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Joint Select Committee on Public School Finance

78th Legislature

**Equity Analysis of the Governor's Educational Excellence & Property Tax Relief Plan
(April 2004)**

I am Scott McCown, testifying on behalf of the Center for Public Policy Priorities. The center is interested in public school finance because education is the pathway to prosperity for low-income Texans. My personal expertise in school finance comes from having presided as a state district judge over our state's school finance cases from 1990 – 2002.

The Governor's plan rests on four principles, and you have asked me to comment on the third: "Eliminating Robin Hood while increasing funding equity in our public schools."

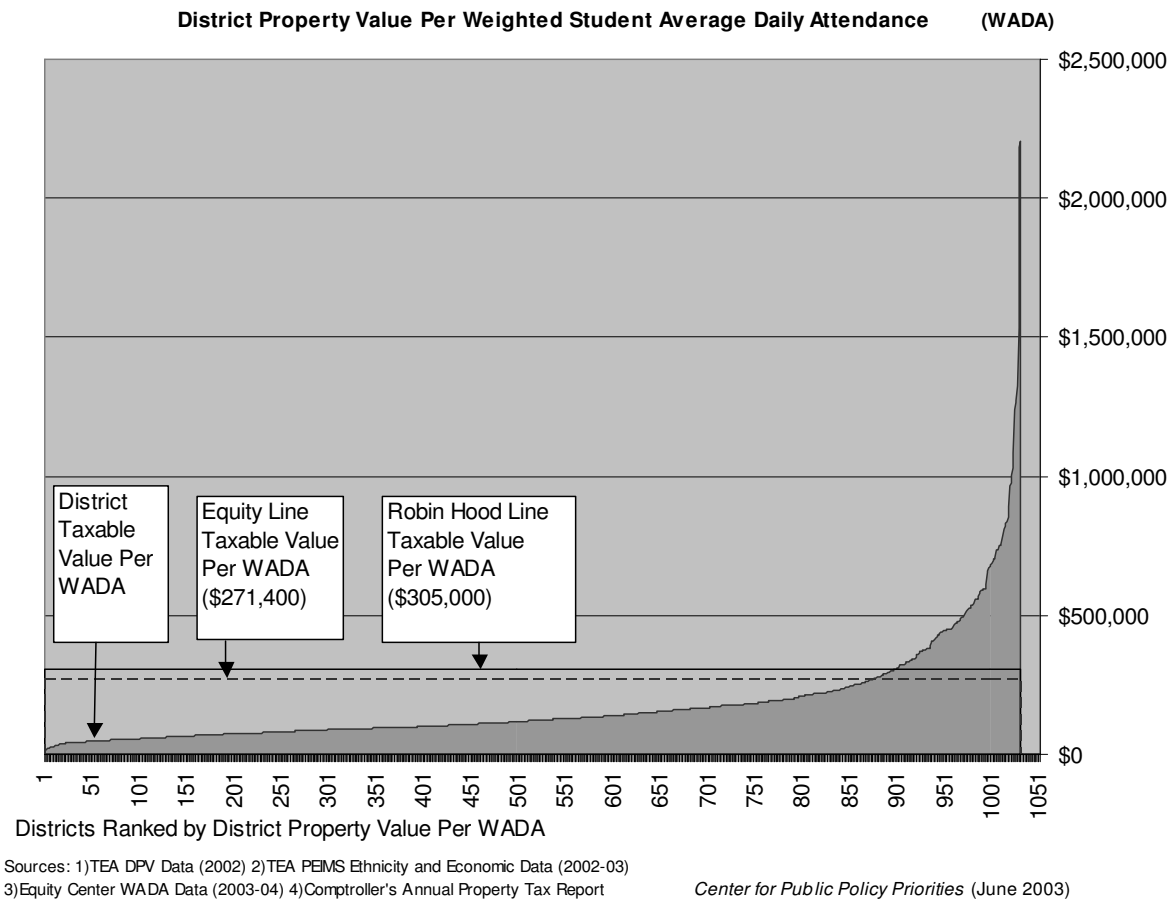
I have four major points:

1) In a good school finance system, the question is not what percentage of children has access to the same resources in any given year, but whether the system is designed to at least maintain and better yet to increase the percentage over time. The Governor's plan is not designed to maintain, much less increase, equity. Indeed, under the Governor's plan equity will steadily erode.

This graph shows how school finance works. Each district sets a property tax rate to raise money for operations. For each penny of tax per \$100 of taxable property value, the district gets a certain yield per student. If the yield is lower than \$27.14 per weighted student, the state makes up the difference, making it as if the district has a taxable wealth per student of \$271,400. If the yield is higher than \$30.50 per weighted student the state takes away the difference, making it as if the district has a taxable wealth per weighted student of only \$305,000 per weighted student.

When property values go up in a district, then the yield for a penny of tax goes up. If this year you raise \$25 per penny of tax, then the state sends you \$2. If next year property values go up and you raise

\$26 per penny of tax, then the state sends you \$1. You have the same total amount of money, but state aid has gone down \$1.



We commonly say that the students in the districts under the dotted line, those served by the guaranteed yield of \$27.14, are “within the equalized system.” In evaluating any proposed plan, however, you must remember that while the percentage of students within the equalizED system is important, equally important is the percentage of students within the equalizING system.

What do I mean by the equalizing system? The equalizing system is the feature of the law that keeps all the districts in the same boat so that they sink or soar together thereby creating a common interest among them in seeking state aid and supporting the necessary taxation. In the chart, the equalizing system is represented by the solid line, commonly known as Robin Hood. Once a district’s yield for a penny of tax effort is above this line, \$30.50, the difference goes to the state to fund the whole.

From the equalizing system comes the equalized system. Right now, we have 100% of the students in the equalizing system. The Governor proposes to end the equalizing system altogether by doing three things.

First, he proposes to raise the guaranteed yield to \$29.50, which by itself is a good thing. He then proposes to allow a local district with voter approval to add 5¢ to its local property tax in the fall of 2006, another 5¢ in the fall of 2008, and another 5¢ in the fall of 2010, for a maximum of 15¢. Presumably, he guarantees the same \$29.50 yield for each penny. Under his plan, the local tax base will consist of only residential property.

Then the Governor proposes to repeal the Robin Hood line, thus allowing districts who can raise more than \$29.50 for a penny from residential property taxes to do so. Thus, the Governor's proposal eliminates a vital safeguard and immediately allows about twenty districts with extraordinary concentrations of residential property wealth to raise and spend vast amounts more per student than other districts for the same penny of effort or alternatively to become tax havens spending more than everybody else but at lower local tax rates.

Over time, all districts will face higher costs and higher expectations. More money will be needed to stay even and even more money to move forward. Over the same time, taxable residential property values will rise across the state, and the number of districts who can raise more than \$29.50 for a penny of tax effort will grow, increasing the number outside the equalized system.

Under the Governor's plan, however, there would be no solid line (the equalizing system) to ensure that the legislature will raise the dotted line (the equalized system) in response to rising costs and expectations. This feature of the Governor's plan incorporates the very structural flaw that destroyed the gains made by H.B. 72, inspired by the Ross Perot Commission, in the 1980s. Under H.B. 72, the gap between the richest and poorest ten percent of the districts was significantly reduced. Within just several years, the gap was back because the property-rich districts had no incentive to support increased state aid

for the property-poor districts. This is also the same structural flaw that caused the Supreme Court, in an opinion for the court by Chief Justice Phillips in *Edgewood II*, to unanimously strike down Senate Bill 1, passed by the 71st Legislature in 1990 in response to *Edgewood I*.

As the Supreme Court made clear in *Edgewood II*, it is not enough merely to pledge in law that a certain percentage of children will always be in the equalized system. Such promises are meaningless. For several years, the law required equalization to the 95th percentile, but the legislature never funded this promise. Eventually the legislature lowered the requirement to the 85th percentile, though it still did not fund even the 85th percentile beginning in 2001. Then, in 2003, the legislature repealed even this requirement, leaving only the Robin Hood line to protect the vast majority of school children.

It is heartless to brag that 98% of the children are aboard the boat if the boat is named the Titanic and you have put 2% of the children on a luxury life raft to sail away taking with them the only radio to call for help.

Repealing recapture would likely over the long term prove to be the most damaging aspect of the Governor's plan. This brings me to my second major point.

2) Under the Governor's plan, 98% of the children are not really in the equalized system. The trick door in every funding plan is the so-called hold-harmless provision. A hold-harmless ensures that a district does not get less money from the state under a new system than the one it replaces. Over a reasonable number of years, a hold harmless provision should be gradually eliminated. Certainly a hold harmless should never grow. In Texas, however, hold harmless provisions not only don't go away, they get bigger.

If Texans understood how these hold-harmless provisions have favored the property-rich districts, it would be a state scandal. Through the use of various trick doors, funding schools is like a game of now you see it, now you don't. Because of these trick doors, this year only about 81% of the students are in the equalized system. Next year, the number is projected to fall to 77%.

Here are just a few examples among many of trick doors:

- When Robin Hood was first adopted, the legislature said that the hold harmless provision would last three years, but the legislature later made it permanent.
- The hold harmless actually grew over time when the legislature provided that the held-harmless districts would get the same percentage increase in funding that the other districts got from increases in the equalized wealth level, which was raised from 280K to 295K in 1999, to 300K in 2001, and to 305K in 2002. The ratio of the higher levels to 280K was multiplied each time by the revenue for which they were originally held harmless to create a new wealth level. Of course, since they started from a bigger number, being given the same percentage meant that they were given more total dollars per student. (A district going from 280K to 295K had their yield increased by \$1.50 per WADA per penny of tax, or a maximum of \$225/WADA at \$1.50 tax rate. The percentage increase was 5.36%. A district held harmless at a wealth equivalent to 560K/WADA was given 5.36% times double the first district's yield, or \$3 per WADA per penny of tax, up to \$450/WADA at \$1.50.)
- All rich districts, whether or not they have a hold-harmless, have been given an early agreement "incentive" of either 4% up to a maximum of \$80 per student or 5% up to a maximum of \$100 per student, depending on which method of recapture they chose. This means that virtually none of them are really being lowered to a wealth level of \$305,000.
- The legislature repealed recapture on debt service, giving rich districts vast advantages in providing facilities. Meanwhile, the legislature funded the Instructional Facilities Allotment at \$200 million the first biennium, and then lowered it to \$150 million, and this last biennium reduced it to \$20 million. The legislature has funded facilities for only the "poorest of the poor," leaving the rest to fend for themselves.
- For a number of years, to pay for the administration of the TAAS test, the legislature "set-aside" money from the compensatory education funding but only from the property-poor districts' share, but not the property-rich districts' portion. In essence, the property-poor districts paid for the TAAS testing for the entire state, including in the property-rich districts.

At the time of *Edgewood IV*, in theory, under the Robin Hood system, the gap between what was available to rich districts compared to poor districts at the maximum tax rate was suppose to be (rounding up) no more than \$600 per weighted student in combined M&O (operations) and I&S (facilities). As the trial judge, I agonized over whether that gap was acceptable, and decided it was as small as all the King's men and all the King's horses could make it. I blessed the \$600 gap. The Supreme Court affirmed.

I want to emphasize three things. First, in fact, the gap never got as low as \$600. That was suppose to be the gap when the law was fully implemented, but the legislature immediately began passing this and that to favor the property-rich districts. Second, as a result of these little details, including various hold-harmless provisions, the gap has actually grown to \$1,000 per weighted student for combined M&O and I&S.

Third, and most important, the Governor's hold harmless provision presumably preserves almost every penny of the \$1,000 gap. While we do not have the specifics about the Governor's proposed hold-harmless provision, the amount of money he has set aside to hold districts harmless (\$1.1 billion) means that far less than 98% of the children will be in the equalized system. Indeed, under the Governor's plan, at the high point, only about 85% of the children will likely be in the equalized system.

Whatever the number initially in the equalized system, the Governor would reduce even that number by the use of inequitable funding incentives, my third major point. I strongly favor performance-based funding, but only if it is equitable.

3) The Governor's incentive funding favors the wealthy districts over poor districts in two ways: First, because the incentives are on top of an unequal funding system, the wealthy would have more resources with which to perform, making it more likely that they would win rewards while the poor would not. Second, the proposed incentives reward districts for student performance, rather than teacher performance, which favors wealthy districts because generally speaking their students walk in the front door better prepared to learn.

In other words, the Governor proposes to mostly reward schools for having students from advantaged families rather than rewarding schools for taking students as they come and improving their performance. For example, the high school advancement incentive gives a district \$100 per student who moves to the 10th grade, \$200 per student who moves to the 11th grade, and \$300 per student who moves to the 12th grade. Wealthy districts with low dropout rates will get more money than property-poor

districts with higher dropout rates, even though the teachers in the property-poor districts may be doing a better job.

To be fair, several of the initiatives give greater rewards for accomplishments by at-risk students, but the big dollar ones do not. In any case, the property-poor districts will not have the resources to compete. Using current district performance numbers, property-rich districts would receive, on average, about 22% more funding per weighted student under the incentive plan (\$55 per WADA) than would the property-poor districts (\$45 per WADA).

This brings me to my final major point:

4) The Governor's plan is ultimately a reverse Robin Hood under which the vast majority of ordinary Texans would pay higher state taxes of one sort or another so that a group of wealthy Texans can have better schools and lower local taxes than the rest of us. You should keep in mind who the Governor is asking us to subsidize. On average, the families in the top twenty districts in residential wealth are much better off than most Texas families. The average annual income of a family who owns a "million-dollar" house is over \$900,000. (Texas has over 10,000 million-dollar homes.) The average annual income of a family who owns a "half-million-dollar" house is \$375,000. (Texas has many more half-million dollar homes.) The average annual income of the remaining homeowners is less than \$85,000, with half making less than \$51,000, and a quarter making less than \$27,000. *See "Million-Dollar" Homes and Wealth in the United States* (W04-1), Joint Center for Housing Studies, Harvard University (Jan. 2004). Is it fair to require average Texas families to subsidize wealthy Texas families?

In January 2003, many Texans wanted Robin Hood dead. Today, Texans better understand that Robin Hood has not caused high property taxes, a lack of state aid has, and that Robin Hood has not left us without money for schools, a lack of state aid has. Texans understand that Robin Hood is what puts us all in the same education boat, and they are ready to raise state taxes to keep our education boat afloat. Texans,

however, do not want to raise taxes to send wealthy residential districts sailing away in a luxury life boat, leaving the vast majority of Texas school children drowning in a sea of struggling schools.