



# TEXAS LEGISLATIVE STUDY GROUP

*An Official Caucus of the Texas House of Representatives*

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## **LSG Policy Report: School Finance and Property Tax Relief We Cannot Afford to Fail our Students, Teachers, and Taxpayers Again**

### **The 2005-2006 Regular And Special Sessions, A Cautionary Tale**

The last time the legislature attempted to address school finance and property tax relief in the same session was in 2005 - 2006, when the legislature faced the likelihood of the courts finding the school finance system unconstitutional. Conditions at that time were in some ways similar to today and school funding was inexorably tied to property tax relief. At the time:

- The state share of education funding had dropped from 44% in 2001 to 35% in 2005 after \$3 billion was cut from education funding in the 2003 session.
- Texas was the only state that reduced per-pupil funding in 2003 and simultaneously lagged far behind the national average in per-pupil funding and teacher pay.
- Inadequate state funding had forced 690 of 1,037 of local school districts to tax property at the maximum rate of \$1.50 (per \$100 of property value) for school maintenance and operations (M&O) and property taxpayers were seeking tax relief.

### **“Reform” and Property Tax Cuts, but no new dollars for education in 2005**

Prior to the 2005 session, the Governor had formed a Tax Reform Commission to develop proposed solutions to present to the legislature. Despite a well-documented need for additional state funds for public education, **the final plan developed by state leaders was a “tax shift” plan that did not allocate a single additional dollar for public education.** In the House, two bills were filed and their fates were linked.

- HB2 was the main “education bill” that did not offer additional revenue, but included numerous reforms that would have weakened local control, placed unfunded mandates on local schools, and established an “incentive” pay system based on standardized test scores to reward only a few teachers. In addition, the bill also tweaked funding formulas to reward a handful of wealthy school districts while reducing funding for students with the greatest educational needs.
- HB3 was the “tax swap” bill that compressed every school district’s tax rate by one-third. Since most districts were at the old \$1.50 tax cap, the one-third compression left most districts starting the new system taxing at \$1.00 per \$100 of property wealth without an election. School districts still had the option to increase its tax rate up to \$1.17 with voter approval. The “tax swap” was supposed to recoup and replace lost property tax revenue used for public schools with a new state franchise tax, often called a “margin tax”.

The leadership’s plan was opposed by nearly every education organization and was condemned by editorial writers across the state. An alternative plan developed by former Rep. Scott Hochberg (D-Houston) earned bipartisan support.

- The Hochberg plan tripled the homestead exemption for homeowners, providing more property tax relief for more taxpayers, while still cutting the maximum tax rate to \$1.25 instead of \$1.00 to provide an across the board tax rate reduction.
- Unlike HB2, the Hochberg plan also used the \$2.4 billion the Appropriations Committee reserved for additional education funding to provide local schools funds for teacher pay raises, up to date textbooks and technology, as well as new facilities needed to maintain smaller class sizes, while preserving funding for students who needed it most.



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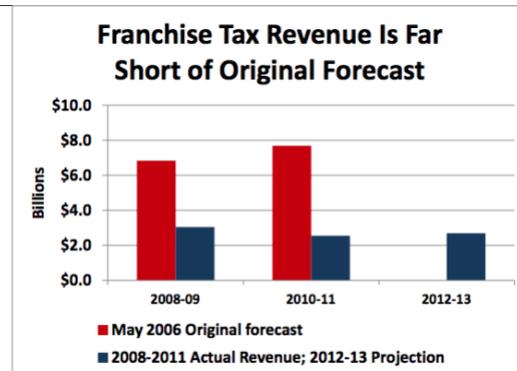
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## The Results: 2005 and 2006 made things worse, not better

- After narrowly defeating the Hochberg amendment in the regular session, Speaker Craddick cast the tie-breaking vote to defeat it in the first special session. As the last days of special session came to a close, a final version of HB2 had not been agreed on by both the House and the Senate.
- In the second special session, **a bipartisan coalition of legislators passed the Hochberg amendment 77-69**. Among other things, the Hochberg plan offered a more equitable tax break with an increased homestead exemption for all homeowners instead of property tax cuts for the wealthy. Unfortunately, Hochberg amendment didn't offer the "reforms" envisioned by leadership and lawmakers ended their second special session without passing a school finance plan.
- On November 29, 2005, the Texas Supreme Court ruled that the system for funding our public schools was unconstitutional. Specifically, it found that the state had a *de facto* statewide property tax, because the majority of school districts were taxing at the maximum allowed rate and had lost the discretion to raise or lower property taxes locally. The state Constitution prohibits a state property tax. The court gave the legislature until June 1, 2006 to fix the property tax problem.
- A third special session was called in April 2006 to address public school finance and, in the spring of 2006, under a court order, the legislature approved a version of the "tax swap" plan.

## The fallout from 2005-2006 "Tax Swap" still impacts education funding today

- The "tax swap" plan did not work as revenue from the franchise tax came in billions of dollars short of the amount needed to replace the lost property tax revenue caused by compressing the property tax rate. **The franchise tax shortfall created a "structural deficit" that, coupled with repeated tax cuts, has undermined funding for public education over the last decade.**
- The CPPP has documented how [the legislature's failure to secure a reliable revenue source for public schools contributed to the \\$5.4 billion in cuts to public education in the 2011 session](#) – cuts that slashed per-pupil funding by \$500. These cuts have never been fully restored.



Sources: Fiscal Note to HB 3 (2006 special session); Annual Cash Reports 2008-2011; Certification Revenue Estimate, December 2011.

## Will the lessons learned from past failures be heeded this session?

In 2017, the House leadership attempted to increase education funding as a first step, but the Senate refused to take that step because the House did not approve the Lt. Governor's privatization agenda. Unlike in 2005, the House and Senate leadership and Governor Abbott agree that more funding is necessary, but there are disagreements about how that money should be spent and those could pose serious challenges.

## Ten elements for a successful school finance and property tax relief plan

All of these elements may not be addressed and resolved by this legislature, but it is imperative that we work to achieve as much as possible now. Our students, teachers, and taxpayers deserve nothing less.

1. **Property tax relief cannot advance ahead of a school finance plan.** As noted by the fiscal note in HB2/SB2, the financial impact of placing restrictive revenue caps on school districts or cutting the tax rate even further cannot be calculated by the Legislative Budget Board without a school finance plan. Placing school



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districts under strict revenue caps or reducing the overall tax rate without additional state funding could lead to harmful budget cuts that undermine success in the classroom. [At a time when local property taxpayers are paying 62% of the cost of education](#), real property tax relief cannot be realized without meaningfully increasing the money going towards our students and significantly increasing the state share of education funding.

2. **The state should increase the homestead exemption to provide a real property tax cut for Texas families.** Revenue caps do not actually give taxpayers a tax cut, and lowering the tax rate benefits businesses more than homeowners. Increasing the homestead exemption puts money in homeowners' pockets and provides relief to those who have invested the most in our students' education.
3. **Public Education funding must be increased significantly. In addition to increasing the Basic Allotment that funding must be equitable and directed to where it is needed the most.** The Appropriations Bill defines the state's real priorities – talk and action by state leaders is evident by the amount of funding those priorities receive. Almost no one can deny supporting public education. With sufficient funds available in General Revenue and the ESF (Rainy Day Fund), education funding can be increased now while a serious effort is made to identify a reliable revenue stream to sustain our rapidly growing student population.
4. **A significant increase in funding is necessary to make recapture more effective.** Every student, regardless of their zip code, should be provided an equal opportunity to receive a quality education. Inadequate funding creates tension in efforts to remedy inequities.
5. **Every teacher and educational support professional should get a state-funded pay raise.** On average, Texas teacher salaries lag \$7,300 below the national average and half of Texas teachers leave the profession within five years, due in part to low base pay and costly health care coverage. Student success also requires teacher aides, librarians, counselors, nurses, and support staff who work year-round to create a safe, high-quality learning environment and they are also due for a pay raise. **Merit pay plans based on student performance in standardized tests should be rejected.** The merit pay scheme cited by the Governor and TEA Commissioner only reward a handful of teachers each year. This approach will not impact teacher retention, increase the base pay for all teachers, or provide a raise to support staff.
6. **The state should provide funding to make health care affordable for retired teachers and secure the TRS pension system.** [Rising health care costs are hitting Texas teachers in the pocketbook](#), and the state has not increased its contribution to the teacher health care system for active teachers since it was created in 2001. [Skyrocketing costs are hurting retired teachers as well.](#)
7. **Education funding should target those who need it the most, lest they fall behind.** State funding policy should help students overcome barriers caused by poverty and a lack of English language proficiency. The state should also fund full-day pre-K for all eligible students and increase funding weights for compensatory education and English Language Learners.
8. **The legislature should reject test-based reforms like “outcomes-based funding” that benefit those who do not need additional support.** [A study done by professors at the University of Houston and the University of Iowa](#) found that outcomes-based funding would provide greater benefits in areas where the students are performing well but not in schools where students need additional support.
9. **To improve school safety, the state should fund behavioral health specialists on every campus.** After every mass shooting, mental health is cited as a possible cause. Trying to prevent even one more shooting is well worth the price.
10. **Funding for special education must be increased.** [Following revelations that TEA created an arbitrary metric to limit special education services](#), a fact that violated federal protections for special education students, now is the time to appropriately fund special education.