

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3646
By: Hochberg et al. (Shapiro)
Education
5/22/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, school district state funding is based largely on a formula related to revenue in 2005-2006 or 2006-2007.

The purpose of H.B. 3646 is to return, to the extent possible, to a formula-driven public school finance system that improves equity, reduces recapture, provides increases in educator salaries, and addresses unintended consequences of H.B. 1 passed during the 79th Legislature, 3rd Called Session, 2006.

C.S.H.B. 3646 amends current law relating to public school finance.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.18 (Section 42.160, Education Code) and SECTION 1.19 (Section 42.2516, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 1.09 (Section 39.114, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is rescinded in SECTION 1.19 (Section 42.2516, Education Code) of this bill.

Rulemaking authority is expressly granted to the State Board of Education in SECTION 1.17 (Section 42.1541, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 1.15 (Section 42.152, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. PUBLIC SCHOOL FINANCE

SECTION 1.01. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1331, as follows:

Sec. 12.1331. SALARY INCREASE FOR CERTAIN PROFESSIONAL STAFF. (a) Provides that this section applies to a charter holder that on January 1, 2009, operated an open-enrollment charter school.

(b) Requires each charter holder, beginning with the 2009-2010 school year, to use at least the amount specified in Subsection (c) to increase the salaries of classroom teachers, full-time librarians, full-time counselors, and full-time school nurses employed by the charter holder who would be entitled to the minimum salary under Section 21.402 if employed by a school district.

(c) Provides that the amount required to be used in accordance with Subsection (b) is the greater of the product of \$65 multiplied by the number of students in weighted average daily attendance in the school during the 2009-2010 school year or the product of \$800 multiplied by the number of classroom teachers, full-time

librarians, full-time counselors, and full-time school nurses employed by the charter holder during the 2009-2010 school year who would be entitled to the minimum salary under Section 21.402 if employed by a school district.

(d) Provides that a payment under Subsection (b) is in addition to salary the charter holder would otherwise pay the employees during the school year.

SECTION 1.02. Amends Section 19.007, Education Code, by adding Subsection (g), as follows:

(g) Entitles the district, in addition to other amounts received by the district under this section, to state aid in an amount equal to the greater of:

(1) the product of \$65 multiplied by the number of students in weighted average daily attendance in the district during the 2009-2010 school year; or

(2) the product of \$800 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses who are employed by the district during the 2009-2010 school year and who would be entitled to a minimum salary under Section 21.402 if employed by a school district operating under Chapter 11.

SECTION 1.03. Amends Section 19.009, Education Code, by adding Subsection (d-2), as follows:

(d-2) Requires the district, beginning with the 2009-2010 school year, to use the amount received by the district under Section 19.007(g) to increase the salaries of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses who are employed by the district and who would be entitled to a minimum salary under Section 21.402 if employed by a school district operating under Chapter 11. Provides that a payment under this subsection is in addition to salary the district would otherwise pay the employees during the school year.

SECTION 1.04. Amends Section 21.402, Education Code, by amending Subsections (a) and (d) and adding Subsections (c-1), (c-2), (c-3), and (c-4), as follows:

(a) Sets forth the components of the formula used to compute the minimum monthly salary of each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B (Certification of Educators), or full-time school nurse.

(c-1) Requires each school district, beginning with the 2009-2010 school year, to use at least the amount specified in Subsection (c-2) to increase the salaries of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, and full-time school nurses employed by the district.

(c-2) Provides that the amount required to be used in accordance with Subsection (c-1) is the greater of:

(1) the product of \$65 multiplied by the number of students in weighted average daily attendance in the district during the 2009-2010 school year; or

(2) the product of \$800 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, and full-time school nurses employed by the district during the 2009-2010 school year.

(c-3) Provides that an increase in salary under Subsection (c-1) does not include:

(1) any amount an employee would have received for the 2009-2010 school year under the district's salary schedule for the 2008-2009 school year, if that schedule had been in effect for the 2009-2010 school year, including any local supplement the employee would have received in the 2009-2010 school year; or

(2) any part of the salary to which an employee is entitled under Subsection (a).

(c-4) Provides that Subsections (c-1), (c-2) and (c-3) and this subsection expire September 1, 2010.

(d) Entitles a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse employed by a school district in the 2009-2010, rather than 2006-2007, school year, as long as the employee is employed by the same district, to a salary that is at least equal to the salary the employee received for the 2009-2010 school year. Makes a conforming change.

SECTION 1.05. Amends Section 21.415(a), Education Code, to require a school district to provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Subchapter O, rather than N or O, if the district participates in the program.

SECTION 1.06. Amends Section 21.703(a), Education Code, as follows:

(a) Requires the Texas Education Agency (TEA), each state fiscal year, to use the funds in the educator excellence fund to provide a qualifying school district a grant in an amount determined by:

(1) dividing the amount of money, rather than remaining money, available for distribution in the educator excellence fund by the total number of students in average daily attendance in qualifying districts for that fiscal year; and

(2) multiplying the amount determined under Subdivision (1), rather than Paragraph (A), by the number of students in average daily attendance in the district.

Deletes existing text requiring TEA to use not more than \$100 million of the funds in the educator excellence fund to provide grant awards under the awards for student achievement program established under Subchapter N. Makes nonsubstantive changes.

SECTION 1.07. Amends Section 21.706(a), Education Code, as follows:

(a) Requires TEA, using funds from the educator excellence fund created under Section 21.703, to conduct or contract with another entity to conduct a comprehensive evaluation of the program, rather than the awards for student achievement program established under Subchapter N and the educator excellence awards program established under this subchapter. Makes a nonsubstantive change and conforming changes.

SECTION 1.08. Amends the heading to Section 39.114, Education Code, to read as follows:

Sec. 39.114. USE OF HIGH SCHOOL ALLOTMENT.

SECTION 1.09. Amends Sections 39.114(a), (b), and (d), Education Code, as follows:

(a) Requires a school district or campus, except as provided by Subsection (b), to use funds allocated under Section 42.160, rather than 42.2516(b)(3), to implement certain programs.

(b) Makes a conforming change.

(d) Requires the commissioner of education (commissioner) to adopt rules to administer this section. Deletes existing text to include rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

SECTION 1.10. Amends Section 41.002(a), Education Code, as follows:

(a) Prohibits a school district from having a wealth per student that exceeds:

(1) \$470,000, rather than the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district at the 88th percentile in wealth per student, for the district's maintenance and operations tax effort equal to or less than the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District (AISD), as determined by the commissioner in cooperation with the Legislative Budget Board (LBB), for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 1.11. Amends Section 41.093(b-1), Education Code, as follows:

(b-1) Requires the commissioner, if the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302(a-1)(1), rather than 42.302(a-1)(2), for which state funds are appropriated for a school year is an amount at least equal to the amount of revenue per weighted student per cent of tax effort available to the AISD, as determined by the commissioner in cooperation with LLB, in computing the amounts described by Subsections (a)(1) (relating to the amount of the district's maintenance and operations tax revenue per student) and (2) (relating to the amount of the statewide district average of maintenance and operations tax revenue per student) and determining the cost of an attendance credit, to exclude maintenance and operations tax revenue resulting from the first six cents a district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 1.12. Amends Subchapter A, Chapter 42, Education Code, by adding Section 42.008, as follows:

Sec. 42.008. **LIMITATION ON REVENUE INCREASES.** (a) Provides that notwithstanding any other provision of this title, a school district is not entitled in any school year to receive an amount of state and local maintenance and operations revenue per student in weighted average daily attendance that exceeds by more than six percent the amount of state and local maintenance and operations revenue per student in weighted average daily attendance received by the district during the preceding school year.

(a-1) Provides that Subsection (a) applies beginning with the 2010-2011 school year. Provides that for the 2009-2010 school year, a school district is not entitled to receive an amount of state and local maintenance and operations revenue per student in weighted average daily attendance that exceeds by more than six percent the amount of state and local maintenance and operations revenue per student in weighted average daily attendance that the district would have received during that year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the

district for the 2005 tax year. Provides that this subsection expires September 1, 2010.

(b) Provides that enrichment revenue to which a school district is entitled under Section 42.302 is not included for purposes of determining the limitation imposed by this section.

(c) Requires the commissioner to make adjustments to amounts due to a school district under this chapter or amounts required for a district to comply with Chapter 41 as necessary to comply with the limitation imposed by this section.

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

SECTION 1.13. Amends Section 42.101, Education Code, as follows:

Sec. 42.101. BASIC ALLOTMENT. (a) Creates this subsection from existing text. Entitles a district, for each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, to an allotment equal to the lesser of \$4,700 or the amount that results from a formula, rather than in an amount equal to the product of the amount per student per cent of tax effort available to a district at the percentile in wealth per student specified by Section 42.302(a-1)(1), multiplied by 86. Sets forth the components of the formula.

(b) Creates this subsection from existing text.

SECTION 1.14. Amends Section 42.106, Education Code, as follows:

Sec. 42.106. New heading: TUITION ALLOTMENT FOR DISTRICTS NOT OFFERING ALL GRADE LEVELS. Entitles a school district that contracts for students residing in the district to be educated in another district under Section 25.039(a) (relating to providing by contract for students residing in the district who are at grade levels not offered by the district) to receive an allotment equal to the total amount of tuition required to be paid by the district under Section 25.039 (Contracts and Tuition for Education Outside District), rather than for the school year for which the adjustment is made, not to exceed the amount specified by commissioner rule under Section 25.039(b) (relating to requiring the school district in which the students reside to pay tuition to any district with which it has a contract). Deletes existing text setting forth the components of the formula to determine the taxable value of a property of a school district that contracts for students residing in the district to be educated in another district.

SECTION 1.15. Amends Section 42.152(c), Education Code, as follows:

(c) Authorizes specifically, the funds, other than an indirect cost allotment established under State Board of Education (SBOE) rule, which are prohibited from exceeding 45, rather than 15, percent, to be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or an alternative education program established under Section 37.008 (Disciplinary Alternative Education Programs) or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged.

SECTION 1.16. Amends Section 42.154(a), Education Code, as follows:

(a) Provides that for each full-time equivalent 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:

(1) an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and

(2) \$50, if the student is enrolled in two or more advanced career and technology education classes for a total of three or more credits; or an advanced course as part of a tech-prep program under Subchapter T, Chapter 61. Makes a nonsubstantive change.

SECTION 1.17. Amends Subchapter C, Chapter 42, Education Code, by adding Section 42.1541, as follows:

Sec. 42.1541. **INDIRECT COST ALLOTMENTS.** (a) Requires SBOE by rule to increase the indirect cost allotments established under Sections 42.151(h) (relating to funds being used in the special education program), 42.152(c) (relating to funds being used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments), 42.153(b) (relating to funds being used in providing bilingual education or special language programs), and 42.154(a-1) (relating to developing and implementing a pilot program) and (c) (relating to funds being used in providing career and technology education programs in grades nine through 12) and in effect for the 2008-2009 school year as necessary to reflect the increased percentage of total maintenance and operations funding represented by the basic allotment under Section 42.101 as a result of amendment of that section by H.B. No. 3646, Acts of the 81st Legislature, Regular Session, 2009.

(b) Requires SBOE to take the action required by Subsection (a) not later than the date that permits the increased indirect cost allotments to apply beginning with the 2009-2010 school year.

(c) Provides that this section expires September 1, 2010.

SECTION 1.18. Amends Subchapter C, Chapter 42, Education Code, by adding Section 42.160, as follows:

Sec. 42.160. **HIGH SCHOOL ALLOTMENT.** (a) Provides that a school district is entitled to an annual allotment of \$275 for each student in average daily attendance in grades 9 through 12 in the district.

(b) Provides that a school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of the allotments to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits. Entitles a school district that is otherwise ineligible for state aid under this chapter to receive allotments under this section.

(c) Entitles an open-enrollment charter school to an allotment under this section in the same manner as a school district.

(d) Requires the commissioner to adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

SECTION 1.19. Amends Section 42.2516, Education Code, as follows:

Sec. 42.2516. **ADDITIONAL STATE AID FOR TAX REDUCTION.** (a) Makes no changes to this subsection.

(b) Entitles a school district, notwithstanding any other provision of this title, that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations

tax rate adopted by the district for the 2005 tax year, to at least the amount of state revenue necessary to provide the district with the sum of:

(1) as calculated under Subsection (e), the amount of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) an amount equal to the product of \$135 multiplied by the number of students in weighted average daily attendance in the district;

(3) an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n) (relating to reducing certain school district's taxable value accordance with Section 403.302(d)(5), Government Code), Tax Code, in the current tax year; and

(4) any amount to which the district is entitled under Section 42.106.

(c) Provides that enrichment revenue to which a school district is entitled under Section 42.302 is not included for purpose of determining the amount to which a district is entitled under this section.

(d) Requires the commissioner, in determining the amount to which a district is entitled under Subsection (b)(1), to include any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year.

(e) Requires the commissioner, for purposes of determining the total amount of state and local revenue to which a district is entitled under Subsection (b)(1), to determine the amount of state and local revenue per student in weighted average daily attendance to which the district would have been entitled during the 2009-2010 school year under Chapter 41 and this chapter, as they existed on January 1, 2009, and multiply that amount by the number of students in weighted average daily attendance as determined in accordance with the changes to Chapter 41 and this chapter, including the repeal of former Section 42.103(e), made by H.B. No. 3646, Acts of the 81st Legislature, Regular Session, 2009.

(f) Authorizes a school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section to receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D, Chapter 41, or the total number of nonresident students required to be educated under Subchapter E, Chapter 41, as determined by the commissioner.

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

(h) Provides that a determination by the commissioner under this section is final and is prohibited from being appealed.

Deletes existing Subsection (a-1), providing that Subsection (a) applies beginning with the state fiscal year ending August 31, 2009. Deletes existing text providing that for the state fiscal year ending August 31, 2007, the state compression

percentage is 88.67 percent. Deletes existing text providing that for the state fiscal year ending August 31, 2008, the state compression percentage is 66.67 percent. Deletes existing text providing that this subsection expires September 1, 2009.

Deletes existing Subsection (b), entitling a school district, subject to Subsections (b-1), (b-2), (f-1), (g), and (h) but notwithstanding any other provision of this title, to state revenue necessary to provide the district with the sum of the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in the amount equal to the greater of the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year; the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate adopted by the district for the 2005 tax year; or the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate equal to the rate described by Section 26.08(i) (relating to the effective maintenance and operations tax rate of a school district) or (k)(1) (relating to the sum of the effective maintenance and operations tax rate of the district), Tax Code, as applicable, for the 2006 tax year; an amount equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and an amount equal to the product of \$275 multiplied by the number of students in average daily attendance in grades nine through 12 in the district.

Deletes existing Subsection (b-1), providing that the amount determined for a school district under Subsection (b) is increased or reduced as follows:

(1) if for any school year the district is entitled to a greater allotment under Section 42.158 (New Instructional Facility Allotment) than the allotment to which the district was entitled under that section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Section 42.158 for that school year and the amount to which the district was entitled under that section for the 2005-2006 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(A), or the 2006-2007 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(B) or (C); and

(2) if for any school year the district is not entitled to an allotment under Section 42.158 or is entitled to a lesser allotment under that section than the allotment to which the district was entitled under that section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Section 42.158 for the 2005-2006 or 2006-2007 school

year as appropriate based on whether the district's entitlement under Subsection (b) is determined under Subsection (b)(1)(A), (B), or (C), and the amount to which the district is entitled under Section 42.158 for the current school year.

Deletes existing Subsection (b-2), providing that the amount determined for a school district under Subsection (b) is increased or reduced as follows:

(1) if for any school year the district is entitled to a greater allotment under Section 42.155 (Transportation Allotment) or greater additional state aid under Section 42.2515 (Additional State Aid for Ad Valorem Tax Credits Under Texas Economic Development Act), than the allotment or additional state aid to which the district was entitled under Section 42.155 or 42.2515 as applicable, for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Section 42.155 or 42.2515, as applicable, for that school year and the amount to which the district was entitled under the applicable section, as applicable, for the 2005-2006 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(A); or the 2006-2007 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(B) or (C); and

(2) if for any school year the district is not entitled to an allotment under Section 42.155 or additional state aid under Section 42.2515 or is entitled to a lesser allotment or less additional state aid under the applicable section than the allotment or additional state aid to which the district was entitled under the applicable section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Section 42.155 or 42.2515, as applicable, for the 2005-2006 or 2006-2007 school year, as appropriate based on whether the district's entitlement under Subsection (b) is determined under Subsection (b)(1)(A), (B), or (C), and the amount to which the district is entitled under the applicable section for the current school year.

Deletes existing Subsection (c) requiring the commissioner, in determining the amount to which a district is entitled under Subsection (b)(1), to include:

(1) any amounts described by Rider 69, page III-19, Chapter 1369, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act);

(2) for a school district that received additional revenue for the 2005-2006 school year as a result of an agreement under Subchapter E, Chapter 41: if the amount of state revenue to which the district is entitled under Subsection (b) is computed based on the amount described by Subsection (b)(1)(A), the amount of that additional revenue retained by the district for the 2005-2006 school year, which is the amount by which the total maintenance and operations revenue available to the district for that school year exceeded the total maintenance and operations revenue that would have been available to the district for that school year if the district had not entered into the agreement, less any amount the district paid to another entity under the agreement; or if the amount of state revenue to which the district is entitled under Subsection (b) is computed based on the amount described by Subsection (b)(1)(B) or (C), the amount of the additional revenue that would have been retained by the district for the 2006-2007 school year if the district had entered into the agreement on the same terms as under the agreement for the 2005-2006 school year, which is the

amount by which the total maintenance and operations revenue that would have been available to the district for the 2006-2007 school year if the district had entered into the agreement exceeds the total maintenance and operations revenue that would have been available to the district for that school year if the district had not entered into the agreement and had imposed a maintenance and operations tax at the rate of \$1.50 on the \$100 valuation of taxable property, less any amount the district would have paid to another entity under the agreement;

(3) any amount necessary to reflect an adjustment made by the commissioner under Section 42.005 (Average Daily Attendance);

(4) any amount necessary to reflect an adjustment made by the commissioner under Section 42.2521; and

(5) any amount necessary to reflect an adjustment made by the commissioner under Section 42.2531 (Additional State Aid for Staff Salary Increases).

Deletes existing Subsection (d), requiring the commissioner, if, for the 2006-2007 or a subsequent school year, a school district enters into an agreement under Subchapter E, Chapter 41, to reduce the amount of state revenue to which the district is entitled under Subsection (b) for that school year by an amount equal to any additional revenue for that school year that the district receives and retains as a result of that agreement, which is the amount by which the total maintenance and operations revenue available to the district exceeds the total maintenance and operations revenue that would have been available to the district if the district had not entered into the agreement and had imposed a maintenance and operations tax at the maximum rate permitted under Section 45.003(d), less any amount the district pays to another entity under the agreement.

Deletes existing Subsection (e), providing that the amount of revenue to which a school district is entitled because of the technology allotment under Section 32.005 (Technology Allotment) is not included in making a determination under Subsection (b)(1).

Deletes existing Subsection (f), requiring the commissioner, for purposes of determining the amount of revenue to which a school district is entitled under this section, to use the average tax collection rate for the district for the 2003, 2004, and 2005 tax years.

Deletes existing Subsection (f-1), requiring the commissioner, in accordance with rules adopted by the commissioner, to adjust the amount of a school district's local revenue derived from maintenance and operations tax collections, as calculated for purposes of determining the amount of state revenue to which the district is entitled under this section, if the district, for the 2007 tax year or a subsequent tax year:

(1) adopts an exemption under Section 11.13(n) (relating to an individual being entitled to an exemption from taxation by a taxing unit), Tax Code, that was not in effect for the 2005 or 2006 tax year, or eliminates an exemption under Section 11.13(n), Tax Code, that was in effect for the 2005 or 2006 tax year;

(2) adopts an exemption under Section 11.13(n), Tax Code, at a greater or lesser percentage than the percentage in effect for the district for the 2005 or 2006 tax year;

(3) grants an exemption under an agreement authorized by Chapter 312 (Property Development and Tax Abatement Act), Tax Code, that was not in effect for the 2005 or 2006 tax year, or ceases to grant an exemption

authorized by that chapter that was in effect for the 2005 or 2006 tax year;
or

(4) agrees to deposit taxes into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan that was not in effect for the 2005 or 2006 tax year, or ceases depositing taxes into a tax increment fund created under that chapter under a reinvestment zone financing plan that was in effect for the 2005 or 2006 tax year.

Deletes existing Subsection (f-2), requiring the rules adopted by the commissioner under Subsection (f-1) to require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1)-(4), on the total state revenue to which the district would be entitled or the cost of the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b) that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

Deletes existing Subsection (f-3), providing that an adjustment made by the commissioner under the rules adopted under Subsection (f-1) is final and prohibited from being repealed.

Deletes existing Subsection (g), requiring the commissioner, if a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, to reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year.

Deletes existing Subsection (h), requiring the commissioner, notwithstanding any other provision of this title, if the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district in a school year as a result of the increases to the equalized wealth level under Section 41.002, the basic allotment under Section 42.101, and the guaranteed level under Section 42.302 made by H.B. No. 1, Acts of the 79th Legislature, 3rd Called Session, 2006, exceeds the amount to which a district is entitled under Subsection (b) for that school year, to reduce the amount of state aid provided to the district for that school year in an amount equal to the excess revenue, as determined by the commissioner, or for a district with a wealth per student greater than the applicable amount described by Section 41.002(a), require the district to purchase a number of attendance credits for that school year at a cost equal to the amount of excess revenue, as determined by the commissioner.

Deletes existing Subsection (i), authorizing a school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level and that is entitled to state revenue under this section to receive that revenue through an adjustment against the total amount of attendance credits required to be purchased under Subchapter D, Chapter 41, or the total number of nonresident students required to be educated under Subchapter E, Chapter 41, as determined by the commissioner.

Deletes existing Subsection (j), prohibiting the commissioner, if a school district reduces its maintenance and operations tax rate by an amount less than the rate equal to the product of the difference between the state compression percentage for the preceding year and the state compression percentage for the year of the reduction, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, from reducing the amount to which the district is

entitled under this section on the basis of the additional revenue collected by the district.

Deletes existing Subsection (k), authorizing the commissioner to adopt rules necessary to administer this section.

Deletes existing Subsection (l), providing that a determination by the commissioner under this section is final and is prohibited from being appealed.

SECTION 1.20. Amends Section 42.252(a), Education Code, to set forth a formula that determines each school district's share of the Foundation School Program. Redefines "TR" and "DPV."

SECTION 1.21. Amends Section 42.253, Education Code, by adding Subsection (c-1), as follows:

(c-1) Requires that the amounts to be paid under Section 42.2516(b)(3) be paid at the same time as other state revenue is paid to the district. Requires that payments be based on amounts paid under Section 42.2516(b)(3) for the preceding year. Requires that any deficiency be paid to the district at the same time the final amount to be paid to the district is determined, and any overpayment be deducted from the payments the district would otherwise receive in the following year.

SECTION 1.22. Amends Section 42.260(a), Education Code, to redefine "participating charter school."

SECTION 1.23. Amends Sections 42.302(a), (a-1), and (a-2), Education Code, as follows:

(a) Provides that each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. Redefines "WADA."

(a-1) Defines "wealth per student." Provides that for purposes of Subsection (a), the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") for a school district is:

(1) the greater of the amount of district tax revenue per weighted student per cent of tax effort that would be available to the Austin Independent School District, as determined by the commissioner in cooperation with LBB, if the reduction of the limitation on tax increases as provided by Section 11.26(a-1), (a-2), or (a-3), Tax Code, did not apply, or the amount of district tax revenue per weighted student per cent of tax effort used for purposes of this subdivision in the preceding school year, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, rather than under Section 42.2516 and notwithstanding the limitation on district enrichment tax rate ("DTR") under Section 42.303, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

(2) \$31.95, for the district's maintenance and operations tax effort that exceeds the amount of tax effort described by Subdivision (1), rather than Subdivision (2). Makes a nonsubstantive change.

Deletes existing Subdivision (2) designation. Deletes existing text providing that for purposes of Subsection (a), the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") for a school district is the amount of district tax revenue per weighted student per cent of tax effort available to a district at the 88th percentile in wealth per student, as determined by the commissioner in cooperation with the Legislative Budget Board, for the district's maintenance and operations tax effort equal to or less than the rate equal

to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 school year. Deletes existing Subdivision (3) designation.

(a-2) Provides that the limitation on district enrichment tax rate ("DTR") under Section 42.303 does not apply to the district's maintenance and operations tax effort described by Subsection (a-1)(1), rather than (a-1)(2).

SECTION 1.24. Amends Section 42.303, Education Code, as follows:

Sec. 42.303. LIMITATION ON ENRICHMENT TAX RATE. Prohibits the district enrichment tax rate ("DTR") under Section 42.302 from exceeding the amount per \$100 of valuation by which the maximum rate permitted under Section 45.003 (Bond and Tax Elections) exceeds the rate used to determine the district's local share under Section 42.252, rather than of \$0.86, or a greater amount for any year provided by appropriation.

SECTION 1.25. Amends Chapter 42, Education Code, by adding Subchapter I, as follows:

SUBCHAPTER I. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL FINANCE WEIGHTS AND ADJUSTMENTS

Sec. 42.451. SELECT COMMITTEE ON PUBLIC SCHOOL FINANCE WEIGHTS AND ADJUSTMENTS. (a) Provides that the Select Committee on Public School Finance Weights and Adjustments (committee) is established to conduct a comprehensive review of weights and adjustments under the public school finance system.

(b) Sets forth the composition of the committee.

(c) Requires the governor, lieutenant governor, and speaker of the house of representatives to make the appointments required by Subsection (b) in a timely fashion to permit the committee to comply with Section 42.452(a).

Sec. 42.452. COMMITTEE MEETINGS. (a) Requires the committee, not later than October 1, 2009, to hold an organizational meeting.

(b) Requires the lieutenant governor and speaker of the house of representatives to each appoint a committee member to serve as co-chair.

(c) Requires that committee meetings be held at the call of the co-chairs.

Sec. 42.453. COMPENSATION AND REIMBURSEMENT. (a) Entitles a member of the committee to reimbursement for actual and necessary expenses incurred in performing committee duties.

(b) Entitles a legislative member of the committee to reimbursement from the appropriate fund of the house of the legislature in which the member serves.

(c) Entitles a member other than a legislative member to reimbursement from funds appropriated to the committee.

Sec. 42.454. COMMITTEE STAFF. (a) Authorizes the co-chairs of the committee to appoint a committee director and staff to support the work of the committee.

(b) Requires that the director and staff members are employees of the Texas Legislative Council and be paid from funds appropriated to the council for the committee's operations.

(c) Authorizes the committee to contract with one or more consultants if necessary to enable the committee to perform its duties under this subchapter.

Sec. 42.455. CONDUCT OF REVIEW. (a) Requires the committee to conduct public hearings throughout the state and solicit testimony about the weights and adjustments under the finance system from parents of public school children and other interested persons. Requires that at least one public hearing be held at a public school during a time that public school students are able to attend the hearing.

(b) Requires the commissioner to ensure that the committee has access to any documentation and agency personnel the committee requests.

(c) Requires LBB, the comptroller, the state auditor, and any other state agency, official, or personnel to cooperate with the committee in carrying out its duties under this subchapter.

(d) Authorizes the committee to coordinate the review under this subchapter with any other legislative study, as appropriate.

Sec. 42.456. REPORT. (a) Requires the committee, not later than December 1, 2010, to provide a report that states the findings of the review conducted under this subchapter, and includes any recommendations for statutory changes.

(b) Requires that the report be approved by a majority of the committee members. Authorizes a member who disagrees with any part of the report to attach a dissenting statement to the report.

Sec. 42.457. EXPIRATION. Provides that this subchapter expires January 11, 2011.

SECTION 1.26. Amends Section 46.033, Education Code, as follows:

Sec. 46.033. ELIGIBLE BONDS. Provides that bonds, including bonds issued under Section 45.006 (Maintenance Tax Required for Judgment Ordering Ad Valorem Tax Refund; Bonds), are eligible to be paid with state and local funds under this subchapter if the district made payments on the bonds during the final school year, rather than the 2006-2007 school year, of the preceding state fiscal biennium 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; and the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

SECTION 1.27. Amends Section 46.034(c), Education Code, to make a conforming change.

SECTION 1.28. Amends Sections 403.302(d), (i), and (j), Government Code, as follows:

(d) Redefines "taxable value."

(i) Requires the comptroller, if the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, in determining the taxable value of property in the school district under Subsection (d), for purposes of Subsection (d)(13) (relating to the portion of the appraised value of property the collection of delinquent taxes on which is deferred), rather than Subsection (d)(14) (relating to the amount by which the market value of a residence homestead exceeds the appraised value of that property), to subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23 (Limitations on Appraised Value of Residence Homestead), Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. Makes a conforming change.

(j) Requires the comptroller, for purposes of Chapter 42, rather than Section 42.2511 (Additional State Aid for Homestead Exemption), Education Code, to certify to the commissioner certain information.

SECTION 1.29. Amends Section 311.013(n), Tax Code, to provide that this subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4), rather than Subdivision (5), of that subsection. Requires the district, in addition to the amount otherwise required to be paid into the tax increment fund, to pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. Deletes existing text requiring the district, in addition to the amount otherwise required to be paid into the tax increment fund, to pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction, not to exceed the amount the school district realizes from the reduction in the school district's taxable value under Section 403.302(d)(5), Government Code.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Section 29.097(g), Education Code, to provide that for purposes of Subsection (f)(2), a school district is encouraged to use funds allocated under Section 42.160, rather than 42.2516(b)(3).

SECTION 2.02. Amends Section 29.098(h), Education Code, to make a conforming change.

SECTION 2.03. Amends Section 29.918(a), Education Code, to make a conforming change.

SECTION 2.04. Amends Section 29.919(e), Education Code, to make a conforming change.

SECTION 2.05. Amends Section 822.201(b), Government Code, to redefine "salary and wages."

SECTION 2.06. Amends Section 1579.251(a), Insurance Code, to require that the state contribution be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools as provided by Section 42.260, rather than Sections 42.2514 and 42.260, Education Code.

SECTION 2.07. Amends Section 1581.053(b), Insurance Code, to provide that, notwithstanding Subsection (a) (relating to authorizing a school district or participating charter school to use state funds), amounts a district or school is required to use to pay contributions under a group health coverage plan for district or school employees under Section 42.260, rather than Section 42.2514 or 42.260, Education Code, other than amounts described by Section 42.260(c)(2)(B) (relating to funding amounts to pay contributions under a group health coverage plan), are not used in computing whether the district or school complies with Section 1581.052 (Required Minimum Effort).

ARTICLE 3. REPEALER; MISCELLANEOUS; EFFECTIVE DATE

SECTION 3.01. (a) (1) Repealer: Subchapter N (Awards for Student Achievement Program), Chapter 21 (Educators), Education Code;

(2) Repealer: Section 21.704(b) (relating to the authorization of a campus incentive plan), Education Code;

(3) Repealer: Section 39.114(c), Education Code;

(4) Repealers: Sections 42.103(e) (relating to the authorization that the commissioner make adjustments only if the district's wealth per student does not exceed the equalized wealth level under Section 41.002), 42.2511 (Additional State Aid for Homestead Exemption), 42.2512 (Additional State Aid for Professional Staff Salaries), and 42.2514 (Additional State Aid for School Employee Benefits), Education Code.

(b) Repealer: Subchapter C (State Assistance for Meeting Minimum Effort), Chapter 1581, Insurance Code.

(c) Repealer: Section 2, Chapter 1191 (H.B. 828), Acts of the 80th Legislature, Regular Session, 2007 (relating to the computation of certain amounts under the Foundation School Program).

SECTION 3.02. Provides that to the extent of any conflict, this Act prevails over S.B. No. 1969, Acts of the 81st Legislature, Regular Session, 2009.

SECTION 3.03. (a) Provides that notwithstanding any other provision of this Act, Sections 12.1331, 19.007(g), 19.009(d-2), and 21.402(c-1), Education Code, as added by this Act, are expressly contingent on a determination by the commissioner of education that payment of salary increases required by or associated with those sections are allowable uses of federal funds received by school districts and open-enrollment charter schools under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and appropriated as part of the Foundation School Program. Prohibits the commissioner from making a determination under this subsection until the state's application to spend funds under the American Recovery and Reinvestment Act of 2009 has been approved by the United States government. Requires the commissioner to promptly notify school districts and open-enrollment charter schools of that determination. Provides that a determination by the commissioner under this subsection is final and may not be appealed.

(b) Authorizes a school district or open-enrollment charter school to enter into an employment contract or agreement that is contingent on a determination of the commissioner under Subsection (a) of this section.

SECTION 3.04. Requires that the provisions of Section 42.2516(b)(3), Education Code, as amended by this Act, applies as if that subdivision were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a school district under that subdivision for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, are required to be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code.

SECTION 3.05. Effective date: upon passage or September 1, 2009.