



The Texas Plan: Part 2

Examining Texas Public Schools Facilities Funding



Equity Center

Students Matter. Taxpayers Matter. Equity Matters.



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The Equity Center was founded in 1982 by 55 school districts and now represents more than 600 of the state's 1,018 districts. We are the only non-profit education organization in Texas exclusively representing the interests of children and taxpayers across the state. Fair treatment of Texas children and taxpayers is our primary goal and our vision is simple: **Students Matter. Taxpayers Matter. Equity Matters.**

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BACKGROUND & PURPOSE

Historically, state funding assistance for the construction and renovation of public school facilities has primarily been a local property taxpayer responsibility through an Interest & Sinking (I&S) tax rate. While districts could legally use certain state funds to make debt payments, it came at the expense of the Maintenance and Operations (M&O) budget. For example, the state allowed the use of funds from the per capita distribution from the Available School Fund for both M&O and I&S, but using those funds for debt payments resulted in a corresponding reduction in funds available for the M&O budget.

With significant disparities in taxable wealth available to districts, some could build first-rate facilities and pay for them with only a few pennies of an I&S tax rate. At the same time, and potentially next door, another less-fortunate district might build only rudimentary, inadequate facilities at significantly higher I&S tax rates or be forced to forego building improvements.

Beginning in 1984 with House Bill (HB) 72, a landmark legislative improvement in foundation school funding, the state began to specifically build facilities capability into the Enrichment Equalization Allotment, which districts could use for both I&S and M&O purposes. However, having the legal ability to use EEA funding in this manner did not make limited funding sufficient for both M&O and I&S purposes.

Over the following decade, the state authorized many interim studies to come up with a method of providing state assistance for facilities. Regardless of recommendations, the state could not get out of the state facilities funding rut, except for a few improvements here and there. All through these years, while the legislature liberally made it *allowable* to use state funds for debt payments, there were no state funds *allocated explicitly* for facilities; what funding was available always came at the expense of M&O funds.

Despite the Texas Supreme Court ruling, this tendency led to the belief that an efficient state funding system must include equalized funding for facilities. Then, in 1995, a significant change occurred when the state added a new School Facilities Assistance Program which dedicated state grants to the purchase and construction of instructional facilities. In the following session (1997), the state replaced this limited

system with the first Instructional Facilities Allotment (IFA). While still lacking in many respects, the IFA program was a significant improvement, but far less than the new version of IFA adopted in 1999. The state also created a new Existing Debt Allotment (EDA) that addressed facilities debt not covered by the IFA. This combination of EDA and IFA was a sea-change from previous legislative efforts, except for a vast backslide in which the state excused wealthy districts from any recapture obligation, resulting in a substantial loss of the efficiency that IFA and EDA offered.

Although the state continued to make small, though essential improvements through the 2009 legislative session, further improvements came to an almost complete standstill for the next ten years. Specifically, funding for new IFA projects almost completely stopped (one appropriation out of ten years). Furthermore, the state has not increased the funding level from the original \$35 per ADA (per penny of tax effort) guaranteed yield level, despite a growing student population and ever-rising costs of land purchases and facilities constructions, other than a \$3.10 increase in the guaranteed yield level in the 2017 legislative session.

In its current form, low- and mid-wealth districts, especially those that are fast-growth, are being pushed to higher and higher I&S tax rates. The combination of M&O tax rates comparable to other districts and especially onerous I&S tax rates is unfair to these districts. The current system has also become increasingly inefficient and inequitable in that districts within the system must tax at the \$0.50 attorney general's I&S tax cap in order to fund what the very wealthy districts can do with a much lower tax rate.

Due to these shortcomings, the Equity Center put together a small study group of school finance practitioners to develop the next step in facilities funding and, hopefully, the much-needed companion to the 2019 session's HB 3 Texas Plan. In the resulting "Texas Plan, Part Two" contained in this report, the study group numerates the significant problems in the current IFA/EDA system and presents a series of efficient, cost-based, and common-sense solutions.

We encourage interested parties to read the detailed report to learn important foundational specifics not included in this *Background & Purpose*, and examine the thoughtful changes the study group recommends to the Equity Center Board of Directors for inclusion in its 2021 Legislative Priorities Plan. The following is a brief synopsis.

The new facilities funding program should include these elements:

1. Do no harm during implementation process.
2. Continue allowing local boards to determine scope of projects, and local voters to ratify selected projects.
3. Replace EDA and IFA with a single, simplified, encompassing funding system.
4. Remove arbitrary caps on number of equalized I&S pennies (i.e. \$0.29 limit on EDA, and limiting portion of an I&S tax rate equalized by the EDA to the rate of the last year of the previous biennium).
5. Create full partnership of state and local funding; no biennial lags.
6. Ensure every new state dollar results in a dollar of tax relief so legislators can justify any cost increase to their constituents.
7. Create dynamic funding level to keep pace with student growth and associated costs.
8. Make the new Texas Plan consistent, dependable, transparent, and taxpayer-friendly.
9. Remove funding surprises that reduce the state's share of responsibility at the expense of a more significant burden on the shoulders of Texas taxpayers.
10. Ensure districts can fully depend on the state delivering 100% of its share.
11. Simplify the funding formula so people can understand it.
12. Provide appropriate avenues to phase in provisions due to current financial climate.

The improvements here are significant but incomplete. The following report provides greater detail and additional elements to consider.

HISTORICAL OVERVIEW: STATE FACILITIES FUNDING -PRE IFA & EDA

The cost of public school facilities has always primarily been a local burden. Although the state allowed districts a relatively unrestricted use of funding from the Available School Fund per capita distribution (ASF), including for facilities, there was no direct link between the funding amount and district bond payments. It was merely that a district could legitimately spend ASF funding in that manner if it chose to do so. However, it would be a stretch to suggest these limited resources constituted “state funding” of public school facilities. As Thomas and Walker wrote, as of 1982, Texas had not provided state funding for facilities.¹

This almost total weight on the local taxpayers’ shoulders began to ease when HB 72, 68th Texas Legislature, 2nd Called session, passed and was signed into law July 13, 1984. Section 16.157 of the Texas Education Code (Enrichment Equalization Allotment, or EEA) was amended by HB 72 to include a complex ratio multiplier that could, if beneficial to the district, include a district’s I&S effective tax rate.² However, any extra funding was simply a part of a district’s EEA that could be used for bond payments, M&O, or both. In short, a district might get additional state funding if its I&S tax rate was sufficiently high compared to the state average. Still, there was no specific provision for state funding for facilities.

In the decade after HB 72, a blue-ribbon task force, interim study committees, and other task forces recommended facilities funding in one manner or another, usually in the form of a separate guaranteed yield system. The legislature did not act on these suggestions, but these efforts produced ideas that would eventually take root.

In 1989, the powerful backing of the Permanent School Fund (School Bond Guarantee Program (BGP), which continues today), became generally available for all Texas school district bond debts due to Senate Joint Resolution (SJR) 53 and Senate Bill (SB) 951 by Senator Bill Haley and Representative Paul Colbert.³

The BGP, using the corpus of the Permanent School Fund (PSF), guarantees bonds issued by a school district or charter school. The PSF guarantee receives “AAA” ratings from the major bond rating services and replaces the need for private bond insurance.⁴ The resulting triple-A rating reduces the interest rate associated with school bond debt, saving districts and charter schools money they would otherwise have to raise.⁵ The absence of any need for private bond insurance also lowers district and charter costs. A third factor that positively affects bond buyers is that, in a favorable bond election, voters authorize school boards to set an I&S tax rate sufficient, with other available funding, to make the required bond payments. The gains were significant but came up far short of providing adequate funding for the level of facilities needed.

That same legislative session, SB 1019 (71st Legislature) created the current Tier 2 guaranteed yield structure for enrichment funding, and expressly allowed the funding to be used “for capital outlay and debt service” (Sec. 16.301). SB 1019 provided only marginal improvements in what state money would be available for facilities construction. Again, no dedicated state facilities funding system.

On October 2, 1989, the Supreme Court of Texas (SCOTX) held in its Edgewood I decision, the first of four school finance cases, that the state funding system violated the efficiency clause in the Texas Constitution.⁶ The legislature, forced to restructure the system to be in compliance, met the following year in four special sessions. Various approaches to making the system more equitable were offered, but none of them separately provided for an equalized facilities funding program.

SB 1 was finally passed in 1990 in the sixth special session of that same 71st Legislature. Although SB 1 also did not have a school facilities funding component, it significantly increased the Tier 2 enrichment guaranteed level, which proved to be vital toward achieving a state facilities funding component.

By that point, the following factors aligned:

1. State and local M&O funds could also satisfy bond debt.
2. The School Bond Guarantee Program reduced the cost of borrowing.
3. The increase in the Tier 2 guaranteed level provided more state funding for every additional penny of the M&O tax rate.
4. Nearly all districts were still well below the \$1.50 M&O tax rate cap, which allowed sufficient room to grow equalized funding for facilities.

These four factors combined to provide greater access to funds for the construction of school facilities. However, taxpayer aversion to long-term debt provided a challenging headwind for districts in need of facilities requiring bonded debt. Once districts began butting up against the \$1.50 M&O maximum rate and needed all of the Tier 2 money they could raise just for maintenance, operations, and instructional purposes, this method of funding facilities also came up short.

This less complicated Tier 2 structure, which allowed spending on facilities, continued until 1999, augmented first in 1995 by Representative Scott Hochberg's School Facilities Assistance (SFA) grant program, and then by his Instructional Facilities Allotment in 1997. After the SCOTX struck down SB 1 in the Edgewood II ruling, the legislature offered various approaches to equalizing the system but failed to include an equalized facilities funding program in any of them.

For example, in the legislature's second attempt (SB 351, 1991) districts of varying wealth levels were combined into County Education Districts (CEDs). All of the districts in a CED shared the revenue for the first \$0.72 of taxation in 1991-1992 and \$0.82 in 1992-1993, making funding for the Tier 1 basic program fully equalized.

Tier 2 provided a partially equalized guaranteed yield system for enrichment similar to earlier attempts and *specifically added its use for facilities*. It was equalized to a yield of \$21.50 in 1991-1992 and \$22.50 in 1992-1993. The yield would have increased to \$26 the following year and \$28 after that. However, those yields would have been limited to the first \$0.45 above the local share tax rate, leaving another layer of potential revenue that would not have been equalized with any state funding at all. Of course, yields above the guaranteed level were not equalized by any recapture. Thus, the closest thing to a state system of funding for facilities was a partially equalized enrichment tier that merely allowed funding to be used for facilities. There was no correlation between bond debt and state funding.

The CED approach was held unconstitutional in Edgewood III, although it was allowed to remain in effect for the 1992-1993 school year, forcing the legislature back to the drawing board. This time (in SB 7, 1993) the state established a share-the-wealth approach with tax collections – *including I&S collections* – derived from wealth above an “equalized wealth level” being recaptured by the state. It also failed to provide an equalized facilities program. SCOTX held the school funding system constitutional overall in Edgewood IV but criticized the state for not including equalized formula funding for facilities, **writing that an efficient funding system must include facilities funding because instruction and facilities were inseparable**. SB 7, however, did continue to use total M&O and I&S tax collections to determine a district's Tier 2 Guaranteed Yield Allotment (GYA) in Subchapter F, as follows:

1. First, the state subtracted the Tier 1 local fund assignment (LFA) amount from a district's total tax collections.⁷
2. Whatever tax collections remained after that were used to determine a district's enrichment and facilities **district** tax rate (DTR), which, despite the name, was not the district's tax rate. Instead, it was a calculated rate, according to the following formula:

$$\text{DTR} = \frac{\text{Tax Collections After Tier 1 LFA Was Subtracted}}{[\text{District's Prior Year's Taxable Value as Determined by the Comptroller} / 100]}$$

(Note: The DTR could not exceed \$0.64 (64 pennies), which meant a district with a high M&O tax rate might reach the maximum rate allowed in Tier 2 (enrichment) before considering I&S tax collections at all, just as in previous law.)

3. Next, the state determined a district's funding *per DTR penny* by multiplying the district's WADA (student in weighted average attendance) count by the guaranteed level (\$20.55).
4. The state determined the total funding for Tier 2 by multiplying the district's enrichment funding per penny (obtained in the previous step) by the DTR (in pennies, not to exceed 64).
5. State Tier 2 funding (the Guaranteed Yield Amount) was simply the Tier 2 total minus the tax collections used to calculate the DTR.
6. Even though I&S tax effort most likely earned some of a district's GYA, there was no requirement in state law that any of the GYA *had* to be used to make bond-debt payments, although it was allowed. Of course, the actual source of the money used to pay bonds was probably not relevant since voters authorized school boards as part of the bond election to adopt whatever I&S rate was necessary to make full bond payments.
7. Whatever GYA funding was applied to facilities debt continued to be inefficient and insufficient, just as it had been in previous years.

However, SB 1, adopted in 1995, included a significant change, adding a new School Facilities Assistance (SFA) Program in Subchapter H (facilities). For the first time, the state provided funding dedicated to the purchase/construction of school facilities, with the stipulation that it could be applied only to instructional facilities.

A district could qualify if it had a property wealth per student below \$276,000 per student in average daily attendance (ADA).⁸ There was also a tax rate hurdle for districts to become eligible. Each district also had to have:

1. A total effective tax rate of at least \$1.30, or
2. A debt service tax rate of at least 20 cents

In addition to these restrictions, districts were limited to one project, with funding not to exceed the *greater of*:

1. \$500,000; or
2. \$266 per ADA

This "greater of" provision in SB 1 attempted to address a problem for most small schools for which the \$266 per-ADA limit was insufficient to construct any meaningful facilities.⁹ The bill also provided additional supplemental aid to small districts, defining them as having fewer than 2,500 ADA times the statewide ratio of ADA to WADA. For the 1995-1996 school year, that calculated to be about 1,862 ADA. (This determination was unrelated to the small district adjustments in Tier 1). If the demand for grants exceeded appropriated funds, the commissioner was required to eliminate projects until the state assistance granted equaled the amount allocated. The projects removed were otherwise eligible and approved districts with the highest wealth levels (i.e., districts with the lowest percentage of state SFA funding) and least in need of assistance.

For the 1996-1997 biennium, \$170 million in state assistance grants for instructional facilities was allocated and fully distributed, but came significantly short of demand. To avoid double-funding, the determination of Tier 2 funding was changed for districts receiving grant funding by removing the district's local share of the grant from the calculation:

1. First, the state subtracted the Tier 1 local fund assignment (LFA) amount from a district's total tax collections.¹⁰
2. The remaining tax collections were then reduced by an amount equal to the local share of any project funded under the new School Facilities Assistance Program (SFAP).

The resulting formula was:

$$\text{DTR} = \frac{\text{Tax Collections After Tier 1 LFA and Any SFAP Local Share Were Subtracted}}{[\text{District's Prior Year's Taxable Value as Determined by the Comptroller} / 100]}$$

Otherwise, the overall calculations were the same as in the prior years. This began with the 1995-1996 school year.



THE FIRST INSTRUCTIONAL FACILITIES ALLOTMENT (1997)

Even though SB 1 designed the SFA grants to pay for a project's total cost, the awards were not large enough for most districts to construct meaningful facilities. In practice, the state grants often became down-payments for larger projects requiring bonds and bond payments over multiple years. After receiving the one-time state funding, any further costs were paid solely by the districts. Thus, the program fell short of helping a lot of school districts with acute facilities issues.

For these and perhaps other reasons, the state abandoned (repealed) this approach after one biennium. In the following legislative session (1997), Representative Hochberg proposed a significantly better plan in HB 4. *This far-reaching, guaranteed-yield facilities funding system became the first Instructional Facilities Allotment (IFA).*

In this first iteration of the IFA, the state provided a guaranteed yield of \$28 per ADA for each penny of I&S tax effort. In *simplest* terms,¹¹ a district with sufficient taxable value to raise \$20 per ADA with one penny of I&S tax rate would receive \$8 per ADA in state IFA funding for a total of \$28 per ADA per penny, the *guaranteed* yield. The state allotment was the bond-payment amount, less the district's local share.

An important recognition, this funding, once obtained, was guaranteed in statute to continue each year, with at least the initial guaranteed level, until the district ultimately paid off the bonds or sold the facilities. The 1997 IFA was the second instance of state support directed specifically for facilities, but *the first instance of a state commitment to provide multi-year funding assistance for the life of the bonded debt.*

Ironically, a major beneficiary of the 1997 legislation to equalize facilities funding were property-wealthy districts. Before this bill, recapture provisions applied to all tax collections (M&O + I&S). Senator Teel Bivins included provisions in SB 1873, which he authored, and HB4, when it came to the senate education committee, that limited recapture to only M&O collections. This single change has since created significant inequity in funding levels because wealth levels in wealthier districts continue to increase, allowing these

districts to adopt ever-lower I&S rates for their bond payments. In contrast, tax rates for districts within the system remained constant in the face of a stagnant guaranteed yield level.

This growing inequity was compounded because the wealthiest districts also used the absence of recapture of I&S collections as a means to pass short-term bonds and increasingly used the revenue to pay for M&O purposes while repaying the debt with unrecaptured I&S tax collections. This stealth, unrecaptured M&O funding source not only created an inequity on the I&S side, it also contributed to the funding inequity that already existed on the M&O side. This inequitable practice continues today.

Another provision in HB 4 allowed districts to use a lease-purchase arrangement that provided an IFA award with the local share coming from M&O tax collections. There were obvious reasons in the era of Prop 13 anti-tax fervor for districts to use this option since a lease-purchase funding arrangement did not require a vote of a district's voters. Plus, larger districts that were anticipating a large bond issue in the near future might use a lease-purchase arrangement for a smaller project to avoid having two bond elections close together. Still, one significant negative was that using M&O collections for an IFA lease-purchase arrangement would reduce the amount of state and local funding otherwise available for M&O purposes as long as bond payments were required. These lease-purchase agreements were required to be for a term of at least eight years.¹²

As an incentive for two or more districts to collaborate on instructional facilities, joint projects at a single location received a 20% higher guaranteed yield. Overall, the state left the decision to local districts "school boards and voters" concerning the kind of instructional facilities needed. However, there were other funding limitations that reduced the amount of money a district received to meet those needs:

1. Projects were limited to the construction, acquisition, renovation, or improvement of *instructional* facilities. While this was restrictive, the pent-up demand for instructional facilities was so high that it usually did not pose a problem. Still, things like bus barns were and still are necessary to school district operations.
2. The initial biennial appropriation was \$200 million, with the actual number and costs of IFA-eligible projects not being a factor in its determination.
3. Because some of that initial appropriation would be needed to provide continued funding in the second year of the biennium for projects approved in the first year, the *actual* amounts for new projects were \$66.7 million in 1997-1998 and another \$66.7 million in 1998-1999. In future biennia, the state would automatically pay for its second-year share of first-year IFAs and other IFAs granted in prior years. Those extra costs would not come from the amount appropriated for new IFAs.
4. The maximum amount allowed was the greater of \$100,000 or \$250 per ADA, which may or may not have been sufficient to fund a needed instructional facility.
5. Funding was based on unweighted ADA.¹³ Because no adjustment was made for factors outside of a district's control, such as fast growth, age of facilities, and high construction or land costs, those uncontrollable costs necessitated higher tax rates.
6. Structuring a payment schedule with higher payments in later years (perhaps after paying off a current debt) did not work well because IFA funding in subsequent years could not exceed the highest funding level in the first biennium of the grant.
7. **Another problem:** Only I&S taxes collected in the current year were allowed to satisfy local share requirements. Not allowing I&S tax collections from prior years to meet local share requirements forced districts to levy higher I&S tax rates. Thus, any I&S taxes collected in excess of the local share in a given year could neither "earn" state IFA funding in that year or a subsequent year, resulting in a higher-than-necessary I&S tax burden on local taxpayers. The Equity Center proposed a solution to this problem that was included in the 2001 school finance legislation.
8. Districts were not guaranteed initial IFA funding. Instead, a district had to compete with other districts for IFA funding through applications submitted to the commissioner of education for approval if the state appropriation for these new IFAs was insufficient to

fund all eligible projects.

9. Due to limited funding within the first biennium, the commissioner ranked districts by wealth per student (reduced by 10% for each biennium in which a district failed to receive an IFA grant). Once a ranking order was determined, the commissioner awarded grants to the district with the lowest ranking (poorest) up the ranking ladder until the money ran out. Unfunded (or under-funded) districts had to wait until the next funding round, go it alone, or continue to do without needed facilities.

10. Applications were required only for the initial funding year because state law guaranteed funding for the bond debt at the same guaranteed level in subsequent years. This provision was the first long-term state commitment for facilities funding.

11. Existing debt was entirely off the table. All eligible debt had to be new debt because the bill stated “taxes to pay the principal of and interest on the bonds [have to be] first levied in the 1997-1998 school year or a later school year. Thus, a district with significant I&S tax burdens due to unequalized bonds issued *before* the 1997-1998 school year could not take advantage of the IFA regardless of need or tax burden. This problem was one of the primary drivers for the creation of the Existing Debt Allotment (EDA) in the 1999 session.

12. There was also no guarantee that in future biennia, the IFA, now in statute, would fund *any* new projects or, if funded, at what level. In fact, there have been many years and several entire biennia when no new projects were funded. Even when funding was provided, the appropriation was usually insufficient to fund all eligible projects.

13. Bonds were required to have a weighted average maturity of at least eight years and subject to being called for redemption no earlier than ten years after issuance.

Then, (and now), the tax rate used in the formula calculations for state IFA funding was the “effective” tax rate, not the *actual* I&S rate the district adopted. The new provision calculated an effective tax rate (called the district’s bond tax rate) by “...dividing the amount of taxes *budgeted to be collected* by the district for payment of eligible bonds by the quotient of the district’s [prior year’s taxable value].”¹⁴ (*emphasis added*)

In essence, the phrase, “taxes budgeted to be collected,” is defined by TEA as the I&S taxes that are actually collected. Thus, a district that, for whatever reason, under-collected its I&S levy (e.g., a large taxpayer protesting its taxable value or going into bankruptcy), would experience a corresponding reduction in the state share (the IFA allotment) of funding. An over-collection, however, did not (and does not) generate any *state* money.

Although this allotment’s primary purpose was (and is) to equalize property-poor districts’ ability to construct instructional facilities, the less wealthy a district happened to be, the greater the penalty for under-collecting its local share. For example, a very property-poor district with a 1-to-3 ratio of local-to-state shares would lose \$3 in state IFA funding for every \$1 the district under-collected.

Also, since a district’s effective I&S tax rate calculation used its taxable value from the prior year, if taxable values happened to increase, the district could get all of its state funding with a lower tax rate. In contrast, if taxable values decreased, the same district would be forced to adopt a higher I&S tax rate than what should have been necessary. (Legislation in 2019 corrected this problem.)

Initially, districts could also utilize funding from Tier 2 for facilities. This provided districts with M&O rates under \$1.50 an additional option for funding facilities, which could be beneficial to districts with high ratios of weighted to unweighted ADA. It also provided a funding source for districts left out of IFA funding either because the appropriation was inadequate or the facilities were not “instructional.”

A primary takeaway of this initial experience is that policy decisions can cause the adoption of higher-than-necessary I&S tax rates. Regardless, this first IFA was an enormous step forward and paved the way for an even better facilities funding system adopted in the 1999 legislative session.



IMPROVED IFA & INTRODUCTION OF EXISTING DEBT ALLOTMENT (1999)

During the 1999 Texas legislative session, the current system of direct state funding of facilities was adopted, and augmented over time with a handful of significant changes. This section explains how the state used the IFA and a new program to help fund old debt to create its facilities funding component of the Texas school funding system.

In the 1999 session, SB 4 continued the original IFA grant program into the 2000-2001 biennium, but with a couple of significant changes. First, the bill increased the guaranteed level from \$28 per ADA in 1997 to \$35. *This 25% increase was impressive but would be the only increase in the IFA program's funding level ever received in its 24-year history (1997-2021).*

Second, Bill Grusendorf, Dr. Ray Freeman, and others with the Texas Association of Rural Schools convinced House Public Education Committee Chairman Paul Sadler that the \$250 per ADA limit would effectively exclude smaller districts from constructing meaningful instructional facilities. In response to their efforts, Representative Sadler included a 400 ADA floor, making \$100,000 ($\250×400 ADA) the least an IFA grant could be. The legislature also recognized these new IFA allotments, though vast improvements over previous attempts, failed to lighten the burden for districts with significant debt burdens from projects begun *before* the 1997-1998 school year (and before the first IFA).¹⁵ Thus, the state created the Existing Debt Allotment (EDA).

The preceding two decades, the state studied, formed interim committees to study more, and was encouraged by the Texas Supreme Court to have a comprehensive school facilities funding program. By 1995, the state started to move in that direction, by adopting competitive, but insufficient grants, then adopting competitive grants funded for the life of a bond, but never a full program available to all districts.

Many Texas communities lacked the intrinsic fiscal ability to provide proper facilities for their children. Now, in 1999, that was about to change. The combined benefit of the IFA and the new EDA programs

would present a sea change in new possibilities for less-wealthy districts all across the state. SB 4 made quite a few changes to Texas' facilities funding system. Most of these were very beneficial to districts, but there were a few hiccups along the way. On the M&O side, the bill deleted I&S taxes from the calculation of Tier 2 Enrichment funding under Sections 42.302 and 42.303, and prohibited Tier 2 funds from being used on facilities and debt service. This provision was added in conference committee despite not appearing in either the House or Senate bills.

Since new facilities funding had become available, it seemed logical that Tier 2 enrichment funding should not include I&S tax collections in determining a district's Tier 2 allotment. After all, those collections were needed to satisfy the local share requirements of the EDA and IFA. However, the complete prohibition against using any Tier 2 funding for facilities created a problem. Former Representative Paul Colbert pointed out to legislators this M&O funding was needed to provide the local share of IFA lease-purchase debt payments begun the previous biennium. The failure to make this an exception to the Tier 2 prohibition created a good deal of uncertainty for lenders. By the time bill writers fully understood the depth of the problem, the session had ended. With a statutory fix no longer possible, TEA improvised a solution by allowing impacted districts to use part of the Tier 1 local revenue for their lease-purchase local share. As a side note, it also reduced available funding for some districts with high WADA/ADA ratios that were under \$1.50 even with I&S included since the \$35/ADA was less than what Tier 2 would have provided them for the same collections.

Included in the new facilities funding system:

1. State law now prohibited the use of all M&O property tax collections above a district's Tier 1 LFA for facilities.
2. SB 4 continued funding the IFA projects funded by Hochberg's original program from the 1997 session.
3. The state appropriated \$150 million for new IFA projects for the 2000-2001 biennium, with \$50 million allocated for new projects in each of the two years. The remaining \$50 million was needed to help make the second-year debt payments for the projects approved in the first year (June 1999).
4. SB 4 also increased the guaranteed level for the IFA to \$35 per ADA per penny of tax effort (equivalent to a wealth of \$350,000 per ADA), with that same level guaranteed for EDA, and created a \$100,000 minimum for IFA projects.
5. When sufficient funding was not available (which has almost always been the case), the commissioner was required to rank order districts by relative wealth levels, allowing for adjustments in position for various reasons, as follows:
 - a. The state recognized property-poor districts but with *comparatively* higher property wealth also needed help funding facilities. While these districts might be eligible for IFA funding, they might not receive an IFA grant if less wealthy districts with a tremendous need for instructional facilities consumed the available funding. To address this concern, HB 4 again directed the commissioner to reduce the wealth level for any applying district that failed to win an IFA grant in the previous biennium by 10%, just as in the 1997 initial program.
 - b. New in the 1999 version of IFA, the commissioner also reduced the wealth level of districts with "substantial growth" over the previous five years (for IFA purposes), as follows:
 - i. Five percent reduction for districts with enrollment growth between 10 and 15 percent;
 - ii. Ten percent reduction for districts with enrollment growth between 15 and 30 percent;
 - iii. Fifteen percent reduction for districts with enrollment growth above 30%.
 - c. Another provision added in 1999 provided districts with no prior debt a 10% reduction in their wealth levels for new IFAs purposes.
6. The new EDA allotment funded existing debt outside the IFA program for all districts having made a bond payment in the 1998-1999 school year. Unlike the IFA, the EDA was

not competitive, and all districts meeting the requirements received funding.

7. The EDA also included debt for non-instructional facilities as well as for facilities of districts that had not qualified for IFA funding the prior year when the wealth limit was \$280,000 per ADA and for districts left out of the prior IFA funding because of the limited appropriation. It also included debt for I&S-funded bonds for items, such as school buses, that were not related to an actual facility.

8. The EDA guaranteed \$35 per ADA, which, at that time, equalized funding to the 91st percentile of wealth.¹⁶ This level was appropriate in 1999, but it was limited to \$0.12 per \$100 of valuation.

9. For many districts, a \$35 GL for 12 cents was sufficient since a previous, high I&S tax rate might be compressed to within the 12-cent limit. Even for others that still had to adopt I&S rates above \$0.12, tax rates were reduced to a more manageable level. However, other districts with high I&S rates and a wealth level close to the \$35 GL continued to shoulder an untenable tax burden.

10. Although the EDA did pick up all existing facilities debt (other than IFA-related debt), it was written in such a way that *future* non-IFA debt was not included. Senator Bivins was adamant that providing for future debt to be included in EDA funding would be the equivalent of the state writing school districts a blank check.

LAST SUBSTANTIVE CHANGES IN IFA & EDA (2001)

Chairman Sadler's HB 2879 included two significant adjustments to the 1999 law. First, the bill increased the \$0.12 per \$100 of valuation limit on the existing debt allotment tax rate to \$0.29, a marked improvement. At that time, all but a few Texas districts had I&S tax rates below \$0.29, so this increase came close to bringing all districts (within the \$35 per ADA funding level, of course) into the equalized EDA system. The 29-cent limit on EDA could be augmented by multiple IFA-equalized grants, three of which would bring a district close to the \$0.50 I&S tax limitation.

For districts with few or no IFA grants, the \$0.29 limitation leaves \$0.21 (within the \$0.50 attorney general's limit) unequalized. This lapse has proven to be exceptionally costly for taxpayers in fast-growth districts who often are taxing at or near the \$0.50 maximum—and even more costly for districts whose dropping taxable values require an I&S rate *above* \$0.50!

In the biennia following the 1997 and 1999 legislative sessions, districts were required to raise the IFA and EDA local shares with only current year I&S tax collections. This restriction applied even if they had sufficient I&S fund balances due to over-collections in previous years or the penalty and interest received with delinquent tax payments to reduce their bond debt payments. This limitation resulted in higher-than-necessary I&S tax rates, further complicated by districts having to set even higher rates to avoid a costly under-collection. In that case, districts would lose both the amount that was not collected plus the state funding those dollars would have earned.

In the 2001 session, the Equity Center asked Senator David Cain and Representative Hochberg to carry identical bills that would allow districts to use the extra I&S tax collections from previous years to satisfy EDA and IFA local share requirements. Additionally, the bills would allow excess (unequalized) M&O collections for that purpose as well.

By allowing this flexibility, districts were able to adopt lower I&S tax rates because these excess-to-need funds in their fund balances helped make debt payments. Also, being able to use these reserves helped reduce the pressure to set higher tax rates to make sure there would not be a costly shortfall.

Both bills were heard in committee and were eventually rolled into the HB 2879 omnibus school finance bill to take effect on September 1, 2001.

SMALL CHANGES FOR IFA & EDA (2003-2019)

For three back-to-back sessions, the Texas Legislature created and fine-tuned the equalized school facilities funding system. It was not all good, of course. For instance, just as the state was beginning to equalize IFA and EDA, it also stopped recapturing I&S tax collections from wealthy districts. This act resulted in many inequities that played a large role in the vast majority of taxpayers in Texas being forced to carry far more than their fair share of the tax burden.

For another example, both EDA and IFA have elements that end up letting the state off the hook for the full payment of its share of facilities costs. As property values increased, the state share of a set \$35 guaranteed yield has plummeted. As a result, the state's appropriation for equalizing school facilities funding has become a very small percentage of the overall costs. In fact, the state provides significantly less facilities funding in actual dollars today than it did in 2003, even in the face of increasingly higher construction costs. This is represented in a chart in the next section.

The state made small changes to IFA and EDA over the next 17 years (2003-2019), 22 regular and special sessions.

HB 3459 (2003) provided that non-IFA bonds on which a payment was made in the previous school year (2002-2003) were eligible for EDA funding. This was commonly called the EDA roll-forward to include another biennium but did not assure that debt incurred in the *next* biennium would be covered. This forced districts to advise bond voters that the I&S tax rate would be either X or Y, depending on whether the state elected to participate by rolling its EDA coverage forward to include that new debt.

SB 1863 (2005) again rolled forward coverage of existing debt for which a payment was made in the previous year. Again, no assurance of state support of debt incurred in the next biennium.

HB 1922 (2007) again rolled forward coverage to include the previous year's debt.

HB 3646 (2009) again rolled coverage forward but included language that made the roll forward automatic in the future.

There were no changes for IFA or EDA after 2009 until 2017, including no increase to the guaranteed level, which remained at the same \$35 per ADA adopted in 1999. However, beginning in 2009, charter schools began pressing for direct state facilities funding because they did not have a tax base, could not set a tax rate, or collect taxes to pay for construction. (They previously had authority to issue revenue bonds for facilities, and their bonds were given the backing of the PSF).

In the 2017 session, there was a move to add funding for charter school facilities in HB 21. Some members of the education committee were reticent to give facilities money to charters when their local districts had not received an increase in 18 years, and the state contribution to EDA and IFA had decreased to about 10% of the total amount spent on bonds each year.

HB 21 provided the EDA guaranteed level would be increased to \$40 per ADA or to an amount that, when compared to the state cost at \$35 per ADA, would not exceed an additional \$60 million.¹⁷ In 2017-2018, the guaranteed level for EDAs was \$35.00; in 2018-2019 (the first year of implementation), it rose to \$36.65, and in 2019-20, the guaranteed level was \$38.10. A comparable \$60 million was provided for charter schools at the same time. Although money was provided for a single round of new IFA projects, there was no corresponding increase in the GL for IFA-funded projects.

The final change for EDA and IFA came in HB 3 (2019) when the District Tax Rate (DTR) calculations changed from prior year values to current year values.

CURRENT INADEQUACIES OF THE IFA PROGRAM

The IFA has some very good provisions, but more importantly, it was transformative. *It was the first facilities funding program to include a state funding commitment that was guaranteed for the life of the bonds.* That's not a small thing, given that, in the face of a clear mandate from the SCOTX to create an equalized facilities funding system, the legislature failed to act for the better part of a decade, allowing the diversion of enrichment funding and limited-funded, one-shot efforts.

As with many new programs, the state modified provisions in the first few years based on experiences with the IFA program. The weaknesses identified in this section remain today. Similarly, the strengths identified currently exist.

Strengths to build on:

1. State assistance with a district's IFA debt payments begins immediately. There is no delay in state participation until the following biennium, with districts having to "go it alone" the first year or two.
2. Once a district is selected to receive IFA funding, it does not have to reapply for the life of the related bonds.
3. State fiscal support will continue for the life of IFA bonded debt.
4. The guaranteed level in place when the IFA was first granted is also guaranteed for the life of the bonds. This funding level can be raised by legislative action but cannot be lowered.¹⁸ It should be noted that since the \$35 GL has been in place since the 1999-2000 school year, that will be the level guaranteed for all IFAs granted up to this point. If a district's taxable value surpasses \$350,000 per ADA, which is the level that, theoretically, will generate \$35 per ADA for each penny of I&S tax effort, no state funding is needed to get them "up" to the \$35 level. Although these districts will not receive state aid in any year in which its wealth level exceeds the \$350,000 upper threshold, that district is not locked out of state IFA funding on that same project if its wealth level subsequently falls below \$350,000 or if the guaranteed level is increased to above its higher wealth level.
5. The I&S pennies of taxation used to satisfy local share assessments for any IFA projects are in addition to the pennies used for the local share of an EDA bond payments.¹⁹ Since state EDA assistance is limited to just \$0.29 of I&S tax effort, the combination of EDA and IFA funding can result in equalization above \$0.29. This can be very important for a high-I&S taxing district.

Weaknesses to address:

Issue 1: Having two state facilities funding systems, each with its own peculiarities, rules, and regulations creates unnecessary confusion. One important key to understanding a process, whether it is appropriately funded, whether the assistance goes to where it is needed, is *transparency*.

Transparency is best aided by simplifying a process to the greatest extent possible without rendering it ineffective. A second to this key is to eliminate waste, so actual costs are addressed to the greatest extent possible. ***A good system must be fair, efficient, and cost-effective.***

Issue 2. The IFA is essentially a competitive grant program, subject each year to legislative appropriation and the wealth levels of other applicants. Districts in need of new instructional facilities or renovations of older ones might expend a great deal of time and resources to:

1. Conduct a needs assessment
2. Extensively plan
3. Hire an architect to draw preliminary plans
4. Get board approval to apply for state IFA funding

5. Make a solid application and be declared eligible by the commissioner for IFA funding
6. And not get any state funding at all!

Each of the following actions are outside a district's control, but must be in place for a district to be funded:

1. The legislature must appropriate funds expressly for *new* IFA projects, and those funds must be designated to be used in the fiscal year in which a district applies. (A table in the following section shows the amount and frequencies of these appropriations and provides a glimpse into the likelihood of IFAs being granted in any particular year.)
2. The commissioner must then determine a district is eligible and approve its application, but actual funding is not necessarily guaranteed at this point.
3. If the legislature has appropriated funding, but the amount is insufficient to fund all approved applications, the commissioner then rank-orders districts by their district wealth. Once done, IFA approvals are granted, beginning with the lowest district on up the ranking ladder until the money plays out.

Plainly put, there is no guarantee an eligible district will be funded, or that the \$250 per ADA limit on the combined state and local funding is enough to fully fund a district's project. At times, especially early on, a district would have to divide a project into two pieces, counting on getting IFA funding in two different funding rounds, only to find out the best-laid plans are still subject to legislative appropriation.

Only after all the above take place, districts are allowed to hold the required local elections to get voter approval to sell the bonds necessary to begin construction.

Issue 3. Getting a new IFA project approved is uncertain because funding is sporadic and sparse (as shown in the table to follow).

Sporadic facilities funding:

1. Appropriations for new IFA projects were awarded in each of the first six years of the program (1997-1998 to 2002-2003).
2. Appropriations for the next four biennia (2004-2005 to 2010-2011) were funded for new IFA, but new grants were limited to only the second year of each biennium.
3. For the next ten years (2011-2012 to 2020-2021), the state made only one appropriation, which came in 2017-2018 after six years without a single dollar appropriated for new IFA projects.

Sparse facilities funding, despite increasing student growth and rising construction costs:

1. The state appropriated \$333.4 million for new projects for the first six years of the IFA program, averaging about \$55.57 million in each year.²⁰
2. The state appropriated \$232.5 million for new IFAs over the next eight years, averaging about \$29.06 million per year. Districts in need of IFA assistance in the first year of each of these three biennia had no way of accessing any state assistance.²¹ The districts were forced to compete for an IFA in the second year of the biennium, increasing the number of applicants and significantly lessening the chance of getting IFA grants for their projects.
3. Over the following ten years (through 2020-2021), the state has made only a single appropriation of \$55.5 million for new IFAs (2016-2017), which averages to only \$5.55 million a year for the entire decade.
4. In the 22 years since the initial biennium, the state has appropriated only \$488 million for new IFA projects statewide, averaging only about \$22.18 million per year. In that same time frame, I&S debt payments have increased from \$1,807,376,639 in 2000 to \$8,002,358,825 by 2020, a 443% increase.²²
5. From 1999-2000 to 2020-2021, local school district I&S collections have *increased* from \$332 to an estimated \$1,494 per ADA (349.4%) while state facilities assistance (IFA + EDA) has *declined* from \$166 to \$56 per ADA (-66.4%)
6. In the dozen years following the 2008-2009 highpoint in IFA funding, state IFA assistance

has dropped from \$74 per ADA to an estimated \$25 per ADA, a drop of 66.2%. Factoring in the higher cost of construction would result in an even higher rate of decline.

7. Because IFA (and EDA) funding is based on wealth per unweighted ADA, there is no state support for the degree to which districts may face uncontrollably higher facilities costs per student. Examples might include uncontrollable differences in need for or cost of facilities (e.g. - fast growth, construction and land costs, age and condition of existing facilities) in the manner the state does for operating costs. Therefore, these uncontrollable higher costs are almost entirely borne by local taxpayers.

8. Because funding for new projects has been an arbitrary amount unrelated to any assessment of need, many districts that were poor enough to be funded received no funding.

**Texas Education Code, Chapter 46 - State Funding for New IFA Projects
Does NOT include appropriations for the New Instructional Facilities Allotment (NIFA)
in the M&O portion of the Foundation School Program***

Year	School Year	Appropriations for New IFA Projects** (in Millions)	Cumulative Totals Appropriated Initial Year of New Projects (in Millions)	Rolling Annual Average Appropriated (in Millions)	Rolling Average for Most Recent Decade (in Millions)
1	1997-98	66.7	66.7	66.7	
2	1998-99	66.7	133.4	66.7	
3	1999-00	50.0	183.4	61.1	
4	2000-01	50.0	233.4	58.4	
5	2001-02	50.0	283.4	56.7	
6	2002-03	50.0	333.4	55.6	
7	2003-04		333.4	47.6	
8	2004-05	20.0	353.4	44.2	
9	2005-06		353.4	39.3	
10	2006-07	50.0	403.4	40.3	
11	2007-08		403.4	36.7	
12	2008-09	87.5	490.9	40.9	
13	2009-10		490.9	37.8	
14	2010-11	75.0	565.9	40.4	
15	2011-12		565.9	37.7	0.0
16	2012-13		565.9	35.4	0.0
17	2013-14		565.9	33.3	0.0
18	2014-15		565.9	31.4	0.0
19	2015-16		565.9	29.8	0.0
20	2016-17	55.5	621.4	31.1	9.3
21	2017-18		621.4	29.6	7.9
22	2018-19		621.4	28.2	6.9
23	2019-20		621.4	27.0	6.2
24	2020-21		621.4	25.9	5.6

<https://tea.texas.gov/sites/default/files/instructional-facilities-allotment-one-pager.pdf>

*The NIFA provides funding to offset the additional operational costs associated with opening a new instructional facility and is distinct from the Instructional Facilities Allotment, which provides state funding to offset I&S bond payment costs. New IFA projects are a part of that latter program.

**\$200 million was appropriated for the 1998-1999 biennium with one-third being awarded in each of the two years. The remaining one-third was used to cover the second-year debt payments for projects awarded in 1997-98. After this initial biennium, debt payments after the year an award was granted have all been covered by additional appropriations, and all money allocated for “new IFA debt” actually has gone for new projects.

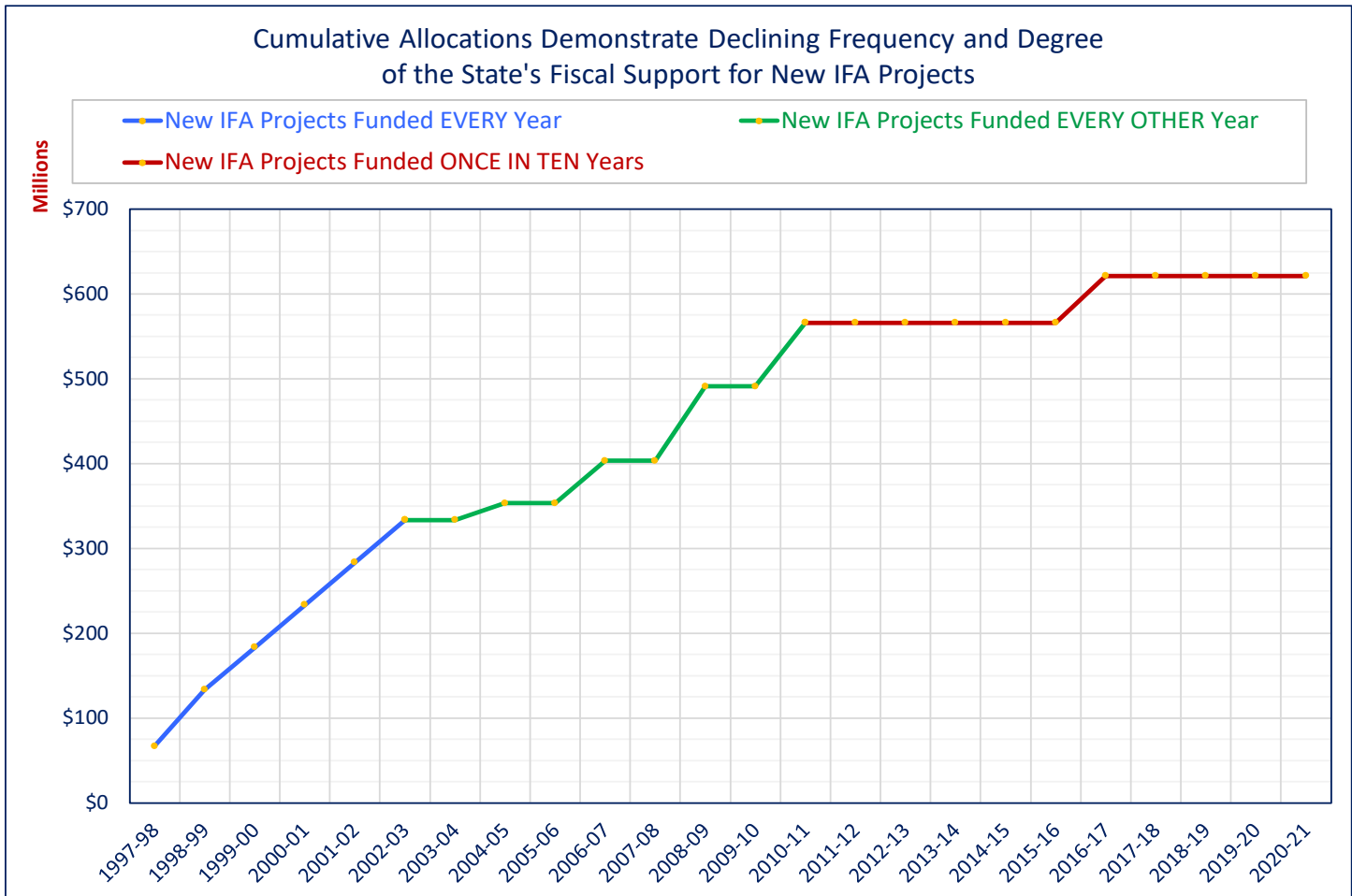
The amounts the state has allocated each biennium to begin new IFA projects can be divided into three groupings, each a step backward from the grouping before it:

Group 1: Appropriations provided for **annual** distributions in years 1 – 6 (1997-1998 to 2002-2003 school years)

Group 2: Appropriations provided for **bi-annual** distributions in only the second year of each biennium in years 7 – 14 (2003-2004 to 2010-2011 school years)

Group 3: One token appropriation in years 15 – 24 (2011-2012 to 2020-2021 school years, with the **single** appropriation for new IFAs in 2017-2018)²³

The following chart illustrates this declining state interest in adequately funding new IFA projects.



The state kept true to its word and continued providing assistance for existing IFAs at the \$35 per ADA funding level. However, the data suggests the state is no longer interested in perpetuating the IFA program, which would require creating new IFAs.

Issue 4: The guaranteed level for state IFA assistance has not increased in 24 years even though construction costs increased significantly.

The initial \$35 guaranteed level for IFA-funded projects was adequate considering the cost of construction in 1999-2000. Ninety-one percent of the state’s ADA were in districts below the corresponding \$350,000 per ADA wealth level (i.e., the 91st percentile of wealth).

Construction costs have risen substantially since then, along with almost everything else, including the state’s wealth and its ability to maintain its original equity level. However, the legislature has not increased the \$35 guaranteed level to reflect either increases in costs or the increases in the state’s ability to guarantee a higher level.

As the state’s wealth has grown, so have the wealth levels in Texas districts. These local wealth increases have resulted in more and more districts’ wealth levels rising above the IFA’s \$350,000 wealth level and fewer districts eligible for funding within the \$35 guaranteed level. This decrease in the number of eligible school districts results in a further erosion of state support.

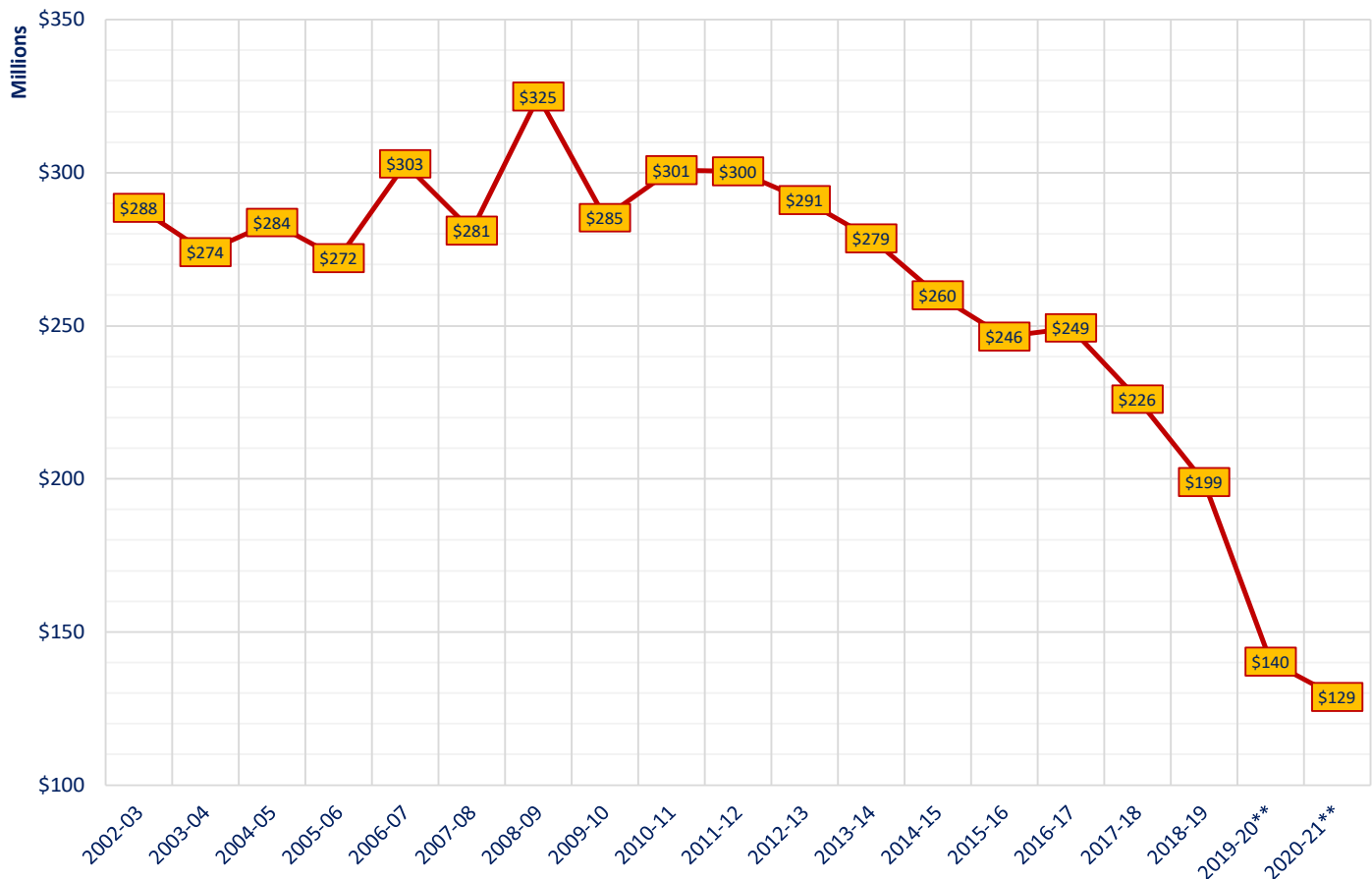
Plus, the wealth levels of districts that do remain within the IFA system have typically grown over time, as well. Even though they continue to benefit from state facilities assistance, the amount of that assistance has declined correspondingly to the districts’ value increase.

Regardless of whether a district rises above the IFA guaranteed level and no longer receives any state assistance or receives less state funding due to a growth in wealth, the bottom line is that the amount of state support—and required state appropriations—declines. And, as suggested earlier, state wealth has increased. These trends have dramatically reduced state IFA costs while its ability to contribute at a higher level have increased, but the state has not seen fit to use those savings (or increases in state wealth) to increase the IFA guaranteed funding level. **Thus, more and more of the tax burden shifted to local property owners.** This phenomenon is also occurring for the Existing Debt Allotment.

In 2008-09, the state was contributing over \$325 million for IFA debt payments. The Texas Education Agency’s Summary of Finance suggests that by the end of the current school year (2020-21), the amount will drop below \$140 million. These savings to the state will continue to increase as property values rise and as older IFA-supported bonds are retired in the absence of new guarantees. Given that reality, the Texas Legislature should at least use the \$185 million saved by the state (\$325 million - \$140 million) to keep the GL more in line with increased construction costs and fund additional new projects. The latter is especially important because the state has funded only one round of new IFA projects in the past ten years.

** Preliminary data from TEA’s Summary of Finance (August 2020)

State IFA Funding Since 2002-03
Actual, Unadjusted Dollars



The preceding graph is in actual dollars, unadjusted for any increases in construction labor and materials since 2002-2003. Nor does it adjust for the 1.2 million increase (30.8%) in ADA over that time. Even so, this significant reduction in state facilities funding is shocking. And, one can imagine that had the calculations included a factor for the inflation of building materials, labor, and the growth in the number of students, the reduction in state support would be even more dramatic.

Issue 5: IFA awards are generally limited to \$250 per ADA.

In an effort to make funding for new projects cover as many districts as possible, the state limits each IFA award to no more than \$250 per ADA (state + local).²⁴ While this limitation did allow more districts to be granted IFAs in a given round, it also had a negative effect in that significant construction projects, such as a junior high or high school campus, could not be built and paid for with a \$250 per ADA limit.²⁵ Such a district had two choices:

1. Supplement the \$250 per ADA funding amount by shifting the burden to local taxpayers and using their unequalized I&S taxes to make up the shortfall during the first biennium and receive state EDA assistance in subsequent biennia. That is, assuming the district's non-IFA I&S tax rate does not exceed the \$0.29 EDA limit for state assistance, and/or
2. Break the project into two (or more) parts, get the first IFA at \$250 per ADA, hope the legislature chooses/has chosen to fund new projects at the next opportunity, and that the district is successful in its effort to get a second IFA.

Clearly, option 2 is not a rational choice.

Issue 6: The provision prohibiting state IFA funding in subsequent biennia for bond payments that exceed the highest bond payment in an IFA's initial biennium creates an unnecessary obstruction to districts making the right business decisions and keeping I&S taxes as low as possible.

For example: Suppose \$2.5 million each year is the most District A can reasonably pay without undue hardship on its taxpayers. At this level, the district can retire the debt in 25 years, which is not an unreasonable goal at all. Further suppose the district has three years left to pay off another facilities debt at an annual payment amount of \$1 million.

By reducing its payments to \$1.5 million for each of the first three years of the new debt, District A can stay within its \$2.5 million per year affordable upper limit. Therefore, its total payment for those years would be the sum of \$1.5 million for the new IFA debt payments and the existing \$1 million on the previous debt schedule, adding up to a total of \$2.5 million, its maximum amount. After three years when the old debt is retired, District A would like to increase its IFA debt payment to the \$2.5 million required for an approximate 25 years' payout.

However, this logical approach is thwarted by the unnecessary restriction that IFA debt payments are limited to the highest amount paid within the initial biennium. District A has three choices:

- a. Wait another three years (to the end of the old debt payments) to apply for the IFA, regardless of the immediacy of its need for the additional instructional facilities—and hope the legislature funds new IFAs for that year.*
- b. Adopt an IFA payment schedule for an unnecessarily long term, at an additional cost to both the state and the local taxpayers.*
- c. Get the maximum possible from the IFA grant and pay the remaining amount with unequalized I&S taxes (at an added expense to local taxpayers) until the debt becomes eligible for an Existing Debt Allotment in the following biennium.*

Seemingly a simple problem in the grand scheme of facilities funding, it illustrates that unnecessary provisions (or provisions that were once necessary but no longer are) create inefficiency. Even small inefficiencies can, over time, create extensive and costly inefficiencies.

Issue 7: If a district is unable to raise its local share of an IFA debt payment, the state reduces its share.

The state funds IFAs in a guaranteed yield system, the theory for which is a relatively simple concept. For

example, if a district’s taxable value produces \$25 per ADA for each penny levied, the state will provide the remaining \$10 necessary to reach the \$35 IFA guaranteed level. Similarly, if another, but less-wealthy district can raise only \$15, the state will provide the \$20 necessary to reach \$35. The beauty of a guaranteed funding level is that the wealth level of all districts are, in effect, increased to the level the state guarantee, improving equity and keeping property tax owners from being unduly burdened.

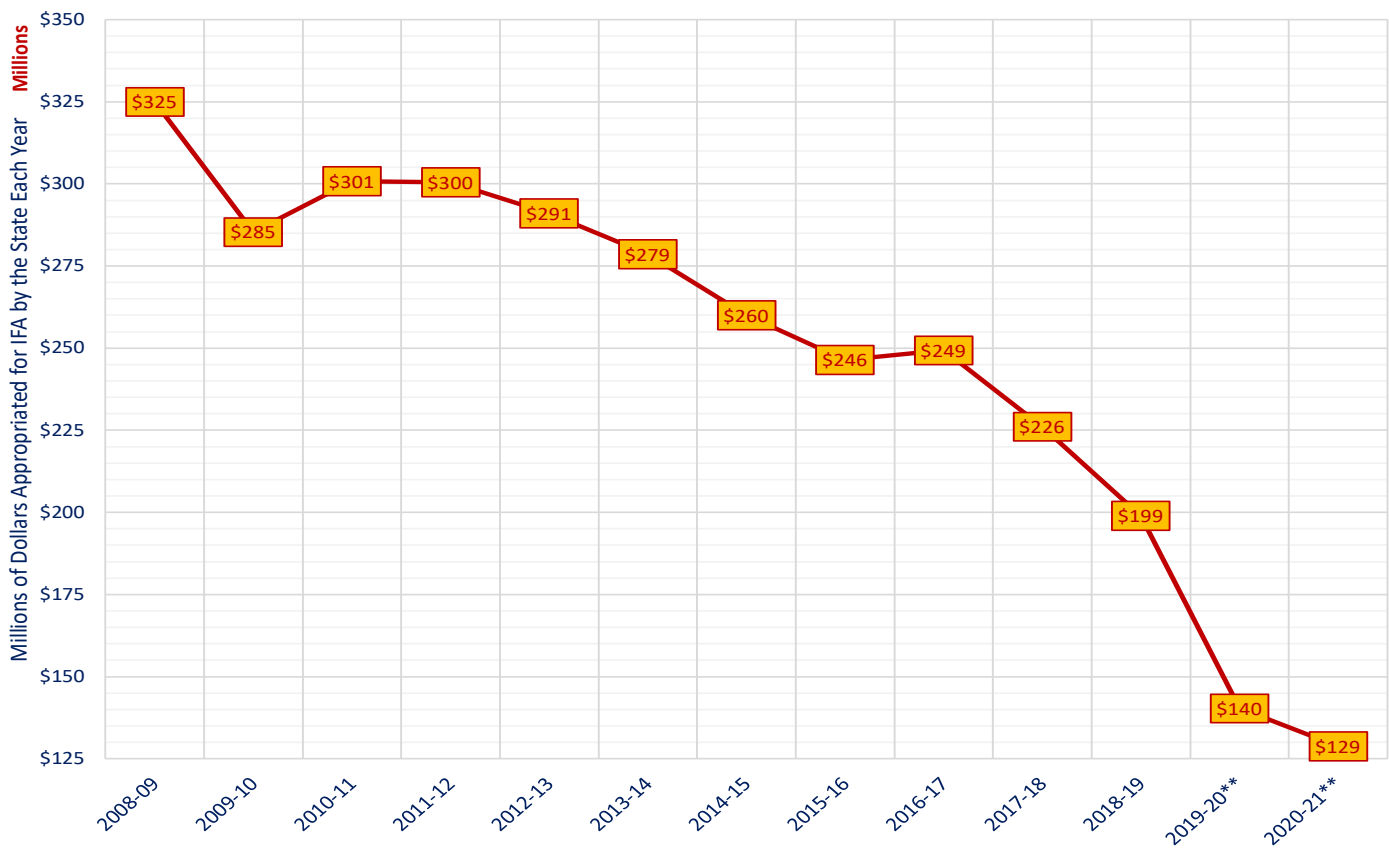
In actuality, however, the process is more complicated because the state uses a district’s I&S *tax collections* (divided by the taxable values assigned by the comptroller of public accounts and multiplied by 100) as the district’s *tax effort*. Suppose, for whatever reason, the district is not able to collect the necessary amount to “earn” the requisite state money to make the scheduled debt payment (state + local). In that case, the district is obviously short by the amount it did not collect locally and must make up this shortfall using other funds from somewhere else.

Further, suppose those new funds are not the “right kind” of funds. In that case, the state will not recognize the local effort. It will then reduce the state’s share of the debt payment because it sees the lower-than-expected tax collections as a lack of effort, *regardless of the district’s actual rate or the fact that the district is still paying its local share, just with other funds*. These statutory requirements result in districts setting higher-than-needed tax rates to ensure they will collect a sufficient amount and discourages them from using other available funds to temporarily lower their I&S tax rate.

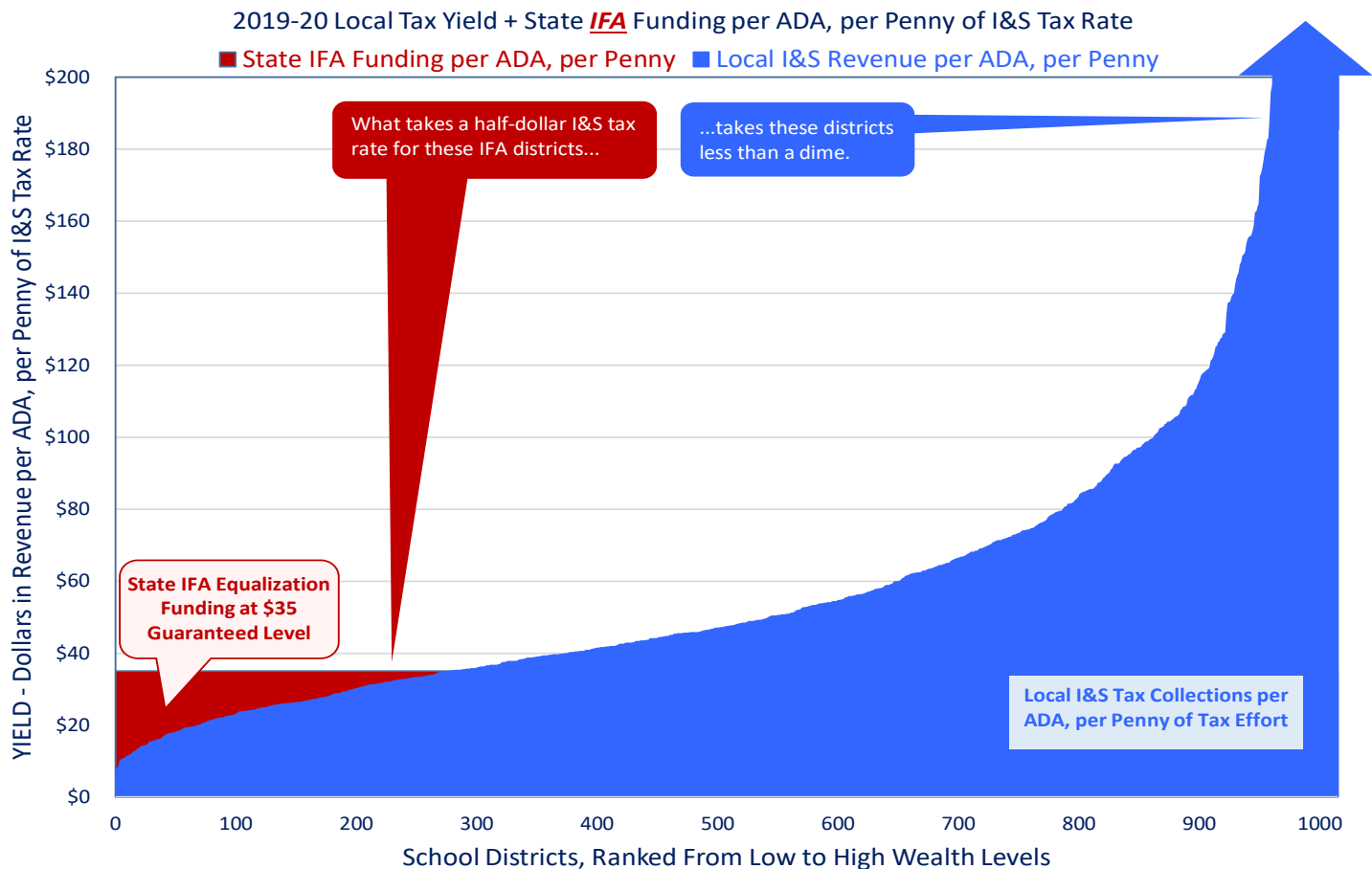
The less wealthy a district is, the less a penny will raise, clearly. This results in a larger state share in order to reach the guaranteed funding level. Suppose District A can raise only \$7 per ADA per penny of I&S tax rate, while District B can raise \$17.50. Both districts are obviously low-wealth and eligible for state IFA assistance. District A receives \$28 per ADA per penny (to equal the \$35 GL)—that is a 4 to 1 state-to-local ratio—while District B receives an identical \$17.50 from the state system, also equaling \$35 for a 1 to 1 state-to-local ratio.

For every \$100 of I&S tax collections unavailable for the local share, District A stands to lose \$400 in state funding. Contrastingly, for every \$100 District B comes up short, it loses \$100 in state funding.

Decline in State **IFA** Funding Over Twelve Years, From 2008-09 High Point to Current



In conclusion, the \$35 per ADA guaranteed level has not been increased since 1999, despite ever-increasing student growth and the rising costs of constructing educational facilities. The state has not appropriated any new IFA projects in nine of the last ten years. Districts no longer know if, when, or how much funding will be available to them, with respect to the Instructional Facilities Allotment. For all practical purposes, the IFA is no longer a viable resource for low and mid-wealth districts most in need of state assistance to construct educational facilities.



However, whatever facilities funding system the state chooses to adopt, it should retain the many useful elements in the existing IFA program while eliminating problem areas.

CURRENT INADEQUACIES OF THE EDA PROGRAM

The IFA was groundbreaking, but it was not without limitations. During the 1998-1999 biennium, two major happenings were required for districts to receive state facilities assistance. Districts had to be:

1. ...starting an instructional building project in that first biennium when IFAs were implemented.

IFAs applied (still apply) only to debt that would first be incurred in the biennium in which the IFA was granted. Bond debt initiated in a previous biennium was not eligible for an IFA, and there was no state-facilities funding alternative. Low and mid-wealth districts with existing debt had to fund bond payments with unequalized I&S rates. Lowest-wealth districts had to continue taxing high to get even small amounts.

2. ...low enough on the ranking ladder so that the \$66.7 million available for new projects in each year of that first biennium did not run out before acceptances got to them.

Chairman Sadler and Representative Hochberg understood the majority of districts with I&S bond debt

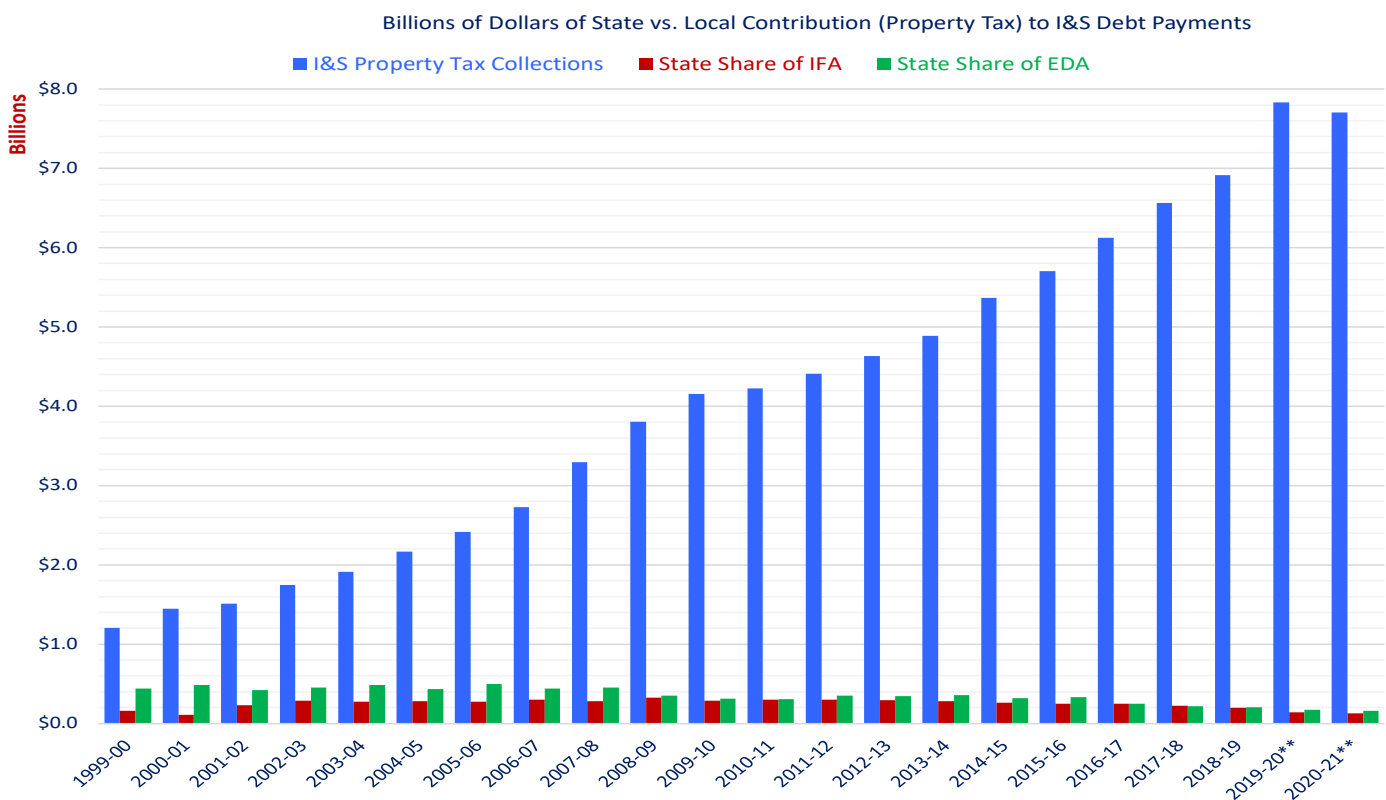
were left out of the IFA and came up with a solution to provide assistance for districts with existing debt. Fortunately, Governor George W. Bush was looking for a way to reduce property taxes, and Sadler and Hochberg were able to convince him that what became the Existing Debt Allotment (EDA) was the best way to do exactly that. The EDA guaranteed a funding level of \$35, the same as for the IFA, and included some improvements over the IFA.

Strengths to build on:

1. *EDAs supplement IFAs.* While a district cannot “double-dip” into both funding elements, using the same I&S collections for the local share of each, districts with an IFA can also receive an EDA for other existing debt, and vice versa.
2. Bond debt from previous biennia receives state assistance up to the guaranteed level (initially \$35 and now slightly higher).²⁶
3. *EDAs are not competitive.* Funding is not limited strictly to legislative appropriations, and districts are not subject to wealth-based ranking, other than, of course, what might be imposed by the EDA guaranteed level.
4. EDAs apply to *all* school facilities.
5. The scope of projects is determined by local boards of trustees and ratified only by local bond elections; no state project approval is required.

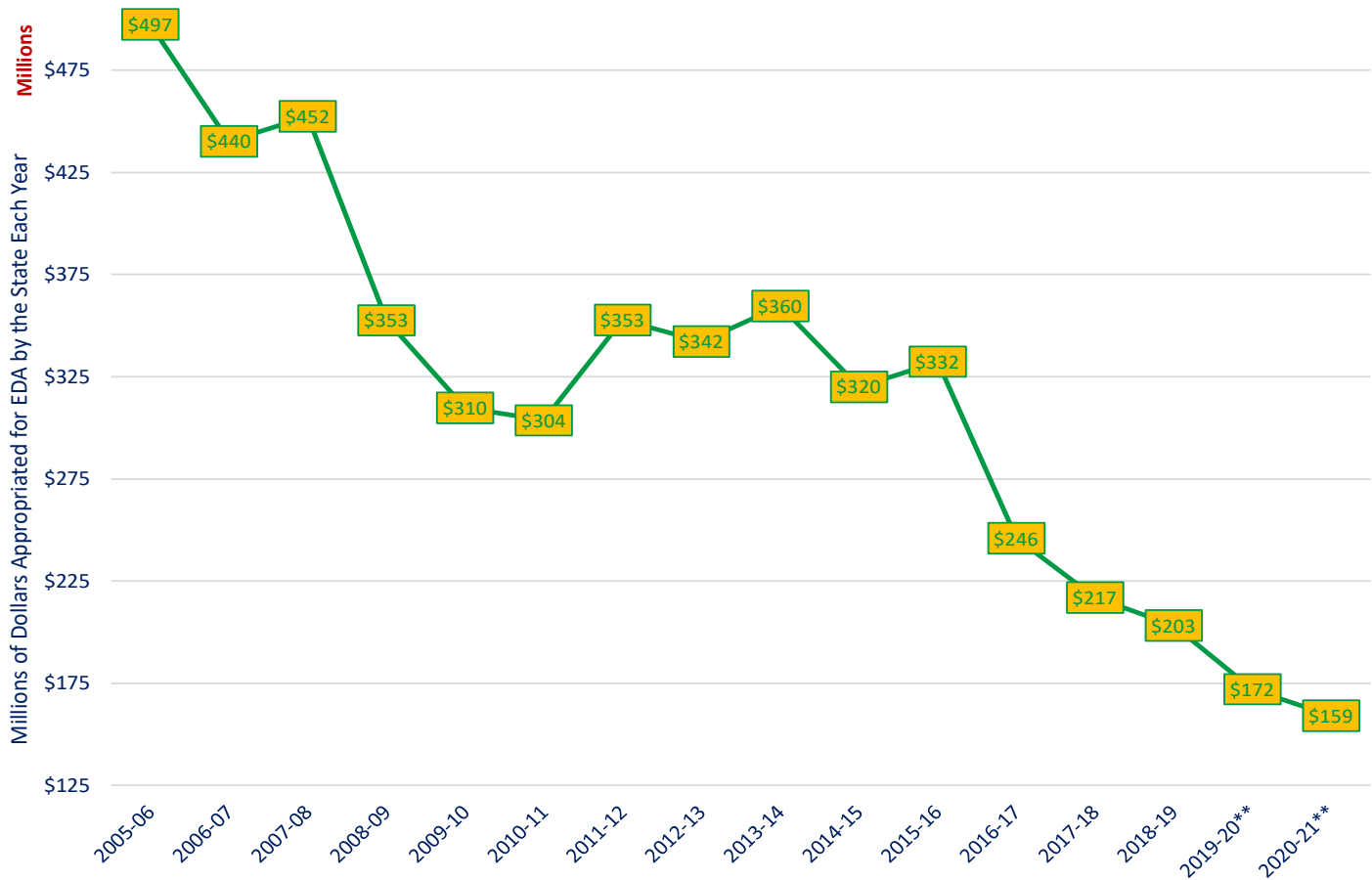
Weaknesses to address:

1. EDA eligibility is restricted to the amount of non-IFA bond debt payments from the last year of the previous biennium, regardless of what a district’s bond payment schedule might require.
2. Interest earned on district deposits, gifts and awards, and penalty and interest collected on delinquent taxes cannot be used to satisfy local share requirements, even though these funds include no state funding element. This unnecessarily increases the tax rate that must be levied.
3. The guaranteed funding level has been increased only 8.9% in 22 years. (\$3.10 / \$35) The same \$3.10 increase, if based on a constant percentage annual increase, could be achieved by an annual increase of just 0.4%. Clearly, this has not kept pace with the cost of construction, forcing the lion’s share of the burden on local property owners. The chart below shows this decline in state responsibility.



4. The state cost for EDAs for the 2020-21 school year²⁷ is \$294,128,887 less than the dollars spent for EDAs in the 2002-03 school year, a drop of nearly 65%—and that is using dollars unadjusted for inflation or the increase in student population.

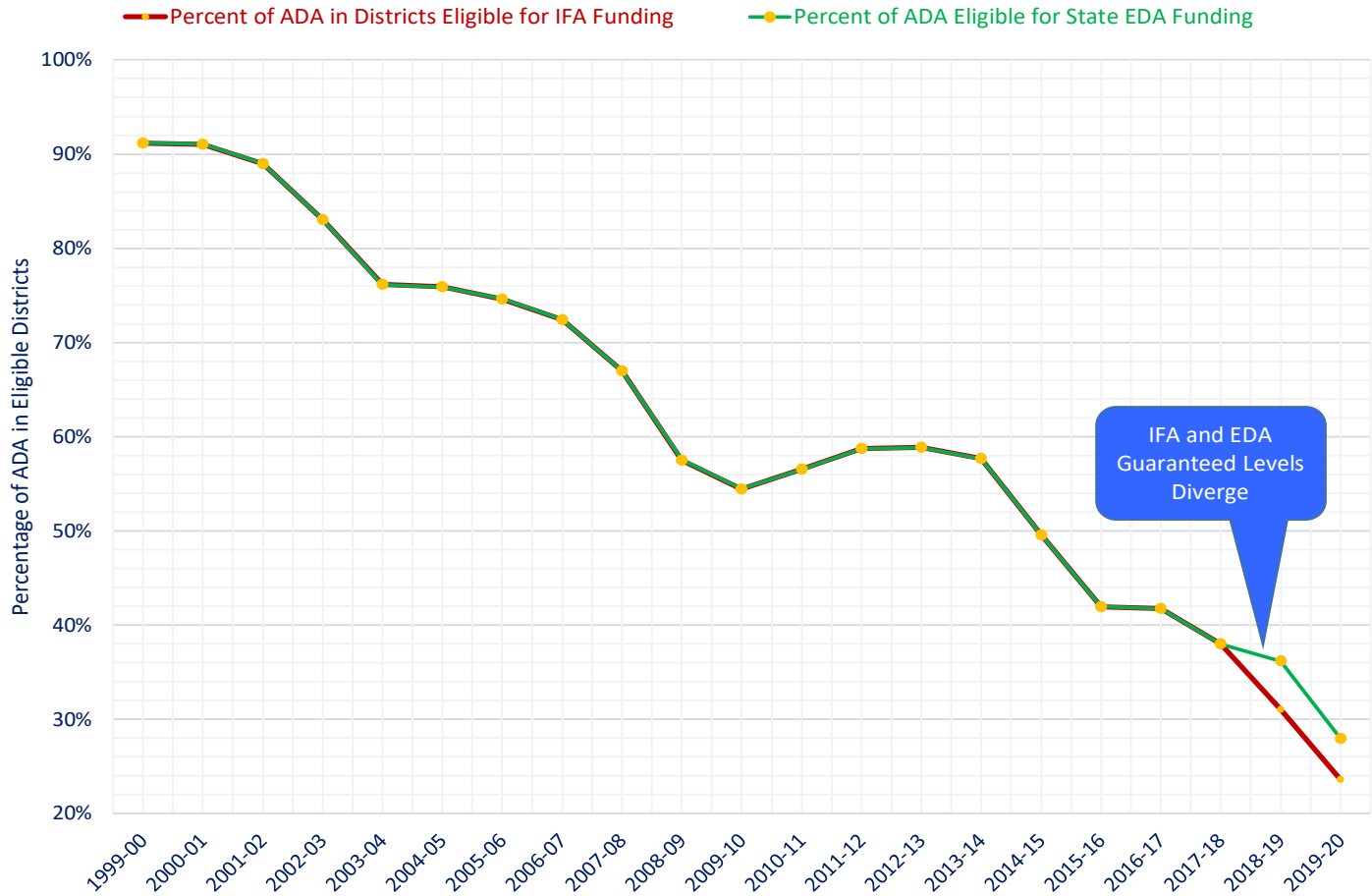
Decline in State **EDA** Funding Over Sixteen Years, From its High Point in 2005-06



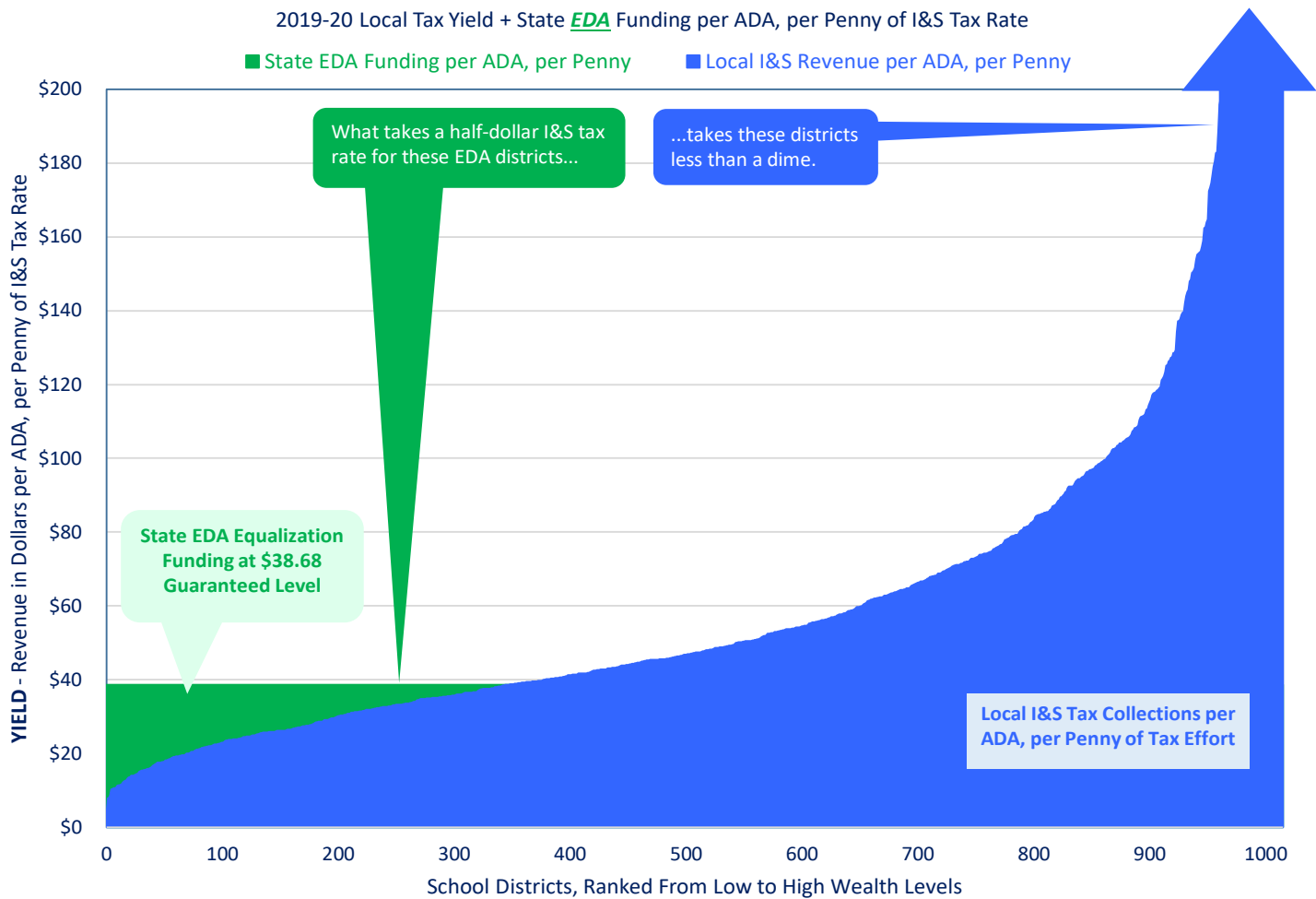
5. EDA is no longer truly equalized. In 1999-2000, 91% of the ADA in the state were in districts with wealth levels below \$350,000 per ADA, which corresponds to the \$35 GL the state adopted. That means 91% of the ADA in the state were in districts eligible for EDA and IFA funding and within a significantly equalized facilities funding system.

Using TEA’s preliminary estimates for the 2020-2021 school year, **only 23.6% of ADA were in the IFA equalized facilities funding system (\$35 GL) and 26.2% of ADA were in the EDA equalized system (\$38.10 GL).** (A \$35 GL is equivalent to a wealth level of \$350,000 per ADA, and a \$38.10 GL is equivalent to a wealth level of \$381,000. Districts under these wealth levels are eligible for state IFA and EDA assistance, respectively.)

Declining Percentage of ADA in Districts Eligible for IFA & EDA Funding



6. When roughly three-quarters of the students are in districts whose local revenue to pay bonds is more than the guaranteed levels for the state programs, those programs are not truly equalized. They are equalized only up to the point the state chooses to equalize, which can hardly be called equalized unless a very significant percentage of school children are in covered districts!

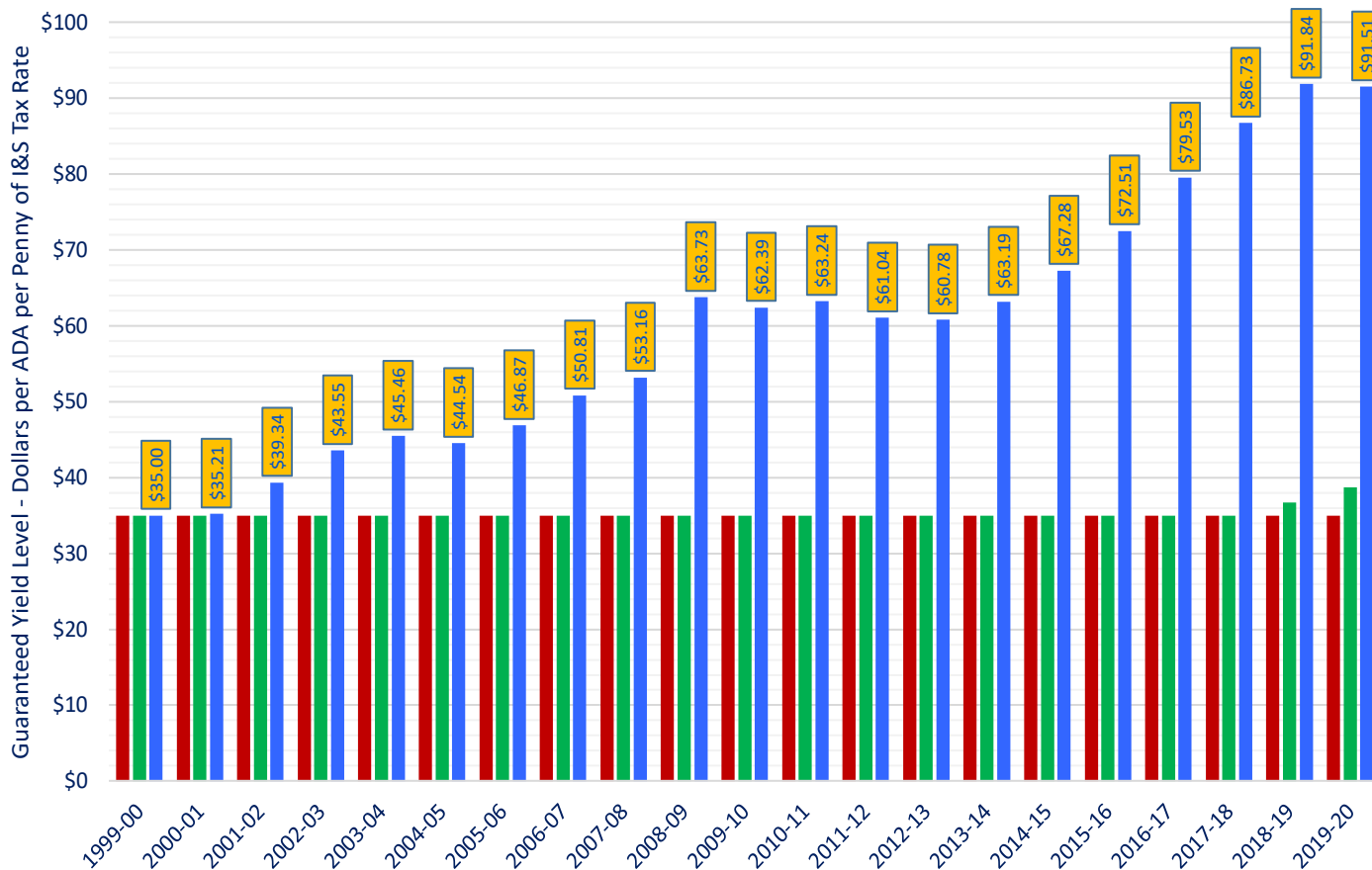


7. There has been a substantial desire to reduce property taxes over the past few years. Using the state’s “savings” to increase the yield (and thereby further compress the tax rate needed to pay the debt would be a totally equitable form of tax relief, unlike some of the current methods. **It would also provide the greatest tax relief to the taxpayers with the highest tax rates.**

8. An overlooked non-provision: The state facilities funding systems failed to take into account uncontrollable differences in need for or cost of facilities funded with this debt (e.g. - fast growth, construction and land costs, age and condition of existing facilities) in the manner the state does for operating costs. Therefore, these higher costs are almost entirely borne by local taxpayers.

IFA Guaranteed Level vs Guaranteed Level to Maintain Initial Equity Level (91st Percentile of Wealth)

- IFA Statutory Guaranteed Level
- EDA Statutory Guaranteed Level
- IFA & EDA Guaranteed Level to Maintain Original Equity Level

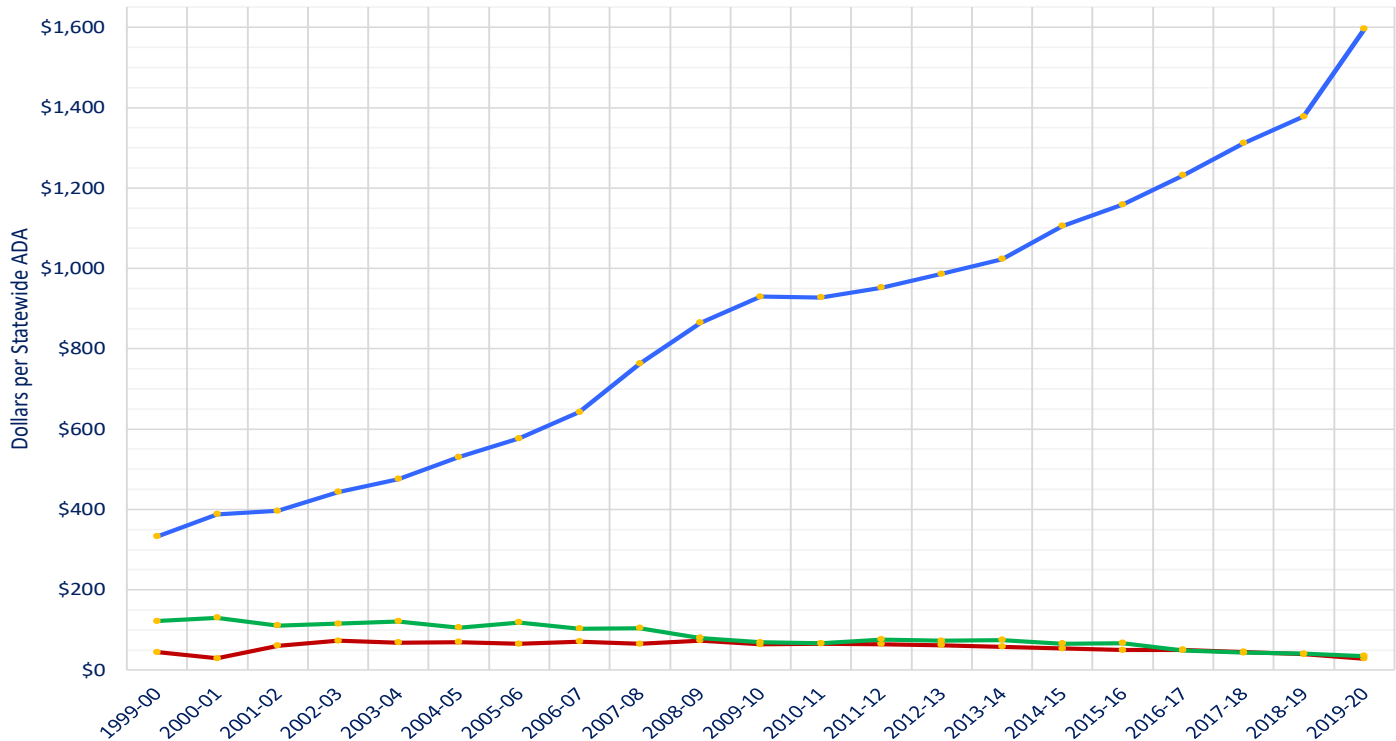


**State and Local Funding for School Facilities -- Per ADA
Actual, Unadjusted Dollars**

School Year	I&S Property Tax Collections	State Share of IFA	State Share of EDA	Total State IFA + EDA Facilities Assistance	Total State + Local Facilities Payments	State's Percentage of Total Facilities Payments
1999-00	332	44	122	166	499	33.3%
2000-01	388	29	131	160	548	29.2%
2001-02	396	61	111	172	568	30.2%
2002-03	443	73	115	189	632	29.8%
2003-04	475	68	121	189	665	28.5%
2004-05	531	69	106	175	706	24.8%
2005-06	577	65	119	184	761	24.2%
2006-07	642	71	104	175	817	21.4%
2007-08	762	65	105	170	932	18.2%
2008-09	864	74	80	154	1,018	15.1%
2009-10	930	64	69	133	1,063	12.5%
2010-11	927	66	67	133	1,060	12.5%
2011-12	952	65	76	141	1,093	12.9%
2012-13	986	62	73	135	1,121	12.0%
2013-14	1,023	58	75	133	1,156	11.5%
2014-15	1,105	54	66	119	1,225	9.8%
2015-16	1,159	50	67	118	1,276	9.2%
2016-17	1,232	50	49	100	1,331	7.5%
2017-18	1,312	45	43	89	1,400	6.3%
2018-19	1,378	40	40	80	1,458	5.5%
2019-20	1,596	29	35	64	1,660	3.8%
2020-21	1,494	25	31	56	1,550	3.6%
Averages	923	55	79	134	1,057	12.7%

Annual State vs Local Contribution (Property Tax) to I&S Debt Payments -- *Per ADA*

I&S Property Tax Collections State Share of IFA State Share of EDA





A NEW COST-EFFICIENT FACILITIES FUNDING SYSTEM

The IFA was a dramatically different system from past practices (one can hardly call them “systems”) when the legislature first developed it. It is important to note that Representative Hochberg did not build the IFA system in 1997 as an improvement of a previous system. Instead, he constructed it upon the *failings* of the preceding series of token facilities-funding offerings done more as a symbolic gesture than as a legitimate funding mechanism.

Then in 1999, Chairman Sadler and Representative Hochberg were able to greatly enhance the state’s system by adding the Existing Debt Allotment to address a severe omission in the whole concept of the IFA program. It, too, was not perfect, but, again, it was a huge step forward and the most that could be gained at that time.

Once the two programs were in place, the various improvements sprang from an incremental process. In other words, anything new was simply the next logical step in the development of a genuine school facilities funding system. The state identified a problem; a narrow problem-solving solution was added to the IFA/EDA system, but never more than that just providing that next step. In nearly all cases, changes were a product of good ideas based on needs and the amount of money the state was willing to commit. Some might argue that the latter component (i.e., money) was the overriding one. Some elements were in the statute not because they belonged in an efficient facilities funding system but to limit state costs. A prime example of this can be seen in the absence of an automatic roll-forward of existing debt (EDA) to include debt from the most recent biennium.

Each session, the school funding legislation would authorize the roll forward to provide EDA funding for actions the districts had, in good faith (or risky optimism), taken in the previous biennium. Legislators, Chairman Teel Bivins in particular, clearly stated that the purpose of this uncertainty was to avoid giving schools enough confidence in continued state support to amount to what Senator Bivins referred to as a “blank check.” This uncertainty was neither conducive to efficient decision-making by school districts nor

fair to taxpayers.

The state made improvements (or other changes) over time using what was already in place as the starting point. There was a problem; a solution to that problem was grafted onto existing law, even if a fresh approach would have been better. And, this is what this proposal hopes to rectify.

And the principal problem in all of the IFA/EDA funding is the constant erosion of state support. The state share of debt payments in 1999-2000 was 33.3%. Twenty-two years later in 2020-2021, the Texas Education Agency estimates that level will have dropped by an unimaginable 89%, down to just 3.6%.

With the state only paying for 3.6% of the cost of debt payments, local property owners will pay the remaining 96.4%.

The Texas Plan, Part 2

Texas relies very heavily on a school property tax to fund public education, especially with respect to making annual payments on bond debt. The weakness in this approach is quite obvious in that one district might require a very high I&S tax rate for twenty-five or thirty years to completely retire the debt on a necessary construction project while an identical neighbor with a high-property value factory of some sort might adopt a rate that is only a third as high for a much shorter repayment term.²⁸

To partially lessen that disparity (it is a problem only for the low and low-mid-wealth districts since there is no recapture on I&S tax collections in higher-wealth districts), Texas uses a guaranteed yield approach to supplement the collections of low/low-mid-wealth districts up to the level the state is guaranteeing. The basic concept of a Guaranteed Yield funding system is quite simple, as discussed earlier in this paper, and further illustrated here:

First a few terms: a school district's **wealth level** is simply its taxable value divided by the number of students in the district.²⁹ A district's **yield** is the amount of taxes levied with one penny, divided by the district's ADA (i.e., the anticipated revenue (levy) per student from a 1¢ property tax rate). If a district has a significant wealth level, it can obviously raise more than one without a lot of wealth. The following example illustrates (numbers chosen to make calculations simple to follow):

Suppose a district has \$100,000,000 in taxable value within its boundaries. The levy or anticipated revenue on that amount of taxable value is determined by dividing the value by 100 (because taxes are assessed per \$100), then multiplying by the adopted tax rate.

One penny of tax rate (\$0.01) would yield:

*$(\$100,000,000 / \$100) * \$0.01 = \$1,000,000 * \$0.01 = \$10,000$ ³⁰*

If this district had 1,000 students, the yield would be

$\$10,000 / 1,000 = \10

The guaranteed yield (also, guaranteed level) for IFA is \$35, so state IFA funding would be the amount necessary to raise the district's \$10 yield to \$35, which would take a state contribution of \$25. The state allotment, then, would be the amount obtained by multiplying the \$25 state share by the number of pennies of I&S tax rate adopted to make the bond payment, with that result multiplied by the district's ADA.

As is usual in Texas school finance, there are complicating factors involved. Fortunately, they are not necessary to the process and are removed in the proposed Texas Plan, Part 2.

Elements of the Texas Plan, Part 2:

- 1. Make sure taxpayers understand that a better state facilities funding system results in a corresponding reduction in their I&S tax burden:**

For every \$1 increase in state facilities funding, there is \$1 of tax relief granted.

It's as simple as that. A district does not receive extra state funding to spend when the state increases its share.

We propose the new system be named to emphasize that fact, and that Chapter 46 (the school facilities funding chapter in the Texas Education Code) be renamed, "*Property Tax Relief for School Debt*," because that is exactly what an efficient and adequately-funded I&S funding system provides.

2. Replace the current EDA/IFA dual system with one system that combines the best of both and removes the worst of either.

Having dual systems serves no legitimate purpose in and of itself, especially since new IFA-funded projects are for all practical purposes non-existent, as the table on page 26 clearly shows. However, in eliminating this dual system, care must be given that no harm is done to districts currently involved in either or both programs.

3. Equalize all I&S pennies of tax rate.

Currently the EDA equalizes tax rate collections up to \$0.29. When first implemented in the 1999 system, very few districts were setting I&S tax rates above that level. That is no longer the case.

New IFA grants are limited to \$250 per ADA per approved project. At a \$35 guaranteed level, that means the highest IFA tax rate upon implementation is just a little over \$0.07. IFAs can be stacked, but first the state would have to appropriate funds for new IFAs more than the one time in ten years, as has been the current practice.

While these limits do reduce state costs, they do so by transferring part of the state's responsibility to local property taxpayers via higher-than-necessary I&S tax rates. Equalizing only a limited number of I&S pennies in effect punishes taxpayers in districts with high facilities needs. Consider this:

District A is an exceptionally fast-growth district with a relatively low wealth level and great facilities needs.³¹ It has maxed out its I&S tax rate at \$0.50. Further, suppose District A can raise \$20 per student with each penny of I&S tax rate it levies. For the first 29 pennies, the state will provide an additional \$18.10 (to reach the \$38.10 EDA guaranteed level). For the next 21 cents, there is no state support, leaving the full burden of that tax effort on local taxpayers. The following table shows the difference to District A's taxpayers if the state system equalized the last 21 cents at the same funding level it guarantees for the first 29 cents.

Taxpayers benefit from increasing the \$0.29 EDA cap to include all I&S pennies.

****Dollar amounts shown in this table are per ADA.***

	Equalized I&S Pennies	EDA Guaranteed Yield	State + Local Revenue	Unequalized I&S Pennies	Funding Level	Unequalized Local Revenue	Total Debt Payment	Total I&S Tax Rate
Current EDA	29 (max)	\$38.10	\$1,105	21	\$20	\$420	\$1,525	\$0.50
Texas Plan	40	\$38.10	\$1,524	0	\$38.10	\$0	\$1,524	\$0.40
							\$0.10	
							(20% reduction)	
							Property Tax Reduction →	

Some will say equalizing all pennies to the guaranteed level provides an incentive for districts to maximize I&S tax rates. This is misguided for several reasons, most notably:

- a. The vast majority of districts are already funded (by virtue of their own wealth levels) at much higher levels than the current EDA guaranteed level, and their I&S tax rates are not maximized at all. In fact, the wealthiest districts with the highest per penny yields tend to have lower I&S tax rates than those within the EDA system.
- b. However, if this proves not to be the case at some point in the future, it can be simply remedied by reinstating recapture at the guaranteed level. Then all districts would be similarly tempted.
- c. A higher guaranteed level does not give a district an increase in revenue because it requires a lower I&S tax rate. Remember, the levy is driven by the amount of the bond payment. If the state provides a more efficient and adequate level of funding, the district's share is lower, requiring a lower tax rate.
- d. High I&S tax rates put downward pressure on M&O tax rates because it is the total tax rate that matters to most property owners. Higher I&S, lower M&O. Districts would rather not deal with that.

4. Remove unnecessary, inefficient equalization caps on state funding of its share that shift the burden onto taxpayers.

If for any reason a district's IFA debt payment exceeds the highest amount paid during its first year of implementation, the state will equalize only up to that initial amount. In a similar fashion, if for any reason a district's EDA debt payment exceeds the amount of the debt payment from the last year of the previous biennium, the state will equalize only up to that prior amount.

Plainly, these "gotchas" serve no purpose other than allowing the state to renege on providing its proper share, thereby shifting the tax burden, once again, from the state to local property taxpayers. They are an additional complication in understanding how the funding system works.

5. Simplify the funding formula so it is fair, effective, but also explainable.

- a. The local share of a debt payment can be as simple as the debt payment multiplied by the district's wealth level (per ADA), divided by the guaranteed level. Not only is this simple and transparent, it is also the most efficient.

$$\text{Local Share} = \text{Debt Payment} * (\text{District Yield} / \text{Guaranteed Level})$$

$$\text{State Share} = \text{Debt Payment} - \text{Local Share}$$

For example, in our previous example of a district with a \$10 yield per penny per ADA, its local share of a \$100,000 IFA debt payment would be calculated as follows:

$$\begin{aligned} \text{Local Share} &= \$100,000 * (\$10 / \$35) \\ &= \$100,000 * 0.2857 \\ &= \$28,570 \end{aligned}$$

The state's share would be whatever portion of the debt payment was left over:

$$\begin{aligned} \text{State Share} &= \$100,000 - \$28,570 \\ &= \$71,430 \end{aligned}$$

Divide...multiply...subtract. Nothing else is needed.

b. The actual formula in statute would probably look something like this...

$$\begin{aligned}\text{Allotment (State Share)} &= \text{Debt Payment} * [1 - (\text{District Yield} / \text{Guaranteed Level})] \\ &= \$100,000 * [1 - (10/35)] \\ &= \$100,000 * [1 - .2857] \\ &= \$100,000 * 0.7143 \\ &= \$71,430\end{aligned}$$

The calculations would still be simple and understandable, and could be calculated on half a postcard. The state share should not be dependent on local tax collections and/or “acceptable” funds. If a district lacked sufficient funds to make the payment (which it MUST do anyway), and had to rely on state/local Tier 1 funds, it should be allowed to “borrow” those funds to make the payment (with no penalty) and given statutory authority to simply pay the borrowed funds back to Tier 1 the following year by setting a sufficiently higher I&S rate.

There would be no funding caps based on prior biennia or penalties that resulted in punishing local taxpayers for things beyond the school’s control.

6. The state’s guaranteed level should reflect actual costs of construction by maintaining a funding level at the 91st percentile of wealth (the original funding level).

There are three very important, interlocking elements that come to bear with respect to efficient funding levels. They are the level of equity (degree to which a funding level is waste free), the level of adequacy (degree to which a funding level is adequate to achieve its intended goal), and the effectiveness of inherent mechanism(s) to drive the funding level in concert with the other two elements.

States have historically measured equity by the percentage of students in an equalized system where parents and other taxpayers are able to provide resources for their children’s education at a level that meets their needs with relatively equal effort. The original guarantee of \$35 per ADA for each penny of I&S tax rate the state adopted beginning in 1999 was sufficient to benefit districts with wealth levels (per ADA basis) below \$350,000. This group of districts eligible for state assistance through IFA and EDA contained 91% of the statewide ADA, which meant 91% of the state’s ADA were in an equalized system or that it was “equitable to the 91st percentile of wealth.”

Thus, the mechanism the state provided Texas’ public schools for facilities funding gave preferential treatment to districts with only 9% of students. Everyone else was pretty much in the same boat. Over time, the failure to increase the guaranteed level above \$35 as the wealth of the state (and districts) rose resulted in an erosion of that original equity standard.

Within five years, the equity level dropped to the 76th percentile (76% of ADA in districts able to benefit from the IFA and EDA). At the end of 10 years, the equity level had dropped to about the 55th percentile. After 15 years, and despite the recession, the IFA/EDA system equalized funding for fewer than half of Texas students.

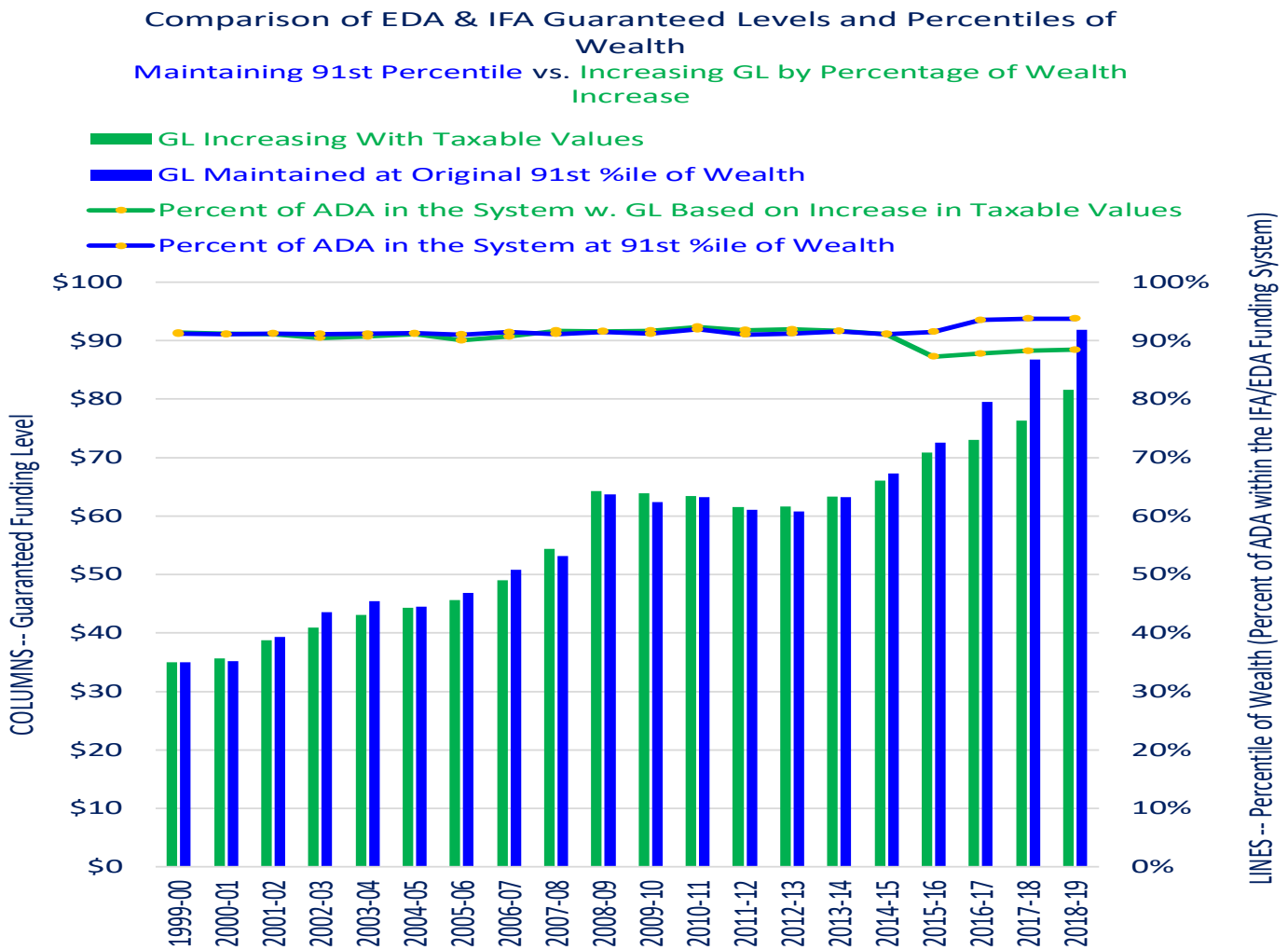
But, by the end of the 2018-2019 school year, there were only 30.99% of the statewide ADA in districts with wealth levels below \$350,000 and remained eligible for state IFA funding. The EDA program in 2018-19 had a slightly higher guaranteed level (\$36.75). There were 36.17% of statewide ADA in districts with wealth levels below \$367,500. Conversely, the percent of ADA that were in districts able to raise more through local taxes than the amount the state guaranteed (i.e., above the system) increased from 9% in 1999-2000 to nearly two-thirds of the state’s ADA by 2018-2019.

Had the original 91st percentile of wealth been maintained as the funding level, the guaranteed level would have been \$91.84 in 2018-19. This funding level would accomplish four important goals:

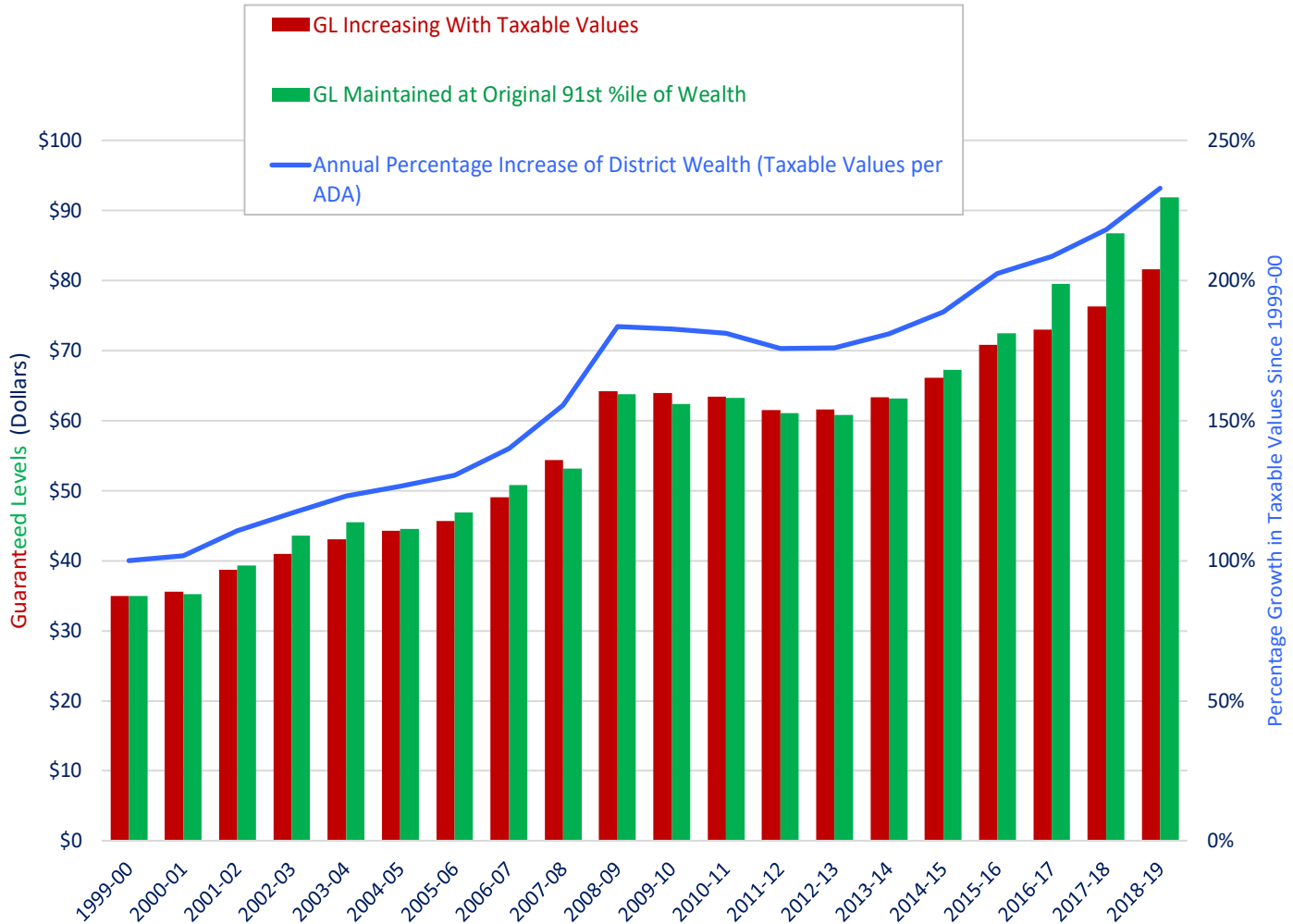
1. Local I&S property tax rates would be significantly lower for taxpayers in districts that are currently taxing at the higher levels.
2. Equity (efficiency) would have been maintained; children and taxpayers would be treated more fairly.
3. The funding level (state + local) would be more in line with the actual, current costs of public education construction and renovation.
4. The funding level would continue to rise over time as the wealth of the state (taxable value) increased.

Alternatively, the state could use the percentage increase in the statewide school district wealth (total taxable value divided by the total ADA), which renders similar results. Each has its advantages. Using this methodology, the state could increase the guaranteed level each year by the same percentage by which the state's wealth increased. For example, if the taxable value per ADA increased by 5%, then the GL would increase by 5%. The advantage of this approach is that the equity level increases only to the extent the state is better able to pay for that increase. And, as an added bonus, it also guarantees that the cost is not being shifted onto local property taxes as values rise.

The following graphs provide more detailed information with respect to how the two methods would have affected guaranteed levels over time. Keep in mind that increasing the guaranteed level lowers I&S tax rate proportionately.



Comparing Dynamic Guaranteed Levels With Increases in District Wealth (Taxable Values per ADA) Over Time



7. Once a guaranteed level is adopted for a particular year (or span of years) in a cost-based facilities funding system, that level is not increased as the guaranteed level is increased in later years.

Bond debt retirement requires many years of payments, and during that term, a district may construct other, similar facilities at higher costs. When costs are higher, the guaranteed level should also be higher to compensate for that extra cost. However, raising the GL for the earlier, less-expensive projects is not justified and uses up limited funds to adequately fund debt where construction costs are higher.

For example, in the 1999-2000 school year, the \$35 guaranteed level was equalized to the 91st percentile of wealth, a sufficient funding level, given the costs of construction at that time. However, the same \$35 GL was not sufficient 20 years later when construction costs were much higher. Let’s say an equivalent funding level in 2019-20 for a comparable project was \$70. There is no need to go back to the 1999-2000 project and increase that guaranteed level to \$70. The original \$35 GL is still sufficient for the debt payments from that old debt because construction costs at that time were less expensive. Changing that GL when it is not related to an increased cost is wasteful.

GLs must be increased based on cost of construction at the time and increased *in steps* over time, perhaps with an adjustment every four years. To illustrate, suppose construction costs are 10% higher in 2004-05 than in 1999-2000. Then, the new GL for 2004-2005 should be 10% higher than the \$35 provided in 1999-2000 (i.e., \$38.50), while the GL for the earlier years would not be increased.

In such a system with guaranteed levels being stepped up as construction costs increase, one might ask,

how could one consolidate (or refinance) two debts if the GLs were different. This example explains:
 Suppose District A has a \$6,000,000 debt funded at a \$40 GL it wishes to combine with a \$4,000,000 debt funded at a \$50 GL. A new debt of \$10,000,000 would be created with a morphed GL:

\$6 million / \$10 million = 60%

60% * \$40 GL = **\$24**

\$4 million / \$10 million = 40%

40% * \$50 GL = **\$20**

New GL for \$10 million debt = \$24 + \$20

=**\$44**

Simple.

8. While funding may need to be phased in over a reasonable amount of time due to current economic conditions, the new system should be completely implemented.

In view of the absence of new money to fund an increase in the guaranteed level or increase the number of equalized pennies, those, and other, changes should be in the adopted plan. It would be easy to put off any change or only do a partial implementation with an eye to doing more in some future legislative session. Avoid doing this! Instead, develop a series of implementation steps such that the costs of certain provisions are phased in within a reasonable period of time as funding becomes available. In other words, adopt an efficient, equitable, *and adequate* state system that meets the needs of Texas districts, but also take differences in costs into consideration to the greatest extent possible.

9. Simplify, Simplify, Simplify wherever possible!

There is a misconception in Texas public school finance that if something is simple, it must not work. But, that is not necessarily the case! A simple, transparent, and straightforward system can provide a greater understanding of exactly how a funding mechanism actually works and should be used unless more complexity is required for a system to be fair and efficient. What's wrong with being simple as long as it doesn't ignore real-world issues, like district cost differences?

10. Lastly, do no harm during the implementation process.

For example, if there is a delay in increasing the number of equalized pennies from 29 pennies, a district that has more pennies equalized due to a combination of an IFA and an EDA should continue to have that number of equalized pennies until the new system catches up to where the district is.

Conclusion:

With 1,016 public school districts, millions of children and a fast growing population, *Texas faces enormous concerns about how best to efficiently, equitably and adequately finance the structural facilities needed to make good on our constitutional promise (requirement) to provide for a general diffusion of knowledge for our citizens.*

The history of Texas' attempts to fund school facilities across the state is well chronicled. Yet with the exception of an instance or two, an overall lack of commitment of state dollars to assist school districts in constructing, renovating and maintaining the facilities needed to provide appropriate educational opportunities for our children has resulted in school facility funding formulas that today are woefully inadequate for the needs our schools face in this 21st century.

It is our hope and goal that the information, suggestions and ideas presented in these pages will lead to a broader, more substantial discussion of the state's needs for efficient, equitable and adequate facilities funding formulas. For discussion to turn to action to ensure future generations of Texans will profit from having educational facilities that enable teachers, administrators, parents and communities to deliver the educational opportunities our children must have to be competitive in the worldwide economy that promises to be our future.

Endnotes

1. Thomas, Stephen B., and Billy Don Walker. "Texas Public School Finance." *Journal of Education Finance* 8, no. 2 (1982): 223-81. Accessed February 6, 2020. www.jstor.org/stable/40703363.
2. This multiplier was the greater of a multiplier determined by 1) dividing each district's M&O tax effort by the state average M&O tax effort or 2) a multiplier determined by dividing a district's total tax (M&O + I&S) effort by the state average total tax effort. Only districts with I&S rates above the state average would benefit.
3. This provision resolved problems with an existing guarantee provision that was adopted in 1983 in SJR12 (Jones/Haley).
4. Texas Education Agency, <https://tea.texas.gov/finance-and-grants/state-funding/facilities-funding-and-standards/bond-guarantee-program>, June 29, 2020.
5. Charter schools began receiving PSF backing on facilities in 2011.
6. This first series of school finance litigation was referred to as Edgewood I – IV, named after the lead plaintiff school district. There were other cases after 2000, but these first four were the primary drivers with respect to achieving a more efficient/equitable school funding system.
7. The local fund assignment (a district's share of Tier 1 of the Foundation School Program amount) was the local property tax collections associated with the district's first 86 cents of M&O tax rate. This amount was determined by applying \$0.86 to a district's taxable value of property, as follows: $LFA = (DPV / 100) * \$0.86$.
8. This guaranteed wealth level was the cutoff above which a district was not eligible for School Facilities Assistance. It was determined by multiplying the \$20.55 Tier 2 guaranteed level at that time by the ratio of statewide WADA to ADA. That calculated to be \$27.60, which translated to a guaranteed wealth level of \$276,000 per ADA (\$27.60 x 10,000).
9. For example, using \$266 per ADA funding level, a district with 500 ADA would not be eligible for more than \$133,000. However, this amount would fall below the \$500,000 minimum appropriation for small districts, which would then apply.
10. The local fund assignment (a district's share of Tier 1 of the Foundation School Program amount) was the local property tax collections associated with the district's first 86 cents of M&O tax rate. This amount was determined by applying \$0.86 to a district's taxable value of property, as follows: $LFA = (DPV / 100) * \$0.86$.
11. Rarely is anything actually "simple" in public school funding because caveats abound. While this is no exception, this example gives the reader a general idea of how guaranteed yield funding works.
12. Although our research was fairly cursory, it appears there is no specific financial reason for including this "eight years" requirement. It would not be unreasonable, then, to assume its purpose was to ensure the limited IFA funds were used for things that would otherwise be appropriate to pay over time with debt, rather than using it for regular ongoing operating expenses.
13. I.e., just ADA. Unweighted is included as an adjective to emphasize the student count is not weighted ADA, which is commonly used in many funding mechanisms.
14. Although "budgeted to be collected" was the statutory language adopted, the adopted I&S tax rate and what a district actually budgeted to be collected were not relevant. The state has always used actual collections to determine a district's tax rate for guaranteed yield funding.
15. The first year for IFA projects was the 1997-98 school year.
16. The term "91st percentile of wealth" means 91% of the statewide ADA were in districts that could access state funding if they had eligible EDA debt.
17. To put this increase in perspective, the \$60 million in EDA funding was for 4,733,399 students (ADA) in traditional school districts compared to another \$60 million for grants to the charter schools, serving 271,805 thousand students (also in ADA). IFA projects received a one-time allocation of \$55.5 million for new projects with no increase in the original \$35 guaranteed level. (2017-2018 Statewide Summary of Finances and the 2017-2018 Statewide Charter School Summary of Finances as of August 17, 2020)
18. Of course, any "guarantee" that is simply in statute, as opposed to be in the constitution, can be changed by a majority vote in a subsequent legislative session. However, the state has been faithful in this regard over the past two-plus decades.

19. In other words, EDA and IFA local effort is “stacked” so that the \$0.29 EDA limit does not impinge on a district’s ability to achieve state-equalized funding above that level.
20. Only two-thirds of the initial \$200 million actually funded new projects. The remaining one-third was used to pay the state share of bond debt in the second year for the projects awarded in the first year of the biennium. This practice was applicable only in this first biennium of IFA funding, after which a separate appropriation covered the state shares of subsequent-year debt payments.
21. While the Existing Debt Allotment was created during the 1999 legislative session, it is not designed to provide state assistance during the first biennium in which debt payments are made. One exception is a district’s last payment for some other, non-IFA-related debt that came in the last year of the preceding biennium.
22. Local I&S tax collections + IFA and EDA allotments. Drawn from preliminary data from the TEA Summary of Finance as of August 2020; 2019-20 data drawn from the TEA FM file for that year in the Equity Center’s historical data collection.
23. This one-time appropriation coincided with the legislature providing a new funding stream for charter school facilities and an increase in the EDA funding level. One can only guess whether the funding for new IFA projects was only in response to these other two increases in facilities funding. If so, the logical inference is that the state has finished providing funding for new IFAs or for any increase in the original \$35 per ADA guaranteed level.
24. Statute allows for one exception to this rule. TARS Executive Director Bill Grusendorf was able to convince House Public Education Chairman Paul Sadler that very small districts would be unable to build anything significant at \$250 per ADA. He suggested a floor of \$100,000 for an IFA grant, which was adopted, effectively giving small districts funding for at least 400 ADA. ($\$250 \times 400 = \$100,000$)
25. One should note that this limit has also remained frozen, despite the increases in construction costs.
26. Generally, a \$35 guaranteed level in either facilities funding program is equivalent to having a taxable value of \$350,000 per ADA. Districts with wealth levels above that amount can generally raise more than \$35 per ADA, per penny of I&S tax rate levied. As of the 2017-18 school year, the EDA GL is a little higher, but fluctuates somewhat.
27. Based on the preliminary estimates from the TEA Summary of Finance (August 2020 update).
28. As the Supreme Court noted, this creates a spiraling problem – valuable new projects are more likely to be located in the district with lower rates, further increasing their advantage over their poorer neighbor. This can starve those neighbors, which frequently are the small towns in rural areas or the fast-growth bedroom communities in urban and suburban communities.
29. A “student” in state facilities funding calculations is the number of students in the district that are in average daily attendance (ADA) because the IFA and EDA formulas are based on revenue per ADA. On the maintenance & operations side, the district’s wealth level is determined by dividing its taxable value by the number of weighted students in average daily attendance (WADA).
30. This same result can be obtained simply by moving the decimal place on the taxable value 4 places to the left.
31. A fast-growing student population often results in a decline in a district’s wealth level (taxable value per student) because much of the growth in taxable values comes from an increase in “roof tops” (houses and apartments), which, value-wise, do not keep pace with the student growth.

****An extensive Appendices resource is available online with a digital version of this report. Visit www.equitycenter.org for more information.***

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Appendix I

Texas Education Code

Chapter 46

Assistance with Instructional Facilities and Payment of Existing Debt

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT

CHAPTER 46. ASSISTANCE WITH INSTRUCTIONAL FACILITIES AND PAYMENT
OF EXISTING DEBT

SUBCHAPTER A. INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. DEFINITION. In this subchapter, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section [28.002](#).

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.23, eff. Sept. 1, 1999.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this subchapter.

(b) The commissioner's rules may 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.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.23, eff. Sept. 1, 1999.

Sec. 46.003. SCHOOL FACILITIES ALLOTMENT. (a) For each year, except as provided by Sections [46.005](#) and [46.006](#), a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section [48.005](#), in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter [403](#), Government Code, or, if applicable, Section [48.258](#), divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter [403](#), Government Code, or, if applicable, Section [48.258](#).

(b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.

(d) The amount budgeted by a district for payment of eligible bonds may include:

(1) bond taxes collected in the current school year;

(2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year, provided that the taxes were not used to generate other state financial assistance for the district; or

(3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.

(e) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(f) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.

(g) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(h) To receive state assistance under this subchapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds

that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1156, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. [1](#)), Sec. 21, eff. November 3, 2015.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 3.059, eff. September 1, 2019.

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this subchapter:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section [46.003](#)(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter.

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this subchapter.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.25, eff. Sept. 1, 1999.

Sec. 46.005. LIMITATION ON GUARANTEED AMOUNT. The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section [46.003](#) for a school district may not exceed the lesser of:

- (1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or
- (2) the greater of:
 - (A) \$100,000; or
 - (B) the product of the number of students in average daily attendance in the district multiplied by \$250.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997.

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this subchapter.

(b) A district's wealth per student is reduced for purposes of this section if a district has had substantial student enrollment growth in the preceding five-year period. The reduction is in addition to any reduction under Subsection (a) and is computed before the district's wealth per student is reduced under that subsection, if applicable. A district's wealth per student is reduced:

- (1) by five percent, if the district has an enrollment growth rate in that period that is 10 percent or more but less than 15 percent;
- (2) by 10 percent, if the district has an enrollment growth rate in that period that is 15 percent or more but less than 30 percent; or
- (3) by 15 percent, if the district has an enrollment growth rate in that period that is 30 percent or more.

(c) A district's wealth per student is reduced by 10 percent for purposes of this section if the district does not have any outstanding debt at the time the district applies for assistance under this subchapter. The reduction is in addition to any reduction under Subsection (a) or (b) and is computed before the district's wealth per student is reduced under those subsections, if applicable.

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), and (c).

(e) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per

student. The commissioner shall award the full amount of state assistance to which a district is entitled under this subchapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(f) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(g) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter [403](#), Government Code, or, if applicable, Section [48.258](#), divided by the district's average daily attendance as determined under Section [48.005](#).

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.26, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1309 (S.B. [962](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1309 (S.B. [962](#)), Sec. 2, eff. September 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 3.060, eff. September 1, 2019.

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this subchapter to pay the principal of and interest on refunding bonds that:

(1) are issued to refund bonds eligible under Section [46.003](#);

(2) do not have a final maturity date later than the final maturity date of the bonds being refunded;

(3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and

(4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.27, eff. Sept. 1, 1999.

Sec. 46.008. STANDARDS. (a) The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after

September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 698, Sec. 5, eff. December 31, 2009.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. [1886](#)), Sec. 10, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 698 (H.B. [2763](#)), Sec. 5, eff. December 31, 2009.

Sec. 46.0081. SECURITY CRITERIA IN DESIGN OF INSTRUCTIONAL FACILITIES. A school district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using funds allotted to the district under this subchapter shall consider, in the design of the instructional facility, appropriate security criteria.

Added by Acts 2005, 79th Leg., Ch. 780 (S.B. [11](#)), Sec. 7, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 620 (S.B. [1556](#)), Sec. 2, eff. June 14, 2013.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this subchapter.

(b) If the amount appropriated for purposes of this subchapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section [48.266](#)(f).

(c) Warrants for payments under this subchapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter [48](#).

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this subchapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is

received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section [48.272](#) applies to payments under this subchapter.

(f) If a school district would have received a greater amount under this subchapter for the applicable school year using the adjusted value determined under Section [48.271](#), the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter to subsequent distributions to the district under this subchapter.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.27, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 3.061, eff. September 1, 2019.

Sec. 46.010. **PROJECTS BY MORE THAN ONE DISTRICT.** If two or more districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a guaranteed facilities yield amount of state and local funds that is 20 percent higher than the amount to which the district would otherwise be entitled under Section [46.005](#).

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997.

Sec. 46.011. **SALE OF INSTRUCTIONAL FACILITY FINANCED WITH INSTRUCTIONAL FACILITIES ALLOTMENT.** (a) If an instructional facility financed by bonds paid with state and local funds under this subchapter is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

(b) In this section, "net proceeds" means the difference between the total amount received from the sale less:

- (1) the amount necessary to fully pay the outstanding principal of and interest on the bonds; and
- (2) the school district's costs of the sale, as approved by the commissioner.

Added by Acts 1997, 75th Leg., ch. 592, Sec. 1.04, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.28, eff. Sept. 1, 1999.

Sec. 46.012. APPLICABILITY TO OPEN-ENROLLMENT CHARTER SCHOOLS. An open-enrollment charter school is not entitled to an allotment under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 30, eff. Sept. 1, 2001.

Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter E, Chapter [48](#).

Added by Acts 2001, 77th Leg., ch. 1156, Sec. 7, eff. Sept. 1, 2001. Renumbered from Education Code Sec. 46.012 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(22), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 3.063, eff. September 1, 2019.

SUBCHAPTER B. ASSISTANCE WITH PAYMENT OF EXISTING DEBT

Sec. 46.031. RULES. The commissioner may adopt rules for the administration of this subchapter.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.29, eff. Sept. 1, 1999.

Sec. 46.032. ALLOTMENT. (a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section [46.034](#), is determined by the formula:

$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is the lesser of:

- (1) \$40 or a greater amount for any year provided by appropriation; or
- (2) the amount that would result in a total additional amount of state funds under this subchapter for the current year equal to \$60 million in excess of the state funds to

which school districts would have been entitled under this section if the guaranteed level amount were \$35;

"ADA" is the number of students in average daily attendance, as determined under Section [48.005](#), in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter [403](#), Government Code, or, if applicable, under Section [48.258](#), divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter [403](#), Government Code, or, if applicable, under Section [48.258](#).

(b) The existing debt tax rate of the district under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) The amount budgeted by a district for payment of eligible bonds may include:

(1) bond taxes collected in the current school year;

(2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year, provided that the taxes were not used to generate other state financial assistance for the district; or

(3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.29, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1156, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. [1](#)), Sec. 22, eff. November 3, 2015.

Acts 2017, 85th Leg., 1st C.S., Ch. 8 (H.B. [21](#)), Sec. 8, eff. September 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 3.064, eff. September 1, 2019.

Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued under Section [45.006](#), are eligible to be paid with state and local funds under this subchapter if:

(1) the district made payments on the bonds during the final 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

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

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.29, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1156, Sec. 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 40, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. [1863](#)), Sec. 12.01, eff. August 29, 2005.

Acts 2007, 80th Leg., R.S., Ch. 235 (H.B. [1922](#)), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. [3646](#)), Sec. 76, eff. September 1, 2009.

Sec. 46.034. LIMITS ON ASSISTANCE. (a) The existing debt tax rate ("EDTR") under Section [46.032](#) may not exceed \$0.29 per \$100 of valuation, or a greater amount for any year provided by appropriation.

(b) The amount of state assistance to which a district is entitled under this subchapter may not exceed the amount to which the district would be entitled at the district's tax rate for the payment of eligible bonds for the final year of the preceding state fiscal biennium.

(b-1) Notwithstanding Subsection (b), a school district is entitled to state assistance under this subchapter based on the district's tax rate for the current school year if the district demonstrates to the commissioner's satisfaction that the district meets the criteria under Section [46.006\(c-2\)](#).

(c) 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 school year of the preceding state fiscal biennium 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.

(d) Expired.

(e) Expired.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.29, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1156, Sec. 10, 12, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 41, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 899 (S.B. [1863](#)), Sec. 12.02, eff. August 29, 2005.

Acts 2007, 80th Leg., R.S., Ch. 235 (H.B. [1922](#)), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1309 (S.B. [962](#)), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. [3646](#)), Sec. 77, eff. September 1, 2009.

Sec. 46.035. PAYMENT OF ASSISTANCE. Section [46.009](#) applies to the payment of assistance under this subchapter.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.29, eff. Sept. 1, 1999.

Sec. 46.036. APPLICABILITY TO OPEN-ENROLLMENT CHARTER SCHOOLS. An open-enrollment charter school is not entitled to an allotment under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1504, Sec. 31, eff. Sept. 1, 2001.

Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter E, Chapter [48](#).

Added by Acts 2001, 77th Leg., ch. 1156, Sec. 11, eff. Sept. 1, 2001. Renumbered from Education Code Sec. 46.036 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(23), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. [3](#)), Sec. 3.065, eff. September 1, 2019.

SUBCHAPTER C. REFINANCING

Sec. 46.061. STATE ASSISTANCE FOR REFINANCING. (a) The commissioner by rule may provide for the payment of state assistance under this chapter to refinance school district debt. A refinancing may not increase the cost to the state of providing the assistance.

(b) The commissioner may allocate state assistance provided for a refinancing to Subchapter A, Subchapter B, or both, as appropriate.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.29, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 7.007, eff. September 1, 2009.

SUBCHAPTER D. STATE AID FOR HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES

Sec. 46.071. ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES. (a) Beginning with the 2015-2016 school year, a

school district is entitled to additional state aid under this subchapter to the extent that state and local revenue used to service debt eligible under this chapter is less than the state and local revenue that would have been available to the district under this chapter as it existed on September 1, 2015, if the increase in the residence homestead exemption under Section [1-b\(c\)](#), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had not occurred.

(b) Subject to Subsections (c)-(e), additional state aid under this section is equal to the amount by which the loss of local interest and sinking revenue for debt service attributable to the increase in the residence homestead exemption under Section [1-b\(c\)](#), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, is not offset by a gain in state aid under this chapter.

(c) For the purpose of determining state aid under this section, local interest and sinking revenue for debt service is limited to revenue required to service debt eligible under this chapter as of September 1, 2015, including refunding of that debt, subject to Section [46.061](#). The limitation imposed by Section [46.034\(a\)](#) does not apply for the purpose of determining state aid under this section.

(d) If the amount required to pay debt service eligible under this section is less than the sum of state and local assistance provided under this chapter, including the amount of additional aid provided under this section, the district may not receive aid under this section in excess of the amount that, when added to the district's local interest and sinking revenue for debt service for the school year, as defined by this section, and state aid under Subchapters A and B, equals the amount required to pay the eligible debt service.

(e) The commissioner, using information provided by the comptroller and other information as necessary, shall compute the amount of additional state aid to which a district is entitled under this section. A determination by the commissioner under this section is final and may not be appealed.

Added by Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. [1](#)), Sec. 23, eff. November 3, 2015.

Appendix II

Texas Legislature

IFA and EDA Provisions in the
Enrolled Versions of Legislative Bills

1997 - 2019

Appendix III

Texas Legislature

Complete, Enrolled Versions of Legislative Bills

As They Relate to

The Instructional Facilities Allotment

And

The Existing Debt Allotment

Enacted

1997 - 2019

AN ACT (1997 75R Bivins)

relating to public school finance, including the abolition of the foundation school fund budget committee.

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

SECTION 1. Section 13.285, Education Code, is amended to read as follows:

Sec. 13.285. COST. The cost of incentive aid payments authorized by this subchapter shall be paid from the foundation school fund. [The costs shall be considered and included by the foundation school fund budget committee in estimating the funds needed for purposes of the Foundation School Program.]

SECTION 2. Subsection (b), Section 19.007, Education Code, is amended to read as follows:

(b) The costs for persons eligible under Section 19.005 shall be paid from the foundation school fund. [Those costs shall be considered annually by the foundation school fund budget committee and included in estimating the funds needed for purposes of the Foundation School Program.]

SECTION 3. Subsection (b), Section 29.008, Education Code, is amended to read as follows:

(b) Except as provided by Subsection (c), costs of an approved contract for residential placement may be paid from a combination of federal, state, and local funds. The local share of the total contract cost for each student is that portion of the local tax effort that exceeds the district's local fund assignment under Section 42.252, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that amount remaining after subtracting the local share. If the contract involves a public facility, the state share is that amount remaining after subtracting the local share from the portion of the contract that involves the costs of instructional and related services. For purposes of this subsection, "local tax effort" means the total amount of money generated by taxes imposed for debt service and maintenance and operation less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

SECTION 4. Subsection (c), Section 29.256, Education Code, is amended to read as follows:

(c) The cost to the state shall be paid from the foundation school fund. [The foundation school fund budget committee shall consider that cost in estimating the funds needed for Foundation School Program purposes.]

SECTION 5. Subsection (a), Section 29.257, Education Code, is amended to read as follows:

(a) The legislature may appropriate money from the foundation school fund to the agency for developing and implementing community education projects. [The foundation school fund budget committee shall consider the cost of community education development projects in estimating the money needed for foundation school fund purposes.] The agency shall actively seek gifts, grants, or other donations for purposes related to community education development projects, unless the acceptance is prohibited by other law. Money received under this subsection shall be deposited in the account established under Subsection (b) and may be appropriated only for the purpose for which the money was given.

SECTION 6. Section 30.003, Education Code, is amended by adding Subsection (h) to read as follows:

(h) For the 1998-1999 state fiscal biennium, the commissioner shall transfer from the Foundation School Program to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf the amount necessary to reimburse each school for the decrease resulting from H.B. No. 4, Acts of the 75th Legislature, Regular Session, 1997, in a school district's local share of the cost of a student's education at the school for the 1997-1998 or 1998-1999 school year. This subsection expires September 1, 1999.

SECTION 7. Subsections (e) and (f), Section 41.002, Education Code, are amended to read as follows:

(e) Notwithstanding Subsection (a), for the [1996-1997 and] 1997-1998, 1998-1999, and 1999-2000 school years, in accordance with a determination of the commissioner, the wealth per student that a school district may have after exercising an option under Section 41.003(2) or (3) may not be less than the amount needed to maintain state and local revenue in an amount equal to state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year less the district's current year distribution per weighted student from the available school fund, other than amounts distributed under Chapter 31, if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or \$1.50 on the \$100 valuation of taxable property. This subsection expires September 1, 2000 [1998].

(f) For purposes of Subsection [Subsections (d) and] (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311,

Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100. This subsection expires September 1, 2000 [1998].

SECTION 8. Section 41.006, Education Code, is amended to read as follows:

Sec. 41.006. RULES. (a) The commissioner may adopt rules necessary for the implementation of this chapter. The rules may provide for the commissioner to make necessary adjustments to the provisions of Chapter 42, including providing for the commissioner[, with the approval of the foundation school fund budget committee,] to make an adjustment in the funding element established by Section 42.302, at the earliest date practicable, to the amount the commissioner believes, taking into consideration options exercised by school districts under this chapter and estimates of student enrollments, will match appropriation levels.

(b) As necessary for the effective and efficient administration of this chapter, the commissioner may modify effective dates and time periods for actions described by this chapter.

SECTION 9. Section 41.093, Education Code, is amended to read as follows:

Sec. 41.093. COST. (a) The cost of each credit is an amount equal to the greater of:

(1) the amount of the district's maintenance and operations [total] tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of maintenance and operations [total] tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

(b) For purposes of this section, a school district's maintenance and operations tax revenue does not include any amounts paid into a tax increment fund under Chapter 311, Tax Code.

SECTION 10. Subsection (a), Section 41.097, Education Code, is amended to read as follows:

(a) The total amount required under Section 41.093 for a district to purchase attendance credits under this subchapter for any school year is reduced by an amount equal to the product of the district's costs under Section 6.06, Tax Code, for the central appraisal district in which it participates multiplied by a percentage that is computed by dividing the total amount required under Section 41.093 by the total amount of taxes imposed in the

district for that year less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

SECTION 11. Section 41.099, Education Code, is amended to read as follows:

Sec. 41.099. LIMITATION. (a) Sections 41.002(e), 41.094, 41.097, and 41.098 apply only to a district that:

(1) executes an agreement to purchase all attendance credits necessary to reduce the district's wealth per student to the equalized wealth level; [or]

(2) executes an agreement to purchase attendance credits and an agreement under Subchapter E to contract for the education of nonresident students who transfer to and are educated in the district but who are not charged tuition; or

(3) executes an agreement under Subchapter E to contract for the education of nonresident students:

(A) to an extent that does not provide more than 10 percent of the reduction in wealth per student required for the district to achieve a wealth per student that is equal to or less than the equalized wealth level; and

(B) under which all revenue paid by the district to other districts, in excess of the reduction in state aid that results from counting the weighted average daily attendance of the students served in the contracting district, is required to be used for funding a consortium of at least three districts in a county with a population of less than 40,000 that is formed to support a technology initiative.

(b) A district that executes an agreement under Subsection (a)(3) must pay full market value for any good or service the district obtains through the consortium.

SECTION 12. Subsection (a), Section 42.005, Education Code, is amended to read as follows:

(a) In this chapter, average daily attendance is the quotient of the sum of attendance for each day of the minimum number of days of instruction as described under Section 25.081(a) [and for each day approved by the commissioner for an extended year program under Section 29.082] divided by the minimum number of days of instruction.

SECTION 13. Section 42.007, Education Code, is amended to read as follows:

Sec. 42.007. EQUALIZED FUNDING ELEMENTS. (a) The Legislative Budget Board shall adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium of the qualified funding elements, in accordance with

Subsection (c), [under Section 42.256(e)] necessary to achieve the state policy under Section 42.001.

(b) Before [Not later than October 1 preceding] each regular session of the legislature, the board shall report the equalized funding elements to [the foundation school fund budget committee,] the commissioner[,] and the legislature.

(c) The funding elements must include:

(1) a basic allotment for the purposes of Section 42.101 that, when combined with the guaranteed yield component provided by Subchapter F, represents the cost per student of a regular education program that meets all mandates of law and regulation;

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

(3) appropriate program cost differentials and other funding elements for the programs authorized under Subchapter C, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;

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

(5) the enrichment and facilities tax rate under Subchapter F;

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

(7) the amount to be appropriated for the school facilities assistance program under Chapter 46.

(d) The board shall conduct a study on the funding elements each biennium, as appropriate.

SECTION 14. Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC ALLOTMENT. 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, a district is entitled to an allotment of \$2,387 [or a greater amount adopted by the foundation school fund budget committee under Section 42.256]. A greater amount for any school year may be provided by appropriation.

SECTION 15. Subsection (b), Section 42.102, Education Code, is amended to read as follows:

(b) The [foundation school fund budget committee shall determine the] cost of education adjustment is the cost of education index adjustment adopted by the foundation school fund budget committee and contained in Chapter 203, Title 19, Texas Administrative Code, as that chapter existed on March 26, 1997 [under Section 42.256].

SECTION 16. Section 42.152, Education Code, is amended by amending Subsection (c) and adding Subsections (q) and (r) to read as follows:

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 15 percent, may [must] be used only in providing compensatory education and accelerated instruction programs under Section 29.081 and may only be spent to improve and enhance programs and services funded under the regular education program. A district's compensatory education allotment may be used for costs supplementary to the regular program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction], and the district must account for the expenditure of state funds by program and by campus under existing agency reporting and auditing procedures. Funds allocated under this section, other than the indirect cost allotment, shall only be expended to improve and enhance programs and services funded under the regular education program]. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) to provide compensatory education services but is not otherwise subject to Subchapter C, Chapter 29.

(q) The State Board of Education, with the assistance of the state auditor and the comptroller, shall develop and implement by rule a reporting and auditing system for district and campus expenditures of compensatory education funds to ensure that compensatory education funds, other than the indirect cost allotment, are spent only to supplement the regular program. The commissioner, in the year following an audit of compensatory education expenditures, shall withhold from a district's foundation school fund payment an amount equal to the amount of compensatory education funds the agency determines were not used in compliance with Subsection (c). The commissioner shall release to a district funds withheld under this subsection when the district provides to the commissioner a detailed plan to spend those funds in compliance with Subsection (c).

(r) Subsection (q) applies beginning with the 1998-1999 school year. For the 1997-1998 school year, a school district shall account for the expenditure of funds allocated under this chapter for compensatory education purposes by program and by campus under

existing agency reporting and auditing procedures. The board, state auditor, and comptroller shall develop the reporting and auditing system required by Subsection (q) not later than August 1, 1998. This subsection expires September 1, 1999.

SECTION 17. Subsection (c), Section 42.155, Education Code, is amended to read as follows:

(c) Each district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible student of operating and maintaining the regular transportation system and the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district or county. The average actual cost is to be computed by the commissioner and included for consideration by [the foundation school fund budget committee and] the legislature in the General Appropriations Act. The allotment per mile of approved route may not exceed the amount set by appropriation.

SECTION 18. Subsection (e), Section 42.252, Education Code, is amended to read as follows:

(e) The commissioner shall hear appeals from school districts that have experienced a rapid decline in tax base used in calculating the local fund assignment, exceeding four percent of the preceding year, that is beyond the control of the board of trustees of the district. The commissioner, to the extent appropriations for that purpose are available, may adjust the district's taxable values for local fund assignment purposes for such losses in value exceeding four percent and thereby adjust the local fund assignment to reflect the local current year taxable value. The decision of the commissioner is final. An adjustment does not affect the local fund assignment of any other school district. This subsection applies to determinations by the commissioner in identifying districts with wealth per student exceeding the equalized wealth level pursuant to Section 41.004.

SECTION 19. Subsections (b) and (f), Section 42.253, Education Code, are amended to read as follows:

(b) Except as provided by this subsection, the commissioner shall base the determinations under Subsection (a) on the estimates provided to the legislature under Section 42.254, 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. The commissioner shall 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 42.254 or the General Appropriations Act, as applicable. 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. The sum of the reductions under this subsection may not be greater than the amount necessary to fully fund the entitlement of each district.

(f) Amounts transferred to the reserve account under Subsection (e) shall be used in the succeeding fiscal year to finance increases in allocations to school districts under Subsection (i). If the amount in the reserve account is less than the amount of the increases under Subsection (i) for the second year of a state fiscal biennium, the commissioner shall certify the amount of the difference to the Legislative Budget Board [foundation school fund budget committee] not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board [committee] shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under Subsection (h).

SECTION 20. Subsection (a), Section 42.254, Education Code, is amended to read as follows:

(a) Not later than October 1 of each even-numbered year:

(1) the agency shall submit to [the foundation school fund budget committee and] the legislature an estimate of the tax rate and student enrollment of each school district for the following biennium; and

(2) the comptroller shall submit to [the foundation school fund budget committee and] 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.

SECTION 21. Sections 42.302 and 42.303, Education Code, are amended to read as follows:

Sec. 42.302. [Tier 2 Portion of M&O] ALLOTMENT. (a) 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. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$21 [\$20.55] or a greater amount for any year provided by appropriation [, or a greater amount adopted by the foundation school fund budget committee under Section 42.256(d)];

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment and facilities tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100.

(b) In computing the district enrichment and facilities tax rate of a school district, the total amount of taxes collected by the school district does not include the amount of:

(1) the district's local fund assignment under Section 42.252; [or]

(2) taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46; or

(3) taxes paid into a tax increment fund under Chapter 311, Tax Code
[Subchapter H].

Sec. 42.303. LIMITATION ON ENRICHMENT AND FACILITIES TAX RATE. The district enrichment and facilities tax rate ("DTR") under Section 42.302 may not exceed \$0.64 per \$100 of valuation, or a greater amount for any year provided by appropriation [adopted by the foundation school fund budget committee under Section 42.256(d)].

SECTION 22. Subsection (e), Section 45.003, Education Code, is amended to read as follows:

(e) Before issuing bonds, a district must demonstrate to the attorney general with respect to the proposed issuance that the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before

September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation. A district that demonstrates to the attorney general that the district's ability to comply with this subsection is contingent on receiving state assistance may not adopt a tax rate for a year for purposes of paying the principal of and interest on the bonds unless the district credits to the account of the interest and sinking fund of the bonds the amount of state assistance received or to be received in that year.

SECTION 23. Subsection (c), Section 45.105, Education Code, is amended to read as follows:

(c) Local school funds from district taxes, tuition fees of students not entitled to a free education, [and] other local sources, and state funds not designated for a specific purpose may be used for the purposes listed for state and county available funds and for purchasing appliances and supplies, paying insurance premiums, paying janitors and other employees, buying school sites, buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase, and [paying] for other purposes [goods and services] necessary in the conduct of the public schools determined by the board of trustees. The accounts and vouchers for county districts must be approved by the county superintendent. If the state available school fund in any municipality or district is sufficient to maintain the schools in any year for at least eight months and leave a surplus, the surplus may be spent for the purposes listed in this subsection.

SECTION 24. Subsection (b), Section 74.066, Education Code, is amended to read as follows:

(b) State funds for the support of the special school and the Moody State School shall be paid from the foundation school fund [and shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes].

SECTION 25. Section 96.707, Education Code, is amended by adding Subsection (k) to read as follows:

(k) For each student enrolled in the academy, the academy is entitled to allotments from the Foundation School Program under Chapter 42 as if the academy were a school district, except that the academy has a local share applied that is equivalent to the local fund assignment of the Beaumont Independent School District.

SECTION 26. Subsection (b), Section 322.008, Government Code, is amended to read as follows:

(b) The [Not later than the 1994-1995 school year, the] general appropriations bill may [shall] include for purposes of information the funding elements computed [adopted] by the Legislative Budget Board [foundation school fund budget committee] under Section 42.007 [16.256(e)], Education Code, excluding the values for each school district calculated under Section 42.007(c)(2), Education Code [Subdivision (2) of that subsection]. If the funding elements are included, the [The] funding elements under Section 42.007(c)(3) [16.256(e)(3)], Education Code, shall be reported in dollar amounts per pupil.

SECTION 27. Subsection (d), Section 403.302, Government Code, is amended to read as follows:

(d) For the purposes of this section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone on August 31, 1999, that generates taxes paid into a tax increment fund, and that is eligible for tax increment financing under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999;

(4) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(5) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(6) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(7) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and

(8) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income.

SECTION 28. Section 11.13, Tax Code, is amended by adding Subsection (s) to read as follows:

(s) Notwithstanding Subsection (n), an exemption under that subsection for the 1997 tax year adopted by the board of trustees of a school district before July 1, 1997, is valid. This subsection expires January 1, 1999.

SECTION 29. The foundation school fund budget committee is abolished.

SECTION 30. Sections 42.102(c), 42.256, 42.351, and 56.208(d), Education Code, are repealed.

SECTION 31. The amendment by this Act of Section 42.101, Education Code, does not affect the change in the basic allotment under that section made by House Bill No. 4, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 32. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

(b) Section 6 of this Act takes effect September 1, 1997, but only if the constitutional amendment proposed by House Joint Resolution No. 4, 75th Legislature, Regular Session, 1997, is approved by the voters. If the proposed constitutional amendment is not approved by the voters, Section 6 of this Act has no effect.

SECTION 33. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1873 passed the Senate on May 8, 1997, by a viva-voce vote; May 30, 1997, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 1997, House granted request of the Senate; June 1, 1997, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1873 passed the House, with amendments, on May 27, 1997, by a non-record vote; May 30, 1997, House granted request of the Senate for appointment of Conference Committee; June 1, 1997, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

AN ACT (1997 75R Craddick, Junell)

relating to residence homestead school property tax exemptions and tax limitations, allocating and dedicating certain state funds for education, limiting the increase in school property tax rates, and providing for certain additional revenue; making an appropriation.

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

ARTICLE 1. SCHOOL FINANCE

SECTION 1.01. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0011 to read as follows:

Sec. 41.0011. COMPUTATION OF WEALTH PER STUDENT FOR 1997-1998 SCHOOL YEAR. (a) Notwithstanding any other provision of this chapter, in computing a school district's wealth per student for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

(b) This section expires September 1, 1998.

SECTION 1.02. Section 41.093, Education Code, is amended to read as follows:

Sec. 41.093. COST. The cost of each credit is an amount equal to the greater of:

(1) the amount of the district's maintenance and operations ~~[total]~~ tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of maintenance and operations ~~[total]~~ tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

SECTION 1.03. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. COMPUTATION OF STATE AID FOR 1997-1998 SCHOOL YEAR; ADDITIONAL STATE AID. (a) Notwithstanding any other provision of this chapter, in computing state aid for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

(b) For the 1997-1998 and 1998-1999 school years, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided by Subsection (a) does not fully compensate the district for ad valorem tax revenue that would have been lost due to the increase in the homestead exemption and the additional limitation on tax increases if the increased exemption and additional limitation had been in effect for the 1996 tax year. The commissioner, using information provided by the comptroller, shall compute the amount of additional state aid to which a district is entitled under this subsection. A determination by the commissioner under this subsection is final and may not be appealed.

(c) This section expires September 1, 1999.

SECTION 1.04. Subtitle I, Title 2, Education Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. DEFINITION. In this chapter, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this chapter.

(b) The commissioner's rules may limit the amount of an allotment under this chapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

Sec. 46.003. SCHOOL FACILITIES ALLOTMENT. (a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$28 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code.

(b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.

(d) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(e) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.

(f) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(g) To receive state assistance under this chapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this chapter:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter.

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this chapter.

Sec. 46.005. LIMITATION ON GUARANTEED AMOUNT. The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section 46.003 for a school district may not exceed the lesser of:

(1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or

(2) the greater of:

(A) \$100,000; or

(B) the product of the number of students in average daily attendance in the district multiplied by \$250.

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this chapter. The commissioner shall adjust the rankings after making the reductions in wealth per student required by this subsection.

(b) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under

this chapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(c) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(d) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by the district's average daily attendance as determined under Section 42.005.

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this chapter to pay the principal of and interest on refunding bonds that:

(1) are issued to refund bonds eligible under Section 46.003;

(2) do not have a final maturity date later than the final maturity date of the bonds being refunded;

(3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and

(4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Sec. 46.008. STANDARDS. The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this chapter.

(b) If the amount appropriated for purposes of this chapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253.

(c) Warrants for payments under this chapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this chapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this chapter.

(f) If a school district would have received a greater amount under this chapter for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this chapter to subsequent distributions to the district under this chapter.

Sec. 46.010. PROJECTS BY MORE THAN ONE DISTRICT. If two or more districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a guaranteed facilities yield amount of state and local funds that is 20 percent higher than the amount to which the district would otherwise be entitled under Section 46.005.

Sec. 46.011. SALE OF INSTRUCTIONAL FACILITY FINANCED WITH INSTRUCTIONAL FACILITIES

ALLOTMENT. (a) If an instructional facility financed by bonds paid with state and local funds under this chapter is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

(b) In this section, "net proceeds" means the difference between the total amount received from the sale less:

(1) the amount necessary to fully pay the outstanding principal of and interest on the bonds; and

(2) the school district's costs of the sale, as approved by the commissioner.

SECTION 1.05. Section 21.401, Education Code, is amended by adding Subsections (a-3) and (a-4) and amending Subsection (b-1) to read as follows:

(a-3) For the 1997-1998 school year, an educator employed under a 10-month contract must provide a minimum of 186 days of service. This subsection expires September 1, 1998.

(a-4) For the 1998-1999 school year, an educator employed under a 10-month contract must provide a minimum of 187 days of service. This subsection expires September 1, 1999.

(b-1) Subsection (b) applies beginning with the 1999-2000 [~~1997-1998~~] school year. This subsection expires January 1, 2000 [~~1998~~].

SECTION 1.06. Section 21.402, Education Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding Subsection (a), for the 1997-1998 and 1998-1999 school years, "FSP" for purposes of Subsection (a):

(1) includes amounts appropriated in H.B. No. 4, Acts of the 75th Legislature, Regular Session, 1997; and

(2) does not include the following amounts appropriated in H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997:

(A) amounts appropriated under Rider 73 following appropriations to the Texas Education Agency in Article III of that Act; or

(B) amounts appropriated under Section 198 of Article IX of that Act.

(a-2) Subsection (a-1) and this subsection expire September 1, 1999.

SECTION 1.07. Section 403.302, Government Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) For purposes of Sections 41.0011 and 42.2511, Education Code, for the 1996 and 1997 tax years, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; and

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997.

(i) Subsection (h) and this subsection expire September 1, 1999.

SECTION 1.08. Subchapter H, Chapter 42, Education Code, is repealed.

SECTION 1.09. (a) For the 1997-1998 and 1998-1999 school years, the commissioner of education shall increase the entitlement under the Foundation School Program of a district that experiences additional salary cost resulting from this Act. The amount of additional salary cost shall be computed by determining what the district's salary cost for the 1996-1997 school year would have been if, for purposes of the minimum salary schedule under Section 21.402, Education Code, the amount appropriated for the Foundation School Program for the 1997-1998

state fiscal year were increased by \$520 million and comparing that cost and the amount the district was actually required to pay under Section 21.402, Education Code. For this purpose, the commissioner of education shall use 1996-1997 employment and salary data as reported through the Public Education Information Management System (PEIMS).

(b) A decision by the commissioner of education under this section is final and may not be appealed.

(c) Notwithstanding any other provision to the contrary, for a school district that entered into an employment contract with an individual before June 15, 1997, that specifies a salary supplement or addition to the salary schedule prescribed by law, the salary schedule to which the supplement or addition applies is the salary schedule prescribed by Section 21.402, Education Code, as that section applied for the 1996-1997 school year, except that an individual shall be paid at least the minimum salary prescribed by Section 21.402, Education Code, as that section applies for the 1997-1998 school year, for the step to which the individual is assigned. A school district is not required to increase the pay of any teacher or full-time librarian except as provided by Section 21.402, Education Code.

SECTION 1.10. In addition to other amounts appropriated for the fiscal biennium ending August 31, 1999:

(1) the sum of \$520 million is appropriated, for the fiscal year ending August 31, 1998, from the general revenue fund to the Texas Education Agency for purposes of the Foundation School Program; and

(2) the sum of \$520 million, plus the unexpended balance of the appropriation described by Subdivision (1) of this section, is appropriated, for the fiscal year ending August 31, 1999, from the general revenue fund to the Texas Education Agency for the same purpose.

SECTION 1.11. The amount appropriated in H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, to the Texas Education Agency for Strategy A.2.2.--Maximizing School Facilities, in Article III of that Act, is reduced to \$100 million for the fiscal year ending August 31, 1998, and to

\$100 million, plus the unexpended balance for the fiscal year 1998, for the fiscal year ending August 31, 1999.

SECTION 1.12. (a) The amount appropriated in H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, to the Texas Education Agency for Strategy A.2.1.--Foundation School Program, in Article III of that Act, is increased by \$1 million for each year of the fiscal biennium ending August 31, 1999, and the basic allotment under Section 42.101, Education Code, is increased to \$2,396.

(b) The amounts appropriated under Rider 73 following the appropriations to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, to provide transition assistance to school districts affected by an increase in the minimum salary schedule are reduced by \$36 million for the fiscal year ending August 31, 1998, and by \$31 million for the fiscal year ending August 31, 1999.

(c) The amounts appropriated under Section 198, Article IX, H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, for increases in enrollment growth are increased by \$65 million.

SECTION 1.13. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 1997.

(b) Sections 1.01, 1.03, 1.05, 1.06, 1.07, 1.09, 1.10, and 1.12 of this Act take effect September 1, 1997, but only if the constitutional amendment proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, is adopted by the voters. If the proposed amendment is not adopted, Sections 1.01, 1.03, 1.05, 1.06, 1.07, 1.09, 1.10, and 1.12 of this Act have no effect.

ARTICLE 2. PROPERTY TAXES

SECTION 2.01. Section 11.13(b), Tax Code, is amended to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$15,000 [~~\$5,000~~] of the appraised value of the adult's [~~his~~] residence homestead, except that \$10,000 of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28,

Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

SECTION 2.02. Section 11.26, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (g) and (h) to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except [Except] as otherwise provided by this section. A [Subsection (b) of this section, a] school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first tax year the individual qualified that residence homestead for the exemption provided by [Subsection (c) of] Section 11.13(c) [11.13 of this code]. If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) was a tax year before the 1997 tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 1996 tax year less an amount equal to the amount determined by multiplying \$10,000 times the tax rate of the school district for the 1997 tax year, plus any 1997 tax attributable to improvements made in 1996, other than improvements made to comply with governmental regulations or repairs ~~[The tax officials shall continue to appraise the property and to calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the tax imposed in the first year the individual qualified the residence homestead for the exemption].~~

(b) If an individual makes improvements to the individual's [his] residence homestead, other than improvements required to comply with governmental requirements or repairs, the school district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the

assessed value of the homestead with the improvements and the assessed value it would have had without the improvements. A limitation ~~[The limitations]~~ imposed by ~~[Subsection (a) of]~~ this section then applies ~~[apply]~~ to the increased amount of tax until more improvements, if any, are made.

(g) Except as provided by Subsection (b), if an individual who receives a limitation on tax increases imposed by this section subsequently qualifies a different residence homestead for an exemption under Section 11.13, a school district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the school district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases imposed by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of school district taxes imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of school district taxes that would have been imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases imposed by this section not been in effect.

(h) An individual who receives a limitation on tax increases under this section and who subsequently qualifies a different residence homestead for an exemption under Section 11.13, or an agent of the individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the school district may impose on the subsequently qualified homestead.

SECTION 2.03. Section 26.08, Tax Code, is amended to read as follows:

Sec. 26.08. ELECTION TO RATIFY ~~[LIMIT]~~ SCHOOL TAXES. (a) If the governing body of a school district adopts a tax rate that exceeds the ~~[sum of the]~~ district's rollback tax ~~[effective maintenance]~~ rate, ~~[the rate of \$0.08, and the district's current debt rate,]~~ the registered voters of the district at an election held for that purpose must determine whether to approve the adopted ~~[limit the]~~ tax rate ~~[the governing body may adopt for the current year to the school district rollback tax rate]~~. When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve ~~[limit]~~ the tax rate adopted by the governing body ~~[may adopt]~~ for the year following the year in which the disaster occurs.

(b) The governing body shall order that the ~~[an]~~ election be held in the school district on a date not less than 30 or more than 90 days after the day on which it adopted the tax rate. Section 41.001, Election Code, does not apply to the election unless a date specified by that section falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving ~~[Limiting]~~ the ad valorem tax rate of \$ _____ per \$100 valuation in (name of school district) for the current year, a rate that is \$ _____ higher per \$100 valuation than ~~[from (the rate adopted) to (] the school district rollback tax rate[)]~~." The ballot proposition must include the adopted tax rate and the difference between that rate and the rollback tax rate in the appropriate places.

(c) If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body.

(d) If ~~[a majority of the votes cast in the election favor]~~ the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the school district for the current year that exceeds the school district's ~~[district]~~ rollback tax rate ~~[calculated for that year using the following formula:~~

~~ROLLBACK TAX RATE = (ENROLLMENT ADJUSTMENT) (EFFECTIVE MAINTENANCE AND OPERATIONS RATE FOR TAX YEAR) + \$0.08 + CURRENT DEBT RATE where:~~

~~[(1) "tax year" denotes amounts used in calculating the rollback tax rate in the year immediately preceding the year in which the tax increase that initiated the referendum occurred rather than the year in which the calculation occurs; and~~

~~[(2) "enrollment adjustment" is computed by dividing the current year's projected fall enrollment, as defined by the Texas Education Agency, by last year's enrollment but may not be less than 1.0].~~

(e) ~~[(d)]~~ For purposes of this section, local tax funds dedicated to a junior college district under Section 45.105(e), Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085.

(f) ~~[(e)]~~ If a school district is certified by the commissioner of education under Section 42.251(c), Education Code, to have been subject to a reduction in total revenue for the school year ending on August 31 of the tax year, [:

~~[(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of the reduction certified by the commissioner; and~~

~~[(2) the district's rollback tax rate for the tax year [calculated as provided by Section 26.04 or by Subsection (c), as applicable,] is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction certified by the commissioner.~~

(g) ~~[(f)]~~ In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit

system's abolition is added to the ~~[district's effective maintenance and operations rate under Subsections (a) and (c) of this section in the calculation of the]~~ district's rollback tax rate.

(h) [(i)] For purposes of this section, increases in taxable values and tax levies occurring within a reinvestment zone under ~~[the provisions of]~~ Chapter 311 (Tax Increment Financing Act), in which the district is a participant, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district.

(i) For purposes of this section, the rollback tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that was available to the district in the preceding year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(j) For the 1997 tax year, the rollback tax rate is the sum of:

(1) the greater of:

(A) the rate necessary to impose taxes in an amount that would provide the same amount of state and local funds per weighted student for maintenance and operations as determined under Subsection (i)(1) for the 1997-1998 school year that was available to the district in the 1996-1997 school year; or

(B) the district's nominal maintenance and operations tax rate for the 1996 tax year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(k) For the 1998 tax year, the rollback tax rate is the sum of:

(1) the greater of:

(A) the rate necessary to impose taxes in an amount that would provide the same amount of state and local funds per weighted student for maintenance and operations as determined under Subsection (i)(1) for the 1998-1999 school year that was available to the district in the 1996-1997 school year; or

(B) the district's nominal maintenance and operations tax rate for the 1996 tax year;

(2) the amount by which the district's adopted tax rate for the 1997 tax year exceeded the sum of Subsections (j)(1) and (j)(3) for that tax year;

(3) the rate of \$0.08 per \$100 of taxable value; and

(4) the district's current debt rate.

(l) This subsection and Subsections (j) and (k) expire January 1, 1999.

SECTION 2.04. (a) Sections 2.01 and 2.02 of this article take effect on the date that the constitutional amendment proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, takes effect, and apply to each tax year that begins on or after January 1, 1997. If that amendment is not approved by the voters, Sections 2.01 and 2.02 of this article have no effect.

(b) Section 2.03 of this article takes effect September 1, 1997, and applies to the tax rate of a school district that is adopted by the governing body of the district on or after that date. A school district tax rate adopted before the effective date of Section 2.03 of this article for 1997 taxes is void.

ARTICLE 3. LOTTERY REVENUE

SECTION 3.01. Section 466.015, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commission may adopt rules governing the establishment and operation of the lottery, including rules governing:

(1) the type of lottery games to be conducted;

(2) the price of each ticket;

(3) the number of winning tickets and amount of the prize paid on each winning ticket, except that the total amount of prizes awarded under this chapter may not exceed the amount described in Subsection (d);

(4) the frequency of the drawing or selection of a winning ticket;

(5) the number and types of locations at which a ticket may be sold;

(6) the method to be used in selling a ticket;

(7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;

(8) the manner of paying a prize to the holder of a winning ticket;

(9) the investigation of possible violations of this chapter or any rule adopted under this chapter;

(10) the means of advertising to be used for the lottery;

(11) the qualifications of vendors of lottery services or equipment;

(12) the confidentiality of information relating to the operation of the lottery,

including:

(A) trade secrets;

(B) security measures, systems, or procedures;

(C) security reports;

(D) bids or other information regarding the commission's contracts, if disclosure of the information would impair the commission's ability to contract for facilities, goods, or services on terms favorable to the commission;

(E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and

(F) information obtained by commission security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

(d) The total amount of lottery prizes that the commission may award for all lottery games in any fiscal year may not exceed an amount equal to the gross revenue from the sale of tickets in that fiscal year multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to five percent of gross lottery revenue for the fiscal year in which the prizes are being awarded.

SECTION 3.02. Section 466.355(b), Government Code, is amended to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 15 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred to the foundation school ~~[unobligated portion of the general revenue]~~ fund, on or before the 15th day of each month.

SECTION 3.03. This article takes effect September 1, 1997.

SECTION 3.04. (a) Except as provided by Subsection (b) of this section, the change in law made to Section 466.015, Government Code, by this article applies to a ticket sold on or after the effective date of this article. A ticket sold before that date is governed by the law in effect when the ticket was sold, and that law is continued in effect for that purpose.

(b) In fiscal year 1998, the total amount of lottery prizes that the Texas Lottery Commission may award under Section 466.015(d), Government Code, as added by this article, may not exceed an amount equal to the gross revenue from the sale of lottery tickets multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to 4-1/2 percent of gross lottery revenue for the 1998 fiscal year.

SECTION 3.05. The change in law made to Section 466.355, Government Code, by this article applies only to a transfer from the state lottery account made on or after the effective date of this article.

ARTICLE 4. EMERGENCY

SECTION 4.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I certify that H.B. No. 4 was passed by the House on April 26, 1997, by the following vote: Yeas 94, Nays 49, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 4 on May 12, 1997, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 4 on May 31, 1997, by a non-record vote; and that the House adopted H.C.R. No. 342 authorizing certain corrections in H.B. No. 4 on June 2, 1997, by a non-record vote; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Chief Clerk of the House

I certify that H.B. No. 4 was passed by the Senate, with amendments, on May 10, 1997, by the following vote: Yeas 22, Nays 8; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 4 on May 31, 1997, by the following vote: Yeas 29, Nays 1; and that the Senate adopted H.C.R. No. 342 authorizing certain corrections in H.B. No. 4 on June 2, 1997, by a viva-voce vote; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Secretary of the Senate

I certify that the amounts appropriated in the herein H.B. No. 4, Regular Session of the 75th Legislature, are within amounts estimated to be available in the affected fund.

Certified _____

Comptroller of Public Accounts

APPROVED: _____

Date

Governor

Appendix III

Texas Legislature

Portions of House and Senate Bills

As They Relate to

State Funding of Facilities

1995 – 2019 Sessions

BILL LANGUAGE REGARDING DESIGNATED FACILITIES FUNDING PROGRAMS (1995 – 1999)

FIRST DESIGNATED FACILITIES FUNDING - SENATE BILL 1 (1995)

SCHOOL FACILITIES ASSISTANCE PROGRAM

SUBCHAPTER F. GUARANTEED YIELD PROGRAM¹

Sec. 42.301. PURPOSE. The purpose of the guaranteed yield component of the Foundation School Program is to provide each school district with the opportunity to provide the basic program and to supplement that program at a level of its own choice and *with access to additional funds for facilities. An allotment under this subchapter may be used for any legal purpose, including capital outlay and debt service.*

Sec. 42.302. ALLOTMENT. (a) 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. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$20.55 or a greater amount for any year provided by appropriation, or a greater amount adopted by the foundation school fund budget committee under Section 42.256(d);

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment and facilities tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the

¹ The Guaranteed Yield Program in Senate Bill 1 (1995) provides for M&O enrichment and facilities.

district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100.

(b) In computing the district enrichment and facilities tax rate of a school district, the total amount of taxes collected by the school district does not include the amount of:

- (1) the district's local fund assignment under Section 42.252; or
- (2) taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Subchapter H.

Sec. 42.303. LIMITATION ON ENRICHMENT AND FACILITIES TAX RATE. The district enrichment and facilities tax rate ("DTR") under Section 42.302 may not exceed \$0.64 per \$100 of valuation, or a greater amount adopted by the foundation school fund budget committee under Section 42.256(d).

SUBCHAPTER H. SCHOOL FACILITIES ASSISTANCE PROGRAM

Sec. 42.401. DEFINITIONS. In this subchapter:

(1) "Effective tax rate" means a tax rate that is determined by dividing the amount of taxes collected by a school district by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100.

(2) "Guaranteed wealth level" means a wealth per student determined by the following formula:

$$GWL = (GL \times 10,000) \times (SWADA/SADA)$$

where:

"GWL" is the guaranteed wealth level;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, as provided by Section 42.302;²

"SWADA" is the total weighted average daily attendance, determined in the manner provided by Section 42.302, for all school districts in the state; and

"SADA" is the total average daily attendance for all school districts in the state.

(3) "Instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

(4) "Wealth per student" means a school district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by the district's average daily

² Section 42.302 in Senate Bill 1 (1995) is the Tier 2 Guaranteed Yield Program (M&O enrichment), in which the Guaranteed Level is set a \$20.55 per Student in Weighted Average Daily Attendance (WADA) per penny of tax effort.

attendance.

Sec. 42.402. DISTRICT ELIGIBILITY. A school district is eligible for state assistance under this subchapter if the district has:

- (1) a wealth per student less than the guaranteed wealth level; and
- (2) a total effective tax rate that is at least \$1.30 per \$100 of valuation of taxable property or an effective tax rate for the payment of principal of and interest on bonds that is at least \$0.20 per \$100 of valuation of taxable property.

Sec. 42.403. AMOUNT OF STATE ASSISTANCE. Except as provided by Section 42.404, the amount of state assistance to which a school district is entitled for an eligible project is determined by the following formula:

$$SA = (1 - (WPS/GWL)) \times PC$$

where:

"SA" is the amount of state assistance;

"WPS" is the district's wealth per student;

"GWL" is the guaranteed wealth level; and

"PC" is the total cost of the project, excluding financing costs.

Sec. 42.404. SUPPLEMENTAL STATE ASSISTANCE FOR SMALL SCHOOL DISTRICTS.

(a) In addition to the amount determined under Section 42.403, a district is entitled to supplemental state assistance if the district's average daily attendance is less than the product of the quotient of the average daily attendance for all school districts in the state, as determined under Section 42.401, divided by the weighted average daily attendance for all school districts in the state, as determined under Section 42.401, multiplied by 2,500. The amount of supplemental state assistance to which a school district is entitled is the lesser of the amounts determined by the following formulas:

$$SSA = PC - SA - (.002 \times DPV \times PC / 500,000)$$

where:

"SSA" is the amount of supplemental state assistance;

"SA" is the amount of state assistance determined under Section 42.403;

"DPV" is the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code; and

"PC" is the total cost of the project; or

$$SSA = PC - SA - (0.15 \times PC)$$

where:

"SSA" is the amount of supplemental state assistance;

"SA" is the amount of state assistance determined under Section 42.403; and

"PC" is the total cost of the project.

(b) If the lesser of the amounts determined by the formulas in Subsection (a) is less than zero, the district is not entitled to supplemental state assistance.

Sec. 42.405. PROJECT ELIGIBILITY AND APPROVAL. (a) A project must be an instructional facility to be eligible for state assistance under this subchapter.

(b) A district is entitled to state assistance under this subchapter for only one project in a state fiscal biennium.

(c) To receive state assistance under this subchapter, a school district must submit to the commissioner a proposal that contains the information required by rule of the commissioner.

(d) A school district must submit a proposal by the date established by rule of the commissioner.

(e) The commissioner shall review each proposal and approve those proposals that meet the requirements of this subchapter and the commissioner's rules.

(f) If the amount of state assistance for an approved project is insufficient to enable the school district to finance the remainder from other funds, the district may modify the project to reduce its cost and may resubmit the proposal.

Sec. 42.406. LIMITATION ON ASSISTANCE. (a) The cost of a project for which a district may receive assistance under this subchapter may not exceed the greater of:

(1) \$500,000; or

(2) the product of the number of students in average daily attendance in the district multiplied by \$266.

(b) For purposes of Sections 42.403, 42.404, and 42.407, a project that has a cost that exceeds the limit prescribed by Subsection (a) is treated as if the cost equals the applicable limit.

Sec. 42.407. SHORTAGE OF APPROPRIATED FUNDS. If the total state assistance for approved projects in a state fiscal biennium exceeds the amount appropriated for that biennium, the commissioner shall remove from the list of approved projects one or more projects in ascending order of the proportion of state assistance to project cost, beginning with the project that has the lowest proportion of state assistance to project cost, until the total state assistance for approved projects is less than or equal to the amount appropriated. If, after removing approved projects from the list, the total state assistance is less than the amount appropriated, the commissioner shall grant the difference to the district that proposed the last project removed from the list.

Sec. 42.408. USE OF EXCESS APPROPRIATED FUNDS. If the total state assistance for approved projects in a state fiscal biennium is less than the amount appropriated for that biennium, the commissioner may use the excess amount for any purpose under the Foundation School Program.

Sec. 42.409. PAYMENT OF STATE ASSISTANCE. (a) The commissioner shall approve warrants to a school district that receives state assistance under this subchapter as necessary to permit the district to meet contractual obligations as construction or renovation progresses.

(b) The commissioner may not approve a warrant for assistance under this subchapter until the district provides the commissioner with information concerning the manner in which the district will pay the local share of the project cost. The information must include the number of years:

- (1) for which the district will have bonds outstanding in connection with the project; or
- (2) in which the district will be making payments under a lease-purchase agreement in connection with the project.

(c) If the commissioner determines that a district has altered a project in a manner that reduces the cost of the project below the cost stated in the proposal, the commissioner shall recompute the amount of state assistance to which the district is entitled based on the reduced project cost and approve warrants to the district accordingly.

Sec. 42.410. ADDITIONAL STATE ASSISTANCE. (a) If the guaranteed wealth level is increased over the level for the year in which a school district received assistance under this subchapter, for each year to which the increased level applies and in which the district levies a tax to pay for the local share of the cost of the project for which the district received state assistance under this subchapter, the district is entitled to additional state assistance determined by the formula:

$$ASA = (GL \times (SWADA/SADA) \times ADA \times PTR \times 100) - LPR - ((SA + SSA)/PY)$$

where:

"ASA" is the amount of additional state assistance;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, as provided by Section 42.302;

"SWADA" is the total number of students in weighted average daily attendance in the district, determined in the manner provided by Section 42.302, for all school districts in the state;

"SADA" is the total average daily attendance for all school districts in the state;

"ADA" is the district's average daily attendance;

"PTR" is the project tax rate of the district, which is calculated by dividing the amount necessary for annual payments:

- (1) on the principal and interest of bonds issued to finance the local share of the project;

or

- (2) under a lease-purchase agreement for the local share of the project;

by the DPV as defined in Section 42.404;

"LPR" is the local project revenue, which is determined by multiplying "PTR" by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100;

"SA" is the state assistance allocated to the district under Section 42.403;

"SSA" is the supplemental state assistance allocated to the district under Section 42.404; and

"PY" is the number of years for which the district must levy a tax to pay for the local share of the project cost, as reported to the commissioner under Section 42.409(b).

(b) A district may use assistance received under this section for any legal purpose.

(c) Assistance under this subsection shall be paid in the manner prescribed by Section 42.253.

Sec. 42.411. PROJECTS BY MORE THAN ONE DISTRICT. (a) Two or more eligible districts may submit a proposal for a joint project at a single location.

(b) The state assistance for a joint project is the amount specified by Section 42.403, except that wealth per student is the quotient of the sum of the taxable values of property of the districts divided by the sum of the districts' average daily attendances.

(c) The supplemental state assistance for a joint project is the sum of the assistance under Section 42.404 for each district participating in the joint project that is eligible under Section 42.404, except that:

(1) the result of the applicable formula in that section for each district is multiplied by the ratio of the district's average daily attendance to the total average daily attendance for all the districts in the project; and

(2) "500,000" is replaced by $(600,000 \times N)$, where "N" is the number of districts in the project.

(d) The limitation on assistance for a joint project is 20 percent greater than the sum of the limitations for each district prescribed by Section 42.406.

1997 - TWO BILLS WITH REFERENCES TO FUNDING FOR FACILITIES:

SENATE BILL 1873 – GENERAL SCHOOL BILL, INCLUDING THE LIMITATION ON ENRICHMENT AND FACILITIES ALLOTMENT (TIER 2) IN SECTION 42.302 – 42.302

HOUSE BILL 4 – ELIMINATION OF RECAPTURE ON I&S COLLECTIONS, REPEAL OF THE SCHOOL FACILITIES ASSISTANCE PROGRAM AND THE ADOPTION OF CHAPTER 46: THE FIRST INSTRUCTIONAL FACILITIES ALLOTMENT

Senate Bill 1873 – Enrichment and Facilities GYA

SECTION 21. Sections 42.302 and 42.303, Education Code, are amended to read as follows:

Sec. 42.302. ALLOTMENT. (a) 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. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$21 [\$20.55] or a greater amount for any year provided by appropriation [, or a greater amount adopted by the foundation school fund budget committee under Section 42.256(d)];

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the **district enrichment and facilities tax rate** of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100.

(b) In computing the district enrichment and facilities tax rate of a school district, the total amount of taxes collected by the school district does not include the amount of:

- (1) the district's local fund assignment under Section 42.252; [or]
- (2) taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46; or
- (3) taxes paid into a tax increment fund under Chapter 311, Tax Code [Subchapter H].

Sec. 42.303. LIMITATION ON ENRICHMENT AND FACILITIES TAX RATE. The district enrichment and facilities tax rate ("DTR") under Section 42.302 may not exceed \$0.64 per \$100 of valuation, or a greater amount for any year provided by appropriation [adopted by the foundation school fund budget committee under Section 42.256(d)].

SECTION 22. Subsection (e), Section 45.003, Education Code, is amended to read as follows:

(e) Before issuing bonds, a district must demonstrate to the attorney general with respect to the proposed issuance that the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation. A district that demonstrates to the attorney general that the district's ability to comply with this subsection is contingent on receiving state assistance may not adopt a tax rate for a year for purposes of paying the principal of and interest on the bonds unless the district credits to the account of the interest and sinking fund of the bonds the amount of state assistance received or to be received in that year.

House Bill 4 – Elimination of Recapture on I&S Collections, Implementation of a new Chapter 46: Instructional Facilities Allotment, and repeal of the School Facilities Assistance Program

Article I of the Bill - Relating to the Elimination of Recapture on I&S Collections

Article I, SECTION 1.02. Section 41.093, Education Code, is amended to read as follows:

Sec. 41.093. COST. The cost of each credit is an amount equal to the greater of:

- (1) the amount of the district's maintenance and operations [~~total~~] tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or
- (2) the amount of the statewide district average of maintenance and operations [~~total~~] tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

Chapter 46 of the Bill – Instructional Facilities Allotment

SECTION 1.04. Subtitle I, Title 2, Education Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. DEFINITION. In this chapter, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this chapter.

(b) The commissioner's rules may limit the amount of an allotment under this chapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

Sec. 46.003. SCHOOL FACILITIES ALLOTMENT. (a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\underline{FYA = (FYL \times ADA \times BTR \times 100) - (BTR \times (DPV/100))}$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$28 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code.

(b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.

(d) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(e) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.

(f) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(g) To receive state assistance under this chapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this chapter:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter.

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this chapter.

Sec. 46.005. LIMITATION ON GUARANTEED AMOUNT. The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section 46.003 for a school district may not exceed the lesser of:

(1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or

(2) the greater of:

(A) \$100,000; or

(B) the product of the number of students in average daily attendance in the district multiplied by \$250.

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this chapter. The commissioner shall adjust the rankings after making the reductions in wealth per student required by this subsection.

(b) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this chapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(c) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(d) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by the district's average daily attendance as determined under Section 42.005.

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this chapter to pay the principal of and interest on refunding bonds that:

- (1) are issued to refund bonds eligible under Section 46.003;
- (2) do not have a final maturity date later than the final maturity date of the bonds being refunded;
- (3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and
- (4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Sec. 46.008. STANDARDS. The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this chapter.

(b) If the amount appropriated for purposes of this chapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

- (1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and
- (2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253.

(c) Warrants for payments under this chapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this chapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a

tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this chapter.

(f) If a school district would have received a greater amount under this chapter for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this chapter to subsequent distributions to the district under this chapter.

Sec. 46.010. PROJECTS BY MORE THAN ONE DISTRICT. If two or more districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a guaranteed facilities yield amount of state and local funds that is 20 percent higher than the amount to which the district would otherwise be entitled under Section 46.005.

Sec. 46.011. SALE OF INSTRUCTIONAL FACILITY FINANCED WITH INSTRUCTIONAL FACILITIES ALLOTMENT. (a) If an instructional facility financed by bonds paid with state and local funds under this chapter is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

(b) In this section, "net proceeds" means the difference between the total amount received from the sale less:

(1) the amount necessary to fully pay the outstanding principal of and interest on the bonds; and

(2) the school district's costs of the sale, as approved by the commissioner.

House Bill 4 repealers – School Facilities Assistance Program repealed

SECTION 1.08. Subchapter H, Chapter 42, Education Code, is repealed.

1999 – SB 4 - REPEAL OF I&S COLLECTIONS GENERATING TIER 2 FUNDING, PROHIBITION OF USING TIER 2 FUNDING FOR I&S PURPOSES, EVOLUTION OF THE INSTRUCTIONAL FACILITIES ALLOTMENT, AND CREATION OF THE EXISTING DEBT ALLOTMENT

Sec. 42.301. PURPOSE. The purpose of the guaranteed yield component of the Foundation School Program is to provide each school district with the opportunity to provide the basic

program and to supplement that program at a level of its own choice ~~and with access to additional funds for facilities~~. An allotment under this subchapter may be used for any legal purpose other than ~~, including~~ capital outlay or ~~and~~ debt service.

(b) In computing the district enrichment ~~and facilities~~ tax rate of a school district, the total amount of maintenance and operations taxes collected by the school district does not include the amount of:

(1) the district's local fund assignment under Section 42.252; or

(2) ~~taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46; or~~

~~—(3) taxes paid into a tax increment fund under Chapter 311, Tax Code.~~

Sec. 42.303. LIMITATION ON ENRICHMENT [~~AND FACILITIES~~] TAX RATE. The district enrichment and ~~facilities~~ tax rate ("DTR") under Section 42.302 may not exceed \$0.64 per \$100 of valuation, or a greater amount for any year provided by appropriation.

Chapter 46 – IFA and EDA

CHAPTER 46. ASSISTANCE WITH INSTRUCTIONAL FACILITIES AND PAYMENT OF EXISTING DEBT [ALLOTMENT]

SECTION 1.22. Sections 46.001 through 46.011, Education Code, are designated as Subchapter A, Chapter 46, Education Code, and a new subchapter heading is added to read as follows:

SUBCHAPTER A. INSTRUCTIONAL FACILITIES ALLOTMENT

SECTION 1.23. Sections 46.001 and 46.002, Education Code, are amended to read as follows:

Sec. 46.001. DEFINITION. In this subchapter [chapter], "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this subchapter [chapter].

(b) The commissioner's rules may limit the amount of an allotment under this subchapter [chapter] that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

SECTION 1.24. Subsections (a) and (g), Section 46.003, Education Code, are amended to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 [\$28] or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.

(g) To receive state assistance under this subchapter [chapter], a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds

that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

SECTION 1.25. Section 46.004, Education Code, is amended to read as follows:

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this subchapter [chapter]:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter [chapter] are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this subchapter [chapter].

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this subchapter [chapter].

SECTION 1.26. Section 46.006, Education Code, is amended to read as follows:

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this subchapter [chapter].

(b) A district's wealth per student is reduced for purposes of this section if a district has had substantial student enrollment growth in the preceding five-year period. The reduction is in addition to any reduction under Subsection (a) and is computed before the district's wealth per student is reduced under that subsection, if applicable. A district's wealth per student is reduced:

(1) by five percent, if the district has an enrollment growth rate in that period that is 10 percent or more but less than 15 percent;

(2) by 10 percent, if the district has an enrollment growth rate in that period that is 15 percent or more but less than 30 percent; or

(3) by 15 percent, if the district has an enrollment growth rate in that period that is 30 percent or more.

(c) A district's wealth per student is reduced by 10 percent for purposes of this section if the district does not have any outstanding debt at the time the district applies for assistance under this subchapter. The reduction is in addition to any reduction under Subsection (a) or (b) and is computed before the district's wealth per student is reduced under those subsections, if applicable.

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), and (c) [this subsection].

(e) [(b)] Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this subchapter [chapter], except that the commissioner may award less than the full amount to the last district for which any funds are available.

(f) [(c)] Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(g) [(d)] In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by the district's average daily attendance as determined under Section 42.005.

SECTION 1.27. Sections 46.007 and 46.009, Education Code, are amended to read as follows:

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this subchapter [chapter] to pay the principal of and interest on refunding bonds that:

- (1) are issued to refund bonds eligible under Section 46.003;
- (2) do not have a final maturity date later than the final maturity date of the bonds being refunded;
- (3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and
- (4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this subchapter [chapter].

(b) If the amount appropriated for purposes of this subchapter [chapter] for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253(h) [42.253].

(c) Warrants for payments under this subchapter [chapter] shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this subchapter [chapter] to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is

received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this subchapter [chapter].

(f) If a school district would have received a greater amount under this subchapter [chapter] for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter [chapter] to subsequent distributions to the district under this subchapter [chapter].

SECTION 1.28. Subsection (a), Section 46.011, Education Code, is amended to read as follows:

(a) If an instructional facility financed by bonds paid with state and local funds under this subchapter [chapter] is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

SECTION 1.29. Chapter 46, Education Code, is amended by adding Subchapters B and C to read as follows:

SUBCHAPTER B. ASSISTANCE WITH PAYMENT OF EXISTING DEBT

Sec. 46.031. RULES. The commissioner may adopt rules for the administration of this subchapter.

Sec. 46.032. ALLOTMENT. (a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$\underline{EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))}$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

(b) The existing debt tax rate of the district under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

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

(1) taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for the 1998-1999 school year; and

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

Sec. 46.034. LIMITS ON ASSISTANCE. (a) The existing debt tax rate ("EDTR") under Section 46.032 may not exceed \$0.12 per \$100 of valuation, or a greater amount for any year provided by appropriation.

(b) The amount of state assistance to which a district is entitled under this subchapter may not exceed the amount to which the district would be entitled at the district's tax rate for the payment of eligible bonds for the final year of the preceding state fiscal biennium.

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the district's audited debt service collections for the 1998-1999 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.

(d) To the extent funds are available under Chapter 42 or this chapter in excess of the amount to which school districts are entitled for a school year, the commissioner, before providing additional assistance under Section 42.2522, may provide assistance under this subchapter to a district that would be entitled to the assistance but for the limit on the existing debt tax rate under Subsection (a).

Sec. 46.035. PAYMENT OF ASSISTANCE. Section 46.009 applies to the payment of assistance under this subchapter.

SUBCHAPTER C. REFINANCING

Sec. 46.061. (a) The commissioner by rule may provide for the payment of state assistance under this chapter to refinance school district debt. A refinancing may not increase the cost to the state of providing the assistance.

(b) The commissioner may allocate state assistance provided for a refinancing to Subchapter A, Subchapter B, or both, as appropriate.

2001 – HB 2879 CONTINUED EVOLUTION OF IFA AND EDA, INCLUDING BROADENING OF FUNDING ALLOWED FOR THE LOCAL SHARES

Sec. 42.2531. ADJUSTMENT BY COMMISSIONER. (a) The commissioner may make adjustments to amounts due to a school district under this chapter or Chapter 46, or to amounts necessary for a district to comply with the requirements of Chapter 41, as provided by this section.

(b) A school district that has a major taxpayer, as determined by the commissioner, that because of a protest of the valuation of the taxpayer's property fails to pay all or a portion of the ad valorem taxes due to the district may apply to the commissioner to have the district's taxable value of property or ad valorem tax collections adjusted for purposes of this chapter or Chapter 41 or 46. The commissioner may make the adjustment only to the extent the

commissioner determines that making the adjustment will not:

(1) in the fiscal year in which the adjustment is made, cause the amount to which school districts are entitled under this chapter to exceed the amount appropriated for purposes of the Foundation School Program for that year; and

(2) if the adjustment is made in the first year of a state fiscal biennium, cause the amount to which school districts are entitled under this chapter for the second year of the biennium to exceed the amount appropriated for purposes of the Foundation School Program for that year.

(c) The commissioner shall recover the benefit of any adjustment made under this section by making offsetting adjustments in the school district's taxable value of property or ad valorem tax collections for purposes of this chapter or Chapter 41 or 46 on a final determination of the taxable value of property that was the basis of the original adjustment, or in the second school year following the year in which the adjustment is made, whichever is earlier.

(d) This section does not require the commissioner to make any requested adjustment. A determination by the commissioner under this section is final and may not be appealed.

IFA & EDA

SECTION 6. Section 46.003, Education Code, is amended by amending Subsections (a) and (d)-(g) and adding Subsection (h) to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount [of taxes] budgeted [to be collected] by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.

(d) The amount budgeted by a district for payment of eligible bonds may include:

(1) bond taxes collected in the current school year;

(2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year, provided that the taxes were not used to generate other state financial assistance for the district; or

(3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.

(e) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(f) ~~(e)~~ A district may use state funds received under this section only

to pay the principal of and interest on the bonds for which the district received the funds.

(g) [(f)] The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(h) [(g)] To receive state assistance under this subchapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

SECTION 7. Subchapter A, Chapter 46, Education Code, is amended by adding Section 46.012 to read as follows:

Sec. 46.012. MULTIPLE ALLOTMENTS PROHIBITED. A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter F, Chapter 42.

SECTION 8. Section 46.032, Education Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount [of taxes] budgeted [to be collected] by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

(c) The amount budgeted by a district for payment of eligible bonds may include:

(1) bond taxes collected in the current school year;

(2) bond taxes collected in a preceding school year in excess of the amount necessary to pay the district's share of actual debt service on bonds in that year, provided that the taxes were not used to generate other state financial assistance for the district; or

(3) maintenance and operations taxes collected in the current school year or a preceding school year in excess of the amount eligible to be used to generate other state financial assistance for the district.

SECTION 9. Section 46.033, Education Code, is amended to read as follows:

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

(1) the district made payments on the bonds during the 2000-2001 school year 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 [the 1998-1999] school year; and

(2) the district does not receive state assistance under

Subchapter A for payment of the principal and interest on the bonds.

SECTION 10. Sections 46.034(a) and (c), Education Code, are amended to read as follows:

(a) The existing debt tax rate ("EDTR") under Section 46.032 may not exceed \$0.29 [~~\$0.12~~] per \$100 of valuation, or a greater amount for any year provided by appropriation.

(c) 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 2000-2001 school year or the district's audited debt service collections for ~~that~~ [the 1998-1999] 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 11. Subchapter B, Chapter 46, Education Code, is amended by adding Section 46.036 to read as follows:

Sec. 46.036. MULTIPLE ALLOTMENTS PROHIBITED. A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter F, Chapter 42.

SECTION 12. Sections 42.152(t) and 46.034(d), Education Code, are repealed.

SECTION 13. Section 46.003(d), Education Code, as amended by this Act, and Section 46.032(c), Education Code, as added by this Act, apply only to taxes collected by a school district in the 1999-2000 school year or a later school year.

SECTION 14. (a) Notwithstanding Section 46.034(a), Education Code, as amended by this Act, for the 2002-2003 school year, except as provided by this section, a school district may not receive assistance under Subchapter B, Chapter 46, Education Code, for an existing debt tax rate greater than \$0.12 per \$100 of valuation.

(b) As soon as practicable, the commissioner of education shall determine whether funds are available from amounts appropriated for purposes of the Foundation School Program for the 2001-2002 or 2002-2003 school year in excess of the amount of payments required to be made under Chapters 42 and 46, Education Code. In making a determination under

this subsection, the commissioner may:

(1) notwithstanding Section 42.253(b), Education Code, reduce the entitlement under Chapters 42 and 46, Education Code, of a school district whose final taxable value of property is higher than the estimate under Section 42.254, Education Code; and

(2) make payments to school districts accordingly.

(c) For the 2001-2002 school year, to the extent excess funds are available under Subsection (b) of this section, and notwithstanding Section 42.2522, Education Code, the commissioner of education shall apply the funds in the following order:

(1) subject to any limitations in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to adjusting the taxable value of property of school districts that experience a rapid decline in taxable value, as provided by Section 42.2521, Education Code;

(2) to funding school districts based on an adjustment for an optional homestead exemption, as provided by Section 42.2522, Education Code; and

(3) to funding school districts based on an adjustment for ad valorem taxes subject to a protest of the valuation of a major taxpayer's property, as provided by Section 42.2531, Education Code, as added by this Act.

(d) For the 2002-2003 school year, to the extent excess funds are available under Subsection (b) of this section, and notwithstanding Section 42.2522, Education Code, the commissioner of education shall apply the funds in the following order:

(1) to authorizing additional assistance to school districts under Subchapter A, Chapter 46, Education Code, in an amount not to exceed \$50 million;

(2) to increasing the limit on the existing debt tax rate under Subsection (a) of this section to a rate not to exceed \$0.29 per \$100 of valuation;

(3) subject to any limitations in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to adjusting the taxable value of property of school districts that experience a rapid decline in taxable value, as provided by Section 42.2521, Education Code;

(4) to funding school districts based on an adjustment for an optional homestead exemption, as provided by Section 42.2522, Education Code; and

(5) to funding school districts based on an adjustment for ad valorem taxes subject to a protest of the valuation of a major taxpayer's property, as provided by Section 42.2531, Education Code, as added by this Act.

(e) The commissioner of education must provide full funding for a priority listed in Subsection (c) or (d) of this section before providing funding for the next lower priority.

(f) A decision of the commissioner of education under this section is final and may not be appealed.

SECTION 23. This Act takes effect September 1, 2001.

President of the Senate

Speaker of the House

I certify that H.B. No. 2879 was passed by the House on May 4, 2001, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2879 on May 22, 2001, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2879 on May 27, 2001, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2879 was passed by the Senate, with amendments, on May 18, 2001, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2879 on May 27, 2001, by a viva-voce vote.

Secretary of the Senate

AN ACT

relating to fiscal matters involving certain governmental educational entities, including public school finance, program compliance monitoring by the Texas Education Agency, amounts withheld from and the use of compensatory education allotments, the public school technology allotment, the accounting for the permanent school fund, employee benefits provided by certain educational entities, the uses of the telecommunications infrastructure fund, and participation in a multijurisdictional lottery game.

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

...

FACILITIES PORTION OF HB 3459

SECTION 40. Section 46.033, Education Code, is amended to read as follows:

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

(1) the district made payments on the bonds during the 2002-2003 [~~2000-2001~~] school year 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

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

SECTION 41. Section 46.034, Education Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) 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 2002-2003 [~~2000-2001~~] school year 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.

(d) Notwithstanding any other provision of this chapter, if the appropriation to support newly eligible bonds for the 2003-2004 school year and the 2004-2005 school year is not sufficient

to provide the state aid that school districts are entitled to under Section 46.032, the commissioner is directed to reduce the \$35 guaranteed level of state and local support per student per cent of tax effort for newly eligible debt only to the level necessary to fund the sum of the allotments within the appropriated amount. The guaranteed level for eligible debt through the 2000-2001 school year is not affected by this adjustment. The commissioner shall make this determination as soon as practicable, prior to the beginning of the school year. The decision of the commissioner is final and may not be appealed.

(e) Subsection (d) and this subsection expire September 1, 2005.

Speaker of the House

I certify that H.B. No. 3459 was passed by the House on May 10, 2003, by the following vote: Yeas 131, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3459 on May 29, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3459 on June 1, 2003, by the following vote: Yeas 105, Nays 38, 2 present, not voting; and that the House adopted H.C.R. No. 302 authorizing certain corrections in H.B. No. 3459 on June 2, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 3459 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3459 on June 1, 2003, by the following vote: Yeas 22, Nays 8; and that the Senate adopted H.C.R. No. 302 authorizing certain corrections in H.B. No. 3459 on June 2, 2003, by a viva-voce vote.

2005 SB 1863 ELIGIBLE BONDS ROLL FORWARD SB 11?

S.B. No. 1863

AN ACT

relating to certain fiscal matters affecting governmental entities; providing a penalty.

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

...

FACILITIES FUNDING PORTION

ARTICLE 12. PUBLIC SCHOOL FACILITIES

SECTION 12.01. Section 46.033, Education Code, is amended to read as follows:

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

(1) the district made payments on the bonds during the 2004-2005 [~~2002-2003~~] school year 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

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

SECTION 12.02. Subsection (c), Section 46.034, Education Code, is amended to read as follows:

(c) 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 2004-2005 [~~2002-2003~~] school year 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 19.02. This article takes effect September 1, 2005.

ARTICLE 20. EFFECTIVE DATE

SECTION 20.01. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, except as otherwise provided by this Act, this Act takes effect on the 91st day after the last day of the legislative session.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1863 passed the Senate on May 18, 2005, by the following vote: Yeas 24, Nays 6; May 26, 2005, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2005, House granted request of the Senate;

May 29, 2005, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 10.

I hereby certify that S.B. No. 1863 passed the House, with amendments, on May 25, 2005, by the following vote: Yeas 79, Nays 61, one present not voting; May 26, 2005, House granted request of the Senate for appointment of Conference Committee; May 29, 2005, House adopted Conference Committee Report by the following vote: Yeas 89, Nays 53, two present not voting.

Chief Clerk of the House

2007 HB 1922 ROLLFORWARD AND HB 962 HB 1886??

HB 1922 2007

AN ACT

relating to eligibility of school districts for state assistance with payment of existing debt.

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

SECTION 2. Section 46.033, Education Code, is amended to read as follows:

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

(1) the district made payments on the bonds during the 2006-2007 [~~2004-2005~~] school year 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

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

SECTION 3. Section 46.034(c), Education Code, is amended to read as follows:

(c) 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 2006-2007 [~~2004-2005~~] school year 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 4. This Act takes effect September 1, 2007.

SB 962 (2007)

AN ACT

relating to funding under the instructional facilities allotment and to payment of existing debt for school districts affected by troop reassignments at military installations.

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

SECTION 1. Section 46.006, Education Code, is amended by adding Subsection (c-2) and amending Subsection (d) to read as follows:

(c-2) A district's wealth per student is reduced by 25 percent for purposes of this section if the district demonstrates to the commissioner's satisfaction that the district must construct, acquire, renovate, or improve one or more instructional facilities to serve the children of military personnel transferred to a military installation in or near the district under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687). The reduction is in addition to any reduction under Subsection (a), (b), or (c) and is computed before the district's wealth per student is reduced under those subsections, if applicable. This subsection expires September 1, 2012.

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), [~~and~~] (c), and (c-2).

SECTION 2. Effective September 1, 2012, Subsection (d), Section 46.006, Education Code, is amended to read as follows:

(d) The commissioner shall adjust the rankings after making the reductions in wealth per student required by Subsections (a), (b), and (c).

SECTION 3. Section 46.034, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Subsection (b), a school district is entitled to state assistance under this subchapter based on the district's tax rate for the current school year if the district demonstrates to the commissioner's satisfaction that the district meets the criteria under Section 46.006(c-2).

SECTION 4. Except as otherwise provided by this Act, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 962 passed the Senate on April 19, 2007, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 25, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 962 passed the House, with amendment, on May 23, 2007, by

the following vote: Yeas 144, Nays 0, two present not voting.

2009 HB 3646 HB 2763??? SB 1969?

H.B. No. 3646

AN ACT

relating to public school finance and programs.

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

Chapter 46 Portion

SECTION 76. Section 46.033, Education Code, is amended to read as follows:

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

(1) the district made payments on the bonds during the final [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

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

SECTION 77. Section 46.034(c), Education Code, is amended to read as follows:

(c) 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 [2006-2007] school year of the preceding state fiscal biennium 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 106. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3646 was passed by the House on May 12, 2009, by the following vote: Yeas 144, Nays 2, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3646 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 3646 on May 31, 2009, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House adopted H.C.R. No. 290 authorizing certain corrections in H.B. No. 3646 on June 1, 2009, by the following vote: Yeas 145, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3646 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 3646 on June 1, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 290 authorizing certain corrections in H.B. No. 3646 on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

2011 – NONE?

2013 – SB 1556?

2015 – SB 1?

2017 – HB 21 SETTING GL FOR EXISTING DEBT ALLOTMENT TO \$40 (NOT TO EXCEED \$60 MILLION ABOVE COST AT \$35

H.B. No. 21

AN ACT

relating to public school finance, including funding for the recruitment and retention of teachers and the support of participants in the public school employees group insurance program.

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

Charter Schools Facilities

SECTION 1. Effective September 1, 2018, Section 12.106, Education Code, is amended by amending Subsection (a-1) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a-1) In determining funding for an open-enrollment charter school under Subsection (a):

(1) [,] adjustments under Sections 42.102, [42.103,] 42.104, and 42.105 are based on the average adjustment for the state; and

(2) the adjustment under Section 42.103 is based on the average adjustment for the state that would have been provided under that section as it existed on January 1, 2018.

(d) Subject to Subsection (e), in addition to other amounts provided by this section, a charter holder is entitled to receive, for the open-enrollment charter school, funding per student in average daily attendance in an amount equal to the guaranteed level of state and local funds per student per cent of tax effort under Section 46.032(a) multiplied by the lesser of:

(1) the state average interest and sinking fund tax rate imposed by school districts for the current year; or

(2) a rate that would result in a total amount to which charter schools are entitled under this subsection for the current year equal to \$60 million.

(e) A charter holder is entitled to receive funding under Subsection (d) only if the most recent overall performance rating assigned to the open-enrollment charter school under Subchapter C, Chapter 39, reflects at least acceptable performance. This subsection does not apply to a charter holder that operates a school program located at a day treatment facility, residential treatment facility, psychiatric hospital, or medical hospital.

(f) Funds received by a charter holder under Subsection (d) may only be used:

(1) to lease an instructional facility;

- (2) to pay property taxes imposed on an instructional facility;
 - (3) to pay debt service on bonds issued to finance an instructional facility; or
 - (4) for any other purpose related to the purchase, lease, sale, acquisition, or maintenance of an instructional facility.
- (g) In this section, "instructional facility" has the meaning assigned by Section 46.001.

SECTION 2. Section 13.054(g), Education Code, as amended by Chapter 425 (S.B. 1353), Acts of the 85th Legislature, Regular Session, 2017, is amended to read as follows:

(g) In order to assist with the costs of facility renovation, repair, and replacement, a district to which territory is annexed under this section is entitled to additional state aid for five years, beginning with the school year in which the annexation occurs. The commissioner shall determine the amount of additional state aid provided each year by dividing the amount of debt service taxes received by the district during the tax year preceding the tax year in which the annexation occurs by the number of students enrolled in the district immediately preceding the date of annexation, and multiplying that result by the number of additional students enrolled in the district on September 1 after the date of annexation. The commissioner shall provide additional state aid under this subsection from funds appropriated for purposes of the Foundation School Program [and available for that purpose]. A determination by the commissioner under this subsection is final and may not be appealed.

Existing Debt Allotment – Chapter 46

SECTION 8. Effective September 1, 2018, Section 46.032(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is the lesser of:

(1) \$40 ~~\$35~~ or a greater amount for any year provided by appropriation; or

(2) the amount that would result in a total additional amount of state funds under this subchapter for the current year equal to \$60 million in excess of the state funds to which school districts would have been entitled under this section if the guaranteed level amount were \$35;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521.

SECTION 14. Except as otherwise provided by this Act:

(1) this Act takes effect September 1, 2017, 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; and

(2) if this Act does not receive the vote necessary for effect on that date, this Act takes effect on the 91st day after the last day of the legislative session.

President of the Senate Speaker of the House

I certify that H.B. No. 21 was passed by the House on August 7, 2017, by the following vote: Yeas 130, Nays 13, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 21 on August 15, 2017, by the following vote: Yeas 94, Nays 46, 1 present, not voting.

I certify that H.B. No. 21 was passed by the Senate, with amendments, on August 15, 2017, by the following vote: Yeas 25, Nays 6.

Instructional Facilities and Existing Debt Allotments – HB 3 (2019)

SECTION 3.059. Section 46.003(a), Education Code, is amended to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 48.005 [~~42.005~~], in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 48.258 [~~42.2521~~], divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 48.258 [~~42.2521~~].

SECTION 3.060. Section 46.006(g), Education Code, is amended to read as follows:

(g) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 48.258 [~~42.2521~~], divided by the district's average daily attendance as determined under Section 48.005 [~~42.005~~].

SECTION 3.061. Sections 46.009(b), (c), (e), and (f), Education Code, are amended to read as follows:

(b) If the amount appropriated for purposes of this subchapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section 48.266(f) [~~42.253(h)~~].

(c) Warrants for payments under this subchapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 48 [~~42~~].

(e) Section 48.272 [~~42.258~~] applies to payments under this subchapter.

(f) If a school district would have received a greater amount under this subchapter for the applicable school year using the adjusted value determined under Section 48.271 [~~42.257~~], the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter to subsequent distributions to the district under this subchapter.

SECTION 3.062. Section 46.0111(e), Education Code, is amended to read as follows:

(e) The state's share is state property. The school district shall send to the comptroller any portion of the state's share not used by the school district to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Section 48.272 [~~42.258~~] applies to the state's share under this subsection.

SECTION 3.063. Section 46.013, Education Code, is amended to read as follows:

Sec. 46.013. **MULTIPLE ALLOTMENTS PROHIBITED.** A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter E [~~F~~], Chapter 48 [~~42~~].

SECTION 3.064. Section 46.032(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is the lesser of:

(1) \$40 or a greater amount for any year provided by appropriation; or

(2) the amount that would result in a total additional amount of state funds under this subchapter for the current year equal to \$60 million in excess of the state funds to which school districts would have been entitled under this section if the guaranteed level amount were \$35;

"ADA" is the number of students in average daily attendance, as determined under Section 48.005 [~~42.005~~], in the district;

"EDTR" is the existing debt tax rate of the district, which is determined by dividing the amount

budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 48.258 [~~42.2521~~], divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 48.258 [~~42.2521~~].

SECTION 3.065. Section 46.037, Education Code, is amended to read as follows:

Sec. 46.037. **MULTIPLE ALLOTMENTS PROHIBITED.** A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter E [~~F~~], Chapter 48 [~~42~~].

President of the Senate

Speaker of the House

I certify that H.B. No. 3 was passed by the House on April 3, 2019, by the following vote: Yeas 148, Nays 1, 0 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3 on May 7, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 3 on **May 25, 2019**, by the following vote: Yeas 139, Nays 0, 0 present, not voting; and that the House adopted H.C.R. No. 193 authorizing certain corrections in H.B. No. 3 on May 27, 2019, by the following vote: Yeas 149, Nays 0, 1 present, not voting.

I certify that H.B. No. 3 was passed by the Senate, with amendments, on May 6, 2019, by the following vote: Yeas 26, Nays 2, 3 present, not voting; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 3 on May 25, 2019, by the following vote: Yeas 30, Nays 0; and that the Senate adopted H.C.R. No. 193 authorizing certain corrections in H.B. No. 3 on May 27, 2019, by the following vote: Yeas 31, Nays 0.
