

By: Shapiro

S.B. No. 2

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to public school finance, a state ad valorem tax, state  
3 general sales and use taxes, state taxes on the sale or use of a  
4 motor vehicle, and property tax relief for residential tenants.

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

6 ARTICLE 1. PUBLIC SCHOOL FINANCE

7 SECTION 1.01. Chapter 4, Education Code, is amended by  
8 adding Section 4.003 to read as follows:

9 Sec. 4.003. PRESERVATION OF LOCAL CONTROL OF PUBLIC  
10 EDUCATION. (a) It is the policy of the state to encourage and  
11 support the control and governance of school districts by the  
12 citizens of this state through the boards of trustees in each school  
13 district. The board of trustees as a body corporate has the  
14 exclusive power and duty to govern and oversee the management of the  
15 public schools of the district. All powers and duties not  
16 specifically delegated by general law to another governmental  
17 entity are reserved to the trustees, and no other governmental  
18 entity may substitute its judgment for the lawful exercise of those  
19 powers and duties by the trustees.

20 (b) After September 1, 2004, a state law, rule, or other  
21 requirement may not be imposed on the school districts of this state  
22 unless the commissioner of education certifies that sufficient  
23 funds will be distributed to districts to pay the full cost of  
24 complying with the proposed law, rule, or other requirement.

1 SECTION 1.02. Subtitle I, Title 2, Education Code, is  
2 amended by adding Chapters 41 and 42 to read as follows:

3 CHAPTER 41. TEXAS EDUCATION EXCELLENCE PROGRAM

4 SUBCHAPTER A. GENERAL PROVISIONS

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

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

18 Sec. 41.002. PURPOSE OF TEXAS EDUCATION EXCELLENCE PROGRAM.

19 (a) The purpose of the Texas Education Excellence Program set forth  
20 in this chapter is to guarantee that each school district in the  
21 state has:

22 (1) adequate resources to provide each eligible  
23 student an instructional program and facilities suitable to the  
24 student's educational needs; and

25 (2) access to a substantially equalized program of  
26 financing an enriched program.

27 (b) The Texas Education Excellence Program consists of:

1           (1) a basic program, as provided by this chapter, that  
2 provides for sufficient financing for all school districts to  
3 provide a basic program of education that is rated recognized or  
4 higher under Subchapter D, Chapter 39, and meets other applicable  
5 legal standards; and

6           (2) an enrichment program, as provided by Chapter 42,  
7 to guarantee substantially equal access to funds to provide an  
8 enriched program.

9           Sec. 41.003. STUDENT ELIGIBILITY. (a) A student is  
10 entitled to the benefits of the Texas Education Excellence Program  
11 if the student is five years of age or older and under 21 years of  
12 age on September 1 of the school year and has not graduated from  
13 high school.

14           (b) A student to whom Subsection (a) does not apply is  
15 entitled to the benefits of the Texas Education Excellence Program  
16 if the student is enrolled in a prekindergarten class under Section  
17 29.153.

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

23           (d) Notwithstanding Subsection (a), a student younger than  
24 five years of age is entitled to the benefits of the Texas Education  
25 Excellence Program if:

26           (1) the student performs satisfactorily on the  
27 assessment instrument administered under Section 39.023(a) to

1 students in the third grade; and

2 (2) the district has adopted a policy for admitting  
3 students younger than five years of age.

4 Sec. 41.004. ADMINISTRATION OF PROGRAM. The commissioner,  
5 in accordance with rules adopted by the State Board of Education,  
6 shall administer the Texas Education Excellence Program.

7 Sec. 41.005. AVERAGE DAILY ATTENDANCE. (a) In this  
8 chapter, average daily attendance is the quotient of the sum of  
9 attendance for each day of the minimum number of days of instruction  
10 as described under Section 25.081(a) divided by the minimum number  
11 of days of instruction.

12 (b) A school district that experiences a decline of two  
13 percent or more in average daily attendance shall be funded on the  
14 basis of:

15 (1) the actual average daily attendance of the  
16 preceding school year, if the decline is the result of the closing  
17 or reduction in personnel of a military base; or

18 (2) subject to Subsection (e), an average daily  
19 attendance not to exceed 98 percent of the actual average daily  
20 attendance of the preceding school year, if the decline is not the  
21 result of the closing or reduction in personnel of a military base.

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

26 (d) The commissioner may adjust the average daily  
27 attendance of a school district in which a disaster, flood, extreme

1 weather condition, fuel curtailment, or other calamity has a  
2 significant effect on the district's attendance.

3 (e) For each school year, the commissioner shall adjust the  
4 average daily attendance of school districts that are entitled to  
5 funding on the basis of an adjusted average daily attendance under  
6 Subsection (b)(2) so that:

7 (1) all districts are funded on the basis of the same  
8 percentage of the preceding year's actual average daily attendance;  
9 and

10 (2) the total cost to the state does not exceed the  
11 amount specifically appropriated for that year for purposes of  
12 Subsection (b)(2).

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

15 Sec. 41.006. STUDENT COUNT. For purposes of this chapter,  
16 the student count is the number of students in average daily  
17 attendance, the number of full-time equivalent students, or the  
18 number of students enrolled, as appropriate, in a regular education  
19 program or an educational program described by Chapter 29.

20 Sec. 41.007. PUBLIC EDUCATION INFORMATION MANAGEMENT  
21 SYSTEM (PEIMS). (a) Each school district shall participate in the  
22 Public Education Information Management System (PEIMS) and shall  
23 provide through that system information required for the  
24 administration of this chapter and of other appropriate provisions  
25 of this code.

26 (b) Each school district shall use a uniform accounting  
27 system adopted by the commissioner for the data required to be

1 reported for the Public Education Information Management System  
2 (PEIMS).

3 (c) Annually, the commissioner shall review the Public  
4 Education Information Management System (PEIMS) and shall repeal or  
5 amend rules that require school districts to provide information  
6 through the system that is not necessary. In reviewing and revising  
7 the Public Education Information Management System (PEIMS), the  
8 commissioner shall develop rules to ensure that the system:

9 (1) provides useful, accurate, and timely information  
10 on student demographics and academic performance, personnel, and  
11 school district finances;

12 (2) contains only the data necessary for the  
13 legislature and the agency to perform their legally authorized  
14 functions in overseeing the public education system; and

15 (3) does not contain any information related to  
16 instructional methods, except as required by federal law.

17 Sec. 41.008. FUNDING ELEMENTS. (a) The Legislative Budget  
18 Board shall adopt rules, subject to appropriate notice and  
19 opportunity for public comment, for the computation for each year  
20 of a biennium of the funding elements, in accordance with  
21 Subsection (c), necessary to achieve the state policy under Section  
22 41.001.

23 (b) Before each regular session of the legislature, the  
24 board shall report the funding elements to the commissioner and the  
25 legislature.

26 (c) The funding elements must include:

27 (1) an amount for the purposes of Section 41.051 that

1 represents the cost per weighted student of an education program  
2 that is rated recognized or higher under Section 39.072 and meets  
3 all other mandates of law and regulation;

4 (2) adjustments designed to reflect the variation in  
5 known resource costs and costs of education beyond the control of  
6 school districts;

7 (3) appropriate program cost differentials and other  
8 funding elements for programs authorized under Chapter 29, with the  
9 program funding level expressed as weights applied to the student  
10 count for the appropriate year;

11 (4) the maximum guaranteed level of qualified state  
12 and local funds per student for the purposes of the enrichment  
13 program under Chapter 42; and

14 (5) the amount to be appropriated for the school  
15 facilities assistance programs under Chapter 46.

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

21 [Sections 41.009-41.050 reserved for expansion]

22 SUBCHAPTER B. BASIC PROGRAM

23 Sec. 41.051. GUARANTEED AMOUNT. Each school district is  
24 guaranteed a specified amount per weighted student in state funds.  
25 The amount of state support is determined by the formula:

26  $GA = SA \times WADA$

27 where:

1 "GA" is the guaranteed amount of state funds to be allocated  
2 to the district;

3 "SA" is the student allotment, which is \$4,270 or a greater  
4 amount for any year provided by appropriation; and

5 "WADA" is the number of students in weighted average daily  
6 attendance, which is the sum of the school district's student count  
7 for each educational program for which a program weight is provided  
8 by Section 41.052.

9 Sec. 41.052. PROGRAM WEIGHTS. (a) In this section:

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

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

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

16 (b) The program weights are:

17 (1) 1.0 for a student in average daily attendance, not  
18 including time the student spends each day in a special education  
19 program in an instructional arrangement other than mainstream or in  
20 a career and technology education program;

21 (2) 1.1 for a student in a special education program in  
22 a mainstream instructional arrangement;

23 (3) 5.0 for a full-time equivalent student in a  
24 special education program in a homebound instructional  
25 arrangement;

26 (4) 3.0 for a full-time equivalent student in a  
27 special education program in a hospital class instructional



1 arrangement;

2 (5) 5.0 for a full-time equivalent student in a  
3 special education program in a speech therapy instructional  
4 arrangement;

5 (6) 3.0 for a full-time equivalent student in a  
6 special education program in a resource room instructional  
7 arrangement;

8 (7) 3.0 for a full-time equivalent student in a  
9 special education program in a self-contained, mild and moderate,  
10 regular campus instructional arrangement;

11 (8) 3.0 for a full-time equivalent student in a  
12 special education program in a self-contained, severe, regular  
13 campus instructional arrangement;

14 (9) 2.7 for a full-time equivalent student in a  
15 special education program in an off-home-campus instructional  
16 arrangement;

17 (10) 1.7 for a full-time equivalent student in a  
18 special education program in a nonpublic day school;

19 (11) 2.3 for a full-time equivalent student in a  
20 special education program vocational adjustment class;

21 (12) 4.0 for a student in a special education program  
22 who resides in a residential care and treatment facility, other  
23 than a state school, whose parent or guardian does not reside in the  
24 district and who receives educational services from a local school  
25 district;

26 (13) 2.8 for a student in a special education program  
27 who resides in a state school;

1           (14) 0.2 for a student who is educationally  
2 disadvantaged or who is a student who does not have a disability and  
3 resides in a residential placement facility in a district in which  
4 the student's parent or guardian does not reside;

5           (15) 2.41 for a full-time equivalent student who is in  
6 a remedial and support program under Section 29.081 because the  
7 student is pregnant;

8           (16) 0.1 for a student who is in a bilingual education  
9 or special language program under Subchapter B, Chapter 29;

10           (17) 1.37 for a full-time equivalent student in an  
11 approved career and technology education program in grades nine  
12 through 12 or in a career and technology program for students with  
13 disabilities in grades seven through 12;

14           (18) 0.12 for a student in a program for gifted and  
15 talented students that the district certifies to the commissioner  
16 as complying with Subchapter D, Chapter 29; and

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

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

27           Sec. 41.053. COST OF EDUCATION ADJUSTMENT. (a) The

1 guaranteed amount ("GA") under Section 41.051 for each district is  
2 adjusted to reflect the geographic variation in known resource  
3 costs and costs of education due to factors beyond the control of  
4 the school district.

5 (a-1) For the 2004-2005 school year, the cost of education  
6 adjustment is the cost of education index adjustment adopted by the  
7 foundation school fund budget committee and contained in Chapter  
8 203, Title 19, Texas Administrative Code, as that chapter existed  
9 on March 26, 1997.

10 (b) The Legislative Budget Board shall conduct a study each  
11 biennium and shall recompute the cost of education index and adopt  
12 adjustments as the board determines are necessary to ensure that  
13 the cost of education index reflects current variations in known  
14 resource costs and costs of education due to factors beyond the  
15 control of a school district. The board's determination is final  
16 and may not be appealed.

17 (c) From funds appropriated for the purpose, the  
18 Legislative Budget Board may contract with one or more public or  
19 private entities for studies to assist with the board's  
20 recomputation and adjustments. Subject to appropriate notice and  
21 opportunity for public comment, the board may adopt rules necessary  
22 to implement this section.

23 (c-1) For the 2005-2006 and 2006-2007 school years, the cost  
24 of education index is the average of the cost of education index as  
25 provided by Subsection (a-1) and the initial recomputation and  
26 adjustment of the cost of education index adopted by the  
27 Legislative Budget Board in accordance with Subsection (b).

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

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

7       Sec. 41.054. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a)  
8 The guaranteed amount ("GA") under Section 41.051 for certain small  
9 and mid-sized districts, as adjusted under Section 41.053, is  
10 adjusted in accordance with this section. In this section:

11       (1) "ADA" is the number of students in average daily  
12 attendance for which the district is entitled to funding under  
13 Section 41.051;

14       (2) "AGA" is the adjusted guaranteed amount as  
15 determined under Section 41.053; and

16       (3) "SAGA" is the district's size-adjusted guaranteed  
17 amount.

18       (b) The guaranteed amount ("GA") under Section 41.051 of a  
19 school district that contains at least 300 square miles and has not  
20 more than 1,600 students in average daily attendance is adjusted by  
21 applying the formula:

22                $SAGA = (1 + ((1,600 - ADA) \times 0.0004)) \times AGA$

23       (c) The guaranteed amount ("GA") under Section 41.051 of a  
24 school district that contains less than 300 square miles and has not  
25 more than 1,600 students in average daily attendance is adjusted by  
26 applying the formula:

27                $SAGA = (1 + ((1,600 - ADA) \times 0.00025)) \times AGA$

1        (d) The guaranteed amount ("GA") under Section 41.051 of a  
2 school district that offers a kindergarten through grade 12 program  
3 and has less than 5,000 students in average daily attendance is  
4 adjusted by applying the formula, of the following formulas, that  
5 results in the greatest guaranteed amount:

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

8            (2)  $SAGA = (1 + ((5,000 - ADA) \times 0.000025)) \times AGA.$

9        Sec. 41.055. SPARSITY ADJUSTMENT. Notwithstanding  
10 Sections 41.051, 41.053, and 41.054:

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

18            (2) a school district that offers a kindergarten  
19 through grade 8 program and whose preceding or current year's  
20 average daily attendance was or is at least 50 students or that is  
21 30 miles or more by bus route from the nearest high school district  
22 is entitled to an adjusted guaranteed amount on the basis of 75  
23 students in average daily attendance; and

24            (3) a school district that offers a kindergarten  
25 through grade 6 program and whose preceding or current year's  
26 average daily attendance was or is at least 40 students or that is  
27 30 miles or more by bus route from the nearest high school district

1 is entitled to an adjusted guaranteed amount on the basis of 60  
2 students in average daily attendance.

3 [Sections 41.056-41.100 reserved for expansion]

4 SUBCHAPTER C. TRANSPORTATION ALLOTMENT

5 Sec. 41.101. TRANSPORTATION ALLOTMENT. Each district or  
6 county operating a transportation system is entitled to allotments  
7 for transportation costs as provided by this subchapter.

8 Sec. 41.102. DEFINITIONS. In this subchapter:

9 (1) "Eligible special education student" means a  
10 student who is eligible for special education services under  
11 Section 29.003 and who would be unable to attend classes without  
12 special transportation services.

13 (2) "Linear density" means the average number of  
14 regular eligible students transported daily, divided by the  
15 approved daily route miles traveled by the respective  
16 transportation system.

17 (3) "Regular eligible student" means a student who  
18 resides two or more miles from the student's campus of regular  
19 attendance, measured along the shortest route that may be traveled  
20 on public roads, and who is not classified as a student eligible for  
21 special education services.

22 Sec. 41.103. REGULAR TRANSPORTATION ALLOTMENT. (a) Each  
23 school district or county operating a regular transportation system  
24 is entitled to an allotment based on the daily cost per regular  
25 eligible student of operating and maintaining the regular  
26 transportation system and the linear density of that system.

27 (b) In determining the cost, the commissioner shall give

1 consideration to factors affecting the actual cost of providing  
2 these transportation services in each school district or county.  
3 The commissioner shall compute the average actual cost and shall  
4 report that cost to the Legislative Budget Board for consideration  
5 by the legislature in the General Appropriations Act.

6 (c) The allotment per mile of approved route may not exceed  
7 the amount set by appropriation.

8 Sec. 41.104. HAZARDOUS CONDITIONS TRANSPORTATION  
9 ALLOTMENT. (a) A school district or county may apply for and on  
10 approval of the commissioner receive an additional amount of up to  
11 10 percent of its regular transportation allotment to be used for  
12 the transportation of children who live within two miles of the  
13 school they attend and who would be subject to hazardous traffic  
14 conditions if they walked to school.

15 (b) Each board of trustees shall provide to the commissioner  
16 the definition of hazardous conditions applicable to that district  
17 and shall identify the specific hazardous areas for which the  
18 allotment is requested. A hazardous condition exists where no  
19 walkway is provided and children must walk along or cross a freeway  
20 or expressway, an underpass, an overpass or a bridge, an  
21 uncontrolled major traffic artery, an industrial or commercial  
22 area, or another comparable condition.

23 Sec. 41.105. PRIVATE OR COMMERCIAL TRANSPORTATION  
24 ALLOTMENT. (a) The commissioner may grant an amount set by  
25 appropriation for private or commercial transportation for  
26 eligible students from isolated areas. The need for this type of  
27 transportation grant shall be determined on an individual basis,

1 and the amount granted may not exceed the actual cost.

2 (b) The grants may be made only in extreme hardship cases. A  
3 grant may not be made if the students live within two miles of an  
4 approved school bus route.

5 Sec. 41.106. TRANSPORTATION OF CAREER AND TECHNOLOGY  
6 EDUCATION STUDENTS. The cost of transporting career and technology  
7 education students from one campus to another inside a school  
8 district or from a sending district to another secondary public  
9 school for a career and technology program or an area career and  
10 technology school or to an approved postsecondary institution under  
11 a contract for instruction approved by the agency shall be  
12 reimbursed based on the number of actual miles traveled times the  
13 district's official extracurricular travel per mile rate as set by  
14 the board of trustees and approved by the agency.

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

22 (b) A school district may use a portion of its support  
23 allocation to pay transportation costs, if necessary. The  
24 commissioner may grant an amount set by appropriation for private  
25 transportation to reimburse parents or their agents for  
26 transporting eligible special education students. The mileage  
27 allowed shall be computed along the shortest public road from the



1 student's home to school and back, morning and afternoon. The need  
2 for this type of transportation shall be determined on an  
3 individual basis and shall be approved only in extreme hardship  
4 cases.

5 Sec. 41.108. DETERMINATION OF TRANSPORTATION ALLOTMENTS OF  
6 DISTRICT BELONGING TO COUNTY TRANSPORTATION SYSTEM. If a school  
7 district belongs to a county transportation system, the district's  
8 transportation allotment is determined on the basis of the number  
9 of approved daily route miles in the district multiplied by the  
10 allotment per mile to which the county transportation system is  
11 entitled.

12 Sec. 41.109. TRANSPORTATION ALLOTMENT FOR TEXAS SCHOOL FOR  
13 THE DEAF. The Texas School for the Deaf is entitled to an allotment  
14 under this subchapter. The commissioner shall determine the  
15 appropriate allotment.

16 Sec. 41.110. TRANSPORTATION TO CHILD-CARE FACILITIES.  
17 Notwithstanding any other provision of this subchapter, the  
18 commissioner may not reduce the allotment to which a school  
19 district or county is entitled under this subchapter because, as  
20 authorized by Section 34.007, the district or county provides  
21 transportation for an eligible student to and from a child-care  
22 facility, as defined by Section 42.002, Human Resources Code,  
23 instead of the student's residence, if the transportation is  
24 provided within the approved routes of the district or county for  
25 the school the student attends.

26 Sec. 41.111. USE OF TRANSPORTATION ALLOTMENTS. Funds  
27 allotted under this subchapter must be used in providing

1 transportation services.

2 [Sections 41.112-41.150 reserved for expansion]

3 SUBCHAPTER D. NEW INSTRUCTIONAL FACILITY ALLOTMENT

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

8 Sec. 41.152. DEFINITION. In this subchapter,  
9 "instructional facility" has the meaning assigned by Section  
10 46.001.

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

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

20 (b) For purposes of this section, the number of additional  
21 students in average daily attendance at a facility is the  
22 difference between the number of students in average daily  
23 attendance in the current year at that facility and the number of  
24 students in average daily attendance at that facility in the  
25 preceding year.

26 Sec. 41.155. LIMITATION ON ALLOTMENTS. (a) The amount  
27 appropriated for allotments under this subchapter may not exceed

1 \$25 million in a school year.

2 (b) If the total amount of allotments to which school  
3 districts are entitled under this subchapter for a school year  
4 exceeds the amount appropriated for allotments under this  
5 subchapter, the commissioner shall reduce each district's  
6 allotment under this subchapter proportionately.

7 Sec. 41.156. RULES. The commissioner may adopt rules  
8 necessary to implement this subchapter.

9 [Subchapters E-H reserved for expansion]

10 SUBCHAPTER I. FINANCING THE SYSTEM

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

16 (b) The program shall be financed by:

17 (1) revenue generated by the state ad valorem tax  
18 under Section 1-e, Article VIII, Texas Constitution;

19 (2) state available school funds distributed in  
20 accordance with law; and

21 (3) state funds appropriated for the purposes of  
22 public school education and allocated to each district in an amount  
23 sufficient to finance the cost of each district's Texas Education  
24 Excellence Program not covered by other funds specified by this  
25 subsection.

26 Sec. 41.402. DISTRIBUTION OF TEXAS EDUCATION FUND. (a) For  
27 each school year the commissioner shall determine:

1           (1) the amount of money to which a school district is  
2 entitled under Subchapters B, C, and D;

3           (2) the amount of money to which a school district is  
4 entitled under Chapter 42; and

5           (3) the amount of each district's enrichment program  
6 local revenue under Section 42.002.

7           (b) Except as provided by this subsection, the commissioner  
8 shall base the determinations under Subsection (a) on the estimates  
9 provided to the legislature under Section 41.403, or, if the  
10 General Appropriations Act provides estimates for that purpose, on  
11 the estimates provided under that Act, for each school district for  
12 each school year. The commissioner shall reduce the entitlement  
13 under Chapter 42 of each district that has a final taxable value of  
14 property for the second year of a state fiscal biennium that is  
15 higher than the estimate under Section 41.403 or the General  
16 Appropriations Act, as applicable. A reduction under this  
17 subsection may not reduce the district's entitlement below the  
18 amount to which it is entitled at its actual taxable value of  
19 property. The sum of the reductions under this subsection may not  
20 be greater than the amount necessary to fully fund the entitlement  
21 of each district.

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

26           (d) Except as provided by Section 42.005, the commissioner  
27 shall approve warrants to each school district equaling the amount

1 of its entitlement. The total amount of the warrants approved under  
2 this section may not exceed the total amount appropriated for Texas  
3 Education Excellence Program purposes for that fiscal year.

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

12 (f) If the total amount appropriated for a year for the  
13 basic program under the Texas Education Excellence Program is less  
14 than the amount of money to which school districts are entitled for  
15 that year, the commissioner shall reduce the total amount of basic  
16 program funds allocated to each district proportionately. The  
17 following fiscal year, a district's entitlement under this section  
18 is increased by an amount equal to the reduction made under this  
19 subsection.

20 (g) Payments from the Texas education fund to each school  
21 district shall be made as follows:

22 (1) 15 percent of the yearly entitlement of the  
23 district shall be paid in an installment to be made on or before the  
24 25th day of September of a fiscal year;

25 (2) 80 percent of the yearly entitlement of the  
26 district shall be paid in eight equal installments to be made on or  
27 before the 25th day of October, November, December, January, March,

1 May, June, and July; and

2 (3) five percent of the yearly entitlement of the  
3 district shall be paid in an installment to be made on or before the  
4 25th day of February.

5 (h) Not later than March 1 of each year, the commissioner  
6 shall determine the actual amount of state funds to which each  
7 school district is entitled under this chapter and Chapter 42 for  
8 the current school year and shall compare that amount with the  
9 amount of the warrants issued to each district for that year. If  
10 the amount of the warrants differs from the amount to which a  
11 district is entitled because of variations in the district's  
12 enrichment tax rate, student enrollment, or taxable value of  
13 property, the commissioner shall adjust the district's entitlement  
14 for the next fiscal year accordingly.

15 Sec. 41.403. ESTIMATES REQUIRED. (a) Not later than  
16 October 1 of each even-numbered year:

17 (1) the agency shall submit to the legislature an  
18 estimate of the enrichment tax rate and student enrollment of each  
19 school district for the following biennium; and

20 (2) the comptroller shall submit to the legislature an  
21 estimate of the total taxable value of all property in the state as  
22 determined under Subchapter M, Chapter 403, Government Code, for  
23 the following biennium.

24 (b) The agency and the comptroller shall update the  
25 information provided to the legislature under Subsection (a) not  
26 later than March 1 of each odd-numbered year.

27 Sec. 41.404. MINIMUM PER-STUDENT AID. (a) Notwithstanding

1 any other provision of this subtitle, a school district is entitled  
2 to an amount of state aid per student in weighted average daily  
3 attendance that is equal to the amount of state and local funds for  
4 maintenance and operations per student in weighted average daily  
5 attendance the district received under former Chapters 41 and 42  
6 and Chapter 45 or under another law authorizing a school district to  
7 impose a tax for maintenance and operations for the 2002-2003  
8 school year, or a greater amount provided for any year by  
9 appropriation. For purposes of this subsection, the amount of  
10 state and local funds for maintenance and operations per student in  
11 weighted average daily attendance a district received for the  
12 2002-2003 school year does not include any amounts the district  
13 paid for:

14 (1) the purchase of attendance credits under former  
15 Subchapter D, Chapter 41; or

16 (2) the education of nonresident students under former  
17 Subchapter E, Chapter 41.

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

23 (c) Additional state aid under this section shall be funded  
24 from general revenue and designated in a separate line item in the  
25 General Appropriations Act.

26 (d) A determination by the commissioner under this section  
27 is final and may not be appealed.

1       (e) The commissioner may adopt rules to implement this  
2 section.

3       Sec. 41.405. FALSIFICATION OF RECORDS; REPORT. When, in  
4 the opinion of the agency's director of school audits, audits or  
5 reviews of accounting, enrollment, or other records of a school  
6 district reveal deliberate falsification of the records, or  
7 violation of the provisions of this chapter, through which the  
8 district's share of state funds allocated under this chapter would  
9 be or has been illegally increased, the director shall promptly and  
10 fully report the fact to the State Board of Education, the state  
11 auditor, and the appropriate county attorney, district attorney, or  
12 criminal district attorney.

13       Sec. 41.406. RECOVERY OF OVERALLOCATED FUNDS. (a) If a  
14 school district has received an overallocation of state funds, the  
15 agency shall, by withholding from subsequent allocations of state  
16 funds or by requesting and obtaining a refund, recover from the  
17 district an amount equal to the overallocation.

18       (b) If a district fails to comply with a request for a refund  
19 under Subsection (a), the agency shall certify to the comptroller  
20 that the amount constitutes a debt for purposes of Section 403.055,  
21 Government Code. The agency shall provide to the comptroller the  
22 amount of the overallocation and any other information required by  
23 the comptroller. The comptroller may certify the amount of the debt  
24 to the attorney general for collection.

25       (c) Any amounts recovered under this section shall be  
26 deposited in the Texas education fund.

27       [Sections 41.407-41.450 reserved for expansion]



1           SUBCHAPTER J. LIMITATIONS ON PROGRAM ALLOTMENTS

2           Sec. 41.451. SPECIAL EDUCATION PROGRAMS. (a) For funding  
3 purposes, the number of contact hours credited per day for each  
4 special education student in the off-home-campus instructional  
5 arrangement may not exceed the contact hours credited per day for  
6 the multidistrict class instructional arrangement in the 1992-1993  
7 school year.

8           (b) For funding purposes, the contact hours credited per day  
9 for each special education student in the resource room;  
10 self-contained, mild and moderate, regular campus; and  
11 self-contained, severe, regular campus instructional arrangements  
12 may not exceed the average of the statewide total contact hours  
13 credited per day for those three instructional arrangements in the  
14 1992-1993 school year.

15           (c) The State Board of Education by rule shall prescribe the  
16 qualifications a special education instructional arrangement must  
17 meet in order to be funded as a particular instructional  
18 arrangement under this chapter. In prescribing the qualifications  
19 that a mainstream instructional arrangement must meet, the board  
20 shall require that students with disabilities and their teachers  
21 receive the direct, indirect, and support services that are  
22 necessary to enrich the regular classroom and enable student  
23 success.

24           (d) The State Board of Education shall adopt rules and  
25 procedures governing contracts for residential placement of  
26 special education students. The legislature shall provide by  
27 appropriation for the state's share of the costs of those

1 placements.

2 (e) Funds allocated under this chapter for special  
3 education programs, other than an indirect cost allotment  
4 established under State Board of Education rule, must be used in the  
5 special education program under Subchapter A, Chapter 29.

6 (f) The agency shall encourage the placement of students in  
7 special education programs, including students in residential  
8 instructional arrangements, in the least restrictive environment  
9 appropriate for students' educational needs.

10 (g) A school district that maintains for two successive  
11 years a ratio of full-time equivalent special education students  
12 placed in partially or totally self-contained classrooms to the  
13 number of full-time equivalent students placed in resource room or  
14 mainstream instructional arrangements that is 25 percent higher  
15 than the statewide average ratio shall be reviewed by the agency to  
16 determine the appropriateness of student placement. The  
17 commissioner may reduce the guaranteed amount the district receives  
18 to the level to which the district would be entitled if the  
19 district's ratio was not more than 25 percent higher than the  
20 statewide average ratio.

21 (h) A school district that provides an extended year program  
22 required by federal law for special education students who may  
23 regress is entitled to receive funds in an amount equal to 75  
24 percent, or a lesser percentage determined by the commissioner, of  
25 the guaranteed amount for each full-time equivalent student in  
26 average daily attendance, multiplied by the amount designated for  
27 the student's instructional arrangement under Section 41.052(b),

1 for each day the program is provided divided by the number of days  
2 in the minimum school year. The total amount of state funding for  
3 extended year services under this section may not exceed \$10  
4 million per year. A school district may use funds received under  
5 this subsection only in providing an extended year program.

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

17 Sec. 41.452. BILINGUAL EDUCATION AND SPECIAL LANGUAGE  
18 PROGRAMS. (a) Funds allocated under this chapter for bilingual  
19 education or special language programs, other than an indirect cost  
20 allotment established under State Board of Education rule, must be  
21 used in providing bilingual education or special language programs  
22 under Subchapter B, Chapter 29, and must be accounted for under  
23 existing agency reporting and auditing procedures.

24 (b) A district's bilingual education or special language  
25 allocation may be used only for program and student evaluation,  
26 instructional materials and equipment, staff development,  
27 supplemental staff expenses, salary supplements for teachers, and

1 other supplies required for quality instruction and smaller class  
2 size.

3 Sec. 41.453. COMPENSATORY EDUCATION PROGRAMS. (a) For  
4 purposes of Section 41.052(b)(14), the number of educationally  
5 disadvantaged students is determined:

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

9 (2) in the manner provided by commissioner rule, if no  
10 campus in the district participated in the national school lunch  
11 program of free or reduced-price lunches during the preceding  
12 school year.

13 (b) Funds allocated under Sections 41.052(b)(14) and (15)  
14 may be used only to fund supplemental programs and services  
15 designed to eliminate any disparity in performance on assessment  
16 instruments administered under Subchapter B, Chapter 39, or  
17 disparity in the rates of high school completion between students  
18 at risk of dropping out of school, as defined by Section 29.081, and  
19 all other students. Specifically, the funds, other than an  
20 indirect cost allotment established under State Board of Education  
21 rule, which may not exceed 15 percent, may be used only to meet the  
22 costs of providing a compensatory, intensive, or accelerated  
23 instruction program under Section 29.081 or an alternative  
24 education program established under Section 37.008 or to support a  
25 program eligible under Title I of the Elementary and Secondary  
26 Education Act of 1965, as provided by Pub. L. No. 103-382 and its  
27 subsequent amendments, and by federal regulations implementing

1 that Act, at a campus at which at least 50 percent of the students  
2 are educationally disadvantaged. In meeting the costs of providing  
3 a compensatory, intensive, or accelerated instruction program  
4 under Section 29.081, funds allocated under Sections 41.052(b)(14)  
5 and (15) may be used only for costs supplementary to the regular  
6 education program, such as costs for program and student  
7 evaluation, instructional materials and equipment and other  
8 supplies required for quality instruction, supplemental staff  
9 expenses, salary for teachers of at-risk students, smaller class  
10 size, and individualized instruction. A home-rule school district  
11 or an open-enrollment charter school must use funds allocated under  
12 Sections 41.052(b)(14) and (15) for a purpose authorized by this  
13 subsection, but is not otherwise subject to Subchapter C, Chapter  
14 29. Notwithstanding any other provisions of this section:

15 (1) to ensure that a sufficient amount of the funds  
16 allocated under Sections 41.052(b)(14) and (15) is available to  
17 supplement instructional programs and services, not more than 18  
18 percent of the funds allocated under those sections may be used to  
19 fund disciplinary alternative education programs established under  
20 Section 37.008; and

21 (2) the commissioner may waive the limitations of  
22 Subdivision (1) on an annual petition, by a district's board and a  
23 district's site-based decision-making committee, presenting the  
24 reason for the need to spend supplemental compensatory education  
25 funds on disciplinary alternative education programs under Section  
26 37.008.

27 (c) In a petition under Subsection (b)(2), a district shall

1 report the number of students in each grade level, by demographic  
2 subgroup, not making satisfactory progress under the state's  
3 assessment system. The commissioner shall make this waiver request  
4 information available annually to the public on the agency's  
5 website.

6 (d) The agency shall evaluate the effectiveness of  
7 accelerated instruction and support programs provided under  
8 Section 29.081 for students at risk of dropping out of school.

9 (e) From the total amount of funds appropriated for  
10 allocations under Sections 41.052(b)(14) and (15), the  
11 commissioner may, each fiscal year:

12 (1) withhold an amount determined by the commissioner  
13 as appropriate to finance intensive accelerated instruction  
14 programs and study guides provided under Sections 39.024(b) and  
15 (c); and

16 (2) withhold an amount not exceeding \$1 million each  
17 fiscal year and distribute the funds to school districts that incur  
18 unanticipated expenditures resulting from a significant increase  
19 in the enrollment of students who do not have disabilities and who  
20 reside in residential placement facilities.

21 (f) From the total amount of funds appropriated for  
22 allocations under Sections 41.052(b)(14) and (15), the  
23 commissioner shall, each fiscal year:

24 (1) withhold an amount to be determined by the  
25 commissioner, but not less than \$10 million, and distribute that  
26 amount for programs under Section 29.085, giving preference to a  
27 school district that received funds for a program under that

1 section for the preceding school year;

2 (2) withhold the amount of \$7.5 million, or a greater  
3 amount as determined in the General Appropriations Act, and  
4 distribute that amount for programs under Subchapter A, Chapter 33,  
5 giving preference to a school district that received funds for a  
6 program under that subchapter for the preceding school year;

7 (3) withhold the amount of \$2.5 million for transfer  
8 to the investment capital fund under Section 7.024; and

9 (4) withhold an amount sufficient to finance extended  
10 year programs under Section 29.082, not to exceed five percent of  
11 the amounts allocated under Sections 41.052(b)(14) and (15), giving  
12 preference to extended year programs in districts with high  
13 concentrations of educationally disadvantaged students.

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

18 (h) The State Board of Education, with the assistance of the  
19 state auditor and the comptroller, shall develop and implement by  
20 rule a reporting and auditing system for district and campus  
21 expenditures of funds allocated under Sections 41.051(b)(14) and  
22 (15) to ensure that those funds, other than the indirect cost  
23 allotment, are spent only to supplement the regular program. The  
24 commissioner, in the year following an audit of compensatory  
25 education expenditures, shall withhold from a district's Texas  
26 education fund payment an amount equal to the amount of funds  
27 allocated under Sections 41.051(b)(14) and (15) the agency

1 determines were not used in compliance with Subsection (b). The  
2 commissioner shall release to a district funds withheld under this  
3 subsection when the district provides to the commissioner a  
4 detailed plan to use those funds in compliance with Subsection (b).

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

15 Sec. 41.454. PROGRAMS FOR GIFTED AND TALENTED STUDENTS.

16 (a) Funds allocated under this chapter for programs for gifted and  
17 talented students, other than the amount that represents the  
18 program's share of general administrative costs, must be used in  
19 providing programs for gifted and talented students under  
20 Subchapter D, Chapter 29, including programs sanctioned by  
21 International Baccalaureate and Advanced Placement, or in  
22 developing programs for gifted and talented students. Each  
23 district must account for the expenditure of state funds as  
24 provided by State Board of Education rule. If by the end of the 12th  
25 month after receiving an allocation for developing a program a  
26 district has failed to implement a program, the district must  
27 refund the amount of the allocation to the agency within 30 days.



1        (b) Not more than five percent of a district's students in  
2 average daily attendance are eligible for funding under this  
3 chapter for attendance in a program for gifted and talented  
4 students.

5        (c) After each district has received allocated funds for  
6 programs for gifted and talented students, the State Board of  
7 Education may use up to \$500,000 of the funds allocated under  
8 Section 41.052(b)(18) for programs such as MATHCOUNTS, Future  
9 Problem Solving, Odyssey of the Mind, and Academic Decathlon, as  
10 long as those funds are used to train personnel and provide program  
11 services. To be eligible for funding under this subsection, a  
12 program must be determined by the State Board of Education to  
13 provide services that are effective and consistent with the state  
14 plan for gifted and talented education.

15        Sec. 41.455. CAREER AND TECHNOLOGY EDUCATION PROGRAMS. (a)  
16 Funds allocated under this chapter for career and technology  
17 education, other than an indirect cost allotment established under  
18 State Board of Education rule, must be used in providing career and  
19 technology education programs in grades 9 through 12 or career and  
20 technology education programs for students with disabilities in  
21 grades 9 through 12 under Sections 29.182, 29.183, and 29.184.

22        (b) Out of the total amount appropriated for allocations for  
23 career and technology education under Section 41.052(b)(17), the  
24 commissioner may withhold an amount specified in the General  
25 Appropriations Act, which may not exceed one percent of the total  
26 amount appropriated, to support regional career and technology  
27 education planning. After deducting the amount withheld under this

1 subsection from the total amount appropriated for allocations for  
2 career and technology education under Section 41.052(b)(17), the  
3 commissioner shall reduce each district's allocations under that  
4 section proportionately.

5 (c) The commissioner shall conduct a cost-benefit  
6 comparison between career and technology education programs and  
7 mathematics and science programs.

8 CHAPTER 42. ENRICHMENT PROGRAM

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

13 Sec. 42.002. ALLOTMENT. (a) In this section, "wealth per  
14 student" means a school district's taxable value of property, as  
15 determined under Subchapter M, Chapter 403, Government Code,  
16 divided by the number of students in average daily attendance in the  
17 district.

18 (b) Each school district is guaranteed a specified amount  
19 per student in state and local funds for each cent of enrichment tax  
20 effort up to the maximum level specified in this chapter. The  
21 amount of state support is determined by the formula:

$$22 \quad \text{EGYA} = (\text{EGL} \times \text{WADA} \times \text{DETR} \times 100) - \text{LR}$$

23 where:

24 "EGYA" is the guaranteed yield amount of state enrichment  
25 funds to be allocated to the district;

26 "EGL" is the dollar amount guaranteed level of state and  
27 local enrichment funds per student per cent of tax effort, which is

1 the amount of district enrichment tax revenue per cent of tax effort  
2 available to a school district at the 90th percentile in wealth per  
3 student, as determined by the commissioner;

4 "WADA" is the number of students in weighted average daily  
5 attendance, as determined under Section 41.051;

6 "DETR" is the district enrichment tax rate of the school  
7 district, which is determined by dividing the total amount of  
8 enrichment taxes collected by the school district for the  
9 applicable school year by the district's taxable value of property  
10 for the current year as determined under Subchapter M, Chapter 403,  
11 Government Code, divided by 100; and

12 "LR" is the local revenue, which is determined by multiplying  
13 "DETR" by the quotient of the district's taxable value of property  
14 for the current year as determined under Subchapter M, Chapter 403,  
15 Government Code, divided by 100.

16 Sec. 42.003. DISTRICT ENRICHMENT TAX. (a) Subject to  
17 Section 42.004, the board of trustees of a school district may  
18 impose an annual ad valorem tax for the enrichment of the public  
19 schools in the district.

20 (b) The district enrichment tax rate may not exceed the  
21 rate permitted by Section 3(e), Article VII, Texas Constitution.

22 (c) Notwithstanding Subsection (b), for the 2005-2006  
23 school year, the district enrichment tax rate may not exceed \$0.05  
24 for each \$100 of taxable value of property. This subsection expires  
25 August 31, 2006.

26 Sec. 42.004. ENRICHMENT TAX ELECTION. (a) A school  
27 district may not impose an enrichment tax under Section 42.003

1 unless authorized by a majority of the qualified voters of the  
2 district voting at an election held for that purpose.

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

8 Sec. 42.005. DISTRIBUTION OF ENRICHMENT PROGRAM FUNDS. (a)  
9 As provided by Section 41.402, for each school year, the  
10 commissioner shall:

11 (1) determine the guaranteed yield amount of state  
12 enrichment program funds to which a school district is entitled  
13 under Section 42.002; and

14 (2) approve and transmit warrants to school districts.

15 (b) If the total amount of state enrichment funds allocated  
16 to districts under this chapter for a fiscal year exceeds the amount  
17 appropriated for that year, the commissioner shall reduce the total  
18 amount of state enrichment funds allocated to each district  
19 proportionately. The following fiscal year, a district's  
20 entitlement under this chapter is increased by an amount equal to  
21 the reduction made under this subsection.

22 Sec. 42.006. USE OF ALLOTMENT. State enrichment funds  
23 allocated under this chapter may be used for any legal purpose,  
24 including capital outlay and debt service.

25 Sec. 42.007. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON  
26 MILITARY RESERVATION OR AT STATE SCHOOL. State enrichment funds  
27 allocated under this chapter for a school district located on a

1 federal military installation or at Moody State School are computed  
2 using the average district enrichment tax rate and property value  
3 per student of school districts in the county, as determined by the  
4 commissioner.

5 SECTION 1.03. Section 29.085, Education Code, is amended by  
6 adding Subsections (e) and (f) to read as follows:

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

11 (f) The commissioner shall coordinate the funds withheld  
12 under Section 41.453(f)(1) and any other funds available for the  
13 program and shall distribute those funds. To receive funds for the  
14 program, a school district must apply to the commissioner. The  
15 commissioner shall give a preference to the districts that apply  
16 that have the highest concentration of students who are pregnant or  
17 who are parents.

18 SECTION 1.04. Section 33.002, Education Code, is amended by  
19 adding Subsections (d) and (e) to read as follows:

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

23 (e) The commissioner shall coordinate the funds withheld  
24 under Section 41.453(f)(2) and any other funds available for the  
25 program and shall distribute those funds. To receive funds for the  
26 program, a school district must apply to the commissioner. The  
27 commissioner shall give a preference to the districts that apply

1 that have the highest concentration of at-risk students.

2 SECTION 1.05. Sections 39.052(b) and (c), Education Code,  
3 are amended to read as follows:

4 (b) The report card shall include the following information  
5 [~~where applicable~~]:

6 (1) where applicable, the academic excellence  
7 indicators adopted under Sections 39.051(b)(1) through (9);

8 (2) average class size by grade level and subject;  
9 [~~and~~]

10 (3) the administrative and instructional costs per  
11 student, computed in a manner consistent with Section 44.0071; and

12 (4) the district's instructional expenditures ratio  
13 and instructional employees ratio computed under Section 44.0071,  
14 and the statewide average of those ratios, as determined by the  
15 commissioner.

16 (c) The commissioner shall adopt rules [~~for~~] requiring  
17 dissemination of the information required under Subsection (b)(4)  
18 and appropriate class size and student performance portions of  
19 campus report cards annually to the parent, guardian, conservator,  
20 or other person having lawful control of each student at the campus.  
21 On written request, the school district shall provide a copy of a  
22 campus report card to any other party.

23 SECTION 1.06. Section 39.182(a), Education Code, is amended  
24 to read as follows:

25 (a) Not later than December 1 of each year, the agency shall  
26 prepare and deliver to the governor, the lieutenant governor, the  
27 speaker of the house of representatives, each member of the

1 legislature, the Legislative Budget Board, and the clerks of the  
2 standing committees of the senate and house of representatives with  
3 primary jurisdiction over the public school system a comprehensive  
4 report covering the preceding school year and containing:

5 (1) an evaluation of the achievements of the state  
6 educational program in relation to the statutory goals for the  
7 public education system under Section 4.002;

8 (2) an evaluation of the status of education in the  
9 state as reflected by the academic excellence indicators adopted  
10 under Section 39.051;

11 (3) a summary compilation of overall student  
12 performance on academic skills assessment instruments required by  
13 Section 39.023 with the number and percentage of students exempted  
14 from the administration of those instruments and the basis of the  
15 exemptions, aggregated by grade level, subject area, campus, and  
16 district, with appropriate interpretations and analysis, and  
17 disaggregated by race, ethnicity, gender, and socioeconomic  
18 status;

19 (4) a summary compilation of overall performance of  
20 students placed in an alternative education program established  
21 under Section 37.008 on academic skills assessment instruments  
22 required by Section 39.023 with the number of those students  
23 exempted from the administration of those instruments and the basis  
24 of the exemptions, aggregated by district, grade level, and subject  
25 area, with appropriate interpretations and analysis, and  
26 disaggregated by race, ethnicity, gender, and socioeconomic  
27 status;

1           (5) a summary compilation of overall performance of  
2 students at risk of dropping out of school, as defined by Section  
3 29.081(d), on academic skills assessment instruments required by  
4 Section 39.023 with the number of those students exempted from the  
5 administration of those instruments and the basis of the  
6 exemptions, aggregated by district, grade level, and subject area,  
7 with appropriate interpretations and analysis, and disaggregated  
8 by race, ethnicity, gender, and socioeconomic status;

9           (6) an evaluation of the correlation between student  
10 grades and student performance on academic skills assessment  
11 instruments required by Section 39.023;

12           (7) a statement of the dropout rate of students in  
13 grade levels 7 through 12, expressed in the aggregate and by grade  
14 level, and a statement of the completion rates of students for grade  
15 levels 9 through 12;

16           (8) a statement of:

17                   (A) the completion rate of students who enter  
18 grade level 9 and graduate not more than four years later;

19                   (B) the completion rate of students who enter  
20 grade level 9 and graduate, including students who require more  
21 than four years to graduate;

22                   (C) the completion rate of students who enter  
23 grade level 9 and not more than four years later receive a high  
24 school equivalency certificate;

25                   (D) the completion rate of students who enter  
26 grade level 9 and receive a high school equivalency certificate,  
27 including students who require more than four years to receive a



1 certificate; and

2 (E) the number and percentage of all students who  
3 have not been accounted for under Paragraph (A), (B), (C), or (D);

4 (9) a statement of the projected cross-sectional and  
5 longitudinal dropout rates for grade levels 9 through 12 for the  
6 next five years, assuming no state action is taken to reduce the  
7 dropout rate;

8 (10) a description of a systematic, measurable plan  
9 for reducing the projected cross-sectional and longitudinal  
10 dropout rates to five percent or less for the 1997-1998 school year;

11 (11) a summary of the information required by Section  
12 29.083 regarding grade level retention of students and information  
13 concerning:

14 (A) the number and percentage of students  
15 retained; and

16 (B) the performance of retained students on  
17 assessment instruments required under Section 39.023(a);

18 (12) information, aggregated by district type and  
19 disaggregated by race, ethnicity, gender, and socioeconomic  
20 status, on:

21 (A) the number of students placed in an  
22 alternative education program established under Section 37.008;

23 (B) the average length of a student's placement  
24 in an alternative education program established under Section  
25 37.008;

26 (C) the academic performance of students on  
27 assessment instruments required under Section 39.023(a) during the

1 year preceding and during the year following placement in an  
2 alternative education program; and

3 (D) the dropout rates of students who have been  
4 placed in an alternative education program established under  
5 Section 37.008;

6 (13) a list of each school district or campus that does  
7 not satisfy performance standards, with an explanation of the  
8 actions taken by the commissioner to improve student performance in  
9 the district or campus and an evaluation of the results of those  
10 actions;

11 (14) an evaluation of the status of the curriculum  
12 taught in public schools, with recommendations for legislative  
13 changes necessary to improve or modify the curriculum required by  
14 Section 28.002;

15 (15) a description of all funds received by and each  
16 activity and expenditure of the agency;

17 (16) a summary and analysis of the instructional  
18 expenditures ratios and instructional employees ratios  
19 [compliance] of school districts computed ~~[with administrative~~  
20 ~~cost ratios set by the commissioner]~~ under Section 44.0071 ~~[42.201,~~  
21 ~~including any improvements and cost savings achieved by school~~  
22 ~~districts]~~;

23 (17) a summary of the effect of deregulation,  
24 including exemptions and waivers granted under Section 7.056 or  
25 39.112;

26 (18) a statement of the total number and length of  
27 reports that school districts and school district employees must

1 submit to the agency, identifying which reports are required by  
2 federal statute or rule, state statute, or agency rule, and a  
3 summary of the agency's efforts to reduce overall reporting  
4 requirements;

5 (19) a list of each school district that is not in  
6 compliance with state special education requirements, including:

7 (A) the period for which the district has not  
8 been in compliance;

9 (B) the manner in which the agency considered the  
10 district's failure to comply in determining the district's  
11 accreditation status; and

12 (C) an explanation of the actions taken by the  
13 commissioner to ensure compliance and an evaluation of the results  
14 of those actions;

15 (20) a comparison of the performance of  
16 open-enrollment charter schools and school districts on the  
17 academic excellence indicators specified in Section 39.051(b) and  
18 accountability measures adopted under Section 39.051(g), with a  
19 separately aggregated comparison of the performance of  
20 open-enrollment charter schools predominantly serving students at  
21 risk of dropping out of school, as defined by Section 29.081(d),  
22 with the performance of school districts; and

23 (21) any additional information considered important  
24 by the commissioner or the State Board of Education.

25 SECTION 1.07. Section 43.001(b), Education Code, is amended  
26 to read as follows:

27 (b) The available school fund[~~, which shall be apportioned~~

1 ~~annually to each county according to its scholastic population,~~  
2 consists of:

3 (1) the interest and dividends arising from any  
4 securities or funds belonging to the permanent school fund;

5 (2) all interest derivable from the proceeds of the  
6 sale of land set apart for the permanent school fund;

7 (3) all money derived from the lease of land belonging  
8 to the permanent school fund;

9 (4) one-fourth of all revenue derived from all state  
10 occupation taxes, exclusive of delinquencies and cost of  
11 collection;

12 (5) one-fourth of revenue derived from state gasoline  
13 and special fuels excise taxes as provided by law; and

14 (6) all other appropriations to the available school  
15 fund made by the legislature for public school purposes.

16 SECTION 1.08. Subchapter A, Chapter 44, Education Code, is  
17 amended by adding Section 44.0071 to read as follows:

18 Sec. 44.0071. COMPUTATION OF INSTRUCTIONAL EXPENDITURES  
19 RATIO AND INSTRUCTIONAL EMPLOYEES RATIO. (a) Each fiscal year, a  
20 school district shall compute and report to the commissioner:

21 (1) the percentage of the district's total  
22 expenditures for the preceding fiscal year that were used to fund  
23 direct instructional activities; and

24 (2) the percentage of the district's full-time  
25 equivalent employees during the preceding fiscal year whose job  
26 function was to directly provide classroom instruction to students,  
27 determined by dividing the number of hours spent by employees in

1 providing direct classroom instruction by the total number of hours  
2 worked by all district employees.

3 (b) At least annually a school district shall provide  
4 educators employed by the district with a list of district  
5 employees determined by the district for purposes of this section  
6 to be engaged in directly providing classroom instruction to  
7 students. The list must include the percentage of time spent by  
8 each employee in directly providing classroom instruction to  
9 students.

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

18 (d) The commissioner shall adopt rules as necessary to  
19 implement this section.

20 SECTION 1.09. Section 45.003(a), Education Code, is amended  
21 to read as follows:

22 (a) Bonds described by Section 45.001 may not be issued and  
23 taxes described by that section [~~Section 45.001 or 45.002~~] may not  
24 be levied unless authorized by a majority of the qualified voters of  
25 the district[~~7~~] voting at an election held for that purpose[~~7, at the~~  
26 ~~expense of the district, in accordance with the Election Code,~~  
27 ~~except as provided by this section. Each election must be called by~~

1 ~~resolution or order of the governing board or commissioners court.~~  
2 ~~The resolution or order must state the date of the election, the~~  
3 ~~proposition or propositions to be submitted and voted on, the~~  
4 ~~polling place or places, and any other matters considered necessary~~  
5 ~~or advisable by the governing board or commissioners court].~~

6 SECTION 1.10. Section 43.015, Education Code, is amended by  
7 adding Subsection (c-1) to read as follows:

8 (c-1) On the 10th day of each month and on the last day of the  
9 fiscal year, the comptroller shall transfer from the available  
10 school fund to the Texas education fund all amounts in the available  
11 school fund that the State Board of Education certifies are not  
12 needed to purchase and distribute textbooks under Chapter 31.

13 SECTION 1.11. Section 46.033, Education Code, is amended to  
14 read as follows:

15 Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued  
16 under Section 45.006, are eligible to be paid with state and local  
17 funds under this subchapter if:

18 (1) the district made payments on the bonds during the  
19 final [2000-2001] school year of the state fiscal biennium  
20 preceding the biennium in which the district first receives  
21 assistance under this subchapter for the payment of principal of  
22 and interest on the bonds or taxes levied to pay the principal of  
23 and interest on the bonds were included in the district's audited  
24 debt service collections for that school year; and

25 (2) the district does not receive state assistance  
26 under Subchapter A for payment of the principal and interest on the  
27 bonds.

1 SECTION 1.12. Section 46.034(c), Education Code, is amended  
2 to read as follows:

3 (c) If the amount required to pay the principal of and  
4 interest on eligible bonds in a school year is less than the amount  
5 of payments made by the district on the bonds during the final  
6 [2000-2001] school year of the state fiscal biennium preceding the  
7 biennium in which the district first receives assistance under this  
8 subchapter for the payment of principal of and interest on the bonds  
9 or the district's audited debt service collections for that school  
10 year, the district may not receive aid in excess of the amount that,  
11 when added to the district's local revenue for the school year,  
12 equals the amount required to pay the principal of and interest on  
13 the bonds.

14 SECTION 1.13. The following provisions of the Education  
15 Code are repealed:

16 (1) Section 33.001, as amended by Chapters 1223 and  
17 1487, Acts of the 77th Legislature, Regular Session, 2001;

18 (2) Chapters 41 and 42, as added by Chapter 260, Acts  
19 of the 74th Legislature, Regular Session, 1995; and

20 (3) Sections 11.151(b), 43.001(c), 43.016, 45.002,  
21 and 45.003(d).

22 SECTION 1.14. (a) The Education Excellence Task Force is  
23 composed of:

24 (1) five members appointed by the governor;

25 (2) five members appointed by the lieutenant governor,  
26 three of whom must be members of the senate; and

27 (3) five members appointed by the speaker of the house

1 of representatives, three of whom must be members of the house of  
2 representatives.

3 (b) The Education Excellence Task Force shall:

4 (1) study academic inputs needed to ensure educational  
5 excellence;

6 (2) study the "best practices" of exemplary schools;

7 (3) analyze cost inputs;

8 (4) assess educational funding formulas and weights  
9 and any impacts on educational programs provided to sustain the  
10 weights; and

11 (5) study educational programs designed to improve  
12 high school graduation rates.

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

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

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



1 SECTION 1.16. (a) A school district maintenance tax rate  
2 imposed under Sections 45.002 and 45.003, Education Code, before  
3 September 1, 2004, is void. The board of trustees of a school  
4 district may not impose a district enrichment tax under Chapter 42,  
5 Education Code, as added by this Act, without holding an election in  
6 compliance with that chapter.

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

11 (c) The repeal of Chapter 42, Education Code, by this Act  
12 does not affect the liability of a school district for excess  
13 administrative costs during the 2003-2004 school year that the  
14 commissioner of education is entitled to recover during the  
15 2004-2005 school year under Section 42.201(d), Education Code, as  
16 that subsection existed on January 1, 2003, and the former law is  
17 continued in effect for that purpose.

18 SECTION 1.17. A reference in this code or other law to the  
19 Foundation School Program means the Texas Education Excellence  
20 Program. A reference in this code or other law to the foundation  
21 school fund means the Texas education fund.

22 ARTICLE 2. TEXAS EDUCATION FUND

23 SECTION 2.01. Chapter 45, Education Code, is amended by  
24 adding Subchapter I to read as follows:

25 SUBCHAPTER I. TEXAS EDUCATION FUND

26 Sec. 45.251. TEXAS EDUCATION FUND. (a) The Texas education  
27 fund is a fund maintained by the comptroller within the general

1 revenue fund. The Texas education fund consists of the tax revenue  
2 allocated to the fund under Section 5A, Article VII, Texas  
3 Constitution.

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

6 (c) Except as otherwise provided by law, the state shall be  
7 treated, for purposes of the state ad valorem tax, as a taxing unit  
8 under Title 1, Tax Code.

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

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

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

19 (b) If the commissioners court of a county contracts with an  
20 official, taxing unit, or political subdivision of this state for  
21 the assessment or collection of the ad valorem taxes of the county,  
22 the official, taxing unit, or political subdivision shall also  
23 assess or collect, as applicable, the state ad valorem taxes  
24 imposed on property in that county.

25 (c) Each assessor or collector of state ad valorem taxes is  
26 entitled to be reimbursed by the comptroller for the actual costs  
27 incurred by the assessor or collector in assessing or collecting

1 state ad valorem taxes. However, an assessor or collector is not  
2 entitled to be reimbursed for any amount that is greater than the  
3 additional incremental costs incurred in assessing or collecting  
4 the state ad valorem taxes.

5 (d) The comptroller shall:

6 (1) prescribe methods of accounting for and remitting  
7 state ad valorem taxes;

8 (2) prescribe methods for establishing an assessor's  
9 or collector's additional incremental costs incurred in assessing  
10 or collecting state ad valorem taxes;

11 (3) prescribe and furnish forms for periodic reports  
12 relating to state ad valorem taxes; and

13 (4) periodically examine the records of each assessor  
14 or collector of state ad valorem taxes to verify the accuracy of any  
15 reports required under this subsection.

16 Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Except  
17 as otherwise provided by this subchapter, a duty imposed on or power  
18 granted to the governing body of a taxing unit by Title 1, Tax Code,  
19 may, for purposes of the state ad valorem tax under this subchapter,  
20 be exercised by the comptroller. A reference to the presiding  
21 officer of a governing body in Title 1, Tax Code, is a reference to  
22 the comptroller for the purposes of the state tax under this  
23 subchapter.

24 (b) The comptroller may delegate to the county  
25 assessor-collector any function of the comptroller with respect to  
26 the state ad valorem tax and may designate the county  
27 assessor-collector as the comptroller's agent for purposes of

1 administration of the state ad valorem tax.

2 Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. The  
3 comptroller shall deposit to the credit of the general revenue fund  
4 in appropriately designated accounts an amount of revenue collected  
5 from the state ad valorem tax to pay for the comptroller's expenses  
6 in administering this subchapter and for the payment of tax refunds  
7 that may become payable.

8 Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS.  
9 Title 2, Tax Code, does not apply to the state ad valorem tax under  
10 this subchapter.

11 SECTION 2.02. Except as otherwise provided by this Act,  
12 this article takes effect January 1, 2004.

13 ARTICLE 3. AMENDMENTS TO PROPERTY TAX CODE

14 SECTION 3.01. Subchapter A, Chapter 6, Tax Code, is amended  
15 by adding Section 6.038 to read as follows:

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

21 (b) The comptroller by rule shall establish guidelines and  
22 criteria under which, if the comptroller finds that generally  
23 accepted appraisal standards and practices were not used by the  
24 appraisal district appraising property subject to the state ad  
25 valorem tax or that the appraised values assigned to property  
26 subject to that tax are invalid, the comptroller may:

27 (1) withhold payment of all or part of the portion of

1 the amount of the budget of the appraisal district that is allocated  
2 to the state until the district takes appropriate actions to remedy  
3 the deficiencies in appraisals found by the comptroller; or

4 (2) direct that all or any part of the portion of the  
5 amount of the budget of the district allocated to the state be  
6 applied to remedying those deficiencies.

7 SECTION 3.02. Section 6.06(d), Tax Code, is amended to read  
8 as follows:

9 (d) The state and each [~~Each~~] taxing unit participating in  
10 the district is allocated a portion of the amount of the budget  
11 equal to the proportion that the total dollar amount of property  
12 taxes imposed in the district by the state or taxing unit for the  
13 tax year in which the budget proposal is prepared bears to the sum  
14 of the total dollar amount of property taxes imposed in the district  
15 by the state and each participating unit for that year. For  
16 purposes of this subsection, only state ad valorem taxes imposed in  
17 the county for which the district is established are considered as  
18 state ad valorem taxes imposed in the district. If a taxing unit  
19 participates in two or more districts, only the taxes imposed in a  
20 district are used to calculate the unit's cost allocations in that  
21 district. If the number of real property parcels in a taxing unit  
22 is less than 5 percent of the total number of real property parcels  
23 in the district and the taxing unit imposes in excess of 25 percent  
24 of the total amount of the property taxes imposed in the district by  
25 all of the participating taxing units for a year, the unit's  
26 allocation may not exceed a percentage of the appraisal district's  
27 budget equal to three times the unit's percentage of the total

1 number of real property parcels appraised by the district.

2 SECTION 3.03. Sections 11.13(b) and (c), Tax Code, are  
3 amended to read as follows:

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

11 (c) In addition to the exemption provided by Subsection (b)  
12 [~~of this section~~], an adult who is disabled or is 65 years of age or  
13 older is entitled to an exemption from taxation by the state for  
14 public school purposes or by a school district of \$10,000 of the  
15 appraised value of the adult's [~~his~~] residence homestead.

16 SECTION 3.04. Section 11.14, Tax Code, is amended by adding  
17 Subsection (f) to read as follows:

18 (f) Subsection (c) does not apply to the comptroller or to  
19 the state ad valorem tax.

20 SECTION 3.05. Section 11.251(i), Tax Code, is amended to  
21 read as follows:

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

1 in that tax year.

2 SECTION 3.06. The heading to Section 11.26, Tax Code, is  
3 amended to read as follows:

4 Sec. 11.26. LIMITATION OF SCHOOL TAXES [~~TAX~~] ON HOMESTEADS  
5 OF ELDERLY.

6 SECTION 3.07. Section 11.26, Tax Code, is amended by  
7 amending Subsections (a), (b), (g), (h), (j), and (k) and adding  
8 Subsections (a-1) and (g-1) to read as follows:

9 (a) The tax officials shall appraise the property to which  
10 this section applies and calculate taxes as on other property, but  
11 if the tax so calculated exceeds the limitation imposed by this  
12 section, the tax imposed is the amount of the tax as limited by this  
13 section, except as otherwise provided by this section. The state or  
14 a [A] school district may not increase the total annual amount of ad  
15 valorem tax it imposes on the residence homestead of an individual  
16 65 years or older above the amount of the tax it imposed in the first  
17 tax year in which the individual qualified that residence homestead  
18 for the exemption provided by Section 11.13(c) for an individual 65  
19 years of age or older. If the individual qualified that residence  
20 homestead for the exemption after the beginning of that first year  
21 and the residence homestead remains eligible for the exemption for  
22 the next year, and if the school [~~district~~] taxes imposed by the  
23 state or the school district taxes on the residence homestead in the  
24 next year are less than the amount of taxes it imposed in that first  
25 year, the state or a school district may not subsequently increase  
26 the total annual amount of ad valorem taxes it imposes on the  
27 residence homestead above the amount it imposed in the year

1 immediately following the first year for which the individual  
2 qualified that residence homestead for the exemption, except as  
3 provided by Subsection (b).

4 (a-1) If the first tax year the individual qualified the  
5 residence homestead for the exemption provided by Section 11.13(c)  
6 was a tax year before the 2004 [~~1997~~] tax year, except as provided  
7 by Subsection (b):

8 (1) the amount of the limitation on state taxes  
9 provided by this section is the amount of tax the school district in  
10 which the property is located imposed for the 2003 [~~1996~~] tax year  
11 [~~less an amount equal to the amount determined by multiplying~~  
12 ~~\$10,000 times the tax rate of the school district for the 1997 tax~~  
13 ~~year,~~] plus any 2004 state [~~1997~~] tax attributable to improvements  
14 made in 2003 [~~1996~~], other than improvements made to comply with  
15 governmental regulations or repairs; and

16 (2) the amount of the limitation provided by this  
17 section on school district taxes is the amount of tax the school  
18 district imposed for the 2003 tax year less the amount of state  
19 taxes imposed in the 2004 tax year, plus any 2004 school taxes  
20 attributable to improvements made in 2003, other than improvements  
21 made to comply with governmental regulations or repairs.

22 (b) If an individual makes improvements to the individual's  
23 residence homestead, other than improvements required to comply  
24 with governmental requirements or repairs, the state or the school  
25 district may increase the tax on the homestead in the first year the  
26 value of the homestead is increased on the appraisal roll because of  
27 the enhancement of value by the improvements. The amount of the tax



1 increase is determined by applying the current tax rate to the  
2 difference in the assessed value of the homestead with the  
3 improvements and the assessed value it would have had without the  
4 improvements. A limitation imposed by this section then applies to  
5 the increased amount of tax until more improvements, if any, are  
6 made.

7 (g) Except as provided by Subsection (b), if an individual  
8 who receives a limitation on tax increases imposed by this section,  
9 including a surviving spouse who receives a limitation under  
10 Subsection (i), subsequently qualifies a different residence  
11 homestead for an exemption under Section 11.13, the state or a  
12 school district may not impose ad valorem taxes on the subsequently  
13 qualified homestead in a year in an amount that exceeds the amount  
14 of taxes the state or the school district would have imposed on the  
15 subsequently qualified homestead in the first year in which the  
16 individual receives that exemption for the subsequently qualified  
17 homestead had the limitation on tax increases imposed by this  
18 section not been in effect, multiplied by a fraction the numerator  
19 of which is the total amount of [~~school district~~] taxes imposed by  
20 the state or the school district on the former homestead in the last  
21 year in which the individual received that exemption for the former  
22 homestead and the denominator of which is the total amount of taxes  
23 the state or the school district [~~taxes that~~] would have [~~been~~]  
24 imposed on the former homestead in the last year in which the  
25 individual received that exemption for the former homestead had the  
26 limitation on tax increases imposed by this section not been in  
27 effect.

1       (g-1) Subsection (g) does not apply to a residence homestead  
2 to which this subsection applies. Except as provided by Subsection  
3 (b), if an individual who receives a limitation on tax increases  
4 imposed by this section in a tax year before the 2004 tax year,  
5 including a surviving spouse who receives a limitation under  
6 Subsection (i), subsequently qualifies a different residence  
7 homestead for an exemption under Section 11.13 and the first year in  
8 which the subsequently qualified homestead qualifies for the  
9 exemption is a tax year after the 2003 tax year:

10       (1) the state may not impose taxes on the subsequently  
11 qualified homestead in an amount that exceeds the amount of taxes  
12 the state would have imposed on the subsequently qualified  
13 homestead in the first year in which the individual receives that  
14 exemption for the subsequently qualified homestead had the  
15 limitation on tax increases imposed by this section not been in  
16 effect, multiplied by a fraction the numerator of which is the total  
17 amount of school district taxes imposed on the former homestead in  
18 the last year in which the individual received that exemption for  
19 the former homestead and the denominator of which is the total  
20 amount of school district taxes that would have been imposed on the  
21 former homestead in the last year in which the individual received  
22 that exemption for the former homestead had the limitations on tax  
23 increases imposed by this section not been in effect; and

24       (2) the school district may not impose taxes on the  
25 subsequently qualified homestead in an amount that exceeds the  
26 positive amount, if any, by which the limitation on state taxes  
27 calculated under Subdivision (1) exceeds the amount of state taxes

1 imposed in the first year in which the subsequently qualified  
2 homestead receives the exemption.

3 (h) An individual who receives a limitation on tax increases  
4 under this section, including a surviving spouse who receives a  
5 limitation under Subsection (i), and who subsequently qualifies a  
6 different residence homestead for an exemption under Section 11.13,  
7 or an agent of the individual, is entitled to receive from the chief  
8 appraiser of the appraisal district in which the former homestead  
9 was located a written certificate providing the information  
10 necessary to determine whether the individual may qualify for a  
11 limitation on the subsequently qualified homestead under  
12 Subsection (g) or (g-1) and to calculate the amount of taxes the  
13 state or the school district may impose on the subsequently  
14 qualified homestead.

15 (j) If an individual who qualifies for an exemption provided  
16 by Section 11.13(c) for an individual 65 years of age or older dies  
17 in the first year in which the individual qualified for the  
18 exemption and the individual first qualified for the exemption  
19 after the beginning of that year, except as provided by Subsection  
20 (k), the amount to which the surviving spouse's state or school  
21 district taxes are limited under Subsection (i) is the amount of  
22 state or school district taxes imposed on the residence homestead  
23 in that year determined as if the individual qualifying for the  
24 exemption had lived for the entire year.

25 (k) If in the first tax year after the year in which an  
26 individual dies in the circumstances described by Subsection (j)  
27 the amount of [~~school district~~] taxes imposed by the state or the

1 school district on the residence homestead of the surviving spouse  
2 is less than the amount of state or school district taxes imposed in  
3 the preceding year as limited by Subsection (j), in a subsequent tax  
4 year the surviving spouse's state or school district taxes on that  
5 residence homestead are limited to the amount of taxes imposed by  
6 the state or the school district in that first tax year after the  
7 year in which the individual dies.

8 SECTION 3.08. Section 21.03(a), Tax Code, is amended to  
9 read as follows:

10 (a) If personal property that is taxable by this state or a  
11 taxing unit of this state is used continually outside this state,  
12 whether regularly or irregularly, the appraisal office shall  
13 allocate to this state the portion of the total market value of the  
14 property that fairly reflects its use in this state.

15 SECTION 3.09. Section 21.031(a), Tax Code, is amended to  
16 read as follows:

17 (a) If a vessel or other watercraft that is taxable by this  
18 state or a taxing unit of this state is used continually outside  
19 this state, whether regularly or irregularly, the appraisal office  
20 shall allocate to this state the portion of the total market value  
21 of the vessel or watercraft that fairly reflects its use in this  
22 state. The appraisal office shall not allocate to this state the  
23 portion of the total market value of the vessel or watercraft that  
24 fairly reflects its use in another state or country, in  
25 international waters, or beyond the Gulfward boundary of this  
26 state.

27 SECTION 3.10. Section 23.46(d), Tax Code, is amended to

1 read as follows:

2 (d) A tax lien attaches to the land on the date the sale or  
3 change of use occurs to secure payment of the additional tax and  
4 interest imposed by Subsection (c) [~~of this section~~] and any  
5 penalties incurred. The lien exists in favor of the state and all  
6 taxing units for which the additional tax is imposed.

7 SECTION 3.11. Section 23.55(b), Tax Code, is amended to  
8 read as follows:

9 (b) A tax lien attaches to the land on the date the change of  
10 use occurs to secure payment of the additional tax and interest  
11 imposed by this section and any penalties incurred. The lien exists  
12 in favor of the state and all taxing units for which the additional  
13 tax is imposed.

14 SECTION 3.12. Section 23.76(b), Tax Code, is amended to  
15 read as follows:

16 (b) A tax lien attaches to the land on the date the change of  
17 use occurs to secure payment of the additional tax and interest  
18 imposed by this section and any penalties incurred. The lien exists  
19 in favor of the state and all taxing units for which the additional  
20 tax is imposed.

21 SECTION 3.13. Section 23.86(b), Tax Code, is amended to  
22 read as follows:

23 (b) A tax lien attaches to the land on the date the change of  
24 use occurs or the deed restriction expires to secure payment of the  
25 additional tax and interest imposed by this section and any  
26 penalties incurred. The lien exists in favor of the state and all  
27 taxing units for which the additional tax is imposed.

1 SECTION 3.14. Section 23.96(b), Tax Code, is amended to  
2 read as follows:

3 (b) A tax lien attaches to the property on the date the deed  
4 restriction expires to secure payment of the additional tax and  
5 interest imposed by this section and any penalties incurred. The  
6 lien exists in favor of the state and all taxing units for which the  
7 additional tax is imposed.

8 SECTION 3.15. Section 23.9807(c), Tax Code, is amended to  
9 read as follows:

10 (c) A tax lien attaches to the land on the date the change of  
11 use occurs to secure payment of the additional tax and interest  
12 imposed by this section and any penalties incurred. The lien exists  
13 in favor of the state and all taxing units for which the additional  
14 tax is imposed.

15 SECTION 3.16. Section 24.39, Tax Code, is amended to read as  
16 follows:

17 Sec. 24.39. IMPOSITION OF TAX. (a) The county  
18 assessor-collector and commissioners court may not change the  
19 apportioned values certified as provided by this subchapter.

20 (b) The county assessor-collector shall add each owner's  
21 rolling stock and the value apportioned to the county as certified  
22 to that official [~~him~~] to the appraisal roll certified to that  
23 official [~~him~~] by the chief appraiser as provided by Section 26.01  
24 [~~of this code~~] for county tax purposes and to the appraisal roll for  
25 state ad valorem taxes. The county assessor-collector [~~He~~] shall  
26 calculate the county and state taxes [~~tax~~] due on the rolling stock  
27 as provided by Section 26.09 [~~of this code~~].

1 SECTION 3.17. Section 25.19(b), Tax Code, as amended by  
2 Chapters 1358 and 1517, Acts of the 76th Legislature, Regular  
3 Session, 1999, is reenacted and amended to read as follows:

4 (b) The chief appraiser shall separate real from personal  
5 property and include in the notice for each:

6 (1) a list of the taxing units in which the property is  
7 taxable and a statement that the property is subject to the state  
8 tax to support the public schools;

9 (2) the appraised value of the property in the  
10 preceding year;

11 (3) the taxable value of the property in the preceding  
12 year for each taxing unit taxing the property and for state  
13 taxation;

14 (4) the appraised value of the property for the  
15 current year and the kind and amount of each partial exemption, if  
16 any, approved for the current year;

17 (5) if the appraised value is greater than it was in  
18 the preceding year:

19 (A) the effective tax rate for each taxing unit  
20 other than the state that would be announced pursuant to Chapter 26  
21 if the total values being submitted to the appraisal review board  
22 were to be approved by the board with an explanation that that rate  
23 would raise the same amount of revenue from property taxed in the  
24 preceding year as the unit raised for those purposes in the  
25 preceding year;

26 (B) the amount of tax that would be imposed on the  
27 property on the basis of each ~~the~~ rate described by Paragraph (A);

1 and

2 (C) a statement that the governing body of a  
3 local taxing [~~the~~] unit may not adopt a rate that will increase tax  
4 revenues for operating purposes from properties taxed in the  
5 preceding year without publishing notice in a newspaper that it is  
6 considering a tax increase and holding a hearing for taxpayers to  
7 discuss the tax increase;

8 (6) if the appraised value is greater than it was in  
9 the preceding year, the amount of tax that would be imposed on the  
10 property on the basis of the tax rate for the preceding year;

11 (7) in italic typeface, the following statement: "The  
12 Texas Legislature does not set the amount of your local taxes. Your  
13 local property tax burden is decided by your locally elected  
14 officials, and all inquiries concerning your local taxes should be  
15 directed to those officials";

16 (8) a detailed explanation of the time and procedure  
17 for protesting the value; [~~and~~]

18 (9) the date and place the appraisal review board will  
19 begin hearing protests; and

20 (10) a brief explanation that the governing body of  
21 each local taxing unit decides whether [~~or not~~] taxes on the  
22 property will increase and the appraisal district only determines  
23 the value of the property.

24 SECTION 3.18. The heading to Section 26.01, Tax Code, is  
25 amended to read as follows:

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

27 SECTION 3.19. Sections 26.01(a), (c), and (d), Tax Code,



1 are amended to read as follows:

2 (a) By July 25, the chief appraiser shall prepare and  
3 certify to the assessor for each taxing unit participating in the  
4 district that part of the appraisal roll for the district that lists  
5 the property taxable by the unit. By that date the chief appraiser  
6 shall prepare and certify to the comptroller that part of the  
7 appraisal roll for the district that lists property taxable by the  
8 state. The part certified to the assessor or the comptroller is the  
9 appraisal roll for the taxing unit or the state. The chief  
10 appraiser shall consult with the assessor for each taxing unit and  
11 the comptroller and notify each taxing unit and the comptroller in  
12 writing by April 1 of the form in which the roll will be provided to  
13 each unit and to the comptroller.

14 (c) The chief appraiser shall prepare and certify to the  
15 assessor for each taxing unit and the comptroller a listing of those  
16 properties which are taxable by that unit or the state but which are  
17 under protest and therefore not included on the appraisal roll  
18 approved by the appraisal review board and certified by the chief  
19 appraiser. This listing shall include the appraised market value,  
20 productivity value (if applicable), and taxable value as determined  
21 by the appraisal district and shall also include the market value,  
22 taxable value, and productivity value (if applicable) as claimed by  
23 the property owner filing the protest if available. If the property  
24 owner does not claim a value and the appraised value of the property  
25 in the current year is equal to or less than its value in the  
26 preceding year, the listing shall include a reasonable estimate of  
27 the market value, taxable value, and productivity value (if

1 applicable) that would be assigned to the property if the  
2 taxpayer's claim is upheld. If the property owner does not claim a  
3 value and the appraised value of the property is higher than its  
4 appraised value in the preceding year, the listing shall include  
5 the appraised market value, productivity value (if applicable) and  
6 taxable value of the property in the preceding year, except that if  
7 there is a reasonable likelihood that the appraisal review board  
8 will approve a lower appraised value for the property than its  
9 appraised value in the preceding year, the chief appraiser shall  
10 make a reasonable estimate of the taxable value that would be  
11 assigned to the property if the property owner's claim is upheld.  
12 The taxing unit shall use the lower value for calculations as  
13 prescribed in Sections 26.04 and 26.041 [~~of this code~~].

14 (d) The chief appraiser shall prepare and certify to the  
15 assessor for each taxing unit and the comptroller a list of those  
16 properties of which the chief appraiser has knowledge that are  
17 reasonably likely to be taxable by that unit or the state but that  
18 are not included on the appraisal roll certified to the assessor or  
19 the comptroller under Subsection (a) or included on the listing  
20 certified to the assessor or the comptroller under Subsection (c).  
21 The chief appraiser shall include on the list for each property the  
22 market value, appraised value, and kind and amount of any partial  
23 exemptions as determined by the appraisal district for the  
24 preceding year and a reasonable estimate of the market value,  
25 appraised value, and kind and amount of any partial exemptions for  
26 the current year. Until the property is added to the appraisal  
27 roll, the assessor for the taxing unit shall include each property

1 on the list in the calculations prescribed by Sections 26.04 and  
2 26.041, and for that purpose shall use the lower market value,  
3 appraised value, or taxable value, as appropriate, included on or  
4 computed using the information included on the list for the  
5 property.

6 SECTION 3.20. Chapter 26, Tax Code, is amended by adding  
7 Section 26.011 to read as follows:

8 Sec. 26.011. PROVISIONS EXCLUDED FOR STATE TAX. Sections  
9 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08 do not apply  
10 to the state ad valorem tax or to the comptroller.

11 SECTION 3.21. Sections 26.09(b) and (c), Tax Code, are  
12 amended to read as follows:

13 (b) The county assessor-collector shall add the properties  
14 and their values certified to that official ~~[him]~~ as provided by  
15 Chapter 24 ~~[of this code]~~ to the appraisal roll for county tax  
16 purposes and to the appraisal roll for state ad valorem taxes. The  
17 county assessor-collector shall use the appropriate appraisal roll  
18 certified to that official ~~[him]~~ as provided by Section 26.01 with  
19 the added properties and values to calculate county and state  
20 taxes.

21 (c) The tax is calculated by:

22 (1) subtracting from the appraised value of a property  
23 as shown on the appraisal roll for a taxing ~~[the]~~ unit or the state  
24 the amount of any partial exemption allowed the property owner that  
25 applies to appraised value to determine taxable ~~[net appraised]~~  
26 value; and

27 (2) ~~[multiplying the net appraised value by the~~

1 ~~assessment ratio to determine assessed value,~~

2 ~~[(3) subtracting from the assessed value the amount of~~  
3 ~~any partial exemption allowed the property owner to determine~~  
4 ~~taxable value; and~~

5 ~~[(4)]~~ multiplying the taxable value by the applicable  
6 tax rate.

7 SECTION 3.22. Section 26.12, Tax Code, is amended by adding  
8 Subsection (e) to read as follows:

9 (e) For purposes of this section, the state is not a taxing  
10 unit.

11 SECTION 3.23. Section 26.15(c), Tax Code, is amended to  
12 read as follows:

13 (c) At any time, the governing body of a taxing unit, on  
14 motion of the assessor for the unit or of a property owner, shall  
15 direct by written order changes in the tax roll to correct errors in  
16 the mathematical computation of a tax. The assessor shall enter the  
17 corrections ordered by the governing body. The comptroller may  
18 order changes on the state tax roll to correct errors in the  
19 mathematical computation of the state tax.

20 SECTION 3.24. Section 31.11(a), Tax Code, is amended to  
21 read as follows:

22 (a) If a taxpayer applies to the tax collector of a taxing  
23 unit for a refund of an overpayment or erroneous payment of taxes  
24 and the auditor for the unit or the comptroller in the case of the  
25 state ad valorem tax determines that the payment was erroneous or  
26 excessive, the tax collector shall refund the amount of the  
27 excessive or erroneous payment from available current tax

1 collections or from funds appropriated by the unit for making  
2 refunds. For taxes other than state ad valorem taxes [~~However~~], the  
3 collector may not make the refund unless the governing body of the  
4 taxing unit or the governing body of a taxing unit that collects  
5 another unit's taxes also determines that the payment was erroneous  
6 or excessive and approves the refund if the amount of the refund  
7 exceeds:

8 (1) \$2,500 for a refund to be paid by a county with a  
9 population of 1.5 million or more; or

10 (2) \$500 for a refund to be paid by any other taxing  
11 unit.

12 SECTION 3.25. Sections 32.01(a) and (d), Tax Code, are  
13 amended to read as follows:

14 (a) On January 1 of each year, a tax lien attaches to  
15 property to secure the payment of all taxes, penalties, and  
16 interest ultimately imposed for the year by the state or a taxing  
17 unit on the property, whether or not the taxes are imposed in the  
18 year the lien attaches. The lien to secure the payment of state ad  
19 valorem taxes and applicable penalties and interest exists in favor  
20 of the state. The lien to secure the payment of taxes imposed by a  
21 taxing unit and applicable penalties and interest exists in favor  
22 of the [~~each~~] taxing unit having power to tax the property.

23 (d) The lien under this section is perfected on attachment  
24 and, except as provided by Section 32.03(b), perfection requires no  
25 further action by the state or taxing unit.

26 SECTION 3.26. Section 33.01(a), Tax Code, is amended to  
27 read as follows:

1           (a) A delinquent tax, including a delinquent state ad  
2 valorem tax, incurs a penalty of six percent of the amount of the  
3 tax for the first calendar month it is delinquent plus one percent  
4 for each additional month or portion of a month the tax remains  
5 unpaid prior to July 1 of the year in which it becomes delinquent.  
6 However, a tax delinquent on July 1 incurs a total penalty of twelve  
7 percent of the amount of the delinquent tax without regard to the  
8 number of months the tax has been delinquent. A delinquent tax  
9 continues to incur the penalty provided by this subsection as long  
10 as the tax remains unpaid, regardless of whether a judgment for the  
11 delinquent tax has been rendered.

12           SECTION 3.27. Subchapter A, Chapter 33, Tax Code, is  
13 amended by adding Section 33.10 to read as follows:

14           Sec. 33.10. COLLECTION OF DELINQUENT STATE AD VALOREM  
15 TAXES; PENALTY. (a) Except as provided by Subsection (b), the  
16 attorney general shall represent the state to enforce the  
17 collection of delinquent state ad valorem taxes. The attorney  
18 general may delegate the attorney general's duties under this  
19 subsection to a county or district attorney or may contract with a  
20 private attorney for the performance of those duties.

21           (b) If the commissioners court of a county contracts with a  
22 private attorney for the collection of delinquent county ad valorem  
23 taxes, the contract applies to the collection of delinquent state  
24 ad valorem taxes on property taxable in that county without further  
25 action. The compensation of the private attorney for collecting  
26 delinquent state ad valorem taxes is equal to a percentage of the  
27 amount collected that represents the portion of that amount

1 attributable to the additional penalty provided by Subsection (c).  
2 If the commissioners court of a county contracts with an official,  
3 taxing unit, or political subdivision of this state for the  
4 collection of the ad valorem taxes of the county that includes the  
5 collection of delinquent county taxes, the contract applies to the  
6 collection of delinquent state ad valorem taxes on property taxable  
7 in that county without further action.

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

14 (d) A tax lien attaches in favor of the state to the property  
15 on which the tax is imposed to secure payment of the penalty.

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

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

22 SECTION 3.28. Sections 33.21(a) and (b), Tax Code, are  
23 amended to read as follows:

24 (a) A person's personal property is subject to seizure for  
25 the payment of a delinquent tax, penalty, and interest the person  
26 ~~[he]~~ owes the state or a taxing unit on property.

27 (b) A person's personal property is subject to seizure for

1 the payment of a tax imposed by the state or a taxing unit on the  
2 person's [~~his~~] property before the tax becomes delinquent if:

3 (1) the collector discovers that property on which the  
4 tax has been or will be imposed is about to be removed from the  
5 county; and

6 (2) the collector knows of no other personal property  
7 in the county from which the tax may be satisfied.

8 SECTION 3.29. Section 33.23(b), Tax Code, is amended to  
9 read as follows:

10 (b) A bond may not be required of the state or a taxing unit  
11 for issuance or delivery of a tax warrant, and a fee or court cost  
12 may not be charged for issuance or delivery of a warrant.

13 SECTION 3.30. Section 33.44(b), Tax Code, is amended to  
14 read as follows:

15 (b) For purposes of joining a county, citation may be served  
16 on the county [~~tax~~] assessor-collector. For purposes of joining  
17 any other taxing unit, citation may be served on the officer charged  
18 with collecting taxes for the unit or on the presiding officer or  
19 secretary of the governing body of the unit. For purposes of  
20 joining the state, citation shall be served on the county  
21 assessor-collector. Citation may be served by certified mail,  
22 return receipt requested. A person on whom service is authorized by  
23 this subsection may waive the issuance and service of citation in  
24 behalf of the person's [~~his~~] taxing unit.

25 SECTION 3.31. Section 34.04(b), Tax Code, is amended to  
26 read as follows:

27 (b) A copy of the petition shall be served, in the manner



1 prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended,  
2 or that rule's successor, on all parties to the underlying action  
3 not later than the 20th day before the date set for a hearing on the  
4 petition. The attorney general represents the state at the hearing  
5 unless the attorney general delegates that duty to the county or  
6 district attorney.

7 SECTION 3.32. The heading to Chapter 41, Tax Code, is  
8 amended to read as follows:

9 CHAPTER 41. ADMINISTRATIVE [~~LOCAL~~] REVIEW

10 SECTION 3.33. Section 41.03, Tax Code, is amended to read as  
11 follows:

12 Sec. 41.03. CHALLENGE BY STATE OR TAXING UNIT. (a) The  
13 state or a [A] taxing unit is entitled to challenge before the  
14 appraisal review board:

15 (1) the level of appraisals of any category of  
16 property in the district or in any territory in the district, but  
17 not the appraised value of a single taxpayer's property;

18 (2) an exclusion of property from the appraisal  
19 records;

20 (3) a grant in whole or in part of a partial exemption;

21 (4) a determination that land qualifies for appraisal  
22 as provided by Subchapter C, D, E, or H, Chapter 23; or

23 (5) failure to identify the taxing unit as one in which  
24 a particular property is taxable.

25 (b) If the state or a taxing unit challenges a determination  
26 that land qualifies for appraisal under Subchapter H, Chapter 23,  
27 on the ground that the land is not located in an aesthetic

1 management zone, critical wildlife habitat zone, or streamside  
2 management zone, the state or the taxing unit must first seek a  
3 determination letter from the director of the Texas Forest Service.  
4 The appraisal review board shall accept the letter as conclusive  
5 proof of the type, size, and location of the zone.

6 SECTION 3.34. Subchapter A, Chapter 41, Tax Code, is  
7 amended by adding Section 41.031 to read as follows:

8 Sec. 41.031. CHALLENGE BY COMPTROLLER. The comptroller is  
9 entitled to challenge before the appraisal review board the  
10 exclusion of property from the appraisal roll for state ad valorem  
11 taxes.

12 SECTION 3.35. Section 41.06(a), Tax Code, is amended to  
13 read as follows:

14 (a) The secretary of the appraisal review board shall  
15 deliver to the comptroller and the presiding officer of the  
16 governing body of each taxing unit entitled to appear at a challenge  
17 hearing written notice of the date, time, and place fixed for the  
18 hearing. The secretary shall deliver the notice not later than the  
19 10th day before the date of the hearing.

20 SECTION 3.36. Section 41.07(d), Tax Code, is amended to  
21 read as follows:

22 (d) The board shall deliver by certified mail a notice of  
23 the issuance of the order and a copy of the order to the taxing unit.  
24 If the order of the board excludes property from the appraisal roll  
25 for state ad valorem taxes, the board shall also deliver a notice of  
26 issuance and a copy of the order to the comptroller in the manner  
27 prescribed by the comptroller.

1 SECTION 3.37. Section 41.12, Tax Code, is amended by adding  
2 Subsection (c) to read as follows:

3 (c) A protest upon which a determination is pending under  
4 Subchapter E is not considered to be an undetermined protest for the  
5 purposes of Subsection (b).

6 SECTION 3.38. Section 41.47(d), Tax Code, is amended to  
7 read as follows:

8 (d) The board shall deliver by certified mail a notice of  
9 issuance of the order and a copy of the order to the property owner  
10 and the chief appraiser. If the order of the board excludes  
11 property from the appraisal roll for state ad valorem taxes, the  
12 board shall also deliver a notice of issuance and a copy of the  
13 order to the comptroller in the manner prescribed by the  
14 comptroller.

15 SECTION 3.39. Section 41.41(a), Tax Code, is amended to  
16 read as follows:

17 (a) A property owner is entitled to protest before the  
18 appraisal review board the following actions:

19 (1) determination of the appraised value of the  
20 owner's property or, in the case of land appraised as provided by  
21 Subchapter C, D, E, or H, Chapter 23, determination of its appraised  
22 or market value;

23 (2) unequal appraisal of the owner's property;

24 (3) inclusion of the owner's property on the appraisal  
25 records;

26 (4) denial to the property owner in whole or in part of  
27 a partial exemption;

1           (5) determination that the owner's land does not  
2 qualify for appraisal as provided by Subchapter C, D, E, or H,  
3 Chapter 23;

4           (6) identification of the taxing units in which the  
5 owner's property is taxable in the case of the appraisal district's  
6 appraisal roll;

7           (7) determination that the property owner is the owner  
8 of property;

9           (8) a determination that a change in use of land  
10 appraised under Subchapter C, D, E, or H, Chapter 23, has occurred;  
11 [~~or~~]

12           (9) the inclusion of the property on or the exclusion  
13 of the property from the appraisal roll for state ad valorem taxes;  
14 or

15           (10) any other action of the chief appraiser,  
16 appraisal district, or appraisal review board that applies to and  
17 adversely affects the property owner.

18           SECTION 3.40. Subchapter A, Chapter 42, Tax Code, is  
19 amended by adding Section 42.032 to read as follows:

20           Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) The  
21 comptroller is entitled to appeal an order of the appraisal review  
22 board excluding property from the appraisal roll for state ad  
23 valorem taxes.

24           (b) The attorney general shall represent the comptroller in  
25 an appeal under this section. The attorney general may delegate its  
26 duties under this section to a county or district attorney or may  
27 contract with a private attorney for the performance of those

1 duties.

2 SECTION 3.41. Sections 42.06(a) and (c), Tax Code, are  
3 amended to read as follows:

4 (a) To exercise the party's right to appeal an order of an  
5 appraisal review board, a party other than a property owner must  
6 file written notice of appeal within 15 days after the date the  
7 party receives the notice required by Section 41.47 or, in the case  
8 of a taxing unit or the comptroller, by Section 41.07 that the order  
9 appealed has been issued. To exercise the right to appeal an order  
10 of the comptroller, a party other than a property owner must file  
11 written notice of appeal within 15 days after the date the party  
12 receives the comptroller's order. A property owner is not required  
13 to file a notice of appeal under this section.

14 (c) If the chief appraiser, a taxing unit, [~~or~~] a county, or  
15 the comptroller appeals, the chief appraiser, if the appeal is of an  
16 order of the appraisal review board, or the comptroller, if the  
17 appeal is of an order of the comptroller, shall deliver a copy of  
18 the notice to the property owner whose property is involved in the  
19 appeal within 10 days after the date the notice is filed.

20 SECTION 3.42. Sections 42.43(a)-(c), Tax Code, are amended  
21 to read as follows:

22 (a) If the final determination of an appeal that decreases a  
23 property owner's tax liability occurs after the property owner has  
24 paid the owner's [~~his~~] taxes, the taxing unit and the comptroller,  
25 if the property is subject to the state ad valorem tax, shall refund  
26 to the property owner the difference between the amount of taxes  
27 paid and amount of taxes for which the property owner is liable.

1           (b) For a refund made under this section because an  
2 exemption under Section 11.20 that was denied by the chief  
3 appraiser or appraisal review board is granted, the taxing unit or  
4 the comptroller shall include with the refund interest on the  
5 amount refunded calculated at an annual rate that is equal to the  
6 auction average rate quoted on a bank discount basis for  
7 three-month treasury bills issued by the United States government,  
8 as published by the Federal Reserve Board, for the week in which the  
9 taxes became delinquent, but not more than 10 percent, calculated  
10 from the delinquency date for the taxes until the date the refund is  
11 made. For any other refund made under this section, the taxing unit  
12 or the comptroller shall include with the refund interest on the  
13 amount refunded at an annual rate of eight percent, calculated from  
14 the delinquency date for the taxes until the date the refund is  
15 made.

16           (c) Notwithstanding Subsection (b), if a taxing unit or the  
17 comptroller does not make a refund, including interest, required by  
18 this section before the 60th day after the date the chief appraiser  
19 certifies a correction to the appraisal roll under Section 42.41,  
20 the taxing unit or the comptroller shall include with the refund  
21 interest on the amount refunded at an annual rate of 12 percent,  
22 calculated from the delinquency date for the taxes until the date  
23 the refund is made.

24           SECTION 3.43. Sections 43.01 and 43.04, Tax Code, are  
25 amended to read as follows:

26           Sec. 43.01. AUTHORITY TO BRING SUIT. The comptroller or a  
27 [~~A~~] taxing unit may sue the appraisal district that appraises

1 property for the unit to compel the appraisal district to comply  
2 with the provisions of this title, rules of the comptroller, or  
3 other applicable law.

4       Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The  
5 comptroller or the governing body of a taxing unit may sue the chief  
6 appraiser or members of the appraisal review board, as applicable,  
7 for failure to comply with the deadlines imposed by Section  
8 25.22(a), 26.01(a), or 41.12. If the court finds that the chief  
9 appraiser or appraisal review board failed to comply for good cause  
10 shown, the court shall enter an order fixing a reasonable deadline  
11 for compliance. If the court finds that the chief appraiser or  
12 appraisal review board failed to comply without good cause, the  
13 court shall enter an order requiring the chief appraiser or  
14 appraisal review board to comply with the deadline not later than  
15 the 10th day after the date the judgment is signed. In a suit  
16 brought under this section, the court may enter any other order the  
17 court considers necessary to ensure compliance with the court's  
18 deadline or the applicable statutory requirements. Failure to obey  
19 an order of the court is punishable as contempt.

20       SECTION 3.44. Subchapter A, Chapter 312, Tax Code, is  
21 amended by adding Section 312.0011 to read as follows:

22       Sec. 312.0011. DEFINITION. In this chapter, "taxing unit"  
23 has the meaning assigned by Section 1.04 and includes the state.

24       SECTION 3.45. The changes in law made by this article to  
25 Chapter 41, Tax Code, apply only to a challenge or protest under  
26 that chapter for which the notice is filed on or after the effective  
27 date of this article. A challenge or protest for which the notice is

1 filed before the effective date of this article is covered by the  
2 law in effect when the notice of protest was filed, and the former  
3 law is continued in effect for that purpose.

4 SECTION 3.46. (a) Except as otherwise provided by this Act,  
5 this article takes effect January 1, 2004.

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

11 ARTICLE 4. STATE SALES AND USE TAXES

12 SECTION 4.01. Subchapter A, Chapter 151, Tax Code, is  
13 amended by adding Section 151.0082 to read as follows:

14 Sec. 151.0082. "SERVICE." "Service" means an activity  
15 engaged in for another person for a fee, retainer, commission, or  
16 other monetary charge and that predominately involves the  
17 performance of a service as distinguished from the sale or use of  
18 tangible personal property. In determining whether something is a  
19 service, the intended use or the principal or ultimate objective of  
20 the parties involved does not control.

21 SECTION 4.02. Section 151.0101, Tax Code, is amended by  
22 adding Subsection (c) to read as follows:

23 (c) Notwithstanding Subsection (a), "taxable service"  
24 includes a service to which the tax imposed by this chapter applies  
25 under Section 25, Article VIII, Texas Constitution, to the extent  
26 the service is not otherwise exempted by this chapter.

27 SECTION 4.03. Subchapter H, Chapter 151, Tax Code, is



1 amended by adding Section 151.3135 to read as follows:

2 Sec. 151.3135. HEALTH CARE SERVICES. (a) In this section,  
3 "health care service" means a service that a person may not provide  
4 unless the person has a license, certificate, or permit under Title  
5 3, Occupations Code.

6 (b) Except as provided by Subsection (c), the sale or use of  
7 a health care service is exempted from the taxes imposed by this  
8 chapter.

9 (c) This section does not apply to a health care service for  
10 which a license is required under Chapter 451 or 651, Occupations  
11 Code.

12 SECTION 4.04. Subchapter H, Subchapter 151, Tax Code, is  
13 amended by adding Section 151.3145 to read as follows:

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

19 (b) There is exempted from the taxes imposed by this chapter  
20 40 percent of the value of a taxable item sold, leased, or rented to  
21 a person to which this section applies.

22 (c) The comptroller by rule shall prescribe procedures  
23 relating to the exemption provided by this section. The rules must  
24 require that a person to whom this section applies present a  
25 government-issued identification card bearing the picture of the  
26 person to qualify for the exemption.

27 SECTION 4.05. Sections 151.801(a), (b), and (c), Tax Code,

1 are amended to read as follows:

2 (a) Except for the amounts allocated under Subsections (b)  
3 and (c), all proceeds from the collection of the taxes imposed by  
4 this chapter that are not required to be deposited to the credit of  
5 the Texas education fund under Section 25, Article VIII, Texas  
6 Constitution, shall be deposited to the credit of the general  
7 revenue fund.

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

15 (c) The proceeds from the collection of the taxes imposed by  
16 this chapter on the sale, storage, or use of sporting goods that are  
17 not required to be deposited to the credit of the Texas education  
18 fund under Section 25, Article VIII, Texas Constitution, shall be  
19 ~~deposited as follows:~~

20 [~~(1) For the period beginning September 1, 1993, and~~  
21 ~~ending August 31, 1995, an amount equal to 50 cents per 1,000~~  
22 ~~cigarettes shall be deposited to the credit of the general revenue~~  
23 ~~fund, state parks account, and an amount equal to 50 cents per 1,000~~  
24 ~~cigarettes shall be deposited to the credit of the general revenue~~  
25 ~~fund, Texas recreation and parks account, and the balance shall be~~  
26 ~~retained in the general revenue fund.~~

27 [~~(2) Beginning September 1, 1995, the taxes collected~~

1 ~~shall be~~ credited to the Parks and Wildlife Department and  
2 deposited as specified in the Parks and Wildlife Code. The  
3 comptroller shall not credit in excess of \$32 million in sporting  
4 goods tax revenue annually to the Parks and Wildlife Department.

5 SECTION 4.06. Section 152.122, Tax Code, is amended to read  
6 as follows:

7 Sec. 152.122. ALLOCATION OF TAX. The comptroller shall  
8 deposit the funds received under Section 152.121 that are not  
9 required to be deposited to the credit of the Texas education fund  
10 under Section 26, Article VIII, Texas Constitution, ~~[of this code~~  
11 ~~as follows:~~

12 ~~[(1) 1/4 to the credit of the foundation school fund,~~  
13 ~~and~~

14 ~~[(2) the remaining funds]~~ to the credit of the general  
15 revenue fund.

16 SECTION 4.07. Subtitle C, Title 3, Tax Code, is amended by  
17 adding Chapter 328 to read as follows:

18 CHAPTER 328. USE OF REVENUE FROM EXPANDED TAX BASE

19 SUBCHAPTER A. GENERAL PROVISIONS

20 Sec. 328.001. In this subchapter:

21 (1) "Expanded tax base" means the sale, use, storage,  
22 rental, or other consumption of a taxable item that was not subject  
23 to the tax imposed by Chapter 151 on June 30, 2004. The term does  
24 not include the sale, use, or other consumption of gas and  
25 electricity for residential use if the local taxing entity is  
26 authorized to impose a tax on the residential use of gas and  
27 electricity.

1           (2) "Expanded tax base index" means the percentage of  
2 a local taxing entity's sales and use tax revenue that is derived  
3 from the entity's expanded tax base.

4           (3) "Local taxing entity" means an entity authorized  
5 to impose a local sales and use tax under this subtitle or other  
6 law, including:

7                   (A) Chapter 285, 286, 775, or 776, Health and  
8 Safety Code;

9                   (B) Chapter 326, 334, 335, 344, 363, 376, 377,  
10 379A, 383, 384, or 385, Local Government Code;

11                   (C) Chapter 451, 452, 453, 457, or 460,  
12 Transportation Code;

13                   (D) the Development Corporation Act of 1979  
14 (Article 5190.6, Vernon's Texas Civil Statutes);

15                   (E) Article 6550c-1, Revised Statutes;

16                   (F) Section 13A, Chapter 35, Acts of the 59th  
17 Legislature, Regular Session, 1965, as added by Chapter 66, Acts of  
18 the 71st Legislature, Regular Session, 1989;

19                   (G) Chapter 598, Acts of the 71st Legislature,  
20 Regular Session, 1989;

21                   (H) Chapter 1316, Acts of the 75th Legislature,  
22 Regular Session, 1997; and

23                   (I) Chapter 289, Acts of the 73rd Legislature,  
24 Regular Session, 1993.

25           Sec. 328.002. COMPUTATION OF EXPANDED TAX BASE INDEX. (a)  
26 Not later than June 1, 2004, the comptroller shall compute an  
27 expanded tax base index for each local taxing entity.

1       (b) The comptroller shall establish each expanded tax base  
2 index using generally accepted statistical techniques and any  
3 relevant information available to the comptroller.

4       (c) The comptroller shall notify each local taxing entity of  
5 the entity's expanded tax base index.

6       (d) The comptroller may recompute a local taxing entity's  
7 expanded tax base index if the comptroller determines that  
8 additional information is available to produce a more accurate  
9 computation.

10       (e) Except for mandamus to compute the expanded tax base  
11 index, a determination under this section is not subject to appeal.

12       [Sections 328.003–328.050 reserved for expansion]

13       SUBCHAPTER B. USE OF EXPANDED TAX BASE REVENUE BY  
14       ENTITY THAT IMPOSES AD VALOREM TAX

15       Sec. 328.051. APPLICATION OF SUBCHAPTER. This subchapter  
16 applies to a local taxing entity that imposes an ad valorem tax,  
17 regardless of whether the entity imposes the sales and use tax for  
18 the entity's own benefit or for the benefit of another person such  
19 as an industrial development corporation.

20       Sec. 328.052. USE TO REDUCE AD VALOREM TAXES. (a) A local  
21 taxing entity shall use the revenue from the expanded tax base to  
22 reduce the entity's property taxes unless the voters of the local  
23 taxing entity approve the use of the revenue for a different purpose  
24 under Section 328.053.

25       (b) This section applies regardless of whether the entity  
26 imposes the tax for the entity's own benefit or for the benefit of  
27 another person such as an industrial development corporation.

1       Sec. 328.053. ELECTION FOR USE OF EXPANDED TAX BASE  
2 REVENUE. (a) The governing body of a local taxing entity may hold  
3 an election on May 1, 2004, on the question of the use of revenue  
4 from the entity's expanded tax base.

5       (b) If the local entity imposes the tax for the entity's own  
6 benefit and for the benefit of another person such as an industrial  
7 development corporation, the governing body may also hold an  
8 election on May 1, 2004, on the question of the use of the revenue  
9 from the other person's expanded tax base.

10       (c) The order calling the election under Subsection (a) must  
11 allow the voters of the local taxing entity to vote on whether the  
12 expanded tax base revenue is required to be used to reduce the  
13 entity's property taxes or to provide additional revenue for the  
14 entity that can be used for any general purpose of the entity. If  
15 the entity also imposes the tax for the benefit of another person  
16 such as an industrial development corporation, the order calling  
17 the election under Subsection (b) must allow the voters of the  
18 entity to vote on whether the expanded tax base revenue is required  
19 to be used to reduce the entity's property taxes or to provide  
20 additional revenue for the person for whom the entity collects the  
21 tax that can be used for any general purpose of that person.

22       (d) In addition to the purposes described by Subsection (c),  
23 the governing body may authorize a vote on the additional options of  
24 using the revenue to:

25           (1) provide funding for one or more specific projects  
26 or types of projects of the entity or of the person for whom the  
27 entity imposes the tax, as appropriate; or

1           (2) provide funding for a combination of the purposes  
2 described by this subsection and Subsection (c).

3           (e) The ballot or ballots at the election or elections held  
4 under this section shall be printed to permit voting in separate  
5 propositions on the purposes described by Subsection (c) or in  
6 three or more separate propositions if necessary to vote on the  
7 purposes described by Subsections (c) and (d). If the governing  
8 body authorizes a vote on using the revenue for a combination of  
9 purposes, the ballots at the election or elections must specify an  
10 amount or percentage of the amount of revenue that shall be used for  
11 each purpose. Regardless of the number of propositions on the  
12 ballot or ballots, a voter may be allowed to vote in favor of only  
13 one proposition on each ballot. A voter may not be allowed to vote  
14 against any proposition.

15           Sec. 328.054. ELECTION RESULTS. (a) If the local taxing  
16 entity calls one or more elections under Section 328.053, the  
17 entity or person for whom the entity imposes the tax may use the  
18 revenue from the expanded tax base only for the purpose or  
19 combination of purposes expressed in the proposition that receives  
20 a majority of the votes cast in the applicable election.

21           (b) If a proposition does not receive a majority of the  
22 votes cast in the election, the governing body shall call another  
23 election to vote on the two propositions that received the highest  
24 and second-highest number of votes in the election or that tie for  
25 the highest number of votes. If more than two propositions tie for  
26 the highest number of votes in the election or two or more  
27 propositions tie for the second-highest number of votes, the

1 governing body shall draw lots to determine which two propositions  
2 are to be voted on in the subsequent election.

3 (c) Not later than the fifth day after the date the final  
4 canvass of the original election is completed, the governing body  
5 shall order the subsequent election under Subsection (b). The  
6 subsequent election shall be held not earlier than the 20th or later  
7 than the 30th day after the date the final canvass of the original  
8 election is completed. A subsequent election, however, may be held  
9 after the 30th but not later than the 45th day after the date the  
10 final canvass of the original election is completed if the later  
11 date is necessary to:

12 (1) permit a joint election to be held with another  
13 political subdivision in accordance with Chapter 271, Election  
14 Code; or

15 (2) avoid holding the election on:

16 (A) a legal state or national holiday; or

17 (B) a weekend day within three days of a legal  
18 state or national holiday.

19 (d) The local taxing entity or person for whom the entity  
20 imposes the tax may use the revenue from the expanded tax base only  
21 for the purpose or combination of purposes expressed in the  
22 proposition that receives a majority of the votes cast in the  
23 subsequent election, as appropriate.

24 Sec. 328.055. REVENUE RECEIVED BEFORE USE DETERMINED. If,  
25 before the date the use of the revenue from the expanded tax base is  
26 finally determined under this subchapter, a local taxing entity  
27 receives a distribution of the share of taxes for the benefit of the



1 entity or for a person for whom the entity imposes the tax and the  
2 distribution includes revenue from the expanded tax base, the  
3 entity or person shall deposit the expanded tax base revenue in a  
4 special account and may not use that money for any purpose until the  
5 approved use is finally determined.

6 Sec. 328.056. USE TO REDUCE PROPERTY TAXES. If the local  
7 taxing entity does not call an election under this subchapter or if  
8 the voters of the entity vote to use all or part of the expanded tax  
9 base revenue to reduce property taxes, that portion of the expanded  
10 tax base is considered to be an "additional sales and use tax" for  
11 purposes of Title 1.

12 [Sections 328.057–328.100 reserved for expansion]

13 SUBCHAPTER C. EXPANDED TAX BASE FOR LOCAL TAXING ENTITY  
14 THAT DOES NOT IMPOSE AD VALOREM TAX

15 Sec. 328.101. APPLICATION OF SUBCHAPTER. This subchapter  
16 applies to a local taxing entity that imposes a sales and use tax  
17 for the entity's benefit and that does not impose an ad valorem tax.

18 Sec. 328.102. USE TO REDUCE SALES AND USE TAX RATE. A local  
19 taxing entity shall use the revenue from the expanded tax base to  
20 reduce the rate at which the entity imposes its sales and use tax  
21 unless the voters of the local taxing entity approve the use of the  
22 revenue for a different purpose under Section 328.103.

23 Sec. 328.103. ELECTION FOR USE OF EXPANDED TAX BASE  
24 REVENUE. (a) The governing body of a local taxing entity may hold  
25 an election on May 1, 2004, on the question of the use of revenue  
26 from the entity's expanded tax base.

27 (b) The order calling the election under this section must

1 allow the voters of the local taxing entity to vote on whether the  
2 expanded tax base revenue is required to be used to:

3 (1) reduce the rate at which the entity imposes the  
4 sales and use tax; or

5 (2) provide additional revenue for the entity that can  
6 be used for any general purpose of the entity.

7 (c) In addition to the purposes described by Subsection (b),  
8 the governing body may authorize a vote on the additional options of  
9 using the revenue to:

10 (1) provide funding for one or more specific projects  
11 or types of projects of the entity; or

12 (2) provide funding for a combination of the purposes  
13 described by this subsection and Subsection (b).

14 (d) The ballot at the election held under this section shall  
15 be printed to permit voting in separate propositions on the  
16 purposes described by Subsection (b) or in three or more separate  
17 propositions if necessary to vote on the purposes described by  
18 Subsections (b) and (c). If the governing body authorizes a vote on  
19 using the revenue for a combination of purposes, the ballot at the  
20 election must specify an amount or percentage of the amount of  
21 revenue that shall be used for each purpose. Regardless of the  
22 number of propositions on the ballot, a voter may be allowed to vote  
23 in favor of only one proposition on the ballot. A voter may not be  
24 allowed to vote against any proposition.

25 Sec. 328.104. ELECTION RESULTS. (a) If the local taxing  
26 entity calls an election under Section 328.103, the entity may use  
27 the revenue from the expanded tax base only for the purpose or

1 combination of purposes expressed in the proposition that receives  
2 a majority of the votes cast in the election.

3 (b) If a proposition does not receive a majority of the  
4 votes cast in the election, the governing body shall call another  
5 election to vote on the two propositions that received the highest  
6 and second-highest number of votes in the election or that tie for  
7 the highest number of votes. If more than two propositions tie for  
8 the highest number of votes in the election or two or more  
9 propositions tie for the second-highest number of votes, the  
10 governing body shall draw lots to determine which two propositions  
11 are to be voted on in the subsequent election.

12 (c) Not later than the fifth day after the date the final  
13 canvass of the original election is completed, the governing body  
14 shall order the subsequent election under Subsection (b). The  
15 subsequent election shall be held not earlier than the 20th or later  
16 than the 30th day after the date the final canvass of the original  
17 election is completed. A subsequent election, however, may be held  
18 after the 30th but not later than the 45th day after the date the  
19 final canvass of the original election is completed if the later  
20 date is necessary to:

21 (1) permit a joint election to be held with another  
22 political subdivision in accordance with Chapter 271, Election  
23 Code; or

24 (2) avoid holding the election on:  
25 (A) a legal state or national holiday; or  
26 (B) a weekend day within three days of a legal  
27 state or national holiday.

1       (d) The local taxing entity may use the revenue from the  
2 expanded tax base only for the purpose or combination of purposes  
3 expressed in the proposition that receives a majority of the votes  
4 cast in the subsequent election, as appropriate.

5       Sec. 328.105. TAX RATE ADJUSTMENT. (a) Effective July 1,  
6 2004, each local taxing entity shall reduce the rate at which the  
7 entity imposes its sales and use tax by a percentage equal to the  
8 entity's expanded tax base index.

9       (b) If the local taxing entity calls an election under  
10 Section 328.103 and the voters of the entity vote to use all or part  
11 of the expanded tax base revenue for a purpose other than to reduce  
12 the rate at which the entity imposes its sales and use tax, the  
13 entity shall increase by an appropriate percentage, as determined  
14 by the comptroller, the entity's tax rate as reduced under  
15 Subsection (a). The increase in the tax rate takes effect October  
16 1, 2004, unless the comptroller determines that this effective date  
17 does not allow the comptroller sufficient time to take any  
18 necessary action. If the comptroller makes this determination, the  
19 increase takes effect on January 1, 2005.

20       (c) In addition to the reduction required by Subsection (a),  
21 if the local taxing entity is imposing the sales and use tax at the  
22 maximum level allowed by law, the maximum tax rate is also reduced  
23 accordingly. If the tax rate is later increased under Subsection  
24 (b), the maximum tax rate is also increased accordingly.

25       (d) If the local taxing entity is not imposing the sales and  
26 use tax at the maximum level allowed by law, the maximum tax rate at  
27 which the entity may impose the sales and use tax is automatically

1 reduced by a percentage equal to the entity's expanded tax base  
2 index. If the tax rate is later increased under Subsection (b), the  
3 maximum tax rate is also increased accordingly. The comptroller  
4 shall compute the amount of the reduction or increase required by  
5 this subsection and notify the taxing entity of the new maximum  
6 rate.

7 SECTION 4.08. Except as otherwise provided by this Act,  
8 this article takes effect July 1, 2004.

9 ARTICLE 5. RESIDENTIAL TENANT'S PROPERTY TAX RELIEF

10 SECTION 5.01. Title 1, Tax Code, is amended by adding  
11 Chapter 61 to read as follows:

12 CHAPTER 61. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

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

21 Sec. 61.002. DEFINITIONS. In this chapter:

22 (1) "Landlord" means the owner, lessor, or sublessor  
23 of a dwelling unit, but does not include a manager or agent of the  
24 landlord unless the manager or agent purports to be the owner,  
25 lessor, or sublessor in a written or oral lease.

26 (2) "Lease" means a written or oral agreement between  
27 a landlord and tenant that establishes or modifies the terms,

1 conditions, rules, or other provisions regarding the use and  
2 occupancy of a dwelling unit.

3 (3) "Multifamily rental dwelling property" means a  
4 multiunit residential property with two or more rental dwelling  
5 units. The term includes a duplex, apartment building, dormitory,  
6 manufactured housing community, retirement center or community,  
7 and assisted living center and any other multiunit rental  
8 residential property subject to local school district ad valorem  
9 taxes.

10 (4) "Rent" includes the total amount charged by a  
11 landlord, or by a person on the landlord's behalf, for the use and  
12 occupancy of a dwelling unit. The term does not include a  
13 refundable security deposit.

14 (5) "Rental dwelling unit" means one or more rooms  
15 rented for use as a permanent residence under a single lease to one  
16 or more tenants.

17 (6) "Tenant" means an individual who is authorized by  
18 a lease to occupy a dwelling to the exclusion of others other than  
19 cotenants and who is obligated under the lease to pay rent.

20 Sec. 61.003. APPLICABILITY. (a) This chapter applies only  
21 to a rental dwelling unit or multifamily rental dwelling property  
22 that is subject to ad valorem taxation by a school district.

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

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

6       Sec. 61.005. NOTICE BY CHIEF APPRAISERS. (a) On or before  
7 October 1, 2004, or as soon as practicable after that date, the  
8 chief appraiser of each appraisal district shall send to all  
9 residential property owners a notice describing the requirements of  
10 this chapter. The notice shall contain language substantially  
11 similar to the following:

12       "Due to the property tax relief law approved by the voters in  
13 November 2003, residential landlords are required to pass along  
14 school district ad valorem tax savings to their tenants under all  
15 leases in effect as of January 1, 2005, and for all leases entered  
16 into in 2005, 2006, and 2007. These savings must be provided to  
17 tenants by giving a monthly rent credit or rebate that reflects a  
18 portion of the property tax savings on school property taxes.  
19 Failure to comply with this law could result in severe penalties,  
20 including a civil penalty of \$100, treble damages, and attorney's  
21 fees. Information on complying with this law is available by  
22 contacting the (name, address, and telephone number of appraisal  
23 district) or by contacting the Texas Comptroller of Public Accounts  
24 by calling 1-800-252-5555."

25       (b) The notice required under Subsection (a) may be sent to  
26 property owners as part of another communication sent by the  
27 appraisal district under Section 31.01 and is not required to be

1 sent to property owners as a separate communication.

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

8 Sec. 61.006. TECHNICAL ASSISTANCE BY COMPTROLLER. (a) Not  
9 later than September 1, 2004, the comptroller shall develop  
10 materials in plain language to assist landlords in complying with  
11 this chapter. The materials shall be printed in both English and  
12 Spanish and copies shall be sent to each appraisal district on or  
13 before September 15, 2004. A copy of the materials shall be  
14 provided without cost to any property owner on request.

15 (b) The comptroller shall provide necessary technical  
16 assistance to appraisal districts and landlords in complying with  
17 this chapter.

18 Sec. 61.007. TAX SAVINGS CALCULATIONS BY LANDLORDS. (a)  
19 For each year to which this chapter applies, a landlord shall  
20 determine the monthly school district ad valorem tax savings  
21 payable to the landlord's tenants as follows:

22 (1) the monthly rent credit or rebate for a  
23 single-family rental dwelling unit is equal to 6.25 percent of the  
24 difference between the amount of school district ad valorem taxes  
25 imposed on the dwelling unit for the preceding year and the amount  
26 of the school district ad valorem taxes that would have been imposed  
27 on that dwelling unit for that year if the dwelling unit had been



1 taxed at a school district maintenance and operations tax rate of 75  
2 cents plus the school district enrichment tax rate in that tax year  
3 per \$100 of taxable value; and

4 (2) the monthly rent credit or rebate for a rental  
5 dwelling unit in a multifamily rental dwelling property is equal to  
6 6.25 percent of the difference between the amount of school  
7 district ad valorem taxes imposed on the dwelling unit for the  
8 preceding year and the amount of the school district ad valorem  
9 taxes that would have been imposed on that dwelling unit for that  
10 year if the dwelling unit had been taxed at a school district  
11 maintenance and operations tax rate of \$1.20 per \$100 of taxable  
12 value, multiplied by the square footage in the tenant's dwelling  
13 unit, and divided by the total net rentable square footage of all  
14 rental dwelling units in the multifamily rental dwelling property.

15 (b) The amount of the rent credit or rebate under Subsection  
16 (a) shall be calculated on a per-dwelling-unit basis and not on a  
17 per-tenant basis.

18 (c) If the amount of the rent credit or rebate calculated  
19 under Subsection (a) is less than zero, the rent credit or rebate is  
20 zero.

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

25 (b) If a landlord pays a monthly rent rebate to the tenant,  
26 the landlord shall pay the rebate not later than the 10th day after  
27 the date the tenant pays the entire rent due for the month. A

1 landlord is presumed to have timely paid a rebate if the rebate is  
2 placed in the United States mail and postmarked on or before that  
3 date.

4 (c) If the tenant's rent is payable weekly, the amount of  
5 the weekly credit or rebate is equal to 1/52 of the credit or rebate  
6 for the entire year.

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

13 "NOTICE OF TAX SAVINGS ON RENT

14 "Your current monthly rent on (insert unit number or street  
15 address) is \$\_\_\_\_ (insert amount of rent).

16 "Because of the property tax relief law approved by the  
17 voters of this state in November 2003, the amount of school district  
18 property taxes for your dwelling unit has been reduced by \_\_\_\_  
19 (insert percentage savings) percent for 2005. The property tax  
20 relief law provides that the property owner must pass along tax  
21 savings to you and other tenants until sufficient time has elapsed  
22 for the tax relief to be fully reflected in rental rates through  
23 free market competition.

24 "Accordingly, you will receive a rent credit (or rebate  
25 check) of \$\_\_\_\_ (insert monthly prorated amount) for the current  
26 month of January and for each month thereafter until the date your  
27 current lease expires or December 31, 2007, whichever date is

1 first. If the amount of taxes imposed on your dwelling unit is not  
2 increased or decreased, the cumulative amount of property tax  
3 savings that will be passed on to you during the term of your lease  
4 as a result of the 2003 property tax relief legislation is projected  
5 to be \$\_\_\_\_\_ (insert cumulative savings for the unit for the term of  
6 the lease).

7 "This means the net rent you will be paying for this month and  
8 each subsequent month under your current lease will be \$\_\_\_\_\_  
9 (insert net rent rate), and your rent should also be lower if you  
10 enter into a new lease for any rental dwelling unit in Texas any  
11 time in 2005, 2006, or 2007, through the date your new lease term  
12 expires or December 31, 2007, whichever date is earlier.

13 "If you have any questions about this new law, please contact  
14 the \_\_\_\_\_ County Appraisal District at (insert address and main  
15 phone number of the appraisal district established for the county  
16 in which the rental dwelling unit is located)."

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

24 Sec. 61.010. CREDIT OR REBATE FOR MULTIPLE TENANTS. If two  
25 or more tenants are on a lease for the same rental dwelling unit,  
26 the credit or rebate under this chapter shall be provided jointly to  
27 all tenants renting the dwelling.

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

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

8       Sec. 61.012. TAX APPRAISALS. In tax years 2004-2007, a  
9 chief appraiser or an appraisal district may not consider a  
10 reduction of school district ad valorem taxes attributable to this  
11 chapter in any determination of the appraised value of a rental  
12 dwelling unit, real property containing a rental dwelling unit, or  
13 a multifamily rental dwelling property.

14       Sec. 61.013. COMPTROLLER STUDY. (a) The comptroller shall  
15 issue a preliminary report not later than March 1, 2006, if  
16 sufficient data is available, and shall issue a final report not  
17 later than December 1, 2007, to the governor, the lieutenant  
18 governor, and the speaker of the house of representatives on the  
19 implementation, administration, and effect of this chapter,  
20 including findings as to the following:

21               (1) the impact of property tax relief on rental rates  
22 throughout this state considering competitive market conditions,  
23 new construction, operating expenses, and other relevant factors  
24 impacting rental rates;

25               (2) the number of civil actions filed by tenants  
26 against landlords to enforce the provisions of this chapter and the  
27 type of properties owned by those landlords;

1           (3) the number and amount of civil penalties levied  
2 against landlords for noncompliance with this chapter and the type  
3 of properties owned by those landlords;

4           (4) the administrative costs associated with this  
5 chapter incurred by the comptroller, appraisal districts, and  
6 landlords; and

7           (5) any effect of reduced school district ad valorem  
8 tax rates on increasing the supply of affordable housing for  
9 purchase or rent by a person for use as a dwelling.

10           (b) In preparing the report, the comptroller shall consider  
11 the need to recommend alternative methods for providing school  
12 district ad valorem tax relief to persons who rent their homes.

13           Sec. 61.014. EXPIRATION. This chapter expires January 1,  
14 2008.

15           SECTION 5.02. Chapter 1, Tax Code, is amended by adding  
16 Section 1.16 to read as follows:

17           Sec. 1.16. The expiration of Chapter 61 does not affect the  
18 liability of a landlord or other person for any amount arising under  
19 Chapter 61 before the expiration, and the law governing that  
20 liability remains in effect notwithstanding the expiration for  
21 purposes of enforcing or satisfying the liability.

22           SECTION 5.03. Chapter 61, Tax Code, as added by this  
23 article, takes effect January 1, 2004, and applies only to a tax  
24 year that begins on or after that date.

25           ARTICLE 6. CONTINGENT EFFECT

26           SECTION 6.01. This Act takes effect only if the  
27 constitutional amendment proposed by \_\_\_\_J.R. No. \_\_\_\_, 78th

S.B. No. 2

1 Legislature, Regular Session, 2003, is approved by the voters. If  
2 that proposed constitutional amendment is not approved by the  
3 voters, this Act has no effect.