

BILL ANALYSIS

Senate Research Center

H.B. 1
By: Grusendorf (Shapiro)
Committee of the Whole
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Engrossed

DIGEST AND PURPOSE

Today, Texas is facing a crisis in providing funding for the state public education system. Some believe that property taxes are too high and that schools lack the flexibility to raise additional revenue to meet the rising costs of educating Texas children. Legal challenges have also been filed against the current system of finance. H.B. 1 proposes to modify the public education funding system in order to address these problems and to stabilize and improve funding for public education in Texas. H.B. 1 also proposes to address and encourage student achievement through an incentive program and other education reforms.

RULEMAKING AUTHORITY

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

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1A.01 (Sections 42.004, 42.007, and 42.151, Education Code), SECTION 1A.09 (Section 41.093, Education Code), SECTION 1E.01 (Section 606.0261, Government Code), SECTION 1F.21 (Section 34.0071, Education Code), SECTION 2A.02 (Sections 21.651 and 21.653 Education Code), SECTION 2B.01 (Section 7.0041, Education Code), SECTION 2B.02 (Sections 7.007 and 7.009, Education Code), and SECTION 2D.07 (Section 39.025, Education Code).

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 1B.01 (Section 46.002(b), Education Code).

Rulemaking authority is expressly granted to the to the commissioner of higher education in SECTION 2B.02 (Section 7.009, Education Code).

Rulemaking authority is expressly granted to the to the to the State Board of Education in 2D.02 (Section 28.025, Education Code).

Rulemaking authority is expressly granted to the to the Legislative Budget Board in SECTION 1A.01 (Section 42.006, Education Code).

SECTION BY SECTION ANALYSIS

ARTICLE 1. PUBLIC SCHOOL FINANCE PART A. EDUCATION FUNDING

SECTION 1A.01. Amends Subtitle I, Title 2, Education Code, by adding Chapter 42, as follows:

CHAPTER 42. FOUNDATION SCHOOL PROGRAM SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. STATE POLICY. (a) Establishes that it is the policy of this state that the provision

of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to the student's educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

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

Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a) Sets forth that the purposes of the Foundation School Program in this chapter are to guarantee that each school district in the state has adequate resources to provide each eligible student an accredited instructional program and facilities suitable to the student's educational needs, and access to substantially equalized financing for an enriched program.

(b) Establishes that the Foundation School Program consists of two tiers that in combination provide for sufficient financing for all school districts to provide an accredited program of education that is rated academically acceptable or higher under Section 39.072 and meets other applicable legal standards, provides for substantially equal access to funds to provide an enriched program, and provides a facilities component as provided by Chapter 46 (Assistance With Instructional Facilities and Payment of existing Debt).

Sec. 42.003. STUDENT ELIGIBILITY. (a) Establishes that a student is entitled to the benefits of the Foundation School Program if the student is five years of age or older and under 21 years of age on September 1 of the school year and has not graduated from high school.

(b) Provides that a student to whom Subsection (a) does not apply is entitled to the benefits of the Foundation School Program if the student is enrolled in a prekindergarten class under Section 29.153.

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

(d) Provides that notwithstanding Subsection (a), a student younger than five years of age is entitled to the benefits of the Foundation School Program if the student performs satisfactorily on the assessment instrument administered under Section 39.023(a) to students in the third grade and the district has adopted a policy for admitting students younger than five years of age.

Sec. 42.004. ADMINISTRATION OF PROGRAM. (a) Requires the commissioner of education (commissioner) to take such action and require such reports consistent with this chapter as may be necessary to implement and administer the Foundation School Program.

(b) Authorizes the commissioner to adopt rules necessary to implement and administer the Foundation School Program.

Sec. 42.005. AVERAGE DAILY ATTENDANCE. (a) Defines "average daily attendance."

(b) Requires a school district that experiences a decline of two percent or more in average daily attendance to be funded on the basis of an average daily attendance equal to the actual average daily attendance of the preceding school year.

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

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

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

Sec. 42.006. EQUALIZED FUNDING ELEMENTS. (a) Requires the Legislative Budget Board (LBB) to adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium of the equalized funding elements, in accordance with Subsection (c), necessary to achieve the state policy under Section 42.001.

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

(c) Sets forth certain requirements for the funding elements.

(d) Requires the LBB to conduct a study of the funding elements each biennium, as appropriate. Sets forth certain requirements for the study.

(e) Requires the LBB, notwithstanding Subsection (d), to contract for a comprehensive study of the funding elements and report the results of the study to the commissioner and the legislature not later than December 1, 2008. Provides that this subsection expires January 1, 2009.

Sec. 42.007. EFFECT OF SALE BY SCHOOL DISTRICT OF TAX RECEIVABLE. (a) Provides that the sale by a school district of an ad valorem tax receivable under Chapter 274, Local Government Code, does not affect the allocation of state or federal funds to the school district or the entitlement of the school district to state or federal funds under this code, or the taxable value of property in the district for the purposes of the allocation of or entitlement to those funds.

(b) Requires the commissioner to adopt rules governing, for purposes of the Foundation School Program, collection of delinquent ad valorem taxes. Authorizes the rules to provide for documentation and other recordkeeping requirements.

[Reserves Sections 42.008-42.100 for expansion.]

SUBCHAPTER B. BASIC PROGRAM

Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT ALLOTMENTS. (a) Provides that for each student in average daily attendance, a school district is entitled to an accreditation allotment of \$4,459 if the student is enrolled below the ninth grade level, or \$5,459 if the student is enrolled at or above the ninth grade level.

(b) Authorizes an accreditation allotment in a greater amount for any school year to be provided by appropriation.

(c) Provides that in addition to the accreditation allotment, a school district is entitled to special student allotments in the manner specified under Subchapter C.

[Reserves Sections 42.102-42.150 for expansion.]

SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS
AND OTHER EXPENDITURES

Sec. 42.151. SPECIAL EDUCATION ALLOTMENT. (a) Provides that for each student in average daily attendance, a school district is entitled to an annual allotment of \$300 or a greater amount for any school year provided by appropriation.

(b) Authorizes a school district, in addition to the allotment provided by Subsection (a), and subject to amounts appropriated and available for the purpose, to apply to the commissioner for a grant to reimburse the district for the costs associated with a high level of students receiving special education services, or the costs of providing high-severity special education services.

(c) Requires the commissioner to adopt certain rules necessary to implement this section.

Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) Provides that a school district is entitled to an allotment for the costs of providing accelerated programs in an amount determined by a specified formula: $AAA = 507 \times ADA \times PR$. Defines "AAA," "ADA," and "PR."

(b) Authorizes the legislature to provide by appropriation for a greater allotment than the amount prescribed by Subsection (a).

Sec. 42.1521. SCHOOL COUNSELORS AND COUNSELING PROGRAMS. Requires the commissioner, from funds appropriated for the purpose, each fiscal year, to distribute funds for programs under Subchapter A, Chapter 33. Provides that a program established under that subchapter is required only in school districts in which the program is financed by funds distributed under this section or other funds distributed by the commissioner for a program under that subchapter. Requires that preference be given to a school district that received funds for a program for the preceding school year in distributing those funds.

Sec. 42.153. TRANSITIONAL PROGRAM ALLOTMENT. Provides that for each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment of \$254 or a greater amount for any school year provided by appropriation.

Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT. (a) Provides that for each student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to an annual allotment of \$178 for each annual credit hour the student is enrolled in the program, or a greater amount for any school year provided by appropriation.

(b) Requires that funds allotted under this section, other than an indirect cost allotment established under State Board of Education rule, be used in providing career and technology education programs in grades nine through 12 or career and technology education programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184.

Sec. 42.155. PUBLIC EDUCATION GRANT ALLOTMENT. (a) Establishes that, except as provided by Subsection (b), for each student in average daily attendance who is using a public education grant under Subchapter G, Chapter 29, to attend school in a district other than the district in which the student resides, the district in which the student attends school is entitled to an

annual allotment of \$250 or a greater amount for any school year provided by appropriation.

(b) Provides that the total number of allotments under this section to which a school district is entitled may not exceed the number by which the number of students using public education grants to attend school in the district exceeds the number of students who reside in the district and use public education grants to attend school in another district.

[Reserves Sections 42.156-42.170 for expansion.]

Sec. 42.171. RESTRICTIONS ON USE OF ADJUSTED ALLOTMENTS. Provides that any restriction imposed under this subchapter on a school district's use of an amount allotted under this subchapter applies equally to the amount by which the allotment is adjusted under Sections 42.301, 42.302, and 42.303.

Sec. 42.172. MAINTENANCE OF EFFORT. (a) Provides that a school district, notwithstanding any other provision of this code, but subject to Subsection (b), may not spend in any school year for a certain program or service an amount per student in average daily attendance that is less than the amount the district spent for that program or service per student in average daily attendance during the 2004-2005 school year.

(b) Provides that the commissioner may authorize a school district to spend less than the amount required by this section if the commissioner, considering the district's unique circumstances, determines that the requirement imposes an undue hardship on the district.

[Reserves Sections 42.173-42.200 for expansion.]

SUBCHAPTER D. NEW INSTRUCTIONAL FACILITY ALLOTMENTS

Sec. 42.201. NEW INSTRUCTIONAL FACILITY ALLOTMENT. Provides that a school district is entitled to an additional allotment as provided by this subchapter for operational expenses associated with opening a new instructional facility.

Sec. 42.202. DEFINITION. Defines "instructional facility."

Sec. 42.203. ALLOTMENT FOR FIRST YEAR OF OPERATION. Provides that a school district is entitled to an allotment of \$250 for each student in average daily attendance at the facility or a greater amount provided by appropriation, for the first school year in which students attend a new instructional facility.

Sec. 42.204. ALLOTMENT FOR SECOND YEAR OF OPERATION. (a) Provides that a school district is entitled to an allotment of \$250 for each additional student in average daily attendance at the facility or a greater amount provided by appropriation, for the second school year in which students attend a new instructional facility.

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

Sec. 42.205. PRORATION OF ALLOTMENTS. Requires the commissioner to reduce each district's allotment under this subchapter in the manner provided by Section 42.312(f), if the total amount of allotments to which school districts are entitled under this subchapter for a school year exceeds the amount appropriated for allotments under this subchapter.

Sec. 42.206. APPLICABILITY TO CERTAIN DISTRICTS. Provides that a school district subject to Section 42.401 that elects to purchase average daily attendance credit under Subchapter

D, Chapter 41, is entitled to a credit, in the amount of the allotments to which the district is entitled under this subchapter, against the total amount required under Section 41.093 for the district to purchase attendance credits.

[Reserves Sections 42.207-42.250 for expansion.]

SUBCHAPTER E. ENRICHMENT PROGRAM

Sec. 42.251. PURPOSE. Establishes that the purpose of the enrichment program component of the Foundation School Program is to provide each school district with the opportunity to supplement the basic program at a level of its own choice. Provides that an allotment under this subchapter may be used for any legal purpose other than capital outlay or debt service.

Sec. 42.252. ALLOTMENT. (a) Provides that each school district is guaranteed a specified amount per student in state and local funds for each cent of enrichment tax effort up to the maximum levels specified in this subchapter. Provides that the amount of state support, subject only to the maximum amount under Section 42.253(b), is determined by the formula: $GYA = (GL \times ADA \times DETR \times 100) - LR$. Defines "GYA," "GL," "ADA," "DETR," and "LR."

(b) (1) Specifies that, for purposes of this section, the total amount of maintenance and operations taxes collected by the school district does not include certain factors.

(2) Provides that school district taxes for which credit is granted under Section 31.035, 31.036, or 31.037, Tax Code, or under Subchapter D, Chapter 313, Tax Code, are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

(3) Provides that the total amount of maintenance and operations taxes collected for an applicable school year by a school district with alternate tax dates, as authorized by Section 26.135, Tax Code, is the amount of taxes collected on or after January 1 of the year in which the school year begins and not later than December 31 of the same year.

Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) Prohibits the district enrichment tax rate from exceeding \$0.10 per \$100 of valuation.

(a-1) Prohibits a school district, notwithstanding Subsection (a), from imposing a district enrichment tax earlier than the 2006 tax year. Provides that the maximum rate that may be imposed during the 2006 tax year is \$0.02 per \$100 of valuation. Authorizes the maximum rate to be increased in subsequent tax years by \$0.02 per year, until the maximum amount specified by Subsection (a) is reached. Provides that this subsection expires January 1, 2011.

(b) Requires the legislature by appropriation to establish for each biennium the maximum district enrichment tax rate for purposes of determining the district's guaranteed yield amount of state enrichment funds under Section 42.252, notwithstanding Subsection (a).

Sec. 42.254. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON MILITARY INSTALLATION OR AT STATE SCHOOL. Provides that state enrichment assistance under this subchapter for a school district located on a federal military installation or at Moody State School is computed using the average district enrichment tax rate and property value per student of school districts in the county, as determined by the commissioner.

Sec. 42.255. DISTRIBUTION OF ENRICHMENT PROGRAM FUNDS. Requires the commissioner, as provided by Section 42.312, for each school year, to determine the guaranteed

yield amount of state enrichment program funds to which a school district is entitled under Section 42.252; and approve and transmit warrants to school districts.

[Reserves Sections 42.256-42.300 for expansion.]

SUBCHAPTER F. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

Sec. 42.301. COST OF EDUCATION ADJUSTMENT. (a) Provides that the amounts of the accreditation allotments under Subchapter B and each special student allotment under Subchapter C are adjusted to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district. Provides that the amount of the adjustment is 50 percent of the total amount that would result from application of the cost of education index adopted under Subsection (b), or a greater amount for any school year provided by appropriation.

(b) Requires the commissioner to adopt a cost of education index based on a statistical analysis conducted on a revenue neutral basis that is designed to isolate the independent effects of uncontrollable factors on the compensation that school districts must pay, including teacher salaries and other benefits. Sets forth minimum requirements for the analysis.

(b-1) Provides that for the 2005-2006 and 2006-2007 school years, the cost of education index is based on the teacher fixed effects index in the 2004 report commissioned by the Joint Select Committee on Public School Finance of the 78th Legislature. Provides that this subsection expires September 1, 2007.

(c) Requires the commissioner to biennially update the cost of education index required by this section and to submit the updated index to the legislature not later than December 1 of each even-numbered year.

Sec. 42.302. DISTRICT SIZE AND SPARSITY ADJUSTMENT. (a) Provides that the amounts of the accreditation allotments under Subchapter B and each special student allotment under Subchapter C of a school district that has fewer than 5,000 students in average daily attendance are adjusted to reflect district costs related to the district's size or sparsity.

(b) Requires the commissioner to adopt the adjustment required by this section based on a statistical analysis conducted on a revenue neutral basis that is designed to isolate the independent effects of a school district's size and sparsity on the costs of achieving the state's educational goals.

(c) Requires the commissioner to update the adjustment required by this section at least once in each five-year period.

(d) Provides that notwithstanding any other provision of this section, if the adjustment to which a school district is entitled under this section is smaller than the adjustment the district would receive if the adjustments provided by Sections 42.103 and 42.105, as those sections existed on January 1, 2004, were applied to the district, the district is entitled to receive the larger adjustment.

Sec. 42.303. INFLATION ADJUSTMENT. (a) Defines "employment cost index."

(b) Provides that the amounts of the accreditation allotments under Subchapter B and each special student allotment under Subchapter C that a school district is otherwise entitled to receive under this subchapter, as adjusted under Sections 42.301 and 42.302, are adjusted in accordance with this section as necessary to reflect inflation.

(c) Requires the commissioner to determine the amount of the adjustment for each biennium based on the difference, if any, between the employment cost index most recently published as of January 1 of the calendar year in which the first year of the biennium begins and the employment cost index most recently published as of January 1, 2005.

(d) Provides that the commissioner's determination under this section is final and may not be appealed.

(e) Provides that this section applies beginning with the 2006-2007 school year. Provides that for the 2006-2007 school year, the adjustment is based on the difference, if any, between the employment cost index most recently published on January 1, 2006, and the employment cost index most recently published as of January 1, 2005. Provides that this subsection expires September 1, 2007.

Sec. 42.304. FINANCING: GENERAL RULE. (a) Provides that the sum of the accreditation allotments under Subchapter B, the special student allotments under Subchapter C, and the new instructional facility allotments under Subchapter D constitutes the tier one allotments. Provide that the sum of the tier one allotments and the enrichment program allotments under Subchapter E constitutes the total cost of the Foundation School Program.

(b) Requires the program to be financed by state funds appropriated for the purposes of public school education; ad valorem tax revenue generated by an equalized uniform school district effort; ad valorem tax revenue generated by local school district effort for an enrichment program in accordance with Subchapter E; and state available school funds distributed in accordance with law.

Sec. 42.305. ADDITIONAL STATE AID FOR AD VALOREM TAX CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. Establishes that for each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount of all tax credits credited against ad valorem taxes of the district in that year under Subchapter D, Chapter 313, Tax Code.

Sec. 42.306. LOCAL SHARE OF PROGRAM COST (TIER ONE). (a) Provides that each school district's share of the Foundation School Program is determined by the following formula: $LS=TR \times DPV$. Defines "LS," "TR," and "DPV."

(b) Requires the commissioner to adjust the values reported in the official report of the comptroller as required by Section 5.09(a), Tax Code, to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. Provides that the decision of the commissioner is final. Provides that an adjustment does not affect the local share of any other school district.

(c) Requires appeals of district values to be held pursuant to Section 403.303, Government Code.

(d) Requires a school district to adopt a maintenance and operations tax rate sufficient to raise its total local share of the Foundation School Program to be eligible to receive foundation school fund payments. Provides that the district's adopted maintenance and operations tax rate, including any enrichment tax rate under Subchapter E, may not exceed the maximum rate specified by Section 45.003(d).

Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE OF PROPERTY. (a) Requires the commissioner to adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in

the preceding year, for purposes of Chapter 46 and this chapter, and to the extent money specifically authorized to be used under this section is available.

(b) Requires the commissioner to reduce adjustments in the manner provided by Section 42.312(f) so that the total amount of adjustments equals the amount of money available to fund the adjustments, to the extent that a sufficient amount of money is not available to fund all adjustments under this section.

(c) Provides that a decision of the commissioner under this section is final and may not be appealed.

Sec. 42.308. EFFECT OF APPRAISAL APPEAL. (a) Requires the commissioner to request the comptroller to adjust its taxable property value findings for that year consistent with the final determination of the appraisal appeal, if the final determination of an appeal under Chapter 42, Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Subchapter M, Chapter 403, Government Code.

(b) Requires the commissioner to add the difference to subsequent distributions to the district from the foundation school fund, if the district would have received a greater amount from the foundation school fund for the applicable school year using the adjusted value. Provides that an adjustment does not affect the local share of any other district.

Sec. 42.309. ADDITIONAL TRANSITIONAL AID. (a) Provides that notwithstanding any other provision of this subtitle, a school district is entitled to the amount of state revenue necessary to maintain state and local revenue in an amount equal to the sum of the amount of state and local revenue per student in average daily attendance for maintenance and operation of the district that would have been available to the district if the funding elements under Chapters 41 and 42, Education Code, including any amounts the district would have received under Rider 82 to the appropriation to the Texas Education Agency in Article III, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003, in effect during the 2004-2005 school year were in effect for the current year; and an amount equal to two percent of the amount described by Subdivision (1).

(b) Provides that the amount of state funds to which a school district is entitled under this section is not subject to any adjustment for inflation under Section 42.303.

(c) Requires the commissioner to determine the amount of state funds to which a school district is entitled under this section. Provides that the commissioner's determination is final and may not be appealed.

Sec. 42.310. TEMPORARY LIMITATIONS ON AID. (a) Defines "public school adequacy standards."

(b) Provides that this subsection applies to a school district otherwise entitled under this subtitle to receive, for the 2005-2006 school year, an amount of state and local revenue per student in average daily attendance for maintenance and operation of the district that exceeds 105 percent of the amount necessary to provide an accredited basic program that meets public school adequacy standards. Requires the commissioner, notwithstanding any other provision of this subtitle, to withhold from a district described by this subsection the amount of state funds necessary to ensure that the district does not receive a greater amount of state and local revenue per student in average daily attendance for maintenance and operation of the district than the amount to which the district is entitled under Section 42.309. Provides that a school district is entitled to the amount provided by Section 42.309, regardless of the degree to which that amount exceeds 105 percent of the amount necessary to provide an accredited basic program that meets public school adequacy

standards.

(c) Requires the commissioner, for the 2006-2007 and 2007-2008 school years, and notwithstanding any other provision of this subtitle, to determine the appropriate amount, based on available appropriations, of state funds to withhold in the manner provided by Subsection (b) from a school district that would otherwise be entitled under this subtitle to receive an amount of state and local revenue per student in average daily attendance that exceeds, by the percentage established by the commissioner, the amount necessary to provide an accredited basic program that meets public school adequacy standards. Provides that a school district is entitled to the amount provided by Section 42.309, regardless of the degree to which that amount exceeds the percentage determined under Subdivision (1) of the amount necessary to provide an accredited basic program that meets public school adequacy standards.

(d) Requires the commissioner, notwithstanding any other provision of this subtitle, to withhold from a school district that is not subject to Subsection (b) or (c) the amount of state funds necessary to ensure that the district does not receive an amount of state and local revenue per student in average daily attendance that is greater than the certain percentages of the amount to which the district is entitled under Section 42.304.

(e) Requires the commissioner to determine the amount of state funds required to be withheld under this section. Requires the commissioner, in determining the amount of state funds required to be withheld, to ensure that the amount of state and local revenue the district receives for the 2006-2007 or 2007-2008 school year is adjusted so that a district receives any annual benefit derived from the inflation adjustment under Section 42.303, notwithstanding any other provision of this section. Provides that the commissioner's determination is final and may not be appealed.

(f) Provides that this section expires September 1, 2008.

Sec. 42.311. ADDITIONAL BASIC PROGRAM AID. (a) Defines "public school adequacy standards."

(b) Provides that a school district is entitled to the amount of state revenue necessary to ensure that the district has sufficient state and local revenue to provide an accredited basic program that meets public school adequacy standards, notwithstanding any other provision of this subtitle.

(c) Requires the commissioner to determine the amount of state funds to which a school district is entitled under this section. Provides that the commissioner's determination is final and may not be appealed.

Sec. 42.312. DISTRIBUTION OF TEXAS EDUCATION FUND. (a) Requires the commissioner, for each school year, to determine certain amounts of money to which a school district is entitled.

(b) Requires the commissioner, except as provided by this subsection, to base the determinations under Subsection (a) on the estimates provided to the legislature under Section 42.313, or, if the General Appropriations Act provides estimates for that purpose, on the estimates provided under that Act, for each school district for each school year. Requires the commissioner to reduce the entitlement of each district that has a final taxable value of property for the second year of a state fiscal biennium that is higher than the estimate under Section 42.313 or the General Appropriations Act, as applicable. Provides that a reduction under this subsection may not reduce the district's entitlement below the amount to which it is entitled at its actual taxable value of property.

(c) Provides that each school district is entitled to an amount equal to the difference for that district between the sum of Subsections (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and (a)(5).

(d) Requires the commissioner to approve warrants to each school district equaling the amount of its entitlement, except as provided by this section. Requires warrants for all money expended according to this chapter to be approved and transmitted to treasurers or depositories of school districts in the same manner that warrants for state available fund payments are transmitted. Provides that the total amount of the warrants issued under this section may not exceed the total amount appropriated for Foundation School Program purposes for that fiscal year.

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

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

(g) Requires the commissioner, not later than March 1 each year, to determine the actual amount of state funds to which each school district is entitled under this chapter for the current school year and to compare that amount with the amount of the warrants issued to each district for that year. Requires the commissioner to adjust the district's entitlement for the next fiscal year accordingly if the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property.

(h) Authorizes the legislature to appropriate funds necessary for increases under Subsection (g) from funds that the comptroller, at any time during the fiscal year, finds are available.

(i) Requires the commissioner to compute for each school district the total amount by which the district's allocation of state funds is increased or reduced under Subsection (g) and to certify that amount to the district.

Sec. 42.313. ESTIMATES REQUIRED. (a) Requires the Texas Education Agency (TEA), not later than October 1 of each even-numbered year, to submit to the legislature an estimate of the tax rate and student enrollment of each school district for the following biennium and requires the comptroller of public accounts (comptroller) to submit to the legislature an estimate of the total taxable value of all property in the state as determined under Subchapter M, Chapter 403, Government Code, for the following biennium.

(b) Requires TEA and the comptroller to update the information provided to the legislature under Subsection (a) not later than March 1 of each odd-numbered year.

Sec. 42.314. FALSIFICATION OF RECORDS; REPORT. Requires the TEA director of school audits to promptly and fully report to the State Board of Education (SBOE), the state auditor, and the appropriate county attorney, district attorney, or criminal district attorney, when,

in the opinion of the director, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, through which the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased.

Sec. 42.315. PAYMENTS FROM TEXAS EDUCATION FUND. (a) Defines "category 1 school district," "category 2 school district," "category 3 school district," and "wealth per student."

(b) Sets forth the procedures, time frames, and amounts for payments from the Texas education fund to each category 1 school district.

(c) Sets forth the procedures, time frames, and amounts for payments from the Texas education fund to each category 2 school district.

(d) Sets forth the procedures, time frames, and amounts for payments from the Texas education fund to each category 3 school district.

(e) Authorizes modification of the amount of any installment required by this section to provide a school district with the proper amount to which the district may be entitled by law and to correct errors in the allocation or distribution of funds, if an installment under this section is required to be equal to other installments. Authorizes the adjustment of the amount of other installments to provide for that equality.

(f) Requires that except as provided by Subsection (c)(8) or (d)(3), any previously unpaid additional funds from prior years owed to a district be paid to the district together with the September payment of the current year entitlement.

Sec. 42.316. RECOVERY OF OVERALLOCATED FUNDS. (a) Requires TEA to recover from the district, if a school district has received an overallocation of state funds, an amount equal to the overallocation by withholding from subsequent allocations of state funds or by requesting and obtaining a refund.

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

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

[Reserves Sections 42.317-42.400 for expansion.]

SUBCHAPTER G. ADDITIONAL EQUALIZATION

Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION. (a) Requires that a school district in which the district's local share under Section 42.306 exceeds the district's tier one allotment under Section 42.304, except as provided by Subsection (b), be consolidated by the commissioner under Subchapter H, Chapter 41.

(b) Authorizes a school district described by Subsection (a) to elect to purchase average daily attendance credit in the manner provided by Subchapter D, Chapter 41, as an alternative to consolidation under Subchapter H, Chapter 41.

SECTION 1A.02. Amends the heading to Chapter 41, Education Code, to read as follows:

CHAPTER 41. EQUALIZATION ACTIONS

SECTION 1A.03. Amends Section 41.006(a), Education Code, to make conforming changes.

SECTION 1A.04. Amends Section 41.008(a), Education Code, to delete language relating to a consolidated taxing district under Subchapter F.

SECTION 1A.05. Amends Section 41.009(a), Education Code, to delete language relating to detachment and annexation of territory.

SECTION 1A.06. Amends Section 41.010, Education Code, to delete language relating to tax bases or annexation.

SECTION 1A.07. Amends Section 41.013(a), Education Code, to delete an exception provided by Subchapter G relating to the appeal of a decision of the commissioner under this chapter.

SECTION 1A.08. Amends Section 41.091, Education Code, as follows:

Sec. 41.091. AGREEMENT. Authorizes a school district subject to Section 42.401, rather than a school district subject to Section 42.40, with a wealth per student that exceeds the equalized wealth level, to execute an agreement with the commissioner to purchase attendance credits in an amount equal to the difference between the district's local share under Section 42.306 and the district's tier one allotment under Section 42.304. Deletes text requiring the agreement to be sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.

SECTION 1A.09. Amends Section 41.093, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Deletes weighted as modifier for average daily attendance in determining the cost of a credit under this section.

(d) Requires the commissioner to adopt rules governing the collection of delinquent ad valorem taxes and provides that the rules may provide for documentation and other recordkeeping requirements.

SECTION 1A.10. Amends Section 41.251, Education Code, to make a conforming change.

SECTION 1A.11. Amends Section 41.252, Education Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Requires the commissioner, in selecting the districts to be consolidated with a district subject to Section 42.401, rather than one that has a property wealth greater than the equalized wealth level, to select one or more districts with a local share under Section 42.306, rather than wealth per student, that, when consolidated, will result in a consolidated district that is not subject to Section 42.401, rather than with a wealth per student equal to or less than the equalized wealth level. Requires the commissioner, in achieving that result, to give priority to school districts in a certain order.

(c) Requires the commissioner select the third and each subsequent district to be consolidated by treating the district subject to Section 42.401, rather than one that has a property wealth greater than the equalized wealth level, in applying the selection criteria specified by Subsection (a), if more than two districts are to be consolidated, and the district or districts previously selected for consolidation as one district.

- (d) Defines "local share percentage."

SECTION 1A.12. Amends Section 41.257, Education Code, as follows:

Sec. 41.257. New heading: APPLICATION OF SIZE AND SPARSITY ADJUSTMENTS. Requires that the budget of the consolidated district apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section 42.302, rather than 42.103, 42.105, or 42.155, would have applied in the event that the consolidated district still qualifies for that adjustment, rather than as a small or sparse district.

SECTION 1A.13. Amends Section 45.003, Education Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f), as follows:

- (a) Prohibits bonds described by Section 45.001 from being issued and taxes described by Section 45.001 or 45.002 from being levied unless authorized by a majority of the qualified voters of the district, voting at an election held for that purpose. Deletes text relating to certain election procedures.

- (d) Decreases from \$1.50 to \$1.30 per \$100 valuation of taxable property the maximum rate which may be assessed for the maintenance of public schools.

- (e) Provides that an election held before January 1, 2004, authorizing a maintenance tax at a rate of at least \$1.30 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.30 or less.

- (f) Authorizes a district permitted by special law on January 1, 2004, to impose an ad valorem tax at a rate greater than \$1.50 to continue to impose a rate that is \$0.20 less than the rate previously authorized.

SECTION 1A.14. Amends Section 26.08, Tax Code, by amending Subsections (i) and (j) and adding Subsections (i-1) and (i-2), as follows:

- (i) Amends the formula for determining the rollback tax rate of a school district.

- (i-1) Provides that for purposes of this section, for the 2005 tax year the rollback tax rate of a school district, including a district to which Section 45.003(f), Education Code, applies, is the sum of the rate of \$1.20 per \$100 of taxable value for maintenance and operation of the district and the district's current debt rate.

- (i-2) Provides that Subsection (i-1) and this subsection expire January 1, 2006.

- (j) Provides that for purposes of Subsection (i), the amount of state funds that would have been available to a school district in the preceding year is computed using the maximum tax rate for the current year under Section 45.003(d), rather than 42.253(e), Education Code.

PART B. SCHOOL DISTRICT FACILITIES

SECTION 1B.01. Amends Section 46.002(b), Education Code, as follows:

- (b) Requires, rather than authorizes, the commissioner's rules to limit the amount of an allotment under this subchapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities. Prohibits an allotment under this subchapter from being used to construct, acquire, renovate, or improve a facility, such as a stadium, if the facility's predominant use

is for extracurricular purposes or for purposes other than teaching the curriculum required under Section 28.002.

SECTION 1B.02. Amends Section 46.008, Education Code, as follows:

Sec. 46.008. New heading: STANDARDS AND BEST PRACTICES. (a) Deletes text relating to space. Prohibits the standards from including requirements related to space or square footage for a facility or any part of a facility. Requires all new facilities constructed after September 1, 1998, to meet or exceed, rather than meet, the standards to be eligible to be financed with state or local tax funds.

(b) Requires the commissioner to establish a program of best practices for the construction, replacement, renovation, or improvement of school facilities. Specifies requirements for the program.

(c) Provides that this section may not be construed in a manner that impairs or eliminates a guarantee of an eligible bond under Subchapter C, Chapter 45.

SECTION 1B.03. Amends Section 46.033, Education Code, as follows:

Sec. 46.033. ELIGIBLE BONDS. Provides that bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds and:

(1) the proceeds of the bonds were used to construct, acquire, renovate, or improve an instructional facility, as defined by Section 46.001, and the district made payments on the bonds during the final school year of the state fiscal biennium preceding the biennium in which the district first receives assistance under this subchapter for the payment of principal of and interest on the bonds or taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; or

(2) Makes a conforming change. Deletes related to a district that does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

SECTION 1B.04. Amends Section 46.034(c), Education Code, to provide that if the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the final, rather than 2002-2003, school year of the state fiscal biennium preceding the biennium in which the district first receives assistance under this subchapter for the payment of principal of and interest on the bonds or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

SECTION 1B.05. Provides that Section 46.008(a), Education Code, as amended by this part, applies to a school facility for which construction begins on or after the effective date of this part, and such a facility is not required to meet any requirements related to space established by the commissioner of education under that section as it existed before amendment by this part.

SECTION 1B.06. Provides that Subchapter A, Chapter 46, Education Code, as amended by this part, applies only to the payment of state assistance under Subchapter A, Chapter 46, Education Code, for which a school district applies on or after September 1, 2005. Provides that payment of state assistance under Subchapter A, Chapter 46, Education Code, for which a school district applies before September 1, 2005, is governed by the law in effect on the date the district applies for the state assistance, and the

former law is continued in effect for that purpose.

SECTION 1B.07. Provides that Subchapter B, Chapter 46, Education Code, as amended by this part, applies only to bonds that first become eligible for payment with state assistance under that subchapter after January 1, 2004. Provides that bonds that were eligible for payment with state assistance under that subchapter as of January 1, 2004, are governed by that subchapter as it existed before amendment by this part, and the former law is continued in effect for that purpose.

PART C. STUDY ON PUBLIC LAW NO. 108-173

SECTION 1C.01. Requires the Teacher Retirement System of Texas to conduct a study regarding Pub. L. No. 108-173.

SECTION 1C.02. Requires the Teacher Retirement System of Texas, not later than January 1, 2005, to report the results of the study conducted under this part in writing to the lieutenant governor, the speaker of the house of representatives, and the members and members-elect of the 79th Legislature.

PART D. COMPENSATION SUPPLEMENTATION FOR CERTAIN ACTIVE SCHOOL EMPLOYEES

SECTION 1D.01. Requires the trustee under Chapter 1580, Insurance Code, notwithstanding any other law, with respect to classroom teachers, full-time librarians, full-time counselors, or full-time school nurses employed by the district, school, or service center, to deliver an amount, as determined by the trustee, equal to the number of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses employed by the district, school, or service center multiplied by \$1,000 or a greater amount as provided by the General Appropriations Act for purposes of Chapter 1580.

SECTION 1D.02. Repealer: Chapter 313, Acts of the 78th Legislature, Regular Session, 2003.

PART E. SOCIAL SECURITY CONTRIBUTIONS

SECTION 1E.01. Amends Subchapter B, Chapter 606, Government Code, by adding Section 606.0261 as follows:

Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS. (a) Requires the state to pay 50 percent of the total costs incurred by a school district in making contributions for social security coverage for the district's employees subject to Subsection (b).

(b) Provides that payment of state assistance under this section is limited to school districts that covered district employees under the social security program before January 1, 2004; and contributions made on behalf of employees in a class of employees the district covered under the social security program before January 1, 2004.

(c) Requires the commissioner of education, using funds appropriated for the purpose, to distribute money to which school districts are entitled under this section in accordance with rules adopted by the commissioner.

SECTION 1E.02. Provides that this part takes effect September 1, 2005.

PART F. CONFORMING AMENDMENTS

SECTION 1F.01. Amends Section 7.024(a), Education Code, to provide that the investment capital fund consists of money appropriated by the legislature for that purpose rather than money transferred to the fund as provided by Section 42.152(l).

SECTION 1F.02. Amends Section 7.055(b)(34), Education Code, to require the commissioner to perform duties in connection with equalization actions, rather than the equalized wealth level, under Chapter 41.

SECTION 1F.03. Amends Section 8.051(d), Education Code, to add a gifted and talented program under Subchapter D, Chapter 29, as a core service to be maintained by each regional education service center for purchase by school districts and campuses. Makes conforming changes.

SECTION 1F.04. Amends Section 11.158(a), Education Code, to provide that the board of trustees of an independent school district may require payment of a reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the board may not charge a fee for transportation for which the school district receives grant funds under Section 34.0071, rather than 42.155(d).

SECTION 1F.05. Amends Section 12.013(b), Education Code, to make conforming changes.

SECTION 1F.06. Amends Section 12.106(a), Education Code, as follows:

(a) Provides that a charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 as if the school were a school district without a tier one local share for purposes of Section 42.306, rather than 42.253, and without any local revenue ("LR") for purposes of Section 42.252, rather than 42.302. Provides that in determining funding for an open-enrollment charter school the adjustment under Section 42.301 is the adjustment for the school district in which the school is located and the district enrichment tax rate under Section 42.252 is the average district enrichment tax rate for the state. Deletes text referring to Sections 42.102, 42.103, 42.104, and 42.105 and the district enrichment tax rate ("DTR") under Section 42.302 and an average adjustment.

SECTION 1F.07. Amends Section 13.054(f), Education Code, to make conforming changes.

SECTION 1F.08. Amends Sections 13.282(a) and (b), Education Code, to make conforming changes.

SECTION 1F.09. Amends Sections 21.402(a) and (c), Education Code, as follows:

(a) Amends existing text relating to the minimum monthly salary, based on the employee's level of experience, prescribed by Subsection (c), that a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse by deleting language relating to the formula.

(c) Sets forth the minimum monthly salary under this section. Makes conforming changes.

SECTION 1F.10. Amends Section 21.410(h), Education Code, to make conforming changes.

SECTION 1F.11. Amends Section 21.411(h), Education Code, to make conforming changes.

SECTION 1F.12. Amends Section 21.412(h), Education Code, to make conforming changes.

SECTION 1F.13. Amends Section 21.413(h), Education Code, as added by Section 2, Chapter 430, Acts of the 78th Legislature, Regular Session, 2003, to make conforming changes.

SECTION 1F.14. Amends Section 29.002, Education Code, to amend the definition of "special services."

SECTION 1F.15. Amends Section 29.008(b), Education Code, to make conforming changes.

SECTION 1F.16. Amends Section 29.014(d), Education Code, as follows:

(d) Provides that the accreditation, rather than basic, allotment for a student enrolled in a district to which this section applies is adjusted by the cost of education adjustment under Section 42.301, rather than 42.102, for the school district in which the district is geographically located, and any other appropriate factor adopted by the commissioner, rather than the weight for a homebound student under Section 42.151(a).

SECTION 1F.17. Amends Section 29.087(j), Education Code, as follows:

(j) Provides that for purposes of funding under Chapters 42 and 46, a student attending a program authorized by this section may be counted in attendance only for the actual number of hours each school day the student attends the program, in accordance with Sections 25.081 and 25.082. Deletes reference to Chapter 41.

SECTION 1F.18. Amends Section 29.203(b), Education Code, as follows:

(b) Provides that a school district is entitled to the allotment provided by Section 42.155, rather than 42.157, for each eligible student using a public education grant. Deletes text providing that if a district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, a school district is entitled under rules adopted by the commissioner to additional state aid in an amount equal to the difference between the cost to the district of providing services to a student using a public education grant and the sum of the state aid received because of the allotment under Section 42.157 and money from the available school fund attributable to the student.

SECTION 1F.19. Amends Section 33.002(a), Education Code, to provide that this section applies only to a school district that receives funds as provided by Section 42.1521, rather than 42.152(i).

SECTION 1F.20. Amends Section 34.002(c), Education Code, to provide that a school district that fails or refuses to meet the safety standards for school buses established under this section is ineligible for a state transportation grant, rather than to share in the transportation allotment, under Section 34.0071, rather than 42.155, until the first anniversary of the date the district begins complying with the safety standards.

SECTION 1F.21. Amends Chapter 34, Education Code, by adding Section 34.0071, as follows:

Sec. 34.0071. STATE TRANSPORTATION GRANTS. (a) Authorizes the commissioner to award a grant to a school district or county that operates a public school transportation system under Section 34.007 using funds appropriated for the purpose.

(b) Requires the commissioner to adopt rules governing the grant program authorized by this section. Sets forth the requirements for a funding system under the rules.

(c) Requires money awarded under this section to be used in providing public school transportation services.

SECTION 1F.22. Amends Section 37.0061, Education Code, as follows:

Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN JUVENILE RESIDENTIAL FACILITIES. Deletes existing text requiring the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility to transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student, if the district has a wealth per student greater than the guaranteed

wealth level but less than the equalized wealth level.

SECTION 1F.23. Amends Section 39.031, Education Code, as follows:

Sec. 39.031. COST. (a) Requires the commissioner to set aside an appropriate amount from the Foundation School Program to pay the cost of preparing, administering, or grading the assessment instruments and the cost of releasing the question and answer keys under Section 39.023(e). Deletes text requiring these costs to be paid from the funds allotted under Section 42.152, each district to bear the cost in the same manner described for a reduction in allotments under Section 42.253, the commissioner to subtract the cost from the district's other foundation school fund allotments, if a district does not receive an allotment under Section 42.152, and that costs be paid from amounts appropriated to TEA.

(b) Requires the commissioner to reduce each district's tier one allotments proportionately after setting aside an appropriate amount in accordance with this section. Provides that a reduction in tier one allotments under this subsection does not affect the computation of guaranteed level of state and local enrichment funds per student in average daily attendance per cent of tax effort under Section 42.252.

(c) Requires any amount set aside under this section to be approved by the LBB and the governor's office of budget and planning.

SECTION 1F.24. Amends Section 39.134, Education Code, to make a conforming change.

SECTION 1F.25. Amends Section 43.002(b), Education Code, to make conforming changes.

SECTION 1F.26. Amends Section 46.003(a), Education Code, to make conforming changes.

SECTION 1F.27. Amends Section 46.006(g), Education Code, to make a conforming change.

SECTION 1F.28. Amends Sections 46.009(b), (e), and (f), Education Code, to make conforming changes.

SECTION 1F.29. Amends Section 46.013, Education Code, to make a conforming change.

SECTION 1F.30. Amends Section 46.032(a), Education Code, to make conforming changes.

SECTION 1F.31. Amends Section 46.037, Education Code, to make a conforming change.

SECTION 1F.32. Amends Section 56.208, Education Code, as follows:

Sec. 56.208. FUNDING. (a) Deletes existing text providing that funding for the state tuition credits is not subject to the provisions of Sections 42.253(e) through (k).

(b) and (c) Make conforming changes.

SECTION 1F.33. Amends Section 105.301(e), Education Code, to make a conforming change.

SECTION 1F.34. Amends Section 403.093(d), Government Code, to make conforming changes.

SECTION 1F.35. Amends Section 404.121(1), Government Code, to make a conforming change.

SECTION 1F.36. Amends Section 2175.304(c), Government Code, to delete text that gives preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a relatively low taxable wealth per student, as determined by the commissioner of education

that entitles the district to an allotment of state funds under Subchapter F, Chapter 42, Education Code.

SECTION 1F.37. Amends Section 1579.251, Insurance Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

- (a) Deletes existing text requiring the state contribution to be used by school districts and charter schools as provided by Sections 42.2514 and 42.260, Education Code.
- (c) Requires the trustee to deposit state assistance for a participating entity in the fund established under Subchapter G.
- (d) Provides that a school district that does not participate in the program is entitled to state assistance computed as provided by Subsection (a). Requires the trustee to distribute state assistance under this subsection in equal monthly installments. Requires state funds received under this subsection to be deposited in a fund described by Section 1581.052(b)(2).

SECTION 1F.38. Amends Section 6.02(b), Tax Code, to delete existing text that provides that the choice of a school district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or G, Chapter 41, Education Code, unless the school district taxes property other than property annexed to the district under Subchapter C or G, Chapter 41, Education Code, in the same county as the annexed property; or the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or G, Chapter 41, Education Code.

SECTION 1F.39. Amends Section 21.02(a), Tax Code, to delete a reference to Subsection (b) and make conforming changes.

SECTION 1F.40. Amends Section 39.901(d), Utilities Code, to make conforming changes.

PART G. REPEALER; EFFECTIVE DATE

SECTION 1G.01. Repealer: (a) Sections 1-3, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003.

(b) Repealer: The following provisions of the Education Code are repealed:

- (1) Subchapters B (Consolidation by Agreement); C (Purchase of Attendance Credit); E (Education of Nonresident Students); F (Tax Base Consolidation); and G (Detachment and Annexation by Commissioner), Chapter 41 (Equalized Wealth Level);
- (2) Chapter 42 (Foundation School Program), as it existed on April 1, 2004; and
- (3) Sections 21.402(b) and (e) (Minimum Salary Schedule for Certain Professional Staff); 29.203(c) and (g) (Financing); 39.024(e) (Satisfactory Performance); 41.001 (Definitions); 41.002 (Equalized Wealth Level); 41.003 (Options to Achieve Equalized Wealth); 41.031 (Inclusion of Attendance Credits and Nonresidents in Weighted Average Daily Attendance); 41.004 (Annual Review of Property Wealth); 41.007 (Commissioner to Approve Subsequent Boundary Changes); 41.009(b) (Tax Abatements); 41.011 (Contingency); 41.092 (Credit); 41.099 (Limitation); 41.252(b) (Selection Criteria); and 105.301(f) (Establishment; Scope).

(c) Repealer: Sections 403.302(j) and (k) (Determination of School District Property

Values) and 466.355(c) (State Lottery Account), Government Code.

- (d) Repealer: The following provisions of the Insurance Code are repealed:
 - (1) Section 1581.053(b) (Use of State Funds); and
 - (2) Subchapter C (State Assistance for Meeting Minimum Effort), Chapter 1581 (Employer Expenditures for School Employee Health Coverage Plans).
- (e) Repealer: Sections 21.02(b) (Assessment Ratios Prohibited) and 26.08(k)-(m) (Election to Ratify School Taxes), Tax Code.

SECTION 1G.02. (a) Provides that except as otherwise provided by this Act, this article takes effect September 1, 2005, and applies beginning with the 2005-2006 school year.

- (b) Provides that Section 1G.01(a) of this Act takes effect August 31, 2004.

ARTICLE 2. EDUCATION REFORM

PART A. INCENTIVES

SECTION 2A.01. Amends the heading to Subchapter H, Chapter 21, Education Code, to read:

SUBCHAPTER H. APPRAISALS

SECTION 2A.02. Amends Chapter 21, Education Code, by adding Subchapter N, as follows:

SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM; FUND. (a) Requires the commissioner to establish an educator excellence incentive program as provided by this subchapter. Provides that the purpose of the program is to reward employees in participating school districts whose performance demonstrates success in adding value to student academic achievement.

- (b) Provides that the educational excellence fund is an account in the general revenue fund. Provides that the fund consists of \$175 million per fiscal year transferred to the fund at the direction of the legislature for purposes of the program and donations and grants made to the fund for purposes of the program.

- (c) Requires the commissioner to approve each payment from the fund and authorizes the commissioner to adopt rules for the administration of the program and the payment of incentive grants from the fund.

- (d) Requires the commissioner to encourage local flexibility in designing incentive programs that promote student achievement.

Sec. 21.652. GRANTS TO SCHOOL DISTRICTS. (a) Requires the commissioner to make grants to school districts that develop a local incentive program to enable the districts to pay incentives under this subchapter, from funds appropriated for that purpose.

- (b) Provides that each fiscal year, a participating school district is entitled to an amount determined by dividing the amount appropriated for incentives under this subchapter for that year by the number of classroom teachers in participating school districts in the state and multiplying the resulting quotient by the number of classroom teachers in the district.

- (c) Requires the commissioner to determine the amount of the grant to which each participating school district is entitled under this section and to notify each district of the

determination not later than March 1 of the fiscal year for which the determination is made. Provides that the commissioner's determination under this section is final and may not be appealed.

(d) Provides that except as provided by Section 21.656, a school district may use money received under this section only to pay employee incentives as provided by this subchapter. Requires a district to use all money received under this subchapter for a school year in making awards for that year.

Sec. 21.653. MINIMUM CRITERIA FOR LOCAL INCENTIVE PROGRAM. (a) Authorizes a school district to develop a system for rewarding academic improvement and achievement in the district.

(b) Requires the commissioner, by rule, to establish minimum criteria for local incentive programs. Provides that the primary criteria for making awards in a local incentive program under this subchapter must be measures for incremental growth in student achievement. Provides that a local incentive program may also consider high levels of student performance on assessment instruments and progress towards proficiency in English.

(c) Requires a local incentive program to be adopted through a process that considers comments of classroom teachers in the district.

(d) Requires a district that applies for a grant under Section 21.652 to certify that the district has complied with this section and rules adopted under this subchapter.

Sec. 21.654. AWARDS. (a) Requires a local incentive program to provide awards to classroom teachers and authorizes the program to provide for awards to other employees.

(b) Prohibits a school district from awarding state money received under this subchapter, except as provided by Subsection (c), in an amount less than \$2,500 to an eligible employee for a school year, or to more than 15 percent of district employees, under a local incentive program component that provides campus-level awards.

(c) Authorizes a district to apply to the commissioner for approval of a local incentive program that does not meet the requirements of Subsection (b). Prohibits the commissioner from approving a program that makes awards of state funds to more than 40 percent of the employees at a single campus.

(d) Authorizes a district to provide in its employment policy or employment contracts that qualifying employees are entitled to a payment under the local incentive program. Provides that this subchapter does not require a district to pay employees an amount exceeding the amount of the grant, if any, that the district receives under Section 21.652.

(e) Provides that a decision by the board of trustees or the board's designee in making an award under the local incentive program is final and may not be appealed.

Sec. 21.655. PREMIUM TEACHER PROGRAM. (a) Requires the commissioner to develop a system for evaluating classroom teachers for the purpose of awarding individual incentives to premium teachers under this subchapter. Requires the system developed by the commissioner to consider certain factors.

(b) Requires the commissioner's evaluation system to define "premium teacher."

(c) Sets forth certain provisions under the program that apply to a premium teacher.

(d) Sets forth certain characteristics a classroom teacher must have to be eligible for an award under the program.

(e) Provides that not more than \$10 million may be appropriated for purposes of the program.

SECTION 2A.03. Amends Chapter 39, Education Code, by adding Subchapter J, as follows:

SUBCHAPTER J. STUDENT EXCELLENCE
AND IMPROVEMENT INCENTIVES

Sec. 39.221. DEFINITION. Defines "at-risk student."

Sec. 39.222. DISTINGUISHED ACHIEVEMENT PROGRAM INCENTIVE. Provides that in addition to any other funds to which a school campus is entitled under this code, each school year each campus is entitled to certain additional funds.

Sec. 39.223. COMMENDED PERFORMANCE INCENTIVE. (a) Defines "commended performance."

(b) Provides that in addition to any other funds to which a school campus is entitled under this code, each school year each campus is entitled to certain additional funds.

Sec. 39.224. ALGEBRA I INCENTIVE. Provides that in addition to any other funds to which a school campus is entitled under this code, each school year each campus is entitled to certain additional funds.

Sec. 39.225. DISTRIBUTION AND USE OF FUNDS. (a) Requires funds distributed under Sections 39.222-39.224 to be distributed to the school district that contains the school campus entitled to the funds under the applicable section. Requires that the funds be used at the campus entitled to the funds.

(b) Provides that a school district or campus may use funds distributed under Sections 39.222-39.224 only for academic enhancement purposes. Prohibits the funds from being used for any purpose related to athletics and from being used to substitute for or replace funds already in the regular budget for a district or campus.

SECTION 2A.04. Reenacts and amends Section 822.201(c), Government Code, as follows:

(c) Amends existing text on items excluded from salary and wages to include amounts received by or on behalf of, rather than supplemental compensation received by, an employee under Chapter 1580, rather than Article 3.50-8, Insurance Code; stipends paid to teachers in accordance with Section 21.458, Education Code; and amounts received under the educator excellence incentive program under Subchapter N, Chapter 21, Education Code. Makes conforming changes.

SECTION 2A.06. Repealer: Section 21.357 (Performance Incentives), Education Code.

PART B. STATE GOVERNANCE

SECTION 2B.01. Amends Subchapter A, Chapter 7, Education Code, by adding Section 7.0041, as follows:

Sec. 7.0041. COMMISSIONER OR AGENCY RULES. (a) Requires the commissioner, in

performing a duty under this code, to adopt rules only if the duty requires an action to be taken by rule. Requires the commissioner or the agency to otherwise act as required by this code, federal law, or court order without adopting rules under the procedures required by Chapter 2001, Government Code.

(b) Provides that this section may not be construed as expanding the authority or duties of the commissioner or the agency, or authorizing the commissioner or agency to perform an educational function reserved to school districts and open-enrollment charter schools under Section 7.003.

(c) Requires the commissioner to develop a procedure allowing, to the extent practicable, school districts, open-enrollment charter schools, parents of public school students, and educational organizations to comment on actions the commissioner or agency proposes to take in performing a duty that does not require the adoption of rules.

SECTION 2B.02. Amends Subchapter A, Chapter 7, Education Code, by adding Sections 7.007-7.009 as follows:

Sec. 7.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS).

(a) Requires each school district to participate in PEIMS and to provide through that system information required for the administration of this code.

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

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

(d) Requires the commissioner's rules to ensure that PEIMS links student performance data to other related information for purposes of efficient and effective allocation of school resources.

Sec. 7.008. STATEWIDE STUDENT ENROLLMENT, ATTENDANCE, AND ACHIEVEMENT TRACKING SYSTEM. (a) Requires each school district to participate in a system meeting standards approved by the commissioner to track each student enrolled in a public school in this state. Sets forth certain requirements for a student tracking system.

(b) Requires each school district to use the student tracking system.

(c) Authorizes the commissioner to solicit and accept grant funds to maintain the student tracking system and to make the system available to school districts.

Sec. 7.009. CENTERS FOR EDUCATION RESEARCH. (a) Defines "center."

(b) Authorizes the commissioner of education and the commissioner of higher education, in consultation with the State Board for Educator Certification, to establish not more than three centers for education research, including research regarding the impact of federal education programs.

(c) Sets forth certain requirements for a center established under this subchapter.

(d) Authorizes a center to be operated in accordance with a memorandum of understanding among the commissioner of education, the commissioner of higher

education, and the governing board of a public junior college, public senior college or university, or public state college, as defined by Section 61.003. Requires any memorandum of understanding under this subsection to provide for the center to be under the direct, joint supervision of the commissioner of education and the commissioner of higher education or their designees.

(e) Authorizes a center, in conducting research for the benefit of education in this state, to use data on student performance that the center has collected from the agency, the Texas Higher Education Coordinating Board, the State Board for Educator Certification, any public or private institution of higher education, and any school district, including data that is confidential under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). Requires a center to comply with rules adopted by the commissioner of education and the commissioner of higher education to protect the confidentiality of student information, including rules establishing procedures to ensure that confidential student information is not duplicated or removed from a center in an unauthorized manner.

(f) Authorizes the commissioner of education and the commissioner of higher education to accept gifts and grants to be used in operating one or more centers, and by rule, to impose reasonable fees, as appropriate, on a person who uses a center's research, resources, or facilities.

(g) Establishes that this section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(h) Requires the commissioner of education and the commissioner of higher education to adopt rules necessary to implement this section.

SECTION 2B.03. Amends Subchapter C, Education Code, by adding Section 7.060, as follows:

Sec. 7.060. GIFTS AND GRANTS. Authorizes the commissioner to accept a gift, donation, or other contribution for the benefit of public education and may use the contribution in accordance with its terms.

SECTION 2B.04. Amends Section 7.107(b), Education Code, as follows:

(b) Requires at the board's first regular meeting after the election and qualification of new members that the chair appoint, with the advice and consent of the governor, a vice chair and a secretary, rather than those officers being elected by separate votes. Makes conforming changes.

SECTION 2B.05. Requires TEA to study the practicality of modifying the Public Education Information Management System (PEIMS) to permit greater linking of student performance data to all other information submitted under the system on matters that affect student success. Requires the commissioner, based on the study, to develop a plan to improve, over the next five years, the data linkage described by this section. Requires the commissioner, not later than December 1, 2004, to file with the legislature a report with the commissioner's recommendation for implementing the data linkage described by this section.

SECTION 2B.06. Provides that Section 7.0041, Education Code, as added by this Act, does not affect the validity of an action taken by the commissioner under a rule adopted before the effective date of this Act.

PART C. SCHOOL DISTRICT GOVERNANCE

SECTION 2C.01. Amends Section 11.059, Education Code, as follows:

Sec. 11.059. TERMS. (a) Provides that a trustee of an independent school district serves a term of four years, rather than three or four years. Makes conforming changes.

(b) Requires elections for trustees to be held on the uniform election date in November. Provides that the terms of one-half of the trustees, or as near to one-half as possible, expire every two years.

(c) Requires that a board policy state the schedule on which specific terms expire. Makes conforming changes.

SECTION 2C.02. Amends Section 11.163, Education Code, by adding Subsection (d), to provide that if, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made pursuant to that delegation of authority; and that each member of the board of trustees remains subject to Chapter 573, Government Code, with respect to all district employees.

SECTION 2C.03. Amends Section 41.001(d), Election Code, to prohibit a general election of officers of an independent school district from being held on the February, May, or September uniform election date.

SECTION 2C.04. (a) Provides that Section 11.059, Education Code, as amended by this Act, applies beginning with a school district trustee election scheduled for 2005.

(b) Requires a school district trustee election that on the effective date of this Act is scheduled to be held in 2005 or 2006 to be held on November 8, 2005, or November 7, 2006, except as provided by Subsection (c) of this section.

(c) Provides that if, under Subsection (b) of this section, the positions of more than one-half of the trustees or as near to one-half as possible would be scheduled for election on November 8, 2005, or November 7, 2006, the trustees holding those positions shall draw lots to determine, as appropriate, which positions are subject to election in 2005 or 2006 and which are subject to election in 2007 or 2008.

(d) Authorizes a person to serve a term as school district trustee that is longer than the term for which the person was elected to implement the changes made to Section 11.059, Education Code, by this Act.

PART D. ACCOUNTABILITY

SECTION 2D.01. Amends Section 25.005(b), Education Code, to require a reciprocity agreement to include certain procedures and include appropriate criteria developed by TEA.

SECTION 2D.02. Amends Section 28.025, Education Code, by amending Subsection (c) and adding Subsections (c-1)-(c-3), as follows:

(c) Authorizes a person to receive a diploma if the person is eligible for a diploma under Subsection (c-1) or Section 28.0251. Provides that in other cases, a student may graduate and receive a diploma only if the student meets certain conditions.

(c-1) Requires the State Board of Education (SBOE) to adopt rules under which a student who first enrolls in a public school in this state in the 10th, 11th, or 12th grade may graduate and receive a diploma if the student meets certain requirements.

(c-2) Requires that a student who is entitled to graduate and receive a diploma under rules adopted under that subsection who takes a course in a public school in this state for which an end-of-course assessment instrument is administered under Section 39.023(c) to take that assessment instrument, notwithstanding Subsection (c-1).

(c-3) Requires SBOE to adopt rules under Subsection (c-1) that apply to students graduating in the 2005-2006 or a later school year. Provides that Section 7.102(f) does not apply to rules adopted under Subsection (c-1). Provides that this subsection expires July 1, 2006.

SECTION 2D.03. Amends Section 29.081(b), Education Code, to require each district to provide accelerated instruction to a student enrolled in the district who has taken an end-of-course, rather than the secondary exit-level, assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument, rather than each section, or who is at risk of dropping out of school.

SECTION 2D.04. Amends Section 30.021(e), Education Code, to make conforming changes.

SECTION 2D.05. Amends Sections 39.023(a) and (c), Education Code, as follows:

(a) Requires TEA to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Requires all students, except students assessed under Subsection (b) or (l) or exempted under Section 39.027, to be assessed in certain subjects in certain grades.

(c) Requires TEA to also adopt end-of-course, rather than secondary exit-level, assessment instruments for secondary-level courses in Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics, Integrated Physics and Chemistry, English I, English II, English III, World Geography, World History, and United States History. Deletes language relating to specific design requirements. Makes conforming changes. Deletes an exemption from the requirements of Section 51.306 for a student who performs at or above a level established by the Texas Higher Education Coordinating Board on the secondary exit-level assessment instruments.

SECTION 2D.06. Amends Subchapter B, Chapter 39, Education Code, by adding Sections 39.0232 and 39.0233, as follows:

Sec. 39.0232. **COMPUTER-BASED ASSESSMENT.** (a) Requires TEA to provide for assessment instruments required under Section 39.023 to be designed so that those assessment instruments can be administered on computers and, to the extent practicable and appropriate, require school districts to administer to students the computer-based assessment instruments.

(b) Requires TEA to implement Subsection (a) not later than March 1, 2006. Provides that this subsection expires September 1, 2006.

Sec. 39.0233. **COMPUTER-ADAPTIVE ASSESSMENT.** (a) Requires TEA to develop computer-adaptive diagnostic assessment instruments for subjects for which assessment instruments are adopted under Sections 39.023(a), (c), and (l). Authorizes an assessment instrument administered under this section to include statistical sampling techniques to measure the full range of skill levels and curriculum.

(b) Requires TEA, during the 2005-2006 school year, to administer as a pilot project one or more of the assessment instruments required under Subsection (a). Requires TEA to report the results of the pilot project to the legislature not later than December 1, 2006. Provides that this subsection expires January 15, 2007.

SECTION 2D.07. Amends Section 39.025, Education Code, as follows:

Sec. 39.025. EXIT-LEVEL PERFORMANCE REQUIRED. (a) Amends existing text to require that, except as otherwise provided by Section 28.025(c), a student may not receive a high school diploma until the student has performed satisfactorily on certain end-of-course assessment instruments for students in secondary grades administered under Section 39.023(c).

(b) and (c) Make conforming changes.

(d) Provides that Subsection (a) does not require a student to demonstrate readiness to enroll in an institution of higher education.

(e) Requires the commissioner by rule to adopt a transition plan to implement the amendments made by H.B. No. 1, Acts of the 78th Legislature, 4th Called Session, 2004, to Sections 28.025(c), 39.023(a) and (c), and 39.051(b)(5) and this section. Requires the rules to provide for the administration of end-of-course assessment instruments adopted under Section 39.023(c) to begin as soon as practicable but not later than the 2008-2009 school year. Sets forth procedures for the period under which the transition to end-of-course assessment instruments is made.

(f) Provides that rules adopted under Subsection (e) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Requires notice under this subsection to be provided not later than the date the student enters the ninth grade. Provides that Subsection (e) and this subsection expire September 1, 2009.

SECTION 2D.08. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0261, as follows:

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENT. (a) Requires each school district to administer a college preparation assessment instrument to students in grades 8, 10, and 12 who are enrolled in courses necessary to complete the curriculum requirements for the recommended or advanced high school program established under Section 28.025(a), to ensure that students are prepared for college-level courses. Requires that an assessment instrument administered under this section be part of an established, valid, and reliable system of nationally normed and curriculum-based educational planning and achievement assessment instruments with certain characteristics.

(b) Requires TEA to select and approve vendors of the specific assessment instruments administered under this section.

(c) Requires the commissioner to make grants to school districts to prepare students for assessment instruments administered under this section from amounts appropriated for purposes of this section.

(d) Requires TEA to compile the results of any assessment instrument administered under this section and make the results available through the Public Education Information Management System (PEIMS).

(e) Requires the commissioner to provide for the implementation of this section not later than the 2006-2007 school year. Provides that this subsection expires July 1, 2007.

SECTION 2D.09. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.034, as follows:

Sec. 39.034. MEASURE OF ANNUAL CHANGE IN PERFORMANCE ON ASSESSMENT INSTRUMENTS. (a) Requires the commissioner by rule to adopt a method by which TEA may measure any change in a student's performance from one school year to the next on an assessment instrument required under this subchapter.

(b) Requires TEA to use the method adopted under Subsection (a) to compare the student's results on the assessment instrument to the student's results on any assessment instrument for that subject the student has taken during the preceding school year each year, for each student who takes an assessment instrument required under Section 39.023(a), (b), or (l).

(c) Requires TEA to maintain a record of the comparisons made under this section and each year provide the record to the school the student attends.

(d) Requires the commissioner to implement this section not later than September 1, 2006. Provides that this subsection expires January 1, 2008.

SECTION 2D.10. Amends Section 39.052(b), Education Code, to add a requirement that the report card include a summary of the district's significant noninstructional expenditures, as determined under Section 44.0072.

SECTION 2D.11. Amends Section 39.202(b), Education Code, to require the commissioner, in adopting uniform indicators, to identify indicators considered to be critical by the commissioner; and to include in the indicators identified under Subdivision (1) an indicator relating to a district's instructional costs.

SECTION 2D.12. Amends Subchapter A, Chapter 44, Education Code, by adding Section 44.0072 as follows:

Sec. 44.0072. NONINSTRUCTIONAL EXPENDITURES. (a) Requires a school district to compute and report certain information through PEIMS to the commissioner, each fiscal year.

(b) Authorizes the commissioner to determine, in a manner consistent with Section 44.0071, whether an expenditure is noninstructional.

SECTION 2D.13. Amends Section 51.3062(q), Education Code, to make conforming changes.

SECTION 2D.14. Repealer: Section 39.023(j) (Adoption and Administration of Instruments), Education Code.

SECTION 2D.15. Provides that a reference in the Education Code to an end-of-course assessment instrument administered under Section 39.023(c), Education Code, includes a secondary exit-level assessment instrument administered under that section as provided by Section 39.025(e), Education Code, as added by this Act.

PART E. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

SECTION 2E.01. Amends Section 28.006(j), Education Code, to make a conforming change.

SECTION 2E.02. Amends Section 29.056(g), Education Code, as follows:

(g) Authorizes a district to transfer a student of limited English proficiency out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by certain measures, including satisfactory performance on the reading or English language arts assessment instrument, as applicable, under Section 39.023(a), with the assessment instrument

administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA.

SECTION 2E.03. Amends Subchapter B, Chapter 29, Education Code, by adding Section 29.0561, as follows:

Sec. 29.0561. CONSIDERATION; REENROLLMENT. (a) Requires the language proficiency assessment committee to consider certain factors for the first two school years after a student is transferred out of a bilingual education or special language program under Section 29.056(g).

(b) Requires the language proficiency assessment committee to reevaluate the student to determine if the student should reenroll in the bilingual education or special language program if, during any grading period during the first two school years after a student is transferred out of a bilingual education or special language program under Section 29.056(g), the student earns a failing grade in a subject in the foundation curriculum under Section 28.002(a)(1). Authorizes the committee to arrange for intensive instruction for the student or to reenroll the student in the program based on the reevaluation.

SECTION 2E.04. Amends Subchapter B, Chapter 29, Education Code, by adding Sections 29.065 and 29.066, as follows:

Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE PROFICIENCY. Requires the commissioner by rule to develop a longitudinal measure of progress toward English language proficiency under which a student of limited English proficiency is evaluated from the time the student enters public school until, for two consecutive school years, the child scores at a specific level determined by the commissioner on the reading or English language arts assessment instrument, as applicable, under Section 39.023(a). Requires the commissioner to consider certain factors.

Sec. 29.066. BEST PRACTICES. Requires the commissioner to determine which school districts offer the most effective bilingual education and special language programs, based on the measure of progress toward English language proficiency under Section 29.065. Requires the commissioner, using funds appropriated for that purpose, to determine the practices those districts use that result in student progress toward English language proficiency and distribute information concerning those practices to each school district that provides a bilingual education or special language program.

SECTION 2E.05. Reenacts and amends Section 39.051(b), Education Code, as amended by Chapters 433 and 805, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(b) Requires performance on the indicators adopted under this section to be compared to state-established standards. Requires consideration of the degree of change from one school year to the next in performance on each indicator adopted under this section. Requires the indicators to be based on information that is disaggregated by race, ethnicity, gender, and socioeconomic status and must include, among other factors, the measure of progress toward English language proficiency under Section 29.065, for students of limited English proficiency, as defined by Section 29.052 and dropout rates for students who have dropped out of school after being enrolled at any time in a bilingual education or special language program under Subchapter B, Chapter 29. Makes conforming changes.

SECTION 2E.06. Amends Sections 39.072(b) and (c), Education Code, to make conforming changes.

SECTION 2E.07. Amends Sections 39.073(a) and (b), Education Code, to make conforming changes.

SECTION 2E.08. Amends Section 39.074(e), Education Code, to make a conforming change.

SECTION 2E.09. Repealer: Section 29.056(h) (Enrollment of Students in Program), Education Code.

SECTION 2E.10. (a) Requires TEA, not later than the 2006-2007 school year, to collect information concerning the measure of progress toward English language proficiency for purposes of Section 39.051(b)(7), as amended by this Act, and the dropout rates for purposes of Section 39.051(b)(14), Education Code, as added by this Act.

(b) Requires TEA, not later than the 2007-2008 school year, to include the measure of progress toward English language proficiency under Section 39.051(b)(7), as amended by this Act, in evaluating the performance of school districts, campuses, and open-enrollment charter schools under Subchapter D, Chapter 39, Education Code.

PART F. EFFECTIVE DATE

SECTION 2F.01. (a) Effective date, this article: September 1, 2005, except as otherwise provided by this Act.

(b) Provides that Part C of this article takes effect January 1, 2005.

ARTICLE 3. PROPERTY TAXATION AND LOCAL REVENUE

PART A. LIMITATION ON CERTAIN RESIDENTIAL REAL PROPERTY APPRAISALS

SECTION 3A.01. Amends Section 1.12(d), Tax Code, to provide that for purposes of this section, the appraisal ratio of real property, rather than a homestead, to which Section 23.23 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law.

SECTION 3A.02. Amends Section 23.23, Tax Code, as follows:

Sec. 23.23. New heading: **LIMITATION ON APPRAISED VALUE OF CERTAIN RESIDENTIAL REAL PROPERTY**. (a) Provides that the appraised value of qualified residential real property, rather than a residence homestead, for a tax year may not exceed the lesser of:

(1) the market value of the property; or

(2) the sum of:

(A) five , rather than 10, percent of the appraised value of the property for the last year in which the property was appraised for taxation times the number of years since the property was last appraised;

(B) the appraised value of the property for the last year in which the property was appraised; and

(C) the market value of all new improvements to the property.

(b) Makes conforming changes.

(c) Provides that the limitation provided by Subsection (a) takes effect as to a parcel of qualified residential real property, rather than residence homestead, on January 1 of the tax year following the first tax year in which the owner owns, rather than qualifies, the property on January 1 and in which the owner qualifies the property as a residence homestead or uses the property primarily for the owner's residential purposes or, if the property qualifies as the residence homestead of the owner under Section 11.13 in the tax year in which the owner acquires the property, the limitation takes effect on January 1 of the tax year following that tax year. Except as provided by Subsections (d) and (e), the

limitation expires on January 1 of the tax year following the year in which the owner of the property ceases to own the property or ceases to qualify the property as a residence homestead or to use the property primarily for the owner's residential purposes, rather than when the limitation took effect nor the owner's spouse or surviving spouse qualifies for an exemption under Section 11.13. Makes conforming changes.

(d) Provides that if qualified residential real property subject to a limitation under Subsection (a) qualifies for an exemption under Section 11.13 when the ownership of the property is transferred to the owner's spouse or surviving spouse, the limitation expires on January 1 of the tax year following the year in which the owner's spouse or surviving spouse ceases to own the property, unless the limitation is further continued under this subsection on the subsequent transfer to a spouse or surviving spouse.

(e) Provides that if qualified residential real property subject to a limitation under Subsection (a), other than a residence homestead, is owned by two or more persons, the limitation expires on January 1 of the tax year following the year in which the ownership of at least a 50 percent interest in the property is sold or otherwise transferred to a person other than those owners.

(f) Redesignated from existing Subsection (d). Makes conforming changes.

(g) Redesignated from existing Subsection (c). Redefines "new improvement" and defines "qualified residential real property."

(h) Redesignated from existing Subsection (f). Makes a conforming change.

(i) Provides that for purposes of applying the limitation provided by Subsection (a) in the first tax year after the 2004 tax year in which the qualified residential real property is appraised for taxation:

(1) the property is considered to have been appraised for taxation in the 2004 tax year at a market value equal to the appraised value of the property for that tax year;

(2) a person who acquired in a tax year before the 2004 tax year residential real property that the person owns in the 2004 tax year is considered to have acquired the property on January 1, 2004; and

(3) a person who qualified the property for an exemption under Section 11.13 as the person's residence homestead for any portion of the 2004 tax year is considered to have acquired the property in the 2004 tax year.

(j) Provides that this subsection and Subsections (k)-(n) do not apply to property that qualifies for a residence homestead exemption under Section 11.13. Requires a person claiming the limitation under Subsection (a) to apply for the limitation by filing an application with the chief appraiser of the appraisal district. Requires the chief appraiser to accept and approve or deny an application. Requires a separate application to be filed in each appraisal district to receive the limitation in that district for property appraised by more than one appraisal district. Provides that a limitation provided by Subsection (a), once allowed, need not be claimed in subsequent years and applies to the property until the limitation expires as provided by this section or until the person's qualification for the limitation ends. Authorizes the chief appraiser to require a person allowed a limitation in a prior year to file a new application to confirm the person's current qualification for the limitation by delivering not later than April 1 a written notice that a new application is required, accompanied by an appropriate application form, to the person previously

allowed the limitation.

(k) Requires the comptroller, in prescribing the contents of the application form for a limitation under Subsection (a), to ensure that the form requires an applicant to provide the information necessary to determine the validity of the limitation claim. Prescribes the required content of the form. Defines "driver's license" and "personal identification certificate."

(l) Requires a person who is required to apply for a limitation under Subsection (a) to receive the limitation for a tax year to apply for the limitation not later than May 1 of that year. Provides that if the person fails to timely file a completed application, the person may not receive the limitation for that year, except as provided by Subsection (m).

(m) Requires the chief appraiser to accept and approve or deny an application for a limitation under Subsection (a) for a tax year after the deadline for filing the application has passed if the application is filed not later than one year after the delinquency date for the taxes on the property for that tax year. Requires the chief appraiser to notify the collector for each taxing unit in which the property is located if a late application is approved after approval of the appraisal records by the appraisal review board. Requires the collector to deduct from the person's tax bill the difference between the taxes that would have been due had the property not qualified for the limitation and the taxes due after taking the limitation into account if the tax has not been paid, and to refund the difference if the tax has been paid.

(n) Requires a person who receives a limitation under Subsection (a) to notify the appraisal office in writing before May 1 after the person's qualification for the limitation ends.

SECTION 3A.03. Amends Subchapter B, Chapter 23, Tax Code, by adding Section 23.235, as follows:

Sec. 23.235. LEGISLATIVE OVERSIGHT COMMITTEE. (a) Establishes the legislative oversight committee (LOC) on the effect of the yearly limitation on appraised value of a residence homestead. Sets forth the composition of the LOC.

(b) Requires the LOC to study the effect of a limitation of appraised value of a residence homestead established under this subchapter on tax fairness for property owners and ad valorem revenue raised by local taxing entities. Requires the study to include investigation of the long-term economic effects of appraisal caps.

(c) Authorizes the LOC to request reports and other information from appraisal districts relating to the limitation on appraised values on residence homesteads.

(d) Requires the LOC to study the current truth in taxation laws of this state and determine their effectiveness.

(e) Authorizes the LOC to make specific recommendations for legislation related to this subchapter.

(f) Requires the LOC to file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31, 2004.

(g) Provides that this section expires January 1, 2005.

SECTION 3A.04. Amends Section 42.26(d), Tax Code, to make a conforming change.

SECTION 3A.05. Amends Sections 403.302(d) and (i), Government Code, as follows:

(d) Redefines "taxable value."

(i) Makes conforming changes.

SECTION 3A.06. Provides that this part takes effect January 1, 2005, and applies only to the appraisal for ad valorem tax purposes of residential real property for a tax year that begins on or after that date.

PART B. QUALIFICATION FOR RESIDENCE HOMESTEAD EXEMPTION

SECTION 3B.01. Amends Section 11.42(c), Tax Code, to provide that an exemption authorized by Section 11.13, rather than 11.13(c) or (d), is effective as of January 1 of the tax year in which the person qualifies for the exemption and applies to the entire tax year.

SECTION 3B.02. Amends Section 11.43(k), Tax Code, to make a conforming change.

SECTION 3B.03. Amends Section 26.10(b), Tax Code, to make conforming changes.

SECTION 3B.04. Amends Section 26.112, Tax Code, as follows:

Sec. 26.112. New Heading: CALCULATION OF TAXES ON RESIDENCE HOMESTEAD.

(a) and (b) Make conforming changes.

SECTION 3B.05. Provides that this part takes effect January 1, 2005, and applies only to ad valorem taxes imposed for a tax year that begins on or after that date.

PART C. SALE OF TAX RECEIVABLES

SECTION 3C.01. Amends Subtitle C, Title 8, Local Government Code, by adding Chapter 274, as follows:

CHAPTER 274. SALE OF TAX RECEIVABLES

Sec. 274.001. DEFINITIONS. Defines "date of sale," "local government," and "tax receivable."

Sec. 274.002. AUTHORITY TO SELL TAX RECEIVABLES OR UNDIVIDED INTEREST IN TAX RECEIVABLES. (a) Authorizes a local government to sell all or any part of its tax receivables, including an undivided interest in all or any part of the receivables, at any time.

(b) Provides that a sale by a local government of a tax receivable under this chapter is a sale and not a borrowing by the local government.

(c) Requires the local government to determine the terms and conditions of a sale of a tax receivable.

(d) Provides that the sale by a local government of a tax receivable is governed exclusively by this chapter.

Sec. 274.003. AMOUNT OF TAX RECEIVABLE; INCLUDED COSTS. Establishes that the amount of a tax receivable sold under this chapter may include the original amount of a delinquent ad valorem tax plus the amounts of any penalty and interest that accrued on that delinquent tax under Section 33.01, Tax Code, through the date of sale that remain unpaid on the date of sale, and the original amount of a delinquent assessment or other charge other than a delinquent ad valorem tax plus the amount of any interest that accrued on that assessment or charge and remains

unpaid on the date of sale.

Sec. 274.004. INTEREST AND PENALTIES ON CERTAIN TAX RECEIVABLES. (a) Provides that interest on a tax receivable sold under this chapter accrues on the total unpaid amount computed under Section 274.003 at the rate of one percent for each month or portion of a month that the tax receivable remains unpaid after the date of sale, except as provided by Subsection (b).

(b) Provides that after the date of sale of a delinquent ad valorem tax receivable interest and all penalties, as provided by Chapter 33, Tax Code, continue to accrue on the unpaid original amount of the tax as if the tax receivable had not been sold, and in a suit to collect the delinquent tax, the local government is entitled to recover the court costs and other expenses specified by Section 33.48(a), Tax Code.

Sec. 274.005. ENFORCEMENT OF TAX RECEIVABLE. (a) Provides that the sale of an ad valorem tax receivable under this chapter does not affect an existing contract for the collection of delinquent taxes under Section 6.30(c), Tax Code, between the local government or an entity acting on behalf of the local government and an attorney. Provides that performance by the attorney under that contract includes the collection of the delinquent ad valorem tax by suit filed on behalf of the local government, by tax sale, or by other means, as if the tax receivable had not been sold.

(b) Prohibits the local government from selling an ad valorem tax receivable to a person who controls, is controlled by, or is under common control with a private attorney under contract to collect the related delinquent ad valorem tax entered into under Section 6.30(c), Tax Code, or after the date of sale of an ad valorem tax receivable to a person, entering into a contract under Section 6.30(c), Tax Code, with an attorney who controls, is controlled by, or is under common control with that person.

(c) Provides that in this section, control of a person includes the direct or indirect ownership of a majority of the voting power of that person.

Sec. 274.006. METHOD OF SALE. (a) Authorizes a sale permitted by this chapter to be made through competitive bidding or a negotiated sale.

(b) Authorizes a local government, notwithstanding any other law to the contrary, in determining whether and to whom to award a sale of a tax receivable, to take into account any factor the local government considers to be in the best interest of the local government, including the price at which the tax receivable is offered for sale and the terms and conditions of a tax receivable purchase and sale agreement.

(c) Authorizes the local government to enter into negotiations with one or more prospective purchasers to determine the terms and conditions under which a tax receivable is proposed to be sold.

Sec. 274.007. SALE THROUGH COMPETITIVE BIDDING. (a) Requires a local government that elects to sell all or part of its tax receivables through competitive bidding to publish a notice of its intention to sell the tax receivables through competitive bidding.

(b) Requires the notice to contain certain information.

(c) Requires the notice to identify separately the tax receivables intended to be sold, or state the approximate number and aggregate amount of those tax receivables and that a copy of a list of those tax receivables may be obtained from the local government on request.

(d) Requires the notice to be published in a newspaper of general circulation in the local government not later than the 30th day before the date designated by the local government for the submission of bids.

(e) Authorizes the local government to reject any or all bids or to accept any combination of bids received in a sale conducted through competitive bidding.

Sec. 274.008. SALE THROUGH NEGOTIATED SALE. (a) Requires a local government that elects to sell all or a part of its tax receivables through a negotiated sale to publish a notice of its intention to sell tax receivables through a negotiated sale.

(b) Requires the notice to contain certain information.

(c) Requires the notice to identify separately the tax receivables intended to be sold, or state the approximate number and aggregate amount of those tax receivables and that a copy of a list of those tax receivables may be obtained from the local government on request.

(d) Requires the notice to be published in a newspaper of general circulation in the local government not later than the 30th day before the date designated by the local government for the submission of bids.

Sec. 274.009. NOTICE TO AFFECTED PROPERTY OWNERS. (a) Prohibits a local government from selling a tax receivable unless the local government notifies the owner of the property associated with the tax receivable, by first class mail sent to the address of record of the owner, of the proposed sale by the local government of the tax receivable.

(b) Requires the notice to be mailed to the property owner not later than the 30th day before the date of sale.

(c) Requires the notice to contain certain information.

(d) Prohibits the local government from proceeding with the sale of the tax receivable if the property owner pays the full amount of the tax receivable associated with the property before the date of sale of the tax receivable.

Sec. 274.010. POSTPONEMENT OR CANCELLATION OF SALE AUTHORIZED. (a) Authorizes a local government to postpone or cancel any proposed sale of a tax receivable for which notice has been published.

(b) Provides that a local government is not liable for damages as a result of the postponement or cancellation of a proposed sale of tax receivables and a cause of action does not arise from a postponement or cancellation of a proposed sale.

Sec. 274.011. PURCHASE AND SALE AGREEMENTS. (a) Authorizes a local government to enter into a purchase and sale agreement with the purchaser of a tax receivable sold under this chapter.

(b) Establishes that a purchase and sale agreement may contain any term, provision, condition, representation, or warranty consistent with this chapter that, in the judgment of the local government, is necessary or in the best interest of the local government.

(c) Requires a purchase and sale agreement to specify certain information.

(d) Provides that a purchase and sale agreement may require the local government to perform certain tasks.

(e) Prohibits a purchase and sale agreement from requiring the local government to prohibit a person from paying the person's taxes in installments under Section 31.031, 31.032, or 33.02, Tax Code.

(f) Prohibits a purchase and sale agreement from requiring a local government that under Section 31.035 or 31.036, Tax Code, permits individuals to perform services in lieu of paying taxes, or that under Section 31.037, Tax Code, permits business entities to provide employees to perform services in lieu of paying taxes, to refrain from entering into a contract under those sections. Authorizes a local government that enters into such a contract to repurchase any related ad valorem tax receivable.

(g) Prohibits a purchase and sale agreement from containing any provision that would interfere with the right of an individual to defer or abate a suit to collect a delinquent tax under Section 33.06 or 33.065, Tax Code. Authorizes the local government to repurchase the related tax receivable if the individual defers or abates the suit.

(h) Prohibits a purchase and sale agreement from requiring the local government to demand of its officers, employees, agents, or attorneys a standard of performance of their statutory or contractual duties in the collection of a tax receivable that is different from the customary and reasonable standard of performance required of those persons.

Sec. 274.012. TAX RECEIVABLE CERTIFICATES; ISSUANCE AND OPERATION; TRANSFERABILITY. (a) Requires the local government to issue to the purchaser a tax receivable certificate evidencing the sale and transfer of the tax receivable to the purchaser on the sale by a local government of a tax receivable.

(b) Provides that a tax receivable certificate operates to transfer and assign the tax receivable only for certain amounts.

(c) Provides that any amount, other than an amount specified by Subsection (b), that may be collected by the local government under Chapter 33, Tax Code, or another law is not transferred or assigned by a tax receivable certificate. Requires that any amount described by this subsection that is collected be retained by the local government for distribution in accordance with the applicable law or, if applicable, the terms of a contract entered into under Section 6.30(c), Tax Code.

(d) Authorizes the holder of a tax receivable certificate to transfer the certificate to any other person.

(e) Establishes that except as otherwise agreed to in a purchase and sale agreement under Section 274.011(d)(1) or (2), the holder of a tax receivable certificate holds the certificate without recourse, in contract, in tort, or otherwise, against the local government or the officers, employees, agents, or attorneys of the local government because of a failure to collect the related tax receivable.

Sec. 274.013. CONTENTS OF TAX RECEIVABLE CERTIFICATE. (a) Requires each tax receivable certificate to contain a transfer and assignment by the local government of the tax receivables transferred to the purchaser and state certain information.

(b) Requires a tax receivable certificate to be executed by the tax collector for the local government or a person designated by the tax collector and acknowledged in the manner required for a deed to be recorded in this state.

(c) Provides that a tax receivable certificate may evidence the transfer of more than one tax receivable relating to more than one property.

Sec. 274.014. REPLACEMENT TAX RECEIVABLE CERTIFICATES. (a) Authorizes the tax collector or a person designated by the tax collector to execute and issue a replacement tax receivable certificate to the applicant or the person entitled to the original replacement certificate, on application to the collector for a local government accompanied by proof sufficient to show that a tax receivable certificate issued on behalf of the local government under this chapter is lost.

(b) Authorize the tax collector for the local government, at the collector's discretion, to require the applicant or other person to post a bond of indemnity in favor of the local government.

Sec. 274.015. ENTITLEMENT TO PROCEEDS OF TAX SALE. (a) Provides that this section applies to real property associated with a tax receivable sold under this chapter if the property is sold in compliance with an order of sale following a suit for foreclosure of a local government's lien on the property, regardless of whether the suit to foreclose the lien is brought by the local government that sold the tax receivable or by another local government.

(b) Establishes that from the proceeds of a sale of the property under Section 34.01, Tax Code, or of the resale of the property under Section 34.05, Tax Code, the holder of the applicable tax receivable certificate is entitled to receive an amount equal to the amount the local government that sold the tax receivable certificate would otherwise be entitled to receive and retain for its benefit.

Sec. 274.016. DUTY OF LOCAL GOVERNMENT TO PAY OVER CERTAIN MONEY.

(a) Requires a local government to promptly pay over to the holder of a tax receivable certificate, or to the person designated in writing by the holder, any money received by the local government in connection with the tax receivable evidenced by the tax receivable certificate.

(b) Requires a local government to pay over to its attorney, including a private attorney retained under a contract entered into under Section 6.30(c), Tax Code, any money received to which the attorney is entitled by virtue of a contract or otherwise, including certain fees and costs.

Sec. 274.017. AFFIDAVITS OF PUBLICATION AND MAILING. (a) Requires each local government that sells a tax receivable under this chapter to obtain and preserve affidavits of the publication and mailing of all advertisements and notices required by this chapter to be published and mailed.

(b) Establishes that an affidavit of publication and mailing is presumptive proof of the related publication and mailing in any court of this state.

Sec. 274.018. PUBLIC INFORMATION. Establishes that information collected, assembled, or maintained in connection with the sale of a tax receivable of a local government and in connection with the issuance of a tax receivable certificate under this chapter is public information that is available to the public under Chapter 552, Government Code.

Sec. 274.019. CALCULATION OF EFFECTIVE TAX RATE AND ROLLBACK RATE. Prohibits the officer or employee designated to calculate the effective tax rate and the rollback rate of a local government under Section 26.04(c), Tax Code, from including the amount of any proceeds received by the local government from the sale of a tax receivable under this chapter in making those calculations.

SECTION 3C.02. Amends Section 1.04(6), Tax Code, to redefine "intangible personal property" to

include a tax receivable under Chapter 274, Local Government Code, or a tax receivable certificate issued under that chapter. Makes conforming changes.

PART D. REAL PROPERTY SALES PRICE DISCLOSURE

SECTION 3D.01. Amends Section 12.001, Property Code, by adding Subsections (e)-(g), as follows:

(e) Provides that an instrument conveying real property may not be recorded under Subsection (a) unless a certificate issued by the chief appraiser of the appraisal district established for the county in which the property is located stating that the sales price disclosure report required by Subchapter D, Chapter 22, Tax Code, has been filed with the chief appraiser is filed with the instrument of conveyance.

(f) Provides that Subsection (e) does not apply to an instrument conveying real property if the conveyance is made under certain conditions or by certain persons.

(g) Authorize the chief appraiser of the appraisal district established for the county in which the property is located and the county clerk by written agreement to establish a procedure for the electronic transfer to the county clerk of the certificate required by Subsection (e). Provides that an instrument of conveyance may be recorded under this section without an accompanying paper copy of the certificate required by Subsection (e) if the certificate is electronically transferred to the county clerk by the chief appraiser under a procedure established under this subsection.

SECTION 3D.02. Amends the heading to Subchapter C, Chapter 22, Tax Code, to read as follows:

SUBCHAPTER C. REPORTS OF POLITICAL SUBDIVISION ACTIONS

SECTION 3D.03. Amends Chapter 22, Tax Code, by adding Subchapter D, as follows:

SUBCHAPTER D. REPORT OF SALES PRICE

Sec. 22.61. SALES PRICE DISCLOSURE REPORT. (a) Requires on the sale of real property the purchaser of the property or a person acting on behalf of the purchaser, except as provided by Subsection (d), to file a sales price disclosure report with the chief appraiser of the appraisal district established for the county in which the property is located.

(b) Provides that a sales price disclosure report may be filed by facsimile.

(c) Authorizes the sales price disclosure report to be filed with the chief appraiser before the sale of the property closes. Requires the person who prepared the original report to prepare, sign, and file with the chief appraiser a supplemental sales price disclosure report updating the information that changed if any information required by the sales price disclosure report changes after the report is filed with the chief appraiser. Requires the supplemental report to be filed not later than the third day after the date the sale of the property closed.

(d) Provides that this section does not apply to a sale of real property if the sale is made under certain conditions or by certain persons.

Sec. 22.62. SIGNATURE REQUIRED. Requires a sales price disclosure report to be signed by the purchaser or by the person who prepares the report.

Sec. 22.63. REPORT FORMS. (a) Requires the comptroller to prescribe the form and content of a sales price disclosure report filed under this subchapter and to ensure that each form requires the person preparing the report to provide, at a minimum, certain information.

(b) Prohibits a form from requiring information not relevant to the appraisal of property for tax purposes or to the assessment or collection of property taxes.

(c) Requires a person who prepares a sales price disclosure report under this subchapter to use the appropriate form prescribed by the comptroller; and include all information required by the form.

Sec. 22.64. DELIVERY OF CERTIFICATE TO PURCHASER. (a) Requires the chief appraiser to provide to the purchaser a certificate stating that the completed sales price disclosure report has been filed not later than the second day after the date the sales price disclosure report is filed with the chief appraiser, except as provided by Subsection (b).

(b) Authorizes the chief appraiser to electronically transfer the certificate to the county clerk if the chief appraiser and the county clerk of the county in which the property is located have entered into an agreement under Section 12.001(g), Property Code. Requires a chief appraiser that elects to electronically transfer the certificate to transfer the certificate not later than the second day after the date the sales price disclosure report is filed and notify the purchaser in writing that the certificate has been filed with the county clerk.

Sec. 22.65. PUBLICIZING REQUIREMENTS. (a) Requires the comptroller to publicize, in a manner reasonably designed to come to the attention of title companies, attorneys, and property owners, the requirements of this subchapter and of the availability of sales price disclosure report forms.

(b) Requires the Texas Real Estate Commission to assist the comptroller in publicizing the information required by Subsection (a) to title companies and attorneys.

(c) Requires a chief appraiser to assist the comptroller in publicizing the information required by Subsection (a) to property owners in the county for which the appraisal district is established.

Sec. 22.66. CONFIDENTIAL INFORMATION. (a) Provides that a sales price disclosure report filed with a chief appraiser under this subchapter is confidential and not open to public inspection. Prohibits the disclosure of the report and the information it contains about specific property or a specific person to another person other than an employee of the appraisal office who appraises property except as provided by Subsection (b).

(b) Authorizes disclosure of information that is confidential under Subsection (a) to certain persons or under certain conditions.

(c) Provides that a person, other than a person described by Subsection (b)(2), who legally has access to a sales price disclosure report or who legally obtains the information from a report made confidential by this section commits an offense if the person knowingly commits certain acts.

(d) Establishes a defense to prosecution under Subsection (c) if the person obtained the information from a person described by Subsection (b)(2) or a record or document lawfully available to the public.

(e) Provides that an offense under Subsection (c) is a Class B misdemeanor.

Sec. 22.67. IMMUNITY FROM LIABILITY. Establishes that a person who prepares a sales price disclosure report in compliance with this subchapter is not liable to any other person as a

result of providing the information required by this subchapter.

SECTION 3D.04. Effective date: (a) Provides that this part, except as provided by Subsection (b) of this section, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. Provides that if this Act does not receive the vote necessary for immediate effect, this part takes effect on the 91st day after the last day of the legislative session.

(b) Provides that Sections 3D.01, 3D.02, and 3D.03 of this part take effect January 1, 2005.

(c) Requires the comptroller of public accounts, as soon as practicable after the effective date of this part provided by Subsection (a) of this section, but not later than January 1, 2005, to perform certain acts.

(d) Provides that this part applies only to a sale of real property that occurs on or after January 1, 2005.

ARTICLE 4. SALES AND USE TAXES

PART A. STATE AND LOCAL SALES AND USE TAXES

SECTION 4A.01. Amends Section 151.051(b), Tax Code, to provide that the sales tax rate is seven, rather than 6.25, percent of the sales price of the taxable item sold.

SECTION 4A.02. Amends Subchapter A, Chapter 151, Tax Code, by adding Section 151.0029, as follows:

Sec. 151.0029. BILLBOARD ADVERTISING SERVICE. (a) Defines "billboard advertising service."

(b) Defines "billboard."

SECTION 4A.03. Amends Section 151.0038(b), Tax Code, to redefine "newspaper."

SECTION 4A.04. Amends Section 151.00394(b), Tax Code, to redefine "internet access service."

SECTION 4A.05. Amends Section 151.0101(a), Tax Code, to redefine "taxable services."

SECTION 4A.06. Amends Section 151.308(a), Tax Code, to delete the exemption from the taxes imposed by this chapter for mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 183. Makes conforming changes.

SECTION 4A.07. Amends Section 151.315, Tax Code, to specify that water sold in a sealed container with a volume of three gallons or less is not exempted from the taxes imposed by this chapter.

SECTION 4A.08. Amends Section 321.501(a), Tax Code, to require the comptroller, after deducting the taxes that are required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, to deposit the taxes collected by the comptroller under this chapter in trust in the separate suspense account of the municipality from which the taxes were collected.

SECTION 4A.09. Amend Section 321.503, Tax Code, to require the comptroller, before sending any money to a municipality under this subchapter, to deduct two percent of the amount of the municipality's share of the taxes, rather than two percent of the taxes, collected within the municipality during the period for which a distribution is made as the state's charge for its services under this chapter and to

credit the money deducted to the general revenue fund. Deletes reference to premiums payments under Section 321.501(c).

SECTION 4A.10. Amends Section 322.303, Tax Code, to require the comptroller, before sending any money to a taxing entity under this subchapter, to deduct two percent of the amount of the taxes collected, rather than two percent of the amount of the taxing entity's share of the taxes collected, within the entity area during the period for which a distribution is made as the state's charge for its services under this chapter and shall credit the money deducted to the general revenue fund.

SECTION 4A.11. Amends Section 323.501(a), Tax Code, to require the comptroller, after deducting the taxes that are required to be deposited to the credit of the Texas education fund under Section 25, Article VIII, Texas Constitution, to deposit the taxes collected by the comptroller under this chapter in trust in the separate suspense account of the county from which the taxes were collected.

SECTION 4A.12. Amends Section 323.503, Tax Code, to require the comptroller, before sending any money to a county under this subchapter, to deduct two percent of the amount of the county's share of the taxes collected within the county, rather than two percent of the amount of taxes collected within the county, during the period for which a distribution is made as the state's charge for its services under this chapter and to credit the money deducted to the general revenue fund. Deletes reference to premiums payments under Section 323.501(c).

SECTION 4A.13. Repealer: Repeals the following provisions of the Tax Code:

- (1) Section 151.319 (Newspapers and Property Used in Newspaper Publication);
- (2) Section 151.320 (Magazines); and
- (3) Section 151.325 (Basic Fee for Internet Access).

SECTION 4A.14. (a) Provides that there are exempted from the taxes imposed by Chapter 151, Tax Code, the receipts from the sale, use, storage, rental, or other consumption in this state of services that became subject to the taxes because of the terms of this part and that are the subject of a written contract or bid entered into on or before the day after the last day of the 78th Legislature, 4th Called Session, 2004.

(b) Provides that the exemption provided by this section expires January 1, 2007.

SECTION 4A.15. Effective date, this part takes effect January 1, 2005.

PART B. [reserved]

PART C. BOAT AND MOTOR BOAT SALES AND USE TAX

SECTION 4C.01. Amends Section 160.021(b), Tax Code, to provide that the tax rate is 7.75, rather than 6.25 percent of the total consideration.

SECTION 4C.02. Amends Section 160.022(b), Tax Code, to provide that the tax rate is 7.75, rather than 6.25 percent of the total consideration.

SECTION 4C.03. Effective date: this part: January 1, 2005.

PART D. ADMISSIONS TAX

SECTION 4D.01. Amends Subtitle E, Title 2, Tax Code, by adding Chapter 163, as follows:

CHAPTER 163. ADMISSION TO EVENTS

Sec. 163.001. SALES TAX. (a) Provides that a tax is imposed on each sale of an admission ticket to an event described by Section 163.002.

(b) Provides that the tax rate is \$1 on the sale of each ticket.

Sec. 163.002. TAXABLE EVENTS. (a) Provides that the tax imposed under Section 163.001 applies to an admission ticket purchased to an event as described by this section other than an event exempted under Section 163.003.

(b) Provides that the tax imposed under Section 163.001 applies to an admission ticket purchased to certain events and locations.

Sec. 163.003. EXEMPTION. Provides that the tax imposed under Section 163.001 does not apply to an admission ticket purchased to an event sponsored, produced, or affiliated with a public or private primary or secondary school or a public or private institution of higher education in this state, including a public junior college, as defined by Section 61.003, Education Code; or if the net proceeds of the event are used only for a charitable purpose.

Sec. 163.004. APPLICATION OF OTHER PROVISIONS OF CODE. Provides that except as provided by this chapter, the tax imposed by this chapter is administered, imposed, collected, and enforced in the same manner as the tax under Chapter 151 is administered, imposed, collected, and enforced; and the provisions of Chapter 151 applicable to the sales tax imposed under Subchapter C, Chapter 151, apply to the tax imposed by this chapter.

Sec. 163.005. ALLOCATION OF TAX. Requires the comptroller to allocate the net revenue from taxes imposed by this chapter to the Texas education fund.

ARTICLE 5. CIGARETTE AND TOBACCO PRODUCTS TAXES

SECTION 5.01. Amends Section 154.021(b), Tax Code, to provide that the tax rates are \$70.50, rather than \$20.50, per thousand on cigarettes weighing three pounds or less per thousand, and the rate provided by Subdivision (1) plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand.

SECTION 5.02. Amends Section 155.021(b), Tax Code, to provide that the tax rates are 3.44 cents, rather than one cent, per 10 or fraction of 10 on cigars weighing three pounds or less per thousand; \$25.80, rather than \$7.50, per thousand on cigars that weigh more than three pounds per thousand and sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each; \$37.84, rather than \$11 per thousand on cigars that weigh more than three pounds per thousand, sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each, and contain no substantial amount of nontobacco ingredients; and \$51.60, rather than \$15, per thousand on cigars that weigh more than three pounds per thousand, sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each, and contain a substantial amount of

nontobacco ingredients.

SECTION 5.03. Amends Section 155.0211(b), Tax Code, to provide that the tax rate for tobacco products other than cigars is 40, rather than 35.213, percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

SECTION 5.04. Effective date, this article: January 1, 2005.

ARTICLE 6. TELECOMMUNICATIONS INFRASTRUCTURE FUND

SECTION 6.01. Amends Section 57.048, Utilities Code, by amending Subsections (c) and (d) and adding Subsections (f)-(i), as follows:

(c) Provides that the total amount deposited to the credit of the fund, excluding interest and loan repayments, may not exceed \$2, rather than \$1.75, billion. Requires the comptroller, not later than August 31 of each year, to determine the total amount, excluding interest and loan repayments, that has been deposited to the credit of the fund during that fiscal year and the preceding fiscal years. Requires the comptroller, if the comptroller determines that a total of \$1.75, rather than \$1.5, billion or more, excluding interest and loan repayments, has been deposited to the credit of the fund, to impose the assessment during the next fiscal year at a rate that the comptroller estimates is sufficient to produce the amount necessary to result in the deposit in the fund of a total of not more than \$2, rather than \$1.75, billion, excluding interest and loan repayments.

(d) Provides that the comptroller may not collect the assessment during a fiscal year if the comptroller determines after the yearly review that the total amount deposited to the credit of the fund during that fiscal year and the preceding fiscal years is \$1.99, rather than \$1.74, billion or more, excluding interest and loan repayments, and it is not possible to impose the assessment during the next fiscal year at a practical rate without collecting more than a total of \$2, rather than \$1.75, billion, excluding interest and loan repayments.

(f) Authorizes a certificated telecommunications utility, notwithstanding any other provision of this title, to recover from the utility's customers an assessment imposed on the utility under this subchapter after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes a certificated telecommunications utility to recover only the amount of the assessment imposed after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes the utility to recover the assessment through a monthly billing process.

(g) Requires the comptroller to publish in the Texas Register the date on which the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion.

(h) Requires a certificated telecommunications utility that wants to recover the assessment under Subsection (f), not later than February 15 of each year, to file with the Public Utility Commission (PUC) an affidavit or affirmation stating the amount that the utility paid to the comptroller under this section during the previous calendar year and the amount the utility recovered from its customers in cumulative payments during that year.

(i) Requires the PUC to maintain the confidentiality of information the commission receives under this section that is claimed to be confidential for competitive purposes. Provides that the confidential information is exempt from disclosure under Chapter 552, Government Code.

SECTION 6.02. Amends Section 57.051, Utilities Code, is amended to read as follows:

Sec. 57.051. SUNSET PROVISION. Provides that the Telecommunications Infrastructure Fund, rather than board, is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, this subchapter expires September 1, 2007, rather than in 2005. Makes conforming changes.

SECTION 6.03. (a) Effective date: Provides that this article takes effect on the date the constitutional amendment proposed by H.J.R. No. 1, 78th Legislature, 4th Called Session, 2004, takes effect.

(b) Provides that if, on the effective date of this article, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, the comptroller shall, effective January 1, 2005, reset the rate of the assessment to 1.25 percent.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. (a) Effective date: Provides that except as otherwise provided by this Act, this Act takes effect January 1, 2005, but only if the constitutional amendment proposed by H.J.R. No. 1, 78th Legislature, 4th Called Session, 2004, is approved by the voters. Provides that if that amendment is not approved by the voters, this Act has no effect.

(b) Provides that this subsection and Section 2B.05 of this Act take effect September 1, 2004, regardless of whether the constitutional amendment proposed by H.J.R. No. 1, 78th Legislature, 4th Called Session, 2004, is approved by the voters.