

## BILL ANALYSIS

Senate Research Center  
78R14709 ESH/JD/CBH-D

C.S.H.B. 5  
By: Grusendorf (Shapiro)  
Committee of the Whole Senate  
5/2/2003  
Committee Report (Substituted)

### DIGEST AND PURPOSE

C.S.H.B. 5 provides that it is state policy: to encourage and support local control; that the provision of public education is a state responsibility; that a thorough and efficient system must be provided and substantially financed through state revenue sources so that each student enrolled in the public school system has access to appropriate programs and services that are substantially equal; that the public school finance system must adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student, given certain factors. It also provides that the commissioner of education must certify that sufficient funds are available for new mandates.

Creates the Texas Education Excellence Program and replaces the Foundation School Program.

Provides a student allotment initially set at \$4,300 per weighted student in average daily attendance (WADA). The current weights and adjustments do not change with one exception: the cost of education adjustment is converted to a "rolling average."

Provides for a "minimum per-student aid" (i.e., hold harmless), which is the total maintenance and operations funds of a district for the 2003-04 school year.

Funds an enrichment program that is funded by a local ad valorem tax. Local tax revenue is equalized to the 90th percentile of wealth (around \$32 per WADA). The local enrichment tax rate is capped at 10 cents per \$100 valuation.

Creates an Education Excellence Task Force to conduct a comprehensive study of the academic and funding elements needed to ensure the opportunity for excellence of every Texas student. The report must include specific recommendations for improving student performance on the Texas Assessment of Knowledge and Skills, for increasing high school graduation rates, and for revising the education funding formulas and weights to promote educational excellence.

Creates the Texas Education Fund. The state ad valorem tax rate is set at 75 cents. The tax is collected by county assessor-collectors. Property is appraised by local appraisal districts. The comptroller is provided certain new duties. The comptroller and the state do not participate in appraisal district governance. The comptroller is entitled to challenge before the appraisal board the exclusion of property from the appraisal roll for state ad valorem taxes and to appeal an order excluding such property.

Requires local revenue from state sales tax base expansion to be used for tax relief unless another use is authorized by local voters. There is a 40 percent sales tax exemption for certain financial assistance and food stamp recipients (i.e., Lone Star Card recipients). Health care services are exempt from sales tax.

Provides for mandatory residential tenant property tax relief. Landlords must rebate or credit tenants for 75 percent of tax savings in 2005, 2006, and 2007.

### RULEMAKING AUTHORITY

Rulemaking authority is granted throughout this bill to the commissioner of public education, the comptroller of public accounts, the Legislative Budget Board, and the State Board of Education, including the following grants:

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.02 (Sections 41.007, 41.156, and 41.404, Education Code) and SECTION 1.08 (Section 44.0071, Education Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3.01 (Section 6.038, Tax Code) and SECTION 4.04 (Section 151.3145, Tax Code) of this bill.

Rulemaking authority is expressly granted to the Legislative Budget Board in SECTION 1.02 (Sections 41.008 and 41.053, Education Code) of this bill.

Rulemaking authority is expressly granted to the State Board of Education in SECTION 1.02 (Sections 41.053, 41.451, and 41.453, Education Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. PUBLIC SCHOOL FINANCE

SECTION 1. Amends Chapter 4, Education Code, by adding Section 4.003, as follows:

Sec. 4.003. PRESERVATION OF LOCAL CONTROL OF PUBLIC EDUCATION. (a) Sets forth the state policy of preservation of local control of public education through the board of trustees in each school district.

(b) Prohibits a state law, rule, or other requirement, after September 1, 2004, from being imposed on the school districts of this state unless the commissioner of education (commissioner) certifies that sufficient funds will be distributed to districts to pay the full cost of complying with the proposed law, rule, or other requirement.

SECTION 1.02. Amends Subtitle I, Title 2, Education Code, by adding Chapters 41 and 42, as follows:

#### CHAPTER 41. TEXAS EDUCATION EXCELLENCE PROGRAM SUBCHAPTER A. GENERAL PROVISIONS

Sec. 41.001. STATE POLICY. (a) Establishes that it is the policy of this state that the provision of public education is a state responsibility and that a thorough and efficient system must be provided and substantially financed through state revenue sources so that each student enrolled in the public school system has access to programs and services that are appropriate to the student's educational needs and are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

(b) Requires the public school finance system of this state to adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student after acknowledging all legitimate student and district cost differences.

Sec. 41.002. PURPOSE OF TEXAS EDUCATION EXCELLENCE PROGRAM. (a) Provides that the purpose of the Texas Education Excellence Program set forth in this chapter is to guarantee that each school district in the state has adequate resources and access to a substantially equalized program of financing an enriched program.

(b) Provides that the Texas Education Excellence Program consists of certain programs.

Sec. 41.003. STUDENT ELIGIBILITY. (a) Specifies that a student is entitled to the

benefits of the Texas Education Excellence Program if the student is five years of age or older and under 21 years of age on September 1 of the school year and has not graduated from high school.

(b) Established that a student to whom Subsection (a) does not apply is entitled to the benefits of the Texas Education Excellence Program if the student is enrolled in a prekindergarten class under Section 29.153.

(c) Authorizes a child to be enrolled in the first grade if the child is at least six years of age at the beginning of the district's school year or has been enrolled in the first grade or has completed kindergarten in the public schools in another state before transferring to a public school in this state.

(d) Provides that a student younger than five years of age is entitled to the benefits of the Texas Education Excellence Program if the student meets certain requirements.

Sec. 41.004. ADMINISTRATION OF PROGRAM. Requires the commissioner, in accordance with rules adopted by the State Board of Education (SBOE), to administer the Texas Education Excellence Program.

Sec. 41.005. AVERAGE DAILY ATTENDANCE. (a) Establishes that in this chapter, average daily attendance is the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under Section 25.081(a) divided by the minimum number of days of instruction.

(b) Requires a school district that experiences a decline of two or more in average daily attendance to be funded on the basis of the actual average daily attendance of the preceding school year, if the decline is the result of the closing or reduction in personnel of a military base, or, subject to Subsection (e), an average daily attendance not to exceed 98 percent of the actual average daily attendance of the preceding school year, if the decline is not the result of the closing or reduction in personnel of a military base.

(c) Requires the commissioner to adjust the average daily attendance of a school district that has a significant percentage of students who are migratory children as defined by 20 U.S.C. Section 6399 and its subsequent amendments.

(d) Authorizes the commissioner to adjust the average daily attendance of a school district in which a disaster, flood, extreme weather condition, fuel curtailment, or other calamity has a significant effect on the district's attendance.

(e) Requires the commissioner, for each school year, to adjust the average daily attendance of school districts that are entitled to funding on the basis of an adjusted average daily attendance under Subsection (b)(2) so that all districts are funded on the basis of the same percentage of the preceding year's actual average daily attendance; and the total cost to the state does not exceed the amount specifically appropriated for that year for purposes of Subsection (b)(2).

(f) Provides that an open-enrollment charter school is not entitled to funding based on an adjustment under Subsection (b)(2).

Sec. 41.006. STUDENT COUNT. Provides that for purposes of this chapter, the student count is the number of students in average daily attendance, the number of full-time equivalent students, or the number of students enrolled, as appropriate, in a regular education program or an educational program described by Chapter 29 (Educational Programs).

Sec. 41.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM

(PEIMS). (a) Requires each school district participate in the Public Education Information Management System (PEIMS) and to provide through that system information required for the administration of this chapter and of other appropriate provisions of this code.

(b) Requires each school district to use a uniform accounting system adopted by the commissioner for the data required to be reported for PEIMS.

(c) Requires the commissioner, annually, to review PEIMS and to repeal or amend rules that require school districts to provide information through the system that is not necessary. Requires the commissioner, in reviewing and revising PEIMS, to develop rules to ensure that the system meets certain standards.

Sec. 41.008. FUNDING ELEMENTS. (a) Requires the Legislative Budget Board (LBB) to adopt rules, subject to appropriate notice and opportunity for public comment, for the computation for each year of a biennium of the funding elements, in accordance with Subsection (c), necessary to achieve the state policy under Section 41.001.

(b) Requires LBB, before each regular session of the legislature, to report the funding elements to the commissioner and the legislature.

(c) Requires the funding elements to include certain factors.

(d) Requires the board to conduct a study on the funding elements each biennium. Requires the study to include a determination of the projected cost to the state in the next state fiscal biennium of ensuring the ability of each school district to maintain existing programs without increasing enrichment tax rates.

[Reserves Sections 41.009-41.050 for expansion.]

#### SUBCHAPTER B. BASIC PROGRAM

Sec. 41.051. GUARANTEED AMOUNT. Provides that each school district is guaranteed a specified amount per weighted student in state funds. Provides that the amount of state support is determined by a certain formula.

Sec. 41.052. PROGRAM WEIGHTS. (a) Defines "career and technology education program," "full-time equivalent student," and "special education program."

(b) Sets forth program weights.

(c) Specifies that the total number of weights under Subsection (b)(19) to which a district is entitled may not exceed the number by which the number of students using public education grants to attend school in the district exceeds the number of students who reside in the district and use public education grants to attend school in another district.

Sec. 41.053. COST OF EDUCATION ADJUSTMENT. (a) Provides that the guaranteed amount ("GA") under Section 41.051 for each district is adjusted to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district.

(a-1) Establishes that for the 2004-2005 school year, the cost of education adjustment is the cost of education index adjustment adopted by the foundation school fund budget committee and contained in Chapter 203, Title 19, Texas Administrative Code, as that chapter existed on March 26, 1997.

(b) Requires LBB to conduct a study each biennium and to recompute the cost of

education index and adopt adjustments as LBB determines are necessary to ensure that the cost of education index reflects current variations in known resource costs and costs of education due to factors beyond the control of a school district. Provides that LBB's determination is final and prohibits it from being appealed.

(c) Authorizes LBB, from funds appropriated for the purpose, to contract with one or more public or private entities for studies to assist with the recomputation and adjustments. Authorizes LBB, subject to appropriate notice and opportunity for public comment, to adopt rules necessary to implement this section.

(c-1) Provides that, for the 2005-2006 and 2006-2007 school years, the cost of education index is the average of the cost of education index as provided by Subsection (a-1) and the initial recomputation and adjustment of the cost of education index adopted by LBB in accordance with Subsection (b).

(d) Provides that the cost of education index is the average of the two most recent recomputations and adjustments adopted by LBB under Subsection (b).

(e) Establishes that Subsection (d) applies beginning with the 2007-2008 school year. Provides that Subsections (a-1) and (c-1) and this subsection expire September 1, 2007.

Sec. 41.054. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a) Provides that the guaranteed amount ("GA") under Section 41.051 for certain small and mid-sized districts, as adjusted under Section 41.053, is adjusted in accordance with this section. Defines "ADA" "AGA," and "SAGA."

(b) Provides that the GA under Section 41.051 of a school district that contains at least 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:  $SAGA = (1 + ((1,600 - ADA) \times 0.0004)) \times AGA$ .

(c) Provides that the GA under Section 41.051 of a school district that contains less than 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:  $SAGA = (1 + ((1,600 - ADA) \times 0.00025)) \times AGA$ .

(d) Provides that the GA under Section 41.051 of a school district that offers a kindergarten through grade 12 program and has fewer than 5,000 students in average daily attendance is adjusted by applying the formula, of two specified formulas, that results in the greatest guaranteed amount.

Sec. 41.055. SPARSITY ADJUSTMENT. Specifies that the sparsity adjustment meet certain requirements, notwithstanding Sections 41.051, 41.053, and 41.054.

[Reserves Sections 41.056-41.100 for expansion.]

#### SUBCHAPTER C. TRANSPORTATION ALLOTMENT

Sec. 41.101. TRANSPORTATION ALLOTMENT. Establishes that each district or county operating a transportation system is entitled to allotments for transportation costs as provided by this subchapter.

Sec. 41.102. DEFINITIONS. Defines "eligible special education student," "linear density," and "regular eligible student."

Sec. 41.103. REGULAR TRANSPORTATION ALLOTMENT. (a) Provides that each school district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible student of operating and maintaining

the regular transportation system and the linear density of that system.

(b) Requires the commissioner, in determining the cost, to give consideration to factors affecting the actual cost of providing these transportation services in each school district or county. Requires the commissioner to compute the average actual cost and to report that cost to LBB for consideration by the legislature in the General Appropriations Act.

(c) Prohibits the allotment per mile of approved route from exceeding the amount set by appropriation.

Sec. 41.104. HAZARDOUS CONDITIONS TRANSPORTATION ALLOTMENT. (a) Authorizes a school district or county to apply for and on approval of the commissioner receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children who live within two miles of the school they attend and who would be subject to hazardous traffic conditions if they walked to school.

(b) Requires each board of trustees to provide to the commissioner the definition of hazardous conditions applicable to that district and to identify the specific hazardous areas for which the allotment is requested. Provides that a hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

Sec. 41.105. PRIVATE OR COMMERCIAL TRANSPORTATION ALLOTMENT. (a) Authorizes the commissioner to grant an amount set by appropriation for private or commercial transportation for eligible students from isolated areas. Requires the need for this type of transportation grant to be determined on an individual basis, and prohibits the amount granted from exceeding the actual cost.

(b) Authorizes the grant to be made only in extreme hardship cases. Prohibits the grant from being made if the students live within two miles of an approved school bus route.

Sec. 41.106. TRANSPORTATION OF CAREER AND TECHNOLOGY EDUCATION STUDENTS. Requires the cost of transporting career and technology education students from one campus to another inside a school district or from a sending district to another secondary public school for a career and technology program or an area career and technology school or to an approved postsecondary institution under a contract for instruction approved by the Texas Education Agency (TEA) to be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by the board of trustees and approved by TEA.

Sec. 41.107. TRANSPORTATION OF SPECIAL EDUCATION STUDENTS. (a) Provides that a school district or county that provides special transportation services for eligible special education students is entitled to a state allotment paid on a previous year's cost-per-mile basis. Requires the maximum rate per mile allowable to be set by appropriation based on data gathered from the first year of each preceding biennium.

(b) Authorizes a school district to use a portion of its support allocation to pay transportation costs, if necessary. Authorizes the commissioner to grant an amount set by appropriation for private transportation to reimburse parents or their agents for transporting eligible special education students. Requires the mileage allowed to be computed along the shortest public road from the student's home to school and back, morning and afternoon. Requires the need for this type of transportation to be determined on an individual basis and to be approved only in extreme hardship cases.

Sec. 41.108. DETERMINATION OF TRANSPORTATION ALLOTMENTS OF DISTRICT BELONGING TO COUNTY TRANSPORTATION SYSTEM. Provides that, if a school district belongs to a county transportation system, the district's transportation allotment is determined on the basis of the number of approved daily route miles in the district multiplied by the allotment per mile to which the county transportation system is entitled.

Sec. 41.109. TRANSPORTATION ALLOTMENT FOR TEXAS SCHOOL FOR THE DEAF. Provides that the Texas School for the Deaf is entitled to an allotment under this subchapter. Requires the commissioner to determine the appropriate allotment.

Sec. 41.110. TRANSPORTATION TO CHILD-CARE FACILITIES. Prohibits the commissioner, notwithstanding any other provision of this subchapter, from reducing the allotment to which a school district or county is entitled under this subchapter because, as authorized by Section 34.007, the district or county provides transportation for an eligible student to and from a child-care facility, as defined by Section 42.002 (Definitions), Human Resources Code, instead of the student's residence, if the transportation is provided within the approved routes of the district or county for the school the student attends.

Sec. 41.111. USE OF TRANSPORTATION ALLOTMENTS. Requires the funds allotted under this subchapter to be used in providing transportation services.

[Reserves Sections 41.112-41.150 for expansion.]

#### SUBCHAPTER D. NEW INSTRUCTIONAL FACILITY ALLOTMENT

Sec. 41.151. NEW INSTRUCTIONAL FACILITY ALLOTMENT. Provides that a school district is entitled to an additional allotment as provided by this subchapter for operational expenses associated with opening a new instructional facility.

Sec. 41.152. DEFINITION. Defines "instructional facility."

Sec. 41.153. ALLOTMENT FOR FIRST YEAR OF OPERATION. Provides that a school district, for the first school year in which students attend a new instructional facility, is entitled to an allotment of \$250 for each student in average daily attendance at the facility.

Sec. 41.154. ALLOTMENT FOR SECOND YEAR OF OPERATION. (a) Provides that a school district, for the second school year in which students attend a new instructional facility, is entitled to an allotment of \$250 for each additional student in average daily attendance at the facility.

(b) Provides that for purposes of this section, the number of additional students in average daily attendance at a facility is the difference between the number of students in average daily attendance in the current year at that facility and the number of students in average daily attendance at that facility in the preceding year.

Sec. 41.155. LIMITATION ON ALLOTMENTS. (a) Prohibits the amount appropriated for allotments under this subchapter from exceeding \$25 million in a school year.

(b) Requires the commissioner, if the total amount of allotments to which school districts are entitled under this subchapter for a school year exceeds the amount appropriated for allotments under this subchapter, to reduce each district's allotment under this subchapter proportionately.

Sec. 41.156. RULES. Authorizes the commissioner to adopt rules necessary to implement this subchapter.

[Reserves Subchapters E-H for expansion.]

## SUBCHAPTER I. FINANCING THE SYSTEM

Sec. 41.401. FINANCING; GENERAL RULE. (a) Provides that the sum of the guaranteed amounts under Subchapter B, the transportation allotments under Subchapter C, and the new instructional facility allotments under Subchapter D constitute the total cost of the Texas Education Excellence Program.

(b) Requires the program to be financed by revenue generated by the state ad valorem tax under Section 1-e, Article VIII, Texas Constitution; state available school funds distributed in accordance with law; and state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Texas Education Excellence Program not covered by other funds specified by this subsection.

Sec. 41.402. DISTRIBUTION OF TEXAS EDUCATION FUND. (a) Requires the commissioner, for each school year, to determine the amount of money to which a school district is entitled under Subchapters B, C, and D; the amount of money to which a school district is entitled under Chapter 42; and the amount of each district's enrichment program local revenue under Section 42.002.

(b) Requires the commissioner, except as provided by this subsection, to base the determinations under Subsection (a) on the estimates provided to the legislature under Section 41.403, or, if the General Appropriations Act provides estimates for that purpose, on the estimates provided under that Act, for each school district for each school year. Requires the commissioner to reduce the entitlement under Chapter 42 of each district that has a final taxable value of property for the second year of a state fiscal biennium that is higher than the estimate under Section 41.403 or the General Appropriations Act, as applicable. Provides that a reduction under this subsection may not reduce the district's entitlement below the amount to which it is entitled at its actual taxable value of property. Prohibits the sum of the reductions under this subsection from being greater than the amount necessary to fully fund the entitlement of each district.

(c) Provides that each school district is entitled to state aid in an amount equal to the difference for that district between the sum of Subsections (a)(1) and (2) and the amount determined under Subsection (a)(3).

(d) Requires the commissioner, except as provided by Section 42.005, to approve warrants to each school district equaling the amount of its entitlement. Prohibits the total amount of the warrants approved under this section from exceeding the total amount appropriated for Texas Education Excellence Program purposes for that fiscal year.

(e) Authorizes the commissioner, if a school district demonstrates to the satisfaction of the commissioner that the estimate of the district's enrichment tax rate, student enrollment, or taxable value of property used in determining the amount of state funds to which the district is entitled is so inaccurate as to result in undue financial hardship to the district, to adjust funding to that district in that school year to the extent that funds are available for that year.

(f) Requires the commissioner, if the total amount appropriated for a year for the basic program under the Texas Education Excellence Program is less than the amount of money to which school districts are entitled for that year, to reduce the total amount of basic program funds allocated to each district proportionately. Establishes that the following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection.



(g) Requires the payment from the Texas education fund to each school district to be made in a certain manner.

(h) Requires the commissioner, by March 1 of each year, to determine the actual amount of state funds to which each school district is entitled under this chapter and Chapter 42 for the current school year and to compare that amount with the amount of the warrants issued to each district for that year. Requires the commissioner, if the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's enrichment tax rate, student enrollment, or taxable value of property, to adjust the district's entitlement for the next fiscal year accordingly.

Sec. 41.403. ESTIMATES REQUIRED. (a) Requires TEA and the comptroller, by October 1 of each even-numbered year, to submit certain information to the legislature.

(b) Requires TEA and the comptroller, by March 1 of each odd-numbered year, to update the information provided to the legislature under Subsection (a).

Sec. 41.404. MINIMUM PER-STUDENT AID. (a) Provides that a school district, notwithstanding any other provision of this subtitle, is entitled to an amount of state aid per student in weighted average daily attendance that is equal to the amount of state and local funds for maintenance and operations per student in weighted average daily attendance the district received under former Chapters 41 and 42 and Chapter 45 or under another law authorizing a school district to impose a tax for maintenance and operations for the 2003-2004 school year, or a greater amount provided for any year by appropriation. Provides that for purposes of this subsection, the amount of state and local funds for maintenance and operations per student in weighted average daily attendance a district received for the 2003-2004 school year does not take into consideration any amounts the district paid for the purchase of attendance credits under former Subchapter D, Chapter 41, or the education of nonresident students under former Subchapter E, Chapter 41.

(b) Requires the commissioner, each year, to determine for each school district whether the amount of state aid to which the district is entitled under Section 41.402(c) is less than the amount specified under Subsection (a) and to provide additional state aid in an amount equal to the difference, if any.

(c) Requires the additional to state aid under this section to be funded from general revenue and designated in a separate line item in the General Appropriations Act.

(d) Provides that a determination by the commissioner under this section is final and prohibits it from being appealed.

(e) Authorizes the commissioner to adopt rules to implement this section.

Sec. 41.405. FALSIFICATION OF RECORDS; REPORT. Requires TEA's director of school audits, when, in the director's opinion, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, through which the district's share of state funds allocated under this chapter would be or has been illegally increased, to promptly and fully report the fact to SBOE, the state auditor, and the appropriate county attorney, district attorney, or criminal district attorney.

Sec. 41.406. RECOVERY OF OVERALLOCATED FUNDS. (a) Requires TEA, if a school district has received an overallocation of state funds, by withholding from subsequent allocations of state funds or by requesting and obtaining a refund, to recover from the district an amount equal to the overallocation.

(b) Requires TEA, if a district fails to comply with a request for a refund under Subsection (a), to certify to the comptroller that the amount constitutes a debt for purposes of Section 403.055, Government Code. Requires TEA to provide to the comptroller the amount of the overallocation and any other information required by the comptroller. Authorizes the comptroller to certify the amount of the debt to the attorney general for collection.

(c) Requires any amounts recovered under this section to be deposited in the Texas education fund.

[Reserves Sections 41.407-41.450 for expansion.]

#### SUBCHAPTER J. LIMITATIONS ON PROGRAM ALLOTMENTS

Sec. 41.451. SPECIAL EDUCATION PROGRAMS. (a) Prohibits the number of contact hours credited per day for each special education student in the off-home-campus instructional arrangement from exceeding the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year, for funding purposes.

(b) Prohibits the contact hours credited per day for each special education student in the resource room; self-contained, mild and moderate, regular campus; and self-contained, severe, regular campus instructional arrangements from exceeding the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year, for funding purposes.

(c) Requires SBOE by rule to prescribe the qualifications a special education instructional arrangement must meet in order to be funded as a particular instructional arrangement under this chapter. Requires SBOE, in prescribing the qualifications that a mainstream instructional arrangement must meet, to require that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.

(d) Requires SBOE to adopt rules and procedures governing contracts for residential placement of special education students. Requires the legislature to provide by appropriation for the state's share of the costs of those placements.

(e) Requires funds allocated under this chapter for special education programs, other than an indirect cost allotment established under SBOE rule, to be used in the special education program under Subchapter A, Chapter 29.

(f) Requires TEA to encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for students' educational needs.

(g) Requires a school district that maintains for two successive years a ratio of full-time equivalent special education students placed in partially or totally self-contained classrooms to the number of full-time equivalent students placed in resource room or mainstream instructional arrangements that is 25 percent higher than the statewide average ratio to be reviewed by TEA to determine the appropriateness of student placement. Authorizes the commissioner to reduce the guaranteed amount the district receives to the level to which the district would be entitled if the district's ratio was not more than 25 percent higher than the statewide average ratio.

(h) Provides that a school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage

determined by the commissioner, of the guaranteed amount for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under Section 41.052(b), for each day the program is provided divided by the number of days in the minimum school year. Prohibits the total amount of state funding for extended year services under this section from exceeding \$10 million per year. Authorizes a school district to use funds received under this subsection only in providing an extended year program.

(i) Requires the commissioner, from the total amount of funds appropriated for special education under this chapter, to withhold an amount specified in the General Appropriations Act and distribute that amount to school districts for programs under Section 29.014. Provides that the program established under that section is required only in school districts in which the program is financed by funds distributed under this subsection and any other funds available for the program. Requires the commissioner, after deducting the amount withheld under this subsection from the total amount appropriated for special education, to reduce each district's allocation proportionately.

**Sec. 41.452. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS.**

(a) Requires funds allocated under this chapter for bilingual education or special language programs, other than an indirect cost allotment established under SBOE rule, to be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and to be accounted for under existing agency reporting and auditing procedures.

(b) Authorizes a district's bilingual education or special language allocation to be used only for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

**Sec. 41.453. COMPENSATORY EDUCATION PROGRAMS.** (a) Provides that for purposes of Section 41.052(b)(14), the number of educationally disadvantaged students is determined by averaging the best six months' enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year or in the manner provided by commissioner rule, if no campus in the district participated in the national school lunch program of free or reduced-price lunches during the preceding school year.

(b) Authorizes funds allocated under Sections 41.052(b)(14) and (15) to be used only to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081, and all other students. Authorizes the funds, other than an indirect cost allotment established under SBOE rule, prohibited from exceeding 15 percent, to be used only to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or an alternative education program established under Section 37.008 or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 50 percent of the students are educationally disadvantaged. Authorizes funds allocated under Sections 41.052(b)(14) and (15), in meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, to be used only for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. Requires a home-rule

school district or an open-enrollment charter school to use funds allocated under Sections 41.052(b)(14) and (15) for a purpose authorized by this subsection, but provides that such a district or school is not otherwise subject to Subchapter C, Chapter 29. Authorizes certain actions to be taken, notwithstanding any other provisions of this section.

(c) Requires a district, in a petition under Subsection (b)(2), to report the number of students in each grade level, by demographic subgroup, not making satisfactory progress under the state's assessment system. Requires the commissioner to make this waiver request information available annually to the public on TEA's website.

(d) Requires TEA to evaluate the effectiveness of accelerated instruction and support programs provided under Section 29.081 for students at risk of dropping out of school.

(e) Authorizes the commissioner, from the total amount of funds appropriated for allocations under Sections 41.052(b)(14) and (15), to take certain actions each fiscal year.

(f) Requires the commissioner, from the total amount of funds appropriated for allocations under Sections 41.052(b)(14) and (15), to take certain actions, each fiscal year.

(g) Requires the commissioner, after deducting the amounts withheld under Subsections (e) and (f) from the total amount appropriated for the allocations under Sections 41.051(b)(14) and (15), to reduce each district's guaranteed amount proportionately.

(h) Requires SBOE, with the assistance of the state auditor and the comptroller, to develop and implement by rule a reporting and auditing system for district and campus expenditures of funds allocated under Sections 41.051(b)(14) and (15) to ensure that those funds, other than the indirect cost allotment, are spent only to supplement the regular program. Requires the commissioner, in the year following an audit of compensatory education expenditures, to withhold from a district's Texas education fund payment an amount equal to the amount of funds allocated under Sections 41.051(b)(14) and (15) TEA determines were not used in compliance with Subsection (b). Requires the commissioner to release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to use those funds in compliance with Subsection (b).

(i) Requires the commissioner to grant a one-year exemption from the requirements of Subsection (h) to a school district in which the group of students who failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l) subsequently performs on those assessment instruments at a level that meets or exceeds a level prescribed by commissioner rule. Requires the commissioner, each year, based on the most recent information available, to determine if a school district is entitled to an exemption for the following school year and notify the district of that determination.

**Sec. 41.454. PROGRAMS FOR GIFTED AND TALENTED STUDENTS. (a)**

Requires funds allocated under this chapter for programs for gifted and talented students, other than the amount that represents the program's share of general administrative costs, to be used in providing programs for gifted and talented students under Subchapter D, Chapter 29, including programs sanctioned by International Baccalaureate and Advanced Placement, or in developing programs for gifted and talented students. Requires each district to account for the expenditure of state funds as provided by SBOE rule. Requires the district, if by the end of the 12th month after receiving an allocation for developing a

program a district has failed to implement a program, to refund the amount of the allocation to TEA within 30 days.

(b) Provides that not more than five percent of a district's students in average daily attendance are eligible for funding under this chapter for attendance in a program for gifted and talented students.

(c) Authorizes SBOE, after each district has received allocated funds for programs for gifted and talented students, to use up to \$500,000 of the funds allocated under Section 41.052(b)(18) for programs such as MATHCOUNTS, Future Problem Solving, Odyssey of the Mind, and Academic Decathlon, as long as those funds are used to train personnel and provide program services. Requires a program, to be eligible for funding under this subsection, to be determined by SBOE to provide services that are effective and consistent with the state plan for gifted and talented education.

Sec. 41.455. CAREER AND TECHNOLOGY EDUCATION PROGRAMS. (a) Requires funds allocated under this chapter for career and technology education, other than an indirect cost allotment established under SBOE rule, to be used in providing career and technology education programs in grades 9 through 12 or career and technology education programs for students with disabilities in grades 9 through 12 under Sections 29.182, 29.183, and 29.184.

(b) Authorizes the commissioner, out of the total amount appropriated for allocations for career and technology education under Section 41.052(b)(17), to withhold an amount specified in the General Appropriations Act, prohibited from exceeding one percent of the total amount appropriated, to support regional career and technology education planning. Requires the commissioner, after deducting the amount withheld under this subsection from the total amount appropriated for allocations for career and technology education under Section 41.052(b)(17), to reduce each district's allocations under that section proportionately.

(c) Requires the commissioner to conduct a cost-benefit comparison between career and technology education programs and mathematics and science programs.

#### CHAPTER 42. ENRICHMENT PROGRAM

Sec. 42.001. PURPOSE. Provides that the purpose of the enrichment program component of the Texas Education Excellence Program is to provide each school district with the opportunity to supplement the basic program at a level of its own choice.

Sec. 42.002. ALLOTMENT. (a) Defines "wealth per student."

(b) Provides that each school district is guaranteed a specified amount per student in state and local funds for each cent of enrichment tax effort up to the maximum level specified in this chapter. Provides that the amount of state support is determined by a certain formula.

(c) Provides that for purposes of this section, a school district's taxable value of property is not reduced by the total dollar amount of any residence homestead tax exemptions granted under Section 11.13(n), Tax Code.

Sec. 42.003. DISTRICT ENRICHMENT TAX. (a) Authorizes the board of trustees of a school district, subject to Section 42.004, to impose an annual ad valorem tax for the enrichment of the public schools in the district.

(b) Prohibits the district enrichment tax rate from exceeding \$0.10 for each \$100 of taxable value of property.

(c) Provides that an exemption adopted by the board of trustees of a school district under Section 11.13(n), Tax Code, does not apply to a tax imposed under this section.

(d) Prohibits the district enrichment tax rate, notwithstanding Subsection (b), for the 2005-2006 school year, from exceeding \$0.05 for each \$100 of taxable value of property. Provides that this subsection expires August 31, 2006.

Sec. 42.004. ENRICHMENT TAX ELECTION. (a) Prohibits a school district from imposing an enrichment tax under Section 42.003 unless authorized by a majority of the qualified voters of the district voting at an election held for that purpose.

(b) Requires a proposition submitted to authorize the imposition of an enrichment tax to include the question of whether the board of trustees may impose annual ad valorem taxes for the further enrichment of public schools, at a rate not to exceed the rate stated in the proposition.

Sec. 42.005. DISTRIBUTION OF ENRICHMENT PROGRAM FUNDS. (a) Requires the commissioner, as provided by Section 41.402, for each school year, to determine the guaranteed yield amount of state enrichment program funds to which a school district is entitled under Section 42.002 and approve and transmit warrants to school districts.

(b) Requires the commissioner, if the total amount of state enrichment funds allocated to districts under this chapter for a fiscal year exceeds the amount appropriated for that year, to reduce the total amount of state enrichment funds allocated to each district proportionately. Provides that the following fiscal year, a district's entitlement under this chapter is increased by an amount equal to the reduction made under this subsection.

Sec. 42.006. USE OF ALLOTMENT. Authorizes state enrichment funds allocated under this chapter to be used for any legal purpose, including capital outlay and debt service.

Sec. 42.007. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON MILITARY RESERVATION OR AT STATE SCHOOL. Provides that state enrichment funds allocated under this chapter for a school district located on a federal military installation or at Moody State School are computed using the average district enrichment tax rate and property value per student of school districts in the county, as determined by the commissioner.

SECTION 1.03. Amends Section 29.085, Education Code, by adding Subsections (e) and (f), as follows:

(e) Provides that the program established under this section is required only in school districts in which the program is financed by funds distributed under Section 41.453(f)(1) and any other funds available for the program.

(f) Requires the commissioner to coordinate the funds withheld under Section 41.453(f)(1) and any other funds available for the program and to distribute those funds. Requires a school district, in order to receive funds for the program, to apply to the commissioner. Requires the commissioner to give a preference to the districts that apply that have the highest concentration of students who are pregnant or who are parents.

SECTION 1.04. Amends Section 33.002, Education Code, by adding Subsections (d) and (e), as follows:

(d) Provides that this section applies only to a school district that receives funds distributed under Section 41.453(f)(2) or any other funds available.

(e) Requires the commissioner to coordinate the funds withheld under Section

41.453(f)(2) and any other funds available for the program and to distribute those funds. Requires a school district, in order to receive funds for the program, to apply to the commissioner. Requires the commissioner to give a preference to the districts that apply that have the highest concentration of at-risk students.

SECTION 1.05. Amends Sections 39.052(b) and (c), Education Code, as follows:

(b) Requires the report card to include certain information. Makes nonsubstantive changes.

(c) Requires the commissioner to adopt rules requiring dissemination of the information required under Subsection (b)(4) and appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. Makes a nonsubstantive change.

SECTION 1.06. Amends Section 39.182(a), Education Code, to require TEA, not later than December 1 of each year, to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing certain items and information.

SECTION 1.07. Amends Section 43.001(b), Education Code, to delete text specifying that the available school fund is to be apportioned annually to each county according to its scholastic population.

SECTION 1.08. Amends Subchapter A, Chapter 44, Education Code, by adding Section 44.0071, as follows:

Sec. 44.0071. COMPUTATION OF INSTRUCTIONAL EXPENDITURES RATIO AND INSTRUCTIONAL EMPLOYEES RATIO. (a) Requires a school district, each fiscal year, to compute and report certain information to the commissioner.

(b) Requires a school district, at least annually, to provide educators employed by the district with a list of district employees determined by the district for purposes of this section to be engaged in directly providing classroom instruction to students. Requires the list to include the percentage of time spent by each employee in directly providing classroom instruction to students.

(c) Requires the computation of a district's expenditures used to fund direct instructional activities, for purposes of this section, to include the salary, including any associated employment taxes, and value of any benefits provided to any district employee who directly provided classroom instruction to students, but only in proportion to the percentage of time spent by the employee in directly providing classroom instruction to students.

(d) Requires the commissioner to adopt rules as necessary to implement this section.

SECTION 1.09. Amends Section 45.003(a), Education Code, to prohibit bonds described by Section 45.001 from being issued and taxes described by that section, rather than Section 45.001 or 45.002, from being levied unless authorized by a majority of the qualified voters of the district voting at an election held for that purpose. Deletes existing language regarding a resolution or order relating to an election.

SECTION 1.10. Amends Section 43.015, Education Code, by adding Subsection (c-1), to require the comptroller, on the 10th day of each month and on the last day of the fiscal year, to transfer from the available school fund to the Texas education fund all amounts in the available

school fund that SBOE certifies are not needed to purchase and distribute textbooks under Chapter 31.

SECTION 1.11. Amends Section 46.033, Education Code, to provide that bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if certain conditions apply.

SECTION 1.12. Amends Section 46.034(c), Education Code, to prohibit the district, if the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the final, rather than the 2000-2001, school year of the state fiscal biennium preceding the biennium in which the district first receives assistance under this subchapter for the payment of principal of and interest on the bonds or the district's audited debt service collections for that school year, from receiving aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

SECTION 1.13. Repealers: Section 33.001, as amended by Chapters 1223 and 1487, Acts of the 77th Legislature, Regular Session, 2001; Chapters 41 and 42, as added by Chapter 260, Acts of the 74th Legislature, Regular Session, 1995; and Sections 11.151(b), 43.001(c), 43.016, 45.002, and 45.003(d), Education Code.

SECTION 1.14. (a) Provides that the Education Excellence Task Force is composed of certain persons.

(b) Requires the Education Excellence Task Force to take certain actions.

(c) Requires the Education Excellence Task Force, not later than December 1, 2004, to submit to the lieutenant governor, the speaker of the house of representatives, and the legislature a comprehensive study of the academic and funding elements needed to ensure the opportunity for educational excellence of every Texas student. Requires the report to include specific recommendations for improving student performance on the Texas Assessment of Knowledge and Skills, for increasing high school graduation rates, and for revising the education funding formulas and weights to promote educational excellence.

SECTION 1.15. (a) Provides that this article takes effect September 1, 2004, and applies beginning with the 2004-2005 school year, except as otherwise provided by this Act.

(b) Provides that Chapter 42, Education Code, as added by this Act, applies beginning with the 2005-2006 school year.

SECTION 1.16. (a) Provides that a school district maintenance tax rate imposed under Sections 45.002 and 45.003, Education Code, before September 1, 2004, is void. Prohibits the board of trustees of a school district from imposing a district enrichment tax under Chapter 42, Education Code, as added by this Act, without holding an election in compliance with that chapter.

(b) Provides that the repeal by this Act of Section 45.002, Education Code, does not affect the authority of a school district to collect and use delinquent ad valorem taxes imposed under that section before September 1, 2004.

(c) Provides that the repeal of Chapter 42, Education Code, by this Act does not affect the liability of a school district for excess administrative costs during the 2003-2004 school year that the commissioner is entitled to recover during the 2004-2005 school year under Section 42.201(d), Education Code, as that subsection existed on January 1, 2003, and provides that the former law is continued in effect for that purpose.

SECTION 1.17. Provides that a reference in this code or other law to the Foundation School Program means the Texas Education Excellence Program. Provides that a reference in this code or other law to the foundation school fund means the Texas education fund.



## ARTICLE 2. TEXAS EDUCATION FUND

SECTION 2.01. Amends Chapter 45, Education Code, by adding Subchapter I, as follows:

### SUBCHAPTER I. TEXAS EDUCATION FUND

Sec. 45.251. TEXAS EDUCATION FUND. (a) Provides that the Texas education fund is a fund maintained by the comptroller within the general revenue fund. Provides that the Texas education fund consists of the tax revenue allocated to the fund under Section 5A, Article VII, Texas Constitution.

(b) Provides that the state ad valorem tax rate is \$0.75 for each \$100 of the taxable value of property subject to the tax.

(c) Requires the state, except as otherwise provided by law, to be treated, for purposes of the state ad valorem tax, as a taxing unit under Title 1, Tax Code (Property Tax Code).

Sec. 45.252. APPRAISAL OF PROPERTY. (a) Requires property subject to the state ad valorem tax to be appraised by the appraisal district for the county in which the property is located.

(b) Requires property subject to the state ad valorem tax to be appraised in the manner provided by Title 1, Tax Code, for the appraisal of property that is subject to ad valorem taxation by a county.

Sec. 45.253. TAX COLLECTION. (a) Requires the assessor-collector for the county, in each county, to assess and collect state ad valorem taxes imposed on property in that county.

(b) Requires the official, taxing unit, or political subdivision to also assess or collect, as applicable, the state ad valorem taxes imposed on property in that county, if the commissioners court of a county contracts with an official, taxing unit, or political subdivision of this state for the assessment or collection of the ad valorem taxes of the county.

(c) Provides that each assessor or collector of state ad valorem taxes is entitled to be reimbursed by the comptroller for the actual costs incurred by the assessor or collector in assessing or collecting state ad valorem taxes. Provides that an assessor or collector is not entitled to be reimbursed for any amount that is greater than the additional incremental costs incurred in assessing or collecting the state ad valorem taxes.

(d) Requires the comptroller to take certain actions.

Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Authorizes a duty imposed on or power granted to the governing body of a taxing unit by Title 1, Tax Code, to, for purposes of the state ad valorem tax under this subchapter, be exercised by the comptroller, except as otherwise provided by this subchapter. Provides that a reference to the presiding officer of a governing body in Title 1, Tax Code, is a reference to the comptroller for the purposes of the state tax under this subchapter.

(b) Authorizes the comptroller to delegate to the county assessor-collector any function of the comptroller with respect to the state ad valorem tax and to designate the county assessor-collector as the comptroller's agent for purposes of administration of the state ad valorem tax.

Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. Requires the comptroller to deposit to the credit of the general revenue fund in appropriately

designated accounts an amount of revenue collected from the state ad valorem tax to pay for the comptroller's expenses in administering this subchapter and for the payment of tax refunds that may become payable.

Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS. Provides that Title 2, Tax Code (State Taxation), does not apply to the state ad valorem tax under this subchapter.

SECTION 2.02. Provides that this article takes effect January 1, 2004, except as otherwise provided by this Act.

### ARTICLE 3. AMENDMENTS TO PROPERTY TAX CODE

SECTION 3.01. Amends Subchapter A, Chapter 6, Tax Code, by adding Section 6.038, as follows:

Sec. 6.038. STATE PARTICIPATION. (a) Provides that the comptroller and the state do not participate in the election of the board of directors of an appraisal district, the governance or management of the district, or the determination of the district's finances and budget.

(b) Requires the comptroller by rule to establish guidelines and criteria under which, if the comptroller finds that generally accepted appraisal standards and practices were not used by the appraisal district appraising property subject to the state ad valorem tax or that the appraised values assigned to property subject to that tax are invalid, the comptroller is authorized to take certain actions.

SECTION 3.02. Amends Section 6.06(d), Tax Code, to provide that the state and each taxing unit participating in the district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the state or taxing unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by the state and each participating unit for that year. Provides that, for purposes of this subsection, only state ad valorem taxes imposed in the county for which the district is established are considered as state ad valorem taxes imposed in the district.

SECTION 3.03. Amends Sections 11.13(b) and (c), Tax Code, as follows:

(b) Provides that an adult is entitled to exemption from taxation by the state for public school purposes or by a school district of \$15,000 of the appraised value of the adult's residence homestead, except that \$10,000 of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

(c) Provides that, in addition to the exemption provided by Subsection (b), an adult who is disabled or is 65 years of age or older is entitled to an exemption from taxation by the state for public school purposes or by a school district of \$10,000 of the appraised value of the adult's, rather than his, residence homestead.

SECTION 3.04. Amends Section 11.14, Tax Code, by adding Subsection (f), to provide that Subsection (c) does not apply to the comptroller or to the state ad valorem tax.

SECTION 3.05. Amends Section 11.251(i), Tax Code, as follows:

(i) Provides that the exemption provided by Subsection (b) does not apply to a taxing unit that takes action to tax the property under Article VIII, Section 1-j, Subsection (b), of the Texas Constitution. Provides that if the property is located in a school district that taxes the property in the tax year, the property is not exempt from state ad valorem taxes imposed under Article VIII, Section 1-n, Texas Constitution, in that tax year.

SECTION 3.06. Amends the heading to Section 11.26, Tax Code, to read as follows:

Sec. 11.26. LIMITATION OF SCHOOL TAXES ON HOMESTEADS OF ELDERLY.

SECTION 3.07. Amends Section 11.26, Tax Code, by amending Subsections (a), (b), (g), (h), (j), and (k) and adding Subsections (a-1) and (g-1), as follows:

(a) Prohibits the state or a school district from increasing the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the exemption provided by Section 11.13(c) for an individual 65 years of age or older. Makes conforming changes.

(a-1) Provides that if the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) was a tax year before the 2004, rather than 1997, tax year, certain limitations apply.

(b) Makes conforming changes.

(g) Deletes existing text relating to school district taxes. Makes conforming changes.

(g-1) Provides that Subsection (g) does not apply to a residence homestead to which this subsection applies. Prohibits the state from imposing taxes on the subsequently qualified homestead in an amount that exceeds the amount of taxes the state would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases imposed by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of school district taxes imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of school district taxes that would have been imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitations on tax increases imposed by this section not been in effect and prohibits the school district from imposing taxes on the subsequently qualified homestead in an amount that exceeds the positive amount, if any, by which the limitation on state taxes calculated under Subdivision (1) exceeds the amount of state taxes imposed in the first year in which the subsequently qualified homestead receives the exemption, except as provided by Subsection (b), if an individual who receives a limitation on tax increases imposed by this section in a tax year before the 2004 tax year, including a surviving spouse who receives a limitation under Subsection (i), subsequently qualifies a different residence homestead for an exemption under Section 11.13 and the first year in which the subsequently qualified homestead qualifies for the exemption is a tax year after the 2003 tax year.

(h), (j), and (k) Make conforming changes.

SECTION 3.08. Amends Section 21.03(a), Tax Code, to make conforming changes.

SECTION 3.09. Amends Section 21.031(a), Tax Code, to make conforming changes.

SECTION 3.10. Amends Section 23.46(d), Tax Code, to delete the phrase “of this section” after text referring to Subsection (c). Provides that the lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3.11. Amends Section 23.55(b), Tax Code, to make a conforming change.

SECTION 3.12. Amends Section 23.76(b), Tax Code, to make a conforming change.

SECTION 3.13. Amends Section 23.86(b), Tax Code, to make a conforming change.

SECTION 3.14. Amends Section 23.96(b), Tax Code, to make a conforming change.

SECTION 3.15. Amends Section 23.9807(c), Tax Code, to make a conforming change.

SECTION 3.16. Amends Section 24.39, Tax Code, as follows:

Sec. 24.39. IMPOSITION OF TAX. (a) Creates this subsection from existing text.

(b) Requires the county assessor-collector to add each owner's rolling stock and the value apportioned to the county as certified to that official, rather than him, to the appraisal roll certified to that official by the chief appraiser as provided by Section 26.01 for county tax purposes and to the appraisal roll for state ad valorem taxes. Makes conforming changes.

SECTION 3.17. Amends and reenacts Section 25.19(b), Tax Code, as amended by Chapters 1358 and 1517, Acts of the 76th Legislature, Regular Session, 1999, to require the chief appraiser to separate real from personal property and include in the notice for each a list of the taxing units in which the property is taxable and a statement that the property is subject to the state tax to support the public schools. Includes "and for state taxation" in relation to the taxable value of the property. Includes "for each taxing unit other than the state" in relation to the effective tax rate. Includes the term "local" when referring to taxes. Makes conforming and nonsubstantive changes.

SECTION 3.18. Amends the heading to Section 26.01, Tax Code, to read as follows:

Sec. 26.01. SUBMISSION OF ROLLS TO STATE AND TAXING UNITS.

SECTION 3.19. Amends Sections 26.01(a), (c), and (d), Tax Code, as follows:

(a) Requires the chief appraiser by a certain date to prepare and certify to the comptroller that part of the appraisal roll for the district that lists property taxable by the state. Provides that the part certified to the assessor or the comptroller is the appraisal roll for the taxing unit or the state. Requires the chief appraiser to consult with the assessor for each taxing unit and the comptroller and notify each taxing unit and the comptroller in writing by April 1 of the form in which the roll will be provided to each unit and to the comptroller.

(c) and (d) Make conforming changes.

SECTION 3.20. Amends Chapter 26, Tax Code, by adding Section 26.011, as follows:

Sec. 26.011. PROVISIONS EXCLUDED FOR STATE TAX. Provides that Sections 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08 do not apply to the state ad valorem tax or to the comptroller.

SECTION 3.21. Amends Sections 26.09(b) and (c), Tax Code, as follows:

(b) Makes conforming and nonsubstantive changes.

(c) Provides a method for calculating the tax.

SECTION 3.22. Amends Section 26.12, Tax Code, by adding Subsection (e), to provide that for purposes of this section, the state is not a taxing unit.

SECTION 3.23. Amends Section 26.15(c), Tax Code, to authorize the comptroller to order changes on the state tax roll to correct errors in the mathematical computation of the state tax.

SECTION 3.24. Amends Section 31.11(a), Tax Code, to add the phrase "or the comptroller in the case of the state ad valorem tax" in relation to the overpayment or erroneous payment of

taxes. Inserts the phrase “for taxes other than state ad valorem taxes” in relation to refunds.

SECTION 3.25. Amends Sections 32.01(a) and (d), Tax Code, as follows:

(a) Provides that the lien to secure the payment of state ad valorem taxes and applicable penalties and interest exists in favor of the state. Provides that the lien to secure the payment of taxes imposed by a taxing unit and applicable penalties and interest exists in favor of the taxing unit having power to tax the property. Makes conforming changes.

(d) Makes a conforming change.

SECTION 3.26. Amends Section 33.01(a), Tax Code, to include a delinquent state ad valorem tax in relation to a penalty.

SECTION 3.27. Amends Subchapter A, Chapter 33, Tax Code, by adding Section 33.10, as follows:

Sec. 33.10. COLLECTION OF DELINQUENT STATE AD VALOREM TAXES; PENALTY. (a) Requires the attorney general to represent the state to enforce the collection of delinquent state ad valorem taxes, except as provided by Subsection (b). Authorizes the attorney general to delegate the attorney general's duties under this subsection to a county or district attorney or contract with a private attorney for the performance of those duties.

(b) Provides that if the commissioners court of a county contracts with a private attorney for the collection of delinquent county ad valorem taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable in that county without further action. Provides that the compensation of the private attorney for collecting delinquent state ad valorem taxes is equal to a percentage of the amount collected that represents the portion of that amount attributable to the additional penalty provided by Subsection (c). Provides that if the commissioners court of a county contracts with an official, taxing unit, or political subdivision of this state for the collection of the ad valorem taxes of the county that includes the collection of delinquent county taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable in that county without further action.

(c) Provides that state ad valorem taxes that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection if the collection of the delinquent taxes is covered by a contract with a private attorney under Subsection (a) or (b). Provides that the amount of the penalty is 15 percent of the amount of the taxes, penalty, and interest due.

(d) Provides that a tax lien attaches in favor of the state to the property on which the tax is imposed to secure payment of the penalty.

(e) Requires the attorney general or the person responsible for collecting the delinquent tax to deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

(f) Provides that Sections 6.30, 33.07, and 33.08 do not apply to the state ad valorem tax.

SECTION 3.28. Amends Sections 33.21(a) and (b), Tax Code, to make conforming and nonsubstantive changes.

SECTION 3.29. Amends Section 33.23(b), Tax Code, to make a conforming change.

SECTION 3.30. Amends Section 33.44(b), Tax Code, to provide that for purposes of joining the

state, citation shall be served on the county assessor-collector. Makes conforming and nonsubstantive changes.

SECTION 3.31. Amends Section 34.04(b), Tax Code, to provide that the attorney general represents the state at the hearing unless the attorney general delegates that duty to the county or district attorney.

SECTION 3.32. Amends the heading to Chapter 41, Tax Code, to read as follows:

#### CHAPTER 41. ADMINISTRATIVE REVIEW

SECTION 3.33. Amends Section 41.03, Tax Code, as follows:

Sec. 41.03. New heading: CHALLENGE BY STATE OR TAXING UNIT. Makes conforming changes.

SECTION 3.34. Amends Subchapter A, Chapter 41, Tax Code, by adding Section 41.031, as follows:

Sec. 41.031. CHALLENGE BY COMPTROLLER. Entitles the comptroller to challenge before the appraisal review board the exclusion of property from the appraisal roll for state ad valorem taxes.

SECTION 3.35. Amends Section 41.06(a), Tax Code, to require the secretary of the appraisal review board to deliver to the comptroller and the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing written notice of the date, time, and place fixed for the hearing.

SECTION 3.36. Amends Section 41.07(d), Tax Code, to require the appraisal review board, if the order of the board excludes property from the appraisal roll for state ad valorem taxes, to also deliver a notice of issuance and a copy of the order to the comptroller in the manner prescribed by the comptroller.

SECTION 3.37. Amends Section 41.12, Tax Code, by adding Subsection (c), to provide that a protest upon which a determination is pending under Subchapter E is not considered to be an undetermined protest for the purposes of Subsection (b).

SECTION 3.38. Amends Section 41.47(d), Tax Code, to make conforming changes.

SECTION 3.39. Amends Section 41.41(a), Tax Code, to entitle a property owner to protest before the appraisal review board the inclusion of the property on or the exclusion of the property from the appraisal roll for state ad valorem taxes.

SECTION 3.40. Amends Subchapter A, Chapter 42, Tax Code, by adding Section 42.032, as follows:

Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) Entitles the comptroller to appeal an order of the appraisal review board excluding property from the appraisal roll for state ad valorem taxes.

(b) Requires the attorney general to represent the comptroller in an appeal under this section. Authorizes the attorney general to delegate its duties under this section to a county or district attorney or to contract with a private attorney for the performance of those duties.

SECTION 3.41. Amends Sections 42.06(a) and (c), Tax Code, to make conforming changes.

SECTION 3.42. Amends Sections 42.43(a)-(c), Tax Code, as follows:

(a) Provides that if the final determination of an appeal that decreases a property owner's tax liability occurs after the property owner has paid the owner's taxes, the taxing unit and the comptroller, if the property is subject to the state ad valorem tax, are required to refund to the property owner the difference between the amount of taxes paid and amount of taxes for which the property owner is liable.

(b) and (c) Make conforming changes.

SECTION 3.43. Amends Sections 43.01 and 43.04, Tax Code, to make conforming changes.

SECTION 3.44. Amends Subchapter A, Chapter 312, Tax Code, by adding Section 312.0011, to define "taxing unit."

SECTION 3.45. Makes application of the changes in law made by this article to Chapter 41, Tax Code, prospective.

SECTION 3.46. (a) Provides that except as otherwise provided by this Act, this article takes effect January 1, 2004.

(b) Provides that this article applies to each tax year that begins on or after January 1, 2004. Provides that the changes in law made by this article do not apply to a tax year that begins before January 1, 2004, and the law as it existed before January 1, 2004, is continued in effect for purposes of taxes imposed in that tax year.

#### ARTICLE 4. STATE SALES AND USE TAXES

SECTION 4.01. Amends Subchapter A, Chapter 151, Tax Code, by adding Section 151.0082, as follows:

Sec. 151.0082. "SERVICE." Defines "service."

SECTION 4.02. Amends Section 151.0101, Tax Code, by adding Subsection (c), to provide that notwithstanding Subsection (a), "taxable service" includes a service to which the tax imposed by this chapter applies under Section 25, Article VIII, Texas Constitution, to the extent the service is not otherwise exempted by this chapter.

SECTION 4.03. Amends Subchapter H, Chapter 151, Tax Code, by adding Section 151.3135, as follows:

Sec. 151.3135. HEALTH CARE SERVICES. (a) Defines "health care service."

(b) Provides that except as provided by Subsection (c), the sale or use of a health care service is exempted from the taxes imposed by this chapter.

(c) Provides that this section does not apply to a health care service for which a license is required under Chapter 451 or 651, Occupations Code.

SECTION 4.04. Amends Subchapter H, Subchapter 151, Tax Code, by adding Section 151.3145, as follows:

Sec. 151.3145. CERTAIN FINANCIAL ASSISTANCE AND FOOD STAMP RECIPIENTS. (a) Provides that this section applies to a person who receives financial assistance under Chapter 31, Human Resources Code, or nutritional assistance under Chapter 33, Human Resources Code, through the use of an electronic benefits transfer system.

(b) Provides that there is exempted from the taxes imposed by this chapter 40 percent of the value of a taxable item sold, leased, or rented to a person to which this section applies.

(c) Requires the comptroller by rule to prescribe procedures relating to the exemption provided by this section. Requires the rules to require that a person to whom this section applies present a government-issued identification card bearing the picture of the person to qualify for the exemption.

SECTION 4.05. Amends Sections 151.801(a), (b), and (c), Tax Code, as follows:

(a) Provides that except for the amounts allocated under Subsections (b) and (c), all proceeds from the collection of the taxes imposed by this chapter that are not required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, must be deposited to the credit of the general revenue fund.

(b) Provides that the amount of the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of lubricating and motor oils used to propel motor vehicles over the public roadways that are not required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, must be deposited to the credit of the state highway fund.

(c) Provides that the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods that are not required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, must be credited to the Parks and Wildlife Department and deposited as specified in the Parks and Wildlife Code, rather than deposited according to certain conditions. Prohibits the comptroller from crediting in excess of \$32 million in sporting goods tax revenue annually to the Parks and Wildlife Department.

SECTION 4.06. Amends Section 152.122, Tax Code, to require the comptroller to deposit the funds received under Section 152.121 that are not required to be deposited to the credit of the Texas education fund under Section 26, Article VIII, Texas Constitution to the credit of the general revenue fund, rather than depositing the funds according to certain standards.

SECTION 4.07. Amends Section 321.501(a), Tax Code, to require the comptroller, after deducting the taxes that are required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, to deposit the taxes collected by the comptroller under this chapter in trust to the separate suspense account of the municipality from which the taxes were collected.

SECTION 4.08. Amends Section 321.503, Tax Code, to require the comptroller, before sending any money to a municipality under this subchapter, to deduct two percent of the municipality's share of the taxes and credit the money deducted to the general revenue fund.

SECTION 4.09. Amends Section 322.303, Tax Code, to require the comptroller, before sending any money to a taxing entity under this subchapter, to deduct two percent of the taxing entity's share of the taxes and credit the money deducted to the general revenue fund.

SECTION 4.10. Amends Section 323.501(a), Tax Code, to require the comptroller, after deducting the taxes that are required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, to deposit the taxes collected by the comptroller under this chapter in trust in the separate suspense account of the county from which the taxes were collected.

SECTION 4.11. Amends Section 323.503, Tax Code, to require the comptroller, before sending any money to a county under this subchapter, to deduct two percent of the county's share of the taxes and credit the money deducted to the general revenue fund.

SECTION 4.12. Provides that except as otherwise provided by this Act, this article takes effect July 1, 2004.



## ARTICLE 5. RESIDENTIAL TENANT'S PROPERTY TAX RELIEF

SECTION 5.01. Amends Title 1, Tax Code, by adding Chapter 61, as follows:

### CHAPTER 61. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

Sec. 61.001. **PURPOSE.** Provides that the purpose of this chapter is to ensure that residential rental tenants receive direct and immediate benefit from reductions in local school district ad valorem taxes until the benefit of that tax relief is fully reflected in rental rates through free market competition and that every residential landlord gives a monthly rent credit or rebate, at the landlord's option, to each tenant who is renting a residential dwelling unit in this state during 2005, 2006, and 2007.

Sec. 61.002. **DEFINITIONS.** Defines "landlord," "lease," "multifamily rental dwelling property," "rent," "rental dwelling unit," and "tenant."

Sec. 61.003. **APPLICABILITY.** (a) Provides that this chapter applies only to a rental dwelling unit or multifamily rental dwelling property that is subject to ad valorem taxation by a school district.

(b) Provides that this chapter does not apply to a temporary residential tenancy created by a contract of sale under which the buyer is entitled to occupy the property before closing or the seller is entitled to occupy the property after closing for a term of not more than 90 days.

Sec. 61.004. **CREDIT OR REBATE TO TENANT OF LANDLORD'S PROPERTY TAX SAVINGS.** Requires a landlord to provide each of the landlord's tenants with a monthly credit or rebate on the tenant's rent to reflect a portion of the landlord's school district ad valorem tax savings for 2004, 2005, and 2006.

Sec. 61.005. **NOTICE BY CHIEF APPRAISERS.** (a) Requires the chief appraiser of each appraisal district, on or before October 1, 2004, or as soon as practicable after that date, to send to all residential property owners a notice describing the requirements of this chapter. Requires the notice to contain language substantially similar to a specific format.

(b) Authorizes the notice required under Subsection (a) to be sent to property owners as part of another communication sent by the appraisal district under Section 31.01 and provides that the notice is not required to be sent to property owners as a separate communication.

(c) Requires each appraisal district, in November and December 2004, to place at least one advertisement monthly in a newspaper of general circulation in the county for which the appraisal district is established. Requires the advertisement to be in 14-point or larger type and contain language substantially similar to the language prescribed by Subsection (a).

Sec. 61.006. **TECHNICAL ASSISTANCE BY COMPTROLLER.** (a) Requires the comptroller, not later than September 1, 2004, to develop materials in plain language to assist landlords in complying with this chapter. Requires the materials to be printed in both English and Spanish and requires copies to be sent to each appraisal district on or before September 15, 2004. Requires a copy of the materials to be provided without cost to any property owner on request.

(b) Requires the comptroller to provide necessary technical assistance to appraisal districts and landlords in complying with this chapter.

Sec. 61.007. **TAX SAVINGS CALCULATIONS BY LANDLORDS.** (a) Requires a landlord, for each year to which this chapter applies, to determine the monthly school district ad valorem tax savings payable to the landlord's tenants according to certain

criteria.

(b) Requires the amount of the rent credit or rebate under Subsection (a) to be calculated on a per-dwelling-unit basis and not on a per-tenant basis.

(c) Provides that if the amount of the rent credit or rebate calculated under Subsection (a) is less than zero, the rent credit or rebate is zero.

Sec. 61.008. DATE OF REQUIRED CREDIT OR REBATE. (a) Requires a landlord, if a landlord gives a monthly credit to a tenant under this chapter, to give the credit on the due date for each month's rent.

(b) Requires the landlord, if a landlord pays a monthly rent rebate to the tenant, to pay the rebate not later than the 10th day after the date the tenant pays the entire rent due for the month. Provides that a landlord is presumed to have timely paid a rebate if the rebate is placed in the United States mail and postmarked on or before that date.

(c) Provides that if the tenant's rent is payable weekly, the amount of the weekly credit or rebate is equal to 1/52 of the credit or rebate for the entire year.

Sec. 61.009. LANDLORD'S NOTICE TO TENANTS. (a) Requires the landlord, in connection with each lease agreement for a rental dwelling unit entered into before January 1, 2005, that has not terminated or expired as of that date, to provide a notice to each tenant on or before January 5, 2005, in boldface, 14-point or larger type, that substantially states certain information.

(b) Requires the notice required by Subsection (a) to be translated and printed in English and Spanish. Requires a notice provided by a landlord under this section to be provided in both languages if the rental dwelling unit is located in a county in which the Hispanic population exceeds 25 percent of the total population of that county according to the most recent federal census information available.

Sec. 61.010. CREDIT OR REBATE FOR MULTIPLE TENANTS. Provides that if two or more tenants are on a lease for the same rental dwelling unit, the credit or rebate under this chapter must be provided jointly to all tenants renting the dwelling.

Sec. 61.011. PENALTIES. (a) Provides that a landlord who fails to comply with this chapter is liable to the affected tenant for a civil penalty of \$100 and treble the amount of any required rent credit or rebate that was not provided to the tenant.

(b) Provides that in a suit involving the payment of a rent credit or rebate, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

Sec. 61.012. TAX APPRAISALS. Prohibits a chief appraiser or an appraisal district, in tax years 2004-2007, from considering a reduction of school district ad valorem taxes attributable to this chapter in any determination of the appraised value of a rental dwelling unit, real property containing a rental dwelling unit, or a multifamily rental dwelling property.

Sec. 61.013. COMPTROLLER STUDY. (a) Requires the comptroller to issue a preliminary report not later than March 1, 2006, if sufficient data is available, and to issue a final report not later than December 1, 2007, to the governor, the lieutenant governor, and the speaker of the house of representatives on the implementation, administration, and effect of this chapter, including findings regarding certain information.

(b) Requires the comptroller, in preparing the report, to consider the need to recommend alternative methods for providing school district ad valorem tax relief

to persons who rent their homes.

Sec. 61.014. EXPIRATION. Provides that this chapter expires January 1, 2008.

SECTION 5.02. Amends Chapter 1, Tax Code, by adding Section 1.16 to provide that the expiration of Chapter 61 does not affect the liability of a landlord or other person for any amount arising under Chapter 61 before the expiration, and to provide that the law governing that liability remains in effect notwithstanding the expiration for purposes of enforcing or satisfying the liability.

SECTION 5.03. Provides that Chapter 61, Tax Code, as added by this article applies only to a tax year that begins on or after January 1, 2004.

SECTION 5.04. Provides that, except as otherwise provided by this Act, this article takes effect January 1, 2004.

#### ARTICLE 6. CONTINGENT EFFECT

SECTION 6.01. Provides that this Act takes effect only if the constitutional amendment proposed by S.J.R. No. 1, 78th Legislature, Regular Session, 2003, is approved by the voters. Provides that if that proposed constitutional amendment is not approved by the voters, this Act has no effect.