

First school closures take place under Texas public school accountability system

In June 2008, Johnston High School in the Austin Independent School District (AISD) became the first school to be closed down under the Texas public school accountability system. One week later, Sam Houston High School in the Houston Independent School District (HISD) became the second. Both schools were closed after five consecutive years of being rated academically unacceptable because their student populations did not pass one or more portions of the Texas Assessment of Knowledge and Skills (TAKS).

Six schools in the state have been rated academically unacceptable for four consecutive years. If any of those six schools does not earn an academically acceptable rating in 2009, the commissioner must pursue alternative management or closure for that school. Another 17 schools have been rated academically unacceptable for three consecutive years, and the commissioner could order alternative management or closure for any of those schools that does not earn an academically acceptable rating in 2009. Waco Independent School District did not wait for G.L. Wiley Middle School to earn a fifth consecutive academically unacceptable rating and in August 2008 chose to close the school.

With Texas' accountability system under scrutiny, some say the

recent closures show the success of the system, while others argue it is proof that the system needs to be changed.

Accountability System

The public school accountability system, outlined in chapter 39 of the Education Code, is designed to evaluate schools and school districts

by measuring student retention and students' knowledge of core subjects. Each school, and subsequently each district as a whole, receives a performance rating of exemplary, recognized, academically acceptable, or academically unacceptable. An academically unacceptable rating leads to intervention by the Texas Education Agency (TEA) and possible sanctions.

(See [Accountability](#), page 2)

Property-tax circuit breakers explored by several states

One approach to providing property tax relief being discussed in Texas and in other states is the property-tax circuit breaker. These circuit breakers are similar to electric circuit breakers in that they prevent property taxes from overloading a taxpayer's ability to pay them. A property-tax circuit breaker — now used in 35 states but not in Texas — is tax relief targeted to those whose cost of housing is high compared to their income. Different states use different measures for the cost of housing, which commonly includes property taxes, rent, mortgage payments, and other amounts spent to secure housing. Circuit breakers target lower-income households

paying a large share of their income on housing and property taxes by limiting the amount of property taxes these households must pay.

Some states recently have adopted or expanded property-tax circuit breakers, while other states have chosen not to adopt them. West Virginia's new circuit breaker will take effect this year, and the New York legislature is considering expanding its circuit breaker program. However, Washington state rejected a property-tax circuit-breaker program at the end of last

(See [Circuit breakers](#), page 11)

Accountability system, from page 1

A minimum percentage of students in a particular school must pass each portion of the TAKS in order for the school to be rated academically acceptable or higher. In addition, each of several student groups — including African-American, Hispanic, Caucasian, and economically disadvantaged students — that meets minimum size requirements must meet minimum passing standards for each portion of the TAKS in order for the school to be rated academically acceptable. Individual student passing standards — the number of questions a student must answer correctly — vary slightly each year. To ensure comparability from year to year, the TEA determines yearly the passing standard for each portion and grade level. For a high school to be rated academically acceptable or higher, in addition to meeting

TAKS expectations, a school must have a “completion rate” of at least 75 percent. The completion rate is the percentage of students who graduated with their class or earlier, or who have re-enrolled as continuing students. For a middle school to be rated academically acceptable or higher, it must maintain an annual dropout rate of 1 percent or less for students in grades 7 and 8, in addition to meeting TAKS expectations.

Sanctions become more severe for each consecutive year a school is rated as academically unacceptable. A school rated academically unacceptable may earn an academically acceptable rating and avoid further sanctions by having an acceptable graduation rate (middle schools) or completion rate (high schools), meeting passing standards in all four areas of the TAKS (English/language arts, social studies, mathematics, and

Required Passing Rates* on TAKS for Academically Acceptable Rating

	2004	2005	2006	2007	2008
Reading (grades 3-9)	50%	50%	60%	65%	70%
English/ Lang. Arts (grades 10 & 11)	50%	50%	60%	65%	70%
Writing (grades 4 & 7)	50%	50%	60%	65%	65%
Social Studies (grades 8, 10 & 11)	50%	50%	60%	65%	65%
Mathematics (grades 3-11)	35%	35%	40%	45%	50%
Science (grades 5, 8, 10, & 11)	25%	25%	35%	40%	45%

* Percentages represent the percentage of students in a school who must pass each portion of the TAKS for a school to receive an academically acceptable or higher rating. The minimum percentages will continue to increase gradually in order to meet the 100 percent passing rate in 2014, as mandated by the federal No Child Left Behind Act.

science), or demonstrating required improvement on the TAKS. A school demonstrates required improvement by showing enough improvement since the previous school year on the deficient TAKS measures to meet the current year accountability standard in two years.

Sanctions for failure to meet standards

The first year a school is rated as academically unacceptable, the commissioner of education must choose one of several options provided in the Texas Education Code, but the law becomes increasingly prescriptive for subsequent years, culminating in closure of the campus. The school district to which the academically unacceptable campus belongs must pay from its existing budget for the cost of complying with sanctions.

First year. For the first year a campus is rated academically unacceptable, the commissioner may permit the campus to redesign itself or may take one or more of the following actions:

- issue public notice of the deficiency to the district’s school board;
- order the district’s school board to notify the public of the rating, of improvements necessary to become academically acceptable, and of the sanctions that may be imposed if the campus does not improve, and hear public comment on steps being taken to improve the campus;
- order the school district to submit a report about the level of parental involvement at the school and strategies to improve parental involvement;
- order the school district to report to TEA on the effectiveness of the district and of campus-level planning and decision-making committees and of a plan detailing strategies to improve these committees;
- order the school district to prepare a school improvement plan to address each academic

excellence indicator for which the campus was rated unacceptable with the district having to implement the plan upon its approval by the commissioner;

- order a hearing at which the president of the school board, the superintendent, and the campus principal would appear to explain to the commissioner the school’s low performance, lack of improvement, and plans for improvement;
- appoint a campus intervention team.

Second year. The second consecutive year a school is rated academically unacceptable, it must be reconstituted and assigned a campus intervention team.

The campus intervention team helps develop and implement a reconstitution plan, which must be approved by the commissioner. A reconstitution plan involves significant change in the way the school conducts business, such as removing faculty or instituting or eliminating

The fifth consecutive year a campus is rated academically unacceptable, alternative management or closure is required.

a block schedule. A block schedule increases the time spent in each class by decreasing the number of classes a student has in one day. The most common type of block schedule would give students “A” and “B” days, with the student attending certain classes on “A” days and other classes on “B” days. During the development of a reconstitution plan, campus administration, under the advisement of the TEA, might discover that 45 minutes of instruction in mathematics was insufficient and move to a block schedule to devote 90 minutes of instruction to mathematics. Also, if a school principal has been assigned to the campus for the full two years the campus was rated academically unacceptable, then the principal must be removed. Math, reading, science, writing, English/language arts, and social studies teachers must be removed from the campus unless the campus intervention team determines that students taught by the teacher exhibit a pattern of significant academic improvement. In addition to mandated sanctions, the commissioner may appoint a conservator, monitor, management team, or a board of managers to oversee the campus and district.

Third year. After the third consecutive year that a campus is rated academically unacceptable, the commissioner reviews the progress the campus has made. If the commissioner determines that the campus is not fully implementing the reconstitution plan, then the commissioner may pursue alternative management or order the closure of the school.

Fourth year. After the fourth consecutive year a campus is rated academically unacceptable, either alternative management or the closure of the campus is required. If the commissioner determines that a specific condition resulted in the high school's academically unacceptable rating, the commissioner may issue a one-year waiver from closure or alternative management, allowing the campus to contract for "targeted technical assistance" and avoid closure or alternative management. Examples of targeted technical assistance would be a math specialist helping where the commissioner determined the school was deficient in math or a school change specialist providing help if school administrators did not know how to redesign a school.

Fifth year. After the fifth consecutive year a campus is rated academically unacceptable, alternative management or closure is required.

Johnston High School

Albert Sidney Johnston High School in Austin was closed by the TEA commissioner in 2008 after five consecutive years of failing to meet minimum standards under the Texas public school accountability system.

Timeline for Johnston's closure

Johnston first failed to meet minimum TAKS passing standards in 2004. TEA intervened, requiring the school to issue public notice of the academically unacceptable rating and to develop a school improvement plan. A

school improvement plan addresses a specific problem, such as staff development or curriculum alignment. Johnston High School administrators developed a school improvement plan addressing post-secondary readiness and coordination of efforts and resources. To improve post-secondary readiness, administrators increased the number of available Advanced Placement and dual-enrollment courses and developed focused career pathways as part of the curriculum. To improve the coordination of efforts and resources, school administrators gave the campus academic officer the role of coordinating advisors and grant monies.

In 2005, Johnston was rated academically

unacceptable for a second year because it did not have adequate numbers of students passing all portions of the TAKS, nor did the students demonstrate the level of required improvement. The school was not forced to reconstitute because the law did not mandate such action in 2005. When

Johnston High School was closed in 2008 after five consecutive years of failing to meet minimum standards under the Texas public school accountability system.

the Legislature in 2006 enacted HB 1, making various changes to the accountability system, reconstitution became required after the second consecutive year of academically unacceptable ratings. In 2005, the commissioner instead sanctioned Johnston High School by assigning a campus intervention team to help implement the school improvement plan and develop a reconstitution plan.

Johnston High School did not meet student performance expectations on the TAKS again in 2006, for the third consecutive year, nor did the students demonstrate the required improvement to be rated academically acceptable. The school was required to open the following school year under the reconstitution plan developed the previous year.

In 2007, Johnston High School failed to achieve an academically acceptable rating for the fourth consecutive year. In fact, the percentage by which the student population failed worsened significantly across the

board. The commissioner sanctioned AISD by appointing a management team to oversee all district activities, with the intent of ensuring that the district was fully supporting Johnston High School's implementation activities. The management team could overrule the district board of trustees and the superintendent if necessary. The campus also received targeted assistance.

After avoiding closure the previous year, Johnston High School was rated academically unacceptable for the fifth consecutive year in 2008. The commissioner sought proposals from non-profit organizations to assume management of the campus, but when no non-profits submitted proposals, the commissioner was required to order the closure of the campus.

Austin ISD's repurpose plan

AISD petitioned TEA and received permission to "repurpose" the buildings that housed Johnston High School. To repurpose the buildings, AISD was required to rename the school and establish a new instructional model. The principal and 75 percent of the instructional staff had to be replaced, and 50 percent of the new student population could not have attended Johnston High School previously.

AISD does not have a definitive plan in place for the repurposed site, except that it will serve students in grades 9-12. Teachers will provide students with individual tutoring in the evenings, on weekends, and during school hours. Research-based math and reading intervention programs will be implemented. The district will begin a summer bridge program in cooperation with Austin Community College to encourage students to pursue post-secondary education and to ease the transition from high school. It also will implement a ninth-grade transition program for graduating eighth-grade students. The district plans to staff the new school with a majority of teachers having at least three years of proven success in teaching a high-poverty and at-risk student population. The district has indicated that it intends to provide incentive and retention pay to attract the best teachers to the new school.

To repurpose the buildings that housed Johnston High School, AISD was required to rename the school and establish a new instructional model.

AISD plans to open two new high schools at the former Johnston site. The first, named East Side Memorial High School, will open for the 2008-2009 school year, and a second school will open in 2009-2010. The first school is expected to be based on the New Tech High School model, which has proved successful in Houston and Los Angeles for similar student populations. The second school will be based on the Early College High School model, which has been successful in Houston, showing stronger attendance and standardized test scores than the district's other high schools. With the Early College model, all juniors and seniors would be expected to take college level coursework. The goal of this school would be for each student to graduate with a high school diploma and two years of college coursework, in some cases an associate's degree.

The final decision about new instructional models will be made by October 1, 2008, based on community input, analysis of data on student needs, site visits to potential models, and research on college and career readiness. The commissioner already has approved the use of the New Tech and Early College models. Should the school board select a different model, the management team assigned to AISD in 2007 must

approve it. The management team also is responsible for monitoring activities pertaining to the new schools.

Enrollment at each of the new schools will be open to all students in the district, but AISD may not assign any students to either new high school through the 2009-2010 school year and

until both schools have received academically acceptable ratings. The district will provide transportation to all students who attend the new school. It also will provide transportation to any high school in the district for students who previously attended Johnston High School but choose not to attend one of the new schools. AISD plans an intense recruitment process to attract students to these campuses, especially in the community Johnston High School previously served. The commissioner, in a letter to AISD, has written that low performance will not be tolerated from the new schools and permission to

repurpose may be withdrawn if academic improvement is not shown.

Supporters of the repurpose plan say the New Tech and Early College models are a proven method for meeting the needs of the students previously served by Johnston High School. The student population zoned to attend the new school is transient, economically disadvantaged, and often academically under-prepared.

Critics of the repurpose plan say it is too limited. They say that before Johnston High School was closed, only 600 of the 1,300 students in Johnston's attendance zone chose to attend the school, so the new campus should benefit the entire AISD student population. Administrators should tap into resources outside the district and community – such as local universities and companies – to formulate fresh ideas.

Other critics of the repurpose plan question how it will affect other high schools in AISD. If too many students who attended Johnston High School do not choose to attend the new school, the remaining high schools in the district could face overcrowding.

Sam Houston High School

Sam Houston High School in Houston was closed under the Texas public school accountability system in 2008 after five consecutive years of failing to meet minimum passing standards on TAKS.

The commissioner granted HISD permission to repurpose the buildings that housed the school, which required that the school be renamed and have a new instructional model. The principal and 75 percent of the instructional staff had to be replaced, and 50 percent of the new student population could not have attended Sam Houston High School previously.

For the 2008-2009 school year, HISD will open at the former Sam Houston site a ninth-grade academy and a center for math, science, and technology to serve grades 10-12. The ninth-grade academy will have a longer school day and will include intensive math, science, and technology instruction. Students who need additional math assistance will receive 90 extra minutes

of supplemental instruction every day. Students may take advanced placement and dual-enrollment courses. The ninth-grade academy also will offer leadership classes. The center for math, science, and technology will offer career pathways in engineering, health, information technology, and automotive technology.

HISD may not assign any students to either new school through the 2009-2010 school year, but all students within the district may apply to attend either school. The district will provide transportation for all students who previously attended Sam Houston High School that choose to attend another high school within the HISD. HISD plans to offer financial incentives to recruit teachers to the new schools. District administrators already have hired the principals for both new schools. The commissioner assigned a management team to the district to oversee the creation of the two new schools. The management team may override the board of trustees and other district and school administrators if necessary.

Debate about the accountability system

With several schools in the state approaching the same fate as Johnston and Sam Houston high schools, the effectiveness of the public school accountability system continues to be debated.

Supporters of the current accountability system say it is correctly identifying where the public school system is not adequately serving the children of Texas. While some argue that the system creates pressure that results in “teaching to the test,” supporters say any such pressure is locally imposed and that if teachers focused on teaching the concepts explained in the Texas Essential Knowledge and Skills (TEKS), the children would perform well on the TAKS. Certain magnet and charter schools have successfully demonstrated this. The TAKS pinpoints where students are falling behind or excelling, and it allows teachers to focus instruction where it is needed most for each student.

Arguments that the schools are chasing a moving target are unfounded, supporters of the system say, because the schools are aware of the expectations laid out in TEKS. Passing standards increase yearly to

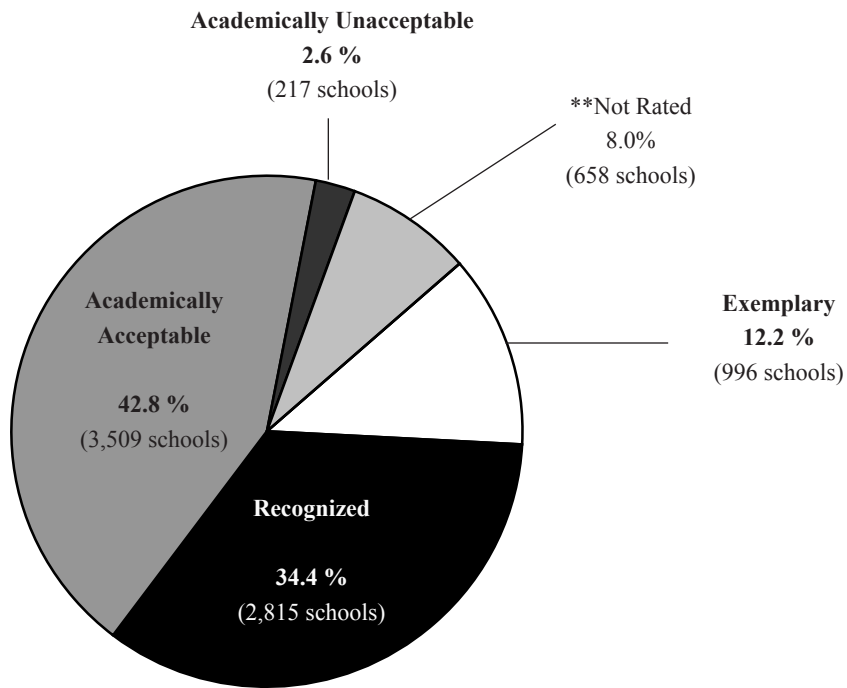
comply with the federal No Child Left Behind (NCLB) requirements and to meet the state’s goal of closing the achievement gaps among demographic groups. The current system identifies schools that do not educate their students adequately, then the state intervenes to help the school improve. Supporters say that when this intervention is unsuccessful, the sanctions are necessary.

Supporters say the accountability system credits schools and districts for student growth because of the required improvement provision and that adding growth measures any other way could lower the state’s accountability standards. TAKS in its current form was not designed to be used as part of a value-added model, which would credit districts with individual student improvement, nor was TAKS scaled for that purpose, they say. The data could be manipulated into value-

added data, but that data might not be true or reliable. Supporters of the current system point out that it also would be costly to develop a new assessment.

Critics of the current accountability system say the system does not appreciate the diversity of the student population or student progress. They also say schools are chasing a moving target because passing percentages increase each year and the system does not reward improvements made by the students. For example, if in one year a high school were rated academically unacceptable for its mathematics TAKS scores but in the next year it raised those scores to meet the math expectations but did not meet the science expectations, the school still would be considered academically unacceptable and would be reconstituted.

Accountability ratings for schools* statewide in 2008



Source for Data: TEA

* Includes charter schools.

**Schools not rated typically are those without TAKS results, including schools serving entirely pre-K students or special education students exempt from TAKS; disciplinary and juvenile justice alternative campuses, which are not rated under the accountability system; and in rare cases, schools providing insufficient data to generate a rating.

Also, opponents say, the standard for all schools is the same, despite student diversity. By contrast, a value-added growth measure system would credit districts for individual student performance improvement while accounting for individual student and district characteristics. A growth model would acknowledge that a child who has fallen behind typically requires more than one academic year to catch up to the child's peers.

The current system collects copious data but does not disseminate the information in a coherent or useful manner, critics say. The system should be more diagnostic, transparent, and easier to use.

The current system is too focused on the TAKS, opponents say, which results in teaching to the test at the expense of other necessary curriculum, such as critical thinking, analytical skills, and reading comprehension. The TAKS also should be given to a random sampling of groups instead of everyone taking the test each year. Reliable data can be derived without all students taking the test, as shown by the National Assessment of Educational Progress (NAEP), upon which policymakers rely for national student performance data, which is not given to every student in the nation.

In Texas, the district is expected to pay for implementing sanctions, whereas the federal government pays for the additional mandates it imposes. A low-performing district with a tight budget needs extra funding from the state to improve student performance.

The accountability system is difficult to understand, opponents say, as illustrated by differences between the federal No Child Left Behind (NCLB) Act and the Texas system. Because the ratings and sanctions between the two systems do not directly correspond, it is difficult to determine a school's true effectiveness. The school may meet Adequate Yearly Progress (AYP) requirements under NCLB but be rated academically unacceptable by the Texas system. Intervention mandated by the state also is more stringent and unforgiving than that under NCLB, adding to confusion about expectations and consequences. NCLB takes action only if a campus does

not meet AYP on the *same* portion of the TAKS two years in a row, while Texas takes action if a campus does not meet expectations on *any* portion of the TAKS two years in a row.

Critics also argue that one statewide accountability system should apply to all schools. Currently, the accountability system does not assess all schools, and in 2008, 658 schools — many of them disciplinary and juvenile justice alternative education centers — were not even rated. Also, the system does not adequately hold charter schools accountable academically or financially.

Other critics of the current accountability system say the standards for the system are too low. The system

considers a school academically acceptable when only 50 percent of students meet minimum passing standards on the TAKS. Also, more than half of students in Texas attend a school rated academically acceptable or below. Only about 1 percent of students attend a school within a district rated exemplary or recognized.

The exit-level assessment given to high school students should measure college and career readiness, whereas now the TAKS measures about at the ninth-grade level, critics say.

Also, critics say, exemptions granted to schools by TEA can create artificially boosted ratings or “false positives.” For example, schools can receive higher ratings merely by showing required improvement. Also, during the past two years, TEA has granted exemptions to schools for high dropout rates. As a result, schools that should have earned academically unacceptable ratings have not.

Proposals to change the system

Several approaches have been proposed to address complaints about the current accountability system. The Joint Select Committee on Public School Accountability earlier this year requested proposals to revise the system. The resulting proposals would account for individual student and district characteristics, include measures to

Several approaches have been proposed to address complaints about the current accountability system.

credit schools for student academic progress throughout the school year, and use diagnostic data to identify areas of improvement. Some have recommended aligning the Texas accountability system with the federal NCLB Act and establishing one state system for all schools, including charter schools, juvenile justice educational programs, and dropout recovery programs.

Evaluating schools and districts

One proposal would involve evaluating schools based on individual student improvement, using several indicators arranged in tiers. No one indicator would cause a campus or district to be considered low-performing under the proposal by Raise Your Hand Texas, a non-profit group focusing on education policy. The tiers would be used to prioritize areas of improvement, and schools and districts would be rated from worst to best: academic crisis, academic warning, academic watch, or 1-6 stars.

Tier 1 indicators would have the highest priority and would include attendance rate, completion rate (high school only), and TAKS scores in subjects considered for adequate yearly progress under NCLB — language arts, reading, and mathematics. Tier 2 indicators would have the next-highest priority and would include other core subjects not included in Tier 1 — writing, science, and social studies. Finally, Tier 3 indicators would measure college and work force readiness through measures such as advanced courses, dual enrollment, SAT and ACT scores, and other measures still to be developed.

The Texas Institute for Education Reform, another non-profit organization focusing on education policy, suggests assessing schools based on student progress toward post-secondary readiness. Their proposal would require changes in the state curriculum standards, the state assessment, and the system by which schools and districts report data to the TEA, as well as in sanctions, interventions, and rewards for school districts. When all schools in a district met state standards or standards for improvement, the district would be released from other state laws and regulations, except safety requirements, as long as they maintained accountability standards.

Schools would be assigned a letter grade “A” through “F,” based on the percentage of students meeting

benchmark goals. Schools would be deemed accredited if they met, exceeded, or showed annual gains toward benchmarks. A high school would be evaluated based on whether it met the following criteria:

- 90 percent of students achieve the post-secondary readiness benchmark score and graduate within four years;
- 80 percent of graduates demonstrate post-secondary readiness by achieving satisfactory scores on the ACT, THEA, or SAT;
- 80 percent of graduates immediately transition into post-secondary education; and
- 80 percent of graduates do not require remedial education in the state system of public universities and colleges.

Accounting for improvement

Raise Your Hand Texas suggests schools be expected to perform within a certain range on individual indicators of student achievement. To account for improvement, schools would earn credit for achieving expected growth, whether or not they performed within the expected range. For indicators not measured in every grade, a “program growth model” would determine the success of the program over time. For indicators assessed in consecutive grade levels, a “student growth model” measuring individual student performance over time would be employed.

Under a proposal by the Texas Institute for Education Reform, a student would not have to pass a state assessment to move to the next grade. Instead, annual test results would be compared to a benchmark score to determine a student’s progress. School and district performance ratings would be based on the percentage of students achieving annual progress, either performing at or above the post-readiness standard.

Accounting for diverse populations

Raise Your Hand Texas recommends a proportional model to assess school and district performance based on the number of indicators — including academic

performance of specific demographic groups — on which a school meets expectations. Currently, if the school or district misses performance expectations on one indicator, the school or district rating is lowered. Under a proportional model, schools and districts would be evaluated based on the proportion of indicators on which they met expectations. A proportional model would be similar to a test in school on which a student's grade was determined by the number of questions the student answered correctly. The group says that by contrast, the current model is like a hurdle race. Once the runner trips over one hurdle, the runner is out.

Results from the proportional model data would be used to prepare an annual status report and a diagnostic profile for each school and district, identifying at least one area of improvement for them to focus on over the next academic year.

Financial accountability

Another suggestion is that schools be evaluated based on their ability to achieve high academic performance with cost-efficient spending, under a proposal from the Education Resource Group, a web-based company that provides educational accountability products and services. This proposal suggests a matrix with several indices that would compare all districts, adjusting results for differing student demographics. The academic index would include ACT and SAT mean scores, graduation rates, and TAKS pass rates. The financial index would include spending on leadership services, student services, non-student services, and instructional services.

State intervention and sanctions

Under the proposal by Raise Your Hand Texas that would rate schools from worst to best — academic crisis, academic warning, academic watch, or 1-6 stars — the rating would determine interventions and rewards.

Schools placed on academic watch would be subjected to a campus intervention team and early intervention measures. Schools placed on academic warning would have to develop a reconstitution plan. A conservator, management team, or board of managers could be assigned to monitor the school. Schools placed on academic crisis would be reconstituted, and any of

the previously mentioned measures could be employed. TEA could close schools placed on academic crisis for the second year or place the school under alternative management. Schools placed on academic crisis for a third year would have to be closed or placed under alternative management.

Early interventions would begin when a school had not met adequate yearly progress under the federal NCLB Act, was in the bottom 10 percent of schools based on the proportional model, or was in the lower half of their group according to comparable improvement. A comparable improvement model would group schools by shared characteristics in order to examine differences in achievement and growth and to reward success. Schools would receive technical assistance and be required to develop an improvement plan. Principals of early intervention schools would receive special training.

Under the scenario proposed by the Texas Institute for Education Reform, the schedule for required interventions and sanctions would have three phases, triggered by a grade given to the school each year. Phase 1 would occur when a campus dropped a letter grade. It would focus on prevention by identifying early warning signs of struggling students. Using state resources and outside experts, schools would develop school improvement plans, including how to use data to its maximum potential. Phase 2 would be triggered the first year a campus or district received an unacceptable rating, and the district's school board would select one of eight options to implement. The third phase would be triggered if, after two years of intervention, a campus or district still failed to achieve an acceptable rating. Phase 3 sanctions would be a form of alternative management, and the commissioner could impose stricter accountability expectations, such as requiring students in certain grades to pass a state test to move to the next grade or accelerated academic instruction for certain students. After five years of being rated unacceptable, the campus would lose accreditation and state funding. School districts would have to produce a public report card each year detailing their performance and ratings.

- by Catherine Dilger

Circuit breakers, from page 1

year in favor of an earned income tax credit, and Ohio is replacing its circuit breaker with a flat exemption similar to Texas' homestead exemption.

The 35 states that have property-tax circuit breakers have set them up in a variety of ways, which differ according to who should be covered by the program, how benefits are calculated, limits on benefits, and program administration. No single model is dominant because circuit-breaker programs often are tailored to each state's needs and characteristics.

Because property-tax circuit breakers are based on an assumption that the ability to pay taxes declines with income, most circuit breakers target relief to households falling below certain income levels that spend at least a certain percentage of their income on housing. The relief could be an exemption from all property taxes beyond an established percentage, a rebate of a certain amount, a tax credit, or some other form of assistance. A state typically sets a maximum percentage of income that a qualifying taxpayer is expected to pay toward housing. If a taxpayer's housing expenses - or, more commonly, their property tax bill - exceeds this percentage, and sometimes if their income is below a certain threshold, the state provides some form of relief.

Eligibility for circuit-breaker protection

Eligibility criteria are among the major decisions policy makers face in establishing circuit-breaker programs. In 24 states, the programs are limited to the elderly and the disabled. On the theory that many seniors have fixed incomes due to either retirement or inability to work, they are considered especially susceptible to the effects of rising taxes. When state legislatures first enacted circuit breakers and other targeted property-tax relief programs, such as widespread homestead exemptions in the 1950s for the elderly, the incidence of poverty among the elderly was higher than it was among

the general population. In the last 25 years, however, this has not been the case, largely due to Social Security. This trend and the fact that working individuals and families also are susceptible to rapidly rising property taxes have led some states to extend coverage to all households that fall below a certain income level and that spend more than the set percentage of income on housing. Currently, 24 states have circuit breakers available only for the elderly who meet income criteria, while 11 states and the District of Columbia extend the program to all taxpayers who meet the income criteria.

Policy makers also must decide if renters should be covered by property-tax circuit breakers. While renters rarely pay property taxes directly, landlords often pass on the cost of property taxes to renters in the form of higher rents. Twenty-nine states extend property-tax circuit breakers directly to renters who qualify.

Some states also limit eligibility based on other factors, such as the value of a home or the accumulated wealth of the individual. For example, Kansas excludes property owners from its property-tax circuit breaker if their homestead property

is worth more than \$350,000. Massachusetts has an indexed program that excludes homestead property worth more than \$684,000 in 2006 dollars. Other states do not limit participation but limit relief in other ways. New Hampshire allows all homestead property but considers only the first \$100,000 for tax relief, while Maryland includes the first \$300,000. Such restrictions reflect the belief that a low or fixed income does not reflect a person's entire ability to pay property taxes and that some taxpayers could pay but would have to liquidate some assets in order to do so.

States have varying definitions of what constitutes income in determining eligibility for circuit breakers. Some states have lists of qualifying income. Others start with terms from the federal income tax, such as "adjusted gross income" and identify additional sources of income that should be added to that amount. Many states excuse part of these income sources — for instance, the first

Most circuit breakers target relief to households falling below certain income levels that spend at least a certain percentage of their income on housing.

\$300 of a gift between a parent and child or the first several thousand dollars of a life insurance policy. Policy makers also disagree on whether or not Social Security benefits should be included in the definition of income. This choice has a major effect on who qualifies for benefits and can affect the overall cost of the program.

Triggering relief

Policy makers also must decide how to target the neediest taxpayers. The simplest way is with the threshold approach, which provides relief when the amount of property tax due exceeds a certain percentage

of income. This approach is used by 10 states, which have structured it in different ways. Oklahoma's threshold is 1 percent of income spent on property taxes, and its program provides a maximum of \$200 in relief. Another eight states with threshold circuit breakers trigger relief when property taxes exceed anywhere from 2 to 15 percent of income, with varying benefit maximums. Oregon's threshold applies to elderly renters who spend more than 20 percent of their income on rent. Oregon targets renters because while few pay property tax directly, they pay indirectly if the cost is passed on by the property owner. Oregon grants a maximum \$250 rebate toward its state income tax.

Current forms of homeowner property-tax relief in Texas

Texas has several programs to ease the property tax burden on homeowners.

The best-known program is the \$15,000 state-mandated homestead exemption for school property taxes, which exempts the first \$15,000 of value from the taxable worth of a taxpayer's primary home.

Any taxing unit, including a city, county, school, or special district, may exempt up to 20 percent of a home's value, but an optional exemption may not be less than \$5,000. Each taxing unit decides whether to offer an exemption and at what percentage, and this is added to any other exemption for which an owner qualifies.

Tax payers also are protected by a 10 percent annual cap on residential homestead assessment increases. This cap prevents a residential property's taxable appraised value from increasing more than 10 percent between appraisals, which in most cases occur annually.

Senior citizens are entitled to a freeze on school property taxes as of their 65th birthday, and the taxes remain frozen for a surviving spouse who was age 55 or older at the time of death of the qualifying spouse. Disabled persons also qualify for the school tax freeze. Cities, counties, or junior college districts may freeze property taxes of seniors and the disabled by local option. Seniors and the disabled also receive a mandatory \$10,000 exemption on their homestead beyond the standard \$15,000 homestead exemption for school taxes and may receive additional local option exemptions of at least \$3,000. Seniors and the disabled also may defer payment of property taxes. The deferred taxes are due, with 8 percent annual interest, when the owner no longer owns the home or stops living in it.

Disabled veterans and their surviving spouses and children also may receive an exemption beyond the standard homestead exemption. This exemption is proportional to the veteran's disability, with a minimum exemption of \$5,000 and a maximum of \$12,000. Also, the Legislature is authorized to exempt from ad valorem taxation all or part of the value of the residence homestead of a veteran with a total, service-connected disability.

Other states apply multiple thresholds or brackets to determine both when a circuit breaker is triggered and the resulting level of relief. The greater the percentage of income spent on housing, the greater the property tax relief provided. The number of thresholds used in each state varies and covers a wide range. Maine and Wisconsin have two thresholds, while Missouri has 40.

Another approach is the sliding-scale circuit breaker. Rather than provide a specific benefit amount or a series of thresholds and accompanying benefits, sliding scales provide different percentages of relief, with larger percentages for qualifying individuals whose incomes fall into lower brackets. The sliding-scale approach presumes that everyone with lower income needs property tax relief but that the need for such relief declines as income rises. Property-tax circuit breakers that follow the sliding-scale approach thus provide relief to all low-income property tax payers, regardless of what they pay for housing. Because sliding scales lack a clear “overload” definition, some states do not explicitly refer to them as circuit breakers. Vermont refers to its sliding scale program as an “income sensitivity adjustment” of property taxes. The sliding-scale approach is designed to address the “notch effect,” which occurs when a person’s income hovers around an income threshold. This can mean that a single additional dollar of income could result in the denial of hundreds of dollars worth of tax relief.

Many states also vary the qualifying levels of income by the number of people in the household. These states give married couples a higher income ceiling than they give to individuals. Some states also raise the income limit based on the number of additional dependents in the household.

Administration

Determining eligibility for circuit-breaker protection requires knowing a taxpayer’s income. States with income taxes already have this information, but states without income taxes must obtain it in other ways. Many

states acquire the information through information-sharing agreements with the Internal Revenue Service (IRS). For example, Washington state, which does not have an income tax, uses such an agreement with the IRS to administer its state earned-income tax credit. Another approach is to consolidate information-gathering at the local level. Under this model, taxpayers would submit proof of income, such as copies of federal income tax statements or W-2s, and local taxing authorities would use the information to administer the property-tax circuit breakers. In Texas, local appraiser offices administer all property tax exemptions now.

Policy makers also must decide how to convey the benefits of a circuit breaker to a taxpayer. Some states send taxpayers rebate checks, while others grant income or property tax credits. Deliberation on the issue tends to focus on the timely delivery of relief and ease of administration. Fourteen states provide income tax credits, while 20 states provide some form of direct refund to taxpayers. Ten states directly reduce the amount due on a property tax bill — seven of these states grant a property tax credit and three a homestead exemption. Some argue that issuing credits rather than rebate checks provides an explicit link between the property tax and the relief granted, making the program more transparent.

Supporters of property-tax circuit breakers say they provide necessary relief from property taxes. Taxpayers have less control over how much they pay in property taxes than over how much they pay in income or sales taxes. A person who wants to pay less in sales taxes simply buys fewer taxable goods. Likewise, if a person makes less income in a certain year than in the year before, the person’s income taxes usually will be less. However, property taxes often increase as a response to ever-increasing property values, and that increase does not reflect ability to pay. While increased property values may represent an increase in economic well being, taxes based on property value often result in liquidity problems because the property tax on a non-cash gain must be paid in cash. As a result, higher property taxes can impose especially harsh burdens on those with low or fixed incomes.

Some states send tax payers rebate checks, while others grant income or property tax credits.

Supporters say circuit breakers provide the most effective tax relief at the least cost targeted to those who need it most and those who most suffer the liquidity problems of paying property taxes. Lower-income families are more likely to face housing costs that exceed 30 percent of their income. Families below the poverty line typically spend 42 percent of their income on housing, compared to the national median of 22 percent, according to the U.S. Department of Housing and Urban Development and the U.S. Census Bureau. This makes it proportionally more difficult for those with lower incomes to save capital and escape poverty. Also, while renters are represented disproportionately among the bottom fifth of income earners, they suffer under high property taxes because landlords pass on those taxes to renters as higher rents.

High property taxes are not a problem only for seniors, supporters of circuit breakers argue. Any rapid rise in a community's property values can result in many younger, working families also facing property tax bills that are increasingly out of line with their incomes. A third group of taxpayers whose property taxes may be high relative to income are those who experience a sudden loss of income, such as a job loss. As long as the family endures this loss, their ability to pay property taxes is hampered. These groups can face situations where their incomes are insufficient to pay their property taxes and meet other basic needs. A well crafted property tax circuit breaker can provide needed relief.

Circuit breakers, by helping elderly, disabled, recently unemployed, and low-income people remain in their homes, contribute to home ownership and to societal and neighborhood stability. Allowing people to stay in their homes longer is not an inefficient use of housing because it promotes healthy neighborhoods and allows people to make individual decisions about what kind of housing is best for them, rather than having those decisions forced on them by high taxes.

Tax deferral is not a reliable way to provide property tax relief. Even in states that allow it, few people use it. Experts say this is because of prohibitively high interest rates or because some people simply are embarrassed to take advantage of it. Setting appropriate interest rates on deferred taxes is difficult. Policy makers must create a rate that balances the need to discourage those who do

not really need relief from applying for deferral with the need to make tax deferral accessible to those in need.

Opponents of property-tax circuit breakers say tax relief should be broad based and apply to all taxpayers. Under the current property tax system in Texas, people never really own their homes but just "rent" them from the state because, unlike mortgage payments, property taxes are unceasing. Fairness dictates that all homeowners receive tax relief. It would be better policy to further reduce school property taxes or increase homestead exemptions.

Opponents say circuit breakers inappropriately reward those who live beyond their means. They encourage inefficient use of housing by making it possible for the elderly to stay in homes that are larger than they need and they encourage those who cannot afford their current housing to remain in it at a loss to local tax revenue.

Circuit breakers tend to reward heavy use of property taxes relative to other revenue sources. Making property taxes less painful for those most adversely affected by them makes the government's heavy reliance on property taxes more palatable to policy makers. Instead of simply alleviating one harm of the property tax, the state should move away from reliance on property taxes altogether and find other sources of revenue, such as increasing or broadening consumption taxes or establishing a state income tax.

Deferral of taxes, as opposed to the forgiveness provided by traditional circuit breakers, is a superior way to base property tax relief on income or ability to pay. Deferrals resolve cash flow and liquidity problems for taxpayers, do not result in an outright loss of revenue, and do not shift the tax burden completely on to those who can afford to pay.

- by Tom Howe

Property-tax circuit breakers in other states

To illustrate the wide variety of approaches to property-tax circuit breakers, below are three different programs for tax year 2006. Oklahoma uses a threshold system, while South Dakota uses a sliding scale. New York, one of the most complicated, employs a hybrid system that applies to both homeowners and renters.

Oklahoma

The Oklahoma property-tax circuit breaker applies to homeowners with an income of \$12,000 or less who are 65 or older or who are disabled. The threshold to qualify is 1 percent or more of income spent on property taxes. It provides a maximum of \$200 of relief, which is applied to the state income tax.

South Dakota

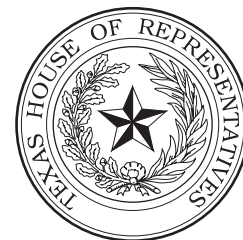
South Dakota's circuit breaker for homeowners is based on a sliding scale and the number of people in the household. For households with two or more people there are 19 brackets. These brackets provide relief ranging from a 55 percent reduction in property tax due for those in the lowest eligible income bracket (income up to \$6,500) to a 19 percent reduction in property tax due for those in the highest eligible income bracket (income from \$12,638 to \$13,000). For single-person households, 25 brackets provide relief ranging from a 35 percent reduction in tax due for those in the lowest eligible income bracket (income up to \$3,750) to an 11 percent reduction in tax due for those in the highest eligible income bracket (income from \$9,731 to \$10,000).

New York

New York employs a hybrid system that combines seven income thresholds with a sliding scale of maximum relief amounts. It applies to both homeowners and renters. The seven income brackets and threshold percentages range from 3.5 percent for those in the lowest income bracket (income up to \$3,000) to 6.5 percent for those in the highest eligible income bracket (income from \$14,001 to \$18,000). Thresholds are not applied incrementally. New York's program applies to homeowners and renters of any age, but those under age 65 receive lower levels of relief.

New York's property-tax circuit breaker provides a credit on a homeowner's or renter's state property tax bill of 50 percent of the taxes that are in excess of the applicable threshold. The maximum credit is \$375 for those 65 and older and \$75 for those under 65. New York also has wealth as well as income restrictions on eligibility.

HOUSE RESEARCH ORGANIZATION



Steering Committee:

David Farabee, *Chairman*
Bill Callegari, *Vice Chairman*
Dianne White Delisi
Harold Dutton
Yvonne Gonzalez Toureilles
Carl Isett
Mike Krusee
Jim McReynolds
Geanie Morrison
Elliott Naishtat
Rob Orr
Joe Pickett
Todd Smith

John H. Reagan Building
Room 420
P.O. Box 2910
Austin, Texas 78768-2910

(512) 463-0752

www.hro.house.state.tx.us

Staff:

Tom Whatley, *Director*;
Laura Hendrickson, *Editor*;
Rita Barr, *Office Manager/Analyst*;
Catherine Dilger, Kellie Dworaczyk,
Tom Howe, Andrei Lubomudrov,
Carisa Magee, Blaire Parker, *Research Analysts*