

SPECIAL CALLED BOARD MEETING

A G E N D A

10:00 A.M., Tuesday, August 22, 2023

Live broadcast available at: highered.texas.gov

**Barbara Jordan Building
1601 N. Congress Ave, Room 2.035
Austin, TX**

This meeting is conducted in person or via video conference, pursuant to Texas Government Code, Section 551.127. A quorum of the Board may be present in the Board Room, which is open to the public.

Chair: Fred Farias III, O.D.

Vice Chair: Donna N. Williams

Secretary: S. Javaid Anwar

Members: Richard L. Clemmer; Stacy A. Hock; Emma W. Schwartz; Ashlie A. Thomas;

Welcome Wilson, Jr.; Daniel O. Wong

Student Representative: Cage M. Sawyers (Ex-Officio)

*SCHEDULE OF QUARTERLY
COORDINATING BOARD MEETINGS*

October 26, 2023

January 25, 2024

April 25, 2024

July 25, 2024

October 24, 2024

TEXAS HIGHER EDUCATION COORDINATING BOARD**PREFERRED MAILING ADDRESS LIST**EMAIL: boardmember@highered.texas.gov

BOARD MEMBER	ADDRESS/PHONE/EMAIL	TERM ENDS
Fred Farias III, O.D. <i>Chair</i> MCALLEN	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/25
Donna N. Williams <i>Vice Chair</i> ARLINGTON	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/23
S. Javaid Anwar <i>Secretary of the Board</i> MIDLAND	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/27
Richard L. Clemmer AUSTIN	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/23
Stacy A. Hock AUSTIN	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/27
Emma W. Schwartz EL PASO	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/25
Ashlie A. Thomas VICTORIA	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/25
Welcome W. Wilson, Jr. HOUSTON	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/23
Daniel O. Wong, Ph.D. MISSOURI CITY	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	08/31/27
Cage M. Sawyers <i>Student Representative</i> VAN ALSTYNE	c/o Texas Higher Education Coordinating Board P. O. Box 12788, Austin, TX 78711 Phone: (512) 427-6101	05/31/24

Dated 07.24.23



Standing Committee Membership

Effective July 25, 2023

Committee on Academic and Workforce Success

Donna N. Williams, Chair
Emma W. Schwartz, Vice Chair
Richard L. Clemmer
Fred Farias III
Ashlie A. Thomas
Daniel O. Wong
Cage M. Sawyers (Student Representative), Ex-Officio

Committee on Innovation, Data, and Educational Analytics

S. Javaid Anwar, Chair
Welcome W. Wilson, Jr., Vice Chair
Richard L. Clemmer
Fred Farias III
Stacy A. Hock
Ashlie A. Thomas
Daniel O. Wong
Cage M. Sawyers (Student Representative), Ex-Officio

Agency Operations Committee

Emma W. Schwartz, Chair
Welcome W. Wilson, Jr., Vice Chair
S. Javaid Anwar
Fred Farias III
Stacy A. Hock
Donna N. Williams
Cage M. Sawyers (Student Representative), Ex-Officio

SPECIAL CALLED BOARD MEETING

A G E N D A

Public Testimony: *The chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the board of the Texas Higher Education Coordinating Board (Board) after staff has presented the item, or any other time as determined by the chair. For procedures on testifying, please go to higher.ed.texas.gov/public-testimony.*

- I. Opening remarks
- II. Commissioner's remarks on the Community College Finance Program and College Connect Courses
- III. Invited testimony
- IV. Presentations on the Financial Aid for Swift Transfer (FAST) program, and Community College Finance Program
- V. Public testimony
- VI. Adoption of Rules
 - A. Proposed rules:
 - (1) Consideration and possible action to repeal and adopt on an emergency basis Chapter 1, Subchapter K, Board Rules 1.156 through 1.162, concerning replacement of the Community and Technical Colleges Formula Advisory Committee with the Standing Advisory Committee for Public Junior Colleges
 - (2) Consideration and possible action to adopt on an emergency basis the proposed amendments to Board Rule 1.164 through 1.167 concerning changes to the membership of the General Academic Institutions Formula Advisory Committee
 - (3) Consideration and possible action to repeal on an emergency basis Board Rules 9.28 through 9.29, relating to certification of community colleges as eligible to receive state appropriations
 - (4) Consideration and possible action to adopt on an emergency basis proposed amendments to Board Rule 9.677 related to funding for baccalaureate degree programs at community colleges
 - (5) Consideration and possible action to adopt on an emergency basis proposed amendments to Board Rule 13.1 related to definitions pertaining to financial planning at institutions of higher education

- (6) Consideration and possible action to repeal on an emergency basis Board Rule 13.62 related to community college financial information reporting
- (7) Consideration and possible action to adopt on an emergency basis proposed amendments to Board Rule 13.63 related to community college financial information reporting
- (8) Consideration and possible action to adopt on an emergency basis new Board Rules in Chapter 13, Subchapter P, 13.470 through 13.477 concerning financing for community colleges
- (9) Consideration and possible action to adopt on an emergency basis new Board Rules in Chapter 13, Subchapter Q, 13.500 through 13.506 concerning the Financial Aid for Swift Transfer (FAST) program
- (10) Consideration and possible action to adopt on an emergency basis new Board Rules in Chapter 13, Subchapter R, 13.520 through 13.529, relating to reporting, audit, and overallocation for community colleges
- (11) Consideration and possible action to adopt new Board Rule Chapter 4, Subchapter D, 4.86 concerning the establishment of College Connect Courses

VII. Lunch

VIII. Discussion and possible action to hire and set the compensation of the Board's Internal Auditor

IX. Consideration and possible action to approve an increase in the Commissioner's annual salary

X. Adjournment

Executive Session: *The Board may convene in Executive Session at any point in this meeting, concerning any item listed in the agenda as authorized by the Open Meetings Act, Texas Government Code, including the following:*

- *Section 551.071, Consultation with Attorney, and 551.129, if such attorney consultation is via conference call*
- *Section 551.073, Deliberation regarding Prospective Gift*
- *Section 551.074, Personnel Matters*
- *Section 551.0821, Confidential Student Information*

All final votes, actions, or decisions will be taken in open meeting.

Weapons Prohibited: *Pursuant to Texas Penal Code , Section 46.03(a)(14), a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon listed in Texas Penal Code, Section 46.05 in the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to Texas Government Code, Chapter 551, and if the entity provided notice as required by that chapter.*

Special Called Board Meeting
AGENDA ITEM I

Opening remarks

RECOMMENDATION: No action required

Dr. Fred Farias will provide the opening remarks.

Special Called Board Meeting

AGENDA ITEM II

Commissioner's remarks on the Community College Finance Program and College Connect courses

RECOMMENDATION: No action required

Background Information:

The Board will invite Dr. Harrison Keller, Commissioner of Higher Education, to comment on some of the agenda items.

Special Called Board Meeting

AGENDA ITEM III

Invited testimony

RECOMMENDATION: No action required

Background Information:

The Board will hear invited testimony from Ray Martinez III, J.D., President & CEO, Texas Association of Community Colleges, and William Serrata, Ph.D., Board Chair, Texas Association of Community Colleges, and President, El Paso Community College.

Special Called Board Meeting

AGENDA ITEM IV

Presentations on the Financial Aid for Swift Transfer (FAST) program, and Community College Finance Program

RECOMMENDATION: No action required

Background Information:

Dr. Charles W. Contéro-Puls will present an overview of the Financial Aid for Swift Transfer (FAST) program, which provides funding to colleges and other public institutions so they can offer dual credit courses to educationally disadvantaged students at no cost.

Commissioner Harrison Keller and Ms. Emily Cormier will present an overview of the Community College Finance Program.

Dr. Harrison Keller, Commissioner of Higher Education, Emily Cormier, Assistant Commissioner for Funding, and Dr. Charles W. Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs, will present this item and be available to answer questions.

Special Called Board Meeting
AGENDA ITEM V

Public testimony

RECOMMENDATION: No action required

Background Information:

The Board will hear public testimony.

Special Called Board Meeting

AGENDA ITEM VI-A (1)

Consideration and possible action to repeal and adopt on an emergency basis Chapter 1, Subchapter K, Board Rules 1.156 through 1.162, concerning replacement of the Community and Technical Colleges Formula Advisory Committee with the Standing Advisory Committee for Public Junior Colleges.

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff propose to repeal and replace rules, on an emergency basis, in Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter K, §§1.156 - 1.162, concerning the Standing Advisory Committee for Public Junior Colleges and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

HB 8 removed public junior colleges from the Formula Advisory Committee structure established under Texas Education Code, Section 61.059(b), requiring instead a “standing advisory committee composed of representatives of public junior colleges to provide advice and counsel to the coordinating board with respect to the funding of public junior colleges.” The rules that establish the Community and Technical Colleges Formula Advisory Committee (CTCFAC) would be repealed and replaced with new rules that establish the Standing Advisory Committee (SAC) for Public Junior Colleges.

The committee would have no more than twelve members, including representatives of each accountability group and of college CEOs, Chief Financial Officers, Chief Academic Officers (Provosts), and Institutional Researchers or other experts. Members would serve three-year terms unless otherwise provided by the commissioner and would be appointed by the Coordinating Board on the recommendation of the Commissioner.

The SAC will study and provide counsel and recommendations regarding the formulas, administration, and other components of the Public Junior College Finance Program established by HB 8 and carry out other charges issues by the Board or Commissioner. The committee reports on its activities and recommendations to the Commissioner by May 15 of each year.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 1 AGENCY ADMINISTRATION

SUBCHAPTER K STANDING ADVISORY COMMITTEE: PUBLIC JUNIOR COLLEGES

SUBCHAPTER K. STANDING ADVISORY COMMITTEE: PUBLIC JUNIOR COLLEGES.Section 1.156. Authority and Specific Purposes of the Standing Advisory Committee for Public Junior Colleges.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §130.001(b).

(b) Purposes. The Standing Advisory Committee for Public Junior Colleges is created to provide the Commissioner and Board with advice and counsel with respect to the funding of public junior colleges and financial incentives to achieve the goals of the state's higher education plan and carry out the purposes of Texas Education Code, Chapter 130A, implementing the Public Junior College Finance Program. The committee also performs other duties related to funding that the Board or Commissioner assign to the committee.

Section 1.157. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Coordinating Board--Unless context indicates otherwise, the agency known as the Texas Higher Education Coordinating Board and staff employed by the agency to carry out assigned duties of the agency.

Section 1.158. Committee Membership and Officers.

(a) Membership shall consist of senior administrators and representatives of Texas public junior colleges with knowledge of the current funding formulas and the educational goals of the state.

(b) Membership on the committee should include:

(1) Representatives of each accountability group;

(2) Presidents or Chancellors;

(3) Chief Financial or Academic Officers; and

(4) Institutional Research or other expert campus representatives.

(c) The number of committee members shall not exceed twelve (12).

(d) The Commissioner shall recommend members to the Board for appointment.

(e) The Commissioner shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board and the Commissioner.

(f) Each member shall serve a three-year staggered term, unless otherwise provided by the Commissioner. A member may serve more than one term.

(g) The committee may appoint subcommittees or workgroups as necessary to complete the work.

Section 1.159. Duration.

The committee shall continue until September 1, 2027, and may be re-established by the Board.

Section 1.160. Meetings.

The committee shall meet on a regular basis not less than once a quarter. Special meetings may be called as deemed appropriate by the presiding officer.

Section 1.161. Tasks Assigned to the Committee.

Tasks assigned to the committee include:

(1) Provide counsel to the Board and Commissioner on the administration of the Public Junior College Finance Program;

(2) Study and make recommendations for modification to the formulas and other components of the Public Junior College Finance Program that will increase effectiveness and efficiencies of the programs delivered;

(3) Identify funding incentives that would support the achievement of the state's goals outlined in the long-term master plan for higher education authorized in the Texas Education Code, §61.051(a-1); and

(4) Any other charges issued by the Board or Commissioner of Higher Education.

Section 1.162. Report.

The committee shall provide an annual report on its activities and recommendations to the Commissioner not later than May 15 of each year. The Commissioner shall review and provide funding recommendations to the Board annually at the July Board meeting.

The Commissioner may modify these timelines as needed to implement the Public Junior College Finance Program.

~~[SUBCHAPTER K FORMULA ADVISORY COMMITTEE – COMMUNITY AND TECHNICAL COLLEGES]~~

~~[Section 1.156. Authority and Specific Purposes of the Community and Technical~~

~~(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.059(b) and (b-1).~~

~~(b) Purposes. The Community and Technical Colleges Formula Advisory Committee is created to provide the Board with advice and recommendation(s) regarding a set of formulas that provide appropriate funding levels and financial incentives necessary to best achieve the goals of the state's higher education plan. The committee also performs other duties related to formula funding that the Board finds to be appropriate.~~

~~Section 1.157. Definitions.~~

~~The following words and terms, when used in this subchapter, shall have the following meanings:~~

~~(1) Board—The Texas Higher Education Coordinating Board.~~

~~(2) Commissioner—The Commissioner of Higher Education, the Chief Executive Officer of the Board.~~

~~(3) Interested persons—Persons who attend committee meetings as representatives of stakeholder entities and any other persons who have made their interest in the work of the committee known to its presiding officer. Such interested persons may participate in committee discussions, as invited by the presiding officer to do so, but do not have the authority to cast votes.~~

~~Section 1.158. Committee Membership and Officers.~~

~~(a) Membership shall consist of senior administrators at Texas public community or technical colleges with knowledge of the current funding formulas and the educational goals of the state.~~

~~(b) Membership on the committee should include:~~

~~(1) Representatives of each accountability group;~~

~~(2) Faculty;~~

~~(3) Presidents and/or Chancellors; and~~

~~(4) Chief Financial and/or Academic Officers.~~

~~(c) Interested persons, such as legislative and governmental relations staff, shall be regularly advised of committee meetings.~~

~~(d) The number of committee members shall not exceed twenty-four (24).~~

~~(e) The committee may appoint subcommittees or workgroups as necessary to complete the work. The subcommittees or workgroups may include members from the formula advisory committee and other institutional representatives as appropriate.~~

~~(f) Members of the committee shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board.~~

~~(g) Members shall serve for a term of six years.~~

~~Section 1.159. Duration.~~

~~Not later than September 1 of each odd-numbered year, the Board shall appoint an advisory committee to review the funding formulas used by the Governor and the Legislature for making appropriations to community and technical colleges.~~

~~Section 1.160. Meetings.~~

~~The committee shall meet on a monthly basis beginning in the fall of every odd-numbered year through early spring of the following year. Special meetings may be called as deemed appropriate by the presiding officer. Meetings shall be open to the public and broadcast, unless prevented by technical difficulties. Minutes shall be available to the public after they have been prepared by the Board staff and vetted by members of the committee.~~

~~Section 1.161. Tasks Assigned to the Committee.~~

~~Tasks assigned to the committee include:~~

- ~~(1) Study and make recommendations for the appropriate funding levels for each formula;~~
- ~~(2) Study and make recommendations for modification to the formulas that will increase effectiveness and efficiencies of the programs delivered;~~
- ~~(3) Identify funding incentives that would support the achievement of the state's goals outlined in the long-term master plan for higher education authorized in the Texas Education Code, §61.051(a-1); and~~
- ~~(4) Any other charges issued by the Commissioner of Higher Education.~~

~~Section 1.162. Report of Fundable Operating Expenses.~~

~~(a) The Board staff shall conduct a study of expenses at community colleges, Texas State Technical College, and Texas State University System two-year institutions each year.~~

~~(b) The study shall encompass all expenses made by these institutions for instruction and administration from all unrestricted sources of funds including appropriated general revenue, tuition and fees, contract instruction, other educational and general revenue, and local tax revenue.~~

~~(c) Each college shall report total instructional expenses and contact hours for each instructional discipline included on a list provided by the Board and total expenses for administration, including institutional support, student services, library, instructional administration, organized activities, instructional staff benefits but excluding physical plant employees.~~

~~(d) From this information, the Board staff shall calculate costs for each instructional discipline.~~

~~Section 1.163. Report to the Board; Evaluation of Committee Costs and Effectiveness.~~

~~(a) Subcommittee recommendations shall be made to the committee no later than January 15 of the year following its appointment.~~

~~(b) The committee chairperson shall recommend to the Board a funding formula for the next biennium for community and technical colleges no later than February 1 of the year following its appointment. In making a recommendation, the committee shall:~~

~~(1) consider the results of the all funds expenditure study;~~

~~(2) consider the financial needs of affected institutions;~~

~~(3) consider funding provided for equivalent courses in general academic institutions;~~

~~(4) consider funding for peer institutions in other states;~~

~~(5) consider other factors as appropriate; and~~

~~(6) recommend a general revenue appropriation for instruction and administration for community colleges and the Texas State Technical College System and two-year colleges in the Texas State University System. The Legislative Budget Board staff converts the general revenue formula for Texas State Technical College System and two-year colleges in the Texas State University System into an all funds appropriation based on their estimated educational and general income.~~

~~(c) The Commissioner may provide recommendations to the Board if they differ from the committee's recommendations.~~

~~(d) After considering all such recommendations, the Board shall adopt its own recommendations at the quarterly Board meeting in April of even-numbered years. The Commissioner shall transmit the Board's recommendations to the Governor, the Legislature, and the Legislative Budget Board no later than June 1 of each even-numbered year.~~

~~(e) The committee shall also report committee activities to the Board to allow the Board to properly evaluate the committee's work, usefulness, and the costs related to the committee's existence. The Board shall report its evaluation to the Legislative Budget Board in its biennial Legislative Appropriations Request.]~~

Special Called Board Meeting
AGENDA ITEM VI-A (2)

Consideration and possible action to adopt on an emergency basis the proposed amendments to Board Rule 1.164 through 1.167 concerning changes to the membership of the General Academic Institutions Formula Advisory Committee.

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the amendment, on an emergency basis, of Texas Administrative Code, Title 19, Part 1, Chapter 1, Subchapter L, §§1.164 - 1.167, concerning the General Academic Institutions Formula Advisory Committee (GAIFAC) and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Specifically, the proposed amendment would add Texas State Technical Colleges (TSTC) and the Lamar State Colleges to the General Academic Institutions Formula Advisory committee. This revision is due to HB 8's creation of a standing advisory committee specific to community colleges and the removal of these community colleges from the traditional formula advisory committee process. Due to this, the existing Community and Technical College Formula Advisory Committee, which included representation of the community colleges, state colleges, and technical colleges, is recommended for repeal. To ensure the TSTCs and state colleges will continue to be represented in funding recommendations from institutions to the Coordinating Board, they are being added to the GAIFAC.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 1 AGENCY ADMINISTRATION

SUBCHAPTER L FORMULA ADVISORY COMMITTEE - GENERAL ACADEMIC INSTITUTIONS

SUBCHAPTER L. FORMULA ADVISORY COMMITTEE - GENERAL ACADEMIC INSTITUTIONS, TECHNICAL COLLEGES, AND STATE COLLEGES.Section 1.164. Authority and Specific Purposes of the General Academic Institutions, Technical Colleges, and State Colleges Formula Advisory Committee.

(a) Authority. Statutory authority for this subchapter is provided in the Texas Education Code, §61.059(b) and (b-1).

(b) Purposes. The General Academic Institutions, Technical Colleges, and State Colleges Formula Advisory Committee is created to provide the Board with advice and recommendation(s) regarding a set of formulas that provide appropriate funding levels and financial incentives necessary to best achieve the goals of the state's higher education plan. The committee also performs other duties related to formula funding that the Board finds to be appropriate.

Section 1.165. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education, the Chief Executive Officer of the Board.

(3) Interested persons--Persons who attend committee meetings as representatives of stakeholder entities and any other persons who have made their interest in the work of the committee known to its presiding officer. Such interested persons may participate in committee discussions, as invited by the presiding officer to do so, but do not have the authority to cast votes.

(4) Public state colleges--Lamar State College - Port Arthur, Lamar State College - Orange, and Lamar Institute of Technology.

Section 1.166. Committee Membership and Officers.

(a) Membership shall consist of representatives of Texas public general academic institutions, public state colleges, and Texas State Technical College with knowledge of the current funding formulas and the educational goals of the state.

(b) Membership on the committee should include representatives of each accountability group and at least one individual each to represent the public state colleges and Texas State Technical Colleges.

(c) Interested persons, such as legislative and governmental relations staff shall be regularly advised of committee meetings.

- (d) The number of committee members shall not exceed twenty-four (24).
- (e) The committee may appoint subcommittees or workgroups as necessary to complete its work. The subcommittees or workgroups may include members from the formula advisory committees and other institutional representatives as appropriate.
- (f) Members of the committee shall select the presiding officer, who will be responsible for conducting meetings and conveying committee recommendations to the Board.
- (g) Members shall serve six-year staggered terms with one-third of the membership expiring every other year. A member can be re-appointed to serve another term.

Section 1.167. Duration.

Not later than September 1 of each odd-numbered year, the Board shall appoint an advisory committee to review the funding formulas for the use of the Governor and the Legislative Budget Board in making appropriations recommendations to the legislature for general academic institutions, technical colleges, and state colleges.

Special Called Board Meeting
AGENDA ITEM VI-A (3)

Consideration and possible action to repeal on an emergency basis Board Rules 9.28 through 9.29, relating to certification of community colleges as eligible to receive state appropriations

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff propose the repeal, on an emergency basis, of Texas Administrative Code, Title 19, Part 1, Chapter 9, Subchapter B, §§9.28 and 9.29, concerning the certification of public community colleges as eligible to receive state appropriations and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

The existing rules reiterate the requirements that community colleges had to meet to be eligible to receive state appropriations and govern the process by which the Coordinating Board transmits the certifications to the Comptroller and State Auditor. These rules are recommended for repeal and would be replaced with a new certification process based on changes made in HB 8 and consolidated into a new subchapter of Texas Administrative Code that concerns auditing, compliance, data reporting, and data error correction related to public community colleges.

Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 9 PROGRAM DEVELOPMENT IN TWO-YEAR COLLEGES

SUBCHAPTER B GENERAL PROVISIONS

~~{Section 9.28. Appropriations.~~

~~To be eligible to receive its proportionate share of the biennial appropriations for support, maintenance, operation, and improvement, each public community college must:~~

- ~~-(1) be certified as a public community college as prescribed by §9.29 of this title (relating to Certification);~~
- ~~-(2) offer a minimum of 24 semester credit hours of career technical/workforce education courses;~~
- ~~-(3) have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public community colleges;~~
- ~~-(4) collect, from each full-time and part-time student enrolled, appropriate matriculation and other fees as required by law;~~
- ~~-(5) grant, when properly applied for, the scholarships and tuition exemptions provided for in the Texas Education Code; and~~
- ~~-(6) levy and collect ad valorem taxes as provided by law for the operation and maintenance of the institution.]~~

~~{Section 9.29. Certification.~~

~~The Commissioner shall file with the State Auditor and the State Comptroller on or before October 1 of each year a list of the public community colleges in the state and certify the names of those colleges that have complied with the standards, rules, and regulations prescribed by the Board.]~~

Special Called Board Meeting
AGENDA ITEM VI-A (4)

Consideration and possible action to adopt on an emergency basis proposed amendments to Board Rule 9.677 related to funding for baccalaureate degree programs at community colleges.

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the amendment, on an emergency basis, of Texas Administrative Code, Title 19, Part 1, Chapter 9, Subchapter N, §9.667, concerning the funding of baccalaureate degree programs at community colleges and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Specifically, the amendment would remove provisions that create separate funding treatment for the junior- and senior-level baccalaureate degree courses delivered by certain community colleges in certain bachelor's degree programs. Previously, pilot project baccalaureate degree programs operated under a separate funding structure from other degrees offered by community colleges. These degrees will now be funded under the performance tier authorized under HB 8.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 9 PROGRAM DEVELOPMENT IN PUBLIC TWO-YEAR COLLEGES

SUBCHAPTER N BACCALAUREATE DEGREE PROGRAMS

Section 9.677. ~~Limitations on Tuition~~ [Funding].

~~[(a) Except as provided by subsection (b) of this section, a degree program created under this subchapter may be funded solely by a public junior college's proportionate share of state appropriations under §130.003, local funds, and private sources.~~

~~(b) This subchapter does not require the legislature to appropriate state funds to support a degree program created under this subchapter. Nor does this subsection prohibit the legislature from directly appropriating state funds to support junior level and senior level courses to which this subsection applies.~~

~~(c) The coordinating board shall weigh contact hours attributable to students enrolled in a junior level or senior level course offered under this subchapter used to determine a public junior college's proportionate share of state appropriations under Section 130.003 in the same manner as a lower division course in a corresponding field unless the college participated in a pilot project to offer baccalaureate degree programs as defined in §9.672(10) of this subchapter.~~

~~(d) Notwithstanding subsection (c) of this section, in its recommendations to the legislature relating to state funding for public junior colleges, the coordinating board shall recommend that a public junior college that participated in a pilot project to offer baccalaureate degree programs as defined in §9.672(10) of this subchapter receive substantially the same state support for junior level and senior level courses in the fields of applied science, applied technology, dental hygiene, and nursing offered under this subchapter as that provided to a general academic teaching institution for substantially similar courses.~~

~~(e) In determining the contact hours attributable to students enrolled in a junior level or senior level course in the field of applied science, applied technology, dental hygiene, or nursing offered under this section used to determine a public junior college's proportionate share of state appropriations under §130.003, the coordinating board shall weigh those contact hours as necessary to provide the junior college the appropriate level of state support to the extent state funds for those courses are included in the appropriations.~~

~~(f)] A public junior college may not charge a student enrolled in a baccalaureate degree program offered under this subchapter tuition and fees in an amount that exceeds the amount of tuition and fees charged by the junior college to a similarly situated student who is enrolled in an associate degree program in a corresponding field. This subsection does not apply to tuition and fees charged for a baccalaureate degree program in the field of applied science or applied technology previously offered as part of a pilot~~

project to offer baccalaureate degree programs as defined in §9.672(10) of this subchapter.

Special Called Board Meeting

AGENDA ITEM VI-A (5)

Consideration and possible action to adopt on an emergency basis proposed amendments to Board Rule 13.1 related to definitions pertaining to financial planning at institutions of higher education

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the adoption of new rules, on an emergency basis, in Texas Administrative Code (TAC), Title 19, Part 1, Chapter 13, Subchapter A, Section 13.1 concerning new and amended definitions necessary to provide the clarity and precision to implement the community college finance system established by House Bill (HB) 8. As authorized by HB 8, these rules are proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Rule 13.1(4)-(6) specifies three distinct entities: “Board,” meaning the nine-member appointed governing body of the Texas Higher Education Coordinating Board; “Coordinating Board,” meaning the state agency as a whole; and “Coordinating Board Staff or Board Staff,” meaning the staff of the agency. Separating these terms improves the readability and precision of the rules contained in Chapter 13 and allows the Coordinating Board to make a distinction between actions taken by the governing body, agency staff, and the agency as a whole.

Rule 13.1(8) defines the census date, which is the deadline for institutions to submit data relating to students in attendance for the purposes of formula funding. This definition implements provisions of HB 8, which requires the Coordinating Board to stipulate data reporting requirements in rule.

Rule 13.1(25)-(28) separates a single definition for public two-year colleges into three different component sectors: public junior colleges, public technical institutes, and public state colleges. HB8 codifies a formula funding system for public community colleges distinct from the formula funding systems for public technical institutions and public state colleges implemented in the General Appropriations Act. The revised definitions allow for greater drafting clarity and align finance terms in Chapter 13 with Texas Education Code and with institutional categories used by state appropriators.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER A DEFINITIONS

Section 13.1 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise or the relevant subchapter specifies a different definition.

(1) Auxiliary Enterprise--Activities providing a service to students, faculty, or staff for a fee directly related to, although not necessarily equal to, the cost of the service.

(2) Available University Fund (AUF)--A fund established in Article 7, §18, of the Texas Constitution to receive all interest and earnings of the Permanent University Fund and used to pay the debt service on PUF-backed bonds.

(3) Base Year--The semesters comprising the year of contact hours used for applying the formula funding distribution to the colleges and universities (usually the summer and fall of even years and the spring of odd years).

(4) Board [or Coordinating Board]--The governing body of the agency known as the [The] Texas Higher Education Coordinating Board.

(5) Census Date--The date upon which an institution may report a student in attendance for the purposes of formula funding as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(6) [(5)] Contact Hour--A time unit of instruction used by community, technical, and state colleges consisting of 60 minutes, of which 50 minutes must be direct instruction.

(7) Coordinating Board--The agency known as the Texas Higher Education Coordinating Board, including agency staff.

(8) Coordinating Board Staff or Board Staff--Agency staff acting under the direction of the Board and the Commissioner.

(9) [(6)] Current Operating Funds--Unrestricted (appropriated) funds, designated funds, restricted funds, and auxiliary enterprise funds.

(10) [(7)] Developmental Coursework--Non-degree-credit courses designed to address a student's deficiencies.

(11) [(8)] Developmental Education--Courses, tutorials, laboratories, or other efforts to bring student skills in reading, writing, and mathematics to entering college level. English as a Second Language (ESL) courses may be considered developmental

education, but only when they are used to bring student skill levels in reading or writing to entering college level. The term as used in this chapter does not include courses in study skills or thinking skills.

(12) [~~(9)~~] Formula Funding--The mathematical method used to allocate appropriated sources of funds among institutions of higher education.

(13) [~~(10)~~] Functional categories (as defined by National Association of College and University Business Officers)--Instruction, research, public service, academic support, student service, institutional support, operation and maintenance of plant, scholarships and fellowships, depreciation, auxiliary enterprises, and hospital.

(14) [~~(11)~~] General Academic Teaching Institution--Any college, university, or institution so classified in Texas Education Code, §61.003(3), or created and so classified by law.

(15) [~~(12)~~] General Revenue (GR)--State tax revenue.

(16) [~~(13)~~] Governmental Accounting Standards Board (GASB)—An entity created by the Financial Accounting Foundation to set accounting standards for governmental entities including public institutions of higher education.

(17) [~~(14)~~] Higher Education Fund (HEF)--A fund established in Article 7, §17, of the Texas Constitution to fund capital improvements and capital equipment for institutions not included in the Permanent University Fund.

(18) [~~(15)~~] Independent institution of higher education--A private or independent college or university as defined in Texas Education Code, §61.003(15), that is:

(A) organized under the Texas Non-Profit Corporation Act;

(B) exempt from taxation under Article VIII, §2, of the Texas Constitution and §501(c)(3) of the Internal Revenue Code; and

(C) accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(19) [~~(16)~~] Institution of Higher Education or Institution--Any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in Texas Education Code, §61.003.

(20) [~~(17)~~] Institutional Expenditures--All costs of activities separately organized and operated in connection with instructional departments primarily for the purpose of giving professional training to students as a necessary part of the educational work of the related departments.

(21) [~~(18)~~] Institutional Funds--Fees, gifts, grants, contracts, and patient revenue, not appropriated by the legislature.

(22) [~~(19)~~] Local Funds--Tuition, certain fees, and other educational and general revenue appropriated by the legislature.

(23) [~~(20)~~] National Association of College and University Business Officers (NACUBO)--Provides guidance in business operations of higher education institutions.

(24) [~~(21)~~] Permanent University Fund (PUF)--A fund established in Article 7, §11, of the Texas Constitution to fund capital improvements and capital equipment at certain institutions of higher education.

~~[(22) Public Junior College, Public Technical Institute, Public State College, or Public Two-Year College--Any public junior college, public community college, public technical college, or public state college as defined in Texas Education Code, §61.003.]~~

(25) Public Junior College--A public institution of higher education as defined in Texas Education Code, §61.003(2).

(26) Public State College--Any public state college as defined in Texas Education Code, §61.003(16).

(27) Public Technical Institute--Any public technical institute as defined in Texas Education Code, §61.003(7), excluding Lamar Institute of Technology.

(28) Public Two-year College--Any public junior college, public community college, public technical institute, or public state college as defined in Texas Education Code, §61.003(16).

(29) [~~(23)~~] Semester Credit Hour (SCH)--A unit of measure of instruction consisting of 60 minutes, of which 50 minutes must be direct instruction, over a 15-week period in a semester system or a 10-week period in a quarter system.

Special Called Board Meeting

AGENDA ITEM VI-A (6)

Consideration and possible action to repeal on an emergency basis Board Rule 13.62 related to community college financial information reporting.

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the repeal, on an emergency basis, of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter D, §13.62, concerning updates to a manual for community college annual financial reports and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Specifically, this repeal removes a provision concerning updates to the manual for community college annual financial reports so that they may be added to a new consolidated community college data reporting rule. The repeal is proposed, along with others related to HB 8, to consolidate a comprehensive financial reporting chapter.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER D FINANCIAL REPORTING

~~[Section 13.62. Community Colleges.]~~

~~(a) The Coordinating Board staff shall annually review and update the financial reporting manual with advice from community college business officers and the college's independent auditors.~~

~~(b) The financial reporting manual shall be in compliance with the Governmental Accounting Standards Board's pronouncements.~~

~~(c) The community colleges shall submit their audited annual financial reports to the Coordinating Board by January 1st of each year.]~~

Special Called Board Meeting
AGENDA ITEM VI-A (7)

Consideration and possible action to adopt on an emergency basis proposed amendments to Board Rule 13.63 related to community college financial information reporting

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the amendment, on an emergency basis, of Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter D, §13.63, concerning requirements for community college financial reporting and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Specifically, this amendment removes community college-related data-reporting provisions due to the addition of a new consolidated community college financial data reporting rule. The amendment is proposed, along with others related to HB 8, to consolidate a comprehensive financial reporting chapter for community colleges.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 13 FINANCIAL PLANNING
SUBCHAPTER D FINANCIAL REPORTING

Section 13.63 Additional Financial Information Reporting

(a) Each university system, general academic institution, technical or state college, and health-related institution shall provide to the Board financial data related to the operation of each system office and institution. This information should be reported in the Board's annual report of financial activity by fund group.

~~(b) [Each community college shall continue to provide to the Board financial data related to the operation of each community/junior college reflecting restricted and non-restricted operating revenues and operating expenses as directed by the Board.~~

-

~~(c)~~ Each system office and institution of higher education, except public junior colleges, shall provide the report no later than January 1 of each year using the specific content and format prescribed by the Board.

Special Called Board Meeting

AGENDA ITEM VI-A (8)

Consideration and possible action to adopt on an emergency basis new Board Rules in Chapter 13, Subchapter P, 13.470 through 13.477 concerning financing for community colleges

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the adoption of new rules, on an emergency basis, in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter P, Sections 13.470-13.477, concerning the new community college finance system established by House Bill (HB) 8. As authorized by HB 8, these rules are proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Specifically, the proposed rules concern the state funding for community colleges and cover the relevant purpose, authority, definitions, base tier funding, performance tier funding, and payment processes. These rules are necessary to implement the funding system enacted under HB 8.

Rules 13.470 and 13.471 establish the purpose and authority under which the funding system is implemented.

Rule 13.472 lists definitions pertinent to the community college finance system. Importantly, this rule defines the fundable outcomes authorized under HB 8: credentials of value, transfer to a public general academic teaching institution, and 15 semester credit hours of dual credit/dual enrollment. It defines numerous other technical terms necessary for funding implementation, including high-demand fields, economic and academic disadvantage, adult learner, full-time student equivalent, the duration of academic terms, non-formula support, and other relevant concepts from statute.

Rule 13.473, Base Tier Allotment, establishes the calculations used to determine Base Tier funding that the legislature entitled community colleges to receive under TEC, Sections 130A.051 - 130A.056. To summarize, Base Tier funding is calculated as Instruction and Operations (I&O) minus Local Share. If Local Share is greater than Instruction and Operations, then Base Tier funding is zero. Instruction and Operations funding equals Contact Hour Funding plus the product of the Weighted Full Time Student Equivalents (Weighted FTSE) multiplied by Basic Allotment. The Basic Allotment and Contact Hour Funding amounts are derived based on the Fiscal Year 2024 appropriations for the Base Tier as provided by the General Appropriations Act for the 2024-25 Biennium.

Rule 13.473 establishes Local Share as the amount of maintenance and operations ad valorem tax revenue generated by \$0.05 per \$100 of taxable property value in a college's taxing district plus the amount of tuition and fee revenue that would be generated by charging the average amount of tuition and fees to each FTSE, in accordance with TEC, Section 130A.056.

Rule 13.474, Performance Tier Funding, establishes the calculations used to determine Performance Tier Funding, which the Legislature entitled community colleges to receive under TEC, Section 130A.101. The rule lists those outcomes that merit performance funding and the student characteristics that garner added funding at levels in alignment with those set for the base tier funding pursuant to TEC, Section 130A.001. These rates are derived from the Fiscal Year 2024 appropriations for the Performance Tier as provided by the General Appropriations Act for the 2024-25 Biennium.

Rule 13.475, Formula Transition Funding, establishes that after calculating the base tier and performance tier funding for each community college, the Coordinating Board shall ensure that a community college district does not receive less in formula funding in FY 2024 than it received in FY 2023 appropriations for formula funding (contact hours, success points, core operations, and bachelor's of applied technology funding) and need-based supplements.

Rule 13.476, Payment Schedule, sets out both the payment schedule for non-formula support items and the payment schedule (three times per year) at which the Coordinating Board will make formula funding payments to each institution. The Coordinating Board shall pay all non-formula support item amounts to the institution by September 25th of a fiscal year, in accordance with the requirements in the 2024-25 General Appropriations Act (Article IX, Section 18.04 Contingency for House Bill 8(a)(4)). For FY24, the first payment is 50% of the total formula funding entitlement, 25% for the second payment and the final payment. Institutional stakeholders suggested that the Coordinating Board should make the first payment 50% in recognition that a college district's expenses are weighted towards the start of the fiscal year and to smooth the transition from the prior payment schedule that historically provided 48% of funding to a community college district by October 25.

Rule 13.477, Close Out, establishes the final process the Coordinating Board shall undertake to finalize the prior fiscal year's formula funding for community colleges. The Close Out process makes any final adjustments to payments needed based on any data updates made since initial funding amounts were determined. Specification of this process by rule ensures that each institution has notice of the Coordinating Board's determination that funding has been fully delivered for that year.

Ms. Emily Cormier, Assistant Commissioner for Funding, will be available to answer questions.

CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER P COMMUNITY COLLEGE FINANCE PROGRAM

Section 13.470. Purpose.

The purpose of this subchapter is to implement the Community College Finance Program authorized by Texas Education Code, Chapters 61, 130, and 130A.

Section 13.471. Authority.

The Coordinating Board adopts this subchapter pursuant to Texas Education Code, §130A.005, requiring the Coordinating Board to adopt rules to implement the Community College Finance Program created in Texas Education Code, Chapters 61, 130, and 130A.

Section 13.472. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Academically Disadvantaged--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by chapter 4, subchapter C, §4.57 of this title (relating to College Ready Standards), and who were not classified as either waived or exempt pursuant to chapter 4, subchapter C, §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).

(2) Adult Learner--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) Advanced Technical Certificate (ATC)--A certificate that has a specific associate or baccalaureate degree or junior level standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) Associate Degree--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) Baccalaureate Degree--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) Base Tier Funding--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) Base Year--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. A base year includes

certified contact hours reported in the Summer 1, Summer 2, and Fall of the prior calendar year and Spring of the current calendar year relative to September 1st of the current fiscal year.

(8) Basic Allotment--A dollar value per Weighted FTSE, as determined by the Legislature based on appropriations made in that biennium's General Appropriations Act.

(9) Census Date--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) Credential of Value--A credential earned by a student that would be expected to provide a positive return on investment. A positive return on investment is met when a typical student completing the credential is expected to earn cumulative wages greater than the cumulative median earnings of an average Texas high school graduate, plus recouping the net cost of attendance within ten years after earning the credential. This calculation shall include the student's opportunity cost, calculated as the difference between median earnings for a typical Texas high school graduate and typical earnings for students while enrolled for four years for baccalaureate degree holders, two years for associate degree holders, and one year for holders of a Level 1 certificate, Level 2 certificate, or Advanced Technical Certificate. The Coordinating Board shall calculate the expected return on investment based on the data available to the agency for the funding year. The calculation shall include the most current available data for each program or a comparable program.

(11) Credentialing examination--A licensure, certification, or registration exam provided by a state or national agency or by professional organization.

(12) Dual Credit or Dual Enrollment Fundable Outcome--A student who has earned at least 15 SCH or the equivalent of state-funded dual credit or dual enrollment courses that apply toward an academic or workforce program requirement at the postsecondary level. For the purpose of this subchapter, the term "dual credit or dual enrollment fundable outcome" includes the following fundable courses taken for college credit by a high school student who has not yet received a high school diploma:

(A) Any course taken for dual credit that is within the core curriculum of the college that is providing the course;

(B) A course in a Coordinating Board-established field of study curriculum under Texas Education Code, §61.823, or program of study curriculum under Texas Education Code, §61.8235;

(C) Career and technical education courses that apply to a certificate or associate degree offered by the institution providing the credit;

(D) Foreign language courses;

(E) All courses taken by students enrolled in an approved Early College High School program, with the exception of the physical education courses taken by high school students for high school physical education credit; and

(F) A course taken for college credit only by a student who is also enrolled in high school but does not yet have a high school diploma.

(13) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C. §1070a.

(14) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule, and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(15) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(16) Fundable Credential--A Fundable Credential counts toward Weighted Outcome Completions as defined in paragraph (27) of this subsection. For the purpose of funding delivered in fiscal year 2024, a fundable credential is defined as any of the following, except that, for credentials under subparagraphs (B) or (C) of this paragraph, If more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding under subparagraphs (B) or (C).

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (10) of this subsection using the methodology established for the most current fiscal year, that is otherwise eligible for funding, and the institution reported and certified to the Coordinating Board;

(i) An associate degree;

(ii) A baccalaureate degree;

(iii) A Level 1 or Level 2 Certificate; and

(iv) An Advanced Technical Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Board during fiscal year 2023; or

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not included in subparagraph (B) and that the institution reported and certified to the Coordinating Board during fiscal year 2023, that meets one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours; or

(iii) A licensure or certification earned by a student who did not receive a credential if the student:

(I) earned the licensure or certification as the result of the student's successful passage of a credentialing examination for a licensure or certification, while or after being enrolled in one of the institution's Institutional Credentials Leading to Licensure or Certification (ICLC) programs that would qualify for funding under clauses (i) or (ii) of this subparagraph; and

(II) earned the licensure or certification not later than twelve months after the student's enrollment in the ICLC program for which the student earned the licensure or certification.

(17) High-Demand Fields--An academic discipline, delineated by the federal Classification of Instructional Program (CIP) code, that the Coordinating Board has approved for inclusion on a published list of High-Demand Fields, available at this address, based on their satisfaction of either:

(A) Inclusion on the list of Critical Fields employed for the purpose of determining formula funding allocations under the Student Success strategy in the 2022-2023 General Appropriations Act; or

(B) Appearing on the list of CIP codes resulting from the following methodology completed in Fall 2021:

(i) Extracting the top 25 occupations for each higher education region as ranked by their ten-year projected number of new openings, after having excluded those with an average wage less than the statewide median wage and those with a typical entry credential other than “Some college, no degree”, “Postsecondary non-degree award”, and “Associate degree”, from the texaslmi.com website maintained by the Texas Workforce Commission;

(ii) Placing occupations appearing on at least seven of the ten resulting regional lists on a statewide list;

(iii) Adding to the statewide list any occupations appearing among the top five of one or more regional list but not yet on the statewide list; or

(iv) Generating a list of CIP codes populated by each four-digit CIP code associated with an occupation on the statewide list per the crosswalk promulgated by the National Center for Education Statistics of the U.S. Department of Education, which as of the effective date of this rule is available at the following address:

<https://nces.ed.gov/ipeds/cipcode/post3.aspx?y=56>.

(18) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student’s completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program did not obtain the required Workforce Development Board approval.

(19) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(20) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting college readiness standards set forth in chapter 4, subchapter C, §4.57 of this title (relating to College Ready Standards) and other eligibility requirements determined by the institution.

(21) Local Share--The amount determined to be the institution’s contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(22) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.

(23) Occupational Skills Award--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144-359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The credential is TSI-waived under chapter 4, subchapter C, §4.54 of this title (relating to Exemption, Exceptions, and Waivers);

(B) The content of the credential must be recommended by an external workforce advisory committee, or the occupation must appear on the Local Workforce Development Board's Demand Occupations list;

(C) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used occasionally if recommended by the external committee and if appropriate for the content of the credential;

(D) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(E) The credential prepares students for employment in accordance with guidelines established for WIOA.

(24) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a Coordinating Board-recognized program structured through a binding written agreement between a general academic teaching institution and a community college. Under such a program, students will be admitted to both institutions and recognized as having matriculated to both institutions concurrently.

(25) Transfer Fundable Outcome--A student who enrolls in a general academic teaching institution, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district during the period including the fiscal year in which they enroll at the general academic teaching institution and the four fiscal years prior.

(26) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question, where the hours delivered to students with certain characteristics carry a value other than one.

(27) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

Section 13.473. Base Tier Allotment.

(a) Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment

amount of \$1,275 and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under §13.473(b)(1)(B) of this section and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of Fiscal Year (FY) 2024 formula funding under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for FY 2022, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for FY 2022, divided by 900.

(B) The Coordinating Board shall additively weight the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during FY 2022, FTSE generated by that student shall have an additional value of 25%;

(ii) if a student is classified as academically disadvantaged during FY 2022, FTSE generated by that student shall have an additional value of 25%; and

(iii) if a student is classified as an adult learner during FY 2022, FTSE generated by that student shall have an additional value of 50%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in §13.473(b)(1)(A) of this section multiplied by .40, and zero.

(2) For the purpose of calculating FY 2024 formula funding amounts, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the 2023 Base Year, consisting of the Summer I and II 2022, Fall 2022, and Spring 2023 academic terms, by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses for FY 2022 in accordance with subchapter R, §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines.

Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field.

That sum will then be multiplied by 21.3%, which is a rate derived from appropriations made for Base Tier Funding in the 2024-2025 General Appropriations Act, to calculate the district's Contact Hour Funding.

(c) For the purpose of calculating FY 2024 formula funding amounts, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a \$0.05 maintenance and operations ad valorem tax on each \$100 of taxable property value in its taxing district, as reported under subchapter R, §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for FY 2022 multiplied by the ratio of the maintenance and operations tax

rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district’s FY 2022 FTSE as defined in §13.473(b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by \$2,828, which is the FY 2021 statewide average of tuition and fees assessed to full-time students residing within the district of the public junior college they attend; and

(B) the total semester credit hours of dual credit or dual enrollment courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in FY 2022, multiplied by \$55, which is the dollar amount per dual credit semester credit hour determined by the Coordinating Board pursuant to Texas Education Code, §28.0095.

Section 13.474. Performance Tier Funding.

(a) Each public junior college district shall receive Performance Tier funding under Texas Education Code, Chapter 130A, Subchapter C. The Coordinating Board shall calculate a district’s Performance Tier funding as the sum of Weighted Outcome Completions multiplied by the respective funded values of the outcomes.

(b) For the purposes of calculating formula funding amounts for Fiscal Year (FY) 2024, the Coordinating Board shall fund the Weighted Outcome Completions described below as follows:

<u>Funded Outcome</u>	<u>Funded Value</u>	<u>Funded Value for Completion in a High-Demand Field</u>
<u>(1) Dual Credit or Dual Enrollment Fundable Outcome</u>	<u>\$1,700</u>	<u>n/a</u>
<u>(2) Transfer Fundable Outcome or Structured Co-Enrollment Fundable Outcome</u>	<u>\$3,500</u>	<u>n/a</u>
<u>(3) Fundable Credentials</u>	<u>See subtypes below</u>	<u>See subtypes below</u>
<u>(A) Licensure/Certification, as defined in 13.472(16)(C)(iii)</u>	<u>\$1,000</u>	<u>\$1,250</u>
<u>(B) Institutional Credential Leading to a Licensure/Certification</u>	<u>\$1,000</u>	<u>\$1,250</u>
<u>(C) Occupational Skills Award</u>	<u>\$750</u>	<u>\$1,000</u>
<u>(D) Certificate (Advanced Technical Certificate, Level 1 or Level 2 Certificate)</u>	<u>\$1,750</u>	<u>\$3,500</u>
<u>(E) Associate Degree</u>	<u>\$3,500</u>	<u>\$4,500</u>
<u>(F) Baccalaureate Degree</u>	<u>\$3,500</u>	<u>\$4,500</u>

(c) For the purposes of calculating formula funding amounts for FY 2024, the Coordinating Board shall additively weight the calculation of outcomes in §§13.473(b)(2), 13.473(b)(3)(D), 13.473(b)(3)(E), and 13.473(b)(3)(F) of this subchapter, as follows to calculate Weighted Outcome Completions.

(1) When an outcome is achieved by a student classified as economically disadvantaged, that outcome shall have an additional value of 25%.

(A) For purposes of calculating economically disadvantaged for transfer and credential fundable outcomes, the student must be classified as economically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(B) For purposes of calculating economically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as economically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at either the community college or general academic institution.

(2) When an outcome is achieved by a student classified as academically disadvantaged, that outcome shall have an additional value of 25%.

(A) For purposes of calculating academically disadvantaged for transfer and credential fundable outcomes, the student must be classified as academically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(B) For purposes of calculating academically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as academically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(3) When an outcome is achieved by a student classified as an Adult Learner, that outcome shall have an additional value of 50%.

(A) For purposes of calculating an Adult Learner for a transfer fundable outcome, the student must be classified as an Adult Learner in the year of last enrollment at the community college district prior to the transfer to a general academic institution.

(B) For purposes of calculating an Adult Learner for a fundable credential, the student must be classified as an Adult Learner in the fiscal year in which the fundable credential was awarded.

(C) For purposes of calculating an Adult Learner for Structured Co-Enrollment Fundable Outcome, the student must be classified as an Adult Learner in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(d) For the purposes of calculating Weighted Outcome Completions for formula funding amounts for FY 2024, the Coordinating Board shall calculate the funded number of Weighted Outcome Completions as the greater of the average of the district's Weighted Outcome Completion counts for FY 2020, FY 2021, and FY 2022 and the district's count for FY 2022.

Section 13.475. Formula Transition Funding.

In FY 2024, for purposes of transitioning to the new formula model, if the sum of a public junior college district's Base and Performance Tier funding as calculated in §§13.473(a) and 13.474(a) of this subchapter would result in the district receiving less in General Revenue formula funding than the district received through the sum of appropriations made in the core operations strategy, student success strategy, contact hour funding strategy, and, if applicable, the need-based supplement and bachelor of applied technology strategies, as provided for FY 2023 in the 2022-23 General Appropriations Act, then the Coordinating Board will add transitional funding in the amount of the difference to the district's formula funding for FY 2024.

Section 13.476. Payment Schedule.

(a) Non-Formula Support Items. For the purpose of distributing state appropriations to a public junior college district in Fiscal Year (FY) 2024, the Coordinating Board shall distribute the full amounts of all FY 2024 non-formula support items to the district to which they are appropriated in accordance with the provisions of the General Appropriations Act for 2024-2025 by September 25, 2023. The Coordinating Board shall recover any overallocation or adjust any installment required to comply with state law or chapter 13 of this title (relating to Financial Planning).

(b) Formula Funding Amounts: Fall. For the purpose of distributing state appropriations to a public junior college district in FY 2024, the Coordinating Board shall distribute to each district by October 15, 2023, one-half of the formula funding amount it determines the district may be entitled to receive in FY 2024 pursuant to the provisions of the General Appropriations Act for 2024-2025, Texas Education Code, and all other pertinent statutes and rules.

(c) Formula Funding Amounts: Spring. For the purpose of distributing state appropriations to a public junior college district in FY 2024, the Coordinating Board shall distribute to each district by February 15, 2024, one-quarter of the formula funding amount it determines the district may be entitled to receive in FY 2024 pursuant to the provisions of the General Appropriations Act for 2024-2025, Texas Education Code, and all other pertinent statutes and rules.

(d) Formula Funding Amounts: Summer. For the purpose of distributing state appropriations to a public junior college district in FY 2024, the Coordinating Board shall distribute to each district by June 15, 2024, one-quarter of the formula funding amount it determines the college may be entitled to receive in FY 2024 pursuant to the provisions of the General Appropriations Act for 2024-2025, Texas Education Code, and all other pertinent statutes and rules, and in odd-numbered years shall distribute the formula funding amount likewise determined as soon as is practicable after June 15 in accordance with the appropriations process.

(e) The Coordinating Board may modify any installment under this schedule as necessary to provide an institution with the amounts to which the institution is entitled under Texas Education Code, Chapters 130 and 130A, the General Appropriations Act, or chapter 13 of this title.

Section 13.477. Close Out.

(a) On October 1 of each year, the Coordinating Board shall close out the prior fiscal year (FY) by reviewing, reconciling, and verifying distributions of formula funding to public junior colleges in the prior fiscal year.

(1) As applicable, the Coordinating Board shall adjust a public junior college's first payment under §13.477(b) of this section by an amount necessary to deliver the correct funding owed to the public junior college under Texas Education Code, Chapters 130 and 130A, or this subchapter for the prior fiscal year.

(2) The Coordinating Board will determine the correct funding for a public junior college based on the final certified data reported by the institution that serves as the basis of formula funding for that year, as provided by this chapter.

(3) This close out process may result in additional or reduced funding to the college based on the reported data and funding delivered for the fiscal year that is being closed out.

(b) If the Commissioner of Higher Education in his or her sole discretion determines that an adjustment under §13.477(a) of this section will have a substantial negative impact on the operations of the institution or the education of students, the Coordinating Board may correct the institution's funding by recovering payments as an overallocation pursuant to subchapter R, §13.528(d)(1) or (2) of this chapter (relating to Recovery of Overallocated Funds). For the purpose of FY24, the Coordinating Board will not adjust formula funding for a public junior college for a fiscal year subsequent to close out except as set out in this section and subchapter R of this chapter (relating to State Public Junior College Finance Program Reporting, Audit, and Overallocation).

Special Called Board Meeting

AGENDA ITEM VI-A (9)

Consideration and possible action to adopt on an emergency basis new Board Rules in Chapter 13, Subchapter Q, 13.500 through 13.506 concerning the Financial Aid for Swift Transfer (FAST) program

RECOMMENDATION: Approval

Background Information:

Texas Higher Coordinating Education Board (THECB) staff proposes the adoption of new rules, on an emergency basis, in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter Q, §§13.500 – 13.506, concerning Financial Aid for Swift Transfer (FAST) Program and in relation to House Bill (HB) 8 that reforms community college finance. As authorized by HB 8, this rule is proposed on an emergency basis because all rules necessary for HB 8 implementation must be adopted prior to the start of fiscal year 2024.

Specifically, House Bill 8 established the FAST program that these proposed rules would implement. Subchapter Q would contain rules that establish the authority, purpose, definitions, program requirements, and payment processes for the FAST program. The proposed rules are necessary to implement the FAST program that was established by HB 8.

To summarize the proposed rules, institutions of higher education may participate in the FAST program if they charge tuition to high school students enrolled in eligible dual credit or dual enrollment courses that is not greater than \$55 per semester credit hour. They must also ensure that eligible dual credit/enrollment students, where eligibility is based on educational disadvantage status, are not assessed any costs related to dual credit courses. The Coordinating Board would transfer to participating institutions funds equal to \$55 per semester credit hour generated by eligible dual credit students at each institution upon final certification of data.

Rules 13.500 and 13.501 establish the purpose, authority and definitions of the FAST program. Rules 13.502 and 13.503 establish what institutions are eligible to participate in the program. Rule 13.504 establishes the rate per semester credit hour for which the Coordinating Board would reimburse participating institutions for the delivery of dual credit. Rules 13.505 and 13.505 concern calculation of dual credit semester credit hours, related data reporting, and the delivery of payments.

Dr. Charles Contéro-Puls, Assistant Commissioner for Student Financial Aid Programs will be available to answer questions.

CHAPTER 13 FINANCIAL PLANNING

SUBCHAPTER Q FINANCIAL AID FOR SWIFT TRANSFER (FAST) PROGRAM

SUBCHAPTER Q FINANCIAL AID FOR SWIFT TRANSFER (FAST) PROGRAMSection 13.500. Authority and Purpose.

(a) Unless otherwise noted in a section, the authority for these provisions is provided by Texas Education Code, §§28.0095 and 48.308.

(b) This subchapter establishes rules relating to the administration of the Financial Aid for Swift Transfer (FAST) Program. The program provides institutions with funding to support their ability to allow educationally disadvantaged students to enroll in dual credit coursework at no cost to the student.

Section 13.501. Definitions.

In addition to the words and terms defined in Texas Administrative Code, §13.1 of this chapter (relating to Definitions) the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. In the event of conflict, the definitions in this subchapter shall control.

(1) Charter School--a public charter school authorized to operate under Texas Education Code, Chapter 12.

(2) Dual Credit Course--a course offered for joint high school and junior college credit under Texas Education Code, §130.008, or another course offered by an institution of higher education, for which a high school student may earn credit toward satisfaction of:

(A) a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree;

(B) a foreign language requirement at an institution of higher education;

(C) a requirement in the core curriculum, as that term is defined by Texas Education Code, §61.821, at an institution of higher education; or

(D) a requirement in a field of study curriculum developed by the coordinating board under Texas Education Code, §61.823.

(3) Educationally disadvantaged--as defined in Texas Education Code, §5.001(4), eligible to participate in the national free or reduced-price lunch program.

(4) Program--the Financial Aid for Swift Transfer (FAST) Program.

Section 13.502. Eligible Institution.

(a) Any institution of higher education, as defined in Texas Education Code, §61.003, is eligible to participate in the Program.

(b) A participating institution may not charge students attending high school in a Texas school district or charter school tuition for dual credit courses in excess of the tuition rate outlined in §13.504 of this subchapter (relating to FAST Tuition).

(c) A participating institution must ensure that an eligible student incurs no cost for their enrollment in any dual credit course at the institution. This includes, but is not limited to,

tuition, fees, books, supplies, or other course-related expenses. This subsection does not prohibit a participating institution from charging a school district for course-related expenses, other than tuition, for an eligible student.

(d) Agreement. Each eligible institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the Commissioner prior to being approved to participate in the program.

Section 13.503. Eligible Students.

(a) A student is eligible to enroll at no cost to the student in a dual credit course under the program if the student:

(1) is enrolled in and eligible for Foundation School Program funding at a high school in a Texas school district or charter school under the rules of the Texas Education Agency;

(2) is enrolled in a dual credit course at a participating institution of higher education; and

(3) was educationally disadvantaged at any time during the four school years preceding the student's enrollment in the dual credit course described by paragraph (2) of this subsection, as certified to the institution by the eligible student's school district or charter school, or other means authorized by rule.

(b) A school district's or charter school's notice to the institution regarding a student's status as educationally disadvantaged shall occur through the school district's or charter school's notice to the Texas Education Agency, unless otherwise provided by rule.

Section 13.504. FAST Tuition.

The maximum tuition rate prescribed for a dual credit course through this program is \$55 per semester credit hour in the 2023-2024 academic year.

Section 13.505. FAST Funding Formula.

(a) Frequency of Disbursements. The Coordinating Board will provide each participating institution with a disbursement for each fall, spring, and summer semester upon the certification of the institution's eligible enrollments. The Coordinating Board will combine enrollment periods under this subsection when a semester includes more than one enrollment period (for example, a Summer 1 and a Summer 2 session).

(b) Disbursement Calculation. Each disbursement will equal the amount outlined in §13.504 of this subchapter (relating to FAST Tuition) for the relevant semester multiplied by the number of semester credit hours in which students who met the eligibility criteria in §13.503 of this subchapter (relating to Eligible Students) were enrolled in dual credit courses at the institution for the relevant semester.

(c) Data Sources. The source of data for the disbursement calculation will be the CBMOCS certified by the institution for the relevant semester, combined with data regarding educationally disadvantaged students, as reported by Texas Education Agency, unless otherwise provided by rule.

(d) Verification of Data. Board staff will share each semester's calculation with the participating institution for comment and verification prior to disbursement. The institution will be given ten business days, beginning the day of the notice's distribution, and excluding State holidays, to

confirm that the calculation accurately reflects the data they submitted or to advise Board staff of any inaccuracies.

§13.506. Overallocation.

Funding provided to an institution under this subchapter shall be subject to subchapter R of this chapter (relating to State Public Junior College Finance Program Reporting, Audit, and Overallocation).

Special Called Board Meeting

AGENDA ITEM VI-A (10)

Consideration and possible action to adopt on an emergency basis new Board Rules in Chapter 13, Subchapter R, 13.520 through 13.529, relating to reporting, audit, and overallocation for community colleges

RECOMMENDATION: Approval

Background Information:

The Texas Higher Education Coordinating Board (THECB) staff proposes the adoption of new rules, on an emergency basis, in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter R, Sections 13.520-529, concerning the certification of compliance, required reporting, correction of errors, audit, and overallocation for the new State Public Junior College Finance Program.

Specifically, proposed rules set out policies and procedures for public junior colleges to submit certifications of compliance and submit required reporting through various reporting collection mechanisms established by the Coordinating Board. The rules also describe how the Coordinating Board will conduct audits, review of required reporting for data errors, and correct those errors through either a payment of under-allocated funds or the recovery of over-allocated funds.

Rule 13.520 and 13.521 sets out the purpose and authority of the subchapter, relating to compliance, data reporting, audit, and correction of error requirements, as well as over-allocation and under-allocation procedures. Rule 13.522 contains definitions used in the subchapter.

Rule 13.523 contains the policy and procedures necessary for public junior colleges to submit certifications of compliance with statute and rules. Under state law, public junior colleges must submit attestations of compliance, including compliance with all state laws and Coordinating Board rules, as a condition of receiving state funds. Rule 13.523 establishes clear guidelines for institutions to comply with statute.

Rule 13.524 describes the required financial and academic reporting for institutions to submit the data necessary for the Coordinating Board to administer the State Public Junior College Finance Program. The Coordinating Board collects data through a variety of established mechanisms: the Community College Annual Reporting and Analysis Tool, Annual Financial Report Reporting, the Report of Fundable Operating Expenses, Education Data Systems reporting, and through ad hoc reporting as

necessary. The data from these tools provides a cornerstone of the financial modeling necessary to determine precise funding amounts for the public junior colleges.

Rule 13.525 establishes the process for the Commissioner to review required reporting for errors and formally establish when a data reporting error resulting in a material impact in formula funding was made. This section establishes parameters and expectations for the methods the Coordinating Board will use to detect data errors, as well as how the Commissioner will make a formal determination of a data reporting error requiring a funding adjustment.

Rule 13.526 provides for compliance monitoring and auditing of funds disbursed under the new finance model for public junior colleges. This section establishes parameters and expectations of internal audit offices at institutions for data collection and examination assistance by the internal audit offices as institutional resources allow, as well as expectations for ongoing or completed audits.

Rule 13.527 states that institutions must retain records for a period of no less than seven years for purposes of Coordinating Board review, which mirror the timeline of seven years in HB 8.

Rule 13.528 lays out the process for the Coordinating Board to recover overallocated funds in the event a public junior college has received more funding than was due. This section provides how the Coordinating Board will provide notice to institutions of an error finding and lays out an appeal process for institutions, in accordance with HB 8.

This rule establishes a fair procedure with due process for institutions of higher education, giving them notice and the opportunity to submit a written appeal in the case that the Commissioner may need to make an adverse funding adjustment. The procedures established for overallocation under 13.528(d) ensure that the Coordinating Board is accurately disbursing appropriated funds as intended by the Legislature, while also providing flexibility for the method used to recoup the funds. This flexibility includes providing an option to recover a sum in a lump payment under 13.528(d)(1)(B), or alternatively over a five-year timespan under 13.528(d)(2). The flexibility is intended to limit extreme adverse financial impacts to public junior colleges that might detrimentally impact institutional operations, local communities, and students served by the institution, while still carrying out the Coordinating Board's obligation to disburse appropriated funds according to law.

Rule 13.529 likewise establishes how the Coordinating Board may make a financial adjustment in light of finding that an institution was allocated less in funding than was due, as provided by law.

Mr. Paul Maeyart, Interim Assistant Commissioner for Internal Audit and Compliance, will be available to answer questions.

CHAPTER 13. FINANCIAL PLANNING

SUBCHAPTER R. STATE PUBLIC JUNIOR COLLEGE FINANCE PROGRAM REPORTING,
AUDIT, AND OVERALLOCATION13.520. Purpose.

The purpose of this subchapter is to establish the definitions, certification of compliance, data reporting, audit, and correction of error requirements for institutions of higher education, as well as over-allocation and under-allocation procedures, under the State Public Junior College Finance Program (the Program). The subchapter further specifies the process for recovery of overallocated funds as required by statute. These provisions additionally apply to audit and overallocation of funds under the Financial Aid for Swift Transfer (FAST) Program.

13.521. Authority.

The Coordinating Board adopts this subchapter pursuant to its authority under Texas Education Code, §§28.0095, 61.035, 61.063, 61.065, 130.003, and 130A.006-130A.009.

13.522. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Audit--An engagement to audit the program conducted by the Coordinating Board's Internal Auditor and internal audit or compliance monitoring staff pursuant to either Texas Education Code, §§130A.006(4) or 61.035. This term may include a site visit, desk review, or examination of the institution's use of funds allocated by the Coordinating Board and data reported to the Coordinating Board. The term includes auditing undertaken to obtain evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(2) Census Date--As defined in subchapter P, §13.472, of this chapter (relating to Definitions).

(3) Chief Audit Executive--The Internal Auditor hired by the Coordinating Board to perform internal auditing and compliance monitoring on behalf of the Coordinating Board pursuant to Texas Education Code, Chapters 61, 130, and 130A.

(4) Compliance Monitoring--A risk-based audit and compliance function conducted by the Coordinating Board pursuant to either Texas Education Code, §§130A.006(4) or 61.035, for the purpose of reviewing and assessing programmatic, legal, and fiscal compliance. This function may include conducting audits, site visits, desk reviews, or other examinations, to ensure that funds allocated or distributed by the Coordinating Board are allocated, distributed, and used in accordance with applicable law and Coordinating Board rule. The function includes obtaining evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately.

(5) Data Reporting Error--An error in data or other information reported and certified by a public junior college to the Coordinating Board that the Commissioner of Higher Education in his or her discretion determines may result in a material impact in the formula funding a public junior college was entitled to or received.

(6) Desk Review--An administrative review by the Coordinating Board that is based on information reported by an institution of higher education or a private or independent institution of higher education, including supplemental information required by the Coordinating Board for purposes of compliance monitoring, except that the term does not include information or accompanying notes gathered by the Coordinating Board during a site visit.

(7) Full-Time Student Equivalent (FTSE)--As defined in subchapter P, §13.472, of this chapter.

(8) Funding Adjustment--Any increase or decrease in funding by the Coordinating Board to an institution of higher education based on an over- or under-allocation of funds.

(9) Over-allocation--The over-payment of funds to a public junior college due to a data reporting error or other error by either the institution or the Coordinating Board that results in payments beyond what the institution is due.

(10) Site Visit--An announced or unannounced in-person visit by a representative of the Coordinating Board or its agent to an institution of higher education or a private or independent institution of higher education for the purposes of conducting an audit.

(11) Under-allocation--The under-payment of funds to a public junior college due to a data reporting error or other error by either the institution or the Coordinating Board that results in payments less than what the institution was owed for the fiscal year.

13.523. Certification of Compliance.

(a) A public junior college is not eligible to receive funds under this subchapter unless that public junior college submits a certification of compliance with the requirements of Texas Education Code, §130.003(b,) and as stated herein.

(b) A public junior college must submit an attestation via email to CTC@highered.texas.gov certifying to compliance with Texas Education Code, §130.003(b), to the Coordinating Board by August 1 of each year. The certification must be signed by the public junior college's president, or Chief Executive Officer, as applicable. The certification must certify the following:

(1) That the public junior college is currently in compliance with each provision of Texas Education Code, §130.003; and

(2) The public junior college has complied with all laws and Coordinating Board rules for the establishment and operation of a public junior college.

(c) If a junior college district has an unresolved or ongoing audit finding that the certifying official determines may preclude the district's certification under Texas Education Code, §130.003(b), the district shall disclose the finding(s) and provide an explanation of the finding(s) and proposed resolution.

(1) The Commissioner of Higher Education shall determine whether the junior college district can demonstrate that the district will be in compliance for the purpose of receiving a scheduled payment.

(2) Any payment that the Coordinating Board makes to an institution pursuant to this subchapter is subject to recovery or recoupment if the certifying official does not make the required certification for the fiscal year for which the certification was required.

13.524. Required Reporting.

(a) Required Reporting. A public junior college must submit data through required reporting mechanisms established by the Coordinating Board. The Coordinating Board may use information obtained through required reporting for:

(1) calculating funding disbursed under this chapter;

(2) providing timely data and analyses to inform management decisions by the governing body of each public junior college district;

(3) administering or evaluating the effectiveness of programs; or

(4) auditing the program.

(b) Financial Reporting: The Community College Annual Reporting and Analysis Tool (CARAT) and Annual Financial Report (AFR) Reporting.

(1) Standards. Each public junior college district must submit their Annual Financial Report (AFR) for the preceding fiscal year by January 1. The public junior college must submit the AFR following the requirements provided in the Coordinating Board's Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges, also known as the AFR Manual, for that fiscal year, in accordance with Texas Education Code, §61.065.

(2) Format. Each public junior college must report AFR data for each completed fiscal year as prescribed in the Community College Reporting and Analysis Tool (CARAT) by January 31 of the following fiscal year.

(3) Review Process. The Commissioner of Higher Education will update the AFR Manual, as required by Texas Education Code, §61.065. The AFR Manual will conform to Governmental Accounting Standards Board (GASB) statements and guidance.

(c) Financial Reporting: Report of Fundable Operating Expenses (RFOE).

(1) Standards. Each public junior college must report all instructional expenses from each completed fiscal year for each institutional discipline and unallocated administrative expenses as defined in the RFOE by January 31 of the following fiscal year.

(2) Coordinating Board staff shall use the data provided on expenses at public junior colleges to produce a study of costs for each instructional discipline each year. This study will review all expenses made by institutions for instruction and administration from all unrestricted sources of funds, including appropriated general revenue, tuition and fees, contract instruction, other educational and general revenue, and local tax revenue.

(d) Academic Reporting: Education Data System reporting.

(1) Standards. Each public junior college must use data standards established by the Commissioner of Higher Education to submit required information relating to the delivery of educational programs. The Commissioner of Higher Education shall adopt and publish annually data standards in official Coordinating Board publications, including through the Coordinating Board Management (CBM) Reporting and Procedures Manual for Texas Community, Technical, and State Colleges. The Coordinating Board will widely disseminate this publication, which will include:

(A) descriptions of the data collections and submission requirements;

(B) descriptions of data elements and the codes used to report them, including data used to calculate Full-Time Student Equivalent enrollments, Texas Success Initiative eligibility of students, student transfer, dual credit or dual enrollment, the number and type of credentials conferred, and other relevant student characteristics;

(C) detailed responsibilities of public junior colleges in connection to the data submission process, including each deadline for submission and resubmission; and

(D) descriptions of data submission requirements, including submission record layout specifications and data edit specifications.

(2) A public junior college may report a student in attendance on the approved course census date for the purpose of funding under this subchapter, in accordance with Texas Education Code, §130A.008.

(3) Review Process. The Commissioner of Higher Education shall review the CBM Reporting and Procedures Manuals annually. The Commissioner of Higher Education may approve changes to the data and reporting standards outside of the annual review process to expedite implementation of data collections and reporting.

(4) Certification. The reporting official for each public junior college must certify the accuracy of the report by a certification statement submitted to the Coordinating Board's Educational Data Center in accordance with the template and instructions provided in the CBM Reporting and Procedures Manual.

(e) Academic Reporting: Ad Hoc Reporting Requests. As necessary to implement this chapter, the Commissioner of Higher Education may determine the need for additional, limited, supplemental requests for data and information from public junior colleges. To the extent Ad Hoc Reporting Requests may determine or influence funding disbursements under this subchapter, the Coordinating Board shall require the reporting official or another Coordinating Board designated official for each public junior college to certify the accuracy of the information contained in the report.

13.525. Commissioner Review of Required Reporting; Data Reporting Errors.

(a) The Commissioner of Higher Education at his or her discretion or upon recommendation of the Chief Audit Executive may direct Coordinating Board staff to review the accuracy of the data reported to the Coordinating Board by public junior colleges under this subchapter using any of the following methods or combination thereof:

(1) The Chief Audit Executive or Coordinating Board staff may conduct periodic file reviews, desk-reviews, site visits, or audits of the accuracy of the data and information submitted for funding purposes, including regular reviews of submitted data carried out through standard data management, supporting data, audits conducted under this subchapter, or as a result of any other audit. Upon identifying a data reporting error that may impact formula funding, Coordinating Board staff shall notify the Commissioner of Higher Education as soon as practicable.

(2) Upon receiving a notification from the Chief Audit Executive or Coordinating Board staff of a potential data reporting error, the Commissioner of Higher Education may:

(A) direct staff to continue to gather additional information;

(B) determine that the discrepancy does not rise to the level of a data reporting error as defined in this chapter due to the materiality impact of the error; or

(C) determine that the discrepancy rises to the level of a data reporting error that requires a funding adjustment due to the materiality impact of the error or the amount of overallocation or under-allocation.

(b) The Coordinating Board may review and or require correction of a data reporting error that occurred not more than seven years prior to a review conducted by Coordinating Board staff.

(c) Upon the Commissioner of Higher Education's determination that the discrepancy constitutes a data reporting error requiring a funding adjustment, staff will notify the public junior college within 30 business days.

(d) The Commissioner of Higher Education may use any method provided in §§13.528 or 13.529 of this subchapter to make the necessary funding adjustments to correct an over- or under-allocation.

13.526. Public Junior College Audits.

(a) A public junior college shall report financial and academic data to the Coordinating Board under §13.524 of this subchapter (relating to Required Reporting).

(b) The Chief Audit Executive may conduct compliance monitoring or audits of public junior colleges' compliance with Texas Education Code, Chapter 130A, the General Appropriations Act, and other related formula funding statutes.

(c) In conducting an audit or compliance monitoring under this section, the Coordinating Board may request the assistance of the internal audit office at an institution of higher education and private or independent institution of higher education, as institutional resources allow, to examine the institution's use of funds allocated by, and data reported to, the Coordinating Board.

(d) To avoid duplication of effort and assist the Coordinating Board in identifying risk, an internal auditor at an institution shall notify the Coordinating Board of any audits conducted by the institution's internal or external auditor involving funds allocated or administered by the Coordinating Board or data reported to the Coordinating Board.

13.527. Records Retention.

An institution of higher education shall retain records related to financial and educational data and information reported to the Coordinating Board under Chapter 13 for a period of not less than seven years.

13.528. Recovery of Overallocated Funds.

(a) If the Coordinating Board determines after closing out a fiscal year pursuant to subchapter P, §13.477, of this chapter (relating to Close Out), that a data reporting error or any other error resulted in an overallocation of funds to the institution, the Coordinating Board shall use any method authorized under statute or this rule to make a funding adjustment necessary to correct the over-allocation.

(b) The Coordinating Board shall notify the institution not later than 30 business days after the Commissioner of Higher Education makes a determination of a data reporting error under §13.525 of this subchapter (relating to Commissioner Review of Required Reporting; Data Reporting Errors) or otherwise identifies an error requiring a funding adjustment to recover an overallocation. This notification must contain the amount of the overallocation and the basis for the determination.

(c) The institution may submit a written appeal to the Commissioner of Higher Education within 30 business days of receiving notification of an overallocation. The institution may attach any data or other written documentation that supports its appeal. The Commissioner of Higher Education shall review the appeal and determine in his or her sole discretion whether to affirm, deny, or modify the determination of overallocation within 30 business days of receipt. The Commissioner of Higher Education or Chief Audit Executive shall make an annual report of overallocation determinations to the Board.

(d) If the institution does not appeal or the Commissioner of Higher Education affirms the determination that an overallocation requiring a funding adjustment has occurred, the Coordinating Board shall recover an amount equal to the amount overallocated to the public junior college through one of the following methods:

(1) The Coordinating Board shall:

(A) withhold an amount equivalent to the overallocation by withholding from subsequent allocations of state funds for the current fiscal year as part of the close out of the current fiscal year; or

(B) request and obtain a refund from the public junior college during the current fiscal year an amount equivalent to the amount of the overallocation; or

(C) If the Commissioner of Higher Education in his or her sole discretion determines that the recovery of an overallocation in the current or subsequent fiscal year will have a substantial negative impact on the operations of the institution or the education of students, the Commissioner of Higher Education may instead recover the overallocation pursuant to subsection (d)(2) of this section.

(2) If the Commissioner of Higher Education in his or her sole discretion determines that an overallocation pursuant to subsections (1) or (2) of this section was the result of exceptional circumstances reasonably caused by statutory changes to Texas Education Code, Chapters 130 or 130A, and related reporting requirements, the Coordinating Board may recover the overallocation over a period not to exceed the subsequent five fiscal years.

(e) In addition to the recovery of an over-allocation under this section, the Commissioner of Higher Education may establish a corrective action plan for a public junior college that has received an overallocation of funds.

(f) If the public junior college fails to comply with an agreement to submit a refund established under this section, the Coordinating Board must report to the Comptroller of Public Accounts for recovery pursuant to Texas Education Code, Section 130A.009.

13.529. Payment of Under-allocated Funds.

If the Commissioner of Higher Education determines that a data reporting error or any other error resulted in an under-allocation of funds, the Coordinating Board shall provide the funds to the institution pursuant to the close-out process in subchapter P, §13.477, of this chapter (relating to Close Out) or as otherwise authorized by law.

Special Called Board Meeting

AGENDA ITEM VI-A (11)

Consideration and possible action to adopt new Board Rule Chapter 4, Subchapter D, 4.86 concerning the establishment of College Connect Courses

RECOMMENDATION: Approval

Background Information:

The Texas Higher Education Coordinating Board proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter D, Section 4.86, establishing the College Connect Courses program in rule.

This rule establishes the College Connect Course framework, allowing institutions of higher education to offer high school students supportive college-level coursework through either the dual enrollment or dual credit modality. This rule provides institutions with an optional framework within existing parameters of law.

Dr. Jennielle Strother, Assistant Commissioner for Student Success, will present this item and be available to answer questions.

Date Published in the *Texas Register*: June 16, 2023.

The 30-day comment period with the *Texas Register* ended on: July 16, 2023.

There were five comments received regarding this rule:
Supplemental materials will be forthcoming

CHAPTER 4:
RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER D:
DUAL CREDIT PARTNERSHIPS BETWEEN SECONDARY SCHOOLS
AND TEXAS PUBLIC COLLEGES

§4.86. Optional Dual Credit or Dual Enrollment Program: College Connect Courses.

(a) Authority. These rules are authorized by Texas Education Code §§28.009(b), 130.001(b)(3) - (4), and 130.008.

(b) Purpose. The purpose of this rule is to encourage and authorize public institutions of higher education to deliver innovatively designed dual credit or dual enrollment courses that integrate both college-level content in the core curriculum of the institution alongside college-readiness content and skills instruction. These innovatively designed courses will allow students the maximum flexibility to obtain college credit and provide integrated college readiness skills to students who are on the continuum of college readiness and will benefit from exposure to college-level content.

(c) Student eligibility. An eligible student must be enrolled in a public school district or open-enrollment charter as defined in Texas Education Code §5.001(6). An institution of higher education may offer College Connect Courses to:

(1) A student who has met the college readiness standards set forth in subchapter C, §4.57 of this chapter (relating to College Ready Standards); or

(2) A student who has not yet demonstrated college readiness by achieving minimum passing standards set forth in §4.57 of this chapter, if the student is:

(A) a non-degree-seeking or non-certificate seeking student under Texas Education Code §51.338(a); and

(B) has earned not more than 14 semester credit hours of college credits at an institution of higher education; or

(C) a student who is otherwise exempt from the Texas Success Initiative, as set forth in subchapter C, §4.54 of this chapter (relating to Exemptions, Exceptions, and Waivers).

(d) Course content. The following standards apply to delivery of College Connect Courses offered under this rule:

(1) An institution of higher education may offer College Connect Courses within the institution's core curriculum in accordance with subchapter B, §4.28 of this chapter (relating to Core Curriculum).

(2) An institution of higher education must also incorporate supplemental college readiness content to support students who have not yet demonstrated college

readiness as defined in §4.57 of this chapter within these courses. An institution may deliver this supplemental instruction through a method at their discretion, including through embedded course content, supplemental corequisite coursework, or other method.

(e) Coordinating Board staff may provide technical assistance to public institutions of higher education and secondary schools and districts in developing and providing these courses.

(f) Additional Academic Policies.

(1) College Connect Courses offered through dual credit or dual enrollment must confer both a college-level grade and a secondary-level grade upon a student's successful completion of the course. A grade conferred for the college-level course may be different from the secondary-level grade, to reflect whether a student has appropriately demonstrated college-level knowledge and skills as well as secondary-level knowledge and skills. An institution may determine how a student enrolled in this course may earn college credit, whether through college-level course completion or successful completion of a recognized college-level assessment.

(2) An institution of higher education must enter into an institutional agreement with the secondary school according to §4.84 of this chapter (relating to Institutional Agreements) to offer College Connect Courses.

(3) An institution of higher education is strongly encouraged to provide the maximum latitude possible for a student to drop the college-level course component beyond the census date, while still giving the student an opportunity to earn credit toward high school graduation requirements.

(4) Hours earned through this program before the student graduates from high school that are used to satisfy high school graduation requirements do not count against the limitation on formula funding for excess semester credit hours under chapter 13, subchapter F, §13.104 of this title (relating to Exemptions for Excess Hours).

(g) Funding and Tuition. For College Connect Courses offered through dual credit under this option:

(1) An institution of higher education may receive formula funding for College Connect Course semester credit hours in accordance with Texas Education Code §61.059 and chapter 130, subchapter A, and any Coordinating Board rules that authorize funding for courses offered under this section.

(2) An institution of higher education may waive a student's tuition for College Connect Courses in accordance with Texas Education Code §§54.216 and 28.0095.

Special Called Board Meeting
AGENDA ITEM VIII

Discussion and possible action to hire and set the compensation of the Board's Internal Auditor

RECOMMENDATION: Approval

Background Information:

Pursuant to Texas Government Code, Section 551.074, the Board will meet in Executive Session to discuss various aspects of the search for the next Internal Auditor, including individual personnel matters.

Special Called Board Meeting

AGENDA ITEM IX

Consideration and possible action to approve an Increase In the Commissioner's annual salary

RECOMMENDATION: Approval

Background Information:

The maximum annual salary for the Commissioner of Higher Education, as well as other state agency heads, is stipulated in the General Appropriations Act.

Sarah Keyton, Associate Commissioner for Administration, will be available to answer any questions.