

# Foundation School Program Fiscal and Policy Studies



LEGISLATIVE BUDGET BOARD

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# FISCAL NEUTRALITY

Fiscal neutrality, commonly referred to as “equity,” entails a public school finance system that provides “for substantially equal access to similar revenue per student at similar tax effort, considering all state and local tax revenues of districts after acknowledging all legitimate student and district cost differences.” (Texas Education Code, Section 42.001(b)).

This statutory language derives from Texas Supreme Court rulings on the constitutional requirement that Texas operate a system of free public schools that is “efficient,” in the sense that limited resources must be distributed across school districts in such a way as to achieve a general diffusion of knowledge. The Texas Supreme Court, in its 2005 West-Orange Cove decision, held that the state’s school finance system did not violate the constitutional requirement of efficiency. That decision was based on the school finance system as it operated in the 2003–04 school year.

In the West-Orange Cove ruling that upheld the equity of Texas school finance, the court also found the system unconstitutional in that it did not provide school districts with meaningful discretion in setting tax rates, and directed the Texas Legislature to provide a remedy. In 2006, the Seventy-ninth Legislature, Third Called Session, responded by enacting House Bill 1 (HB1), which was implemented in the 2006–07 school year. This legislation significantly altered school finance by reducing school district property tax rates by one-third, linking formula yields to the eighty-eighth percentile of wealth, establishing a total revenue target for each district, providing hold harmless funds if local and state formula revenue did not generate the target, and creating a \$0.17 enrichment tier.

As a significant piece of public school finance legislation, HB1 had a substantial impact on the equity of the system. The following analysis presents data to assess the system’s equity, from the years before House Bill 1 beginning with the 2003–04 school year, to current law projections for the school years of the 2010–11 biennium.

## SIGNIFICANT FINDINGS

- Concepts previously central to the measurement of the equity of a school finance system in Texas, such as an “equalized system,” are no longer easily defined under the revenue target mechanism established by

the Seventy-ninth Legislature, Third Called Session, 2006.

- The equity of the public school finance system, as measured by the analysis presented here, has declined since the implementation of the related statutory provisions of the 2006 legislation.

## RECOMMENDATIONS

- Fund a school finance system with levels of equity comparable to that of the system in place for the 2003–04 school year, the year that the Texas Supreme Court judged the system to be constitutionally equitable.
- Establish a target revenue floor per WADA per penny to deliver additional state funds to districts with lower revenue. This would reduce the revenue gap and bring districts closer to the statewide average revenue. Alternately, modify the funding formulas of the basic allotment to increase the guaranteed yield. This would free the resulting revenue from constrictions of the current target revenue mechanism.

## DISCUSSION

If one views the traditional funding formulas of the school finance system—the Tier 1 basic allotment and the Tier 2 guaranteed yield—in isolation, HB1 substantially increased their level of equity. The dollar amounts at which those yields were statutorily set under the previous finance system would have approached the seventy-fifth percentile of wealth in the 2006–07 school year. HB1 increased the yields to the eighty-eighth percentile, and indexed them to that percentile so that the yields would increase with property value growth.

With the HB1 system, the increased formula yields flow additional state funds that replace a portion of local revenue lost due to tax relief. However, to ensure no loss of total revenue, HB1 also guaranteed that districts would receive the total revenue per student in weighted average daily attendance (WADA) received in either the 2005–06 or 2006–07 school years. If the formulas did not deliver sufficient revenue to meet that target, the system would provide “hold harmless” funding up to the target amount.

The effect of the base-year revenue target, and the hold harmless funds that flowed from it, was to override the equity gain in the formula structure and lock in the inequities that existed in the system in those base years. Some of those existing inequities are relatively small; for example, there are 34 wealthy districts that, due to a Chapter 41 hold harmless provision, were allowed to retain some revenue above the equalized wealth level.

Other inequities have a larger impact. The prime example is the Available School Fund per capita apportionment; an annual distribution that, for less wealthy districts subject to Chapter 42, serves a method of financing their entitlement, but for wealthy Chapter 41 districts is in addition to the local revenue they retain. This amount has averaged approximately \$305 per student in average daily attendance (ADA) over the last 10 years; on a WADA basis, roughly \$230 per WADA on average. Although this distribution has been partially offset since fiscal year 2004 by a per WADA distribution made through the General Appropriations Act, it remains a significant benefit to Chapter 41 districts. Furthermore, in the 2006–07 school year, one of the years of which a district could base its revenue target, the per capita apportionment reached a high water mark of \$394 per ADA. This is likely one reason, among several, why more than 85 percent of Chapter 41 districts have their revenue target based on the 2006–07 school year.

In addition to perpetuating existing inequities in the system, the revenue target mechanism added an additional inequity. Under the previous funding system, state aid or recapture payments were not adjusted to reflect local revenue growth until the following year. However, under the total revenue target mechanism of HB1, any district that had a year of strong growth in local property tax collections, perhaps due to strong property value growth, in the 2005–06 or 2006–07 school years received a higher revenue target as a result. As it happened, in the 2006–07 school year, the year which most districts based their revenue target, wealthier districts on average experienced significantly higher property value and resulting collections growth than poorer districts.

While one can predict the impact that the revenue target mechanism of HB1 has on equity, the effect of the enrichment tier is less clear. The enrichment tier comprises the \$0.17 above the statewide maximum compressed tax rate of \$1.00. This tier consists of two levels:

- the “golden pennies,” which apply to the first \$0.06 levied above a district’s compressed rate, are equalized at the yield generated by the Austin Independent

School District (ISD), and on which there is no recapture, and

- the “copper pennies,” which are the pennies remaining above a district’s compressed rate plus the \$0.06 (golden pennies), are equalized at \$31.95 per penny per WADA, and on which revenue generated above this yield are recaptured.

In terms of equity, each of these enrichment levels has countervailing factors. For the golden pennies, the guaranteed yield is highly equalized at approximately the ninety-sixth percentile of wealth, but the 111 or so districts generating revenue above that level retain everything they collect. For the copper pennies, on a per penny basis they are equalized at \$31.95 per WADA with full recapture above that level. However, districts with compressed rates below \$1.00 have access to more copper pennies than do districts compressed to \$1.00 and, on average, districts at the top end of the wealth spectrum have lower compressed rates than less wealthy districts.

#### **EQUITY ANALYSIS**

This analysis applies a set of standard equity measures to the school finance system as captured by the Legislative Budget Board final models for school years 2003–04 to 2007–08, and by projections from current law models for school years 2008–09 to 2010–11. As noted previously, the Texas Supreme Court judged the school finance system to be efficient based on data from the 2003–04 school year. Using this year as a benchmark does not imply that a less equalized system would be unconstitutional; rather, the analysis presents the 2003–04 school year as a possible target should the state want to maintain a school finance system with a level of equity that is arguably comparable to the one found constitutional by the Texas Supreme Court.

The analysis reflects the following methodology:

- **Use a per WADA basis.** Analysis is done on a revenue-per-weighted student basis (WADA), thus incorporating student and district cost differences expressed by those weights. As a result, the analysis presumes that the array of weights, allotments, and other cost adjustments in the current system are, by the terms of the Texas Education Code Section 42.001(b), “legitimate”; that is, appropriate and representative of true cost differences between student groups and district types.

- **Include enrichment.** In West-Orange Cove, the court noted that revenues generated above an adequate level needed for the general diffusion of knowledge are supplemental and therefore exempt from a consideration of equity. Some may argue that the enrichment tier established by HB1 should be considered as such, and only the school finance system under districts' compressed tax rates should be examined. However, since the 2006–07 school year, the revenue capacity of this “compressed tier” has only increased to the degree population has, and there is evidence that districts have faced significant inflationary costs beyond student growth during this period. As a result, for the purposes of this equity analysis, the enrichment tier is included.
- **Assume the maximum tax rate.** Districts, and their voters, have discretion over the number of pennies of enrichment tax effort they wish to levy. Consequently, an analysis based on actual district revenue amounts per WADA will be affected by individual district decisions on tax effort, which could obscure the equity of the school finance system. To remove the effects of variable tax effort across districts, amounts shown are based on what district revenues would be at the maximum maintenance and operations (M&O) tax rates of \$1.50 in school years 2003–04 to 2006–07, and \$1.17 in 2008 and beyond.

### MEASURES OF EQUITY

Prior to HB1, the three measures used to determine equity were:

- the percentage of students within the equalized funding system;
- the percentage of total Foundation School Program (FSP) revenue within the equalized funding system; and
- the gap in total revenue between districts at the top of the wealth spectrum, and those below the guaranteed yield level.

In the school finance system established by HB1, the “equalized funding system” used by the first two equity measures is difficult to specify. First, as discussed previously, each district has a unique total revenue target, based on the best of three calculations from two different funding years. Equalized formula levels within the system are effectively superseded by “hold harmless” state aid, which funds a

significant portion of many districts' entitlements; statewide, this hold harmless funding is estimated to represent approximately one-third of total state aid for M&O.

Given the uncertainty regarding the definition of an equalized funding system, this analysis begins with a calculation of the remaining equity measure from the previous funding system—the “revenue gap.”

Consistent with the methodology employed by prior fiscal studies, the revenue gap compares the total M&O revenue per WADA, on a weighted average basis, in districts with property wealth below the Tier 2 guaranteed yield threshold with that of districts with property wealth equal to or greater than the equalized wealth level. As discussed above, this analysis is calculated assuming all districts are taxing at the maximum allowable rate.

There are two caveats to note regarding the revenue gap analysis. First, for school years 2003–04 to 2005–06, there was a gap between the Tier 2 guaranteed yield level of \$27.14 per penny/WADA and the equalized wealth level of \$305,000 (\$30.50 on a per penny/WADA basis); districts with yields in this gap are excluded from the analysis. For each of these years, at least one of the two largest districts in the state (Houston ISD and Dallas ISD) fell into this gap. The second caveat is that for school years 2006–07 to 2008–09, this analysis determines the eighty-eighth percentile yields calculated with latest available property values and weighted student counts. The actual implementation of the school finance system for the 2008–09 biennium required the establishment of the eighty-eighth percentile at set dollar amounts in the General Appropriations Act (2008–09 biennium) which, due to property value growth and student counts that diverged from what was projected, are lower than current data indicate.

These caveats are important because they suggest weaknesses in the revenue gap as an equity measure. First, the exclusion of the districts between the guaranteed yield and the equalized wealth level entails ignoring the equity impact of the school finance system on a sizeable portion of the student population—over 12 percent in certain years. Additionally, even after the 2005–06 school year when HB1 eliminated the gap between formula yields and the equalized wealth level, a small change in the wealth level of one of the larger districts could push it from Chapter 42 status to Chapter 41 status (or vice versa). This could potentially alter the average revenue per WADA of both groups in a way that does not reflect the change in the equity of the system as a whole.

Lastly, a comparison of the weighted average revenue of these two groups can mask substantial variations within each group. To address these shortcomings, this analysis computes the coefficient of variation, which is an additional measure of equity.

The coefficient of variation measure begins with the standard deviation for total revenue per WADA for each district, weighted for the size of the district’s student population. The standard deviation is a measure of how widely spread districts are across the spectrum of total revenue per WADA, with a smaller number indicating more districts are grouped more closely to the average total revenue, and a larger number indicating that more districts have total revenue amounts farther from the average. Assuming a fairly normal distribution of districts around the statewide average revenue, approximately 68 percent of students will fall within plus or minus one standard deviation of the average, and about 95 percent will be within plus or minus two standard deviations of the average.

The coefficient of variation is simply this measure of dispersion divided by the statewide weighted average total revenue per WADA, which gives a comparable calculation across years. A smaller coefficient indicates a higher level of equity.

**ANALYSIS RESULTS**

**Figure 1** shows the trend in average total revenue per WADA across all districts. First, it should be noted that HB1 markedly increased the overall capacity of the school finance system, increasing maximum average revenues per WADA

under \$4,800 in the 2005–06 school year to just under \$5,900 in the 2007–08 school year, the first full year of implementation. This capacity has a bearing on the equity question in that comparisons of revenue gaps and measures of dispersion across school years should be viewed proportionally to the size of the system.

**Figure 2** shows the first measure, the revenue gap, increasing from school years 2005–06 to 2006–07, the first year of HB1 implementation. Analysis of district revenue targets suggests that this is due primarily to the dis-equalizing effects of the revenue target calculation mentioned above. This gap increases slightly from 2007 to 2008, perhaps due to a property value growth-driven jump in the number of effective pennies on which the yield is paid. The model estimates another small increase to the gap in fiscal year 2009 as the golden pennies are expanded to six, but a moderation of the gap thereafter as effective tax rates in the enrichment tier decrease with slowing property value growth. The revenue gap as a proportion of the average total revenue per WADA for Chapter 42 districts, after its initial jump from the pre-HB1 to the post-HB1 system, stays relatively stable thereafter.

Similarly, **Figure 3** shows an increase in the coefficient of variation between pre-HB1 and post-HB1 school years, and then a steady equity level thereafter. One may expect this level of equity to continue in the out years; the only factor that can substantially affect the system’s revenue distribution (at the maximum tax rate) under current law are fluctuations in effective tax rates in the enrichment tier, and the increase of the golden penny yield, set to Austin ISD’s yield, relative

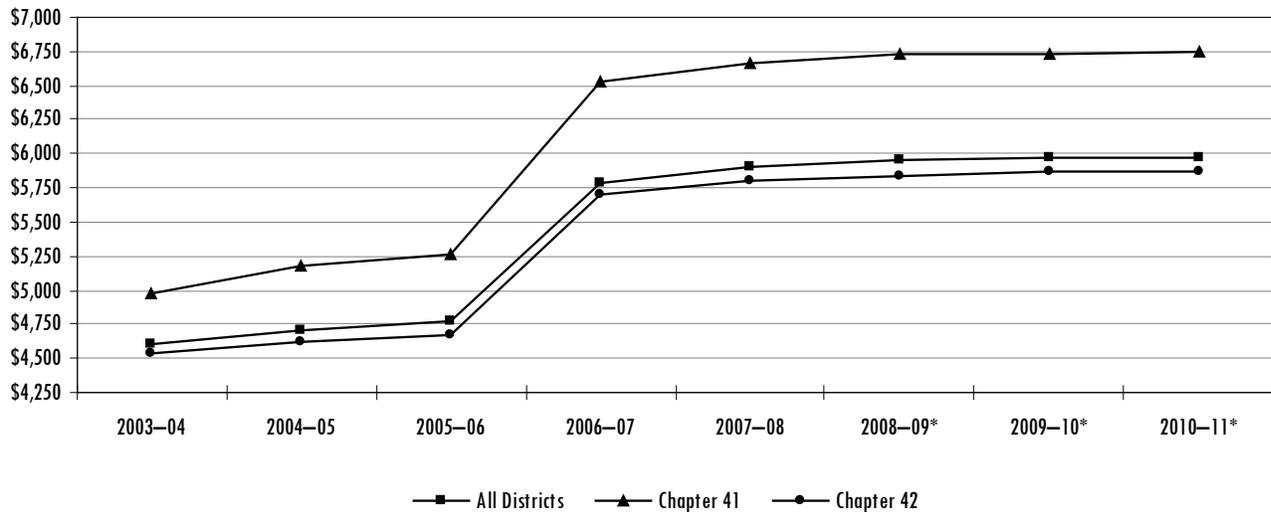
**FIGURE 1  
EQUITY ANALYSIS OF MAXIMUM M&O TAX EFFORT (INCLUDING ENRICHMENT), FISCAL YEARS 2004 TO 2011**

	2004	2005	2006	2007	2008	2009*	2010*	2011*
Average Total Revenue per WADA (All Districts)	\$4,609	\$4,710	\$4,779	\$5,793	5,898	\$5,948	\$5,965	\$5,969
Average Total Revenue per WADA (Chapter 42)	\$4,532	\$4,621	\$4,668	\$5,698	\$5,795	\$5,841	\$5,868	\$5,873
Average Total Revenue per WADA (Chapter 41)	\$4,970	\$5,183	\$5,263	\$6,527	\$6,655	\$6,730	\$6,736	\$6,746
Revenue Gap between Chapter 41 and Chapter 42 Districts	\$438	\$562	\$596	\$829	\$860	\$889	\$868	\$873
Revenue Gap as Percentage of Chapter 42 Revenue	9.7%	12.2%	12.8%	14.6%	14.8%	15.2%	14.8%	14.8%
Standard Deviation	\$336	\$325	\$348	\$493	\$504	\$513	\$516	\$510
Coefficient of Variation	7.3%	6.9%	7.3%	8.5%	8.5%	8.6%	8.6%	8.5%

\*Projected.

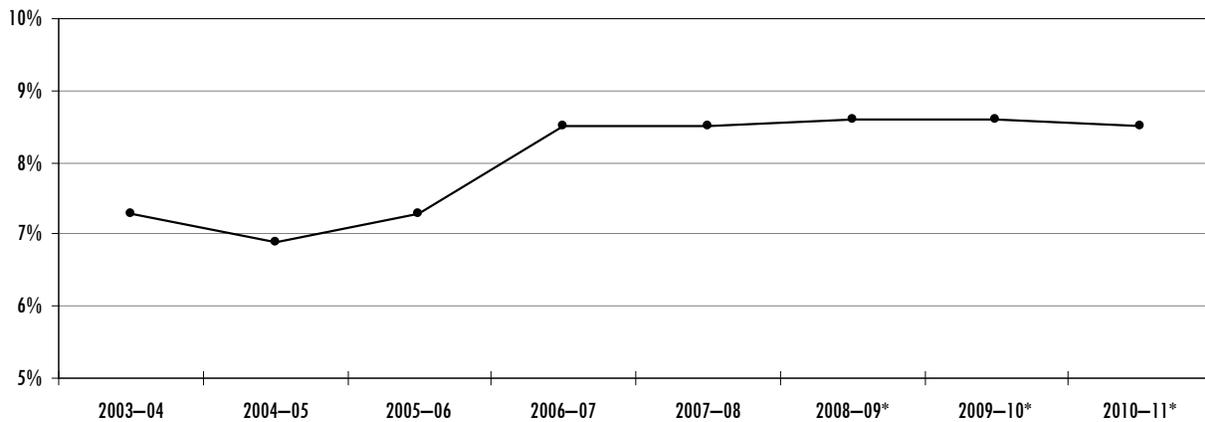
SOURCE: Legislative Budget Board.

**FIGURE 2**  
**AVERAGE TOTAL REVENUE PER WADA, CHAPTER 41, CHAPTER 42, AND ALL DISTRICTS,**  
**SCHOOL YEARS 2003–04 TO 2010–11**



\*Projected.  
 SOURCE: Legislative Budget Board.

**FIGURE 3**  
**COEFFICIENT OF VARIATION IN AVERAGE REVENUE PER WADA, SCHOOL YEARS 2003–04 TO 2010–11**



\*Projected  
 SOURCE: Legislative Budget Board.

to the yields of those districts above Austin ISD. These represent a very small share of total revenue in the system.

It is interesting to note that the enrichment tier, specifically the copper pennies, increases the level of equity in the school finance system. The six golden pennies have a negligible effect on the overall equity of the system, as measured by the coefficient of variation. It appears that the positive equity impact of the high Austin ISD yield largely negates the negative equity effect of the additional local revenue kept by districts above that yield, at least relative to the rest of the school finance system. That un-recaptured

revenue is about 6 percent of the approximately \$2.1 billion in potential total revenue the golden pennies are projected to generate in the 2009–10 school year.

Conversely, including the copper pennies reduces the coefficient of variation by approximately 0.4 percent. The fact that, on average, wealthier districts have approximately two additional copper pennies compared to the statewide average is more than offset by full equalization at \$31.95 per WADA per penny. In the 2009–10 school year, the copper pennies are projected to generate a maximum amount of approximately \$2.3 billion in total revenue.

**RECOMMENDATION**

The Legislature should make changes to the public school finance system to restore its equity to the level it exhibited in the year the system was last deemed constitutionally efficient by the Texas Supreme Court. Proposals to achieve this goal could be analyzed in terms of their coefficients of variation in total revenue per weighted student, and those coefficients could be compared to that of the system as it operated in the 2003–04 school year.

School finance changes that enhance the equity of the system could operate within the target revenue mechanism or could supersede it. For example, the Legislature could establish a target revenue floor per WADA per penny. This method would deliver additional state aid to districts at the lowest end of the revenue spectrum, shrinking the revenue gap and pulling districts more tightly around the statewide average revenue. Alternatively, the current law mechanisms of the basic allotment and/or guaranteed yield could be significantly increased, and revenue delivered through those formulas could be freed from constrictions of the target revenue mechanism.

# ANALYSIS OF THE BASIC ALLOTMENT AND REGULAR PROGRAM

This analysis identifies projected public school district expenditures and revenues attributable to an accredited regular education program. For the purpose of this analysis, accredited districts are defined as those earning a rating of “Academically Acceptable,” “Recognized,” or “Exemplary” under the state’s educational accountability system. The analysis compares projected expenditures per regular program student in average daily attendance in accredited districts with projected Foundation School Program revenues generated by regular program attendance in the same group of districts. Projected revenue per regular program student for fiscal years 2010 and 2011 assumes tax effort to be the greater of each district’s adopted 2007 tax rate for maintenance and operations or \$0.06 plus the district’s compressed maintenance and operations rate, with compressed rate calculated as the district’s adopted 2005 tax rate multiplied by 0.6667.

## SIGNIFICANT FINDINGS

- The Foundation School Program funding system generates sufficient revenue per student to fully fund projected regular program expenditures for the 2010–11 biennium.
- Expenditures attributable to the regular program increased 8 percent from fiscal year 2005 to fiscal year 2007, largely due to increased expenditures for compensation. Expenditures for compensation increased 7 percent over the two-year period, accounting for 72 percent of the growth in expenditures per regular program student during that time.

## RECOMMENDATION

- Based on the comparison of projected Foundation School Program revenue to regular program expenditures, the current basic allotment at the eighty-eighth percentile of wealth per weighted student should be maintained.

## DISCUSSION

The basic allotment is the fundamental Foundation School Program (FSP) mechanism that generates revenue for the regular education program. FSP was significantly revised through the enactment of House Bill 1 (HB1), Seventy-ninth

Legislature, Third Called Session, 2006. Changes made by HB1, revising the basic allotment from a stated dollar amount to a referenced equivalent of the amount generated by \$0.86 of tax effort at the eighty-eighth percentile of wealth per weighted student. **Figure 4** shows the basic allotment for fiscal years 2001 to 2011.

**FIGURE 4**  
**FOUNDATION SCHOOL PROGRAM BASIC ALLOTMENT**  
**AMOUNT, FISCAL YEARS 2001 TO 2011**

FISCAL YEAR	BASIC ALLOTMENT
2001	\$2,537
2002	\$2,537
2003	\$2,537
2004	\$2,537
2005	\$2,537
2006	\$2,537
2007	\$2,748
2008	\$3,135
2009	\$3,218
2010*	\$3,693
2011*	\$3,834

\*Projected.

SOURCE: Legislative Budget Board.

The property tax reduction provisions of HB1 also interact with the function of the basic allotment within the FSP. FSP revenue is generated directly by the basic allotment for compressed tax effort operating in conjunction with each school district’s revenue target.

Under HB1, the basic allotment continues to be a primary factor in the calculation of weighted average daily attendance (WADA). Specifically, the components that form the calculation of WADA attributable to the regular program are regular program ADA, the cost of education index, scale adjustments applicable to certain districts, and the basic allotment. The calculated result from these components, WADA, is key to revenue generated under the FSP’s guaranteed yield structures. For compressed tax effort, revenue is generated via a guaranteed yield per penny per WADA and operates together with Tier 1 FSP revenue in conjunction with each district’s revenue target. For tax effort levied above each district’s compressed M&O rate, additional

revenue is generated via guaranteed yield structures on a per penny per WADA basis.

**SCHOOL DISTRICT EXPENDITURES ATTRIBUTED TO THE REGULAR PROGRAM**

The analysis of school district regular program expenditures is based on fiscal year 2007 actual financial data from the Texas Education Agency’s Public Education Information Management System (PEIMS). For this analysis, expenditures attributable to the regular program include those specifically reported as regular program expenditures and a proportional amount of each district’s undistributed expenditures reported for the same functions and objects. Functions associated with the regular program that correspond to the revenue examined include instruction, instructional resources, curriculum and staff development, instructional and campus leadership, guidance counseling, social work services, health services, general administration, plant maintenance, and data processing. Expenditures per student for this analysis represent annual expenditures for each district rated Academically Acceptable, Recognized, or Exemplary divided by regular program average daily attendance for the same districts.

Based on this methodology, the fiscal year 2007 average regular program expenditure per student among districts rated at least academically acceptable was \$4,617. For the same year, the average expenditure per regular program student by districts rated Recognized or Exemplary was \$5,237. In general, districts rated Recognized or Exemplary in 2007 tended to be smaller and tended to have both a higher expenditures and higher revenue per student than districts earning the academically acceptable rating.

To project regular program expenditures per student for the 2010–11 biennium, the State and Local Government Deflator, a price index produced by the U.S. Department of Commerce Bureau of Economic Analysis, was applied to 2007 expenditures. **Figure 5** shows projected expenditures for fiscal years 2010 and 2011.

**COMPARING REGULAR PROGRAM REVENUE TO AVERAGE EXPENDITURE**

The primary purpose of this analysis is to determine whether the FSP generates regular program revenue that is comparable to regular program expenditures. Two FSP revenue streams contribute funding attributable to regular program students in average daily attendance (ADA)—the portion of FSP applicable to the compressed tax effort and each district’s revenue target and the portion of the FSP applicable to tax effort above the compressed rate.

**FIGURE 5  
ACTUAL AND PROJECTED REGULAR PROGRAM  
EXPENDITURES PER STUDENT, FISCAL YEARS 2007 TO 2011**

FISCAL YEAR	ALL ACCREDITED DISTRICTS	HIGHEST RATED DISTRICTS
2007	\$4,617	\$5,237
2010*	\$5,426	\$6,155
State and Local Government Factor	1.175	1.175
2011*	\$5,704	\$6,470
State and Local Government Factor	1.235	1.235

\*Projected.

SOURCE: Legislative Budget Board.

Within the portion of the FSP governed by compressed tax effort and revenue targets established under HB1, revenue generated for the regular program was determined by calculating the portion of Tier 1 funding generated by applying the basic allotment adjusted for the cost of education index and district size (scale) to regular program ADA. Based on the Tier 1 amount, regular program WADA was calculated and compared to total WADA to establish the proportional amount of Tier 2, Level 1 funding attributable to the regular program. The total of Tier 1 and Tier 2, Level 1 funding was divided by regular program WADA and compared to the district’s revenue target per WADA to determine the proportion of additional state aid for property tax relief or “dragback” attributable to the regular program. Regular program ADA in grades 9–12 was extracted to proportionally attribute each district’s high school allotment amount to the regular program. State aid for increases in the minimum salary for teachers, counselors, nurses, and librarians was proportionally attributed to the regular program based on each district’s count of full-time equivalent (FTE) teachers serving the regular student population versus the district’s total FTE teachers.

For the portion of the FSP applicable to tax effort above the compressed rate, total revenue per penny per WADA was attributed to the regular program on the basis of each district’s ratio of regular program WADA to total WADA. **Figure 6** compares FSP regular program revenue per student to the average expenditure per regular program student for the 2010–11 biennium. Expenditures are projected by using the State and Local Government Deflator, while revenues are projected based on current assumptions of tax effort combined with growth in student enrollment and district property values. As described previously, tax effort is assumed stable across both years as the greater of a district’s adopted 2007 M&O rate or \$0.06 above compressed rate.

**FIGURE 6  
COMPARISON OF REGULAR PROGRAM EXPENDITURES TO CURRENT LAW REVENUE, FISCAL YEARS 2010 TO 2011**

FISCAL YEAR	STATE AND LOCAL COST FACTOR	REGULAR PROGRAM EXPENDITURE PER ADA	FOUNDATION SCHOOL PROGRAM REVENUE PER REGULAR PROGRAM ADA	DIFFERENCE
<b>DISTRICTS THAT WERE ACADEMICALLY ACCEPTABLE OR HIGHER IN 2007</b>				
2010	1.175	\$5,426	\$5,971	\$545
2011	1.235	\$5,704	\$5,977	\$273
<b>DISTRICTS THAT WERE RECOGNIZED OR EXEMPLARY IN 2007</b>				
2010	1.175	\$6,155	\$6,625	\$470
2011	1.235	\$6,471	\$6,632	\$161

NOTE: FSP revenue Includes enrichment under current assumptions of the greater of adopted 2007 M&O or \$0.06 + compressed M&O.  
SOURCE: Legislative Budget Board.

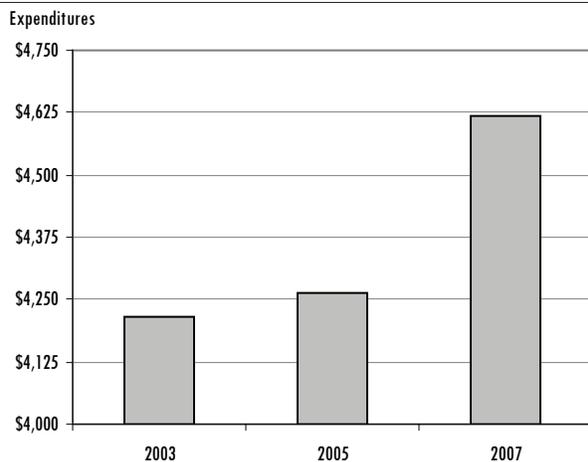
For the 2008–09 biennium, school districts received an additional \$23.63 per WADA from an appropriations rider for educator salary increases. Because funding is specific to the 2008–09 biennium, it was not included in projected revenues for fiscal years 2010 and 2011.

As shown in **Figure 6**, the FSP generates sufficient revenue attributable to the regular program to meet anticipated regular program expenditures. However, assuming that the state and local index used to project expenditures is accurate, it appears that growth in expenditures may outpace growth in revenue at some point after fiscal year 2011. The following section describes increases in actual regular program expenditures from 2005 to 2007.

**INCREASES IN REGULAR PROGRAM EXPENDITURES**

Regular program expenditures increased from fiscal years 2003 to 2007, with the largest increase occurring between fiscal years 2005 and 2007. **Figure 7** shows the trend in expenditures per regular program ADA from fiscal years

**FIGURE 7  
REGULAR PROGRAM EXPENDITURES PER ADA TREND, FISCAL YEARS 2003 TO 2007**

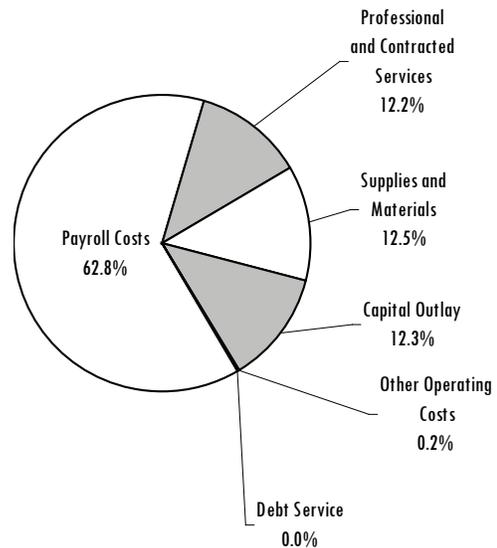


\*Projected.  
SOURCE: Legislative Budget Board.

2003 to 2007, the base year for the current analysis. As indicated by this figure, expenditures per student have grown by 1 percent and 8 percent for the two biennial periods ending in fiscal years 2005 and 2007.

**Figure 8** disaggregates the increase in expenditures from fiscal years 2005 to 2007 by category of expense. Increases in compensation-related costs accounted for 72 percent of the increase in regular program expenditures per student from 2005 to 2007, followed by increases in expenditures for contracted services, supplies and materials, other operating expenses, and capital outlay excluding land and buildings.

**FIGURE 8  
PERCENTAGE OF INCREASE PER STUDENT BY CATEGORY OF EXPENSE, FISCAL YEARS 2005 TO 2007**



\*Projected.  
SOURCE: Legislative Budget Board.

Figure 9 shows additional detail concerning the contributions of various categories of expenditure to the observed per student increase from fiscal years 2005 to 2007. In evaluating the level of increase in expenditures for compensation, it is important to note that HB1 provided an annual salary increase of \$2,000 for classroom teachers and full-time counselors, nurses, and librarians effective in fiscal year 2007.

**FIGURE 9**  
**CATEGORIES OF EXPENSE CONTRIBUTING TO REGULAR PROGRAM AMOUNT PER AVERAGE DAILY ATTENDANCE OR AMERICANS WITH DISABILITIES ACT INCREASE, FISCAL YEARS 2005 TO FISCAL YEAR 2007**

EXPENDITURE CATEGORIES	FISCAL YEAR		CHANGE		
	2005	2007	DOLLAR	PERCENTAGE	IMPACT
<b>COMPENSATION</b>					
Professional Payroll	\$2,824	\$3,023	\$199	7%	56%
Other Payroll	\$445	\$476	\$31	7%	9%
Group Insurance & Other Employee Benefits	\$353	\$377	\$24	7%	7%
<b>SUBTOTAL, COMPENSATION</b>	<b>\$3,622</b>	<b>\$3,876</b>	<b>\$254</b>	<b>7%</b>	<b>72%</b>
<b>CONTRACTED SERVICES</b>					
Utilities	\$173	\$207	\$34	20%	10%
Other Contracted Services	\$200	\$213	\$13	7%	3%
<b>SUBTOTAL, CONTRACTED SERVICES</b>	<b>\$373</b>	<b>\$420</b>	<b>\$47</b>	<b>13%</b>	<b>13%</b>
<b>OTHER CATEGORIES</b>					
Supplies for Maintenance & Other General Supplies	\$166	\$197	\$31	19%	9%
Other Operating & Selected Capital Expenditures	\$104	\$124	\$20	19%	6%
<b>SUBTOTAL, OTHER CATEGORIES</b>	<b>\$270</b>	<b>\$321</b>	<b>\$51</b>	<b>19%</b>	<b>15%</b>
<b>TOTAL</b>	<b>\$4,265</b>	<b>\$4,617</b>	<b>\$352</b>	<b>8%</b>	<b>100%</b>

SOURCE: Legislative Budget Board.

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# OVERVIEW OF THE BILINGUAL EDUCATION ALLOTMENT

Texas state law requires public school districts with a certain critical mass of students with limited English proficiency to offer special language programs to help students achieve academic standards in all areas and become proficient in English. These programs could be a bilingual education program or English as a Second Language program depending on the grade level in which the program is offered. Texas Administrative Code requires campuses with one or more students with limited English proficiency to offer special language services to these students. The calculation of school districts' entitlements under the Foundation School Program provides for a 10 percent bilingual education funding weight for students enrolled in these special language programs in acknowledgement of a marginally higher cost associated with providing these services as compared to a regular instructional program.

This report provides an overview of bilingual education in Texas, its funding weight within the Foundation School Program, and how Texas compares to its peer states.

## SIGNIFICANT FINDINGS

- Annual growth in the population of students enrolled in Texas public schools with limited English proficiency has occurred at a rate nearly three times that of the overall student population. Students with limited English proficiency now comprise approximately 15 percent of the total student population in public schools.
- The state provides a 10 percent funding weight to support special language programs through the bilingual education allotment in the Foundation School Program. The weight has not been modified since 1986.
- Of the top five states ranked by the percent of students with limited English proficiency as a function of total student population, all but California provide funding through a weighting mechanism similar to Texas's bilingual education allotment. Among those states, Texas provides the lowest weight per student.
- In 2007, the Seventy-ninth Legislature considered several proposals to modify the bilingual education allotment structure. These proposals would have

weighted funding for students with limited English proficiency in later grades at a higher rate than those in earlier grades.

- The Texas Education Agency is under a federal court order to develop a plan to modify its system for monitoring bilingual and English as a second language programs and to modify English as a second language instruction. This ruling is currently under appeal.

## DISCUSSION

In recognition of the necessity of English proficiency for full participation in the state public education system, state law requires that school districts with 20 or more students identified as having limited English proficiency (LEP students) in the same grade level must offer a special language program—either a bilingual education or an English as a second language program. Bilingual education programs are defined as dual-language programs that provide instruction in basic academic skills in the student's native language alongside English language instruction. State law requires that bilingual education programs be offered in Kindergarten through the elementary grades and allows that bilingual education programs may be offered through grade 8.

English as a second language (ESL) programs provide instruction in English by teachers specially trained to compensate for language differences. ESL programs may be offered in post-elementary grades through grade 8 and are the required mode of delivering special language instruction in the high school grades. Title 19, Part 2, Section 89.1205(d) of the Texas Administrative Code requires that districts offer English as a second language services to all LEP students for whom a bilingual program is not required regardless of the total number of LEP students in the district.

Students are first identified as having limited English proficiency based on a home language survey. If the survey reveals that a language other than English is spoken at home, then the student would be tested for English proficiency. A local language proficiency assessment committee (LPAC) comprising a bilingual educator, a transitional language educator, a parent of a student with limited English proficiency, and a campus administrator reviews test results

to determine whether a student qualifies as having limited English proficiency. If the LPAC recommendation is that the student should be enrolled in a special language program, parental permission must be obtained prior to enrollment. Other duties of the LPAC include development and monitoring of student plans for accelerated English mastery, annual assessment of student progress and recommendations for future placement, and monitoring of students who have exited special language programs.

**SPECIAL LANGUAGE PROGRAMS:  
ENROLLMENT AND FUNDING**

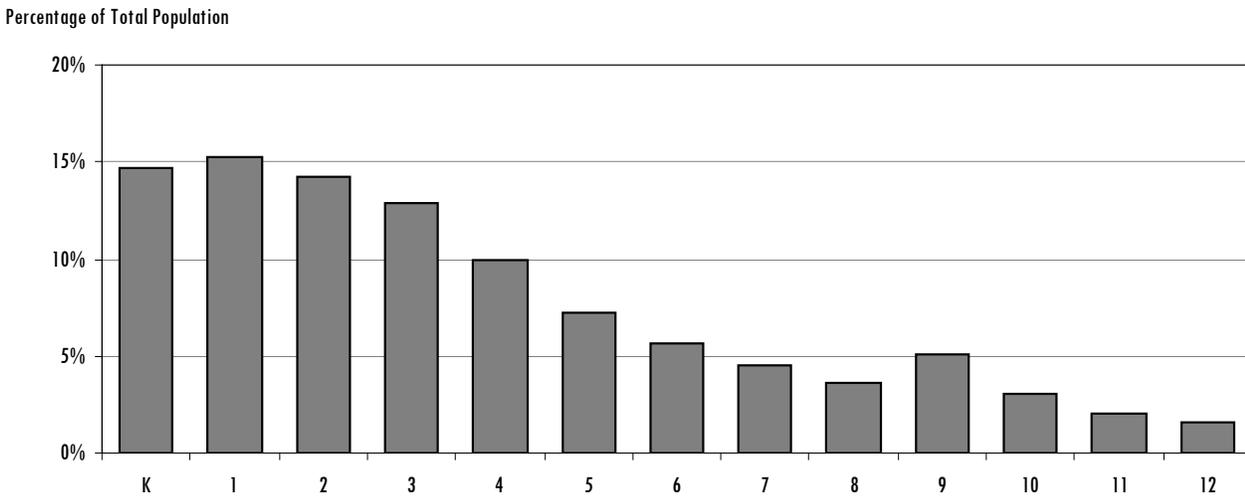
The population of LEP students represents approximately 15 percent of the total student population in Texas public schools as of the 2007–08 school year. From fiscal years 2001 to 2008, enrollment of LEP students in special language programs in all grades increased nearly 40 percent, from approximately 460,000 students in the 2000–01 school year to 640,000 students in 2007–08. The average annual increase in the population during the same period was approximately 5 percent. This increase compares to more modest growth in the total student population of nearly 14 percent from school years 2000–01 to 2007–08 and an average annual growth rate during that period of 1.8 percent.

The majority of students enrolled in special language programs are in grades K–3 with enrollment by grade level following a generally diminishing trend from K–12. **Figure 10** shows the distribution of bilingual and ESL enrollment by grade for the 2007–08 school year.

The calculation of school districts’ entitlements under the Foundation School Program (FSP) provides a 10 percent bilingual education funding weight for students enrolled in special language programs in acknowledgement of a marginally higher cost associated with providing these services as compared to a regular instructional program. *School Outcomes and School Costs: the Cost Function Approach*, a study conducted on behalf of the Joint Select Committee on Public School Finance of the Seventy-eighth Legislature, 2004, by Gronberg, et al, found the cost of attaining the passing standard on the Texas Assessment of Academic Skills (predecessor to the Texas Assessment of Knowledge and Skills (TAKS) currently serving as the standardized test in the state accountability system) for a LEP student would cost around 20 percent more than for a regular student.

The funding weight has not been modified since 1986 and is applied to each district’s Basic Allotment along with adjustments for district characteristics and funding weights for other special student populations. The bilingual education allotment affects each district’s Tier 1 FSP entitlement as well as the calculation of students in weighted average daily attendance (WADA), which is a driver of entitlement under the Guaranteed Yield Program (Tier 2) described in Chapter 42, Subchapter F. In addition, district WADA is a driver in the calculation of school district enrichment revenue associated with certain pennies of tax effort levied above the compressed tax rate defined by legislation enacted by the Seventy-ninth Legislature, effective from fiscal year 2007 forward.

**FIGURE 10  
DISTRIBUTION OF TEXAS BILINGUAL AND ESL ENROLLMENT BY GRADE, SCHOOL YEAR 2007–08**



SOURCE: Texas Education Agency.

**Figure 11** shows that the total value of FSP entitlement attributable to the bilingual education allotment has increased by 63 percent from about \$253 million in fiscal year 2001 to about \$413 million in fiscal year 2008, excluding enrichment revenues in fiscal years 2007 and 2008. Including enrichment revenues brings the fiscal year 2008 total to about \$430 million, for an increase of about 70 percent compared to fiscal year 2001.

During the period from fiscal years 2001 to 2008, although the 10 percent student weight did not change, changes made to other elements of the FSP formulas result in atypically large year over year increases in these years. Examples of such formula changes include the addition of a \$110 per WADA allocation, effective for fiscal year 2004, the addition of the high school allotment and a teacher salary increase effective for fiscal year 2007. Excluding the outlier years yields an annual average increase in FSP entitlement attributable to bilingual enrollment of about 5 percent per year, which is consistent with annual growth in the population of LEP students.

**BILINGUAL/ESL EDUCATION FUNDING IN OTHER STATES**

According to data published by Baker and Markham in the *Bilingual Research Journal* in 2002, there are four basic funding structures for Bilingual/ESL education services among the 50 states. Those structures include the following:

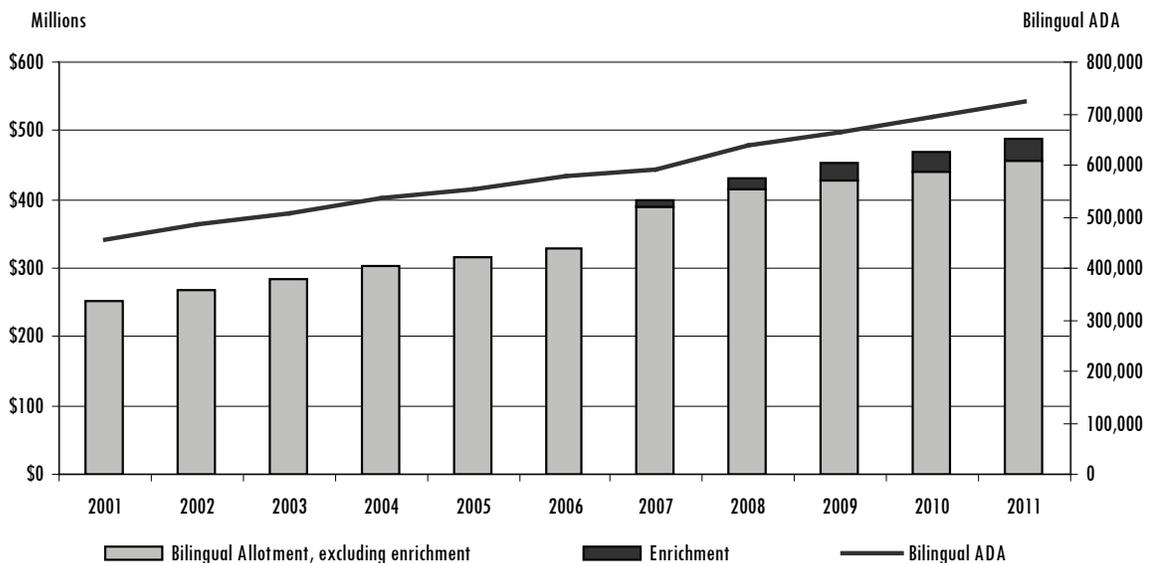
- student weighting programs, as is the case in Texas, which provide an additional percentage of funding

above the funding level for regular education services for a student receiving special language services;

- flat grants, which provide a set dollar amount in additional funding for a student receiving special language services;
- resource-based funding, which provides a set allocation of specific resources for students receiving special language services (e.g., a state might provide funding for a bilingual/ESL teacher for every 20 qualifying students); and
- percentage reimbursement, which would provide a set reimbursement rate for budgeted or actual expenditures for special language services.

Of those models, the student-weighting program is the most common approach. Of the five states with the most LEP students as a function of the total student population, Arizona, California, Florida, New York, and Texas, four of the five provide funding for special language programs through a weighted funding mechanism. Arizona, Florida, and Texas’ funding weights function similarly and range from 10 percent (Texas) to 11.9 percent (Florida). New York’s system essentially allows for a 50 percent funding weight for LEP students within the calculation of its “Pupil Need Index,” which is one component of the overall funding formula. California provides a set dollar amount of \$118.18 per LEP student in grades 4–8 with some additional funding

**FIGURE 11**  
**BILINGUAL ALLOTMENT AND ELIGIBLE STUDENTS IN AVERAGE DAILY ATTENDANCE, FISCAL YEARS 2001 TO 2011**



SOURCE: Texas Education Agency.

that is available on the basis of students successfully transitioned out of special language programs, subject to appropriation.

#### **OTHER BILINGUAL/ESL EDUCATION FUNDING STRUCTURES CONSIDERED IN TEXAS**

During deliberations regarding overall reform to the public school finance system, the Seventy-ninth Legislature considered several proposals that would have provided a tiered bilingual allotment divided according to grade level, based on school district testimony that serving students entering special language programs in higher grades is more costly. There were three versions of this tiered allotment considered by the Legislature; though, ultimately no change was made to the bilingual education allotment:

- House Bill 2 (engrossed version), Seventy-ninth Legislature, Regular Session, 2005, would have provided an allotment of \$500 per LEP student in average daily attendance (LEP ADA) in special language programs below grade 9 and \$1,000 per LEP ADA in special language programs above grade 9.
- The Senate Committee Substitute to House Bill 2, Seventy-ninth Legislature, Regular Session, 2005, would have provided for a four-tier weight of 12 percent for pre-Kindergarten through grade 2, 18 percent for grades 3–5, 24 percent for grades 6–8, and 30 percent for grades 9–12 for LEP ADA who have been enrolled in a special language program for less than three years.
- Senate Bill 8, Seventy-ninth Legislature, First Called Session, 2005, called for an allotment of the greater of \$500 or 10 percent of a district's FSP accreditation allotment (similar to the adjusted basic allotment under current law) for LEP ADA enrolled in special language programs below grade 9 and the greater of \$1,000 or 21 percent of the accreditation allotment for LEP ADA at or above grade 9.

#### **RECENT BILINGUAL EDUCATION-RELATED LITIGATION**

In July 2008, the U.S. District Court, Eastern District of Texas, issued a revised opinion in the matter of U.S. and League of United Latin America Citizens and GI Forum (LULAC-GI) vs. the State of Texas. The revised opinion was issued in response to two motions filed by LULAC-GI requesting that the court reconsider its earlier ruling with regard to the original complaint, which was that the state's

bilingual and ESL education program is in violation of the federal Equal Education Opportunity Act.

In its revised opinion, the court drew the following conclusions:

- The bilingual education program, which is the state policy for primary grades, appears to be adequate in terms of student achievement.
- The ESL program, which is the state policy for secondary grades, is inadequate as demonstrated by disparities in student achievement with regard to TAKS performance and in dropout rates when comparing LEP students to all students.
- TEA's Performance Based Monitoring Analysis System (PBMAS—a data-driven monitoring tool that replaced the site visit-based system in 2006) is inadequate for the purpose of ensuring equal educational opportunity for LEP students for several reasons; and it is ineffective in determining whether districts are properly implementing state policy with regard to LEP students' education.

The court ordered TEA to revamp both its monitoring functions related to bilingual/ESL education and the secondary ESL education program, but was careful to note that a data-driven system such as a revised PBMAS, as opposed to a site visit-based system, and a revised ESL program, as opposed to an entirely different instructional model, could be designed to meet the requirements of the law. The court gave TEA until January 31, 2009 to formulate a plan that must be implemented starting in the 2009–10 school year. The decision is currently under appeal by the state.

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# OVERVIEW OF THE TRANSPORTATION ALLOTMENT

School districts are entitled to a transportation allotment calculated on the basis of districts' linear density, which is a function of the number of students served who reside two or more miles from their assigned campus and the number of route miles traveled by district transportation services. The state provides for an allocation per route mile that varies among seven categories of linear density, with the least dense districts receiving the highest allocation.

This report provides a brief overview of the state's transportation allotment, its relationship to school districts transportation-related expenditures over the last seven years, and alternative methods of delivering funding considered by the Texas Legislature.

## SIGNIFICANT FINDINGS

- The schedule of rates per route mile for regular services and the rate for special education services are established in the General Appropriations Act and have not changed since 1984.
- In fiscal year 2001, the transportation allotment corresponded with 39 percent of school districts' reported transportation expenditures, compared to 28 percent of statewide transportation expenditures covered in fiscal year 2007. Average annual increase in expenditures from fiscal years 2001 to 2007 is 6 percent, compared to the average annual increase in the allotment of 0.2 percent during this period.
- Payroll expenses make up about two-thirds of district transportation expenditures on average statewide, followed by capital outlay for vehicle purchase and fuel costs. Professional and contracted services make up about 12 percent of total average statewide district transportation expenditures, and about two-thirds of school districts contract for some portion of their transportation services.
- The last significant proposal to update the transportation allotment was considered by the Seventy-ninth Legislature. The proposal would have amended the transportation allotment to a flat rate of \$1.50 per approved route mile for all districts.

## DISCUSSION

The Foundation School Program (FSP) flows funding to support school district student transportation services via a transportation allotment, described in Texas Education Code Section 42.155. A district's state aid entitlement under the transportation allotment comprises four possible allocations for regular education students, special education students, career and technology education students, and for private transportation services. The allocation for regular education students is a function of the number of students served by the district, excluding students receiving special education services who require special transportation services to attend school, who reside two or more miles from their school divided by the approved daily route miles traveled by the transportation system.

The result of that calculation, referred to as linear density, serves as the basis for the funding allocation per mile of approved route, as determined in the General Appropriations Act. Districts are categorized into one of seven linear density groups, with the least dense districts receiving the highest allocation per route mile (\$1.43) and the densest districts receiving the lowest allocation per route mile (\$0.68).

In addition to entitlement amounts generated by the linear density formula, school districts may apply for an additional 10 percent of their regular transportation allotment to transport students living within two miles of campus who would have to walk through areas designated as hazardous in order to get to school. Hazardous areas are defined as areas in which no walkway is available and the travel route includes a freeway, expressway, over or underpass, a major traffic artery, or an industrial or commercial area.

School districts' state aid entitlement for providing special transportation services for students receiving special education services is based on the previous year's cost per mile with the maximum rate per mile for reimbursement determined by appropriation. In the General Appropriations Act (2008–09 biennium), the maximum rate is set at \$1.08 per mile.

A school district's entitlement for transporting career and technology students to programs conducted at a site other than the students' regular campus is a function of the actual miles traveled and the rate per mile for extracurricular travel established by district boards of trustees. School districts are

entitled to a rate per mile established by appropriation for the provision of private transportation services for students living in isolated areas or to transport students receiving special education services. In the General Appropriations Act (2008–09 biennium), the rate is set at \$0.25 per mile, not to exceed \$816 per student per year.

**COMPARISON OF TRANSPORTATION ALLOTMENT AND STATEWIDE SCHOOL DISTRICT TRANSPORTATION EXPENDITURES**

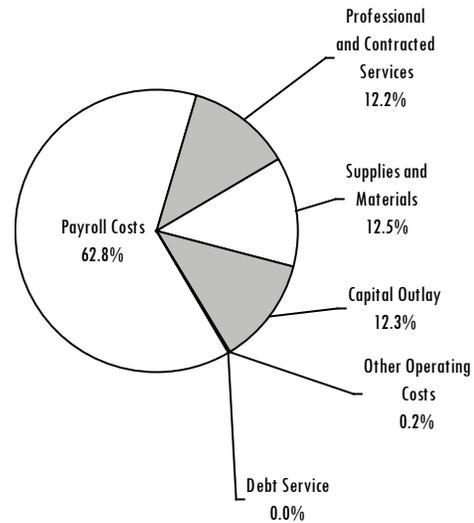
The linear density factors used to calculate transportation allotment entitlements have not changed since 1984. From fiscal years 2001 to 2007, total statewide transportation allotment funding increased from \$298 million to \$301 million. In comparison, district transportation expenditures increased from \$764 million in fiscal year 2001 to \$1,064 million in fiscal year 2007. In fiscal year 2001, the transportation allotment corresponded with 39 percent of school districts’ reported transportation expenditures, compared to 28 percent of statewide transportation expenditures covered at the fiscal year 2007 funding level. Average annual increase in expenditures from fiscal years 2001 to 2007 is 6 percent, compared to the average annual increase in the allotment of 0.2 percent during this period.

Statewide, district expenditures for transportation services have increased by almost 40 percent from fiscal years 2001 and 2007. Expenditure data can be classified according to six broad categories: Payroll Costs, Supplies and Materials, Other Operating Costs, Professional/Contracted Services, Debt Service, and Capital Outlay. **Figure 12** shows the average percentage of total transportation expenditures by category during the seven-year period from school years 2000–01 to 2006–07. Payroll costs account for the majority of expenditures, followed by capital outlay, which would include vehicle purchase, and supplies and materials, which would include fuel costs. Professional and contracted services, other operating costs, and debt service make up the balance of total expenditures. About two-thirds of all school districts contract for at least a portion of their transportation services, for either operation or maintenance or both.

**OTHER TRANSPORTATION ALLOTMENT STRUCTURES CONSIDERED IN TEXAS**

The Seventy-ninth Texas Legislature considered proposals to amend the transportation allotment as part of its broader consideration of reforms to school finance and policy. Two similar proposals appeared in several versions of legislation considered during that period. One would have done away

**FIGURE 12**  
**DISTRICT TRANSPORTATION EXPENDITURES BY CATEGORY, SCHOOL YEARS 2000–01 THROUGH 2006–07**



SOURCE: Legislative Budget Board.

with the linear density grouping and set the transportation allotment at a flat rate of \$1.50 per approved route mile for all districts, a rate \$0.07 higher than the highest rate available under current law. That version would eliminate the 10 percent premium for hazardous conditions, together with all funding directed specifically to special transportation services for students with disabilities and career and technology students and to private transportation services.

Similarly, the second proposal would have set the transportation allotment at a flat rate of \$1.50 for all districts. However, the second version would have maintained the 10 percent premium available to districts for students living within a two-mile radius of their school who would have to walk under hazardous conditions and would have allowed the Commissioner of Education to make additional grants for special transportation services for student with disabilities subject to appropriation. The proposal would have eliminated the specified reimbursement rate for special services for students with disabilities or private transportation services and would have eliminated the separate calculation of entitlement associated with special services for career and technology students participating in offsite programs.

# MAINTENANCE AND OPERATIONS TAX RATES

Fiscal year 2006 was the final year under the public school finance system as it existed prior to the enactment of House Bill 1, Seventy-ninth Legislature, Third Called Session. The maximum maintenance and operations tax rate was \$1.50, although a handful of school districts in Harris County were allowed to tax above that limit. In fiscal year 2007, the implementation of House Bill 1 compressed maintenance and operations tax rates to 88.67 percent of fiscal year 2006 rates, and allowed independent school districts to access a \$0.17-enrichment tier; \$0.04 of this tier was accessible without an election. In fiscal year 2008, a district's non-enrichment tax rate was compressed to 66.67 percent of its fiscal year 2006 rate.

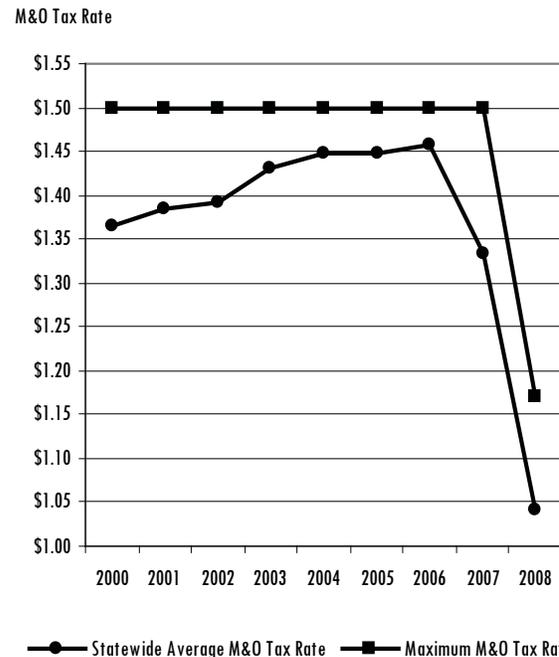
## SIGNIFICANT FINDINGS

- Due to property tax relief enacted by the Seventy-ninth Legislature, Third Called Session, 2006, statewide average maintenance and operations tax rates have declined from a high of \$1.46 in fiscal year 2006 to \$1.04 in fiscal year 2008.
- By fiscal year 2008, only 23 districts, or just over 2 percent, had accessed less than the four golden pennies.
- In fiscal year 2008, 98 districts, or 9.5 percent of all districts, were taxing at \$1.17 or above.
- For fiscal year 2009, thus far 102 districts have proposed a maintenance and operations tax rate increase large enough to require a rollback election in fall 2009. Of these 102 districts, 81 are proposing increasing their rate to the maximum of \$1.17.

## DISCUSSION

Figure 13 shows the trend in M&O tax rates since fiscal year 2000. Prior to House Bill 1 (HB1), the statewide average M&O tax rate had been creeping steadily higher toward the \$1.50 statutory limit. By fiscal year 2006, 548 districts were at the statutory maximum of \$1.50 (or higher, for select districts in Harris County). With the 66.67 percent reduction in M&O rates over fiscal year 2007 and fiscal year 2008, the \$0.04 gap between the statewide average rate of \$1.46 and the \$1.50 maximum had been increased to a \$0.13 gap between the statewide average of \$1.04 and the new statutory maximum M&O tax rate of \$1.17.

**FIGURE 13**  
STATEWIDE AVERAGE M&O TAX RATES,  
FISCAL YEARS 2000 TO 2008



SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

## TAX RATE TRENDS BY DISTRICT CATEGORY

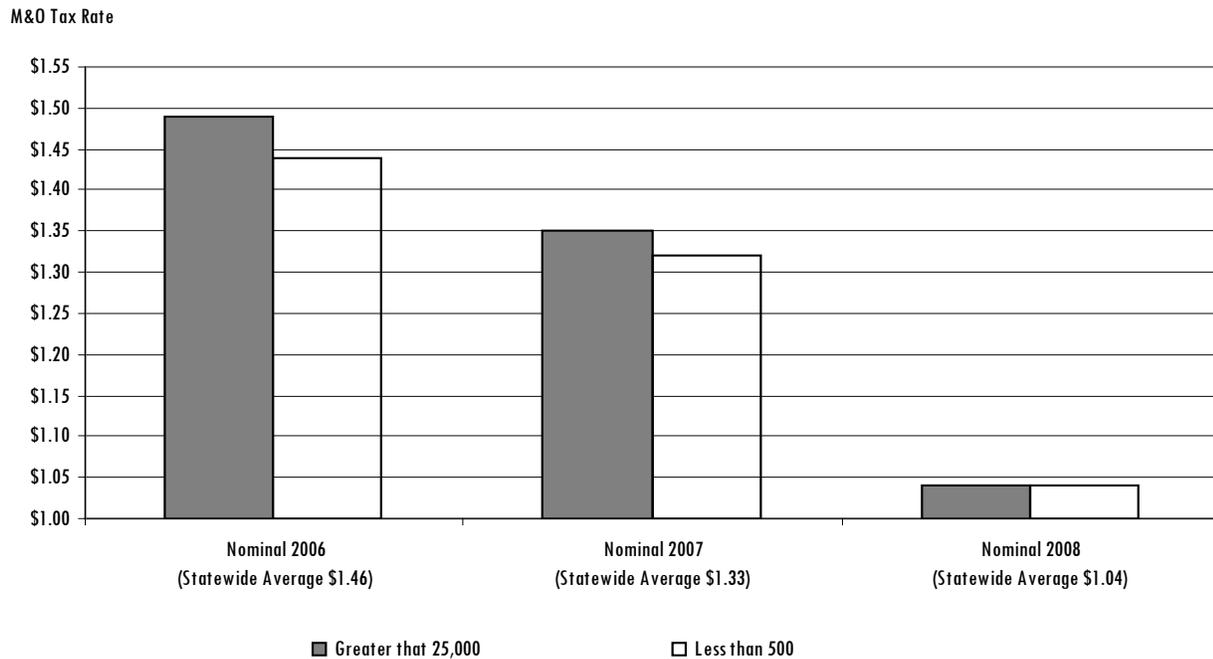
Figure 14 and Figure 15 show an analysis of trends in the average nominal M&O tax rates adopted by school districts in the last three years, with districts disaggregated by size (student enrollment), enrollment growth rate, and property wealth. The averages shown are simple averages, so districts are treated as equivalent units; tax rates are not weighted based on the size of districts' tax bases.

**FIGURE 14**  
AVERAGE NOMINAL M&O TAX RATES ADOPTED BY SCHOOL  
DISTRICTS BY STUDENT ENROLLMENT, 2006–07 TO 2008–09

ENROLLMENT	2006	2007	2008
Greater than 25,000	\$1.49	\$1.35	\$1.04
10,000–24,999	\$1.47	\$1.34	\$1.04
5,000–9,999	\$1.48	\$1.35	\$1.04
3,000–4,999	\$1.48	\$1.35	\$1.04
1,600–2,999	\$1.47	\$1.35	\$1.04
1,000–1,599	\$1.46	\$1.34	\$1.04
500–999	\$1.44	\$1.32	\$1.04
Less than 500	\$1.44	\$1.32	\$1.04
Statewide Average	1.46	1.33	1.04

SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

**FIGURE 15**  
**AVERAGE M&O TAX RATES BY STUDENT ENROLLMENT, SCHOOL YEARS 2005–06 TO 2007–08**



SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

In fiscal year 2006, there was a positive relationship between district size and M&O tax rates: larger districts tended to have higher tax rates. The 43 districts with enrollments of 25,000 students or more had an average M&O tax rate of \$1.49, compared an average rate of \$1.44 for the 324 districts with less than 500 students, a \$0.05 gap. By fiscal year 2007, that gap had narrowed to approximately \$0.03, with small districts accessing on average \$0.04 of the enrichment tier compared to slightly over \$0.025 cents for larger districts. In fiscal year 2008, the tax rates of small districts had caught up to those of large districts, with both groups averaging \$1.04. This trend was driven primarily by 98 of the 324 districts, which had adopted the maximum M&O tax rate of \$1.17 by fiscal year 2008.

A related analysis looked at district type (urban, suburban, independent town, rural, etc.), and found the same pattern. Major urban and suburban districts had adopted higher M&O tax rates prior to the implementation of HB1; however, in the two years since, districts in rural areas and independent towns across the state on average have accessed more of the enrichment tier.

There are two possible explanations for these trends. First, smaller, rural districts generally have slower student growth than larger districts, and student growth is the primary driver of new revenue to a district. With growth, larger districts may not need to access as much of their enrichment tier as

smaller districts. Second, since smaller districts were generally taxing below the maximum M&O rate, their rate was compressed to below \$1.00 in fiscal year 2008. For many of these districts, the calculation of their effective M&O rate for rollback purposes raised their base rate to approximately \$1.00, effectively allowing the districts to increase taxes by more than \$0.04 without needing an election.

In fiscal year 2006, M&O tax rates in fast-growing districts averaged \$1.48, \$0.03 higher than rates in districts suffering enrollment declines. By fiscal year 2008, this trend had reversed, with fast-growth districts taxing on average \$0.02 lower than declining districts (Figure 16 and Figure 17).

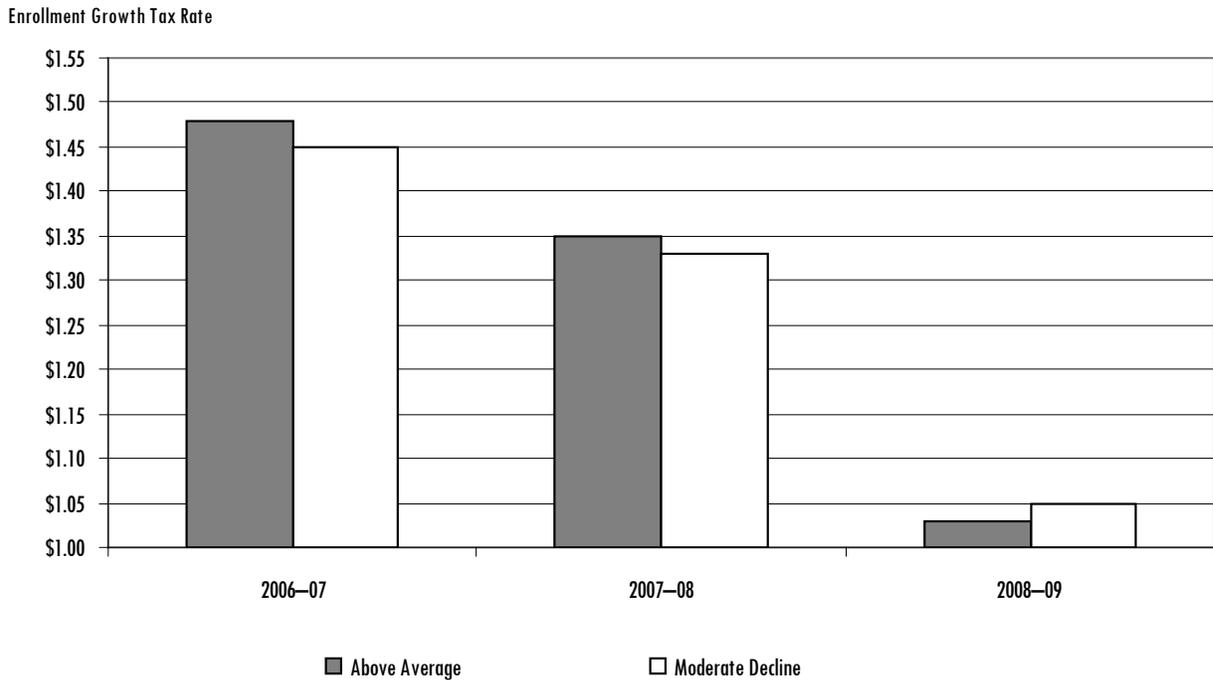
**FIGURE 16**  
**AVERAGE M&O TAX RATES BY ENROLLMENT GROWTH BY CATEGORY, FISCAL YEARS 2006 TO 2008**

GROWTH CATEGORY	2006–07	2007–08	2008–09
Above Average	\$1.48	\$1.35	\$1.03
Average	\$1.46	\$1.34	\$1.04
Stable	\$1.45	\$1.33	\$1.04
Slight Decline	\$1.46	\$1.34	\$1.04
Moderate Decline	\$1.45	\$1.33	\$1.05
Statewide Average	\$1.46	\$1.33	\$1.04

SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

As mentioned in the previous discussion, in a target revenue mechanism where entitlement is driven on a per-student

**FIGURE 17**  
**AVERAGE M&O TAX RATES BY ENROLLMENT GROWTH BY CATEGORY, SCHOOL YEARS 2005–06 TO 2007–08**



SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

basis, districts that do not receive additional revenue from WADA growth have little option but to access their enrichment tier to secure new funds. Although districts with declining enrollment represent 15 percent of all districts, nearly 25 percent of the districts now taxing at the maximum rate of \$1.17 are declining districts.

**PROPERTY WEALTH PER WADA**

As **Figure 18** and **Figure 19** show, in fiscal year 2006 the wealthiest districts were, on average, taxing \$0.02 below the poorest districts; by fiscal year 2008 that discrepancy has grown to \$0.05. Put another way, by fiscal year 2008 the

wealthiest districts were taxing approximately \$0.05 above their compressed rate, on average, while the poorest districts were taxing approximately \$0.085 cents above theirs.

One factor likely contributing to this result is the discrepancy between the average revenue targets of these two district groups. The revenue targets of districts in the wealthiest quintile are approximately \$1,600 more on average (unweighted) than those of districts in the poorest quintile. Districts with such a higher base budget per student may not need to access enrichment tier revenues at the same rates as poorer districts.

**FIGURE 18**  
**AVERAGE M&O PER PROPERTY WEALTH, FISCAL YEARS 2006 TO 2008**

WEALTH QUINTILE PER WADA	2006	2007	2008
Less than \$96,031	\$1.46	\$1.34	\$1.06
\$96,031 - \$138,998	\$1.45	\$1.33	\$1.05
\$138,999 - \$201,308	\$1.47	\$1.34	\$1.05
\$201,309 - \$317,837	\$1.46	\$1.34	\$1.04
Greater than \$317,837	\$1.44	\$1.31	\$1.01
Statewide Average	\$1.46	\$1.33	\$1.04

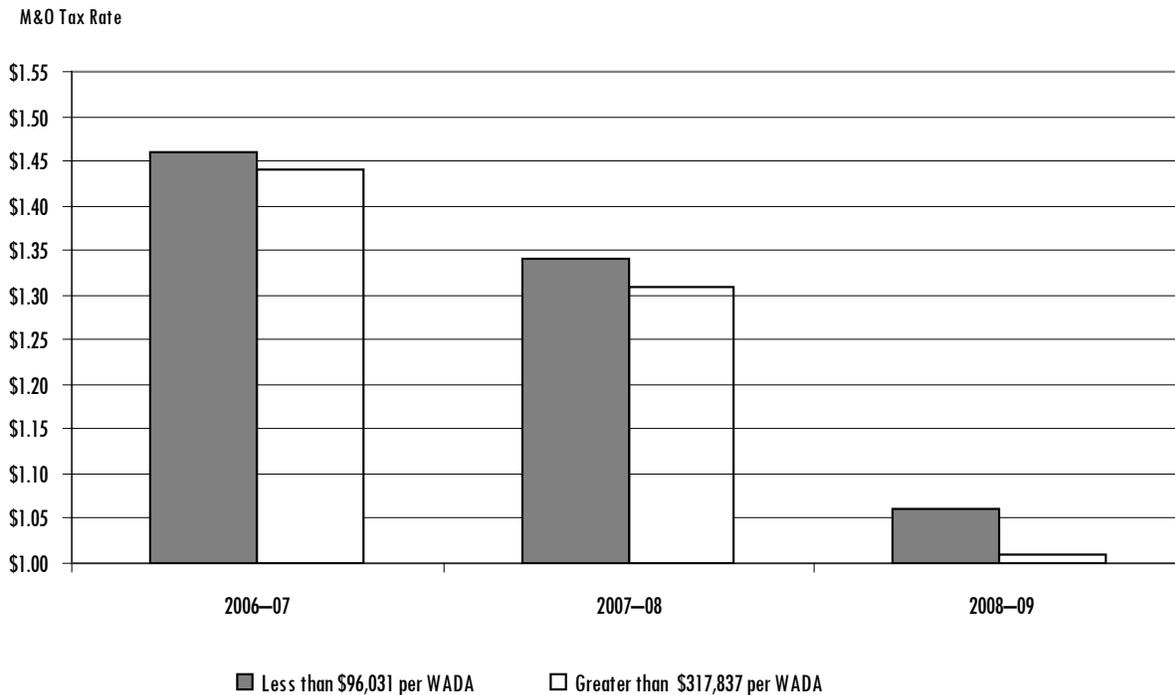
SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

**ENRICHMENT TIER**

The enrichment tier is defined as district tax effort above its compressed tax rate, up to the state maximum of \$1.17. For many districts compressed to \$1.00, this means \$0.17 of enrichment. Other districts that were not taxing at \$1.50 in the 2005–06 school year, were compressed to below \$1.00 by HB1, may have enrichment pennies in excess of \$0.17.

For the 2010–11 biennium, a district’s first \$0.06 levied above its compressed rate constitute “golden pennies,” and are equalized at the yield per WADA per penny generated by Austin ISD. There is no recapture on golden pennies, so districts generating more local revenue than Austin ISD on

**FIGURE 19**  
**AVERAGE M&O TAX RATES BY PROPERTY WEALTH, SCHOOL YEARS 2005–06 TO 2007–08**



SOURCES: Legislative Budget Board; Comptroller of Public Accounts.

these pennies will retain everything they generate. Every penny after the six golden pennies is equalized at \$31.95 per WADA per penny, with recapture on amounts generated above that level. These are referred to as “copper pennies.”

A district does not require voter approval to levy the first \$0.04 above the state maximum compressed rate of \$1.00. Any access to pennies beyond those four does require a tax rate election. If a district receives approval for a particular tax rate beyond the first \$0.04 above compression, it must levy that tax rate; for example, a district may not seek voter approval to levy the full \$0.17 of enrichment tax effort and then keep taxing authority in reserve by levying something less than that rate.

**Figure 20** shows the statewide average enrichment tax rates for fiscal years 2007 to 2009, as well as tax rate election data. Statewide averages are given in simple form (treating each district equally) or weighted (counting a district’s tax rate proportionately based on the size of its tax base).

For fiscal year 2010, if every district levied the maximum M&O tax rate allowed, the projected enrichment tier would provide approximately \$4.4 billion in local and state revenue. This projection assumes that all districts would levy the greater of the six golden pennies or their fiscal year 2008

**FIGURE 20**  
**DATA RELATED TO ENRICHMENT TAX RATES, FISCAL YEARS 2007 TO 2009**

	2007	2008	2009
Simple Average Enrichment Tax Rate	\$0.041	\$0.070	8.1
Weighted Average Enrichment Tax Rate	\$0.031	\$0.046	5.6
Districts that Held a Tax Rate Election	15	119	116
Elections that Passed	14	93	70
Percentage of Elections that Passed	93%	78%	60%
Districts at the Maximum Rate	10	98	146

SOURCE: Legislative Budget Board.

adopted tax rate, it is projected that approximately \$2.2 billion in local and state revenue will be generated, or 50 percent of the total capacity of the enrichment tier.