

By: Grusendorf

H.B. No. 1

A BILL TO BE ENTITLED

AN ACT

relating to public education, public school finance, and related matters, including certain new or modified taxes and fees and other state and local tax and revenue measures to provide sufficient funding for public education and to provide tax relief and protection for taxpayers; providing penalties.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING

SECTION 1A.01. Subtitle I, Title 2, Education Code, is amended by adding Chapter 42 to read as follows:

CHAPTER 42. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. STATE POLICY. (a) It is the policy of this state that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to the student's educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

(b) The public school finance system of this state shall adhere to a standard of neutrality that provides for substantially

1 equal access to similar revenue per student at similar tax effort,
2 considering all state and local revenues of districts after
3 acknowledging all legitimate student and district cost
4 differences.

5 Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a)

6 The purposes of the Foundation School Program set forth in this
7 chapter are to guarantee that each school district in the state has:

8 (1) adequate resources to provide each eligible
9 student an accredited instructional program and facilities
10 suitable to the student's educational needs; and

11 (2) access to substantially equalized financing for an
12 enriched program.

13 (b) The Foundation School Program consists of:

14 (1) two tiers that in combination provide for:

15 (A) sufficient financing for all school
16 districts to provide an accredited program of education that is
17 rated academically acceptable or higher under Section 39.072 and
18 meets other applicable legal standards; and

19 (B) substantially equal access to funds to
20 provide an enriched program; and

21 (2) a facilities component as provided by Chapter 46.

22 Sec. 42.003. STUDENT ELIGIBILITY. (a) A student is

23 entitled to the benefits of the Foundation School Program if the
24 student is five years of age or older and under 21 years of age on
25 September 1 of the school year and has not graduated from high
26 school.

27 (b) A student to whom Subsection (a) does not apply is

1 entitled to the benefits of the Foundation School Program if the
2 student is enrolled in a prekindergarten class under Section
3 29.153.

4 (c) A child may be enrolled in the first grade if the child
5 is at least six years of age at the beginning of the school year of
6 the district or has been enrolled in the first grade or has
7 completed kindergarten in the public schools in another state
8 before transferring to a public school in this state.

9 (d) Notwithstanding Subsection (a), a student younger than
10 five years of age is entitled to the benefits of the Foundation
11 School Program if:

12 (1) the student performs satisfactorily on the
13 assessment instrument administered under Section 39.023(a) to
14 students in the third grade; and

15 (2) the district has adopted a policy for admitting
16 students younger than five years of age.

17 Sec. 42.004. ADMINISTRATION OF PROGRAM. (a) The
18 commissioner shall take such action and require such reports
19 consistent with this chapter as may be necessary to implement and
20 administer the Foundation School Program.

21 (b) The commissioner may adopt rules necessary to implement
22 and administer the Foundation School Program.

23 Sec. 42.005. AVERAGE DAILY ATTENDANCE. (a) In this
24 chapter, average daily attendance is:

25 (1) the quotient of the sum of attendance for each day
26 of the minimum number of days of instruction as described under
27 Section 25.081(a) divided by the minimum number of days of

1 instruction; or

2 (2) for a district that operates under a flexible year
3 program under Section 29.0821, the quotient of the sum of
4 attendance for each actual day of instruction as permitted by
5 Section 29.0821(b)(1) divided by the number of actual days of
6 instruction as permitted by Section 29.0821(b)(1).

7 (b) A school district that experiences a decline of two
8 percent or more in average daily attendance shall be funded on the
9 basis of an average daily attendance equal to the actual average
10 daily attendance of the preceding school year.

11 (c) The commissioner shall adjust the average daily
12 attendance of a school district that has a significant percentage
13 of students who are migratory children as defined by 20 U.S.C.
14 Section 6399.

15 (d) The commissioner may adjust the average daily
16 attendance of a school district in which a disaster, flood, extreme
17 weather condition, fuel curtailment, or other calamity has a
18 significant effect on the district's attendance.

19 (e) An open-enrollment charter school is not entitled to
20 funding based on an adjustment under Subsection (b).

21 Sec. 42.006. EQUALIZED FUNDING ELEMENTS. (a) The
22 Legislative Budget Board shall adopt rules, subject to appropriate
23 notice and opportunity for public comment, for the calculation for
24 each year of a biennium of the equalized funding elements, in
25 accordance with Subsection (c), necessary to achieve the state
26 policy under Section 42.001.

27 (b) Before each regular session of the legislature, the

1 board shall report the equalized funding elements to the
2 commissioner and the legislature.

3 (c) The funding elements must include:

4 (1) accreditation allotment amounts for the purposes
5 of Section 42.101 that represent the cost per student of a regular
6 education program that meets all mandates of law and regulation;

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

10 (3) appropriate program cost differentials and other
11 funding elements for the programs authorized under Subchapter C,
12 with the program funding level expressed as total dollar amounts
13 for each program and the specific dollar amount to be provided for
14 each student for the appropriate year;

15 (4) the maximum district enrichment tax rate for
16 purposes of Section 42.252; and

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

19 (d) The board shall conduct a study of the funding elements
20 each biennium, as appropriate. The study must include a
21 determination of the projected cost to the state in the next state
22 fiscal biennium of ensuring the ability of each school district to
23 maintain existing programs.

24 (e) Notwithstanding Subsection (d), the board shall
25 contract for a comprehensive study of the funding elements. The
26 board shall report the results of the study to the commissioner and
27 the legislature not later than December 1, 2008. This subsection

1 expires January 1, 2009.

2 Sec. 42.007. EFFECT OF SALE BY SCHOOL DISTRICT OF TAX
3 RECEIVABLE. (a) The sale by a school district of an ad valorem tax
4 receivable under Chapter 274, Local Government Code, does not
5 affect:

6 (1) the allocation of state or federal funds to the
7 school district or the entitlement of the school district to state
8 or federal funds under this code; or

9 (2) the taxable value of property in the district for
10 the purposes of the allocation of or entitlement to those funds.

11 (b) The commissioner shall adopt rules governing, for
12 purposes of the Foundation School Program, collection of delinquent
13 ad valorem taxes. The rules may provide for documentation and other
14 recordkeeping requirements.

15 [Sections 42.008-42.100 reserved for expansion]

16 SUBCHAPTER B. BASIC PROGRAM

17 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
18 ALLOTMENTS. (a) For each student in average daily attendance, a
19 school district is entitled to an accreditation allotment of:

20 (1) \$4,459 if the student is enrolled below the ninth
21 grade level; or

22 (2) \$5,459 if the student is enrolled at or above the
23 ninth grade level.

24 (b) An accreditation allotment in a greater amount for any
25 school year may be provided by appropriation.

26 (c) In addition to the accreditation allotment, a school
27 district is entitled to special student allotments in the manner

1 specified under Subchapter C.

2 [Sections 42.102-42.150 reserved for expansion]

3 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

4 AND OTHER EXPENDITURES

5 Sec. 42.151. SPECIAL EDUCATION ALLOTMENT. (a) For each
6 student in average daily attendance, a school district is entitled
7 to an annual allotment of \$300 or a greater amount for any school
8 year provided by appropriation.

9 (b) In addition to the allotment provided by Subsection (a),
10 and subject to amounts appropriated and available for the purpose,
11 a school district may apply to the commissioner for a grant to
12 reimburse the district for:

13 (1) the costs associated with a high level of students
14 receiving special education services; or

15 (2) the costs of providing high-severity special
16 education services.

17 (c) The commissioner shall adopt rules necessary to
18 implement this section, including:

19 (1) rules identifying high-severity special education
20 services; and

21 (2) rules necessary to administer the grant program
22 provided by Subsection (b).

23 Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) A school
24 district is entitled to an allotment for the costs of providing
25 accelerated programs in an amount determined by the formula:

26
$$AAA = 507 \times ADA \times PR$$

27 where:

1 "AAA" is the amount of the district's allotment;

2 "ADA" is the district's total number of students in average
3 daily attendance; and

4 "PR" is the percentage of the district's total number of
5 students enrolled in prekindergarten through grade level 8 who
6 participate in the national free or reduced-price lunch program as
7 reported through the Public Education Information Management
8 System (PEIMS) for the current school year or the percentage
9 determined in accordance with commissioner rule if no campus in the
10 district with students enrolled in prekindergarten through grade
11 level 8 participates in the national free or reduced-price lunch
12 program.

13 (b) The legislature may provide by appropriation for a
14 greater allotment than the amount prescribed by Subsection (a).

15 Sec. 42.1521. SCHOOL COUNSELORS AND COUNSELING PROGRAMS.
16 From funds appropriated for the purpose, the commissioner shall,
17 each fiscal year, distribute funds for programs under Subchapter A,
18 Chapter 33. A program established under that subchapter is
19 required only in school districts in which the program is financed
20 by funds distributed under this section or other funds distributed
21 by the commissioner for a program under that subchapter. In
22 distributing those funds, preference shall be given to a school
23 district that received funds for a program for the preceding school
24 year.

25 Sec. 42.153. TRANSITIONAL PROGRAM ALLOTMENT. For each
26 student in average daily attendance in a bilingual education or
27 special language program under Subchapter B, Chapter 29, a district

1 is entitled to an annual allotment of \$254 or a greater amount for
2 any school year provided by appropriation.

3 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT. (a)
4 For each student in average daily attendance in an approved career
5 and technology education program in grades nine through 12 or in
6 career and technology education programs for students with
7 disabilities in grades seven through 12, a district is entitled to
8 an annual allotment of \$178 for each annual credit hour the student
9 is enrolled in the program, or a greater amount for any school year
10 provided by appropriation.

11 (b) Funds allotted under this section, other than an
12 indirect cost allotment established under State Board of Education
13 rule, must be used in providing career and technology education
14 programs in grades nine through 12 or career and technology
15 education programs for students with disabilities in grades seven
16 through 12 under Sections 29.182, 29.183, and 29.184.

17 Sec. 42.155. PUBLIC EDUCATION GRANT ALLOTMENT. (a) Except
18 as provided by Subsection (b), for each student in average daily
19 attendance who is using a public education grant under Subchapter
20 G, Chapter 29, to attend school in a district other than the
21 district in which the student resides, the district in which the
22 student attends school is entitled to an annual allotment of \$250 or
23 a greater amount for any school year provided by appropriation.

24 (b) The total number of allotments under this section to
25 which a school district is entitled may not exceed the number by
26 which the number of students using public education grants to
27 attend school in the district exceeds the number of students who

1 reside in the district and use public education grants to attend
2 school in another district.

3 [Sections 42.156-42.170 reserved for expansion]

4 Sec. 42.171. RESTRICTIONS ON USE OF ADJUSTED ALLOTMENTS.

5 Any restriction imposed under this subchapter on a school
6 district's use of an amount allotted under this subchapter applies
7 equally to the amount by which the allotment is adjusted under
8 Sections 42.301, 42.302, and 42.303.

9 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding
10 any other provision of this code, but subject to Subsection (b), a
11 school district may not spend in any school year for a program or
12 service listed below an amount per student in average daily
13 attendance that is less than the amount the district spent for that
14 program or service per student in average daily attendance during
15 the 2004-2005 school year:

16 (1) a special education program under Subchapter A,
17 Chapter 29;

18 (2) supplemental programs and services designed to
19 eliminate any disparity in performance on assessment instruments
20 administered under Subchapter C, Chapter 39, or disparity in the
21 rates of high school completion between students at risk of
22 dropping out of school, as defined by Section 29.081, and all other
23 students;

24 (3) a bilingual education or special language program
25 under Subchapter B, Chapter 29;

26 (4) a career and technology education program in
27 grades nine through 12 or a career and technology education program

1 for students with disabilities in grades seven through 12 under
2 Sections 29.182, 29.183, and 29.184; or

3 (5) a gifted and talented program under Subchapter D,
4 Chapter 29.

5 (b) The commissioner may authorize a school district to
6 spend less than the amount required by this section if the
7 commissioner, considering the district's unique circumstances,
8 determines that the requirement imposes an undue hardship on the
9 district.

10 [Sections 42.173-42.200 reserved for expansion]

11 SUBCHAPTER D. NEW INSTRUCTIONAL FACILITY ALLOTMENTS

12 Sec. 42.201. NEW INSTRUCTIONAL FACILITY ALLOTMENT. A
13 school district is entitled to an additional allotment as provided
14 by this subchapter for operational expenses associated with opening
15 a new instructional facility.

16 Sec. 42.202. DEFINITION. In this subchapter,
17 "instructional facility" has the meaning assigned by Section
18 46.001.

19 Sec. 42.203. ALLOTMENT FOR FIRST YEAR OF OPERATION. For the
20 first school year in which students attend a new instructional
21 facility, a school district is entitled to an allotment of \$250 for
22 each student in average daily attendance at the facility or a
23 greater amount provided by appropriation.

24 Sec. 42.204. ALLOTMENT FOR SECOND YEAR OF OPERATION. (a)
25 For the second school year in which students attend a new
26 instructional facility, a school district is entitled to an
27 allotment of \$250 for each additional student in average daily

1 attendance at the facility or a greater amount provided by
2 appropriation.

3 (b) For purposes of this section, the number of additional
4 students in average daily attendance at a facility is the
5 difference between the number of students in average daily
6 attendance in the current year at that facility and the number of
7 students in average daily attendance at that facility in the
8 preceding year.

9 Sec. 42.205. PRORATION OF ALLOTMENTS. If the total amount
10 of allotments to which school districts are entitled under this
11 subchapter for a school year exceeds the amount appropriated for
12 allotments under this subchapter, the commissioner shall reduce
13 each district's allotment under this subchapter in the manner
14 provided by Section 42.312(f).

15 Sec. 42.206. APPLICABILITY TO CERTAIN DISTRICTS. A school
16 district subject to Section 42.401 that elects to purchase average
17 daily attendance credit under Subchapter D, Chapter 41, is entitled
18 to a credit, in the amount of the allotments to which the district
19 is entitled under this subchapter, against the total amount
20 required under Section 41.093 for the district to purchase
21 attendance credits.

22 [Sections 42.207-42.250 reserved for expansion]

23 SUBCHAPTER E. ENRICHMENT PROGRAM

24 Sec. 42.251. PURPOSE. The purpose of the enrichment
25 program component of the Foundation School Program is to provide
26 each school district with the opportunity to supplement the basic
27 program at a level of its own choice. An allotment under this

1 subchapter may be used for any legal purpose other than capital
2 outlay or debt service.

3 Sec. 42.252. ALLOTMENT. (a) Each school district is
4 guaranteed a specified amount per student in state and local funds
5 for each cent of enrichment tax effort up to the maximum level
6 specified in this subchapter. The amount of state support, subject
7 only to the maximum amount under Section 42.253(b), is determined
8 by the formula:

9
$$\underline{GYA = (GL \times ADA \times DETR \times 100) - LR}$$

10 where:

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

13 "GL" is the dollar amount guaranteed level of state and local
14 enrichment funds per student in average daily attendance per cent
15 of tax effort, which is an amount equal to the sum of the district's
16 accreditation allotments under Subchapter B and special student
17 allotments under Subchapter C, as adjusted in the manner provided
18 by Sections 42.301, 42.302, and 42.303, divided by the total number
19 of district students in average daily attendance, divided by 100,
20 or a greater amount for any school year provided by appropriation;

21 "ADA" is the district's total number of students in average
22 daily attendance;

23 "DETR" is the district enrichment tax rate of the school
24 district, which is determined by dividing the total amount of
25 maintenance and operations taxes collected by the school district
26 for the applicable school year, as provided by Subsection (b), by
27 the quotient of the district's taxable value of property for the

1 preceding tax year as determined under Subchapter M, Chapter 403,
2 Government Code, or, if applicable, Section 42.307, divided by 100;
3 and

4 "LR" is the local revenue, which is determined by multiplying
5 "DETR" by the quotient of the district's taxable value of property
6 as determined under Subchapter M, Chapter 403, Government Code, or,
7 if applicable, Section 42.307, divided by 100.

8 (b) For purposes of this section:

9 (1) the total amount of maintenance and operations
10 taxes collected by the school district does not include the amount
11 of:

12 (A) the district's local share under Section
13 42.306; or

14 (B) taxes paid into a tax increment fund under
15 Chapter 311, Tax Code;

16 (2) school district taxes for which credit is granted
17 under Section 31.035, 31.036, or 31.037, Tax Code, or under
18 Subchapter D, Chapter 313, Tax Code, are considered taxes collected
19 by the school district as if the taxes were paid when the credit for
20 the taxes was granted; and

21 (3) the total amount of maintenance and operations
22 taxes collected for an applicable school year by a school district
23 with alternate tax dates, as authorized by Section 26.135, Tax
24 Code, is the amount of taxes collected on or after January 1 of the
25 year in which the school year begins and not later than December 31
26 of the same year.

27 Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district

1 enrichment tax rate may not exceed \$0.10 per \$100 of valuation.

2 (a-1) Notwithstanding Subsection (a), a school district may
3 not impose a district enrichment tax earlier than the 2006 tax year.
4 The maximum rate that may be imposed during the 2006 tax year is
5 \$0.02 per \$100 of valuation. For subsequent tax years, the maximum
6 rate is increased by \$0.02 per year, until the maximum amount
7 specified by Subsection (a) is reached. This subsection expires
8 January 1, 2011.

9 (b) Notwithstanding Subsection (a), the legislature by
10 appropriation shall establish for each biennium the maximum
11 district enrichment tax rate for purposes of determining the
12 district's guaranteed yield amount of state enrichment funds under
13 Section 42.252.

14 Sec. 42.254. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON
15 MILITARY INSTALLATION OR AT STATE SCHOOL. State enrichment
16 assistance under this subchapter for a school district located on a
17 federal military installation or at Moody State School is computed
18 using the average district enrichment tax rate and property value
19 per student of school districts in the county, as determined by the
20 commissioner.

21 Sec. 42.255. DISTRIBUTION OF ENRICHMENT PROGRAM FUNDS. As
22 provided by Section 42.312, for each school year, the commissioner
23 shall:

24 (1) determine the guaranteed yield amount of state
25 enrichment program funds to which a school district is entitled
26 under Section 42.252; and

27 (2) approve and transmit warrants to school districts.

1 [Sections 42.256-42.300 reserved for expansion]

2 SUBCHAPTER F. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

3 Sec. 42.301. COST OF EDUCATION ADJUSTMENT. (a) The amounts
4 of the accreditation allotments under Subchapter B and each special
5 student allotment under Subchapter C are adjusted to reflect the
6 geographic variation in known resource costs and costs of education
7 due to factors beyond the control of the school district. The
8 amount of the adjustment is 50 percent of the total amount that
9 would result from application of the cost of education index
10 adopted under Subsection (b), or a greater amount for any school
11 year provided by appropriation.

12 (b) The commissioner shall adopt a cost of education index
13 based on a statistical analysis conducted on a revenue neutral
14 basis that is designed to isolate the independent effects of
15 uncontrollable factors on the compensation that school districts
16 must pay, including teacher salaries and other benefits. The
17 analysis must include, at a minimum, variations in teacher
18 characteristics, teacher work environments, and the economic and
19 social conditions of the communities in which teachers reside.

20 (b-1) For the 2005-2006 and 2006-2007 school years, the cost
21 of education index is based on the teacher fixed effects index in
22 the 2004 report commissioned by the Joint Select Committee on
23 Public School Finance of the 78th Legislature. This subsection
24 expires September 1, 2007.

25 (c) The commissioner shall biennially update the cost of
26 education index required by this section. The commissioner shall
27 submit the updated index to the legislature not later than December

1 1 of each even-numbered year.

2 Sec. 42.302. DISTRICT SIZE AND SPARSITY ADJUSTMENT. (a)
3 The amounts of the accreditation allotments under Subchapter B and
4 each special student allotment under Subchapter C of a school
5 district that has fewer than 5,000 students in average daily
6 attendance are adjusted to reflect district costs related to the
7 district's size or sparsity.

8 (b) The commissioner shall adopt the adjustment required by
9 this section based on a statistical analysis conducted on a revenue
10 neutral basis that is designed to isolate the independent effects
11 of a school district's size and sparsity on the costs of achieving
12 the state's educational goals.

13 (c) The commissioner shall update the adjustment required
14 by this section at least once in each five-year period.

15 (d) Notwithstanding any other provision of this section, if
16 the adjustment to which a school district is entitled under this
17 section is smaller than the adjustment the district would receive
18 if the adjustments provided by Sections 42.103 and 42.105, as those
19 sections existed on January 1, 2004, were applied to the district,
20 the district is entitled to receive the larger adjustment.

21 Sec. 42.303. INFLATION ADJUSTMENT. (a) In this section,
22 "employment cost index" means the employment cost index published
23 by the Federal Bureau of Labor Statistics.

24 (b) The amounts of the accreditation allotments under
25 Subchapter B and each special student allotment under Subchapter C
26 that a school district is otherwise entitled to receive under this
27 subchapter, as adjusted under Sections 42.301 and 42.302, are

1 adjusted in accordance with this section as necessary to reflect
2 inflation.

3 (c) The commissioner shall determine the amount of the
4 adjustment for each biennium based on the difference, if any,
5 between the employment cost index most recently published as of
6 January 1 of the calendar year in which the first year of the
7 biennium begins and the employment cost index most recently
8 published as of January 1, 2005.

9 (d) The commissioner's determination under this section is
10 final and may not be appealed.

11 (e) This section applies beginning with the 2006-2007
12 school year. For that school year, the adjustment is based on the
13 difference, if any, between the employment cost index most recently
14 published on January 1, 2006, and the employment cost index most
15 recently published as of January 1, 2005. This subsection expires
16 September 1, 2007.

17 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
18 accreditation allotments under Subchapter B, the special student
19 allotments under Subchapter C, and the new instructional facility
20 allotments under Subchapter D constitutes the tier one allotments.
21 The sum of the tier one allotments and the enrichment program
22 allotments under Subchapter E constitutes the total cost of the
23 Foundation School Program.

24 (b) The program shall be financed by:

25 (1) state funds appropriated for the purposes of
26 public school education;

27 (2) ad valorem tax revenue generated by an equalized

1 uniform school district effort;

2 (3) ad valorem tax revenue generated by local school
3 district effort for an enrichment program in accordance with
4 Subchapter E; and

5 (4) state available school funds distributed in
6 accordance with law.

7 Sec. 42.305. ADDITIONAL STATE AID FOR AD VALOREM TAX
8 CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. For each school year,
9 a school district, including a school district that is otherwise
10 ineligible for state aid under this chapter, is entitled to state
11 aid in an amount equal to the amount of all tax credits credited
12 against ad valorem taxes of the district in that year under
13 Subchapter D, Chapter 313, Tax Code.

14 Sec. 42.306. LOCAL SHARE OF PROGRAM COST (TIER ONE). (a)
15 Each school district's share of the Foundation School Program is
16 determined by the following formula:

$$17 \quad \underline{LS = TR \times DPV}$$

18 where:

19 "LS" is the school district's local share;

20 "TR" is a tax rate which for each hundred dollars of valuation
21 is an effective tax rate of \$1.20; and

22 "DPV" is the taxable value of property in the school district
23 for the preceding tax year determined under Subchapter M, Chapter
24 403, Government Code.

25 (b) The commissioner shall adjust the values reported in the
26 official report of the comptroller as required by Section 5.09(a),
27 Tax Code, to reflect reductions in taxable value of property

1 resulting from natural or economic disaster after January 1 in the
2 year in which the valuations are determined. The decision of the
3 commissioner is final. An adjustment does not affect the local
4 share of any other school district.

5 (c) Appeals of district values shall be held pursuant to
6 Section 403.303, Government Code.

7 (d) A school district must adopt a maintenance and
8 operations tax rate sufficient to raise its total local share of the
9 Foundation School Program to be eligible to receive foundation
10 school fund payments. The district's adopted maintenance and
11 operations tax rate, including any enrichment tax rate under
12 Subchapter E, may not exceed the maximum rate specified by Section
13 45.003(d).

14 Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE
15 OF PROPERTY. (a) For purposes of Chapter 46 and this chapter, and
16 to the extent money specifically authorized to be used under this
17 section is available, the commissioner shall adjust the taxable
18 value of property in a school district that, due to factors beyond
19 the control of the board of trustees, experiences a rapid decline in
20 the tax base used in calculating taxable values in excess of four
21 percent of the tax base used in the preceding year.

22 (b) To the extent that a sufficient amount of money is not
23 available to fund all adjustments under this section, the
24 commissioner shall reduce adjustments in the manner provided by
25 Section 42.312(f) so that the total amount of adjustments equals
26 the amount of money available to fund the adjustments.

27 (c) A decision of the commissioner under this section is

1 final and may not be appealed.

2 Sec. 42.308. EFFECT OF APPRAISAL APPEAL. (a) If the final
3 determination of an appeal under Chapter 42, Tax Code, results in a
4 reduction in the taxable value of property that exceeds five
5 percent of the total taxable value of property in the school
6 district for the same tax year determined under Subchapter M,
7 Chapter 403, Government Code, the commissioner shall request the
8 comptroller to adjust its taxable property value findings for that
9 year consistent with the final determination of the appraisal
10 appeal.

11 (b) If the district would have received a greater amount
12 from the foundation school fund for the applicable school year
13 using the adjusted value, the commissioner shall add the difference
14 to subsequent distributions to the district from the foundation
15 school fund. An adjustment does not affect the local share of any
16 other district.

17 Sec. 42.309. ADDITIONAL TRANSITIONAL AID. (a)
18 Notwithstanding any other provision of this subtitle, a school
19 district is entitled to the amount of state revenue necessary to
20 maintain state and local revenue in an amount equal to the amount of
21 state and local revenue per student in average daily attendance for
22 maintenance and operation of the district that would have been
23 available to the district if the funding elements under Chapters 41
24 and 42, Education Code, including any amounts the district would
25 have received under Rider 82 to the appropriation to the Texas
26 Education Agency in Article III, Chapter 1330, Acts of the 78th
27 Legislature, Regular Session, 2003, in effect during the 2004-2005

1 school year were in effect for the current year.

2 (b) The amount of state funds to which a school district is
3 entitled under this section is not subject to any adjustment for
4 inflation under Section 42.303.

5 (c) The commissioner shall determine the amount of state
6 funds to which a school district is entitled under this section. The
7 commissioner's determination is final and may not be appealed.

8 Sec. 42.310. TEMPORARY LIMITATIONS ON AID. (a) In this
9 section, "public school adequacy standards" has the meaning
10 assigned by Section 42.311.

11 (b) This subsection applies to a school district otherwise
12 entitled under this subtitle to receive, for the 2005-2006 school
13 year, an amount of state and local revenue per student in average
14 daily attendance for maintenance and operation of the district that
15 exceeds the amount necessary to provide an accredited basic program
16 that meets public school adequacy standards. Notwithstanding any
17 other provision of this subtitle:

18 (1) the commissioner shall withhold from a district
19 described by this subsection the amount of state funds necessary to
20 ensure that the district does not receive a greater amount of state
21 and local revenue per student in average daily attendance for
22 maintenance and operation of the district than the amount to which
23 the district is entitled under Section 42.309; and

24 (2) a school district is entitled to the amount
25 provided by Section 42.309, regardless of the degree to which that
26 amount exceeds the amount necessary to provide an accredited basic
27 program that meets public school adequacy standards.

1 (c) Notwithstanding any other provision of this subtitle:

2 (1) for the 2006-2007 and 2007-2008 school years, the
3 commissioner shall determine the appropriate amount, based on
4 available appropriations, of state funds to withhold in the manner
5 provided by Subsection (b) from a school district that would
6 otherwise be entitled under this subtitle to receive an amount of
7 state and local revenue per student in average daily attendance
8 that exceeds, by the percentage established by the commissioner,
9 the amount necessary to provide an accredited basic program that
10 meets public school adequacy standards; and

11 (2) a school district is entitled to the amount
12 provided by Section 42.309, regardless of the degree to which that
13 amount exceeds the percentage determined under Subdivision (1) of
14 the amount necessary to provide an accredited basic program that
15 meets public school adequacy standards.

16 (d) Notwithstanding any other provision of this subtitle,
17 the commissioner shall withhold from a school district that is not
18 subject to Subsection (b) or (c) the amount of state funds necessary
19 to ensure that the district does not receive an amount of state and
20 local revenue per student in average daily attendance that is
21 greater than the following percentage of the amount to which the
22 district is entitled under Section 42.304:

23 (1) 105 percent for the 2005-2006 school year;

24 (2) 110 percent for the 2006-2007 school year; and

25 (3) 115 percent for the 2007-2008 school year.

26 (e) The commissioner shall determine the amount of state
27 funds required to be withheld under this section. Notwithstanding

1 any other provision of this section, the commissioner, in
2 determining the amount of state funds required to be withheld,
3 shall ensure that the amount of state and local revenue the district
4 receives for the 2006-2007 or 2007-2008 school year is adjusted so
5 that a district receives any annual benefit derived from the
6 inflation adjustment under Section 42.303. The commissioner's
7 determination is final and may not be appealed.

8 (f) This section expires September 1, 2008.

9 Sec. 42.311. ADDITIONAL BASIC PROGRAM AID. (a) In this
10 section, "public school adequacy standards" means standards for the
11 adequacy of funding for a public school education, as determined by
12 the legislature based on a statistical analysis of the costs of
13 achieving the educational goals of this state.

14 (b) Notwithstanding any other provision of this subtitle, a
15 school district is entitled to the amount of state revenue
16 necessary to ensure that the district has sufficient state and
17 local revenue to provide an accredited basic program that meets
18 public school adequacy standards.

19 (c) The commissioner shall determine the amount of state
20 funds to which a school district is entitled under this section.
21 The commissioner's determination is final and may not be appealed.

22 Sec. 42.312. DISTRIBUTION OF TEXAS EDUCATION FUND. (a) For
23 each school year the commissioner shall determine:

24 (1) the amount of money to which a school district is
25 entitled under Subchapters B, C, and D, as adjusted in accordance
26 with this subchapter;

27 (2) the amount of money to which a school district is

1 entitled under Subchapter E;

2 (3) the amount of money allocated to the district from
3 the available school fund;

4 (4) the amount of the district's tier one local share
5 under Section 42.306; and

6 (5) the amount of each district's enrichment program
7 local revenue under Section 42.252.

8 (b) Except as provided by this subsection, the commissioner
9 shall base the determinations under Subsection (a) on the estimates
10 provided to the legislature under Section 42.313, or, if the
11 General Appropriations Act provides estimates for that purpose, on
12 the estimates provided under that Act, for each school district for
13 each school year. The commissioner shall reduce the entitlement of
14 each district that has a final taxable value of property for the
15 second year of a state fiscal biennium that is higher than the
16 estimate under Section 42.313 or the General Appropriations Act, as
17 applicable. A reduction under this subsection may not reduce the
18 district's entitlement below the amount to which it is entitled at
19 its actual taxable value of property.

20 (c) Each school district is entitled to an amount equal to
21 the difference for that district between the sum of Subsections
22 (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and
23 (a)(5).

24 (d) The commissioner shall approve warrants to each school
25 district equaling the amount of its entitlement, except as provided
26 by this section. Warrants for all money expended according to this
27 chapter shall be approved and transmitted to treasurers or

1 depositories of school districts in the same manner that warrants
2 for state available fund payments are transmitted. The total
3 amount of the warrants issued under this section may not exceed the
4 total amount appropriated for Foundation School Program purposes
5 for that fiscal year.

6 (e) If a school district demonstrates to the satisfaction of
7 the commissioner that the estimate of the district's tax rate,
8 student enrollment, or taxable value of property used in
9 determining the amount of state funds to which the district is
10 entitled are so inaccurate as to result in undue financial hardship
11 to the district, the commissioner may adjust funding to that
12 district in that school year to the extent that funds are available
13 for that year.

14 (f) If the total amount appropriated for a year is less than
15 the amount of money to which school districts are entitled for that
16 year, the commissioner shall reduce the total amount of funds
17 allocated to each district proportionately. The following fiscal
18 year, a district's entitlement under this section is increased by
19 an amount equal to the reduction made under this subsection.

20 (g) Not later than March 1 each year, the commissioner shall
21 determine the actual amount of state funds to which each school
22 district is entitled under this chapter for the current school year
23 and shall compare that amount with the amount of the warrants issued
24 to each district for that year. If the amount of the warrants
25 differs from the amount to which a district is entitled because of
26 variations in the district's tax rate, student enrollment, or
27 taxable value of property, the commissioner shall adjust the

1 district's entitlement for the next fiscal year accordingly.

2 (h) The legislature may appropriate funds necessary for
3 increases under Subsection (g) from funds that the comptroller, at
4 any time during the fiscal year, finds are available.

5 (i) The commissioner shall compute for each school district
6 the total amount by which the district's allocation of state funds
7 is increased or reduced under Subsection (g) and shall certify that
8 amount to the district.

9 Sec. 42.313. ESTIMATES REQUIRED. (a) Not later than
10 October 1 of each even-numbered year:

11 (1) the agency shall submit to the legislature an
12 estimate of the tax rate and student enrollment of each school
13 district for the following biennium; and

14 (2) the comptroller shall submit to the legislature an
15 estimate of the total taxable value of all property in the state as
16 determined under Subchapter M, Chapter 403, Government Code, for
17 the following biennium.

18 (b) The agency and the comptroller shall update the
19 information provided to the legislature under Subsection (a) not
20 later than March 1 of each odd-numbered year.

21 Sec. 42.314. FALSIFICATION OF RECORDS; REPORT. When, in
22 the opinion of the agency's director of school audits, audits or
23 reviews of accounting, enrollment, or other records of a school
24 district reveal deliberate falsification of the records, or
25 violation of the provisions of this chapter, through which the
26 district's share of state funds allocated under the authority of
27 this chapter would be, or has been, illegally increased, the

1 director shall promptly and fully report the fact to the State Board
2 of Education, the state auditor, and the appropriate county
3 attorney, district attorney, or criminal district attorney.

4 Sec. 42.315. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In
5 this section:

6 (1) "Category 1 school district" means a school
7 district having a wealth per student of less than one-half of the
8 statewide average wealth per student.

9 (2) "Category 2 school district" means a school
10 district having a wealth per student of at least one-half of the
11 statewide average wealth per student but not more than the
12 statewide average wealth per student.

13 (3) "Category 3 school district" means a school
14 district having a wealth per student of more than the statewide
15 average wealth per student.

16 (4) "Wealth per student" means the taxable property
17 values reported by the comptroller to the commissioner under
18 Section 42.306 divided by the number of students in average daily
19 attendance.

20 (b) Payments from the Texas education fund to each category
21 1 school district shall be made as follows:

22 (1) 15 percent of the yearly entitlement of the
23 district shall be paid in an installment to be made on or before the
24 25th day of September of a fiscal year;

25 (2) 80 percent of the yearly entitlement of the
26 district shall be paid in eight equal installments to be made on or
27 before the 25th day of October, November, December, January, March,

1 May, June, and July; and

2 (3) five percent of the yearly entitlement of the
3 district shall be paid in an installment to be made on or before the
4 25th day of February.

5 (c) Payments from the Texas education fund to each category
6 2 school district shall be made as follows:

7 (1) 22 percent of the yearly entitlement of the
8 district shall be paid in an installment to be made on or before the
9 25th day of September of a fiscal year;

10 (2) 18 percent of the yearly entitlement of the
11 district shall be paid in an installment to be made on or before the
12 25th day of October;

13 (3) 9.5 percent of the yearly entitlement of the
14 district shall be paid in an installment to be made on or before the
15 25th day of November;

16 (4) 7.5 percent of the yearly entitlement of the
17 district shall be paid in an installment to be made on or before the
18 25th day of April;

19 (5) five percent of the yearly entitlement of the
20 district shall be paid in an installment to be made on or before the
21 25th day of May;

22 (6) 10 percent of the yearly entitlement of the
23 district shall be paid in an installment to be made on or before the
24 25th day of June;

25 (7) 13 percent of the yearly entitlement of the
26 district shall be paid in an installment to be made on or before the
27 25th day of July; and

1 (8) 15 percent of the yearly entitlement of the
2 district shall be paid in an installment to be made after the fifth
3 day of September and not later than the 10th day of September of the
4 calendar year following the calendar year of the payment made under
5 Subdivision (1).

6 (d) Payments from the foundation school fund to each
7 category 3 school district shall be made as follows:

8 (1) 45 percent of the yearly entitlement of the
9 district shall be paid in an installment to be made on or before the
10 25th day of September of a fiscal year;

11 (2) 35 percent of the yearly entitlement of the
12 district shall be paid in an installment to be made on or before the
13 25th day of October; and

14 (3) 20 percent of the yearly entitlement of the
15 district shall be paid in an installment to be made after the fifth
16 day of September and not later than the 10th day of September of the
17 calendar year following the calendar year of the payment made under
18 Subdivision (1).

19 (e) The amount of any installment required by this section
20 may be modified to provide a school district with the proper amount
21 to which the district may be entitled by law and to correct errors
22 in the allocation or distribution of funds. If an installment under
23 this section is required to be equal to other installments, the
24 amount of other installments may be adjusted to provide for that
25 equality.

26 (f) Except as provided by Subsection (c)(8) or (d)(3), any
27 previously unpaid additional funds from prior years owed to a

1 district shall be paid to the district together with the September
2 payment of the current year entitlement.

3 Sec. 42.316. RECOVERY OF OVERALLOCATED FUNDS. (a) If a
4 school district has received an overallocation of state funds, the
5 agency shall, by withholding from subsequent allocations of state
6 funds or by requesting and obtaining a refund, recover from the
7 district an amount equal to the overallocation.

8 (b) If a district fails to comply with a request for a refund
9 under Subsection (a), the agency shall certify to the comptroller
10 that the amount constitutes a debt for purposes of Section 403.055,
11 Government Code. The agency shall provide to the comptroller the
12 amount of the overallocation and any other information required by
13 the comptroller. The comptroller may certify the amount of the debt
14 to the attorney general for collection.

15 (c) Any amounts recovered under this section shall be
16 deposited in the Texas education fund.

17 [Sections 42.317-42.400 reserved for expansion]

18 SUBCHAPTER G. ADDITIONAL EQUALIZATION

19 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

20 (a) Except as provided by Subsection (b), a school district in
21 which the district's local share under Section 42.306 exceeds the
22 district's tier one allotment under Section 42.304 shall be
23 consolidated by the commissioner under Subchapter H, Chapter 41.

24 (b) As an alternative to consolidation under Subchapter H,
25 Chapter 41, a school district described by Subsection (a) may elect
26 to purchase average daily attendance credit in the manner provided
27 by Subchapter D, Chapter 41.

1 SECTION 1A.02. The heading to Chapter 41, Education Code,
2 is amended to read as follows:

3 CHAPTER 41. EQUALIZATION ACTIONS [~~EQUALIZED WEALTH LEVEL~~]

4 SECTION 1A.03. Section 41.006(a), Education Code, is
5 amended to read as follows:

6 (a) The commissioner may adopt rules necessary for the
7 implementation of this chapter. The rules may provide for the
8 commissioner to make necessary adjustments to the provisions of
9 Chapter 42, including providing for the commissioner to make an
10 adjustment in the funding element established by Section 42.252
11 [~~42.302~~], at the earliest date practicable, to the amount the
12 commissioner believes, taking into consideration options exercised
13 by school districts under Section 42.401 [~~this chapter~~] and
14 estimates of student enrollments, will match appropriation levels.

15 SECTION 1A.04. Section 41.008(a), Education Code, is
16 amended to read as follows:

17 (a) The governing board of a school district that results
18 from consolidation under this chapter [~~, including a consolidated~~
19 ~~taxing district under Subchapter F,~~] for the tax year in which the
20 consolidation occurs may determine whether to adopt a homestead
21 exemption provided by Section 11.13, Tax Code, and may set the
22 amount of the exemption, if adopted, at any time before the school
23 district adopts a tax rate for that tax year. This section applies
24 only to an exemption that the governing board of a school district
25 is authorized to adopt or change in amount under Section 11.13, Tax
26 Code.

27 SECTION 1A.05. Section 41.009(a), Education Code, is

1 amended to read as follows:

2 (a) A tax abatement agreement executed by a school district
3 that is involved in consolidation [~~or in detachment and annexation~~
4 ~~of territory~~] under this chapter is not affected and applies to the
5 taxation of the property covered by the agreement as if executed by
6 the district within which the property is included.

7 SECTION 1A.06. Section 41.010, Education Code, is amended
8 to read as follows:

9 Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax
10 increments under Chapter 311, Tax Code, is not affected by the
11 consolidation of territory [~~or tax bases or by annexation~~] under
12 this chapter. In each tax year a school district paying a tax
13 increment from taxes on property over which the district has
14 assumed taxing power is entitled to retain the same percentage of
15 the tax increment from that property that the district in which the
16 property was located before the consolidation [~~or annexation~~] could
17 have retained for the respective tax year.

18 SECTION 1A.07. Section 41.013(a), Education Code, is
19 amended to read as follows:

20 (a) A [~~Except as provided by Subchapter C, a~~] decision of
21 the commissioner under this chapter is appealable under Section
22 7.057.

23 SECTION 1A.08. Section 41.091, Education Code, is amended
24 to read as follows:

25 Sec. 41.091. AGREEMENT. A school district subject to
26 Section 42.401 [~~with a wealth per student that exceeds the~~
27 ~~equalized wealth level~~] may execute an agreement with the

1 commissioner to purchase attendance credits in an amount equal to
2 the difference between the district's local share under Section
3 42.306 and the district's tier one allotment under Section 42.304
4 ~~[sufficient, in combination with any other actions taken under this~~
5 ~~chapter, to reduce the district's wealth per student to a level that~~
6 ~~is equal to or less than the equalized wealth level].~~

7 SECTION 1A.09. Section 41.093, Education Code, is amended
8 by amending Subsection (a) and adding Subsection (d) to read as
9 follows:

10 (a) The cost of each credit is an amount equal to the greater
11 of:

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

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

20 (d) The commissioner shall adopt rules governing, for
21 purposes of this section, the collection of delinquent ad valorem
22 taxes. The rules may provide for documentation and other
23 recordkeeping requirements.

24 SECTION 1A.10. Section 41.251, Education Code, is amended
25 to read as follows:

26 Sec. 41.251. COMMISSIONER ORDER. If the commissioner is
27 required under Section 42.401 ~~[41.004]~~ to order the consolidation

1 of districts, the consolidation is governed by this subchapter.
2 The commissioner's order shall be effective on a date determined by
3 the commissioner, but not later than the earliest practicable date
4 after November 8.

5 SECTION 1A.11. Section 41.252, Education Code, is amended
6 by amending Subsections (a) and (c) and adding Subsection (d) to
7 read as follows:

8 (a) In selecting the districts to be consolidated with a
9 district subject to Section 42.401 [~~that has a property wealth~~
10 ~~greater than the equalized wealth level~~], the commissioner shall
11 select one or more districts with a local share under Section 42.306
12 [~~wealth per student~~] that, when consolidated, will result in a
13 consolidated district that is not subject to Section 42.401 [~~with a~~
14 ~~wealth per student equal to or less than the equalized wealth~~
15 ~~level~~]. In achieving that result, the commissioner shall give
16 priority to school districts in the following order:

17 (1) first, to the contiguous district that has the
18 lowest local share percentage [~~wealth per student~~] and is located
19 in the same county;

20 (2) second, to the district that has the lowest local
21 share percentage [~~wealth per student~~] and is located in the same
22 county;

23 (3) third, to a contiguous district not subject to
24 Section 42.401 [~~with a property wealth below the equalized wealth~~
25 ~~level~~] that has requested the commissioner to consider [~~that~~]
26 for inclusion [~~be considered~~] in a consolidation plan;

27 (4) fourth, to include as few districts as possible

1 that are not subject to Section 42.401 and [~~fall below the equalized~~
2 ~~wealth level within the consolidation order that~~] have not
3 requested the commissioner to be included in a consolidation plan;

4 (5) fifth, to the district that has the lowest local
5 share percentage [~~wealth per student~~] and is located in the same
6 regional education service center area; and

7 (6) sixth, to a district that has a tax rate similar to
8 that of the district subject to Section 42.401 [~~that has a property~~
9 ~~wealth greater than the equalized wealth level~~].

10 (c) In applying the selection criteria specified by
11 Subsection (a), if more than two districts are to be consolidated,
12 the commissioner shall select the third and each subsequent
13 district to be consolidated by treating the district subject to
14 Section 42.401 [~~that has a property wealth greater than the~~
15 ~~equalized wealth level~~] and the district or districts previously
16 selected for consolidation as one district.

17 (d) In this section, "local share percentage" means a
18 percentage determined by dividing a school district's local share
19 under Section 42.306 by the district's tier one allotment under
20 Section 42.304.

21 SECTION 1A.12. Section 41.257, Education Code, is amended
22 to read as follows:

23 Sec. 41.257. APPLICATION OF SIZE AND SPARSITY [~~SMALL AND~~
24 ~~SPARSE~~] ADJUSTMENTS [~~AND TRANSPORTATION ALLOTMENT~~]. The budget of
25 the consolidated district must apply the benefit of the adjustment
26 or allotment to the schools of the consolidating district to which
27 Section 42.302 [~~42.103, 42.105, or 42.155~~] would have applied in

1 the event that the consolidated district still qualifies for that
2 adjustment [~~as a small or sparse district~~].

3 SECTION 1A.13. Section 45.003, Education Code, is amended
4 by amending Subsections (a) and (d) and adding Subsections (e) and
5 (f) to read as follows:

6 (a) Bonds described by Section 45.001 may not be issued and
7 taxes described by Section 45.001 or 45.002 may not be levied unless
8 authorized by a majority of the qualified voters of the district,
9 voting at an election held for that purpose[, ~~at the expense of the~~
10 ~~district, in accordance with the Election Code, except as provided~~
11 ~~by this section. Each election must be called by resolution or~~
12 ~~order of the governing board or commissioners court. The~~
13 ~~resolution or order must state the date of the election, the~~
14 ~~proposition or propositions to be submitted and voted on, the~~
15 ~~polling place or places, and any other matters considered necessary~~
16 ~~or advisable by the governing board or commissioners court~~].

17 (d) A proposition submitted to authorize the levy of
18 maintenance taxes must include the question of whether the
19 governing board or commissioners court may levy, assess, and
20 collect annual ad valorem taxes for the further maintenance of
21 public schools, at a rate not to exceed the rate, which may be not
22 more than \$1.30 [~~\$1.50~~] on the \$100 valuation of taxable property in
23 the district, stated in the proposition.

24 (e) An election held before January 1, 2004, authorizing a
25 maintenance tax at a rate of at least \$1.30 on the \$100 valuation of
26 taxable property in the district is sufficient to authorize a rate
27 of \$1.30 or less.

1 (f) A district permitted by special law on January 1, 2004,
2 to impose an ad valorem tax at a rate greater than \$1.50 may
3 continue to impose a rate that is \$0.20 less than the rate
4 previously authorized.

5 SECTION 1A.14. Section 26.08, Tax Code, is amended by
6 amending Subsections (i) and (j) and adding Subsections (i-1) and
7 (i-2) to read as follows:

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

10 (1) the tax rate that, applied to the current total
11 value for the district, would impose taxes in an amount that, when
12 added to state funds that would be distributed to the district under
13 Chapter 42, Education Code, for the school year beginning in the
14 current tax year using that tax rate, would provide the same amount
15 of state funds distributed under Chapter 42 and maintenance and
16 operations taxes of the district per student in [~~weighted~~] average
17 daily attendance for that school year that would have been
18 available to the district in the preceding year if the funding
19 elements for Chapters 41 and 42, Education Code, for the current
20 year, including the adjustment for inflation under Section 42.303,
21 Education Code, had been in effect for the preceding year; and

22 (2) [~~the rate of \$0.06 per \$100 of taxable value, and~~
23 [~~3~~] the district's current debt rate.

24 (i-1) For purposes of this section, for the 2005 tax year
25 the rollback tax rate of a school district, including a district to
26 which Section 45.003(f), Education Code, applies, is the sum of:

27 (1) the rate of \$1.20 per \$100 of taxable value for

1 maintenance and operation of the district; and

2 (2) the district's current debt rate.

3 (i-2) Subsection (i-1) and this subsection expire January
4 1, 2006.

5 (j) For purposes of Subsection (i), the amount of state
6 funds that would have been available to a school district in the
7 preceding year is computed using the maximum tax rate for the
8 current year under Section 45.003(d) [~~42.253(e)~~], Education Code.

9 PART B. SCHOOL DISTRICT FACILITIES

10 SECTION 1B.01. Section 46.002(b), Education Code, is
11 amended to read as follows:

12 (b) The commissioner's rules shall [~~may~~] limit the amount of
13 an allotment under this subchapter that is to be used to construct,
14 acquire, renovate, or improve an instructional facility that may
15 also be used for noninstructional or extracurricular activities.
16 An allotment under this subchapter may not be used to construct,
17 acquire, renovate, or improve a facility, such as a stadium, if the
18 facility's predominant use is for extracurricular purposes or for
19 purposes other than teaching the curriculum required under Section
20 28.002.

21 SECTION 1B.02. Section 46.008, Education Code, is amended
22 to read as follows:

23 Sec. 46.008. STANDARDS AND BEST PRACTICES. (a) The
24 commissioner shall establish standards for adequacy of school
25 facilities. The standards must include requirements related to
26 [~~space~~] educational adequacy[~~7~~] and construction quality. The
27 standards may not include requirements related to space or square

1 footage for a facility or any part of a facility. All new
2 facilities constructed after September 1, 1998, must meet or exceed
3 the standards to be eligible to be financed with state or local tax
4 funds.

5 (b) The commissioner shall establish a program of best
6 practices for the construction, replacement, renovation, or
7 improvement of school facilities. The program must:

8 (1) include solicitation of information from school
9 districts on best practices;

10 (2) recognize school districts that have achieved
11 cost-effectiveness in construction and long-term maintenance;

12 (3) emphasize cost-effectiveness, energy efficiency,
13 functionality, and replicability;

14 (4) be designed to encourage, without imposing
15 requirements relating to specific criteria, school district
16 consideration of:

17 (A) best practices, including evaluation of the
18 school district's financial status, total amount of outstanding
19 debt, maturity of outstanding debt, and preventive maintenance of
20 facilities;

21 (B) cost-effectiveness;

22 (C) projected enrollment in the portion of the
23 school district to be served by a facility for which state financial
24 assistance is sought; and

25 (D) if applicable, the condition of a facility
26 that is to be replaced, renovated, or improved with state financial
27 assistance; and

1 (5) include a process for local evaluation of the need
2 for construction, acquisition, renovation, or improvement of a
3 facility.

4 (c) This section may not be construed in a manner that
5 impairs or eliminates a guarantee of an eligible bond under
6 Subchapter C, Chapter 45.

7 SECTION 1B.03. Section 46.033, Education Code, is amended
8 to read as follows:

9 Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued
10 under Section 45.006, are eligible to be paid with state and local
11 funds under this subchapter if the district does not receive state
12 assistance under Subchapter A for payment of the principal and
13 interest on the bonds and:

14 (1) the proceeds of the bonds were used to construct,
15 acquire, renovate, or improve an instructional facility, as defined
16 by Section 46.001, and the district made payments on the bonds
17 during the final school year of the state fiscal biennium preceding
18 the biennium in which the district first receives assistance under
19 this subchapter for the payment of principal of and interest on the
20 bonds or taxes levied to pay the principal of and interest on the
21 bonds were included in the district's audited debt service
22 collections for that school year; or

23 (2) the district made payments on the bonds during the
24 2002-2003 school year or taxes levied to pay the principal of and
25 interest on the bonds were included in the district's audited debt
26 service collections for that school year [~~, and~~

27 ~~[(2) the district does not receive state assistance~~

1 ~~under Subchapter A for payment of the principal and interest on the~~
2 ~~bonds].~~

3 SECTION 1B.04. Section 46.034(c), Education Code, is
4 amended to read as follows:

5 (c) If the amount required to pay the principal of and
6 interest on eligible bonds in a school year is less than the amount
7 of payments made by the district on the bonds during the final
8 [2002-2003] school year of the state fiscal biennium preceding the
9 biennium in which the district first receives assistance under this
10 subchapter for the payment of principal of and interest on the bonds
11 or the district's audited debt service collections for that school
12 year, the district may not receive aid in excess of the amount that,
13 when added to the district's local revenue for the school year,
14 equals the amount required to pay the principal of and interest on
15 the bonds.

16 SECTION 1B.05. Section 46.008(a), Education Code, as
17 amended by this part, applies to a school facility for which
18 construction begins on or after the effective date of this part, and
19 such a facility is not required to meet any requirements related to
20 space established by the commissioner of education under that
21 section as it existed before amendment by this part.

22 SECTION 1B.06. Subchapter A, Chapter 46, Education Code, as
23 amended by this part, applies only to the payment of state
24 assistance under Subchapter A, Chapter 46, Education Code, for
25 which a school district applies on or after September 1, 2005.
26 Payment of state assistance under Subchapter A, Chapter 46,
27 Education Code, for which a school district applies before

1 September 1, 2005, is governed by the law in effect on the date the
2 district applies for the state assistance, and the former law is
3 continued in effect for that purpose.

4 SECTION 1B.07. Subchapter B, Chapter 46, Education Code, as
5 amended by this part, applies only to bonds that first become
6 eligible for payment with state assistance under that subchapter
7 after January 1, 2004. Bonds that were eligible for payment with
8 state assistance under that subchapter as of January 1, 2004, are
9 governed by that subchapter as it existed before amendment by this
10 part, and the former law is continued in effect for that purpose.

11 PART C. STUDY ON PUBLIC LAW NO. 108-173

12 SECTION 1C.01. The Teacher Retirement System of Texas shall
13 conduct a study regarding Pub. L. No. 108-173.

14 SECTION 1C.02. Not later than January 1, 2005, the Teacher
15 Retirement System of Texas shall report the results of the study
16 conducted under this part in writing to the lieutenant governor,
17 the speaker of the house of representatives, and the members and
18 members-elect of the 79th Legislature.

19 PART D. COMPENSATION SUPPLEMENTATION FOR CERTAIN ACTIVE

20 SCHOOL EMPLOYEES

21 SECTION 1D.01. Notwithstanding any other law, with respect
22 to classroom teachers, full-time librarians, full-time counselors,
23 or full-time school nurses employed by the district, school, or
24 service center, the trustee under Chapter 1580, Insurance Code,
25 shall deliver an amount, as determined by the trustee, equal to the
26 number of classroom teachers, full-time librarians, full-time
27 counselors, and full-time school nurses employed by the district,

1 school, or service center multiplied by \$1,000 or a greater amount
2 as provided by the General Appropriations Act for purposes of
3 Chapter 1580.

4 SECTION 1D.02. Chapter 313, Acts of the 78th Legislature,
5 Regular Session, 2003, is repealed.

6 PART E. SOCIAL SECURITY CONTRIBUTIONS

7 SECTION 1E.01. Subchapter B, Chapter 606, Government Code,
8 is amended by adding Section 606.0261 to read as follows:

9 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

10 (a) Subject to Subsection (b), the state shall pay 50 percent of
11 the total costs incurred by a school district in making
12 contributions for social security coverage for the district's
13 employees.

14 (b) Payment of state assistance under this section is
15 limited to:

16 (1) school districts that covered district employees
17 under the social security program before January 1, 2004; and

18 (2) contributions made on behalf of employees in a
19 class of employees the district covered under the social security
20 program before January 1, 2004.

21 (c) Using funds appropriated for the purpose, the
22 commissioner of education shall distribute money to which school
23 districts are entitled under this section in accordance with rules
24 adopted by the commissioner.

25 SECTION 1E.02. This part takes effect September 1, 2005.

26 PART F. CONFORMING AMENDMENTS

27 SECTION 1F.01. Section 7.024(a), Education Code, is amended

1 to read as follows:

2 (a) The investment capital fund consists of money
3 appropriated by the legislature for that purpose [~~transferred to~~
4 ~~the fund as provided by Section 42.152(1)~~]. The agency shall
5 administer the fund. The purposes of this fund are to assist
6 eligible public schools to implement practices and procedures
7 consistent with deregulation and school restructuring in order to
8 improve student achievement and to help schools identify and train
9 parents and community leaders who will hold the school and the
10 school district accountable for achieving high academic standards.

11 SECTION 1F.02. Section 7.055(b)(34), Education Code, is
12 amended to read as follows:

13 (34) The commissioner shall perform duties in
14 connection with equalization actions [~~the equalized wealth level~~]
15 under Chapter 41.

16 SECTION 1F.03. Section 8.051(d), Education Code, is amended
17 to read as follows:

18 (d) Each regional education service center shall maintain
19 core services for purchase by school districts and campuses. The
20 core services are:

21 (1) training and assistance in teaching each subject
22 area assessed under Section 39.023;

23 (2) training and assistance in providing:

24 (A) each program that qualifies for a funding
25 allotment under Section 42.151, 42.152, or 42.153 [~~or 42.156~~]; or

26 (B) a gifted and talented program under
27 Subchapter D, Chapter 29;

1 (3) assistance specifically designed for a school
2 district rated academically unacceptable under Section 39.072(a)
3 or a campus whose performance is considered unacceptable based on
4 the indicators adopted under Section 39.051;

5 (4) training and assistance to teachers,
6 administrators, members of district boards of trustees, and members
7 of site-based decision-making committees;

8 (5) assistance specifically designed for a school
9 district that is considered out of compliance with state or federal
10 special education requirements, based on the agency's most recent
11 compliance review of the district's special education programs; and

12 (6) assistance in complying with state laws and rules.

13 SECTION 1F.04. Section 11.158(a), Education Code, is
14 amended to read as follows:

15 (a) The board of trustees of an independent school district
16 may require payment of:

17 (1) a fee for materials used in any program in which
18 the resultant product in excess of minimum requirements becomes, at
19 the student's option, the personal property of the student, if the
20 fee does not exceed the cost of materials;

21 (2) membership dues in student organizations or clubs
22 and admission fees or charges for attending extracurricular
23 activities, if membership or attendance is voluntary;

24 (3) a security deposit for the return of materials,
25 supplies, or equipment;

26 (4) a fee for personal physical education and athletic
27 equipment and apparel, although any student may provide the

1 student's own equipment or apparel if it meets reasonable
2 requirements and standards relating to health and safety
3 established by the board;

4 (5) a fee for items of personal use or products that a
5 student may purchase at the student's option, such as student
6 publications, class rings, annuals, and graduation announcements;

7 (6) a fee specifically permitted by any other statute;

8 (7) a fee for an authorized voluntary student health
9 and accident benefit plan;

10 (8) a reasonable fee, not to exceed the actual annual
11 maintenance cost, for the use of musical instruments and uniforms
12 owned or rented by the district;

13 (9) a fee for items of personal apparel that become the
14 property of the student and that are used in extracurricular
15 activities;

16 (10) a parking fee or a fee for an identification card;

17 (11) a fee for a driver training course, not to exceed
18 the actual district cost per student in the program for the current
19 school year;

20 (12) a fee for a course offered for credit that
21 requires the use of facilities not available on the school premises
22 or the employment of an educator who is not part of the school's
23 regular staff, if participation in the course is at the student's
24 option;

25 (13) a fee for a course offered during summer school,
26 except that the board may charge a fee for a course required for
27 graduation only if the course is also offered without a fee during

1 the regular school year;

2 (14) a reasonable fee for transportation of a student
3 who lives within two miles of the school the student attends to and
4 from that school, except that the board may not charge a fee for
5 transportation for which the school district receives grant funds
6 under Section 34.0071 [~~42.155(d)~~]; or

7 (15) a reasonable fee, not to exceed \$50, for costs
8 associated with an educational program offered outside of regular
9 school hours through which a student who was absent from class
10 receives instruction voluntarily for the purpose of making up the
11 missed instruction and meeting the level of attendance required
12 under Section 25.092.

13 SECTION 1F.05. Section 12.013(b), Education Code, is
14 amended to read as follows:

15 (b) A home-rule school district is subject to:

16 (1) a provision of this title establishing a criminal
17 offense;

18 (2) a provision of this title relating to limitations
19 on liability; and

20 (3) a prohibition, restriction, or requirement, as
21 applicable, imposed by this title or a rule adopted under this
22 title, relating to:

23 (A) the Public Education Information Management
24 System (PEIMS) to the extent necessary to monitor compliance with
25 this subchapter as determined by the commissioner;

26 (B) educator certification under Chapter 21 and
27 educator rights under Sections 21.407, 21.408, and 22.001;

- 1 (C) criminal history records under Subchapter C,
2 Chapter 22;
- 3 (D) student admissions under Section 25.001;
- 4 (E) school attendance under Sections 25.085,
5 25.086, and 25.087;
- 6 (F) inter-district or inter-county transfers of
7 students under Subchapter B, Chapter 25;
- 8 (G) elementary class size limits under Section
9 25.112, in the case of any campus in the district that is considered
10 low-performing under Section 39.132;
- 11 (H) high school graduation under Section 28.025;
- 12 (I) special education programs under Subchapter
13 A, Chapter 29;
- 14 (J) bilingual education under Subchapter B,
15 Chapter 29;
- 16 (K) prekindergarten programs under Subchapter E,
17 Chapter 29;
- 18 (L) safety provisions relating to the
19 transportation of students under Sections 34.002, 34.003, 34.004,
20 and 34.008;
- 21 (M) computation and distribution of state aid
22 under Chapters 31, 42, and 43;
- 23 (N) extracurricular activities under Section
24 33.081;
- 25 (O) health and safety under Chapter 38;
- 26 (P) public school accountability under
27 Subchapters B, C, D, and G, Chapter 39;

1 (Q) equalization [~~equalized wealth~~] under
2 Section 42.401 [~~Chapter 41~~];

3 (R) a bond or other obligation or tax rate under
4 Chapters 42, 43, and 45; and

5 (S) purchasing under Chapter 44.

6 SECTION 1F.06. Section 12.106(a), Education Code, is
7 amended to read as follows:

8 (a) A charter holder is entitled to receive for the
9 open-enrollment charter school funding under Chapter 42 as if the
10 school were a school district without a tier one local share for
11 purposes of Section 42.306 [~~42.253~~] and without any local revenue
12 ("LR") for purposes of Section 42.252 [~~42.302~~]. In determining
13 funding for an open-enrollment charter school:

14 (1) the adjustment [~~, adjustments~~] under Section
15 42.301 is [~~Sections 42.102, 42.103, 42.104, and 42.105 and the~~
16 ~~district enrichment tax rate ("DTR") under Section 42.302 are based~~
17 ~~on~~] the [average] adjustment for the school district in which the
18 school is located; and

19 (2) the district enrichment tax rate under Section
20 42.252 is the average district enrichment tax rate for the state.

21 SECTION 1F.07. Section 13.054(f), Education Code, is
22 amended to read as follows:

23 (f) For five years beginning with the school year in which
24 the annexation occurs, the commissioner shall annually adjust the
25 local share [~~fund assignment~~] of a district to which territory is
26 annexed under this section by multiplying the enlarged district's
27 local share [~~fund assignment~~] computed under Section 42.306

1 [42.252] by a fraction, the numerator of which is the number of
2 students residing in the district preceding the date of the
3 annexation and the denominator of which is the number of students
4 residing in the district as enlarged on the date of the annexation.

5 SECTION 1F.08. Sections 13.282(a) and (b), Education Code,
6 are amended to read as follows:

7 (a) The amount of incentive aid payments may not exceed the
8 difference between:

9 (1) the sum of the entitlements computed under Section
10 42.312 [42.253] that would have been paid to the districts included
11 in the reorganized district if the districts had not been
12 consolidated; and

13 (2) the amount to which the reorganized district is
14 entitled under Section 42.312 [42.253].

15 (b) If the reorganized district is not eligible for an
16 entitlement under Section 42.312 [42.253], the amount of the
17 incentive aid payments may not exceed the sum of the entitlements
18 computed under Section 42.312 [42.253] for which the districts
19 included in the reorganized district were eligible in the school
20 year when they were consolidated.

21 SECTION 1F.09. Sections 21.402(a) and (c), Education Code,
22 are amended to read as follows:

23 (a) Except as provided by Subsection (d)[~~(e)~~] or (f), a
24 school district must pay each classroom teacher, full-time
25 librarian, full-time counselor certified under Subchapter B, or
26 full-time school nurse not less than the minimum monthly salary,
27 based on the employee's level of experience, prescribed by

1 Subsection (c) [~~determined by the following formula:~~

2
$$[MS = SF \times FS$$

3 [~~where:~~

4 ["MS" is the minimum monthly salary,

5 ["SF" is the applicable salary factor specified by Subsection
6 (c), and

7 ["FS" is the amount, as determined by the commissioner under
8 Subsection (b), of state and local funds per weighted student
9 available to a district eligible to receive state assistance under
10 Section 42.302 with an enrichment tax rate, as defined by Section
11 42.302, equal to the maximum rate authorized under Section 42.303,
12 except that the amount of state and local funds per weighted student
13 does not include the amount attributable to the increase in the
14 guaranteed level made by H.B. No. 3343, Acts of the 77th
15 Legislature, Regular Session, 2001].

16 (c) The minimum monthly salary under this section is
17 [~~factors per step are~~] as follows:

18	Years Experience	0	1	2
19	<u>Monthly Salary</u>	<u>\$2,424</u> [-.5656]	<u>\$2,481</u> [-.5790]	<u>\$2,539</u> [-.5924]
20	[Factor]			
21	Years Experience	3	4	5
22	<u>Monthly Salary</u>	<u>\$2,596</u> [-.6058]	<u>\$2,717</u> [-.6340]	<u>\$2,838</u> [-.6623]
23	[Factor]			
24	Years Experience	6	7	8
25	<u>Monthly Salary</u>	<u>\$2,959</u> [-.6906]	<u>\$3,072</u> [-.7168]	<u>\$3,178</u> [-.7416]
26	[Factor]			
27	Years Experience	9	10	11

1	<u>Monthly</u> Salary	<u>\$3,279</u> [.7651]	<u>\$3,373</u> [.7872]	<u>\$3,464</u> [.8082]
2	[Factor]			
3	Years Experience	12	13	14
4	<u>Monthly</u> Salary	<u>\$3,549</u> [.8281]	<u>\$3,628</u> [.8467]	<u>\$3,705</u> [.8645]
5	[Factor]			
6	Years Experience	15	16	17
7	<u>Monthly</u> Salary	<u>\$3,776</u> [.8811]	<u>\$3,844</u> [.8970]	<u>\$3,908</u> [.9119]
8	[Factor]			
9	Years Experience	18	19	20 and over
10	<u>Monthly</u> Salary	<u>\$3,968</u> [.9260]	<u>\$4,026</u> [.9394]	<u>\$4,080</u> [.9520]
11	[Factor]			

12 SECTION 1F.10. Section 21.410(h), Education Code, is
 13 amended to read as follows:

14 (h) A grant a school district receives under this section is
 15 in addition to any funding the district receives under Chapter 42.
 16 The commissioner shall distribute funds under this section with the
 17 Foundation School Program payment to which the district is entitled
 18 as soon as practicable after the end of the school year as
 19 determined by the commissioner. A district to which Section 42.401
 20 [~~Chapter 41~~] applies is entitled to the grants paid under this
 21 section. The commissioner shall determine the timing of the
 22 distribution of grants to a district that does not receive
 23 Foundation School Program payments.

24 SECTION 1F.11. Section 21.411(h), Education Code, is
 25 amended to read as follows:

26 (h) A grant a school district receives under this section is
 27 in addition to any funding the district receives under Chapter 42.

1 The commissioner shall distribute funds under this section with the
2 Foundation School Program payment to which the district is entitled
3 as soon as practicable after the end of the school year as
4 determined by the commissioner. A district to which Section 42.401
5 [~~Chapter 41~~] applies is entitled to the grants paid under this
6 section. The commissioner shall determine the timing of the
7 distribution of grants to a district that does not receive
8 Foundation School Program payments.

9 SECTION 1F.12. Section 21.412(h), Education Code, is
10 amended to read as follows:

11 (h) A grant a school district receives under this section is
12 in addition to any funding the district receives under Chapter 42.
13 The commissioner shall distribute funds under this section with the
14 Foundation School Program payment to which the district is entitled
15 as soon as practicable after the end of the school year as
16 determined by the commissioner. A district to which Section 42.401
17 [~~Chapter 41~~] applies is entitled to the grants paid under this
18 section. The commissioner shall determine the timing of the
19 distribution of grants to a district that does not receive
20 Foundation School Program payments.

21 SECTION 1F.13. Section 21.413(h), Education Code, as added
22 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular
23 Session, 2003, is amended to read as follows:

24 (h) A grant a school district receives under this section is
25 in addition to any funding the district receives under Chapter 42.
26 The commissioner shall distribute funds under this section with the
27 Foundation School Program payment to which the district is entitled

1 as soon as practicable after the end of the school year as
2 determined by the commissioner. A district to which Section 42.401
3 [~~Chapter 41~~] applies is entitled to the grants paid under this
4 section. The commissioner shall determine the timing of the
5 distribution of grants to a district that does not receive
6 Foundation School Program payments.

7 SECTION 1F.14. Section 29.002, Education Code, is amended
8 to read as follows:

9 Sec. 29.002. DEFINITION. In this subchapter, "special
10 services" means:

11 (1) special education instruction, which may be
12 provided by professional and supported by paraprofessional
13 personnel in the regular classroom or in an alternate instructional
14 arrangement [~~described by Section 42.151~~]; and

15 (2) related services, which are developmental,
16 corrective, supportive, or evaluative services, not instructional
17 in nature, that may be required for the student to benefit from
18 special education instruction and for implementation of a student's
19 individualized education program.

20 SECTION 1F.15. Section 29.008(b), Education Code, is
21 amended to read as follows:

22 (b) Except as provided by Subsection (c), costs of an
23 approved contract for residential placement may be paid from a
24 combination of federal, state, and local funds. The legislature by
25 appropriation shall provide for the state's share of the costs of
26 these placements. The local share of the total contract cost for
27 each student is that portion of the local tax effort that exceeds

1 the district's local share [~~fund assignment~~] under Section 42.306
2 [~~42.252~~], divided by the average daily attendance in the district.
3 If the contract involves a private facility, the state share of the
4 total contract cost is that amount remaining after subtracting the
5 local share. If the contract involves a public facility, the state
6 share is that amount remaining after subtracting the local share
7 from the portion of the contract that involves the costs of
8 instructional and related services. For purposes of this
9 subsection, "local tax effort" means the total amount of money
10 generated by taxes imposed for debt service and maintenance and
11 operation less any amounts paid into a tax increment fund under
12 Chapter 311, Tax Code.

13 SECTION 1F.16. Section 29.014(d), Education Code, is
14 amended to read as follows:

15 (d) The accreditation [~~basic~~] allotment for a student
16 enrolled in a district to which this section applies is adjusted by:

17 (1) the cost of education adjustment under Section
18 42.301 [~~42.102~~] for the school district in which the district is
19 geographically located; and

20 (2) any other appropriate factor adopted by the
21 commissioner [~~the weight for a homebound student under Section~~
22 ~~42.151(a)~~].

23 SECTION 1F.17. Section 29.087(j), Education Code, is
24 amended to read as follows:

25 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
26 46, a student attending a program authorized by this section may be
27 counted in attendance only for the actual number of hours each

1 school day the student attends the program, in accordance with
2 Sections 25.081 and 25.082.

3 SECTION 1F.18. Section 29.203(b), Education Code, is
4 amended to read as follows:

5 (b) A school district is entitled to the allotment provided
6 by Section 42.155 [~~42.157~~] for each eligible student using a public
7 education grant. [~~If the district has a wealth per student greater
8 than the guaranteed wealth level but less than the equalized wealth
9 level, a school district is entitled under rules adopted by the
10 commissioner to additional state aid in an amount equal to the
11 difference between the cost to the district of providing services
12 to a student using a public education grant and the sum of the state
13 aid received because of the allotment under Section 42.157 and
14 money from the available school fund attributable to the student.~~]

15 SECTION 1F.19. Section 33.002(a), Education Code, is
16 amended to read as follows:

17 (a) This section applies only to a school district that
18 receives funds as provided by Section 42.1521 [~~42.152(i)~~].

19 SECTION 1F.20. Section 34.002(c), Education Code, is
20 amended to read as follows:

21 (c) A school district that fails or refuses to meet the
22 safety standards for school buses established under this section is
23 ineligible for a state transportation grant [~~to share in the
24 transportation allotment~~] under Section 34.0071 [~~42.155~~] until the
25 first anniversary of the date the district begins complying with
26 the safety standards.

27 SECTION 1F.21. Chapter 34, Education Code, is amended by

1 adding Section 34.0071 to read as follows:

2 Sec. 34.0071. STATE TRANSPORTATION GRANTS. (a) Using
3 funds appropriated for the purpose, the commissioner may award a
4 grant to a school district or county that operates a public school
5 transportation system under Section 34.007.

6 (b) The commissioner shall adopt rules governing the grant
7 program authorized by this section. The rules must provide for a
8 funding system that:

9 (1) gives priority to school districts and counties
10 with the highest number of route miles per student; and

11 (2) concentrates funding in school districts and
12 counties with higher-than-average transportation costs per
13 student.

14 (c) Money awarded under this section must be used in
15 providing public school transportation services.

16 SECTION 1F.22. Section 37.0061, Education Code, is amended
17 to read as follows:

18 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
19 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
20 education services to pre-adjudicated and post-adjudicated
21 students who are confined by court order in a juvenile residential
22 facility operated by a juvenile board is entitled to count such
23 students in the district's average daily attendance for purposes of
24 receipt of state funds under the Foundation School Program. [~~If the~~
25 ~~district has a wealth per student greater than the guaranteed~~
26 ~~wealth level but less than the equalized wealth level, the district~~
27 ~~in which the student is enrolled on the date a court orders the~~

1 ~~student to be confined to a juvenile residential facility shall~~
2 ~~transfer to the district providing education services an amount~~
3 ~~equal to the difference between the average Foundation School~~
4 ~~Program costs per student of the district providing education~~
5 ~~services and the sum of the state aid and the money from the~~
6 ~~available school fund received by the district that is attributable~~
7 ~~to the student for the portion of the school year for which the~~
8 ~~district provides education services to the student.]~~

9 SECTION 1F.23. Section 39.031, Education Code, is amended
10 to read as follows:

11 Sec. 39.031. COST. (a) The commissioner shall set aside an
12 appropriate amount from the Foundation School Program to pay the
13 cost of preparing, administering, or grading the assessment
14 instruments and the ~~[shall be paid from the funds allotted under~~
15 ~~Section 42.152, and each district shall bear the cost in the same~~
16 ~~manner described for a reduction in allotments under Section~~
17 ~~42.253. If a district does not receive an allotment under Section~~
18 ~~42.152, the commissioner shall subtract the cost from the~~
19 ~~district's other foundation school fund allotments.~~

20 ~~[(b) The]~~ cost of releasing the question and answer keys
21 under Section 39.023(e) ~~[shall be paid from amounts appropriated~~
22 ~~to the agency].~~

23 (b) After setting aside an appropriate amount in accordance
24 with this section, the commissioner shall reduce each district's
25 tier one allotments proportionately. A reduction in tier one
26 allotments under this subsection does not affect the computation of
27 guaranteed level of state and local enrichment funds per student in

1 average daily attendance per cent of tax effort under Section
2 42.252.

3 (c) Any amount set aside under this section must be approved
4 by the Legislative Budget Board and the governor's office of budget
5 and planning.

6 SECTION 1F.24. Section 39.134, Education Code, is amended
7 to read as follows:

8 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
9 a monitor, conservator, management team, or special campus
10 intervention team shall be paid by the district. If the district
11 fails or refuses to pay the costs in a timely manner, the
12 commissioner may:

13 (1) pay the costs using amounts withheld from any
14 funds to which the district is otherwise entitled; or

15 (2) recover the amount of the costs in the manner
16 provided for recovery of an overallocation of state funds under
17 Section 42.316 [~~42.258~~].

18 SECTION 1F.25. Section 43.002(b), Education Code, is
19 amended to read as follows:

20 (b) Of the amounts available for transfer from the general
21 revenue fund to the available school fund for the months of January
22 and February of each fiscal year, no more than the amount necessary
23 to enable the comptroller to distribute from the available school
24 fund an amount equal to 9-1/2 percent of the estimated annual
25 available school fund apportionment to category 1 school districts,
26 as defined by Section 42.315 [~~42.259~~], and 3-1/2 percent of the
27 estimated annual available school fund apportionment to category 2

1 school districts, as defined by Section 42.315 [~~42.259~~], may be
2 transferred from the general revenue fund to the available school
3 fund. Any remaining amount that would otherwise be available for
4 transfer for the months of January and February shall be
5 transferred from the general revenue fund to the available school
6 fund in equal amounts in June and in August of the same fiscal year.

7 SECTION 1F.26. Section 46.003(a), Education Code, is
8 amended to read as follows:

9 (a) For each year, except as provided by Sections 46.005 and
10 46.006, a school district is guaranteed a specified amount per
11 student in state and local funds for each cent of tax effort, up to
12 the maximum rate under Subsection (b), to pay the principal of and
13 interest on eligible bonds issued to construct, acquire, renovate,
14 or improve an instructional facility. The amount of state support
15 is determined by the formula:

16
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

17 where:

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

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

23 "ADA" is the greater of the number of students in average
24 daily attendance, as determined under Section 42.005, in the
25 district or 400;

26 "BTR" is the district's bond tax rate for the current year,
27 which is determined by dividing the amount budgeted by the district

1 for payment of eligible bonds by the quotient of the district's
2 taxable value of property as determined under Subchapter M, Chapter
3 403, Government Code, or, if applicable, Section 42.307 [~~42.2521~~],
4 divided by 100; and

5 "DPV" is the district's taxable value of property as
6 determined under Subchapter M, Chapter 403, Government Code, or, if
7 applicable, Section 42.307 [~~42.2521~~].

8 SECTION 1F.27. Section 46.006(g), Education Code, is
9 amended to read as follows:

10 (g) In this section, "wealth per student" means a school
11 district's taxable value of property as determined under Subchapter
12 M, Chapter 403, Government Code, or, if applicable, Section 42.307
13 [~~42.2521~~], divided by the district's average daily attendance as
14 determined under Section 42.005.

15 SECTION 1F.28. Sections 46.009(b), (e), and (f), Education
16 Code, are amended to read as follows:

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

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

24 (2) reduce each district's foundation school fund
25 allocations in the manner provided by Section 42.312(f)
26 [~~42.253(h)~~].

27 (e) Section 42.316 [~~42.258~~] applies to payments under this

1 subchapter.

2 (f) If a school district would have received a greater
3 amount under this subchapter for the applicable school year using
4 the adjusted value determined under Section 42.308 [~~42.257~~], the
5 commissioner shall add the difference between the adjusted value
6 and the amount the district received under this subchapter to
7 subsequent distributions to the district under this subchapter.

8 SECTION 1F.29. Section 46.013, Education Code, is amended
9 to read as follows:

10 Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school
11 district is not entitled to state assistance under this subchapter
12 based on taxes with respect to which the district receives state
13 assistance under Subchapter E [~~F~~], Chapter 42.

14 SECTION 1F.30. Section 46.032(a), Education Code, is
15 amended to read as follows:

16 (a) Each school district is guaranteed a specified amount
17 per student in state and local funds for each cent of tax effort to
18 pay the principal of and interest on eligible bonds. The amount of
19 state support, subject only to the maximum amount under Section
20 46.034, is determined by the formula:

21
$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

22 where:

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

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

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

3 "EDTR" is the existing debt tax rate of the district, which is
4 determined by dividing the amount budgeted by the district for
5 payment of eligible bonds by the quotient of the district's taxable
6 value of property as determined under Subchapter M, Chapter 403,
7 Government Code, or, if applicable, under Section 46.307 [~~42.2521~~],
8 divided by 100; and

9 "DPV" is the district's taxable value of property as
10 determined under Subchapter M, Chapter 403, Government Code, or, if
11 applicable, under Section 46.307 [~~42.2521~~].

12 SECTION 1F.31. Section 46.037, Education Code, is amended
13 to read as follows:

14 Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school
15 district is not entitled to state assistance under this subchapter
16 based on taxes with respect to which the district receives state
17 assistance under Subchapter E [~~F~~], Chapter 42.

18 SECTION 1F.32. Section 56.208, Education Code, is amended
19 to read as follows:

20 Sec. 56.208. FUNDING. (a) The Early High School Graduation
21 Scholarship program is financed under the Foundation School
22 Program. [~~Funding for the state tuition credits is not subject to~~
23 ~~the provisions of Sections 42.253(c) through (k).~~]

24 (b) The commissioner of education shall reduce the total
25 annual amount of Texas education [~~foundation school~~] fund payments
26 made to a school district by an amount equal to $F \times A$, where:

27 (1) "F" is the lesser of one or the quotient of the

1 district's local share for the preceding school year under Section
2 42.306 [~~42.252~~] divided by the tier one allotment under Section
3 42.304 [~~amount of money to which the district was entitled under~~
4 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

5 (2) "A" is the amount of state tuition credits under
6 this subchapter applied by institutions of higher education on
7 behalf of eligible persons who graduated from the district that has
8 not been used to compute a previous reduction under this
9 subsection.

10 (c) A school district that does not receive foundation
11 school fund payments during a year in which the commissioner would
12 otherwise withhold money from the district under Subsection (b)
13 shall remit an amount equal to the amount that would be withheld
14 under Subsection (b) to the comptroller for deposit to the credit of
15 the Texas education [~~foundation school~~] fund.

16 SECTION 1F.33. Section 105.301(e), Education Code, is
17 amended to read as follows:

18 (e) The academy is not subject to the provisions of this
19 code, or to the rules of the Texas Education Agency, regulating
20 public schools, except that:

21 (1) professional employees of the academy are entitled
22 to the limited liability of an employee under Section 22.0511,
23 22.0512, or 22.052;

24 (2) a student's attendance at the academy satisfies
25 compulsory school attendance requirements; and

26 (3) for each student enrolled, the academy is entitled
27 to allotments from the foundation school program under Chapter 42

1 as if the academy were a school district without a tier one local
2 share for purposes of Section 42.306 [~~42.253~~].

3 SECTION 1F.34. Section 403.093(d), Government Code, is
4 amended to read as follows:

5 (d) The comptroller shall transfer from the general revenue
6 fund to the Texas education [~~foundation school~~] fund an amount of
7 money necessary to fund the foundation school program as provided
8 by Chapter 42, Education Code. The comptroller shall make the
9 transfers in installments as necessary to comply with Section
10 42.315 [~~42.259~~], Education Code. An installment must be made not
11 earlier than two days before the date an installment to school
12 districts is required by Section 42.315 [~~42.259~~], Education Code,
13 and must not exceed the amount necessary for that payment.

14 SECTION 1F.35. Section 404.121(1), Government Code, is
15 amended to read as follows:

16 (1) "Cash flow deficit" for any period means the
17 excess, if any, of expenditures paid and transfers made from the
18 general revenue fund in the period, including payments provided by
19 Section 42.315 [~~42.259~~], Education Code, over taxes and other
20 revenues deposited to the fund in the period, other than revenues
21 deposited pursuant to Section 403.092, that are legally available
22 for the expenditures and transfers.

23 SECTION 1F.36. Section 2175.304(c), Government Code, is
24 amended to read as follows:

25 (c) The procedures established under Subsection (b) must
26 give preference to transferring the property directly to a public
27 school or school district or to an assistance organization

1 designated by the school district before disposing of the property
 2 in another manner. If more than one public school or school
 3 district or assistance organization seeks to acquire the same
 4 property on substantially the same terms, the system, institution,
 5 or agency shall give preference to a public school that is
 6 considered low-performing by the commissioner of education or to a
 7 school district that has a relatively low ~~[taxable]~~ wealth per
 8 student, as determined by the commissioner of education ~~[that~~
 9 ~~entitles the district to an allotment of state funds under~~
 10 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance
 11 organization designated by such a school district.

12 SECTION 1F.37. Section 1579.251, Insurance Code, is amended
 13 by amending Subsection (a) and adding Subsections (c) and (d) to
 14 read as follows:

15 (a) The state shall assist employees of participating
 16 school districts and charter schools in the purchase of group
 17 health coverage under this chapter by providing for each covered
 18 employee the amount of \$900 each state fiscal year or a greater
 19 amount as provided by the General Appropriations Act. The state
 20 contribution shall be distributed through the school finance
 21 formulas under Chapters 41 and 42, Education Code~~[, and used by~~
 22 ~~school districts and charter schools as provided by Sections~~
 23 ~~42.2514 and 42.260, Education Code].~~

24 (c) The trustee shall deposit state assistance for a
 25 participating entity in the fund established under Subchapter G.

26 (d) A school district that does not participate in the
 27 program is entitled to state assistance computed as provided by

1 Subsection (a). The trustee shall distribute state assistance
2 under this subsection in equal monthly installments. State funds
3 received under this subsection shall be deposited in a fund
4 described by Section 1581.052(b)(2).

5 SECTION 1F.38. Section 6.02(b), Tax Code, is amended to
6 read as follows:

7 (b) A taxing unit that has boundaries extending into two or
8 more counties may choose to participate in only one of the appraisal
9 districts. In that event, the boundaries of the district chosen
10 extend outside the county to the extent of the unit's boundaries.
11 To be effective, the choice must be approved by resolution of the
12 board of directors of the district chosen. [~~The choice of a school~~
13 ~~district to participate in a single appraisal district does not~~
14 ~~apply to property annexed to the school district under Subchapter C~~
15 ~~or G, Chapter 41, Education Code, unless:~~

16 [~~(1) the school district taxes property other than~~
17 ~~property annexed to the district under Subchapter C or G, Chapter~~
18 ~~41, Education Code, in the same county as the annexed property; or~~

19 [~~(2) the annexed property is contiguous to property in~~
20 ~~the school district other than property annexed to the district~~
21 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

22 SECTION 1F.39. Section 21.02(a), Tax Code, is amended to
23 read as follows:

24 (a) Except as provided by [~~Subsection (b) and~~] Sections
25 21.021, 21.04, and 21.05, tangible personal property is taxable by
26 a taxing unit if:

27 (1) it is located in the unit on January 1 for more

1 than a temporary period;

2 (2) it normally is located in the unit, even though it
3 is outside the unit on January 1, if it is outside the unit only
4 temporarily;

5 (3) it normally is returned to the unit between uses
6 elsewhere and is not located in any one place for more than a
7 temporary period; or

8 (4) the owner resides (for property not used for
9 business purposes) or maintains the owner's ~~[his]~~ principal place
10 of business in this state (for property used for business purposes)
11 in the unit and the property is taxable in this state but does not
12 have a taxable situs pursuant to Subdivisions (1) through (3) ~~[of~~
13 ~~this section]~~.

14 SECTION 1F.40. Section 39.901(d), Utilities Code, is
15 amended to read as follows:

16 (d) Not later than May 1 of each year, subject to Section
17 39.903(b), the commission shall transfer from the system benefit
18 fund to the Texas education ~~[foundation school]~~ fund the amount
19 determined by the Texas Education Agency under Subsection (b) to
20 the extent that funds are available. Amounts transferred from the
21 system benefit fund under this section may be appropriated only for
22 the support of the Foundation School Program and are available, in
23 addition to any amounts allocated by the General Appropriations
24 Act, to finance actions under Section 42.307 ~~[41.002(b) or~~
25 ~~42.2521]~~, Education Code.

26 PART G. REPEALER; EFFECTIVE DATE

27 SECTION 1G.01. (a) Sections 1-3, Chapter 201, Acts of the

1 78th Legislature, Regular Session, 2003, are repealed.

2 (b) The following provisions of the Education Code are
3 repealed:

- 4 (1) Subchapters B, C, E, F, and G, Chapter 41;
5 (2) Chapter 42, as it existed on April 1, 2004; and
6 (3) Sections 21.402(b) and (e), 29.203(c) and (g),
7 39.024(e), 41.001, 41.002, 41.003, 41.0031, 41.004, 41.007,
8 41.009(b), 41.011, 41.092, 41.099, 41.252(b), and 105.301(f).

9 (c) Sections 403.302(j) and (k) and 466.355(c), Government
10 Code, are repealed.

11 (d) The following provisions of the Insurance Code are
12 repealed:

- 13 (1) Section 1581.053(b); and
14 (2) Subchapter C, Chapter 1581.

15 (e) Sections 21.02(b) and 26.08(k)-(m), Tax Code, are
16 repealed.

17 SECTION 1G.02. (a) Except as otherwise provided by this
18 Act, this article takes effect September 1, 2005, and applies
19 beginning with the 2005-2006 school year.

20 (b) Section 1G.01(a) of this Act takes effect August 31,
21 2004.

22 ARTICLE 2. EDUCATION REFORM

23 PART A. INCENTIVES

24 SECTION 2A.01. The heading to Subchapter H, Chapter 21,
25 Education Code, is amended to read as follows:

26 SUBCHAPTER H. APPRAISALS [~~AND INCENTIVES~~]

27 SECTION 2A.02. Chapter 21, Education Code, is amended by

1 adding Subchapter N to read as follows:

2 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

3 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM; FUND.

4 (a) The commissioner shall establish an educator excellence
5 incentive program as provided by this subchapter. The purpose of
6 the program is to reward employees in participating school
7 districts whose performance demonstrates success in adding value to
8 student academic achievement.

9 (b) The educational excellence fund is an account in the
10 general revenue fund. The fund consists of \$175 million per fiscal
11 year transferred to the fund at the direction of the legislature for
12 purposes of the program and donations and grants made to the fund
13 for purposes of the program.

14 (c) The commissioner must approve each payment from the fund
15 and may adopt rules for the administration of the program and the
16 payment of incentive grants from the fund.

17 (d) The commissioner shall encourage local flexibility in
18 designing incentive programs that promote student achievement.

19 Sec. 21.652. GRANTS TO SCHOOL DISTRICTS. (a) From funds
20 appropriated for that purpose, the commissioner shall make grants
21 to school districts that develop a local incentive program to
22 enable the districts to pay incentives under this subchapter.

23 (b) Each fiscal year, a participating school district is
24 entitled to an amount determined by dividing the amount
25 appropriated for incentives under this subchapter for that year by
26 the number of classroom teachers in participating school districts
27 in the state and multiplying the resulting quotient by the number of

1 classroom teachers in the district.

2 (c) The commissioner shall determine the amount of the grant
3 to which each participating school district is entitled under this
4 section and shall notify each district of the determination not
5 later than March 1 of the fiscal year for which the determination is
6 made. The commissioner's determination under this section is final
7 and may not be appealed.

8 (d) Except as provided by Section 21.656, a school district
9 may use money received under this section only to pay employee
10 incentives as provided by this subchapter. A district must use all
11 money received under this subchapter for a school year in making
12 awards for that year.

13 Sec. 21.653. MINIMUM CRITERIA FOR LOCAL INCENTIVE PROGRAM.

14 (a) A school district may develop a system for rewarding academic
15 improvement and achievement in the district.

16 (b) The commissioner by rule shall establish minimum
17 criteria for local incentive programs. The primary criteria for
18 making awards in a local incentive program under this subchapter
19 must be measures for incremental growth in student achievement. A
20 local incentive program may also consider high levels of student
21 performance on assessment instruments and progress towards
22 proficiency in English.

23 (c) A local incentive program must be adopted through a
24 process that considers comments of classroom teachers in the
25 district.

26 (d) A district that applies for a grant under Section 21.652
27 must certify that the district has complied with this section and

1 rules adopted under this subchapter.

2 Sec. 21.654. AWARDS. (a) A local incentive program must
3 provide awards to classroom teachers and may provide for awards to
4 other employees.

5 (b) Except as provided by Subsection (c), a school district
6 may not award state money received under this subchapter:

7 (1) in an amount less than \$2,500 to an eligible
8 employee for a school year; or

9 (2) to more than 15 percent of district employees,
10 under a local incentive program component that provides
11 campus-level awards.

12 (c) A district may apply to the commissioner for approval of
13 a local incentive program that does not meet the requirements of
14 Subsection (b). The commissioner may not approve a program that
15 makes awards of state funds to more than 40 percent of the employees
16 at a single campus.

17 (d) A district may provide in its employment policy or
18 employment contracts that qualifying employees are entitled to a
19 payment under the local incentive program. This subchapter does
20 not require a district to pay employees an amount exceeding the
21 amount of the grant, if any, that the district receives under
22 Section 21.652.

23 (e) A decision by the board of trustees or the board's
24 designee in making an award under the local incentive program is
25 final and may not be appealed.

26 Sec. 21.655. PREMIUM TEACHER PROGRAM. (a) The
27 commissioner shall develop a system for evaluating classroom

1 teachers for the purpose of awarding individual incentives to
2 premium teachers under this subchapter. The system developed by
3 the commissioner must consider:

4 (1) factors such as a classroom teacher's assignment
5 to:

6 (A) a campus considered low-performing under
7 Section 39.132; or

8 (B) a campus at which 85 percent or more of the
9 students are educationally disadvantaged and that ranks in the
10 lowest quarter of achievement on the campus's most recent
11 accountability ratings;

12 (2) a classroom teacher's supervisor evaluations; and

13 (3) value-added indicators, including student
14 performance.

15 (b) The commissioner's evaluation system must define
16 "premium teacher."

17 (c) Under the program, a premium teacher:

18 (1) is entitled to an annual award of \$4,000;

19 (2) may work one extra hour per day; and

20 (3) may be assigned additional duties, such as
21 tutoring, supervising, or planning, for which the district may
22 compensate the teacher.

23 (d) To be eligible for an award under the program, a
24 classroom teacher must:

25 (1) have at least three years of classroom experience;

26 and

27 (2) meet criteria developed by the commissioner

1 related to value-added student achievement.

2 (e) Not more than \$10 million may be appropriated for
3 purposes of the program.

4 SECTION 2A.03. Chapter 39, Education Code, is amended by
5 adding Subchapter J to read as follows:

6 SUBCHAPTER J. STUDENT EXCELLENCE

7 AND IMPROVEMENT INCENTIVES

8 Sec. 39.221. DEFINITION. In this subchapter, "at-risk
9 student" means a student considered to be at risk of dropping out of
10 school under Section 29.081(d)(1), (3), (4), (5), (6), (7), (8),
11 (9), (10), (11), (12), or (13).

12 Sec. 39.222. DISTINGUISHED ACHIEVEMENT PROGRAM INCENTIVE.
13 In addition to any other funds to which a school campus is entitled
14 under this code, each school year each campus is entitled to:

15 (1) \$1,000 for each student who graduates completing
16 the curriculum requirements, including the additional components
17 and advanced measures, for an advanced high school program as
18 determined under Section 28.025; and

19 (2) an additional \$1,000 for each at-risk student who
20 graduates completing the curriculum requirements, including the
21 additional components and advanced measures, for an advanced high
22 school program as determined under Section 28.025.

23 Sec. 39.223. COMMENDED PERFORMANCE INCENTIVE. (a) In this
24 section, "commended performance" means commended performance, as
25 determined by the State Board of Education, on each assessment
26 instrument under Section 39.023(a), (c), or (1) that a student is
27 required to take during a school year.

1 (b) In addition to any other funds to which a school campus
2 is entitled under this code, each school year each campus is
3 entitled to:

4 (1) \$100 for each student who achieves commended
5 performance; and

6 (2) an additional \$100 for each at-risk student who
7 achieves commended performance.

8 Sec. 39.224. ALGEBRA I INCENTIVE. In addition to any other
9 funds to which a school campus is entitled under this code, each
10 school year each campus is entitled to:

11 (1) \$100 for each student who performs successfully on
12 the end-of-course assessment instrument for Algebra I developed
13 under Section 39.023; and

14 (2) an additional \$100 for each at-risk student who
15 performs successfully on the end-of-course assessment instrument
16 for Algebra I.

17 Sec. 39.225. DISTRIBUTION AND USE OF FUNDS. (a) Funds
18 distributed under Sections 39.222-39.224 shall be distributed to
19 the school district that contains the school campus entitled to the
20 funds under the applicable section. The funds must be used at the
21 campus entitled to the funds.

22 (b) A school district or campus may use funds distributed
23 under Sections 39.222-39.224 only for academic enhancement
24 purposes. The funds may not be used for any purpose related to
25 athletics and may not be used to substitute for or replace funds
26 already in the regular budget for a district or campus.

27 SECTION 2A.04. Section 822.201(c), Government Code, is

1 reenacted and amended to read as follows:

2 (c) Excluded from salary and wages are:

3 (1) expense payments;

4 (2) allowances;

5 (3) payments for unused vacation or sick leave;

6 (4) maintenance or other nonmonetary compensation;

7 (5) fringe benefits;

8 (6) deferred compensation other than as provided by

9 Subsection (b)(3);

10 (7) compensation that is not made pursuant to a valid
11 employment agreement;

12 (8) payments received by an employee in a school year
13 that exceed \$5,000 for teaching a driver education and traffic
14 safety course that is conducted outside regular classroom hours;

15 (9) the benefit replacement pay a person earns as a
16 result of a payment made under Subchapter B or C, Chapter 661;

17 (10) amounts received by or on behalf of ~~[supplemental~~
18 ~~compensation received by]~~ an employee under Chapter 1580 ~~[Article~~
19 ~~3.50-8]~~, Insurance Code; ~~[and]~~

20 (11) stipends paid to teachers in accordance with
21 Section 21.458, Education Code;

22 (12) amounts received under the educator excellence
23 incentive program under Subchapter N, Chapter 21, Education Code;
24 and

25 (13) any compensation not described in Subsection (b).

26 SECTION 2A.05. Section 21.357, Education Code, is repealed.

PART B. STATE GOVERNANCE

SECTION 2B.01. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.0041 to read as follows:

Sec. 7.0041. COMMISSIONER OR AGENCY RULES. (a) In performing a duty under this code, the commissioner shall adopt rules only if the duty requires an action to be taken by rule. The commissioner or the agency shall otherwise act as required by this code, federal law, or court order without adopting rules under the procedures required by Chapter 2001, Government Code.

(b) This section may not be construed as:

(1) expanding the authority or duties of the commissioner or the agency; or

(2) authorizing the commissioner or agency to perform an educational function reserved to school districts and open-enrollment charter schools under Section 7.003.

(c) The commissioner shall develop a procedure allowing, to the extent practicable, school districts, open-enrollment charter schools, parents of public school students, and educational organizations to comment on actions the commissioner or agency proposes to take in performing a duty that does not require the adoption of rules.

SECTION 2B.02. Subchapter A, Chapter 7, Education Code, is amended by adding Sections 7.007-7.009 to read as follows:

Sec. 7.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS). (a) Each school district shall participate in the Public Education Information Management System (PEIMS) and shall provide through that system information required for the administration of

1 this code.

2 (b) Each school district shall use a uniform accounting
3 system adopted by the commissioner for the data required to be
4 reported for the Public Education Information Management System.

5 (c) Annually, the commissioner shall review the Public
6 Education Information Management System and shall repeal or amend
7 rules that require school districts to provide information through
8 the Public Education Information Management System that is not
9 necessary. In reviewing and revising the Public Education
10 Information Management System, the commissioner shall develop
11 rules to ensure that the system:

12 (1) provides useful, accurate, and timely information
13 on student demographics and academic performance, personnel, and
14 school district finances;

15 (2) contains only the data necessary for the
16 legislature and the agency to perform their legally authorized
17 functions in overseeing the public education system; and

18 (3) does not contain any information related to
19 instructional methods, except as required by federal law.

20 (d) The commissioner's rules must ensure that the Public
21 Education Information Management System links student performance
22 data to other related information for purposes of efficient and
23 effective allocation of school resources.

24 Sec. 7.008. STATEWIDE STUDENT ENROLLMENT, ATTENDANCE, AND
25 ACHIEVEMENT TRACKING SYSTEM. (a) Each school district shall
26 participate in a system meeting standards approved by the
27 commissioner to track each student enrolled in a public school in

1 this state. A student tracking system must:

2 (1) produce detailed reports for agency officials and
3 policymakers and update information on each student's:

4 (A) enrollment;

5 (B) attendance;

6 (C) achievement, including course or grade
7 completion and assessment instrument results; and

8 (D) if applicable, specific reason for leaving a
9 school or school district, such as transferring, graduating, or
10 dropping out of school; and

11 (2) to facilitate the electronic transfer of student
12 records and the evaluation and improvement of educational programs
13 in the state, permit an authorized state or district official to
14 electronically retrieve information about a particular student as
15 necessary.

16 (b) Each school district shall use the student tracking
17 system.

18 (c) The commissioner may solicit and accept grant funds to
19 maintain the student tracking system and to make the system
20 available to school districts.

21 Sec. 7.009. CENTERS FOR EDUCATION RESEARCH. (a) In this
22 section, "center" means a center for education research.

23 (b) The commissioner of education and the commissioner of
24 higher education, in consultation with the State Board for Educator
25 Certification, may establish not more than three centers for
26 education research, including research regarding the impact of
27 federal education programs.

1 (c) A center may be established as part of:

2 (1) the agency;

3 (2) the Texas Higher Education Coordinating Board; or

4 (3) a public junior college, public senior college or
5 university, or public state college, as defined by Section 61.003.

6 (d) A center may be operated in accordance with a memorandum
7 of understanding among the commissioner of education, the
8 commissioner of higher education, and the governing board of a
9 public junior college, public senior college or university, or
10 public state college, as defined by Section 61.003. Any memorandum
11 of understanding under this subsection must provide for the center
12 to be under the direct, joint supervision of the commissioner of
13 education and the commissioner of higher education or their
14 designees.

15 (e) In conducting research for the benefit of education in
16 this state, a center may use data on student performance that the
17 center has collected from the agency, the Texas Higher Education
18 Coordinating Board, the State Board for Educator Certification, any
19 public or private institution of higher education, and any school
20 district, including data that is confidential under the Family
21 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
22 1232g). A center shall comply with rules adopted by the
23 commissioner of education and the commissioner of higher education
24 to protect the confidentiality of student information, including
25 rules establishing procedures to ensure that confidential student
26 information is not duplicated or removed from a center in an
27 unauthorized manner.

1 (f) The commissioner of education and the commissioner of
2 higher education may:

3 (1) accept gifts and grants to be used in operating one
4 or more centers; and

5 (2) by rule, impose reasonable fees, as appropriate,
6 on a person who uses a center's research, resources, or facilities.

7 (g) This section does not authorize the disclosure of
8 student information that may not be disclosed under the Family
9 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
10 1232g).

11 (h) The commissioner of education and the commissioner of
12 higher education shall adopt rules necessary to implement this
13 section.

14 SECTION 2B.03. Subchapter C, Education Code, is amended by
15 adding Section 7.060 to read as follows:

16 Sec. 7.060. GIFTS AND GRANTS. The commissioner may accept a
17 gift, donation, or other contribution for the benefit of public
18 education and may use the contribution in accordance with its
19 terms.

20 SECTION 2B.04. Section 7.107(b), Education Code, is amended
21 to read as follows:

22 (b) At the board's first regular meeting after the election
23 and qualification of new members:

24 (1) [] the board shall organize and [] adopt rules of
25 procedure; [] and

26 (2) the chair shall, with the advice and consent of the
27 governor, appoint [elect by separate votes] a vice chair and a

1 secretary.

2 SECTION 2B.05. The Texas Education Agency shall study the
3 practicality of modifying the Public Education Information
4 Management System (PEIMS) to permit greater linking of student
5 performance data to all other information submitted under the
6 system on matters that affect student success. Based on the study,
7 the commissioner of education shall develop a plan to improve, over
8 the next five years, the data linkage described by this section.
9 Not later than December 1, 2004, the commissioner shall file with
10 the legislature a report with the commissioner's recommendation for
11 implementing the data linkage described by this section.

12 SECTION 2B.06. Section 7.0041, Education Code, as added by
13 this Act, does not affect the validity of an action taken by the
14 commissioner of education under a rule adopted before the effective
15 date of this Act.

16 PART C. SCHOOL DISTRICT GOVERNANCE

17 SECTION 2C.01. Section 11.059, Education Code, is amended
18 to read as follows:

19 Sec. 11.059. TERMS. (a) A trustee of an independent school
20 district serves a term of [~~three or~~] four years.

21 (b) [~~Elections for trustees with three-year terms shall be~~
22 ~~held annually. The terms of one-third of the trustees, or as near~~
23 ~~to one-third as possible, expire each year.~~

24 [~~(c)~~] Elections for trustees [~~with four-year terms~~] shall
25 be held on the uniform election date in November [~~biennially~~]. The
26 terms of one-half of the trustees, or as near to one-half as
27 possible, expire every two years.

1 (c) [~~(d)~~] A board policy must state the schedule on which
2 specific terms expire.

3 SECTION 2C.02. Section 11.163, Education Code, is amended
4 by adding Subsection (d) to read as follows:

5 (d) If, under the employment policy, the board of trustees
6 delegates to the superintendent the final authority to select
7 district personnel:

8 (1) the superintendent is a public official for
9 purposes of Chapter 573, Government Code, only with respect to a
10 decision made pursuant to that delegation of authority; and

11 (2) each member of the board of trustees remains
12 subject to Chapter 573, Government Code, with respect to all
13 district employees.

14 SECTION 2C.03. Section 41.001(d), Election Code, is amended
15 to read as follows:

16 (d) A general election of officers of a city, school
17 district, junior college district, or hospital district may not be
18 held on the February or September uniform election date. A general
19 election of officers of an independent school district may not be
20 held on the February, May, or September uniform election date.

21 SECTION 2C.04. (a) Section 11.059, Education Code, as
22 amended by this Act, applies beginning with a school district
23 trustee election scheduled for 2005.

24 (b) Except as provided by Subsection (c) of this section, a
25 school district trustee election that on the effective date of this
26 Act is scheduled to be held in 2005 or 2006 must be held on November
27 8, 2005, or November 7, 2006.

1 (c) If, under Subsection (b) of this section, the positions
2 of more than one-half of the trustees or as near to one-half as
3 possible would be scheduled for election on November 8, 2005, or
4 November 7, 2006, the trustees holding those positions shall draw
5 lots to determine, as appropriate, which positions are subject to
6 election in 2005 or 2006 and which are subject to election in 2007
7 or 2008.

8 (d) To implement the changes made to Section 11.059,
9 Education Code, by this Act, a person may serve a term as school
10 district trustee that is longer than the term for which the person
11 was elected.

12 PART D. ACCOUNTABILITY

13 SECTION 2D.01. Section 25.005(b), Education Code, is
14 amended to read as follows:

15 (b) A reciprocity agreement must:

16 (1) address procedures for:

17 (A) transferring student records;

18 (B) awarding credit for completed course work;

19 and

20 (C) permitting a student to satisfy the
21 requirements of Section 39.025 through successful performance on
22 comparable end-of-course or other exit-level assessment
23 instruments administered in another state; and

24 (2) include appropriate criteria developed by the
25 agency.

26 SECTION 2D.02. Section 28.025, Education Code, is amended
27 by amending Subsection (c) and adding Subsections (c-1)-(c-3) to

1 read as follows:

2 (c) A person may receive a diploma if the person is eligible
3 for a diploma under Subsection (c-1) or Section 28.0251. In other
4 cases, a student may graduate and receive a diploma only if:

5 (1) the student successfully completes the curriculum
6 requirements identified by the State Board of Education under
7 Subsection (a) and:

8 (A) complies with Section 39.025(a); or

9 (B) scores a three or better on a college
10 advanced placement test, or a four or better on an international
11 baccalaureate examination, in a course in English language arts,
12 mathematics, social studies, or science that is a continuation of a
13 course for which an end-of-course assessment instrument is adopted
14 under Section 39.023(c), and complies with Section 39.025(a) as to
15 each other course for which that section requires satisfactory
16 performance; or

17 (2) the student successfully completes an
18 individualized education program developed under Section 29.005.

19 (c-1) The State Board of Education shall adopt rules under
20 which a student who first enrolls in a public school in this state
21 in the 10th, 11th, or 12th grade may graduate and receive a diploma
22 if the student:

23 (1) successfully completes the course requirements
24 identified by the board; and

25 (2) scores at or above a level determined by the board
26 on the Scholastic Assessment Test II (SAT II) or the American
27 College Test (ACT).

1 (c-2) Notwithstanding Subsection (c-1), a student who is
2 entitled to graduate and receive a diploma under rules adopted
3 under that subsection who takes a course in a public school in this
4 state for which an end-of-course assessment instrument is
5 administered under Section 39.023(c) must take that assessment
6 instrument.

7 (c-3) The State Board of Education shall adopt rules under
8 Subsection (c-1) that apply to students graduating in the 2005-2006
9 or a later school year. Section 7.102(f) does not apply to rules
10 adopted under Subsection (c-1). This subsection expires July 1,
11 2006.

12 SECTION 2D.03. Section 29.081(b), Education Code, is
13 amended to read as follows:

14 (b) Each district shall provide accelerated instruction to
15 a student enrolled in the district who has taken an end-of-course
16 [~~the secondary exit-level~~] assessment instrument administered
17 under Section 39.023(c) and has not performed satisfactorily on the
18 assessment instrument [~~each section~~] or who is at risk of dropping
19 out of school.

20 SECTION 2D.04. Section 30.021(e), Education Code, is
21 amended to read as follows:

22 (e) The school shall cooperate with public and private
23 agencies and organizations serving students and other persons with
24 visual impairments in the planning, development, and
25 implementation of effective educational and rehabilitative service
26 delivery systems associated with educating students with visual
27 impairments. To maximize and make efficient use of state

1 facilities, funding, and resources, the services provided in this
2 area may include conducting a cooperative program with other
3 agencies to serve students who have graduated from high school by
4 completing all academic requirements applicable to students in
5 regular education, excluding satisfactory performance on the
6 end-of-course [~~exit-level~~] assessment instruments required under
7 Section 39.025(a) [~~instrument~~], who are younger than 22 years of
8 age on September 1 of the school year and who have identified needs
9 related to vocational training, independent living skills,
10 orientation and mobility, social and leisure skills, compensatory
11 skills, or remedial academic skills.

12 SECTION 2D.05. Sections 39.023(a) and (c), Education Code,
13 are amended to read as follows:

14 (a) The agency shall adopt or develop appropriate
15 criterion-referenced assessment instruments designed to assess
16 essential knowledge and skills in reading, writing, mathematics,
17 social studies, and science. All students, except students
18 assessed under Subsection (b) or (l) or exempted under Section
19 39.027, shall be assessed in:

20 (1) mathematics, annually in grades three through
21 seven without the aid of technology and in grade [~~grades~~] eight
22 [~~through 11~~] with the aid of technology on any assessment
23 instruments that include algebra;

24 (2) reading, annually in grades three through eight
25 [~~nine~~];

26 (3) writing, including spelling and grammar, in grades
27 four and seven;

1 (4) [~~English language arts, in grade 10,~~
2 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~
3 ~~10~~];

4 (5) [~~6~~] science, in grades five and[~~7~~] eight[~~, and~~
5 ~~10~~]; and

6 (6) [~~7~~] any other subject and grade required by
7 federal law.

8 (c) The agency shall also adopt end-of-course [~~secondary~~
9 ~~exit-level~~] assessment instruments for secondary-level courses in
10 Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics,
11 Integrated Physics and Chemistry, English I, English II, English
12 III, World Geography, World History, and United States History
13 [~~designed to be administered to students in grade 11 to assess~~
14 ~~essential knowledge and skills in mathematics, English language~~
15 ~~arts, social studies, and science. The mathematics section must~~
16 ~~include at least Algebra I and geometry with the aid of technology.~~
17 ~~The English language arts section must include at least English III~~
18 ~~and must include the assessment of essential knowledge and skills~~
19 ~~in writing. The social studies section must include early American~~
20 ~~and United States history. The science section must include at~~
21 ~~least biology and integrated chemistry and physics. The assessment~~
22 ~~instruments must be designed to assess a student's mastery of~~
23 ~~minimum skills necessary for high school graduation and readiness~~
24 ~~to enroll in an institution of higher education]. If a student is~~
25 in a special education program under Subchapter A, Chapter 29, the
26 student's admission, review, and dismissal committee shall
27 determine whether any allowable modification is necessary in

1 administering to the student an assessment instrument required
2 under this subsection or whether the student should be exempted
3 under Section 39.027(a)(2). The State Board of Education shall
4 administer the assessment instruments. The State Board of
5 Education shall adopt a schedule for the administration of
6 end-of-course [~~secondary exit-level~~] assessment instruments. Each
7 student who did not perform satisfactorily on any end-of-course
8 [~~secondary exit-level~~] assessment instrument when initially tested
9 shall be given multiple opportunities to retake that assessment
10 instrument. [~~A student who performs at or above a level established~~
11 ~~by the Texas Higher Education Coordinating Board on the secondary~~
12 ~~exit-level assessment instruments is exempt from the requirements~~
13 ~~of Section 51.306.~~]

14 SECTION 2D.06. Subchapter B, Chapter 39, Education Code, is
15 amended by adding Sections 39.0232 and 39.0233 to read as follows:

16 Sec. 39.0232. COMPUTER-BASED ASSESSMENT. (a) The agency
17 shall provide for assessment instruments required under Section
18 39.023 to be designed so that those assessment instruments can be
19 administered on computers and, to the extent practicable and
20 appropriate, shall require school districts to administer to
21 students the computer-based assessment instruments.

22 (b) The agency shall implement Subsection (a) not later than
23 March 1, 2006. This subsection expires September 1, 2006.

24 Sec. 39.0233. COMPUTER-ADAPTIVE ASSESSMENT. (a) The
25 agency shall develop computer-adaptive diagnostic assessment
26 instruments for subjects for which assessment instruments are
27 adopted under Sections 39.023(a), (c), and (l). An assessment

1 instrument administered under this section may include statistical
2 sampling techniques to measure the full range of skill levels and
3 curriculum.

4 (b) During the 2005-2006 school year, the agency shall
5 administer as a pilot project one or more of the assessment
6 instruments required under Subsection (a). The agency shall report
7 the results of the pilot project to the legislature not later than
8 December 1, 2006. This subsection expires January 15, 2007.

9 SECTION 2D.07. Section 39.025, Education Code, is amended
10 to read as follows:

11 Sec. 39.025. EXIT-LEVEL PERFORMANCE REQUIRED. (a) Except
12 as otherwise provided by Section 28.025(c), a [A] student may not
13 receive a high school diploma until the student has performed
14 satisfactorily on the following end-of-course [~~secondary~~
15 ~~exit-level~~] assessment instruments for students in secondary
16 grades [~~English language arts, mathematics, social studies, and~~
17 ~~science~~] administered under Section 39.023(c):

- 18 (1) English III;
- 19 (2) United States History;
- 20 (3) two of the following assessment instruments:
 - 21 (A) Algebra I;
 - 22 (B) Algebra II; or
 - 23 (C) Geometry;
- 24 (4) two of the following assessment instruments:
 - 25 (A) Biology;
 - 26 (B) Chemistry;
 - 27 (C) Physics; or

1 (D) Integrated Physics and Chemistry;

2 (5) one of the following assessment instruments:

3 (A) English I; or

4 (B) English II; and

5 (6) one of the following assessment instruments:

6 (A) World Geography; or

7 (B) World History. ~~[This subsection does not~~
8 ~~require a student to demonstrate readiness to enroll in an~~
9 ~~institution of higher education.]~~

10 (b) Each time an end-of-course ~~[a secondary exit-level]~~
11 assessment instrument is administered, a student who has not been
12 given a high school diploma because of a failure to perform
13 satisfactorily on the assessment instrument for that subject area
14 may retake the assessment instrument.

15 (c) A student who has been denied a high school diploma
16 under Subsections (a) and (b) and who subsequently performs
17 satisfactorily on each necessary end-of-course ~~[secondary~~
18 ~~exit-level]~~ assessment instrument shall be issued a high school
19 diploma.

20 (d) Subsection (a) does not require a student to demonstrate
21 readiness to enroll in an institution of higher education.

22 (e) The commissioner shall by rule adopt a transition plan
23 to implement the amendments made by H.B. No. 1, Acts of the 78th
24 Legislature, 4th Called Session, 2004, to Sections 28.025(c),
25 39.023(a) and (c), and 39.051(b)(5) and this section. The rules
26 must provide for the administration of end-of-course assessment
27 instruments adopted under Section 39.023(c) to begin as soon as

1 practicable but not later than the 2008-2009 school year. During
2 the period under which the transition to end-of-course assessment
3 instruments is made:

4 (1) the commissioner may retain, administer, and use
5 for campus and district ratings under Subchapter D any assessment
6 instrument required by Section 39.023(a) or (c), as that section
7 existed before amendment by H.B. No. 1, Acts of the 78th
8 Legislature, 4th Called Session, 2004; and

9 (2) the agency may defer releasing assessment
10 instrument questions and answer keys as required by Section
11 39.023(e) to the extent necessary to develop additional assessment
12 instruments.

13 (f) Rules adopted under Subsection (e) must require that
14 each student who will be subject to the requirements of Subsection
15 (a) is entitled to notice of the specific requirements applicable
16 to the student. Notice under this subsection must be provided not
17 later than the date the student enters the ninth grade. Subsection
18 (e) and this subsection expire September 1, 2009.

19 SECTION 2D.08. Subchapter B, Chapter 39, Education Code, is
20 amended by adding Section 39.0261 to read as follows:

21 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENT. (a) To
22 ensure that students are prepared for college-level courses, each
23 school district shall administer a college preparation assessment
24 instrument to students in grades 8, 10, and 12 who are enrolled in
25 courses necessary to complete the curriculum requirements for the
26 recommended or advanced high school program established under
27 Section 28.025(a). An assessment instrument administered under

1 this section must be part of an established, valid, and reliable
2 system of nationally normed and curriculum-based educational
3 planning and achievement assessment instruments with the following
4 characteristics:

5 (1) an integrated series of standards and
6 curriculum-based achievement assessment instruments, with the
7 grade 12 assessment instrument currently accepted by this state's
8 colleges and universities for use in determining admissions; and

9 (2) a common content continuum and score scale in the
10 assessed areas of reading, English, mathematics, and science across
11 the assessment instruments administered at each grade level.

12 (b) The agency shall select and approve vendors of the
13 specific assessment instruments administered under this section.

14 (c) From amounts appropriated for purposes of this section,
15 the commissioner shall make grants to school districts to prepare
16 students for assessment instruments administered under this
17 section.

18 (d) The agency shall compile the results of any assessment
19 instrument administered under this section and make the results
20 available through the Public Education Information Management
21 System (PEIMS).

22 (e) The commissioner shall provide for the implementation
23 of this section not later than the 2006-2007 school year. This
24 subsection expires July 1, 2007.

25 SECTION 2D.09. Subchapter B, Chapter 39, Education Code, is
26 amended by adding Section 39.034 to read as follows:

27 Sec. 39.034. MEASURE OF ANNUAL CHANGE IN PERFORMANCE ON

1 ASSESSMENT INSTRUMENTS. (a) The commissioner by rule shall adopt a
2 method by which the agency may measure any change in a student's
3 performance from one school year to the next on an assessment
4 instrument required under this subchapter.

5 (b) Each year, for each student who takes an assessment
6 instrument required under Section 39.023(a), (b), or (l), the
7 agency shall use the method adopted under Subsection (a) to compare
8 the student's results on the assessment instrument to the student's
9 results on any assessment instrument for that subject the student
10 has taken during the preceding school year.

11 (c) The agency shall maintain a record of the comparisons
12 made under this section and each year shall provide the record to
13 the school the student attends.

14 (d) The commissioner shall implement this section not later
15 than September 1, 2006. This subsection expires January 1, 2008.

16 SECTION 2D.10. Section 39.052(b), Education Code, is
17 amended to read as follows:

18 (b) The report card shall include the following
19 information:

20 (1) where applicable, the academic excellence
21 indicators adopted under Sections 39.051(b)(1) through (10) [~~(9)~~];

22 (2) average class size by grade level and subject;

23 (3) the administrative and instructional costs per
24 student, computed in a manner consistent with Section 44.0071;

25 (4) a summary of the district's significant
26 noninstructional expenditures, as determined under Section
27 44.0072; and

1 (5) [~~4~~] the district's instructional expenditures
2 ratio and instructional employees ratio computed under Section
3 44.0071, and the statewide average of those ratios, as determined
4 by the commissioner.

5 SECTION 2D.11. Section 39.202(b), Education Code, is
6 amended to read as follows:

7 (b) The system must include uniform indicators adopted by
8 the commissioner by which to measure a district's financial
9 management performance. In adopting uniform indicators, the
10 commissioner shall:

11 (1) identify indicators considered to be critical by
12 the commissioner; and

13 (2) include in the indicators identified under
14 Subdivision (1) an indicator relating to a district's instructional
15 costs.

16 SECTION 2D.12. Subchapter A, Chapter 44, Education Code, is
17 amended by adding Section 44.0072 to read as follows:

18 Sec. 44.0072. NONINSTRUCTIONAL EXPENDITURES. (a) Each
19 fiscal year, a school district shall compute and report through the
20 Public Education Information Management System (PEIMS) to the
21 commissioner:

22 (1) the district's significant noninstructional
23 expenditures for the preceding fiscal year, as determined by the
24 commissioner; and

25 (2) any money spent by the district during the
26 preceding fiscal year on dues or contributions to a
27 noninstructional group, club, committee, organization, or

1 association, including dues or contributions used for the purpose
2 of lobbying.

3 (b) The commissioner may determine, in a manner consistent
4 with Section 44.0071, whether an expenditure is noninstructional.

5 SECTION 2D.13. Section 51.3062(q), Education Code, is
6 amended to read as follows:

7 (q) A student who has achieved scores [~~a score~~] set by the
8 board on end-of-course assessment instruments [~~an exit-level~~
9 ~~assessment instrument~~] required under Section 39.023 is exempt from
10 the requirements of this section. The exemption is effective for
11 the three-year period following the date a student takes the last
12 assessment instrument required for purposes of this section and
13 achieves the standard set by the board. This subsection does not
14 apply during any period for which the board designates the
15 end-of-course assessment instruments [~~exit-level assessment~~
16 ~~instrument~~] required under Section 39.023 as the primary assessment
17 instrument under this section, except that the three-year period
18 described by this subsection remains in effect for students who
19 qualify for an exemption under this subsection [~~section~~] before
20 that period.

21 SECTION 2D.14. Section 39.023(j), Education Code, is
22 repealed.

23 SECTION 2D.15. A reference in the Education Code to an
24 end-of-course assessment instrument administered under Section
25 39.023(c), Education Code, includes a secondary exit-level
26 assessment instrument administered under that section as provided
27 by Section 39.025(e), Education Code, as added by this Act.

1 PART E. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

2 SECTION 2E.01. Section 28.006(j), Education Code, is
3 amended to read as follows:

4 (j) No more than 15 percent of the funds certified by the
5 commissioner under Subsection (i) may be spent on indirect costs.
6 The commissioner shall evaluate the programs that fail to meet the
7 standard of performance under Section 39.051(b)(9) [~~39.051(b)(7)~~]
8 and may implement sanctions under Subchapter G, Chapter 39. The
9 commissioner may audit the expenditures of funds appropriated for
10 purposes of this section. The use of the funds appropriated for
11 purposes of this section shall be verified as part of the district
12 audit under Section 44.008.

13 SECTION 2E.02. Section 29.056(g), Education Code, is
14 amended to read as follows:

15 (g) A district may transfer a student of limited English
16 proficiency out of a bilingual education or special language
17 program for the first time or a subsequent time if the student is
18 able to participate equally in a regular all-English instructional
19 program as determined by:

20 (1) tests administered at the end of each school year
21 to determine the extent to which the student has developed oral and
22 written language proficiency and specific language skills in both
23 the student's primary language and English;

24 (2) satisfactory performance on the reading or English
25 language arts assessment instrument, as applicable, under Section
26 39.023(a), with the assessment instrument administered in English,
27 or, if the student is enrolled in the first or second grade, an

1 achievement score at or above the 40th percentile in the reading and
2 language arts sections of an English standardized test approved by
3 the agency; and

4 (3) other indications of a student's overall progress,
5 including criterion-referenced test scores, subjective teacher
6 evaluation, and parental evaluation.

7 SECTION 2E.03. Subchapter B, Chapter 29, Education Code, is
8 amended by adding Section 29.0561 to read as follows:

9 Sec. 29.0561. CONSIDERATION; REENROLLMENT. (a) For the
10 first two school years after a student is transferred out of a
11 bilingual education or special language program under Section
12 29.056(g), the language proficiency assessment committee shall
13 consider:

14 (1) the total amount of time the student has been
15 enrolled in a bilingual education or special language program;

16 (2) the student's grades each grading period in each
17 subject in the foundation curriculum under Section 28.002(a)(1);

18 (3) the student's performance on each assessment
19 instrument required under Section 39.023(a) or (c);

20 (4) the number of credits toward high school
21 graduation the student has earned, as applicable; and

22 (5) any disciplinary actions taken against the student
23 under Subchapter A, Chapter 37.

24 (b) If, during any grading period during the first two
25 school years after a student is transferred out of a bilingual
26 education or special language program under Section 29.056(g), the
27 student earns a failing grade in a subject in the foundation

1 curriculum under Section 28.002(a)(1), the language proficiency
2 assessment committee shall reevaluate the student to determine if
3 the student should reenroll in the bilingual education or special
4 language program. Based on the reevaluation, the committee may
5 arrange for intensive instruction for the student or may reenroll
6 the student in the program.

7 SECTION 2E.04. Subchapter B, Chapter 29, Education Code, is
8 amended by adding Sections 29.065 and 29.066 to read as follows:

9 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
10 PROFICIENCY. The commissioner by rule shall develop a longitudinal
11 measure of progress toward English language proficiency under which
12 a student of limited English proficiency is evaluated from the time
13 the student enters public school until, for two consecutive school
14 years, the child scores at a specific level determined by the
15 commissioner on the reading or English language arts assessment
16 instrument, as applicable, under Section 39.023(a). The
17 commissioner shall:

18 (1) as part of the measure of progress, include
19 student advancement from one proficiency level to a higher level
20 under the reading proficiency in English assessment system
21 developed under Section 39.027(e) and from the highest level under
22 that assessment system to the level determined by the commissioner
23 under this section on the reading or English language arts
24 assessment instrument, as applicable, under Section 39.023(a); and

25 (2) to the extent practicable in developing the
26 measure of progress, use applicable research and analysis done in
27 developing an annual measurable achievement objective as required

1 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
2 6842).

3 Sec. 29.066. BEST PRACTICES. Based on the measure of
4 progress toward English language proficiency under Section 29.065,
5 the commissioner shall determine which school districts offer the
6 most effective bilingual education and special language programs.
7 Using funds appropriated for that purpose, the commissioner shall
8 determine the practices those districts use that result in student
9 progress toward English language proficiency and distribute
10 information concerning those practices to each school district that
11 provides a bilingual education or special language program.

12 SECTION 2E.05. Section 39.051(b), Education Code, as
13 amended by Chapters 433 and 805, Acts of the 78th Legislature,
14 Regular Session, 2003, is reenacted and amended to read as follows:

15 (b) Performance on the indicators adopted under this
16 section shall be compared to state-established standards. The
17 degree of change from one school year to the next in performance on
18 each indicator adopted under this section shall also be considered.
19 The indicators must be based on information that is disaggregated
20 by race, ethnicity, gender, and socioeconomic status and must
21 include:

22 (1) the results of assessment instruments required
23 under Sections 39.023(a), (c), and (l), aggregated by grade level
24 and subject area;

25 (2) dropout rates, including dropout rates and
26 district completion rates for grade levels 9 through 12, computed
27 in accordance with standards and definitions adopted by the

1 National Center for Education Statistics of the United States
2 Department of Education;

3 (3) high school graduation rates, computed in
4 accordance with standards and definitions adopted in compliance
5 with the federal No Child Left Behind Act of 2001 (Pub. L. No.
6 107-110);

7 (4) student attendance rates;

8 (5) the percentage of graduating students who attain
9 scores on the end-of-course [~~secondary exit-level~~] assessment
10 instruments required under Subchapter B that are equivalent to a
11 passing score on the assessment [~~test~~] instrument required under
12 Section 51.3062 [~~51.306~~];

13 (6) the percentage of graduating students who meet the
14 course requirements established for the recommended high school
15 program by State Board of Education rule;

16 (7) the measure of progress toward English language
17 proficiency under Section 29.065, for students of limited English
18 proficiency, as defined by Section 29.052;

19 (8) the results of the Scholastic Assessment Test
20 (SAT), the American College Test (ACT), articulated postsecondary
21 degree programs described by Section 61.852, and certified
22 workforce training programs described by Chapter 311, Labor Code;

23 (9) [~~(8)~~] the percentage of students, aggregated by
24 grade level, provided accelerated instruction under Section
25 28.0211(c), the results of assessments administered under that
26 section, the percentage of students promoted through the grade
27 placement committee process under Section 28.0211, the subject of

1 the assessment instrument on which each student failed to perform
2 satisfactorily, and the performance of those students in the school
3 year following that promotion on the assessment instruments
4 required under Section 39.023;

5 (10) [~~(9)~~] for students who have failed to perform
6 satisfactorily on an assessment instrument required under Section
7 39.023(a) or (c), the numerical progress of those students on
8 subsequent assessment instruments required under those sections,
9 aggregated by grade level and subject area;

10 (11) [~~(10)~~] the percentage of students exempted, by
11 exemption category, from the assessment program generally
12 applicable under this chapter; [~~and~~]

13 (12) [~~(11)~~] the percentage of students of limited
14 English proficiency exempted from the administration of an
15 assessment instrument under Sections 39.027(a)(3) and (4);

16 (13) the percentage of students in a special education
17 program under Subchapter A, Chapter 29, assessed through assessment
18 instruments developed or adopted under Section 39.023(b); and

19 (14) dropout rates for students who have dropped out
20 of school after being enrolled at any time in a bilingual education
21 or special language program under Subchapter B, Chapter 29.

22 SECTION 2E.06. Sections 39.072(b) and (c), Education Code,
23 are amended to read as follows:

24 (b) The academic excellence indicators adopted under
25 Sections 39.051(b)(1) through (8) [~~(7)~~] and the district's current
26 special education compliance status with the agency shall be the
27 main considerations of the agency in the rating of the district

1 under this section. Additional criteria in the rules may include
2 consideration of:

3 (1) compliance with statutory requirements and
4 requirements imposed by rule of the State Board of Education under
5 specific statutory authority that relate to:

6 (A) reporting data through the Public Education
7 Information Management System (PEIMS);

8 (B) the high school graduation requirements
9 under Section 28.025; or

10 (C) an item listed in Sections
11 7.056(e)(3)(C)-(I) that applies to the district;

12 (2) the effectiveness of the district's programs for
13 special populations; and

14 (3) the effectiveness of the district's career and
15 technology programs.

16 (c) The agency shall evaluate against state standards and
17 shall, not later than August 1 of each year, report the performance
18 of each campus in a district and each open-enrollment charter
19 school on the basis of the campus's performance on the indicators
20 adopted under Sections 39.051(b)(1) through (8) [~~(7)~~].
21 Consideration of the effectiveness of district programs under
22 Subsection (b)(2) or (3) must be based on data collected through the
23 Public Education Information Management System for purposes of
24 accountability under this chapter and include the results of
25 assessments required under Section 39.023.

26 SECTION 2E.07. Sections 39.073(a) and (b), Education Code,
27 are amended to read as follows:

1 (a) The agency shall annually review the performance of each
2 district and campus on the indicators adopted under Sections
3 39.051(b)(1) through (8) [~~(7)~~] and determine if a change in the
4 accreditation status of the district is warranted. The
5 commissioner may determine how all indicators adopted under Section
6 39.051(b) may be used to determine accountability ratings and to
7 select districts and campuses for acknowledgment.

8 (b) Each annual review shall include an analysis of the
9 indicators under Sections 39.051(b)(1) through (7) [~~(6)~~] to
10 determine district and campus performance in relation to:

11 (1) standards established for each indicator;

12 (2) required improvement as defined under Section
13 39.051(c); and

14 (3) comparable improvement as defined by Section
15 39.051(c).

16 SECTION 2E.08. Section 39.074(e), Education Code, is
17 amended to read as follows:

18 (e) If an annual review indicates low performance on one or
19 more of the indicators under Sections 39.051(b)(1) through (8)
20 [~~(7)~~] of one or more campuses in a district, the agency may conduct
21 an on-site evaluation of those campuses only.

22 SECTION 2E.09. Section 29.056(h), Education Code, is
23 repealed.

24 SECTION 2E.10. (a) Not later than the 2006-2007 school
25 year, the Texas Education Agency shall collect information
26 concerning the measure of progress toward English language
27 proficiency for purposes of Section 39.051(b)(7), as amended by

1 this Act, and the dropout rates for purposes of Section
2 39.051(b)(14), Education Code, as added by this Act.

3 (b) Not later than the 2007-2008 school year, the Texas
4 Education Agency shall include the measure of progress toward
5 English language proficiency under Section 39.051(b)(7), as
6 amended by this Act, in evaluating the performance of school
7 districts, campuses, and open-enrollment charter schools under
8 Subchapter D, Chapter 39, Education Code.

9 PART F. EFFECTIVE DATE

10 SECTION 2F.01. (a) Except as otherwise provided by this
11 Act, this article takes effect September 1, 2005.

12 (b) Part C of this article takes effect January 1, 2005.

13 ARTICLE 3. PROPERTY TAXATION AND LOCAL REVENUE

14 PART A. LIMITATION ON CERTAIN RESIDENTIAL REAL

15 PROPERTY APPRAISALS

16 SECTION 3A.01. Section 1.12(d), Tax Code, is amended to
17 read as follows:

18 (d) For purposes of this section, the appraisal ratio of
19 real property [~~a homestead~~] to which Section 23.23 applies is the
20 ratio of the property's market value as determined by the appraisal
21 district or appraisal review board, as applicable, to the market
22 value of the property according to law. The appraisal ratio is not
23 calculated according to the appraised value of the property as
24 limited by Section 23.23.

25 SECTION 3A.02. Section 23.23, Tax Code, is amended to read
26 as follows:

27 Sec. 23.23. LIMITATION ON APPRAISED VALUE OF CERTAIN

1 RESIDENTIAL REAL PROPERTY [~~RESIDENCE HOMESTEAD~~]. (a) The
2 appraised value of qualified residential real property [~~a residence~~
3 ~~homestead~~] for a tax year may not exceed the lesser of:

4 (1) the market value of the property; or

5 (2) the sum of:

6 (A) five [~~10~~] percent of the appraised value of
7 the property for the last year in which the property was appraised
8 for taxation times the number of years since the property was last
9 appraised;

10 (B) the appraised value of the property for the
11 last year in which the property was appraised; and

12 (C) the market value of all new improvements to
13 the property.

14 (b) When appraising qualified residential real property [~~a~~
15 ~~residence homestead~~], the chief appraiser shall:

16 (1) appraise the property at its market value; and

17 (2) include in the appraisal records both the market
18 value of the property and the amount computed under Subsection
19 (a)(2).

20 (c) The limitation provided by Subsection (a) takes effect
21 as to a parcel of qualified residential real property [~~residence~~
22 ~~homestead~~] on January 1 of the tax year following the first tax year
23 in which the owner owns [~~qualifies~~] the property on January 1 and in
24 which the owner qualifies the property as a residence homestead or
25 uses the property primarily for the owner's residential purposes
26 or, if the property qualifies as the residence homestead of the
27 owner [~~for an exemption~~] under Section 11.13 in the tax year in

1 which the owner acquires the property, the limitation takes effect
 2 on January 1 of the tax year following that tax year. Except as
 3 provided by Subsections (d) and (e), the [~~The~~] limitation expires
 4 on January 1 of the [~~first~~] tax year following the year in which
 5 [~~that neither~~] the owner of the property ceases to own the property
 6 or ceases to qualify the property as a residence homestead or to use
 7 the property primarily for the owner's residential purposes [~~when~~
 8 the limitation took effect nor the owner's spouse or surviving
 9 spouse qualifies for an exemption under Section 11.13].

10 (d) If qualified residential real property subject to a
 11 limitation under Subsection (a) qualifies for an exemption under
 12 Section 11.13 when the ownership of the property is transferred to
 13 the owner's spouse or surviving spouse, the limitation expires on
 14 January 1 of the tax year following the year in which the owner's
 15 spouse or surviving spouse ceases to own the property, unless the
 16 limitation is further continued under this subsection on the
 17 subsequent transfer to a spouse or surviving spouse.

18 (e) If qualified residential real property subject to a
 19 limitation under Subsection (a), other than a residence homestead,
 20 is owned by two or more persons, the limitation expires on January 1
 21 of the tax year following the year in which the ownership of at
 22 least a 50 percent interest in the property is sold or otherwise
 23 transferred to a person other than those owners.

24 (f) This section does not apply to property appraised under
 25 Subchapter C, D, E, F, [~~or~~] G, or H.

26 (g) [~~(e)~~] In this section: [7]

27 (1) "New [~~new~~] improvement" means an improvement to

1 real property [~~a residence homestead~~] that is made after the most
2 recent appraisal of the property [~~for the preceding year~~] and that
3 increases the market value of the property. The term does not
4 include ordinary upkeep, repair, or maintenance of an existing
5 structure or the grounds or another feature of the property.

6 (2) "Qualified residential real property" means real
7 property that:

8 (A) qualifies for an exemption under Section
9 11.13; or

10 (B) is designed or adapted for residential
11 purposes and used primarily for residential purposes by the owner
12 of the property, including the owner-occupied portion of a duplex,
13 triplex, or other multifamily structure and the residential
14 portion, not to exceed 20 acres, of farm or ranch property.

15 (h) [~~(f)~~] Notwithstanding Subsections (a) and (g)(1) [~~(e)~~]
16 and except as provided by Subdivision (2), an improvement to
17 property that would otherwise constitute a new improvement is not
18 treated as a new improvement if the improvement is a replacement
19 structure for a structure that was rendered uninhabitable or
20 unusable by a casualty or by mold or water damage. For purposes of
21 appraising the property in the tax year in which the structure would
22 have constituted a new improvement:

23 (1) the last year in which the property was appraised
24 for taxation before the casualty or damage occurred is considered
25 to be the last year in which the property was appraised for taxation
26 for purposes of Subsection (a)(2)(A); and

27 (2) the replacement structure is considered to be a

1 new improvement only to the extent it is a significant improvement
2 over the replaced structure as that structure existed before the
3 casualty or damage occurred.

4 (i) For purposes of applying the limitation provided by
5 Subsection (a) in the first tax year after the 2004 tax year in
6 which the qualified residential real property is appraised for
7 taxation:

8 (1) the property is considered to have been appraised
9 for taxation in the 2004 tax year at a market value equal to the
10 appraised value of the property for that tax year;

11 (2) a person who acquired in a tax year before the 2004
12 tax year residential real property that the person owns in the 2004
13 tax year is considered to have acquired the property on January 1,
14 2004; and

15 (3) a person who qualified the property for an
16 exemption under Section 11.13 as the person's residence homestead
17 for any portion of the 2004 tax year is considered to have acquired
18 the property in the 2004 tax year.

19 (j) This subsection and Subsections (k)-(n) do not apply to
20 property that qualifies for a residence homestead exemption under
21 Section 11.13. To receive a limitation under Subsection (a), a
22 person claiming the limitation must apply for the limitation by
23 filing an application with the chief appraiser of the appraisal
24 district. The chief appraiser shall accept and approve or deny an
25 application. For property appraised by more than one appraisal
26 district, a separate application must be filed in each appraisal
27 district to receive the limitation in that district. A limitation

1 provided by Subsection (a), once allowed, need not be claimed in
2 subsequent years and applies to the property until the limitation
3 expires as provided by this section or until the person's
4 qualification for the limitation ends. However, the chief
5 appraiser may require a person allowed a limitation in a prior year
6 to file a new application to confirm the person's current
7 qualification for the limitation by delivering not later than April
8 1 a written notice that a new application is required, accompanied
9 by an appropriate application form, to the person previously
10 allowed the limitation.

11 (k) The comptroller, in prescribing the contents of the
12 application form for a limitation under Subsection (a), shall
13 ensure that the form requires an applicant to provide the
14 information necessary to determine the validity of the limitation
15 claim. The form must require an applicant to provide the
16 applicant's name and driver's license number, personal
17 identification certificate number, or social security number. The
18 comptroller shall include on the form a notice of the penalties
19 prescribed by Section 37.10, Penal Code, for making or filing an
20 application containing a false statement and shall include on the
21 form a statement explaining that the application need not be made
22 annually and that if the limitation is allowed, the applicant has a
23 duty to notify the chief appraiser when the applicant's
24 qualification for the limitation ends. In this subsection,
25 "driver's license" and "personal identification certificate" have
26 the meanings assigned by Section 11.43(f).

27 (l) A person who is required to apply for a limitation under

1 Subsection (a) to receive the limitation for a tax year must apply
2 for the limitation not later than May 1 of that year. Except as
3 provided by Subsection (m), if the person fails to timely file a
4 completed application, the person may not receive the limitation
5 for that year.

6 (m) The chief appraiser shall accept and approve or deny an
7 application for a limitation under Subsection (a) for a tax year
8 after the deadline for filing the application has passed if the
9 application is filed not later than one year after the delinquency
10 date for the taxes on the property for that tax year. If a late
11 application is approved after approval of the appraisal records by
12 the appraisal review board, the chief appraiser shall notify the
13 collector for each taxing unit in which the property is located. If
14 the tax has not been paid, the collector shall deduct from the
15 person's tax bill the difference between the taxes that would have
16 been due had the property not qualified for the limitation and the
17 taxes due after taking the limitation into account. If the tax has
18 been paid, the collector shall refund the difference.

19 (n) A person who receives a limitation under Subsection (a)
20 shall notify the appraisal office in writing before May 1 after the
21 person's qualification for the limitation ends.

22 SECTION 3A.03. Subchapter B, Chapter 23, Tax Code, is
23 amended by adding Section 23.235 to read as follows:

24 Sec. 23.235. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The
25 legislative oversight committee on the effect of the yearly
26 limitation on appraised value of a residence homestead is composed
27 of six members as follows:

1 (1) three members of the senate appointed by the
2 lieutenant governor, of which one member shall be the chairman of
3 the Senate Committee on Intergovernmental Relations; and

4 (2) three members of the house of representatives
5 appointed by the speaker of the house of representatives, of which
6 one member shall be the chairman of the House Committee on Local
7 Government Ways and Means.

8 (b) The committee shall study the effect of a limitation of
9 appraised value of a residence homestead established under this
10 subchapter on tax fairness for property owners and ad valorem
11 revenue raised by local taxing entities. The study shall include
12 investigation of the long-term economic effects of appraisal caps.

13 (c) The committee may request reports and other information
14 from appraisal districts relating to the limitation on appraised
15 values on residence homesteads.

16 (d) The committee shall study the current truth in taxation
17 laws of this state and determine their effectiveness.

18 (e) The committee may make specific recommendations for
19 legislation related to this subchapter.

20 (f) The committee shall file a report with the governor,
21 lieutenant governor, and speaker of the house of representatives
22 not later than December 31, 2004.

23 (g) This section expires January 1, 2005.

24 SECTION 3A.04. Section 42.26(d), Tax Code, is amended to
25 read as follows:

26 (d) For purposes of this section, the value of the property
27 subject to the suit and the value of a comparable property or sample

1 property that is used for comparison must be the market value
2 determined by the appraisal district when the property is [~~a~~
3 ~~residence homestead~~] subject to the limitation on appraised value
4 imposed by Section 23.23.

5 SECTION 3A.05. Sections 403.302(d) and (i), Government
6 Code, are amended to read as follows:

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

9 (1) the total dollar amount of any residence homestead
10 exemptions lawfully granted under Section 11.13(b) or (c), Tax
11 Code, in the year that is the subject of the study for each school
12 district;

13 (2) one-half of the total dollar amount of any
14 residence homestead exemptions granted under Section 11.13(n), Tax
15 Code, in the year that is the subject of the study for each school
16 district;

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

20 (4) subject to Subsection (e), the total dollar amount
21 of any captured appraised value of property that:

22 (A) is within a reinvestment zone created on or
23 before May 31, 1999, or is proposed to be included within the
24 boundaries of a reinvestment zone as the boundaries of the zone and
25 the proposed portion of tax increment paid into the tax increment
26 fund by a school district are described in a written notification
27 provided by the municipality or the board of directors of the zone

1 to the governing bodies of the other taxing units in the manner
2 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
3 within the boundaries of the zone as those boundaries existed on
4 September 1, 1999, including subsequent improvements to the
5 property regardless of when made;

6 (B) generates taxes paid into a tax increment
7 fund created under Chapter 311, Tax Code, under a reinvestment zone
8 financing plan approved under Section 311.011(d), Tax Code, on or
9 before September 1, 1999; and

10 (C) is eligible for tax increment financing under
11 Chapter 311, Tax Code;

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

14 (6) the difference between the comptroller's estimate
15 of the market value and the productivity value of land that
16 qualifies for appraisal on the basis of its productive capacity,
17 except that the productivity value estimated by the comptroller may
18 not exceed the fair market value of the land;

19 (7) the portion of the appraised value of residence
20 homesteads of individuals who receive a tax limitation under
21 Section 11.26, Tax Code, on which school district taxes are not
22 imposed in the year that is the subject of the study, calculated as
23 if the residence homesteads were appraised at the full value
24 required by law;

25 (8) a portion of the market value of property not
26 otherwise fully taxable by the district at market value because of:

27 (A) action required by statute or the

1 constitution of this state that, if the tax rate adopted by the
2 district is applied to it, produces an amount equal to the
3 difference between the tax that the district would have imposed on
4 the property if the property were fully taxable at market value and
5 the tax that the district is actually authorized to impose on the
6 property, if this subsection does not otherwise require that
7 portion to be deducted; or

8 (B) action taken by the district under Subchapter
9 B or C, Chapter 313, Tax Code;

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

13 (10) the appraised value of property the collection of
14 delinquent taxes on which is deferred under Section 33.06, Tax
15 Code;

16 (11) the portion of the appraised value of property
17 the collection of delinquent taxes on which is deferred under
18 Section 33.065, Tax Code; and

19 (12) the amount by which the market value of real
20 property [~~a residence homestead~~] to which Section 23.23, Tax Code,
21 applies exceeds the appraised value of that property as calculated
22 under that section.

23 (i) If the comptroller determines in the annual study that
24 the market value of property in a school district as determined by
25 the appraisal district that appraises property for the school
26 district, less the total of the amounts and values listed in
27 Subsection (d) as determined by that appraisal district, is valid,

1 the comptroller, in determining the taxable value of property in
2 the school district under Subsection (d), shall for purposes of
3 Subsection (d)(12) subtract from the market value as determined by
4 the appraisal district of real properties [~~residence homesteads~~] to
5 which Section 23.23, Tax Code, applies the amount by which that
6 amount exceeds the appraised value of those properties as
7 calculated by the appraisal district under Section 23.23, Tax Code.
8 If the comptroller determines in the annual study that the market
9 value of property in a school district as determined by the
10 appraisal district that appraises property for the school district,
11 less the total of the amounts and values listed in Subsection (d) as
12 determined by that appraisal district, is not valid, the
13 comptroller, in determining the taxable value of property in the
14 school district under Subsection (d), shall for purposes of
15 Subsection (d)(12) subtract from the market value as estimated by
16 the comptroller of real properties [~~residence homesteads~~] to which
17 Section 23.23, Tax Code, applies the amount by which that amount
18 exceeds the appraised value of those properties as calculated by
19 the appraisal district under Section 23.23, Tax Code.

20 SECTION 3A.06. This part takes effect January 1, 2005, and
21 applies only to the appraisal for ad valorem tax purposes of
22 residential real property for a tax year that begins on or after
23 that date.

24 PART B. QUALIFICATION FOR RESIDENCE HOMESTEAD EXEMPTION

25 SECTION 3B.01. Section 11.42(c), Tax Code, is amended to
26 read as follows:

27 (c) An exemption authorized by Section 11.13 [~~11.13(c)~~ or

1 ~~(d)~~ is effective as of January 1 of the tax year in which the person
2 qualifies for the exemption and applies to the entire tax year.

3 SECTION 3B.02. Section 11.43(k), Tax Code, is amended to
4 read as follows:

5 (k) A person who qualifies for an exemption authorized by
6 Section 11.13 [~~11.13(c) or (d)~~] must apply for the exemption no
7 later than the first anniversary of the date the person qualified
8 for the exemption.

9 SECTION 3B.03. Section 26.10(b), Tax Code, is amended to
10 read as follows:

11 (b) If the appraisal roll shows that a residence homestead
12 exemption for an individual [~~65 years of age or older or a residence~~
13 ~~homestead exemption for a disabled individual~~] applicable to a
14 property on January 1 of a year terminated during the year and if
15 the owner qualifies a different property for a residence homestead exemption [~~one of those~~
16 ~~exemptions~~] during the same year,
17 the tax due against the former residence homestead is calculated
18 by:

19 (1) subtracting:

20 (A) the amount of the taxes that otherwise would
21 be imposed on the former residence homestead for the entire year had
22 the individual qualified for the residence homestead exemption for
23 the entire year; from

24 (B) the amount of the taxes that otherwise would
25 be imposed on the former residence homestead for the entire year had
26 the individual not qualified for the residence homestead exemption
27 during the year;

1 (2) multiplying the remainder determined under
2 Subdivision (1) by a fraction, the denominator of which is 365 and
3 the numerator of which is the number of days that elapsed after the
4 date the exemption terminated; and

5 (3) adding the product determined under Subdivision
6 (2) and the amount described by Subdivision (1)(A).

7 SECTION 3B.04. Section 26.112, Tax Code, is amended to read
8 as follows:

9 Sec. 26.112. CALCULATION OF TAXES ON RESIDENCE HOMESTEAD
10 [~~OF ELDERLY OR DISABLED PERSON~~]. (a) Except as provided by Section
11 26.10(b), if at any time during a tax year property is owned by an
12 individual who qualifies for an exemption under Section 11.13
13 [~~11.13(c) or (d)~~], the amount of the tax due on the property for the
14 tax year is calculated as if the person qualified for the exemption
15 on January 1 and continued to qualify for the exemption for the
16 remainder of the tax year.

17 (b) If a person qualifies for an exemption under Section
18 11.13 [~~11.13(c) or (d)~~] with respect to the property after the
19 amount of the tax due on the property is calculated and the effect
20 of the qualification is to reduce the amount of the tax due on the
21 property, the assessor for each taxing unit shall recalculate the
22 amount of the tax due on the property and correct the tax roll. If
23 the tax bill has been mailed and the tax on the property has not been
24 paid, the assessor shall mail a corrected tax bill to the person in
25 whose name the property is listed on the tax roll or to the person's
26 authorized agent. If the tax on the property has been paid, the tax
27 collector for the taxing unit shall refund to the person who paid

1 the tax the amount by which the payment exceeded the tax due.

2 SECTION 3B.05. This part takes effect January 1, 2005, and
3 applies only to ad valorem taxes imposed for a tax year that begins
4 on or after that date.

5 PART C. SALE OF TAX RECEIVABLES

6 SECTION 3C.01. Subtitle C, Title 8, Local Government Code, is
7 amended by adding Chapter 274 to read as follows:

8 CHAPTER 274. SALE OF TAX RECEIVABLES

9 Sec. 274.001. DEFINITIONS. In this chapter:

10 (1) "Date of sale" means:

11 (A) for a sale made through competitive bidding,
12 the date designated by the applicable local government for the
13 submission of bids; and

14 (B) for a sale negotiated by a local government,
15 the date the tax receivable sale and purchase agreement is signed.

16 (2) "Local government" means a county, municipality,
17 school district, special purpose district or authority, or other
18 political subdivision of this state.

19 (3) "Tax receivable" means the right to receive the
20 revenue from:

21 (A) a delinquent ad valorem tax imposed by a
22 local government on real property; and

23 (B) a delinquent assessment or other charge
24 imposed by a local government that is secured by a lien on real
25 property.

26 Sec. 274.002. AUTHORITY TO SELL TAX RECEIVABLES OR
27 UNDIVIDED INTEREST IN TAX RECEIVABLES. (a) At any time, a local

1 government may sell all or any part of its tax receivables,
2 including an undivided interest in all or any part of the
3 receivables.

4 (b) A sale by a local government of a tax receivable under
5 this chapter is a sale and not a borrowing by the local government.

6 (c) The local government shall determine the terms and
7 conditions of a sale of a tax receivable.

8 (d) The sale by a local government of a tax receivable is
9 governed exclusively by this chapter.

10 Sec. 274.003. AMOUNT OF TAX RECEIVABLE; INCLUDED COSTS.
11 The amount of a tax receivable sold under this chapter may include:

12 (1) the original amount of a delinquent ad valorem tax
13 plus the amounts of any penalty and interest that accrued on that
14 delinquent tax under Section 33.01, Tax Code, through the date of
15 sale that remain unpaid on the date of sale; and

16 (2) the original amount of a delinquent assessment or
17 other charge other than a delinquent ad valorem tax plus the amount
18 of any interest that accrued on that assessment or charge and
19 remains unpaid on the date of sale.

20 Sec. 274.004. INTEREST AND PENALTIES ON CERTAIN TAX
21 RECEIVABLES. (a) Except as provided by Subsection (b), interest on
22 a tax receivable sold under this chapter accrues on the total unpaid
23 amount computed under Section 274.003 at the rate of one percent for
24 each month or portion of a month that the tax receivable remains
25 unpaid after the date of sale.

26 (b) After the date of sale of a delinquent ad valorem tax
27 receivable:

1 (1) interest and all penalties, as provided by Chapter
2 33, Tax Code, continue to accrue on the unpaid original amount of
3 the tax as if the tax receivable had not been sold; and

4 (2) in a suit to collect the delinquent tax, the local
5 government is entitled to recover the court costs and other
6 expenses specified by Section 33.48(a), Tax Code.

7 Sec. 274.005. ENFORCEMENT OF TAX RECEIVABLE. (a) The sale
8 of an ad valorem tax receivable under this chapter does not affect
9 an existing contract for the collection of delinquent taxes under
10 Section 6.30(c), Tax Code, between the local government or an
11 entity acting on behalf of the local government and an attorney.
12 Performance by the attorney under that contract includes the
13 collection of the delinquent ad valorem tax by suit filed on behalf
14 of the local government, by tax sale, or by other means, as if the
15 tax receivable had not been sold.

16 (b) The local government may not:

17 (1) sell an ad valorem tax receivable to a person who
18 controls, is controlled by, or is under common control with a
19 private attorney under contract to collect the related delinquent
20 ad valorem tax entered into under Section 6.30(c), Tax Code; or

21 (2) after the date of sale of an ad valorem tax
22 receivable to a person, enter into a contract under Section
23 6.30(c), Tax Code, with an attorney who controls, is controlled by,
24 or is under common control with that person.

25 (c) In this section, control of a person includes the direct
26 or indirect ownership of a majority of the voting power of that
27 person.

1 Sec. 274.006. METHOD OF SALE. (a) A sale authorized by
2 this chapter may be made through:

3 (1) competitive bidding; or

4 (2) a negotiated sale.

5 (b) Notwithstanding any other law to the contrary, in
6 determining whether and to whom to award a sale of a tax receivable,
7 a local government may take into account any factor the local
8 government considers to be in the best interest of the local
9 government, including the price at which the tax receivable is
10 offered for sale and the terms and conditions of a tax receivable
11 purchase and sale agreement.

12 (c) The local government may enter into negotiations with
13 one or more prospective purchasers to determine the terms and
14 conditions under which a tax receivable is proposed to be sold.

15 Sec. 274.007. SALE THROUGH COMPETITIVE BIDDING. (a) A
16 local government that elects to sell all or part of its tax
17 receivables through competitive bidding shall publish a notice of
18 its intention to sell the tax receivables through competitive
19 bidding.

20 (b) The notice must include:

21 (1) the terms and conditions of the sale;

22 (2) the criteria by which bids will be evaluated; and

23 (3) a description of any other information or
24 documents that the local government may require a bidder to
25 provide.

26 (c) The notice must:

27 (1) identify separately the tax receivables intended

1 to be sold; or

2 (2) state the approximate number and aggregate amount
3 of those tax receivables and that a copy of a list of those tax
4 receivables may be obtained from the local government on request.

5 (d) The notice shall be published in a newspaper of general
6 circulation in the local government not later than the 30th day
7 before the date designated by the local government for the
8 submission of bids.

9 (e) The local government may reject any or all bids or may
10 accept any combination of bids received in a sale conducted through
11 competitive bidding.

12 Sec. 274.008. SALE THROUGH NEGOTIATED SALE. (a) A local
13 government that elects to sell all or a part of its tax receivables
14 through a negotiated sale shall publish a notice of its intention to
15 sell tax receivables through a negotiated sale.

16 (b) The notice must:

17 (1) state that a request for statements of interest to
18 purchase tax receivables is available at the location specified in
19 the notice; and

20 (2) include any requirement by the local government
21 for a person seeking to purchase tax receivables to provide the
22 local government any information or documents.

23 (c) The notice must:

24 (1) identify separately the tax receivables intended
25 to be sold; or

26 (2) state the approximate number and aggregate amount
27 of those tax receivables and that a copy of a list of those tax

1 receivables may be obtained from the local government on request.

2 (d) The notice shall be published in a newspaper of general
3 circulation in the local government not later than the 30th day
4 before the date designated by the local government for the receipt
5 of statements of interest.

6 Sec. 274.009. NOTICE TO AFFECTED PROPERTY OWNERS. (a) A
7 local government may not sell a tax receivable unless the local
8 government notifies the owner of the property associated with the
9 tax receivable, by first class mail sent to the address of record of
10 the owner, of the proposed sale by the local government of the tax
11 receivable.

12 (b) The notice shall be mailed to the property owner not
13 later than the 30th day before the date of sale.

14 (c) The notice must:

15 (1) include a description of the real property
16 associated with the tax receivable, by block and lot or by other
17 means sufficient to identify and locate the property, and may
18 include other identifying information that the local government
19 considers appropriate;

20 (2) state the amount of the tax receivable; and

21 (3) state that the tax receivable associated with the
22 property may be sold as provided by this chapter if the amounts due
23 on the property remain unpaid.

24 (d) The local government may not proceed with the sale of
25 the tax receivable if the property owner pays the full amount of the
26 tax receivable associated with the property before the date of sale
27 of the tax receivable.

1 Sec. 274.010. POSTPONEMENT OR CANCELLATION OF SALE
2 AUTHORIZED. (a) A local government may postpone or cancel any
3 proposed sale of a tax receivable for which notice has been
4 published.

5 (b) A local government is not liable for damages as a result
6 of the postponement or cancellation of a proposed sale of tax
7 receivables and a cause of action does not arise from a postponement
8 or cancellation of a proposed sale.

9 Sec. 274.011. PURCHASE AND SALE AGREEMENTS. (a) A local
10 government may enter into a purchase and sale agreement with the
11 purchaser of a tax receivable sold under this chapter.

12 (b) A purchase and sale agreement may contain any term,
13 provision, condition, representation, or warranty consistent with
14 this chapter that, in the judgment of the local government, is
15 necessary or in the best interest of the local government.

16 (c) A purchase and sale agreement must specify:

17 (1) the purchase price of each tax receivable covered
18 by the agreement, which amount may:

19 (A) be more or less than the face amount of the
20 tax receivable; and

21 (B) include nonmonetary consideration;

22 (2) any other amounts that may be made available to the
23 local government on a contingent basis under the terms of the
24 agreement; and

25 (3) that the local government and the officers,
26 employees, agents, and attorneys of the local government are not
27 liable for damages for any failure to collect the tax receivable,

1 and that a failure to collect the tax receivable does not give rise
2 to a cause of action.

3 (d) A purchase and sale agreement may require the local
4 government to:

5 (1) repurchase a tax receivable, or to substitute
6 another tax receivable of equivalent value, under conditions that
7 may be specified in the agreement;

8 (2) sell to the purchaser subsequent tax receivables
9 associated with the property on substantially the same terms as
10 those on which the initial tax receivable was sold; and

11 (3) use its customary and reasonable efforts to
12 enforce the collection of the tax receivable, as if the tax
13 receivable had not been sold.

14 (e) A purchase and sale agreement may not require the local
15 government to prohibit a person from paying the person's taxes in
16 installments under Section 31.031, 31.032, or 33.02, Tax Code.

17 (f) A purchase and sale agreement may not require a local
18 government that under Section 31.035 or 31.036, Tax Code, permits
19 individuals to perform services in lieu of paying taxes, or that
20 under Section 31.037, Tax Code, permits business entities to
21 provide employees to perform services in lieu of paying taxes, to
22 refrain from entering into a contract under those sections. A local
23 government that enters into such a contract may agree to repurchase
24 any related ad valorem tax receivable.

25 (g) A purchase and sale agreement may not contain any
26 provision that would interfere with the right of an individual to
27 defer or abate a suit to collect a delinquent tax under Section

1 33.06 or 33.065, Tax Code. The local government may agree to
2 repurchase the related tax receivable if the individual defers or
3 abates the suit.

4 (h) A purchase and sale agreement may not require the local
5 government to demand of its officers, employees, agents, or
6 attorneys a standard of performance of their statutory or
7 contractual duties in the collection of a tax receivable that is
8 different from the customary and reasonable standard of performance
9 required of those persons.

10 Sec. 274.012. TAX RECEIVABLE CERTIFICATES; ISSUANCE AND
11 OPERATION; TRANSFERABILITY. (a) On the sale by a local government
12 of a tax receivable, the local government shall issue to the
13 purchaser a tax receivable certificate evidencing the sale and
14 transfer of the tax receivable to the purchaser.

15 (b) A tax receivable certificate operates to transfer and
16 assign the tax receivable only for:

17 (1) the amount provided by Section 274.003;

18 (2) interest on any unpaid amounts of the tax
19 receivable that accrues under Section 274.004(a) on and after the
20 date of sale to the date of payment; and

21 (3) the amounts of any penalty and interest on the
22 unpaid original amount of an ad valorem tax receivable that accrues
23 under Section 33.01, Tax Code, on and after the date of the sale to
24 the date of payment.

25 (c) Any amount, other than an amount specified by Subsection
26 (b), that may be collected by the local government under Chapter 33,
27 Tax Code, or another law is not transferred or assigned by a tax

1 receivable certificate. Any amount described by this subsection
2 that is collected shall be retained by the local government for
3 distribution in accordance with the applicable law or, if
4 applicable, the terms of a contract entered into under Section
5 6.30(c), Tax Code.

6 (d) The holder of a tax receivable certificate may transfer
7 the certificate to any other person.

8 (e) Except as otherwise agreed to in a purchase and sale
9 agreement under Section 274.011(d)(1) or (2), the holder of a tax
10 receivable certificate holds the certificate without recourse, in
11 contract, in tort, or otherwise, against the local government or
12 the officers, employees, agents, or attorneys of the local
13 government because of a failure to collect the related tax
14 receivable.

15 Sec. 274.013. CONTENTS OF TAX RECEIVABLE CERTIFICATE. (a)
16 Each tax receivable certificate must contain a transfer and
17 assignment by the local government of the tax receivables
18 transferred to the purchaser and must state:

19 (1) the date of the sale;

20 (2) the aggregate amount of the tax receivables
21 transferred to the purchaser;

22 (3) as separate items, the amounts included in each
23 tax receivable specified in Section 274.003;

24 (4) the rate of interest that accrues on the unpaid
25 amount of the tax receivables; and

26 (5) a description of the real property associated with
27 each tax receivable, by block and lot or by other means sufficient

1 to identify and locate the property.

2 (b) A tax receivable certificate shall be executed by the
3 tax collector for the local government or a person designated by the
4 tax collector and acknowledged in the manner required for a deed to
5 be recorded in this state.

6 (c) A tax receivable certificate may evidence the transfer
7 of more than one tax receivable relating to more than one property.

8 Sec. 274.014. REPLACEMENT TAX RECEIVABLE CERTIFICATES. (a)
9 On application to the collector for a local government accompanied
10 by proof sufficient to show that a tax receivable certificate
11 issued on behalf of the local government under this chapter is lost,
12 the tax collector or a person designated by the tax collector may
13 execute and issue a replacement tax receivable certificate to the
14 applicant or the person entitled to the original replacement
15 certificate.

16 (b) The tax collector for the local government, at the
17 collector's discretion, may require the applicant or other person
18 to post a bond of indemnity in favor of the local government.

19 Sec. 274.015. ENTITLEMENT TO PROCEEDS OF TAX SALE. (a)
20 This section applies to real property associated with a tax
21 receivable sold under this chapter if the property is sold in
22 compliance with an order of sale following a suit for foreclosure of
23 a local government's lien on the property, regardless of whether
24 the suit to foreclose the lien is brought by the local government
25 that sold the tax receivable or by another local government.

26 (b) From the proceeds of a sale of the property under
27 Section 34.01, Tax Code, or of the resale of the property under

1 Section 34.05, Tax Code, the holder of the applicable tax
2 receivable certificate is entitled to receive an amount equal to
3 the amount the local government that sold the tax receivable
4 certificate would otherwise be entitled to receive and retain for
5 its benefit.

6 Sec. 274.016. DUTY OF LOCAL GOVERNMENT TO PAY OVER CERTAIN
7 MONEY. (a) A local government shall promptly pay over to the
8 holder of a tax receivable certificate, or to the person designated
9 in writing by the holder, any money received by the local government
10 in connection with the tax receivable evidenced by the tax
11 receivable certificate.

12 (b) A local government shall pay over to its attorney,
13 including a private attorney retained under a contract entered into
14 under Section 6.30(c), Tax Code, any money received to which the
15 attorney is entitled by virtue of a contract or otherwise,
16 including:

17 (1) attorney's fees and any other amount collected for
18 the benefit of the attorney; and

19 (2) any costs of court and expenses advanced by the
20 attorney.

21 Sec. 274.017. AFFIDAVITS OF PUBLICATION AND MAILING. (a)
22 Each local government that sells a tax receivable under this
23 chapter shall obtain and preserve affidavits of the publication and
24 mailing of all advertisements and notices required by this chapter
25 to be published and mailed.

26 (b) An affidavit of publication and mailing is presumptive
27 proof of the related publication and mailing in any court of this

1 state.

2 Sec. 274.018. PUBLIC INFORMATION. Information collected,
3 assembled, or maintained in connection with the sale of a tax
4 receivable of a local government and in connection with the
5 issuance of a tax receivable certificate under this chapter is
6 public information that is available to the public under Chapter
7 552, Government Code.

8 Sec. 274.019. CALCULATION OF EFFECTIVE TAX RATE AND
9 ROLLBACK RATE. The officer or employee designated to calculate the
10 effective tax rate and the rollback rate of a local government under
11 Section 26.04(c), Tax Code, may not include the amount of any
12 proceeds received by the local government from the sale of a tax
13 receivable under this chapter in making those calculations.

14 SECTION 3C.02. Section 1.04(6), Tax Code, is amended to
15 read as follows:

16 (6) "Intangible personal property" means a claim,
17 interest (other than an interest in tangible property), right, or
18 other thing that has value but cannot be seen, felt, weighed,
19 measured, or otherwise perceived by the senses, although its
20 existence may be evidenced by a document. The term [~~It~~] includes:

21 (A) a stock, bond, note or account receivable,
22 franchise, license or permit, demand or time deposit, certificate
23 of deposit, share account, share certificate account, share deposit
24 account, insurance policy, annuity, pension, cause of action,
25 contract, and goodwill; and

26 (B) a tax receivable under Chapter 274, Local
27 Government Code, or a tax receivable certificate issued under that

1 chapter.

2 PART D. REAL PROPERTY SALES PRICE DISCLOSURE

3 SECTION 3D.01. Section 12.001, Property Code, is amended by
4 adding Subsections (e)-(g) to read as follows:

5 (e) An instrument conveying real property may not be
6 recorded under Subsection (a) unless a certificate issued by the
7 chief appraiser of the appraisal district established for the
8 county in which the property is located stating that the sales price
9 disclosure report required by Subchapter D, Chapter 22, Tax Code,
10 has been filed with the chief appraiser is filed with the instrument
11 of conveyance.

12 (f) Subsection (e) does not apply to an instrument conveying
13 real property if the conveyance is made:

14 (1) pursuant to a court order or foreclosure sale;

15 (2) by a trustee in bankruptcy;

16 (3) by a mortgagor or a mortgagor's successor in
17 interest to a mortgagee or by a trustor or a trustor's successor in
18 interest to a beneficiary of a deed of trust;

19 (4) by a mortgagee or a beneficiary under a deed of
20 trust who has acquired the real property:

21 (A) at a sale conducted pursuant to a power of
22 sale under a deed of trust;

23 (B) at a sale pursuant to a court-ordered
24 foreclosure; or

25 (C) by a deed in lieu of foreclosure;

26 (5) by a fiduciary in the course of the administration
27 of a decedent's estate, guardianship, conservatorship, or trust;

1 (6) by one co-owner to one or more other co-owners;

2 (7) to a spouse or to a person or persons in the lineal
3 line of consanguinity of one or more of the transferors;

4 (8) between spouses and results from:

5 (A) a decree of dissolution of marriage;

6 (B) a decree of legal separation; or

7 (C) a property settlement agreement incidental
8 to a decree described by Paragraph (A) or (B); or

9 (9) to or from any governmental entity.

10 (g) The chief appraiser of the appraisal district
11 established for the county in which the property is located and the
12 county clerk by written agreement may establish a procedure for the
13 electronic transfer to the county clerk of the certificate required
14 by Subsection (e). An instrument of conveyance may be recorded
15 under this section without an accompanying paper copy of the
16 certificate required by Subsection (e) if the certificate is
17 electronically transferred to the county clerk by the chief
18 appraiser under a procedure established under this subsection.

19 SECTION 3D.02. The heading to Subchapter C, Chapter 22, Tax
20 Code, is amended to read as follows:

21 SUBCHAPTER C. ~~[OTHER]~~ REPORTS OF POLITICAL SUBDIVISION ACTIONS

22 SECTION 3D.03. Chapter 22, Tax Code, is amended by adding
23 Subchapter D to read as follows:

24 SUBCHAPTER D. REPORT OF SALES PRICE

25 Sec. 22.61. SALES PRICE DISCLOSURE REPORT. (a) Except as
26 provided by Subsection (d), on the sale of real property the
27 purchaser of the property or a person acting on behalf of the

1 purchaser shall file a sales price disclosure report with the chief
2 appraiser of the appraisal district established for the county in
3 which the property is located.

4 (b) A sales price disclosure report may be filed by
5 facsimile.

6 (c) The sales price disclosure report may be filed with the
7 chief appraiser before the sale of the property closes. If any
8 information required by the sales price disclosure report changes
9 after the report is filed with the chief appraiser, the person who
10 prepared the original report shall prepare, sign, and file with the
11 chief appraiser a supplemental sales price disclosure report
12 updating the information that changed. The supplemental report
13 shall be filed not later than the third day after the date the sale
14 of the property closed.

15 (d) This section does not apply to a sale of real property if
16 the sale is made:

17 (1) pursuant to a court order or foreclosure sale;

18 (2) by a trustee in bankruptcy;

19 (3) by a mortgagor or a mortgagor's successor in
20 interest to a mortgagee or by a trustor or a trustor's successor in
21 interest to a beneficiary of a deed of trust;

22 (4) by a mortgagee or a beneficiary under a deed of
23 trust who has acquired the real property:

24 (A) at a sale conducted pursuant to a power of
25 sale under a deed of trust;

26 (B) at a sale pursuant to a court-ordered
27 foreclosure; or

- 1 (C) by a deed in lieu of foreclosure;
- 2 (5) by a fiduciary in the course of the administration
- 3 of a decedent's estate, guardianship, conservatorship, or trust;
- 4 (6) by one co-owner to one or more other co-owners;
- 5 (7) to a spouse or to a person or persons in the lineal
- 6 line of consanguinity of one or more of the transferors;
- 7 (8) between spouses and results from:
- 8 (A) a decree of dissolution of marriage;
- 9 (B) a decree of legal separation; or
- 10 (C) a property settlement agreement incidental
- 11 to a decree described by Paragraph (A) or (B); or
- 12 (9) to or from any governmental entity.

13 Sec. 22.62. SIGNATURE REQUIRED. A sales price disclosure

14 report must be signed by the purchaser or by the person who prepares

15 the report.

16 Sec. 22.63. REPORT FORMS. (a) The comptroller shall

17 prescribe the form and content of a sales price disclosure report

18 filed under this subchapter. The comptroller shall ensure that

19 each form requires the person preparing the report to provide, at a

20 minimum:

- 21 (1) the seller's name and address;
- 22 (2) the purchaser's name and address;
- 23 (3) information necessary to identify the property and
- 24 to determine the property's location;
- 25 (4) the mailing address for tax notices concerning the
- 26 property;
- 27 (5) a description of the use of the property at the

1 time of sale;

2 (6) a statement of whether any personal property was
3 included in the sale and, if so, the estimated value of the personal
4 property;

5 (7) the method used to finance the sale;

6 (8) a statement of whether the property was offered
7 for sale to other potential purchasers;

8 (9) a statement of whether the purchaser holds title
9 to any adjoining property;

10 (10) the sales price of the property;

11 (11) the closing date of the sale; and

12 (12) the name and address of the person preparing the
13 report.

14 (b) A form may not require information not relevant to the
15 appraisal of property for tax purposes or to the assessment or
16 collection of property taxes.

17 (c) A person who prepares a sales price disclosure report
18 under this subchapter must:

19 (1) use the appropriate form prescribed by the
20 comptroller; and

21 (2) include all information required by the form.

22 Sec. 22.64. DELIVERY OF CERTIFICATE TO PURCHASER. (a)
23 Except as provided by Subsection (b), not later than the second day
24 after the date the sales price disclosure report is filed with the
25 chief appraiser, the chief appraiser shall provide to the purchaser
26 a certificate stating that the completed sales price disclosure
27 report has been filed.

1 (b) If the chief appraiser and the county clerk of the
2 county in which the property is located have entered into an
3 agreement under Section 12.001(g), Property Code, the chief
4 appraiser may electronically transfer the certificate to the county
5 clerk. A chief appraiser that elects to electronically transfer
6 the certificate shall:

7 (1) transfer the certificate not later than the second
8 day after the date the sales price disclosure report is filed; and

9 (2) notify the purchaser in writing that the
10 certificate has been filed with the county clerk.

11 Sec. 22.65. PUBLICIZING REQUIREMENTS. (a) The comptroller
12 shall publicize, in a manner reasonably designed to come to the
13 attention of title companies, attorneys, and property owners, the
14 requirements of this subchapter and of the availability of sales
15 price disclosure report forms.

16 (b) The Texas Real Estate Commission shall assist the
17 comptroller in publicizing the information required by Subsection
18 (a) to title companies and attorneys.

19 (c) A chief appraiser shall assist the comptroller in
20 publicizing the information required by Subsection (a) to property
21 owners in the county for which the appraisal district is
22 established.

23 Sec. 22.66. CONFIDENTIAL INFORMATION. (a) A sales price
24 disclosure report filed with a chief appraiser under this
25 subchapter is confidential and not open to public inspection. The
26 report and the information it contains about specific property or a
27 specific person may not be disclosed to another person other than an

1 employee of the appraisal office who appraises property except as
2 provided by Subsection (b).

3 (b) Information that is confidential under Subsection (a)
4 may be disclosed:

5 (1) in a judicial or administrative proceeding
6 pursuant to a lawful subpoena;

7 (2) to the person who filed the sales price disclosure
8 report, to the owner of the property described in the report, or to
9 a representative of the person who filed the report or the owner who
10 is authorized in writing to receive the information;

11 (3) to the comptroller and the comptroller's employees
12 authorized by the comptroller in writing to receive the information
13 or to an assessor or a chief appraiser if requested in writing;

14 (4) in a judicial or administrative proceeding
15 relating to property taxation:

16 (A) in which the person who filed the sales price
17 disclosure report is a party;

18 (B) in which the owner of the property described
19 in the report is a party;

20 (C) by the appraisal district for the purpose of
21 establishing the value of the property; or

22 (D) for the purpose of providing evidence of
23 comparable sales used to appraise another property;

24 (5) for statistical purposes if the information is
25 provided in a form that does not identify a specific property or a
26 specific property owner;

27 (6) if and to the extent the information is required to

1 be included in a public document or record that the appraisal office
2 is required to prepare or maintain; or

3 (7) to a taxing unit or its legal representative that
4 is engaged in the collection of delinquent taxes on the property
5 that is described in the report.

6 (c) A person, other than a person described by Subsection
7 (b)(2), who legally has access to a sales price disclosure report or
8 who legally obtains the information from a report made confidential
9 by this section commits an offense if the person knowingly:

10 (1) permits inspection of the confidential
11 information by a person not authorized by Subsection (b) to inspect
12 the information; or

13 (2) discloses the confidential information to a person
14 not authorized by Subsection (b) to receive the information.

15 (d) It is a defense to prosecution under Subsection (c) that
16 the person obtained the information from:

17 (1) a person described by Subsection (b)(2); or

18 (2) a record or document lawfully available to the
19 public.

20 (e) An offense under Subsection (c) is a Class B
21 misdemeanor.

22 Sec. 22.67. IMMUNITY FROM LIABILITY. A person who prepares
23 a sales price disclosure report in compliance with this subchapter
24 is not liable to any other person as a result of providing the
25 information required by this subchapter.

26 SECTION 3D.04. (a) Except as provided by Subsection (b) of
27 this section, this part takes effect immediately if this Act

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this part takes effect on the 91st day after the last day of
5 the legislative session.

6 (b) Sections 3D.01, 3D.02, and 3D.03 of this part take
7 effect January 1, 2005.

8 (c) As soon as practicable after the effective date of this
9 part provided by Subsection (a) of this section, but not later than
10 January 1, 2005, the comptroller of public accounts shall:

11 (1) prescribe or approve sales price disclosure report
12 forms as provided by Section 22.63, Tax Code, as added by this part;
13 and

14 (2) begin to publicize the requirements of Subchapter
15 D, Chapter 22, Tax Code, as required by Section 22.65, Tax Code, as
16 added by this part.

17 (d) This part applies only to a sale of real property that
18 occurs on or after January 1, 2005.

19 ARTICLE 4. SALES AND USE TAXES

20 PART A. STATE AND LOCAL SALES AND USE TAXES

21 SECTION 4A.01. Section 151.051(b), Tax Code, is amended to
22 read as follows:

23 (b) The sales tax rate is seven [~~6-1/4~~] percent of the sales
24 price of the taxable item sold.

25 SECTION 4A.02. Subchapter A, Chapter 151, Tax Code, is
26 amended by adding Section 151.0029 to read as follows:

27 Sec. 151.0029. BILLBOARD ADVERTISING SERVICE. (a)

1 "Billboard advertising service" means a service allowing a
2 purchaser to obtain outdoor advertising on a billboard, including
3 the rental of the billboard space.

4 (b) In this section, "billboard" means a sign that:

5 (1) is a separate and fixed structure directly
6 attached to land or a building;

7 (2) is designed to have its content changed at
8 frequent intervals in an economically feasible manner; and

9 (3) is designed to prominently display outdoor
10 advertising that is visible to the occupants of motor vehicles
11 driving by the sign.

12 SECTION 4A.03. Section 151.0038(b), Tax Code, is amended to
13 read as follows:

14 (b) In this section, "newspaper" means a publication that is
15 printed on newsprint, the average sales price of which for each copy
16 over a 30-day period does not exceed \$1.50, and that is printed and
17 distributed at a daily, weekly, or other short interval for the
18 dissemination of news of a general character and of a general
19 interest. "Newspaper" does not include a magazine, handbill,
20 circular, flyer, sales catalog, or similar printed item unless the
21 printed item is printed for distribution as a part of a newspaper
22 and is actually distributed as a part of a newspaper. For the
23 purposes of this section, an advertisement is news of a general
24 character and of a general interest. Notwithstanding any other
25 provision of this subsection, "newspaper" includes:

26 (1) a publication containing articles and essays of
27 general interest by various writers and advertisements that is

1 produced for the operator of a licensed and certified carrier of
2 persons and distributed by the operator to its customers during
3 their travel on the carrier; and

4 (2) a publication for the dissemination of news of a
5 general character and of a general interest that is printed on
6 newsprint and distributed to the general public free of charge at a
7 daily, weekly, or other short interval [~~has the meaning assigned by~~
8 ~~Section 151.319(f)~~].

9 SECTION 4A.04. Section 151.00394(b), Tax Code, is amended
10 to read as follows:

11 (b) "Internet access service" does not include [~~and the~~
12 ~~exemption under Section 151.325 does not apply to~~] any other
13 taxable service listed in Section 151.0101(a), unless the taxable
14 service is provided in conjunction with and is merely incidental to
15 the provision of Internet access service.

16 SECTION 4A.05. Section 151.0101(a), Tax Code, is amended to
17 read as follows:

- 18 (a) "Taxable services" means:
- 19 (1) amusement services;
 - 20 (2) cable television services;
 - 21 (3) personal services;
 - 22 (4) motor vehicle parking and storage services;
 - 23 (5) the repair, remodeling, maintenance, and
24 restoration of tangible personal property, except:
 - 25 (A) aircraft;
 - 26 (B) a ship, boat, or other vessel, other than:
 - 27 (i) a taxable boat or motor as defined by

1 Section 160.001;

2 (ii) a sports fishing boat; or

3 (iii) any other vessel used for pleasure;

4 (C) the repair, maintenance, and restoration of a
5 motor vehicle; and

6 (D) the repair, maintenance, creation, and
7 restoration of a computer program, including its development and
8 modification, not sold by the person performing the repair,
9 maintenance, creation, or restoration service;

10 (6) telecommunications services;

11 (7) credit reporting services;

12 (8) debt collection services;

13 (9) insurance services;

14 (10) information services;

15 (11) real property services;

16 (12) data processing services;

17 (13) real property repair and remodeling;

18 (14) security services;

19 (15) telephone answering services;

20 (16) Internet access service; ~~and~~

21 (17) a sale by a transmission and distribution
22 utility, as defined in Section 31.002, Utilities Code, of
23 transmission or delivery of service directly to an electricity
24 end-use customer whose consumption of electricity is subject to
25 taxation under this chapter; and

26 (18) billboard advertising services.

27 SECTION 4A.06. Section 151.308(a), Tax Code, is amended to

1 read as follows:

2 (a) The following are exempted from the taxes imposed by
3 this chapter:

4 (1) oil as taxed by Chapter 202;

5 (2) sulphur as taxed by Chapter 203;

6 (3) motor fuels and special fuels as defined, taxed,
7 or exempted by Chapter 153;

8 (4) cement as taxed by Chapter 181;

9 (5) motor vehicles, trailers, and semitrailers as
10 defined, taxed, or exempted by Chapter 152, other than a mobile
11 office as defined by Section 152.001(16);

12 (6) ~~[mixed beverages, ice, or nonalcoholic beverages
13 and the preparation or service of these items if the receipts are
14 taxable by Chapter 183,~~

15 ~~[(7)]~~ alcoholic beverages when sold to the holder of a
16 private club registration permit or to the agent or employee of the
17 holder of a private club registration permit if the holder or agent
18 or employee is acting as the agent of the members of the club and if
19 the beverages are to be served on the premises of the club;

20 (7) ~~[(8)]~~ oil well service as taxed by Subchapter E,
21 Chapter 191; and

22 (8) ~~[(9)]~~ insurance premiums subject to gross
23 premiums taxes.

24 SECTION 4A.07. Section 151.315, Tax Code, is amended to
25 read as follows:

26 Sec. 151.315. WATER. Water, other than water sold in a
27 sealed container with a volume of three gallons or less, is exempted

1 from the taxes imposed by this chapter.

2 SECTION 4A.08. Section 321.501(a), Tax Code, is amended to
3 read as follows:

4 (a) After deducting the taxes that are required to be
5 deposited to the credit of the Texas education fund under Section
6 25, Article VIII, Texas Constitution, the ~~The~~ comptroller shall
7 deposit the taxes collected by the comptroller under this chapter
8 in trust in the separate suspense account of the municipality from
9 which the taxes were collected.

10 SECTION 4A.09. Section 321.503, Tax Code, is amended to
11 read as follows:

12 Sec. 321.503. STATE'S SHARE. Before sending any money to a
13 municipality under this subchapter the comptroller shall deduct two
14 percent of the amount of the municipality's share of the taxes
15 collected within the municipality during the period for which a
16 distribution is made as the state's charge for its services under
17 this chapter and shall~~[, subject to premiums payments under Section~~
18 ~~321.501(c),]~~ credit the money deducted to the general revenue fund.

19 SECTION 4A.10. Section 322.303, Tax Code, is amended to
20 read as follows:

21 Sec. 322.303. STATE'S SHARE. Before sending any money to a
22 taxing entity under this subchapter, the comptroller shall deduct
23 two percent of the amount of the taxing entity's share of the taxes
24 collected within the entity area during the period for which a
25 distribution is made as the state's charge for its services under
26 this chapter and shall credit the money deducted to the general
27 revenue fund.

1 SECTION 4A.11. Section 323.501(a), Tax Code, is amended to
2 read as follows:

3 (a) After deducting the taxes that are required to be
4 deposited to the credit of the Texas education fund under Section
5 25, Article VIII, Texas Constitution, the [The] comptroller shall
6 deposit the taxes collected by the comptroller under this chapter
7 in trust in the separate suspense account of the county from which
8 the taxes were collected.

9 SECTION 4A.12. Section 323.503, Tax Code, is amended to
10 read as follows:

11 Sec. 323.503. STATE'S SHARE. Before sending any money to a
12 county under this subchapter the comptroller shall deduct two
13 percent of the amount of the county's share of the taxes collected
14 within the county during the period for which a distribution is made
15 as the state's charge for its services under this chapter and
16 shall~~[, subject to premiums payments under Section 323.501(c),]~~
17 credit the money deducted to the general revenue fund.

18 SECTION 4A.13. The following provisions of the Tax Code are
19 repealed:

- 20 (1) Section 151.319;
21 (2) Section 151.320; and
22 (3) Section 151.325.

23 SECTION 4A.14. (a) There are exempted from the taxes
24 imposed by Chapter 151, Tax Code, the receipts from the sale, use,
25 storage, rental, or other consumption in this state of services
26 that became subject to the taxes because of the terms of this part
27 and that are the subject of a written contract or bid entered into

1 on or before the day after the last day of the 78th Legislature, 4th
2 Called Session, 2004.

3 (b) The exemption provided by this section expires January
4 1, 2007.

5 SECTION 4A.15. This part takes effect January 1, 2005.

6 PART B. [reserved]

7 PART C. BOAT AND MOTOR BOAT SALES AND USE TAX

8 SECTION 4C.01. Section 160.021(b), Tax Code, is amended to
9 read as follows:

10 (b) The tax rate is 7.75 [~~6-1/4~~] percent of the total
11 consideration.

12 SECTION 4C.02. Section 160.022(b), Tax Code, is amended to
13 read as follows:

14 (b) The tax rate is 7.75 [~~6-1/4~~] percent of the total
15 consideration.

16 SECTION 4C.03. This part takes effect January 1, 2005.

17 PART D. ADMISSIONS TAX

18 SECTION 4D.01. Subtitle E, Title 2, Tax Code, is amended by
19 adding Chapter 163 to read as follows:

20 CHAPTER 163. ADMISSION TO EVENTS

21 Sec. 163.001. SALES TAX. (a) A tax is imposed on each sale
22 of an admission ticket to an event described by Section 163.002.

23 (b) The tax rate is \$1 on the sale of each ticket.

24 Sec. 163.002. TAXABLE EVENTS. (a) The tax imposed under
25 Section 163.001 applies to an admission ticket purchased to an
26 event as described by this section other than an event exempted
27 under Section 163.003.

1 (b) The tax imposed under Section 163.001 applies to an
2 admission ticket purchased to:

3 (1) a professional athletic or amusement event in this
4 state;

5 (2) a permanently sited theme or amusement park in
6 this state; and

7 (3) a live performance, including a concert, show,
8 reading, or play.

9 Sec. 163.003. EXEMPTION. The tax imposed under Section
10 163.001 does not apply to an admission ticket purchased to an event:

11 (1) sponsored, produced, or affiliated with:

12 (A) a public or private primary or secondary
13 school; or

14 (B) a public or private institution of higher
15 education in this state, including a public junior college, as
16 defined by Section 61.003, Education Code; or

17 (2) if the net proceeds of the event are used only for
18 a charitable purpose.

19 Sec. 163.004. APPLICATION OF OTHER PROVISIONS OF CODE.
20 Except as provided by this chapter:

21 (1) the tax imposed by this chapter is administered,
22 imposed, collected, and enforced in the same manner as the tax under
23 Chapter 151 is administered, imposed, collected, and enforced; and

24 (2) the provisions of Chapter 151 applicable to the
25 sales tax imposed under Subchapter C, Chapter 151, apply to the tax
26 imposed by this chapter.

27 Sec. 163.005. ALLOCATION OF TAX. The comptroller shall

1 allocate the net revenue from taxes imposed by this chapter to the
2 Texas education fund.

3 ARTICLE 5. CIGARETTE AND TOBACCO PRODUCTS TAXES

4 SECTION 5.01. Section 154.021(b), Tax Code, is amended to
5 read as follows:

6 (b) The tax rates are:

7 (1) \$70.50 [~~\$20.50~~] per thousand on cigarettes
8 weighing three pounds or less per thousand; and

9 (2) the rate provided by Subdivision (1) plus \$2.10
10 per thousand on cigarettes weighing more than three pounds per
11 thousand.

12 SECTION 5.02. Section 155.021(b), Tax Code, is amended to
13 read as follows:

14 (b) The tax rates are:

15 (1) 3.44 cents [~~one cent~~] per 10 or fraction of 10 on
16 cigars weighing three pounds or less per thousand;

17 (2) \$25.80 [~~\$7.50~~] per thousand on cigars that:

18 (A) weigh more than three pounds per thousand;

19 and

20 (B) sell at factory list price, exclusive of any
21 trade discount, special discount, or deal, for 3.3 cents or less
22 each;

23 (3) \$37.84 [~~\$11~~] per thousand on cigars that:

24 (A) weigh more than three pounds per thousand;

25 (B) sell at factory list price, exclusive of any
26 trade discount, special discount, or deal, for more than 3.3 cents
27 each; and

1 (C) contain no substantial amount of nontobacco
2 ingredients; and

3 (4) \$51.60 [~~\$15~~] per thousand on cigars that:

4 (A) weigh more than three pounds per thousand;

5 (B) sell at factory list price, exclusive of any
6 trade discount, special discount, or deal, for more than 3.3 cents
7 each; and

8 (C) contain a substantial amount of nontobacco
9 ingredients.

10 SECTION 5.03. Section 155.0211(b), Tax Code, is amended to
11 read as follows:

12 (b) The tax rate for tobacco products other than cigars is
13 40 [~~35-213~~] percent of the manufacturer's list price, exclusive of
14 any trade discount, special discount, or deal.

15 SECTION 5.04. This article takes effect January 1, 2005.

16 ARTICLE 6. TELECOMMUNICATIONS INFRASTRUCTURE FUND

17 SECTION 6.01. Section 57.048, Utilities Code, is amended by
18 amending Subsections (c) and (d) and adding Subsections (f)-(i) to
19 read as follows:

20 (c) The total amount deposited to the credit of the fund,
21 excluding interest and loan repayments, may not exceed \$2 [~~\$1.75~~]
22 billion. Not later than August 31 of each year, the comptroller
23 shall determine the total amount, excluding interest and loan
24 repayments, that has been deposited to the credit of the fund during
25 that fiscal year and the preceding fiscal years. If the comptroller
26 determines that a total of \$1.75 [~~\$1.5~~] billion or more, excluding
27 interest and loan repayments, has been deposited to the credit of

1 the fund, the comptroller shall impose the assessment during the
2 next fiscal year at a rate that the comptroller estimates is
3 sufficient to produce the amount necessary to result in the deposit
4 in the fund of a total of not more than \$2 [~~\$1.75~~] billion,
5 excluding interest and loan repayments.

6 (d) The comptroller may not collect the assessment during a
7 fiscal year if the comptroller determines after the yearly review
8 that the total amount deposited to the credit of the fund during
9 that fiscal year and the preceding fiscal years is \$1.99 [~~\$1.74~~]
10 billion or more, excluding interest and loan repayments, and it is
11 not possible to impose the assessment during the next fiscal year at
12 a practical rate without collecting more than a total of \$2 [~~\$1.75~~]
13 billion, excluding interest and loan repayments.

14 (f) Notwithstanding any other provision of this title, a
15 certificated telecommunications utility may recover from the
16 utility's customers an assessment imposed on the utility under this
17 subchapter after the total amount deposited to the credit of the
18 fund, excluding interest and loan repayments, is equal to \$1.5
19 billion, as determined by the comptroller. A certificated
20 telecommunications utility may recover only the amount of the
21 assessment imposed after the total amount deposited to the credit
22 of the fund, excluding interest and loan repayments, is equal to
23 \$1.5 billion, as determined by the comptroller. The utility may
24 recover the assessment through a monthly billing process.

25 (g) The comptroller shall publish in the Texas Register the
26 date on which the total amount deposited to the credit of the fund,
27 excluding interest and loan repayments, is equal to \$1.5 billion.

1 (h) Not later than February 15 of each year, a certificated
2 telecommunications utility that wants to recover the assessment
3 under Subsection (f) shall file with the commission an affidavit or
4 affirmation stating the amount that the utility paid to the
5 comptroller under this section during the previous calendar year
6 and the amount the utility recovered from its customers in
7 cumulative payments during that year.

8 (i) The commission shall maintain the confidentiality of
9 information the commission receives under this section that is
10 claimed to be confidential for competitive purposes. The
11 confidential information is exempt from disclosure under Chapter
12 552, Government Code.

13 SECTION 6.02. Section 57.051, Utilities Code, is amended to
14 read as follows:

15 Sec. 57.051. SUNSET PROVISION. The Telecommunications
16 Infrastructure Fund [~~Board~~] is subject to Chapter 325, Government
17 Code (Texas Sunset Act). Unless continued in existence as provided
18 by that chapter, [~~the board is abolished and~~] this subchapter
19 expires September 1, 2007 [~~2005~~].

20 SECTION 6.03. (a) This article takes effect on the date the
21 constitutional amendment proposed by H.J.R. No. 1, 78th
22 Legislature, 4th Called Session, 2004, takes effect.

23 (b) If, on the effective date of this article, the
24 assessment prescribed by Section 57.048, Utilities Code, is imposed
25 at a rate of less than 1.25 percent, the comptroller shall,
26 effective January 1, 2005, reset the rate of the assessment to 1.25
27 percent.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. (a) Except as otherwise provided by this Act, this Act takes effect January 1, 2005, but only if the constitutional amendment proposed by H.J.R. No. 1, 78th Legislature, 4th Called Session, 2004, is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

(b) This subsection and Section 2B.05 of this Act take effect September 1, 2004, regardless of whether the constitutional amendment proposed by H.J.R. No. 1, 78th Legislature, 4th Called Session, 2004, is approved by the voters.