

By: Pitts, McCall

H.B. No. 3459

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to fiscal matters involving certain governmental  
3 educational entities, including public school finance, program  
4 compliance monitoring by the Texas Education Agency, funding for  
5 regional education service centers, amounts withheld from  
6 compensatory education allotments, the public school technology  
7 allotment, the accounting for the permanent school fund, refunding  
8 of certain student loan bonds, funding for the higher education  
9 fund, health insurance coverage provided by certain educational  
10 entities, the uses of the telecommunications infrastructure fund,  
11 and the regulation of driver education schools.

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

13 SECTION 1. The following provisions of the Education Code  
14 are repealed:

15 (1) Chapters 41, 42, and 46; and

16 (2) Section 45.002.

17 SECTION 2. Chapter 4, Education Code, is amended by adding  
18 Section 4.003 to read as follows:

19 Sec. 4.003. STATE RESPONSIBILITY FOR PROVISION OF PUBLIC  
20 EDUCATION. (a) It is the policy of this state that the provision of  
21 public education is a state responsibility and that a thorough and  
22 efficient system be provided and substantially financed through  
23 state revenue sources so that each student enrolled in the public  
24 school system shall have access to programs and services that are

1 appropriate to the student's educational needs and that are  
2 substantially equal to those available to any similar student,  
3 notwithstanding varying local economic factors.

4 (b) The public school finance system of this state shall  
5 adhere to a standard of neutrality that provides for substantially  
6 equal access to similar revenue per student at similar tax effort,  
7 considering all state and local tax revenues of districts after  
8 acknowledging all legitimate student and district cost  
9 differences.

10 (c) It is the policy of this state that not later than  
11 September 1, 2007, the legislature shall provide state funding in  
12 an amount that constitutes at least 50 percent of the cost of  
13 maintaining and operating the public school system.

14 SECTION 3. Sections 1 and 2 of this Act take effect  
15 September 1, 2004, but only if, before that date:

16 (1) the legislature has enacted a school finance  
17 system to replace the system established by Chapters 41, 42, 45, and  
18 46, Education Code;

19 (2) the Act enacting a school finance system in  
20 compliance with Subdivision (1) of this section affirmatively  
21 states that the system is a comprehensive school finance system for  
22 the entire state; and

23 (3) the school finance system enacted in compliance  
24 with Subdivision (1) of this section has become law.

25 SECTION 4. Subchapter B, Chapter 7, Education Code, is  
26 amended by adding Section 7.027 to read as follows:

27 Sec. 7.027. LIMITATION ON COMPLIANCE MONITORING. (a)

1 Except as provided by Section 29.001(5), 39.074, or 39.075, the  
2 agency may monitor compliance with requirements applicable to a  
3 process or program provided by a school district, campus, program,  
4 or school granted charters under Chapter 12, including the process  
5 described by Subchapter F, Chapter 11, or a program described by  
6 Subchapter A, B, C, D, E, F, H, or I, Chapter 29, or Section 38.003,  
7 and the use of funds provided for such a program under Subchapter C,  
8 Chapter 42, only as necessary to ensure:

9 (1) compliance with state and federal law and  
10 regulations;

11 (2) financial accountability, including compliance  
12 with grant requirements; and

13 (3) data integrity for purposes of:

14 (A) the Public Education Information Management  
15 System (PEIMS); and

16 (B) accountability under Chapter 39.

17 (b) The board of trustees of a school district or the  
18 governing body of an open-enrollment charter school has primary  
19 responsibility for ensuring that the district or school complies  
20 with all applicable requirements of state educational programs.

21 SECTION 5. Section 8.051(d), Education Code, is amended to  
22 read as follows:

23 (d) Each regional education service center may ~~[shall]~~  
24 maintain core services for purchase by school districts and  
25 campuses. The core services are:

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

1           (2) training and assistance in providing each program  
2 that qualifies for a funding allotment under Section 42.151,  
3 42.152, 42.153, or 42.156;

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

8           (4) training and assistance to teachers,  
9 administrators, members of district boards of trustees, and members  
10 of site-based decision-making committees;

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

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

16           SECTION 6. Subchapter I, Chapter 21, Education Code, is  
17 amended by adding Section 21.413 to read as follows:

18           Sec. 21.413. CLASSROOM SUPPLY REIMBURSEMENT PROGRAM. (a)  
19 The commissioner shall establish a reimbursement program under  
20 which the commissioner provides funds to a school district for the  
21 purpose of reimbursing classroom teachers in the district who  
22 expend personal funds on classroom supplies. A school district  
23 must match any funds provided to the district under the  
24 reimbursement program with local funds to be used for the same  
25 purpose.

26           (b) The commissioner shall adopt rules for the local  
27 allocation of funds provided to a school district under the

1 reimbursement program. A school district shall allow each  
2 classroom teacher in the district who is reimbursed under the  
3 reimbursement program to use the funds in the teacher's discretion,  
4 except that the funds must be used for the benefit of the district's  
5 students. A school district may not use funds received under the  
6 reimbursement program to replace local funds used by the district  
7 for the same purpose.

8 (c) The commissioner shall identify state and federal funds  
9 available for use under the reimbursement program, including funds  
10 subject to the Education Flexibility Partnership Act of 1999 (20  
11 U.S.C. Section 5891a et seq.), and its subsequent amendments, as  
12 well as consolidated administrative funds.

13 (d) The commissioner shall establish the reimbursement  
14 program for implementation beginning not later than the 2005-2006  
15 school year. The commissioner may implement the reimbursement  
16 program only if funds are specifically appropriated by the  
17 legislature for the program or if the commissioner identifies  
18 available funds, other than general revenue funds, that may be used  
19 for the program.

20 SECTION 7. Section 29.001, Education Code, is amended to  
21 read as follows:

22 Sec. 29.001. STATEWIDE PLAN. The agency shall develop, and  
23 modify as necessary, a statewide design, consistent with federal  
24 law, for the delivery of services to children with disabilities in  
25 this state that includes rules for the administration and funding  
26 of the special education program so that a free appropriate public  
27 education is available to all of those children between the ages of

1 three and 21. The statewide design shall include the provision of  
2 services primarily through school districts and shared services  
3 arrangements, supplemented by regional education service centers.  
4 The agency shall also develop and implement a statewide plan with  
5 programmatic content that includes procedures designed to:

6 (1) ensure state compliance with requirements for  
7 supplemental federal funding for all state-administered programs  
8 involving the delivery of instructional or related services to  
9 students with disabilities;

10 (2) facilitate interagency coordination when other  
11 state agencies are involved in the delivery of instructional or  
12 related services to students with disabilities;

13 (3) periodically assess statewide personnel needs in  
14 all areas of specialization related to special education and pursue  
15 strategies to meet those needs through a consortium of  
16 representatives from regional education service centers, local  
17 education agencies, and institutions of higher education and  
18 through other available alternatives;

19 (4) ensure that regional education service centers  
20 throughout the state maintain a regional support function, which  
21 may include direct service delivery and a component designed to  
22 facilitate the placement of students with disabilities who cannot  
23 be appropriately served in their resident districts;

24 (5) allow the agency to effectively monitor and  
25 periodically conduct site visits of all school districts [~~to ensure~~  
26 ~~that rules adopted under this section are applied in a consistent~~  
27 ~~and uniform manner,~~] to ensure that districts are complying with

1 federal law and regulations and those state laws and rules  
2 necessary to carry out federal and state law and regulations  
3 relating to special education [7] and to ensure that annual  
4 statistical reports filed by the districts and not otherwise  
5 available through the Public Education Information Management  
6 System under Section 42.006, are accurate and complete;

7 (6) ensure that appropriately trained personnel are  
8 involved in the diagnostic and evaluative procedures operating in  
9 all districts and that those personnel routinely serve on district  
10 admissions, review, and dismissal committees;

11 (7) ensure that an individualized education program  
12 for each student with a disability is properly developed,  
13 implemented, and maintained in the least restrictive environment  
14 that is appropriate to meet the student's educational needs;

15 (8) ensure that, when appropriate, each student with a  
16 disability is provided an opportunity to participate in career and  
17 technology and physical education classes, in addition to  
18 participating in regular or special classes;

19 (9) ensure that each student with a disability is  
20 provided necessary related services; and

21 (10) ensure that an individual assigned to act as a  
22 surrogate parent for a child with a disability, as provided by 20  
23 U.S.C. Section 1415(b) and its subsequent amendments, is required  
24 to:

25 (A) complete a training program that complies  
26 with minimum standards established by agency rule;

27 (B) visit the child and the child's school;

1 (C) consult with persons involved in the child's  
2 education, including teachers, caseworkers, court-appointed  
3 volunteers, guardians ad litem, attorneys ad litem, foster parents,  
4 and caretakers;

5 (D) review the child's educational records;

6 (E) attend meetings of the child's admission,  
7 review, and dismissal committee;

8 (F) exercise independent judgment in pursuing  
9 the child's interests; and

10 (G) exercise the child's due process rights under  
11 applicable state and federal law.

12 SECTION 8. Sections 29.010(a) and (c), Education Code, are  
13 amended to read as follows:

14 (a) The agency shall adopt and implement a comprehensive  
15 system for monitoring school district compliance with federal and  
16 state law and regulations and state requirements necessary to carry  
17 out federal laws and regulations relating to special education.  
18 The monitoring system must provide for ongoing analysis of district  
19 special education data and of complaints filed with the agency  
20 concerning special education services and for inspections of school  
21 districts at district facilities. The agency shall use the  
22 information obtained through analysis of district data and from the  
23 complaints management system to determine the appropriate schedule  
24 for and extent of the inspection.

25 (c) The agency shall develop and implement a system of  
26 sanctions for school districts whose most recent monitoring visit  
27 shows a failure to comply with major requirements of the



1 Individuals with Disabilities Education Act (20 U.S.C. Section 1400  
2 et seq.), federal law or regulations, or state [~~statutes, or~~  
3 ~~agency~~] requirements necessary to carry out federal law or  
4 regulations [~~or state law~~] relating to special education.

5 SECTION 9. Sections 29.062(a) and (e), Education Code, are  
6 amended to read as follows:

7 (a) The legislature recognizes that compliance with this  
8 subchapter is an imperative public necessity. Therefore, in  
9 accordance with the policy of the state, the agency shall evaluate  
10 the effectiveness of programs under this subchapter based on the  
11 results of assessment instruments, including those required under  
12 Subchapter B, Chapter 39. The agency may combine evaluations under  
13 this section with federal accountability measures concerning  
14 students of limited English proficiency [~~monitor compliance with~~  
15 ~~state rules by inspecting each school district and open-enrollment~~  
16 ~~charter school on-site at least every three years~~].

17 (e) If a school district or open-enrollment charter school  
18 fails to satisfy appropriate standards adopted by the commissioner  
19 for purpose of Subsection (a) [~~or refuses to comply after proper~~  
20 ~~notification~~], the agency shall apply sanctions, which may include  
21 the removal of accreditation, loss of foundation school funds, or  
22 both.

23 SECTION 10. Section 31.021(b), Education Code, is amended  
24 to read as follows:

25 (b) The State Board of Education shall annually set aside  
26 out of the available school fund of the state an amount sufficient  
27 for the board, school districts, and open-enrollment charter

1 schools to purchase and distribute the necessary textbooks for the  
2 use of the students of this state for the following school year.  
3 The board shall determine the amount of the available school fund to  
4 set aside for the state textbook fund based on:

5 (1) a report by the commissioner issued on July 1 or,  
6 if that date is a Saturday or Sunday, on the following Monday,  
7 stating the amount of unobligated money in the fund;

8 (2) ~~[a requirement to provide an allotment to be  
9 distributed to each district equal to \$30 per student in average  
10 daily attendance, or a greater amount for any year provided by  
11 appropriation, to be used only to:~~

12 ~~[(A) provide for the purchase by school districts  
13 of electronic textbooks or technological equipment that  
14 contributes to student learning; and~~

15 ~~[(B) pay for training educational personnel  
16 directly involved in student learning in the appropriate use of  
17 electronic textbooks and for providing for access to technological  
18 equipment for instructional use;~~

19 ~~[(3)]~~ the commissioner's estimate, based on textbooks  
20 selected under Section 31.101 and on attendance reports submitted  
21 under Section 31.103 by school districts and open-enrollment  
22 charter schools, of the amount of funds, in addition to funds  
23 reported under Subdivision (1), that will be necessary for purchase  
24 and distribution of textbooks for the following school year; and

25 (3) ~~[(4)]~~ any amount the board determines should be  
26 set aside for emergency purposes caused by unexpected increases in  
27 attendance.

1 SECTION 11. Section 31.103(b), Education Code, is amended  
2 to read as follows:

3 (b) A requisition for textbooks for the following school  
4 year shall be based on the maximum attendance reports under  
5 Subsection (a), plus an additional 10 percent, except as otherwise  
6 provided. A school district or open-enrollment charter school  
7 shall make a requisition for a textbook on the conforming or  
8 nonconforming list through the commissioner to the state depository  
9 designated by the publisher or as provided by State Board of  
10 Education rule, as applicable, not later than June 1 of each year.  
11 The designated state depository or, if the publisher or  
12 manufacturer does not have a designated textbook depository in this  
13 state under Section 31.151(a)(6)(B), the publisher or manufacturer  
14 shall fill a requisition approved by the agency at any other time in  
15 the case of an emergency. As made necessary by available funds, the  
16 commissioner shall reduce the additional percentage of attendance  
17 for which a district or school may requisition textbooks. The  
18 commissioner may, on application of a district or school that is  
19 experiencing high enrollment growth, increase the additional  
20 percentage of attendance for which the district or school may  
21 requisition textbooks.

22 SECTION 12. Subchapter A, Chapter 32, Education Code, is  
23 amended by adding Section 32.005 to read as follows:

24 Sec. 32.005. TECHNOLOGY ALLOTMENT. (a) Each school  
25 district is entitled to an allotment of \$35 for each student in  
26 average daily attendance or a different amount for any year  
27 provided by appropriation.

1           (b) An allotment under this section may be used only to:

2                   (1) provide for the purchase by school districts of  
3 electronic textbooks or technological equipment that contributes  
4 to student learning; and

5                   (2) pay for training educational personnel directly  
6 involved in student learning in the appropriate use of electronic  
7 textbooks and for providing for access to technological equipment  
8 for instructional use.

9           (c) The allotment under this section may be paid from:

10                   (1) the telecommunications infrastructure fund under  
11 Subchapter C, Chapter 57, Utilities Code;

12                   (2) the available school fund; or

13                   (3) any other fund that may be used for that purpose  
14 and that is identified in the General Appropriations Act as the  
15 source of payment of the allotment.

16           SECTION 13. Section 39.023(e), Education Code, is amended  
17 to read as follows:

18           (e) Under rules adopted by the State Board of Education,  
19 every other year, the agency shall release the questions and answer  
20 keys to each assessment instrument administered under Subsection  
21 (a), (b), (c), (d), or (l) after the last time the instrument is  
22 administered for that [a] school year. To ensure a valid bank of  
23 questions for use each year, the agency is not required to release a  
24 question that is being field-tested and was not used to compute the  
25 student's score on the instrument. The agency shall also release,  
26 under board rule, each question that is no longer being  
27 field-tested and that was not used to compute a student's score.

1 SECTION 14. Section 39.031(a), Education Code, is amended  
2 to read as follows:

3 (a) The cost of preparing, administering, or grading the  
4 assessment instruments shall be paid from foundation school fund  
5 allotments other than ~~[the]~~ funds allotted under Section 42.152,  
6 and each district shall bear the cost in the same manner described  
7 for a reduction in allotments under Section 42.253. ~~[If a district~~  
8 ~~does not receive an allotment under Section 42.152, the~~  
9 ~~commissioner shall subtract the cost from the district's other~~  
10 ~~foundation school fund allotments.]~~

11 SECTION 15. Sections 41.0021(a) and (e), Education Code,  
12 are amended to read as follows:

13 (a) Notwithstanding Section 41.002, for the ~~[2001-2002,~~  
14 ~~2002-2003, and]~~ 2003-2004 and 2004-2005 school years, a school  
15 district that in the 1999-2000 school year did not offer each grade  
16 level from kindergarten through 12 may elect to have its wealth per  
17 student determined under this section.

18 (e) This section expires September 1, 2005 ~~[2004]~~.

19 SECTION 16. Sections 42.152(i)-(l), (n), and (p), Education  
20 Code, are amended to read as follows:

21 (i) From the total amount of funds appropriated for  
22 allotments under this section, the commissioner may ~~[shall]~~, each  
23 fiscal year, withhold an ~~[\$7,500,000 or a greater]~~ amount as  
24 determined in the General Appropriations Act and distribute that  
25 amount for programs under Subchapter A, Chapter 33. A program  
26 established under that subchapter is required only in school  
27 districts in which the program is financed by funds distributed

1 under this subsection [~~section~~] or other funds distributed by the  
2 commissioner for a program under that subchapter. In distributing  
3 those funds, preference shall be given to a school district that  
4 received funds for a program under this subsection for the  
5 preceding school year.

6 (j) The commissioner shall coordinate any [~~the~~] funds  
7 withheld under Subsection (i) and any other funds available for the  
8 program and [~~shall~~] distribute those funds. To receive available  
9 funds for the program, a school district must apply to the  
10 commissioner. In distributing any funds under this subsection, the  
11 [~~The~~] commissioner shall give a preference to the districts that  
12 apply that have the highest concentration of at-risk students. For  
13 each school year that a school district receives funds under this  
14 subsection [~~section~~], the district shall allocate an amount of  
15 local funds for school guidance and counseling programs that is  
16 equal to or greater than the amount of local funds that the school  
17 district allocated for that purpose during the preceding school  
18 year.

19 (k) After deducting any [~~the~~] amount withheld under  
20 Subsection (i) from the total amount appropriated for the allotment  
21 under Subsection (a), the commissioner shall reduce each district's  
22 tier one allotments in the same manner described for a reduction in  
23 allotments under Section 42.253.

24 (l) From the total amount of funds appropriated for  
25 allotments under this section, the commissioner may [~~shall~~], each  
26 fiscal year, withhold an [~~the~~] amount not more than [~~of~~] \$2.5  
27 million for transfer to the investment capital fund under Section

1 7.024.

2 (n) After deducting any [~~the~~] amount withheld under  
3 Subsection (l) from the total amount appropriated for the allotment  
4 under Subsection (a), the commissioner shall reduce each district's  
5 allotment under Subsection (a) proportionately and shall allocate  
6 funds to each district accordingly.

7 (p) The commissioner may [~~shall~~]

8 [~~(1)~~] withhold, from the total amount of funds  
9 appropriated for allotments under this section, an amount not to  
10 exceed five percent of the amounts allocated under this section and  
11 distribute that amount for [~~sufficient to finance~~] extended year  
12 programs under Section 29.082. In distributing any funds under  
13 this subsection, the commissioner shall [~~not to exceed five percent~~  
14 ~~of the amounts allocated under this section, and~~

15 [~~(2)~~] give priority to applications for extended year  
16 programs to districts with high concentrations of educationally  
17 disadvantaged students.

18 SECTION 17. Subchapter E, Chapter 42, Education Code, is  
19 amended by adding Section 42.2516 to read as follows:

20 Sec. 42.2516. ADDITIONAL AID FOR 2003-2004 AND 2004-2005  
21 SCHOOL YEARS. (a) For the 2003-2004 and 2004-2005 school years, in  
22 addition to any other state aid to which a school district is  
23 entitled under this chapter, a district is entitled to an amount  
24 equal to the product of the number of students in average daily  
25 attendance in the district multiplied by \$150.

26 (b) A school district that is otherwise ineligible for state  
27 aid under this chapter is entitled to state aid under this section.

1 A school district that is required to take action under Chapter 41  
2 to reduce its wealth per student to the equalized wealth level is  
3 entitled to:

4 (1) a credit, in the amount of the state aid to which  
5 the district is entitled under this section, against the total  
6 amount required under Section 41.093 for the district to purchase  
7 attendance credits; and

8 (2) if the amount of state aid to which the district is  
9 entitled under this section exceeds the total amount required under  
10 Section 41.093 for the district to purchase sufficient attendance  
11 credits to reduce its wealth per student to the equalized wealth  
12 level, state aid in an amount equal to the difference between the  
13 state aid to which the district is entitled under this section and  
14 the credit applied under Subdivision (1).

15 (c) In addition to any aid established by Subsection (a),  
16 for the 2003-2004 and 2004-2005 school years, a school district  
17 with less than 5,000 students in average daily attendance and a  
18 wealth per student that does not exceed the equalized wealth level  
19 under Section 41.002 is also entitled to additional funding  
20 determined as follows: Multiply 0.65 times the amount calculated  
21 when \$150 times the district's average daily attendance is  
22 subtracted from \$112 times the district's weighted average daily  
23 attendance.

24 (d) This subsection applies only to a current employee of a  
25 school district who is entitled to the minimum salary under Section  
26 21.402, who was employed by that district during the 2002-2003  
27 school year, and who received funds under Article 3.50-8, Insurance



1 Code, during the 2002-2003 school year. For the 2003-2004 school  
2 year, a school district shall ensure that each employee to whom this  
3 subsection applies and who is employed by the district receives the  
4 difference, if any, between \$1,000 and the amount per employee that  
5 the district receives under other law for purposes of Article  
6 3.50-8, Insurance Code, for employees to whom this subsection  
7 applies. A district employee may not bring a cause of action  
8 against a district under this subsection on the basis of the amount  
9 paid to the employee under this subsection if the employee's total  
10 salary for the 2003-2004 school year, including amounts paid for  
11 purposes of Article 3.50-8, Insurance Code, is equal to or greater  
12 than the employee's base salary for the 2002-2003 school year,  
13 including any career ladder supplement, plus any money paid to or  
14 used on behalf of the employee under Article 3.50-8, Insurance  
15 Code.

16 (e) This section expires September 1, 2005.

17 SECTION 18. Subchapter E, Chapter 42, Education Code, is  
18 amended by adding Section 42.2517 to read as follows:

19 Sec. 42.2517. EXCESS FUNDS FOR COST OF EDUCATION  
20 ADJUSTMENT. (a) If the commissioner determines that the amount  
21 appropriated for purposes of the Foundation School Program exceeds  
22 the amount to which school districts are entitled under this  
23 chapter, the commissioner may:

24 (1) adjust each district's cost of education  
25 adjustment under Section 42.102 to reflect current uncontrollable  
26 variations in the cost of education, particularly the cost of  
27 providing salaries and benefits to classroom teachers; and

1           (2) provide funding under this chapter based on the  
2 cost of education index adjusted under Subdivision (1).

3           (b) If the amount available under Subsection (a) is not  
4 sufficient to provide funding based on the cost of education index  
5 adjusted under Subsection (a)(1), the commissioner shall rank  
6 districts by the increase in the cost of education adjustment  
7 applicable to each district under this section and shall provide  
8 funding under this section to districts in descending order of the  
9 amount of increase in the cost of education adjustment applicable  
10 to districts under this section, beginning with the district that  
11 has the greatest increase in the cost of education adjustment,  
12 until no funds are available for purposes of this section.

13           SECTION 19. Section 42.253(b), Education Code, is amended  
14 to read as follows:

15           (b) Except as provided by this subsection, the commissioner  
16 shall base the determinations under Subsection (a) on the estimates  
17 provided to the legislature under Section 42.254, or, if the  
18 General Appropriations Act provides estimates for that purpose, on  
19 the estimates provided under that Act, for each school district for  
20 each school year. The commissioner shall reduce the entitlement of  
21 each district that has a final taxable value of property for the  
22 second year of a state fiscal biennium that is higher than the  
23 estimate under Section 42.254 or the General Appropriations Act, as  
24 applicable. A reduction under this subsection may not reduce the  
25 district's entitlement below the amount to which it is entitled at  
26 its actual taxable value of property. ~~[The sum of the reductions~~  
27 ~~under this subsection may not be greater than the amount necessary~~

1 ~~to fully fund the entitlement of each district.]~~

2 SECTION 20. Section 42.259, Education Code, is amended by  
3 adding Subsection (g) to read as follows:

4 (g) Notwithstanding Subsections (c)(8) and (d)(3), the  
5 payment from the foundation school fund to a category 2 school  
6 district or category 3 school district for August 2005 shall be made  
7 after September 5, 2005, but not later than September 10, 2005.  
8 This subsection expires September 15, 2005.

9 SECTION 21. Section 43.001(b), Education Code, is amended  
10 to read as follows:

11 (b) The available school fund, which shall be apportioned  
12 annually to each county according to its scholastic population,  
13 consists of:

14 (1) the interest and dividends arising from any  
15 securities or funds belonging to the permanent school fund, as  
16 determined in accordance with the accrual basis of accounting;

17 (2) all interest derivable from the proceeds of the  
18 sale of land set apart for the permanent school fund;

19 (3) all money derived from the lease of land belonging  
20 to the permanent school fund;

21 (4) one-fourth of all revenue derived from all state  
22 occupation taxes, exclusive of delinquencies and cost of  
23 collection;

24 (5) one-fourth of revenue derived from state gasoline  
25 and special fuels excise taxes as provided by law; and

26 (6) all other appropriations to the available school  
27 fund made by the legislature for public school purposes.

1 SECTION 22. Chapter 43, Education Code, is amended by  
2 adding Section 43.020 to read as follows:

3 Sec. 43.020. TREATMENT OF ACCRUED INCOME. All interest and  
4 dividends accruing from the investments of the permanent school  
5 fund shall be deposited to the credit of the available school fund  
6 in accordance with the accrual basis of accounting. Funds  
7 recognized under this section are considered part of the available  
8 school fund and may be appropriated as provided by Section 5,  
9 Article VII, Texas Constitution.

10 SECTION 23. Section 46.033, Education Code, is amended to  
11 read as follows:

12 Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued  
13 under Section 45.006, are eligible to be paid with state and local  
14 funds under this subchapter if:

15 (1) the district made payments on the bonds during the  
16 2002-2003 [~~2000-2001~~] school year or taxes levied to pay the  
17 principal of and interest on the bonds were included in the  
18 district's audited debt service collections for that school year;  
19 and

20 (2) the district does not receive state assistance  
21 under Subchapter A for payment of the principal and interest on the  
22 bonds.

23 SECTION 24. Section 46.034, Education Code, is amended by  
24 amending Subsection (c) and adding Subsections (d) and (e) to read  
25 as follows:

26 (c) If the amount required to pay the principal of and  
27 interest on eligible bonds in a school year is less than the amount

1 of payments made by the district on the bonds during the 2002-2003  
2 [~~2000-2001~~] school year or the district's audited debt service  
3 collections for that school year, the district may not receive aid  
4 in excess of the amount that, when added to the district's local  
5 revenue for the school year, equals the amount required to pay the  
6 principal of and interest on the bonds.

7 (d) Notwithstanding any other provision of this chapter, if  
8 the appropriation to support newly eligible bonds for the 2003-2004  
9 school year and the 2004-2005 school year is not sufficient to  
10 provide the state aid that school districts are entitled to under  
11 Section 46.032, the commissioner is directed to reduce the \$35  
12 guaranteed level of state and local support per student per cent of  
13 tax effort for newly eligible debt only to the level necessary to  
14 fund the sum of the allotments within the appropriated amount. The  
15 guaranteed level for eligible debt through the 2000-2001 school  
16 year is not affected by this adjustment. The commissioner shall  
17 make this determination as soon as practicable, prior to the  
18 beginning of the school year. The decision of the commissioner is  
19 final and may not be appealed.

20 (e) Subsection (d) and this subsection expire September 1,  
21 2005.

22 SECTION 25. Section 53.47(a)(6), Education Code, is amended  
23 to read as follows:

24 (6) "Qualified nonprofit corporation" means a  
25 nonprofit corporation:

26 (A) (i) that issued bonds on or after January 1,  
27 1990, and before January 1, 2001, that qualified as qualified

1 student loan bonds under Section 144(b), Internal Revenue Code of  
2 1986, as amended; or

3 (ii) that issues bonds the proceeds of  
4 which are used to refund bonds issued on or after January 1, 1990,  
5 and before January 1, 2001, that qualified as qualified student  
6 loan bonds under Section 144(b), Internal Revenue Code of 1986, as  
7 amended; or

8 (B) that the office of the governor, in  
9 consultation with the state student loan guaranty agency or any  
10 other public or private entity the office of the governor considers  
11 appropriate, has determined meets a need for student loan financing  
12 that existing qualified nonprofit corporations cannot meet, which  
13 determination may include information provided by the nonprofit  
14 corporation's plan for doing business that should include  
15 documented limitations in:

16 (i) the geographic coverage of existing  
17 qualified nonprofit corporations in the nonprofit corporation's  
18 proposed area of service;

19 (ii) the willingness of existing qualified  
20 nonprofit corporations to serve the eligible lenders in the  
21 proposed area of service; and

22 (iii) the ability of existing qualified  
23 nonprofit corporations to serve the eligible lenders in the  
24 proposed area of service.

25 SECTION 26. Section 53.47, Education Code, is amended by  
26 adding Subsection (1) to read as follows:

27 (1) The governing body of a city by ordinance or resolution

1 may authorize the incorporation of a nonprofit corporation under  
2 this chapter to act on behalf of the city as its duly constituted  
3 instrumentality for the purpose of exercising the powers set forth  
4 in this subsection. On approval by the city, the nonprofit  
5 corporation is authorized to issue its revenue bonds and to loan the  
6 proceeds of the bonds to an entity that has assumed the outstanding  
7 bond obligations of a nonprofit corporation, such loan being for  
8 the limited purpose of refunding the outstanding bonds. In issuing  
9 the bonds, the nonprofit corporation is considered to be acting on  
10 behalf of the city by which it was created. The bonds to be refunded  
11 must have been originally issued as "qualified scholarship funding  
12 bonds," as defined by Section 150(d)(2), Internal Revenue Code of  
13 1986, as amended, by a nonprofit corporation that was acting  
14 pursuant to Subsection (f) and that subsequently made the election  
15 permitted under Section 150(d)(3), Internal Revenue Code of 1986,  
16 as amended. Any refunding bonds shall be solely the obligation of  
17 the nonprofit corporation and shall not be or constitute a debt or  
18 obligation of the city. The ordinance or resolution of the city  
19 authorizing the incorporation of the corporation must approve the  
20 articles of incorporation and any amendments to the articles of  
21 incorporation. On dissolution of the corporation, title to all  
22 property owned by the corporation shall be vested in and become the  
23 property of the city. A corporation may be incorporated under this  
24 chapter by filing its articles of incorporation with the secretary  
25 of state in the manner prescribed for the incorporation of  
26 nonprofit corporations under the Texas Non-Profit Corporation Act  
27 (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). On

1 filing of the articles of incorporation, the secretary of state  
2 shall issue a certificate of incorporation showing that the  
3 corporation is incorporated under this chapter. Except to the  
4 extent provided by this section, Sections 53.131, 53.14, 53.15,  
5 53.31, 53.32, 53.35(a), and 53.39 apply to and govern such  
6 corporation and its procedures and bonds. In addition to the  
7 specific powers granted under this subsection, the corporation  
8 shall have all powers granted under the Texas Non-Profit  
9 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil  
10 Statutes) that are necessary, incidental, or subordinate in  
11 carrying out the purposes authorized in this subsection.

12 SECTION 27. Section 62.025, Education Code, is amended by  
13 amending Subsection (a) and adding Subsections (g) and (h) to read  
14 as follows:

15 (a) Except as provided by Subsection (g), not ~~Not~~ later  
16 than November 1 of each state fiscal year, the comptroller shall  
17 deposit the first \$50 million that comes to the state at the  
18 beginning of each state fiscal year and that is not dedicated by  
19 other law as follows:

20 (1) except as provided by Subsections (d) and (e), an  
21 amount equal to the portion of the total return on all investment  
22 assets of the higher education fund in the preceding state fiscal  
23 year computed by multiplying that total return by the percentage of  
24 the total return on all investment assets of the permanent fund for  
25 tobacco education and enforcement that constitutes available  
26 earnings as determined by the comptroller under Section 403.1068,  
27 Government Code, in that year must be deposited to the credit of the



1 Texas excellence fund established under Subchapter C; and

2 (2) the remaining amount must be deposited to the  
3 credit of the higher education fund.

4 (g) The comptroller may not make the deposit required by  
5 Subsection (a)(2) in a fiscal year if:

6 (1) as of October 1 of that year, the comptroller  
7 estimates that the anticipated state revenue for the following  
8 biennium is less than the estimated revenue for the current  
9 biennium; or

10 (2) the legislature determines in the General  
11 Appropriations Act that the deposit should not be made because of  
12 the state's fiscal condition.

13 (h) The comptroller shall make the deposit required by  
14 Subsection (a)(1) to the Texas excellence fund not later than  
15 November 1 of each fiscal year even if a deposit is not made to the  
16 higher education fund under Subsection (a)(2).

17 SECTION 28. Subchapter I, Chapter 88, Education Code, is  
18 amended by adding Sections 88.703 and 88.704 to read as follows:

19 Sec. 88.703. SUNSET PROVISION. The Texas Veterinary  
20 Medical Diagnostic Laboratory is subject to Chapter 325, Government  
21 Code (Texas Sunset Act). Unless continued in existence as provided  
22 by that chapter, the laboratory is abolished and this subchapter  
23 expires September 1, 2007.

24 Sec. 88.704. FEES. The Texas Veterinary Medical Diagnostic  
25 Laboratory may charge and collect fees for goods and services the  
26 laboratory provides to any person, including a governmental entity.

27 SECTION 29. Section 264.756(a), Family Code, is amended to

1 read as follows:

2 (a) The department shall develop and implement an equitable  
3 formula for the funding of local Communities In Schools programs.  
4 ~~[The formula may provide for the reduction of funds annually~~  
5 ~~contributed by the state to a local program by an amount not more~~  
6 ~~than 50 percent of the amount contributed by the state for the first~~  
7 ~~year of the program.]~~ The formula must consider the financial  
8 resources of individual communities and school districts. ~~[Savings~~  
9 ~~accomplished through the implementation of the formula may be used~~  
10 ~~to extend services to counties and municipalities currently not~~  
11 ~~served by a local program or to extend services to counties and~~  
12 ~~municipalities currently served by an existing local program.]~~

13 SECTION 30. Effective September 1, 2003, Section  
14 1575.203(a), Insurance Code, as effective June 1, 2003, is amended  
15 to read as follows:

16 (a) Each state fiscal year, each active employee shall, as a  
17 condition of employment, contribute to the fund an amount equal to  
18 0.5 ~~[0.25]~~ percent of the employee's salary.

19 SECTION 31. Effective September 1, 2004, Section  
20 1575.203(a), Insurance Code, as effective June 1, 2003, is amended  
21 to read as follows:

22 (a) Each state fiscal year, each active employee shall, as a  
23 condition of employment, contribute to the fund an amount equal to  
24 0.75 ~~[0.25]~~ percent of the employee's salary.

25 SECTION 32. Section 1601.104(c), Insurance Code, as  
26 effective June 1, 2003, is amended to read as follows:

27 (c) Automatic coverage as described under this section

1 begins on the 90th day after the employee's first date of  
2 employment.

3 SECTION 33. Subchapter E, Chapter 1601, Insurance Code, as  
4 effective June 1, 2003, is amended by adding Section 1601.2071 to  
5 read as follows:

6 Sec. 1601.2071. NEW EMPLOYEE WAITING PERIOD. A system may  
7 not contribute an amount to the cost of coverage under this chapter  
8 to an employee before the 90th day after the employee's first date  
9 of employment.

10 SECTION 34. Section 2, Article 3.50-8, Insurance Code, is  
11 amended by amending Subsections (a) and (c) and adding Subsection  
12 (e) to read as follows:

13 (a) Each year, the trustee shall deliver to each school  
14 district, including a school district that is ineligible for state  
15 aid under Chapter 42, Education Code, each other educational  
16 district that is a member of the Teacher Retirement System of Texas,  
17 each participating charter school, and each regional education  
18 service center state funds in an amount, as determined by the  
19 trustee, equal to:

20 (1) the product of the number of active full-time  
21 professional employees, other than administrative professional  
22 employees, employed by the district, school, or service center  
23 multiplied by \$550 [~~\$1,000~~] or a greater amount as provided by the  
24 General Appropriations Act for purposes of this article;

25 (2) the product of the number of active full-time  
26 educational support employees employed by the district, school, or  
27 service center multiplied by \$300 or a greater amount as provided by

1 the General Appropriations Act for purposes of this article; and

2 (3) the product of the number of active part-time  
3 employees employed by the district, school, or service center  
4 multiplied by \$200 or a greater amount as provided by the General  
5 Appropriations Act for purposes of this article.

6 (c) The trustee shall distribute funds under this article in  
7 equal monthly installments. The monthly installments are payable  
8 during the first week of the month following the month in which the  
9 active employees were employed. The trustee is entitled to recover  
10 from a school district, other educational district, participating  
11 charter school, or regional education service center any amount  
12 distributed under this article to which the district, school, or  
13 service center was not entitled.

14 (e) In this section:

15 (1) "Full-time active employee" and "part-time active  
16 employee" have the meanings assigned by trustee rules.

17 (2) "Professional employee" means a teacher, nurse,  
18 counselor, librarian, or other employee required to be certified or  
19 licensed as described by Section 21.003, Education Code.

20 SECTION 35. Article 3.50-8, Insurance Code, is amended by  
21 adding Section 2A to read as follows:

22 Sec. 2A. WAITING PERIOD. An employee is not eligible for  
23 health coverage or compensation supplementation under this article  
24 until the 90th day after the date the employee is employed by a  
25 school district, other educational district, participating charter  
26 school, or regional education service center.

27 SECTION 36. Section 57.046, Utilities Code, is amended by

1 amending Subsection (a) and adding Subsection (c) to read as  
2 follows:

3 (a) The board shall use money in the public schools account  
4 to:

5 (1) to the extent directed in the General  
6 Appropriations Act, fund the technology allotment under Section  
7 32.005, Education Code; and

8 (2) award grants and loans in accordance with this  
9 subchapter to fund:

10 (A) [~~(1)~~] equipment for public schools,  
11 including computers, printers, computer labs, and video equipment;  
12 and

13 (B) [~~(2)~~] intracampus and intercampus wiring to  
14 enable those public schools to use the equipment.

15 (c) Section 57.047(d) does not apply to the use of money in  
16 the public schools account for the purpose specified by Subsection  
17 (a)(1).

18 SECTION 37. (a) Notwithstanding any other provision of  
19 law, the commissioner of education may contract for the performance  
20 of or delegate all or part of the duties assigned to the  
21 commissioner or the Texas Education Agency under the Texas Driver  
22 and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas  
23 Civil Statutes) and Section 29.902, Education Code, to a private or  
24 public entity in accordance with this section.

25 (b) The commissioner shall enter into a written agreement  
26 that describes the responsibilities of the commissioner and agency  
27 and the entity to which a function is delegated or contracted.

1           (c) Any rule of the commissioner enacted under the Texas  
2 Driver and Traffic Safety Education Act remains in effect after a  
3 delegation or contract authorized under this section until amended  
4 by the commissioner. Any investigation, sanction, fine, or  
5 administrative or judicial proceeding in progress on the date of  
6 delegation or effective date of a contract shall continue in effect  
7 without regard to the delegation or contract. Any fees due under  
8 the Texas Driver and Traffic Safety Education Act shall be  
9 deposited to the credit of the Texas Education Agency and used to  
10 support activities of the agency and to pay reasonable expenses of  
11 the entity to which a function is delegated or contracted under this  
12 section.

13           (d) An entity to which authority under the Texas Driver and  
14 Traffic Safety Education Act or Section 29.902, Education Code, is  
15 delegated is considered a state agency for purposes of immunity.

16           (e) The commissioner may make rules to implement this  
17 section. A reference in other law to the commissioner of education  
18 or the Texas Education Agency with regard to duties or actions under  
19 the Texas Driver and Traffic Safety Education Act or Section  
20 29.902, Education Code, shall mean an entity delegated or  
21 contracted a function by the commissioner to the extent necessary  
22 to implement the delegation or contract.

23           SECTION 38. (a) Sections 8.051(a), 8.121, and 53.47(k),  
24 Education Code, are repealed.

25           (b) Section 1575.204, Insurance Code, as effective June 1,  
26 2003, is repealed.

27           SECTION 39. Effective September 1, 2003, the comptroller of

1 public accounts shall transfer \$42 million from the Texas school  
2 employees uniform group coverage trust fund established under  
3 Section 8, Article 3.50-7, Insurance Code, to the retired school  
4 employees group insurance fund described by Subchapter G, Chapter  
5 1575, Insurance Code, as effective June 1, 2003, to compensate the  
6 retired school employees group insurance fund for money transferred  
7 from that fund under Section 4.01, Chapter 1187, Acts of the 77th  
8 Legislature, Regular Session, 2001.

9 SECTION 40. (a) The repeal by Section 1 of this Act of  
10 Section 45.002, Education Code, does not impair any obligation  
11 created by the issuance or execution of any lawful agreement or  
12 evidence of indebtedness before September 1, 2004, that matures  
13 after that date and that is payable from the levy and collection of  
14 a maintenance tax under that section or another law, and an  
15 independent school district may, on and after September 1, 2004,  
16 levy, assess, and collect a maintenance tax, at a rate not greater  
17 than the rate required to pay such obligations but only for so long  
18 as those obligations remain outstanding and unpaid.

19 (b) Notwithstanding the repeal by Section 1 of this Act of  
20 Chapters 41, 42, and 46, Education Code, and Section 45.002,  
21 Education Code, a school district that, before September 1, 2004,  
22 issues bonds, notes, or other evidences of indebtedness under  
23 Chapter 45, Education Code, or other applicable law or enters into a  
24 lease-purchase agreement under Subchapter A, Chapter 271, Local  
25 Government Code, may continue, before, on, and after September 1,  
26 2004, to receive state assistance with respect to such payments to  
27 the same extent the district would have been entitled to receive the

1 assistance under Chapter 42 or 46, Education Code, as those  
2 chapters existed before repeal by this Act, and the former law is  
3 continued in effect for that purpose. The commissioner of  
4 education may adopt rules to implement this subsection.

5 (c) The repeal by Section 1 of this Act of Chapters 41, 42,  
6 and 46, Education Code, and Section 45.002, Education Code, does  
7 not limit, modify, or eliminate the authority of a school district  
8 to:

9 (1) issue or execute bonds, public securities, or  
10 other obligations under Chapter 45, Education Code, or other law,  
11 either before, on, or after September 1, 2004; or

12 (2) levy, assess, and collect, before, on, or after  
13 September 1, 2004, ad valorem taxes at the full rate and in the full  
14 amount authorized by Section 45.002, Education Code, and necessary  
15 to pay the bonds, public securities, or other obligations when due  
16 and payable.

17 (d) Before September 1, 2004, the commissioner of education  
18 may not refuse to grant assistance to a school district under  
19 Chapter 42 or 46, Education Code, in connection with public  
20 securities, lease-purchase agreements, credit agreements, or other  
21 obligations, including those described by Subchapter A, Chapter  
22 271, Local Government Code, on the basis that the district's  
23 authority to levy a maintenance tax is repealed effective September  
24 1, 2004.

25 SECTION 41. The commissioner of education shall adopt rules  
26 and establish the classroom supply reimbursement program as  
27 required by Section 21.413, Education Code, as added by this Act,



1 not later than August 1, 2005.

2 SECTION 42. The change in law made by this Act to Section 2,  
3 Article 3.50-8, Insurance Code, applies to a monthly installment to  
4 be paid on or after September 1, 2003.

5 SECTION 43. Except as otherwise provided by this Act, this  
6 Act takes effect immediately if it receives a vote of two-thirds of  
7 all the members elected to each house, as provided by Section 39,  
8 Article III, Texas Constitution. If this Act does not receive the  
9 vote necessary for immediate effect, this Act takes effect  
10 September 1, 2003, except as otherwise provided by this Act.