

By: Hochberg

H.B. No. 45

A BILL TO BE ENTITLED

AN ACT

1
2 relating to public school finance; authorizing an ad valorem tax
3 collected by the state at rates set by individual school districts;
4 and providing for the distribution of that tax equitably to school
5 districts for the maintenance and operation of public schools.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 42.002, Education Code, is amended to
8 read as follows:

9 Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a)
10 The purposes of the Foundation School Program set forth in this
11 chapter are to guarantee that each school district in the state
12 has~~+~~

13 ~~[(1)]~~ adequate resources to provide each eligible
14 student an ~~[a basic]~~ instructional program and facilities suitable
15 to the student's educational needs~~+, and~~

16 ~~[(2) access to a substantially equalized program of~~
17 ~~financing in excess of basic costs for certain services, as~~
18 ~~provided by this chapter].~~

19 (b) The Foundation School Program consists of:

20 (1) a basic entitlement ~~[two tiers]~~ that provides ~~[in~~
21 ~~combination provide]~~ for:

22 (A) sufficient financing for all school
23 districts to provide a basic program of education that is rated
24 recognized ~~[academically acceptable]~~ or higher under Section

1 39.072 and meets other applicable legal standards; and

2 (B) [~~substantially~~] equal access to funds to
3 provide an enriched program; and

4 (2) a facilities component as provided by Chapter 46.

5 SECTION 2. Subchapter A, Chapter 42, Education Code, is
6 amended by adding Section 42.0051 to read as follows:

7 Sec. 42.0051. STUDENT COUNT. For purposes of this chapter,
8 the student count is the number of students in average daily
9 attendance, the number of full-time equivalent students, or the
10 number of students enrolled, as appropriate, in a regular education
11 program or an educational program described by Chapter 29.

12 SECTION 3. Section 42.007(c), Education Code, is amended to
13 read as follows:

14 (c) The funding elements must include:

15 (1) an amount [~~a basic allotment~~] for the purposes of
16 Section 42.101 that, when multiplied by the statewide average
17 school district maintenance and operations tax rate for the final
18 year of the preceding state fiscal biennium [~~combined with the~~
19 ~~guaranteed yield component provided by Subchapter F~~], represents
20 the cost per student of a regular education program that is rated
21 recognized or higher under Section 39.072 and meets all other
22 mandates of law and regulation;

23 (2) adjustments designed to reflect the variation in
24 known resource costs and costs of education beyond the control of
25 school districts;

26 (3) appropriate program cost differentials and other
27 funding elements for the programs authorized under Subchapters A-D

1 and F, Chapter 29 [Subchapter C], with the program funding level
2 expressed as [dollar amounts and as] weights applied to the student
3 count [adjusted basic allotment] for the appropriate year; and

4 (4) ~~[the maximum guaranteed level of qualified state~~
5 ~~and local funds per student for the purposes of Subchapter F;~~

6 ~~[(5) the enrichment and facilities tax rate under~~
7 ~~Subchapter F;~~

8 ~~[(6) the computation of students in weighted average~~
9 ~~daily attendance under Section 42.302; and~~

10 ~~[(7)] the amount to be appropriated for the school~~
11 ~~facilities assistance program under Chapter 46.~~

12 SECTION 4. Subchapter B, Chapter 42, Education Code, is
13 amended to read as follows:

14 SUBCHAPTER B. BASIC ENTITLEMENT

15 Sec. 42.101. GUARANTEED AMOUNT. Each school district is
16 guaranteed a specified amount per weighted student in state funds.
17 The amount of state support is determined by the formula:

$$18 \quad \quad \quad \underline{GA = SA \times WADA \times DTR \times ER}$$

19 where:

20 "GA" is the guaranteed amount of state funds to be allocated
21 to the district;

22 "SA" is the student allotment, which is \$_____ or a greater
23 amount for any year provided by appropriation;

24 "DTR" is the maintenance and operations tax rate imposed by
25 the district as provided by Section 45.252;

26 "ER" is exemption ratio for the district which is the
27 quotient of the taxable property value in the district for the

1 preceding tax year determined under Subchapter M, Chapter 403,
2 Government Code, reduced by the total taxable property value of all
3 exemptions, abatements and similar reductions in property value
4 granted by the district except those that are reduced from the
5 taxable value under Section 403.302(d), Government Code, divided by
6 the taxable property value in the district.

7 "WADA" is the number of students in weighted average daily
8 attendance, which is the sum of the school district's student count
9 for each educational program for which a program weight is provided
10 by Section 42.102.

11 Sec. 42.102. PROGRAM WEIGHTS. (a) In this section:

12 (1) "Career and technology education program" means a
13 program under Subchapter F, Chapter 29.

14 (2) "Full-time equivalent student" means 30 hours of
15 contact a week between a student and program personnel.

16 (3) "Special education program" means a program under
17 Subchapter A, Chapter 29.

18 (b) The program weights are:

19 (1) 1.0 for a student in average daily attendance, not
20 including time the student spends each day in a special education
21 program in an instructional arrangement other than mainstream or in
22 a career and technology education program;

23 (2) 1.1 for a student in a special education program in
24 a mainstream instructional arrangement;

25 (3) 5.0 for a full-time equivalent student in a
26 special education program in a homebound instructional
27 arrangement;

1 (4) 3.0 for a full-time equivalent student in a
2 special education program in a hospital class instructional
3 arrangement;

4 (5) 5.0 for a full-time equivalent student in a
5 special education program in a speech therapy instructional
6 arrangement;

7 (6) 3.0 for a full-time equivalent student in a
8 special education program in a resource room instructional
9 arrangement;

10 (7) 3.0 for a full-time equivalent student in a
11 special education program in a self-contained, mild and moderate,
12 regular campus instructional arrangement;

13 (8) 3.0 for a full-time equivalent student in a
14 special education program in a self-contained, severe, regular
15 campus instructional arrangement;

16 (9) 2.7 for a full-time equivalent student in a
17 special education program in an off-home-campus instructional
18 arrangement;

19 (10) 1.7 for a full-time equivalent student in a
20 special education program in a nonpublic day school;

21 (11) 2.3 for a full-time equivalent student in a
22 special education program vocational adjustment class;

23 (12) 4.0 for a student in a special education program
24 who resides in a residential care and treatment facility, other
25 than a state school, whose parent or guardian does not reside in the
26 district and who receives educational services from a local school
27 district;

1 (13) 2.8 for a student in a special education program
2 who resides in a state school;

3 (14) 0.2 for a student who is educationally
4 disadvantaged or who is a student who does not have a disability and
5 resides in a residential placement facility in a district in which
6 the student's parent or guardian does not reside;

7 (15) 2.41 for a full-time equivalent student who is in
8 a compensatory, intensive, or accelerated program under Section
9 29.081 because the student is pregnant;

10 (16) 0.1 for a student who is in a bilingual education
11 or special language program under Subchapter B, Chapter 29;

12 (17) 1.35 for a full-time equivalent student in an
13 approved career and technology education program in grades nine
14 through 12 or in a career and technology program for students with
15 disabilities in grades seven through 12;

16 (18) 0.12 for a student in a program for gifted and
17 talented students that the district certifies to the commissioner
18 as complying with Subchapter D, Chapter 29; and

19 (19) except as provided by Subsection (c), 0.1 for a
20 student in average daily attendance who is using a public education
21 grant under Subchapter G, Chapter 29, to attend school in a district
22 other than the district in which the student resides.

23 (c) The total number of weights under Subsection (b)(19) to
24 which a district is entitled may not exceed the number by which the
25 number of students using public education grants to attend school
26 in the district exceeds the number of students who reside in the
27 district and use public education grants to attend school in

1 another district.

2 Sec. 42.103. [~~BASIC ALLOTMENT. For each student in average~~
3 ~~daily attendance, not including the time students spend each day in~~
4 ~~special education programs in an instructional arrangement other~~
5 ~~than mainstream or career and technology education programs, for~~
6 ~~which an additional allotment is made under Subchapter C, a~~
7 ~~district is entitled to an allotment of \$2,537. A greater amount~~
8 ~~for any school year may be provided by appropriation.~~

9 [~~Sec. 42.102.~~] COST OF EDUCATION ADJUSTMENT. (a) The
10 guaranteed amount ("GA") under Section 42.101 [~~basic allotment~~] for
11 each district is adjusted to reflect the geographic variation in
12 known resource costs and costs of education due to factors beyond
13 the control of the school district.

14 (a-1) For the 2005-2006 school year, the [~~(b) The~~] cost of
15 education adjustment is the cost of education index adjustment
16 adopted by the foundation school fund budget committee and
17 contained in Chapter 203, Title 19, Texas Administrative Code, as
18 that chapter existed on March 26, 1997.

19 (b) The Legislative Budget Board shall conduct a study each
20 biennium and shall recompute the cost of education index and adopt
21 adjustments as the board determines are necessary to ensure that
22 the cost of education index reflects current variations in known
23 resource costs and costs of education due to factors beyond the
24 control of a school district. The board's determination is final
25 and may not be appealed.

26 (c) From funds appropriated for the purpose, the
27 Legislative Budget Board may contract with one or more public or

1 private entities for studies to assist with the board's
2 recomputation and adjustments. Subject to appropriate notice and
3 opportunity for public comment, the board may adopt rules necessary
4 to implement this section.

5 (c-1) For the 2006-2007 and 2007-2008 school years, the cost
6 of education index is the average of the cost of education index as
7 provided by Subsection (a-1) and the initial recomputation and
8 adjustment of the cost of education index adopted by the
9 Legislative Budget Board in accordance with Subsection (b).

10 (d) The cost of education index is the average of the two
11 most recent recomputations and adjustments adopted by the
12 Legislative Budget Board under Subsection (b).

13 (e) Subsection (d) applies beginning with the 2008-2009
14 school year. Subsections (a-1) and (c-1) and this subsection
15 expire September 1, 2008.

16 Sec. 42.104 [~~42.103~~]. SMALL AND MID-SIZED DISTRICT
17 ADJUSTMENT. (a) The guaranteed amount ("GA") under Section 42.101
18 [~~basic allotment~~] for certain small and mid-sized districts is
19 adjusted in accordance with this section. In this section:

20 (1) [~~"AA" is the district's adjusted allotment per~~
21 ~~student,~~

22 [~~(2)~~] "ADA" is the number of students in average daily
23 attendance for which the district is entitled to funding [~~an~~
24 ~~allotment~~] under Section 42.101; [~~and~~

25 (2) "AGA" [~~(3) "ABA"~~] is the adjusted guaranteed
26 amount as [~~basic allotment~~] determined under Section 42.103; and

27 (3) "SAGA" is the district's size-adjusted guaranteed

1 amount [42.102].

2 (b) The guaranteed amount ("GA") under Section 42.101
 3 [~~basic allotment~~] of a school district that contains at least 300
 4 square miles and has not more than 1,600 students in average daily
 5 attendance is adjusted by applying the formula:

6
$$\underline{SAGA} \text{ [AA]} = (1 + ((1,600 - ADA) \times .0004)) \times \underline{AGA} \text{ [ABA]}$$

7 (c) The guaranteed amount ("GA") under Section 42.101
 8 [~~basic allotment~~] of a school district that contains less than 300
 9 square miles and has not more than 1,600 students in average daily
 10 attendance is adjusted by applying the formula:

11
$$\underline{SAGA} \text{ [AA]} = (1 + ((1,600 - ADA) \times .00025)) \times \underline{AGA} \text{ [ABA]}$$

12 (d) The guaranteed amount ("GA") under Section 42.101
 13 [~~basic allotment~~] of a school district that offers a kindergarten
 14 through grade 12 program and has less than 5,000 students in average
 15 daily attendance is adjusted by applying the formula, of the
 16 following formulas, that results in the greatest adjusted
 17 allotment:

18 (1) the formula in Subsection (b) or (c) for which the
 19 district is eligible; or

20 (2)
$$\underline{SAGA} \text{ [AA]} = (1 + ((5,000 - ADA) \times .000025)) \times \underline{AGA}$$

 21 [~~ABA~~].

22 [~~(c) The commissioner may make the adjustment authorized by~~
 23 ~~Subsection (d)(2) only if the district's wealth per student does~~
 24 ~~not exceed the equalized wealth level under Section 41.002. For~~
 25 ~~purposes of this subsection, a district's wealth per student is~~
 26 ~~determined in the manner provided by Section 41.001, except that~~
 27 ~~the adjustment provided by Subsection (d)(2) is not used in~~

1 ~~computing the number of students in weighted average daily~~
2 ~~attendance.~~

3 ~~[Sec. 42.104. USE OF SMALL OR MID-SIZED DISTRICT ADJUSTMENT~~
4 ~~IN CALCULATING SPECIAL ALLOTMENTS. In determining the amount of a~~
5 ~~special allotment under Subchapter C for a district to which~~
6 ~~Section 42.103 applies, a district's adjusted basic allotment is~~
7 ~~considered to be the district's adjusted allotment determined under~~
8 ~~Section 42.103.]~~

9 Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding
10 Sections 42.101, ~~[42.102, and]~~ 42.103, and 42.104:

11 (1) a school district that has fewer than 130 students
12 in average daily attendance is entitled to ~~[shall be provided]~~ an
13 adjusted guaranteed amount ~~[basic allotment]~~ on the basis of 130
14 students in average daily attendance if it offers a kindergarten
15 through grade 12 program and has preceding or current year's
16 average daily attendance of at least 90 students or is 30 miles or
17 more by bus route from the nearest high school district;

18 (2) a school ~~[.—A]~~ district that offers ~~[offering]~~ a
19 kindergarten through grade 8 program and has ~~[whose]~~ preceding or
20 current year's average daily attendance of ~~[was]~~ at least 50
21 students or that ~~[which]~~ is 30 miles or more by bus route from the
22 nearest high school district is entitled to ~~[shall be provided]~~ an
23 adjusted guaranteed amount ~~[basic allotment]~~ on the basis of 75
24 students in average daily attendance; and

25 (3) ~~[.—An average daily attendance of 60 students~~
26 ~~shall be the basis of providing the adjusted basic allotment if]~~ a
27 school district that offers a kindergarten through grade 6 program

1 and has preceding or current year's average daily attendance of at
2 least 40 students or that is 30 miles or more by bus route from the
3 nearest high school district is entitled to an adjusted guaranteed
4 amount on the basis of 60 students in average daily attendance.

5 ~~[Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT~~
6 ~~OFFERING ALL GRADE LEVELS. For purposes of this chapter, the~~
7 ~~taxable value of property of a school district that contracts for~~
8 ~~students residing in the district to be educated in another~~
9 ~~district under Section 25.039(a) is adjusted by applying the~~
10 ~~formula:~~

$$11 \quad \text{[ADPV} - \text{DPV} - (\text{TN} / .015)\text{]}$$

12 ~~[where:~~

13 ~~["ADPV" is the district's adjusted taxable value of property,~~

14 ~~["DPV" is the taxable value of property in the district for~~
15 ~~the preceding tax year determined under Subchapter M, Chapter 403,~~
16 ~~Government Code, and~~

17 ~~["TN" is the total amount of tuition required to be paid by~~
18 ~~the district under Section 25.039 for the school year for which the~~
19 ~~adjustment is made, not to exceed the amount specified by~~
20 ~~commissioner rule under Section 25.039(b).]~~

21 SECTION 5. The heading to Subchapter C, Chapter 42,
22 Education Code, is amended to read as follows:

23 SUBCHAPTER C. LIMITATIONS ON PROGRAM ~~[SPECIAL]~~ ALLOTMENTS;

24 ADDITIONAL ALLOTMENTS

25 SECTION 6. The heading to Section 42.151, Education Code,
26 is amended to read as follows:

27 Sec. 42.151. SPECIAL EDUCATION PROGRAMS.

1 SECTION 7. Sections 42.151(e), (h), (k), and (l), Education
2 Code, are amended to read as follows:

3 (e) The State Board of Education by rule shall prescribe the
4 qualifications an instructional arrangement must meet in order to
5 be funded as a particular instructional arrangement under this
6 chapter [~~section~~]. In prescribing the qualifications that a
7 mainstream instructional arrangement must meet, the board shall
8 establish requirements that students with disabilities and their
9 teachers receive the direct, indirect, and support services that
10 are necessary to enrich the regular classroom and enable student
11 success.

12 (h) Funds allocated under this chapter for special
13 education programs [~~section~~], other than an indirect cost allotment
14 established under State Board of Education rule, must be used in the
15 special education program under Subchapter A, Chapter 29.

16 (k) A school district that provides an extended year program
17 required by federal law for special education students who may
18 regress is entitled to receive funds in an amount equal to 75
19 percent, or a lesser percentage determined by the commissioner, of
20 the guaranteed amount [~~adjusted basic allotment or adjusted~~
21 ~~allotment, as applicable,~~] for each full-time equivalent student in
22 average daily attendance, multiplied by the amount designated for
23 the student's instructional arrangement under Section 42.102(b)
24 [~~this section~~], for each day the program is provided divided by the
25 number of days in the minimum school year. The total amount of
26 state funding for extended year services under this subsection
27 [~~section~~] may not exceed \$10 million per year. A school district

1 may use funds received under this subsection [~~section~~] only in
2 providing an extended year program.

3 (1) From the total amount of funds appropriated for special
4 education programs under this chapter [~~section~~], the commissioner
5 shall withhold an amount specified in the General Appropriations
6 Act, and distribute that amount to school districts for programs
7 under Section 29.014. The program established under that section
8 is required only in school districts in which the program is
9 financed by funds distributed under this subsection and any other
10 funds available for the program. After deducting the amount
11 withheld under this subsection from the total amount appropriated
12 for special education, the commissioner shall reduce each
13 district's allotment proportionately and shall allocate funds to
14 each district accordingly.

15 SECTION 8. The heading to Section 42.152, Education Code,
16 is amended to read as follows:

17 Sec. 42.152. COMPENSATORY EDUCATION PROGRAMS [~~ALLOTMENT~~].

18 SECTION 9. Sections 42.152(b) and (c), Education Code, are
19 amended to read as follows:

20 (b) For purposes of Section 42.102(b)(14) [~~this section~~],
21 the number of educationally disadvantaged students is determined:

22 (1) by averaging the best six months' enrollment in the
23 national school lunch program of free or reduced-price lunches for
24 the preceding school year; or

25 (2) in the manner provided by commissioner rule, if no
26 campus in the district participated in the national school lunch
27 program of free or reduced-price lunches during the preceding

1 school year.

2 (c) Funds allocated under Sections 42.102(b)(14) and (15)
3 [~~this section~~] shall be used to fund supplemental programs and
4 services designed to eliminate any disparity in performance on
5 assessment instruments administered under Subchapter B, Chapter
6 39, or disparity in the rates of high school completion between
7 students at risk of dropping out of school, as defined by Section
8 29.081, and all other students. Specifically, the funds, other
9 than an indirect cost allotment established under State Board of
10 Education rule, which may not exceed 15 percent, may be used to meet
11 the costs of providing a compensatory, intensive, or accelerated
12 instruction program under Section 29.081 or an alternative
13 education program established under Section 37.008 or to support a
14 program eligible under Title I of the Elementary and Secondary
15 Education Act of 1965, as provided by Pub. L. No. 103-382 and its
16 subsequent amendments, and by federal regulations implementing
17 that Act, at a campus at which at least 40 percent of the students
18 are educationally disadvantaged. In meeting the costs of providing
19 a compensatory, intensive, or accelerated instruction program
20 under Section 29.081, a district's compensatory education
21 allotment shall be used for costs supplementary to the regular
22 education program, such as costs for program and student
23 evaluation, instructional materials and equipment and other
24 supplies required for quality instruction, supplemental staff
25 expenses, salary for teachers of at-risk students, smaller class
26 size, and individualized instruction. A home-rule school district
27 or an open-enrollment charter school must use funds allocated under

1 Sections 42.102(b)(14) and (15) [~~Subsection (a)~~] for a purpose
2 authorized in this subsection but is not otherwise subject to
3 Subchapter C, Chapter 29. Notwithstanding any other provisions of
4 this section:

5 (1) to ensure that a sufficient amount of the funds
6 allotted under Sections 42.102(b)(14) and (15) [~~this section~~] are
7 available to supplement instructional programs and services, no
8 more than 18 percent of the funds allotted under Sections
9 42.102(b)(14) and (15) [~~this section~~] may be used to fund
10 disciplinary alternative education programs established under
11 Section 37.008;

12 (2) the commissioner may waive the limitations of
13 Subdivision (1) upon an annual petition, by a district's board and a
14 district's site-based decision making committee, presenting the
15 reason for the need to spend supplemental compensatory education
16 funds on disciplinary alternative education programs under Section
17 37.008, provided that:

18 (A) the district in its petition reports the
19 number of students in each grade level, by demographic subgroup,
20 not making satisfactory progress under the state's assessment
21 system; and

22 (B) the commissioner makes the waiver request
23 information available annually to the public on the agency's
24 website; and

25 (3) for purposes of this subsection, a program
26 specifically designed to serve students at risk of dropping out of
27 school, as defined by Section 29.081, is considered to be a program

1 supplemental to the regular education program, and a district may
2 use its compensatory education allotment for such a program.

3 SECTION 10. Section 42.152(c-1), Education Code, as added
4 by Chapter 253, Acts of the 78th Legislature, Regular Session,
5 2003, is amended to read as follows:

6 (c-1) Notwithstanding Subsection (c), funds allocated under
7 Sections 42.102(b)(14) and (15) [~~this section~~] may be used to fund
8 in proportion to the percentage of students served by the program
9 that meet the criteria in Section 29.081(d) or (g):

10 (1) an accelerated reading instruction program under
11 Section 28.006(g); or

12 (2) a program for treatment of students who have
13 dyslexia or a related disorder as required by Section 38.003.

14 SECTION 11. Section 42.152(c-1), Education Code, as added
15 by Chapter 783, Acts of the 78th Legislature, Regular Session,
16 2003, is redesignated as Section 42.152(c-2), Education Code, and
17 amended to read as follows:

18 (c-2) [~~(c-1)~~] Notwithstanding Subsection (c), funds
19 allocated under Sections 42.102(b)(14) and (15) [~~this section~~] may
20 be used to fund a district's mentoring services program under
21 Section 29.089.

22 SECTION 12. Sections 42.152(e), (f), and (h)-(p), Education
23 Code, are amended to read as follows:

24 (e) The commissioner may:

25 (1) retain a portion of the total amount allotted
26 under Sections 42.102(b)(14) and (15) [~~Subsection (a)~~] that the
27 commissioner considers appropriate to finance [~~intensive~~

1 ~~accelerated instruction programs and~~ study guides provided under
2 Section 39.024(c) [~~Sections 39.024(b) and (c)~~]; and

3 (2) reduce each district's guaranteed amount [~~tier one~~
4 ~~allotments~~] in the same manner described for a reduction in
5 allotments under Section 42.253.

6 (f) From the total amount of funds appropriated for
7 allotments under Sections 42.102(b)(14) and (15) [~~this section~~],
8 the commissioner shall, each fiscal year, withhold an amount to be
9 determined by the commissioner, but not less than \$10,000,000, and
10 distribute that amount for programs under Section 29.085. In
11 distributing those funds, preference shall be given to a school
12 district that received funds for a program under Section 29.085 for
13 the preceding school year. The program established under that
14 section is required only in school districts in which the program is
15 financed by funds distributed under Sections 42.102(b)(14) and (15)
16 [~~this section~~] and any other funds available for the program.

17 (h) After deducting the amount withheld under Subsection
18 (f) from the total amount appropriated for the allotment under
19 Sections 42.102(b)(14) and (15) [~~Subsection (a)~~], the commissioner
20 shall reduce each district's tier one allotments in the same manner
21 described for a reduction in allotments under Section 42.253 and
22 shall allocate funds to each district accordingly.

23 (i) From the total amount of funds appropriated for
24 allotments under Sections 42.102(b)(14) and (15) [~~this section~~],
25 the commissioner shall, each fiscal year, withhold \$7,500,000 or a
26 greater amount as determined in the General Appropriations Act and
27 distribute that amount for programs under Subchapter A, Chapter 33.

1 A program established under that subchapter is required only in
2 school districts in which the program is financed by funds
3 distributed under Sections 42.102(b)(14) and (15) [~~this section~~] or
4 other funds distributed by the commissioner for a program under
5 that subchapter. In distributing those funds, preference shall be
6 given to a school district that received funds for a program under
7 this subsection for the preceding school year.

8 (j) The commissioner shall coordinate the funds withheld
9 under Subsection (i) and any other funds available for the program
10 and shall distribute those funds. To receive funds for the program,
11 a school district must apply to the commissioner. The commissioner
12 shall give a preference to the districts that apply that have the
13 highest concentration of at-risk students. For each school year
14 that a school district receives funds under Sections 42.102(b)(14)
15 and (15) [~~this section~~], the district shall allocate an amount of
16 local funds for school guidance and counseling programs that is
17 equal to or greater than the amount of local funds that the school
18 district allocated for that purpose during the preceding school
19 year.

20 (k) After deducting the amount withheld under Subsection
21 (i) from the total amount appropriated for the allotment under
22 Sections 42.102(b)(14) and (15) [~~Subsection (a)~~], the commissioner
23 shall reduce each district's tier one allotments in the same manner
24 described for a reduction in allotments under Section 42.253.

25 (l) From the total amount of funds appropriated for
26 allotments under Sections 42.102(b)(14) and (15) [~~this section~~],
27 the commissioner shall, each fiscal year, withhold the amount of

1 \$2.5 million for transfer to the investment capital fund under
2 Section 7.024.

3 (m) From the total amount of funds appropriated for
4 allotments under Sections 42.102(b)(14) and (15) [~~this section~~],
5 the commissioner may withhold an amount not exceeding \$1 million
6 each fiscal year and distribute the funds to school districts that
7 incur unanticipated expenditures resulting from a significant
8 increase in the enrollment of students who do not have disabilities
9 and who reside in residential placement facilities.

10 (n) After deducting the amount withheld under Subsection
11 (l) from the total amount appropriated for the allotment under
12 Sections 42.102(b)(14) and (15) [~~Subsection (a)~~], the commissioner
13 shall reduce each district's allotment under Sections
14 42.102(b)(14) and (15) [~~Subsection (a)~~] proportionately and shall
15 allocate funds to each district accordingly.

16 (o) After deducting the amount withheld under Subsection
17 (m) from the total amount appropriated for the allotment under
18 Sections 42.102(b)(14) and (15) [~~Subsection (a)~~], the commissioner
19 shall reduce each district's allotment under Sections
20 42.102(b)(14) and (15) [~~Subsection (a)~~] proportionately.

21 (p) The commissioner shall:

22 (1) withhold, from the total amount of funds
23 appropriated for allotments under Sections 42.102(b)(14) and (15)
24 [~~this section~~], an amount sufficient to finance extended year
25 programs under Section 29.082 not to exceed five percent of the
26 amounts allocated under Sections 42.102(b)(14) and (15) [~~this~~
27 ~~section~~]; and

1 (2) give priority to applications for extended year
2 programs to districts with high concentrations of educationally
3 disadvantaged students.

4 SECTION 13. The heading to Section 42.153, Education Code,
5 is amended to read as follows:

6 Sec. 42.153. BILINGUAL EDUCATION PROGRAMS [~~ALLOTMENT~~].

7 SECTION 14. Section 42.153(b), Education Code, is amended
8 to read as follows:

9 (b) Funds allocated under Section 42.102(b)(16) [~~this~~
10 ~~section~~], other than an indirect cost allotment established under
11 State Board of Education rule, must be used in providing bilingual
12 education or special language programs under Subchapter B, Chapter
13 29, and must be accounted for under existing agency reporting and
14 auditing procedures.

15 SECTION 15. The heading to Section 42.154, Education Code,
16 is amended to read as follows:

17 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION PROGRAMS
18 [~~ALLOTMENT~~].

19 SECTION 16. Sections 42.154(c) and (e), Education Code, are
20 amended to read as follows:

21 (c) Funds allocated under Section 42.102(b)(17) [~~this~~
22 ~~section~~], other than an indirect cost allotment established under
23 State Board of Education rule, must be used in providing career and
24 technology education programs in grades nine through 12 or career
25 and technology education programs for students with disabilities in
26 grades seven through 12 under Sections 29.182, 29.183, and 29.184.

27 (e) Out of the total statewide allotment for career and

1 technology education under Section 42.102(b)(17) [~~this section~~],
2 the commissioner shall set aside an amount specified in the General
3 Appropriations Act, which may not exceed an amount equal to one
4 percent of the total amount appropriated, to support regional
5 career and technology education planning. After deducting the
6 amount set aside under this subsection from the total amount
7 appropriated for career and technology education under Section
8 42.102(b)(17) [~~this section~~], the commissioner shall reduce each
9 district's tier one allotments in the same manner described for a
10 reduction in allotments under Section 42.253.

11 SECTION 17. The heading to Section 42.156, Education Code,
12 is amended to read as follows:

13 Sec. 42.156. GIFTED AND TALENTED STUDENT PROGRAMS
14 [~~ALLOTMENT~~].

15 SECTION 18. Sections 42.156(b)-(f), Education Code, are
16 amended to read as follows:

17 (b) Funds allocated under Section 42.102(b)(18) [~~this~~
18 ~~section~~], other than the amount that represents the program's share
19 of general administrative costs, must be used in providing programs
20 for gifted and talented students under Subchapter D, Chapter 29,
21 including programs sanctioned by International Baccalaureate and
22 Advanced Placement, or in developing programs for gifted and
23 talented students. Each district must account for the expenditure
24 of state funds as provided by rule of the State Board of Education.
25 If by the end of the 12th month after receiving an allotment for
26 developing a program a district has failed to implement a program,
27 the district must refund the amount of the allotment to the agency

1 within 30 days.

2 (c) Not more than five percent of a district's students in
3 average daily attendance are eligible for funding under Section
4 42.102(b)(18) [~~this section~~].

5 (d) If the amount of state funds for which school districts
6 are eligible under Section 42.102(18) [~~this section~~] exceeds the
7 amount of state funds appropriated in any year for the programs, the
8 commissioner shall reduce each district's tier one allotments in
9 the same manner described for a reduction in allotments under
10 Section 42.253.

11 (e) If the total amount of funds allotted under Section
12 42.102(b)(18) [~~this section~~] before a date set by rule of the State
13 Board of Education is less than the total amount appropriated for a
14 school year, the commissioner shall transfer the remainder to any
15 program for which an allotment under Section 42.102(b)(14) or (15)
16 [~~42.152~~] may be used.

17 (f) After each district has received allotted funds for this
18 program, the State Board of Education may use up to \$500,000 of the
19 funds allocated under Section 42.102(b)(18) [~~this section~~] for
20 programs such as MATHCOUNTS, Future Problem Solving, Odyssey of the
21 Mind, and Academic Decathlon, as long as these funds are used to
22 train personnel and provide program services. To be eligible for
23 funding under this subsection, a program must be determined by the
24 State Board of Education to provide services that are effective and
25 consistent with the state plan for gifted and talented education.

26 SECTION 19. Section 42.251, Education Code, is amended to
27 read as follows:

1 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the
2 guaranteed amounts [~~basic allotment~~] under Subchapter B, the
3 transportation allotments under Section 42.155, and the new
4 instructional facility allotments [~~special allotments~~] under
5 Section 42.158 [~~Subchapter C~~], computed in accordance with this
6 chapter, constitute the [~~tier one allotments. The sum of the tier~~
7 ~~one allotments and the guaranteed yield allotments under Subchapter~~
8 ~~F, computed in accordance with this chapter, constitute the~~] total
9 cost of the Foundation School Program.

10 (b) The program shall be financed by:

11 (1) ad valorem tax revenue deposited in the Texas
12 education trust as required by Sections 1A and 3(e), Article VII,
13 Texas Constitution [~~generated by an equalized uniform school~~
14 ~~district effort,~~

15 [~~(2) ad valorem tax revenue generated by local school~~
16 ~~district effort in excess of the equalized uniform school district~~
17 ~~effort];~~

18 (2) [~~(3)~~] state available school funds distributed in
19 accordance with law; and

20 (3) [~~(4)~~] state funds appropriated for the purposes of
21 public school education and allocated to each district in an amount
22 sufficient to finance the cost of each district's Foundation School
23 Program not covered by other funds specified in this subsection.

24 SECTION 20. Sections 42.253(a)-(c) and (g)-(i), Education
25 Code, are amended to read as follows:

26 (a) For each school year the commissioner shall determine:

27 (1) the amount of money to which a school district is

1 entitled under Subchapters B and C; and

2 (2) [~~the amount of money to which a school district is~~
3 ~~entitled under Subchapter F,~~

4 [~~(3)~~] the amount of money allocated to the district
5 from the available school fund[~~+~~

6 [~~(4) the amount of each district's tier one local share~~
7 ~~under Section 42.252, and~~

8 [~~(5) the amount of each district's tier two local share~~
9 ~~under Section 42.302].~~

10 (b) Except as provided by this subsection, the commissioner
11 shall base the determinations under Subsection (a) on the estimates
12 provided to the legislature under Section 42.254, or, if the
13 General Appropriations Act provides estimates for that purpose, on
14 the estimates provided under that Act, for each school district for
15 each school year. [~~The commissioner shall reduce the entitlement~~
16 ~~of each district that has a final taxable value of property for the~~
17 ~~second year of a state fiscal biennium that is higher than the~~
18 ~~estimate under Section 42.254 or the General Appropriations Act, as~~
19 ~~applicable. A reduction under this subsection may not reduce the~~
20 ~~district's entitlement below the amount to which it is entitled at~~
21 ~~its actual taxable value of property.]~~

22 (c) Each school district is entitled to an amount equal to
23 the difference for that district between the amount determined
24 under Subsection [~~sum of Subsections~~] (a)(1) and the amount
25 determined under Subsection (a)(2) [~~and the sum of Subsections~~
26 ~~(a)(3), (a)(4), and (a)(5)]. The comptroller shall pay a~~

27 district's entitlement under this subsection from the Texas

1 education trust and the foundation school fund in the proportions
2 provided by the General Appropriations Act.

3 (g) If a school district demonstrates to the satisfaction of
4 the commissioner that the estimate of the district's tax rate or [7]
5 student enrollment [~~, or taxable value of property~~] used in
6 determining the amount of state funds to which the district is
7 entitled are so inaccurate as to result in undue financial hardship
8 to the district, the commissioner may adjust funding to that
9 district in that school year to the extent that funds are available
10 for that year, including funds in the reserve account. Funds in the
11 reserve account may not be used under this subsection until any
12 reserve funds have been used for purposes of Subsection (f).

13 (h) If the legislature fails during the regular session to
14 enact the transfer and appropriation proposed under Subsection (f)
15 and there are not funds available under Subsection (j), the
16 commissioner shall reduce the total amount of state funds allocated
17 to each district proportionately [~~by an amount determined by a~~
18 ~~method under which the application of the same number of cents of~~
19 ~~increase in tax rate in all districts applied to the taxable value~~
20 ~~of property of each district, as determined under Subchapter M,~~
21 ~~Chapter 403, Government Code, results in a total levy equal to the~~
22 ~~total reduction~~]. The following fiscal year, a district's
23 entitlement under this section is increased by an amount equal to
24 the reduction made under this subsection.

25 (i) Not later than March 1 each year, the commissioner shall
26 determine the actual amount of state funds to which each school
27 district is entitled under the allocation formulas in this chapter

1 for the current school year and shall compare that amount with the
2 amount of the warrants issued to each district for that year. If
3 the amount of the warrants differs from the amount to which a
4 district is entitled because of variations in the district's tax
5 rate or [7] student enrollment, [~~or taxable value of property,~~] the
6 commissioner shall adjust the district's entitlement for the next
7 fiscal year accordingly.

8 SECTION 21. Subchapter E, Chapter 42, Education Code, is
9 amended by adding Section 42.256 to read as follows:

10 Sec. 42.256. TEXAS EDUCATION TRUST AND FOUNDATION SCHOOL
11 FUND TRANSFERS. The comptroller shall make payments from the Texas
12 education trust and the foundation school fund to each school
13 district as follows:

14 (1) the comptroller shall pay 15 percent of the yearly
15 entitlement of the district under this chapter in an installment to
16 be made on or before the 25th day of September of a fiscal year;

17 (2) the comptroller shall pay 80 percent of the yearly
18 entitlement of the district under this chapter in eight equal
19 installments to be made on or before the 25th day of October,
20 November, December, January, March, May, June, and July; and

21 (3) the comptroller shall pay five percent of the
22 yearly entitlement of the district under this chapter in an
23 installment to be made on or before the 25th day of February.

24 SECTION 22. The heading to Subchapter A, Chapter 45,
25 Education Code, is amended to read as follows:

26 SUBCHAPTER A. TAX BONDS [~~AND MAINTENANCE TAXES~~]

27 SECTION 23. Section 45.003(a), Education Code, is amended

1 to read as follows:

2 (a) Bonds described by Section 45.001 may not be issued and
3 taxes described by that section [~~Section 45.001 or 45.002~~] may not
4 be levied unless authorized by a majority of the qualified voters of
5 the district~~[7]~~ voting at an election held for that purpose, at the
6 expense of the district, in accordance with the Election Code,
7 except as provided by this section. Each election must be called by
8 resolution or order of the governing board or commissioners court.
9 The resolution or order must state the date of the election, the
10 proposition or propositions to be submitted and voted on, the
11 polling place or places, and any other matters considered necessary
12 or advisable by the governing board or commissioners court.

13 SECTION 24. Chapter 45, Education Code, is amended by
14 adding Subchapter I to read as follows:

15 SUBCHAPTER I. TEXAS EDUCATION TRUST

16 Sec. 45.251. TEXAS EDUCATION TRUST. The Texas education
17 trust is a fund maintained by the comptroller within the general
18 revenue fund. The Texas education trust consists of the tax revenue
19 allocated to the trust under Sections 1A and 3(e), Article VII,
20 Texas Constitution.

21 Sec. 45.252. AD VALOREM TAX. (a) An ad valorem tax for
22 elementary and secondary public school purposes is imposed on all
23 taxable real and tangible personal property in this state.

24 (b) The tax is imposed in each school district at the rate
25 adopted by the board of trustees of the district. The rate may not
26 exceed \$___ on the \$100 valuation of taxable property.

27 (c) A residence homestead exemption granted under Section

1 11.13(b), (c), or (n), Tax Code, a limitation on tax increases or
2 the appraised value of a residence homestead under Section 11.26,
3 Tax Code, or a limitation on the appraised value of a residence
4 homestead under Section 23.23, Tax Code, that applies to school
5 district ad valorem taxes applies to the ad valorem tax authorized
6 under this section.

7 (d) Subsection (c) and Sections 45.253 and 45.254 apply only
8 in connection with the appraisal of property and the collection of
9 the ad valorem tax in a school district in which the levy,
10 assessment, and collection of the tax has been approved under
11 Subsection (b).

12 (e) Except as otherwise provided by law, the state shall be
13 treated, for purposes of this ad valorem tax, as a taxing unit under
14 Title 1, Tax Code, that participates in each appraisal district
15 established under that title. The comptroller and the state do not
16 participate in the election of the board of directors of an
17 appraisal district, the governance or management of the district,
18 or the determination of the district's finances and budget.

19 Sec. 45.253. APPRAISAL OF PROPERTY. (a) Property subject
20 to the ad valorem tax authorized under Section 42.252 shall be
21 appraised for taxation by the appraisal district established for
22 the county in which the property has taxable situs under Chapter 21,
23 Tax Code.

24 (b) Property subject to the ad valorem tax authorized under
25 Section 42.252 shall be appraised in the manner provided by Title 1,
26 Tax Code, for the appraisal of property that is subject to ad
27 valorem taxation by a county.

1 Sec. 45.254. TAX COLLECTION. (a) The assessor-collector
2 for each county shall assess and collect ad valorem taxes
3 authorized under Section 42.252 imposed on property included on the
4 appraisal roll for such taxation certified to the county
5 assessor-collector under Section 26.01, Tax Code, unless the
6 commissioners court of a county contracts with an official, taxing
7 unit, or political subdivision of this state for the assessment or
8 collection of the ad valorem taxes of the county, in which event the
9 official, taxing unit, or political subdivision shall also assess
10 or collect, as applicable, the ad valorem taxes authorized under
11 Section 42.252.

12 (b) Each assessor or collector of ad valorem taxes
13 authorized under Section 42.252 is entitled to be reimbursed by the
14 comptroller for the actual costs incurred by the assessor or
15 collector in assessing or collecting such ad valorem taxes.
16 However, an assessor or collector is not entitled to be reimbursed
17 for any amount that is greater than the additional incremental
18 costs incurred in assessing or collecting such ad valorem taxes.

19 (c) The comptroller shall:

20 (1) prescribe methods of accounting for and remitting
21 such ad valorem taxes;

22 (2) prescribe methods for establishing an assessor's
23 or collector's additional incremental costs incurred in assessing
24 or collecting such ad valorem taxes;

25 (3) prescribe and furnish forms for periodic reports
26 relating to such ad valorem taxes; and

27 (4) periodically examine the records of each assessor

1 or collector of such ad valorem taxes to verify the accuracy of any
2 reports required under this subsection.

3 Sec. 45.255. DUTIES AND POWERS OF COMPTROLLER. (a) Except
4 as otherwise provided by this subchapter, a duty imposed on or power
5 granted to the governing body of a taxing unit by Title 1 or Chapter
6 312, Tax Code, may, for purposes of the ad valorem tax authorized
7 under Section 42.252, be exercised by the comptroller. A reference
8 to the presiding officer of a governing body in Title 1 or Chapter
9 312, Tax Code, is a reference to the comptroller for the purposes of
10 the tax under authorized under Section 42.252.

11 (b) The comptroller may delegate to the county
12 assessor-collector any function of the comptroller with respect to
13 such ad valorem tax and may designate the county assessor-collector
14 as the comptroller's agent for purposes of administration of the ad
15 valorem tax.

16 Sec. 45.256. ADMINISTRATION AND REFUND ACCOUNTS. The
17 comptroller shall deposit to the credit of the general revenue fund
18 in appropriately designated accounts an amount of revenue collected
19 from the ad valorem tax authorized under Section 42.252 to pay for
20 the comptroller's expenses in administering this subchapter and for
21 the payment of tax refunds that may become payable.

22 Sec. 45.257. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS.
23 Title 2, Tax Code, does not apply to the ad valorem tax authorized
24 under Section 42.252.

25 Sec. 45.258. TAX INCREMENT FINANCING. (a) Except as
26 otherwise provided by this section, the state may not pay any
27 portion of the tax increment produced by the state into the tax

1 increment fund for a reinvestment zone designated under Chapter
2 311, Tax Code.

3 (b) If a reinvestment zone was designated under Chapter 311,
4 Tax Code, before May 1, 2004, and a school district entered into an
5 agreement with the governing body of the municipality that created
6 the zone to pay into the tax increment fund for the zone any portion
7 of the school district's tax increment produced from property
8 located in the zone, the state shall pay into the tax increment fund
9 the portion of the tax increment that the school district would be
10 required to pay into the tax increment fund under the terms of the
11 agreement.

12 (c) If the reinvestment zone was designated under Chapter
13 311, Tax Code, before this subchapter took effect, the tax
14 increment base of the state is calculated under Section 311.012,
15 Tax Code, as if this subchapter were in effect for the year in which
16 the zone was designated.

17 (d) If the reinvestment zone includes property taxable by
18 more than one school district, the amount of tax increment required
19 to be paid into the tax increment fund by the state shall be
20 calculated as provided by Subsection (b) separately for the portion
21 of the reinvestment zone located in each school district.

22 Sec. 45.259. INVESTMENT OF TEXAS EDUCATION TRUST. In
23 managing the trust, the comptroller may acquire, exchange, sell,
24 supervise, manage, or retain, through procedures and subject to
25 restrictions the comptroller establishes and in amounts the
26 comptroller considers appropriate, any kind of investment that a
27 person of ordinary prudence, discretion, and intelligence,

1 exercising the judgment and care under the circumstances then
2 prevailing, would acquire or retain for the person's own account in
3 the management of the person's affairs, not in regard to
4 speculation but in regard to the permanent disposition of the
5 person's funds, considering:

6 (1) the probable income as well as the probable safety
7 of the person's capital; and

8 (2) the payments required to be made from the trust to
9 school districts under Section 42.256.

10 SECTION 25. (a) The following provisions of the Education
11 Code are repealed:

12 (1) Chapter 41;

13 (2) Subchapter F, Chapter 42; and

14 (3) Sections 42.001, 42.151(a), (b), and (f),
15 42.152(a) and (t), 42.153(a), 42.154(a) and (b), 42.156(a), 42.157,
16 42.158(e), 42.2511, 42.2512, 42.2514, 42.2515, 42.252, 42.2521,
17 42.2522, 42.253(1), 42.2531, 42.257, 42.259, and 42.260.

18 (b) Sections 45.002, 45.003(d), and 45.006, Education Code,
19 are repealed.

20 SECTION 26. The repeal of Section 45.002, Education Code,
21 by this Act does not affect the authority of a school district to
22 collect and use delinquent ad valorem taxes imposed under that
23 section before January 1, 2005, and a school district is not
24 required to remit those taxes to the comptroller for deposit in the
25 Texas education trust.

26 SECTION 27. (a) Except as provided by Subsection (b) of
27 this section:

1 (1) Sections 22-24, 25(b), and 26 of this Act and this
2 section take effect January 1, 2005; and

3 (2) Sections 1-21 and 25(a) of this Act take effect
4 September 1, 2005.

5 (b) This Act takes effect only if the constitutional
6 amendment proposed by __.J.R. No. ____, 78th Legislature, 4th Called
7 Session, 2004, is approved by the voters. If that amendment is not
8 approved by the voters, this Act has no effect.