicable statute;

- does not violate the bill's provisions relating to program participant, provider, and vendor autonomy;
- does not impose an undue burden on a program participant or a provider of supplemental services or vendor of supplemental instructional materials that participates or applies to participate in the program; and
- is the least restrictive means of accomplishing the purpose of the program while recognizing the independence of a provider of supplemental services to meet the educational needs of students in accordance with the provider's religious or institutional values.

#### ARD Committee Duties

C.S.S.B. 568 makes the following changes to the requirement for the ARD committee of a student approved for participation in the parent-directed program to provide certain program-related information to the student's parent at an ARD committee meeting for the student:

- includes information regarding the types of supplemental instructional materials available under the program among the information to be provided, which is in addition to information regarding the types of available services as required under current law; and
- establishes an exception to the requirement for the district to provide the information if the district first verifies that a program account has been assigned to the student.

The bill specifies that a student's ARD committee must develop a student's IEP without consideration of any supplemental instructional materials that may be provided under the program, as is already specified under current law with respect to supplemental services.

#### Commissioner Determination

C.S.S.B. 568 establishes that a determination of the commissioner under the parent-directed program is final and may not be appealed.

### **Provisions Relating to Students With Visual Impairments, Who Are Deaf or Hard of Hearing, or Who Are Deaf-Blind**

#### Definition of ARD Committee

C.S.S.B. 568 removes the reference to State Board of Education (SBOE) rules requiring the development of an IEP from the definition of "admission, review, and dismissal committee" for purposes of statutory provisions relating to programs for students who are deaf or hard of hearing.

#### Assessment and Evaluation

C.S.S.B. 568 incorporates into the provision regarding the procedures and materials for assessment and placement of students who are deaf or hard of hearing one of the current objectives of the comprehensive statewide plan for educational services for such students. The bill revises that incorporated objective to provide that, in recognizing the need for development of language and communication abilities in students who are deaf or hard of hearing but also calling for the use of methods of communication that will meet the needs of each individual student, each student who is deaf or hard of hearing must be thoroughly assessed to ascertain the student's potential for communicating through a variety of means. The bill, with respect to the provision requiring that all procedures and materials used with any student who is deaf or hard of hearing and who has limited English proficiency must be in the student's preferred mode of communication, updates that provision to clarify that the provision is applicable to such a student who is an emergent bilingual student, defined by reference to Education Code provisions relating to bilingual education and special language programs.

C.S.S.B. 568 retains the requirement for each district to provide continuous evaluation relating to programs for students who are deaf or hard of hearing but specifies that such evaluation must be an evaluation of the effectiveness of the district's services for those students and requires each district to submit such an evaluation to TEA on a schedule set by TEA. While current law conditions the requirement that such evaluations follow program excellence indicators established by TEA on the practicability of doing so, the bill removes that condition and requires that the indicators be followed without condition.

#### Memorandums of Understanding for Texas School for the Deaf and for Texas School for the Blind and Visually Impaired

C.S.S.B. 568 removes the requirement that the following MOUs be adopted by commissioner rule:

- the MOU agreed to and adopted by TEA and the Texas School for the Deaf (TSD) regarding certain aspects of the school's operation; and
- the MOU agreed to and adopted by TEA and the Texas School for the Blind and Visually Impaired (TSBVI) regarding certain aspects of the school's operation.

#### Language Acquisition of Children Who Are Deaf or Hard of Hearing

C.S.S.B. 568 removes from provisions relating to the language acquisition of children eight years of age or younger who are deaf or hard of hearing the requirement for the commissioner and the executive commissioner of HHSC to jointly ensure that the language acquisition of each such child is regularly assessed. Under the bill's provisions, each district instead must ensure that the language acquisition of each such child is regularly assessed using a tool or assessment approved by the commissioner. Accordingly, the bill provides that, as follows:

- each district, on a schedule determined by the commissioner, must report to the commissioner through PEIMS or another method set by commissioner rule the assessment data collected regarding language acquisition;
- the commissioner must adopt rules establishing the assessment data required to be reported;
- the commissioner must annually post on TEA's website a report using the reported assessment data; and
- the commissioner must use the reported assessment data in determining whether to award a special education grant or in seeking federal money available for projects aimed at improving outcomes for students with disabilities.

The bill removes the provisions requiring the joint preparation and posting by TEA, the division for early childhood intervention services of HHSC, and the Educational Resource Center on Deafness at TSD of a report on the language acquisition of those children and also removes requirements relating to an MOU between the commissioner, the executive commissioner of HHSC, and the Educational Resource Center on Deafness at TSD.

#### Funding for Regional Day School Programs for the Deaf

C.S.S.B. 568 repeals the provisions relating to the establishment by the SBOE of regional day school programs for the deaf in the SBOE-apportioned regions and the requirement for the SBOE to carry out with the advice and consent of the commissioner powers and duties related to regional day school programs for the deaf. The bill also repeals provisions providing the method by which the commissioner allocates funds to each regional day school program and replaces that method of funding with a per student allotment from the foundation school program. Accordingly, the bill, effective September 1, 2025, entitles the program administrator or fiscal agent of a regional day school program for the deaf to receive for each school year an allotment under the foundation school program of \$6,925, or a greater amount provided by appropriation, for each student receiving services from such a regional day school program. The bill requires TEA to adjust the amount of an allotment for a school year to ensure the total amount of allotments provided is at least \$35 million for that school year.

Statewide Plan for Children With Visual Impairments, Who Are Deaf or Hard of Hearing, or Who Are Deaf-Blind

C.S.S.B. 568 changes the comprehensive statewide plan for educational services for students who are deaf or hard of hearing that is developed by TEA's director of services to such students to require that the plan, as revised by the bill, be included as part of the comprehensive statewide plan for children with visual impairments. Accordingly, the bill makes the following changes regarding the respective plans:

- with respect to the comprehensive statewide plan for students who are deaf or hard of hearing, removes the requirement that the plan itself be designed to accomplish certain objectives relating to such students, removes the provisions authorizing the TEA director of services to establish separate programs to accommodate diverse communication methodologies, and clarifies that the plan, as revised, is for such students who receive special education and related services through a regional day school program for the deaf; and
- with respect to the comprehensive statewide plan developed and administered under current law by TEA for the education of children with visual impairments who are under 21 years of age, extends the applicability of those provisions to children who are under 22 years of age and who have visual impairments, are deaf or hard of hearing, or are deaf-blind and further revises that plan as follows:
  - specifies that the standards and guidelines developed for services for applicable children include all special education and related services that are authorized to be provided under state or federal law;
  - requires the plan to adequately outline the expectations of a district for an applicable child under three years of age;
  - requires the plan to include information regarding the establishment of regional day school programs for the deaf and the parameters of those programs;
  - includes services through TSD and regional day school programs for the deaf among the services through which districts must provide for flexibility to meet the unique needs of applicable children;
  - replaces the general requirement for continuing education and professional development of district staff providing special education services to children with visual impairments with a requirement for the plan itself to describe recommended and required professional development activities based on the special education and related services provided by district staff to applicable children;
  - provides for procedures in the plan for assuring that applicable staff have access to resources available through TSD and the statewide outreach center at TSD;
  - requires that the plan assist in the coordination of educational programs with other public and private agencies, including agencies operating early childhood intervention programs, preschools, agencies operating child development programs, private nonsectarian schools, agencies operating regional occupational centers and programs, and postsecondary and adult programs for persons who are deaf or hard of hearing, as appropriate; and
  - removes the following provisions applicable to the plan:
    - the requirement for TEA to develop and administer special education services for students with both serious visual and auditory impairments;
    - the requirement for TEA to evaluate special education services provided for children with visual impairments by districts and approve or disapprove state funding of those services; and
    - the specification that the Department of State Health Services mental health and substance abuse division is an entity with whom TEA must maintain an effective liaison for the purposes of special education programs for applicable children.

In addition, the bill repeals certain provisions regarding the education of children with visual impairments that establish specific requirements for the instruction of such children and recodifies them as standalone requirements.

#### Support of Students Enrolled in TSBVI or TSD

C.S.S.B. 568 requires the commissioner, with respect to a district that is responsible for providing appropriate special education services to a student enrolled in TSBVI or TSD, to reduce the amount of maintenance taxes imposed by the district that are obligated to be paid as a district's share of the cost for such a student for a year by the amount, if any, by which the district is required to reduce the district's local revenue level due to revenue levels in excess of entitlement for that year. In addition, the bill requires the commissioner to determine the total amount that TSBVI and TSD would have received from districts in accordance with the applicable provisions if this bill provision had not reduced the districts' share of the cost of providing education services. Under the bill's provisions, the commissioner replaces the SBOE as the entity that must adopt rules relating to support for students enrolled in TSBVI or TSD, including rules for reporting such a district's share and rules prescribing the form and content of reportable information regarding a program.

#### Composition of Local Special Education Advisory Committee

C.S.S.B. 568 repeals the requirement for a local special education advisory committee, under certain conditions, to include persons who are deaf or hard of hearing and parents and legal guardians of students who are deaf or hard of hearing.

#### Educational Programs Coordination

C.S.S.B. 568 repeals provisions requiring the coordination of educational programs for students who are deaf or hard of hearing with other public and private agencies.

#### **Screening and Treatment for Dyslexia and Related Disorders**

C.S.S.B. 568 requires TEA by rule to develop procedures designed to allow TEA to engage in general supervision activities, including activities under the comprehensive system for special education monitoring, to ensure district compliance with the SBOE-approved dyslexia screening program under state law and IDEA. The bill specifies that TEA procedures relating to remedial strategies to address district noncompliance may include the publication of a recommended evidence-based dyslexia program list. The bill repeals the definitions of "dyslexia" and "related disorders."

#### **Updated Terminology**

C.S.S.B. 568 makes the following changes to certain terminology in the applicable provisions:

- replaces references to "regular education" and "regular education classrooms" with references to "general education" and "general education classrooms," respectively; and
- repeals the definition of "special services" under the special education program and replaces that term with "special education services."

#### **Basic Allotment**

Effective September 1, 2026, C.S.S.B. 568 revises provisions relating to the basic allotment by replacing a reference to a mainstream instructional arrangement with a reference to a general education setting.

## **Special Education Allotment**

C.S.S.B. 568 revises the annual allotment to which a district is entitled for students in a special education program as follows:

- removes the formula used to calculate the allotment under current law, including allotment funding weights established according to a student's instructional arrangement; and
- entitles a district to an allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the small and mid-sized district allotment to which the district is entitled, multiplied by a weight in an amount set by the legislature in the General Appropriations Act for the highest tier of intensity of service for which the student qualifies.

The bill requires the commissioner by rule to define eight tiers of intensity of service for use in determining funding under the allotment and to include one tier specifically addressing students receiving special education services in residential placement and one tier for students receiving only speech therapy. In defining the tiers of intensity of service, the commissioner must consider the following:

- the type, frequency, and nature of services provided to a student;
- the required certifications, licensures, or other qualifications for personnel serving the student;
- any identified or curriculum-required provider-to-student ratios for the student to receive the appropriate services; and
- any equipment or technology required for the services.

The bill requires the commissioner, not later than December 1 of each even-numbered year, to submit to the Legislative Budget Board (LBB) proposed weights for the tiers of intensity of service for the next state fiscal biennium. The bill makes changes to conform to the method of allotment funding established by the bill, including by removing requirements relating to contact hours credited per day for each student in specified instructional arrangements.

C.S.S.B. 568 replaces a requirement for TEA to encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment with an express requirement for TEA to ensure the placement of students in special education programs, including students in residential placement, in such an environment.

C.S.S.B. 568 removes provisions capping at 75 percent, or a lesser percentage determined by the commissioner, the amount of funds to which a district is entitled for providing an extended year program and capping the total amount of state funding for extended year service at \$10 million per year. The bill establishes that the amount to which a district is entitled for such a program is equal to the basic allotment or, if applicable, the sum of the basic allotment and the small and mid-sized district allotment to which the district is entitled for each student in average daily attendance, multiplied by the amount designated for the highest tier of intensity of service for which the student qualifies.

These provisions relating to the special education allotment take effect September 1, 2026.

## **Special Education Service Group Allotment**

C.S.S.B. 568 entitles a district, for each student in a special education program, to an allotment in an amount set by the legislature in the General Appropriations Act for the service group for which the student receives services. The bill requires the commissioner by rule to establish at least four service groups for use in determining funding under the allotment and to consider the following:

- the type, frequency, and nature of services provided to a student;
- the required certifications, licensures, or other qualifications for personnel serving the student;

- any identified or curriculum-required provider-to-student ratios for the student to receive the appropriate services; and
- any equipment or technology required for the services.

C.S.S.B. 568 requires that at least 55 percent of the funds allocated under the allotment be used for a special education program. The bill requires the commissioner, not later than December 1 of each even-numbered year, to submit to the LBB proposed amounts of funding for the service groups for the next state fiscal biennium.

These provisions relating to the special education service group allotment take effect September 1, 2026.

### **Effect of Group Allotment on a District's Eligibility to Apply for Special Education Grant**

C.S.S.B. 568 includes sufficient funds provided under the special education service group allotment among conditions to be considered when determining a district's eligibility to apply for a special education grant to assist the district in covering the cost of educating students with disabilities. This provision applies beginning with the 2026-2027 school year.

### **Special Education Transition Funding**

C.S.S.B. 568 sets out provisions with respect to the 2026-2027 school year. Accordingly, the bill provides the following:

- the commissioner may adjust weights or amounts under the special education allotment or special education service group allotment as necessary to ensure compliance with requirements regarding maintenance of state financial support under a specified provision of IDEA as well as maintenance of local financial support under applicable federal law;
- the commissioner must determine the formulas through which districts receive funding under those allotments and, in determining the formulas, ensure the estimated statewide amount provided by the sum of the special education allotment and special education service group allotment for the 2026-2027 school year is approximately \$350 million greater than the amount that would have been provided under the special education allotment under applicable provisions as they existed on September 1, 2025, for that school year, calculating both amounts using the basic allotment in effect for the 2026-2027 school year;
- each district and charter school must report to TEA information necessary to implement the bill's provisions relating to the special education transition funding; and
- TEA must provide technical assistance to districts and charter schools to ensure a successful transition in funding formulas for special education.

These bill provisions establishing special education transition funding expire September 1, 2028.

C.S.S.B. 568, in provisions set to expire on September 1, 2027, requires the amount of the special education allotment and the amount of the special education service group allotment, for the 2026-2027 school year, to be determined in accordance with the bill's special education transition funding provisions.

These provisions relating to special education transition funding take effect September 1, 2026.

### **PEIMS Reporting**

Effective September 1, 2026, C.S.S.B. 568 requires the commissioner by rule to require each district and charter school to report through PEIMS information regarding students enrolled in a special education program as necessary for TEA to adequately perform general supervision

activities and determine funding under the special education allotment and the special education service group allotment.

### **Students Confined to or Educated in Hospitals**

C.S.S.B. 568 requires that the basic allotment for a student enrolled in a district that provides education solely to students confined to or educated in hospitals be adjusted by the tier of intensity of service defined in accordance with the special education allotment and designated by commissioner rule for use relating to such education. This provision applies beginning with the 2026-2027 school year.

### **Allotment for Students With Dyslexia or a Related Disorder**

Effective September 1, 2026, C.S.S.B. 568 revises a district's entitlement to an allotment for a student with dyslexia or a related disorder as follows:

- expands the applicability of such an entitlement to include a student who is receiving instruction or accommodations for dyslexia or a related disorder in accordance with an IEP developed under state law or is receiving accommodations for dyslexia or a related disorder in accordance with a plan developed under Section 504 of the federal Rehabilitation Act of 1973, as applicable, and removes the criteria that such instruction must meet;
- entitles a district to the allotment for a student who meets existing criteria for the allotment and who does not have an IEP or a plan under Section 504 of the federal Rehabilitation Act of 1973;
- removes the requirement that a student satisfy the eligibility requirements under this allotment and the special education allotment in order for the applicable district to receive funding;
- specifies that a district may receive funding for a student under each provision relating to this allotment, the special education allotment, and the special education service group allotment for which the student qualifies; and
- removes the 20 percent cap on the amount of the allotment that may be used by a district to contract with a private provider to provide supplemental academic services to the student.

### **Training and Assistance by Regional Education Service Center**

C.S.S.B. 568 requires each regional education service center to maintain as one of the core services for purchase by school districts and campuses training and assistance in providing each program that qualifies for funding under the special education service group allotment as added by the bill and the allotment for students with dyslexia or a related disorder as revised by the bill. This provision applies beginning with the 2026-2027 school year.

### **College, Career, or Military Readiness Outcomes Bonus**

Effective September 1, 2025, C.S.S.B. 568 increases from \$2,000 to \$4,000 the amount of the college, career, or military readiness outcomes bonus to which a district is entitled for each annual graduate enrolled in a special education program who demonstrates college, career, or military readiness in excess of the minimum number of students determined for the applicable district cohort.

### **Special Education Services Transportation Allotment**

Effective September 1, 2025, C.S.S.B. 568 revises the state allocation for a district or county that provides special transportation services for eligible special education students. While current law specifies that the district or county is entitled to a state allocation paid on a previous year's cost-per-mile basis and that the rate per mile allowable is set by appropriation based on



data gathered from the first year of each preceding biennium, the bill entitles the district or county to a state allocation instead paid at a rate per mile equal to the sum of the rate per mile set by the legislature in the General Appropriations Act and \$0.13, or a greater amount provided by appropriation.

### **Special Education Full Individual and Initial Evaluation**

C.S.S.B. 568 establishes a special education full individual and initial evaluation allotment of \$1,000, or a greater amount provided by appropriation, for each child for whom a district conducts a full individual and initial evaluation under applicable state law or IDEA.

Additionally, C.S.S.B. 568 sets out temporary provisions set to expire September 1, 2027, that do the following:

- establish that the amount of the special education full individual and initial evaluation allotment for the 2025-2026 and 2026-2027 school years is \$3,000 for each child not enrolled or seeking enrollment in the district for whom the district conducts a full individual and initial evaluation;
- cap the total amount that may be used to provide the allotments for the 2025-2026 and 2026-2027 school years at \$45 million for a school year; and
- require the commissioner, if the total amount of allotments to which districts are entitled for a school year exceeds that cap, to proportionately reduce each district's allotment under these temporary provisions.

These provisions relating to the special education full individual and initial evaluation allotment take effect September 1, 2025.

### **Video Surveillance of Special Education Settings**

#### Requirements for Video Surveillance

C.S.S.B. 568 extends to all special education classrooms or other special education settings the applicability of provisions relating to video surveillance, which is currently required upon request in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day. The bill defines "special education classroom or other special education setting" as a classroom or setting primarily used for delivering special education services to students who spend on average less than 50 percent of an instructional day in a general education classroom or setting and updates applicable provisions to reflect the use of that term. The bill specifies that the data collected by TEA relating to such video surveillance requests must be collected through PEIMS.

#### Excess Funds for Video Surveillance

Effective September 1, 2025, C.S.S.B. 568 revises the provision requiring the commissioner, if the commissioner determines that the amount appropriated for the purposes of the foundation school program exceeds the amount to which districts are entitled under that program, to establish by rule a grant program through which excess funds are awarded as grants for the purchase of video equipment, or for the reimbursement of costs for previously purchased video equipment, used for monitoring special education classrooms or other special education settings. The bill replaces that requirement to establish the grant program with an authorization for the commissioner to provide such grants using the excess money.

## **Maintenance of State Financial Support for Special Education**

Effective September 1, 2026, C.S.S.B. 568 requires the commissioner to proportionately increase funding for the special education service group allotment after the commissioner has replaced any federal funds that are withheld due to noncompliance with requirements regarding maintenance of state financial support for special education.

## **Day Placement Program or Cooperative Funding**

C.S.S.B. 568 entitles a qualifying day placement program or cooperative, for each such program or cooperative that a regional education service center, district, or charter school establishes, to the following allotment:

- \$250,000 for the first year of the program's or cooperative's operation; and
- the sum of \$100,000 for each year of operation after the first year and \$150,000 if at least three students are enrolled in the program or cooperative for a year of operation after the first year of operation.

C.S.S.B. 568, for purposes of this funding, establishes that a day placement program or cooperative qualifies under the following conditions:

- the program or cooperative complies with commissioner rules adopted under the foundation school program relating to the day placement program or cooperative funding;
- the program or cooperative offers services to students who are enrolled at any district or charter school in the county in which the program is offered, unless the commissioner by rule waives or modifies the requirement for the program or cooperative to serve all students in a county; and
- TEA has designated the program or cooperative for service in the county in which the program or cooperative is offered and determined that, at the time of designation, the program or cooperative increases the availability of day placement services in the county.

In addition, the bill prohibits TEA from designating more than one day placement program or cooperative for service per county each year and authorizes TEA to designate a regional education service center to implement and administer the bill's provisions regarding day placement program or cooperative funding. The bill caps the number of day placement programs or cooperatives to which TEA may provide an allotment at 20 programs or cooperatives for a year.

These provisions relating to day placement programs or cooperative funding take effect September 1, 2025.

## **Coordination of Services to Children With Disabilities**

C.S.S.B. 568 repeals provisions requiring the commissioner, with the approval of the SBOE, to develop and implement a plan for the coordination of services to children with disabilities in each region served by a regional education service center.

## **Psychological Examinations or Tests**

C.S.S.B. 568 repeals a provision prohibiting the time required for a district to provide information and seek consent for certain psychological examinations or tests from being counted toward the deadline of the evaluation's completion.

## **Assistive Technology**

C.S.S.B. 568 repeals provisions relating to the TEA standards adopted by rule for a district's transfer of assistive technology devices to certain entities when a student with a disability changes the school of attendance in the district or ceases to attend school in the district.

## **Repealed Provisions**

C.S.S.B. 568 repeals the following provisions of the Education Code:

- Section 7.055(b)(24);
- Sections 7.102(c)(18), (19), (20), (21), and (22);
- Section 29.002;
- Section 29.0041(c);
- Section 29.005(f);
- Section 29.0161;
- Sections 29.308, 29.309, 29.311, 30.001, and 30.0015;
- Sections 30.002(c-1), (c-2), (f), (f-1), and (g);
- Section 30.084;
- Section 30.087(b); and
- Section 38.003(d).

## **EFFECTIVE DATE**

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2025.

## **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 568 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute omits provisions from the engrossed relating to the following:

- the establishment and operation of a program to award grants to districts and charter schools that provide innovative services to students with autism;
- the provision of grants to districts and charter schools to increase the number of qualified and appropriately credentialed special education staff, including special education teachers, special education paraprofessionals, evaluation personnel, ancillary instruction personnel, certified interpreters, board-certified behavior analysts, registered behavior technicians, and related service personnel; and
- the provision of funding to districts and charter schools for the 2025-2026 school year to support efforts to recruit and retain educational diagnosticians and school psychologists.

Both versions of the bill create a program to award grants to districts and charter schools to increase local capacity to appropriately serve students with dyslexia. However, the engrossed included a temporary provision set to expire September 1, 2027, requiring the commissioner, for grants awarded for the 2025-2026 and 2026-2027 school years, to require applicants to apply for grants during a single application cycle in the 2025-2026 school year with the intent of significantly expanding the availability of personnel trained to provide dyslexia services and supports to students with dyslexia, whereas the substitute does not include this temporary provision.

With respect to the parent-directed program for students receiving special education services through which a parent may direct supplemental services and supplemental instructional

materials for the parent's student who meets the program eligibility requirements, the substitute includes the following provisions absent from the engrossed:

- a temporary provision set to expire September 1, 2026, capping the total amount of grants under the program for the 2025-2026 school year at \$150 million;
- a provision otherwise capping the amount of grants under the program at \$80 million per school year; and
- a requirement for TEA, if it receives more acceptable applications for a grant under the parent-directed program for a school year than available funding for that school year, to award the grants in the order in which the applications were received and place remaining students on a waitlist for the subsequent school year.

The substitute does not include the engrossed version's authorization for the commissioner to do the following, as necessary to implement changes made by the legislature to public school finance and district maintenance and operations tax rates during the preceding four state fiscal years:

- adjust a district's entitlement under the foundation school program if the funding formulas used to determine the district's entitlement result in an unanticipated loss, gain, or other result for a district; and
- modify dates relating to the adoption of a district's maintenance and operations tax rate and, if applicable, an election required for the district to adopt that tax rate.

Accordingly, the substitute also omits the provisions of the engrossed requiring the commissioner, before making such an adjustment, to notify and receive approval from the LBB and the office of the governor and, if the commissioner makes an adjustment, to provide to the legislature an explanation regarding the changes necessary to resolve the unintended consequences.

The substitute revises the engrossed version's requirement for the commissioner, in determining the formulas through which districts receive funding under the special education allotment and special education service group allotment for the 2026-2027 school year, to ensure the estimated statewide increase from the amount that would have been provided under the special education allotment as provisions relating to the allotment existed on September 1, 2025, to the sum of those allotments for the 2026-2027 school year is approximately a specified amount, as follows:

- increases the specified amount from \$200 million, as in the engrossed, to \$350 million; and
- specifies that the calculation of both amounts is through the use of the basic allotment for the 2026-2027 school year.

The substitute increases the amount of the special education full individual and initial allotment to which a district is entitled for each child for whom the district conducts an applicable evaluation from \$250 or a greater amount provided by appropriation, as in the engrossed, to \$1,000 or a greater amount provided by appropriation. The substitute adds the following temporary provisions set to expire September 1, 2027, whereas the engrossed did not:

- a provision establishing that the amount of the allotment for the 2025-2026 and 2026-2027 school years is \$3,000 for each child not enrolled or seeking enrollment in the district for whom the district conducts a full individual and initial evaluation;
- a provision capping the total amount that may be used to provide the allotments for the 2025-2026 and 2026-2027 school years at \$45 million for a school year; and
- a requirement for the commissioner, if the total amount of allotments to which districts are entitled for a school year exceeds the cap, to proportionately reduce each district's \$3,000 allotment for each applicable child.