

1-1 By: Lucio S.B. No. 265  
1-2 (In the Senate - Filed February 10, 2003; February 17, 2003,  
1-3 read first time and referred to Committee on Government  
1-4 Organization; March 24, 2003, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 March 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 265 By: Wentworth

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to continuation and functions of the State Board for  
1-11 Educator Certification.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 7.056, Education Code,  
1-14 is amended to read as follows:

1-15 (a) Except as provided by this subsection and Subsection  
1-16 (e), a school campus or district may apply to the commissioner for a  
1-17 waiver of a requirement, restriction, or prohibition imposed by  
1-18 this code or rule of the board or commissioner. A waiver of a  
1-19 requirement related to educator certification under Subchapter B,  
1-20 Chapter 21, is governed by Section 21.059.

1-21 SECTION 2. Subsection (a), Section 21.003, Education Code,  
1-22 is amended to read as follows:

1-23 (a) A person may not be employed as a teacher, teacher  
1-24 intern or teacher trainee, librarian, educational aide,  
1-25 administrator, educational diagnostician, or counselor by a school  
1-26 district unless the person holds an appropriate certificate or  
1-27 permit issued as provided by Subchapter B.

1-28 SECTION 3. Subsection (a), Section 21.033, Education Code,  
1-29 is amended to read as follows:

1-30 (a) The State Board for Educator Certification is composed  
1-31 of 14 [~~15~~] members. The commissioner of education shall appoint an  
1-32 employee of the agency to represent the commissioner as a nonvoting  
1-33 member. The commissioner of higher education shall appoint an  
1-34 employee of the Texas Higher Education Coordinating Board to  
1-35 represent the commissioner as a nonvoting member. The governor  
1-36 shall appoint a dean of a college of education in this state as a  
1-37 nonvoting member. The remaining 11 [~~12~~] members are appointed by  
1-38 the governor with the advice and consent of the senate, as follows:

1-39 (1) four members must be teachers employed in public  
1-40 schools;

1-41 (2) two members must be public school administrators;

1-42 (3) one member must be a public school counselor; and

1-43 (4) four [~~five~~] members must be citizens, three of  
1-44 whom are not and have not, in the five years preceding appointment,  
1-45 been employed by a public school district or by an educator  
1-46 preparation program in an institution of higher education and one  
1-47 [~~two~~] of whom is [~~are~~] not and has [~~have~~] not been employed by a  
1-48 public school district or by an educator preparation program in an  
1-49 institution of higher education.

1-50 SECTION 4. Subchapter B, Chapter 21, Education Code, is  
1-51 amended by adding Sections 21.0331, 21.0332, and 21.0341 to read as  
1-52 follows:

1-53 Sec. 21.0331. INELIGIBILITY TO SERVE ON BOARD;  
1-54 INELIGIBILITY FOR CERTAIN POSITIONS. (a) In this section, "Texas  
1-55 trade association" means a cooperative and voluntarily joined  
1-56 association of business or professional competitors in this state  
1-57 designed to assist its members and its industry or profession in  
1-58 dealing with mutual business or professional problems and in  
1-59 promoting their common interest.

1-60 (b) A person may not be a member of the board or act as the  
1-61 general counsel to the board if the person is required to register  
1-62 as a lobbyist under Chapter 305, Government Code, because of the  
1-63 person's activities for compensation on behalf of a profession

2-1 related to the operation of the board.

2-2 (c) A person may not be a member of the board and may not be a  
 2-3 board employee employed in a "bona fide executive, administrative,  
 2-4 or professional capacity," as that phrase is used for purposes of  
 2-5 establishing an exemption to the overtime provisions of the federal  
 2-6 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and  
 2-7 its subsequent amendments, if:

2-8 (1) the person is an officer, employee, or paid  
 2-9 consultant of a Texas trade association in the field of education;  
 2-10 or

2-11 (2) the person's spouse is an officer, manager, or paid  
 2-12 consultant of a Texas trade association in the field of education.

2-13 Sec. 21.0332. TRAINING PROGRAM FOR MEMBERS OF BOARD.

2-14 (a) A person who is appointed and qualifies for office as a member  
 2-15 of the board may not vote, deliberate, or be counted as a member in  
 2-16 attendance at a meeting of the board until the person completes a  
 2-17 training program that complies with this section.

2-18 (b) The training program must provide the person with  
 2-19 information regarding:

2-20 (1) the legislation that created the board;

2-21 (2) the programs operated by the board;

2-22 (3) the role and functions of the board;

2-23 (4) the rules of the board, with an emphasis on the  
 2-24 rules that relate to disciplinary and investigatory authority;

2-25 (5) the current budget for the board;

2-26 (6) the results of the most recent formal audit of the  
 2-27 board;

2-28 (7) the requirements of:

2-29 (A) the open meetings law, Chapter 551,  
 2-30 Government Code;

2-31 (B) the public information law, Chapter 552,  
 2-32 Government Code;

2-33 (C) the administrative procedure law, Chapter  
 2-34 2001, Government Code; and

2-35 (D) other laws relating to public officials,  
 2-36 including conflict-of-interest laws; and

2-37 (8) any applicable ethics policies adopted by the  
 2-38 board or the Texas Ethics Commission.

2-39 (c) A person appointed to the board is entitled to  
 2-40 reimbursement, as provided by the General Appropriations Act, for  
 2-41 the travel expenses incurred in attending the training program,  
 2-42 regardless of whether attendance at the program occurs before or  
 2-43 after the person qualifies for office.

2-44 Sec. 21.0341. REMOVAL FROM BOARD. (a) It is a ground for  
 2-45 removal from the board that a member:

2-46 (1) does not have at the time of taking office the  
 2-47 qualifications for office under Section 21.033;

2-48 (2) except as provided by Subsection (b), does not  
 2-49 maintain during service on the board the applicable qualifications  
 2-50 for office under Section 21.033;

2-51 (3) is ineligible for membership under Section  
 2-52 21.0331;

2-53 (4) cannot, because of illness or disability,  
 2-54 discharge the member's duties for a substantial portion of the  
 2-55 member's term; or

2-56 (5) is absent from more than half of the regularly  
 2-57 scheduled board meetings that the member is eligible to attend  
 2-58 during a calendar year, without an excuse approved by a majority  
 2-59 vote of the board.

2-60 (b) A member of the board appointed under Section  
 2-61 21.033(a)(1) who retires from teaching during the member's term of  
 2-62 office is entitled to complete the term.

2-63 (c) The validity of an action of the board is not affected by  
 2-64 the fact that the action was taken when a ground for removal of a  
 2-65 board member existed.

2-66 (d) If the executive director has knowledge that a potential  
 2-67 ground for removal exists, the executive director shall notify the  
 2-68 presiding officer of the board of the potential ground. The  
 2-69 presiding officer shall then notify the governor and the attorney

3-1 general that a potential ground for removal exists. If the  
 3-2 potential ground for removal involves the presiding officer, the  
 3-3 executive director shall notify the next highest ranking officer of  
 3-4 the board, who shall then notify the governor and the attorney  
 3-5 general that a potential ground for removal exists.

3-6 SECTION 5. Sections 21.035 and 21.036, Education Code, are  
 3-7 amended to read as follows:

3-8 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is  
 3-9 subject to Chapter 325, Government Code (Texas Sunset Act). Unless  
 3-10 continued in existence as provided by that chapter, the board is  
 3-11 abolished and this subchapter expires September 1, 2015 [2003].

3-12 Sec. 21.036. OFFICERS. (a) The governor [~~board~~] shall  
 3-13 appoint [~~elect~~] one of the board [~~its~~] members to serve as presiding  
 3-14 officer of the board [~~for a term of two years~~]. The presiding  
 3-15 officer serves at the pleasure of the governor and is entitled to  
 3-16 vote on all matters before the board.

3-17 (b) The board may elect other officers from among its  
 3-18 membership.

3-19 SECTION 6. Subchapter B, Chapter 21, Education Code, is  
 3-20 amended by adding Sections 21.0391, 21.0392, and 21.0401 to read as  
 3-21 follows:

3-22 Sec. 21.0391. EQUAL OPPORTUNITY EMPLOYMENT. (a) The  
 3-23 executive director or the executive director's designee shall  
 3-24 prepare and maintain a written policy statement that implements a  
 3-25 program of equal employment opportunity to ensure that all  
 3-26 personnel decisions are made without regard to race, color,  
 3-27 disability, sex, religion, age, or national origin.

3-28 (b) The policy statement must include:

3-29 (1) personnel policies, including policies relating  
 3-30 to recruitment, evaluation, selection, training, and promotion of  
 3-31 personnel, that show the intent of the board to avoid the unlawful  
 3-32 employment practices described by Chapter 21, Labor Code; and

3-33 (2) an analysis of the extent to which the composition  
 3-34 of the board's personnel is in accordance with state and federal law  
 3-35 and a description of reasonable methods to achieve compliance with  
 3-36 state and federal law.

3-37 (c) The policy statement must be:

3-38 (1) filed with the governor's office;  
 3-39 (2) updated annually; and  
 3-40 (3) reviewed by the state Commission on Human Rights  
 3-41 for compliance with Subsection (b)(1).

3-42 Sec. 21.0392. STATE EMPLOYEE INCENTIVE INFORMATION. The  
 3-43 executive director or the executive director's designee shall  
 3-44 provide to board employees information and training on the benefits  
 3-45 and methods of participating in the state employee incentive  
 3-46 program under Subchapter B, Chapter 2108, Government Code.

3-47 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The  
 3-48 State Board for Educator Certification shall obtain a complete set  
 3-49 of fingerprints from:

3-50 (1) each applicant for a certificate issued under this  
 3-51 subchapter; and

3-52 (2) each applicant for or holder of a teaching permit  
 3-53 or provisional certificate issued under this subchapter.

3-54 SECTION 7. Subsections (b) and (c), Section 21.041,  
 3-55 Education Code, are amended to read as follows:

3-56 (b) The board shall propose rules that:

3-57 (1) provide for the regulation of educators and the  
 3-58 general administration of this subchapter in a manner consistent  
 3-59 with this subchapter;

3-60 (2) specify the classes of educator certificates to be  
 3-61 issued, including emergency certificates;

3-62 (3) specify the period for which each class of  
 3-63 educator certificate is valid;

3-64 (4) specify the requirements for the issuance and  
 3-65 renewal of an educator certificate;

3-66 (5) provide for the issuance of an educator  
 3-67 certificate to a person who holds a similar certificate issued by  
 3-68 another state or foreign country, subject to Section 21.052;

3-69 (6) provide for special or restricted certification of

4-1 educators, including certification of instructors of American Sign  
 4-2 Language;

4-3 (7) provide for the investigation of complaints of  
 4-4 disciplinary violations, including:

4-5 (A) a deadline for each action in the  
 4-6 investigation of a complaint;

4-7 (B) notification requirements for each party  
 4-8 involved in the complaint; and

4-9 (C) a method for designating the severity of an  
 4-10 alleged violation that allows the board to set priorities for  
 4-11 conducting investigations;

4-12 (8) provide for disciplinary proceedings, including  
 4-13 the suspension or revocation of an educator certificate, as  
 4-14 provided by Chapter 2001, Government Code;

4-15 (9) [~~8~~] provide for the adoption, amendment, and  
 4-16 enforcement of an educator's code of ethics;

4-17 (10) [~~9~~] provide for continuing education  
 4-18 requirements; and

4-19 (11) [~~10~~] provide for certification of persons  
 4-20 performing appraisals under Subchapter H.

4-21 (c) The board shall propose rules [~~a rule~~] adopting fees [~~a~~  
 4-22 ~~fee~~] for:

4-23 (1) the issuance and maintenance of each [~~an~~] educator  
 4-24 certificate, including a provisional certificate, that is adequate  
 4-25 to cover the cost of administration of this subchapter, including  
 4-26 any amount necessary to cover the cost of obtaining fingerprints  
 4-27 under Section 21.0401 or conducting a national criminal background  
 4-28 check under Section 22.082; and

4-29 (2) covering the cost of obtaining fingerprints from  
 4-30 or conducting a national criminal background check on a holder of a  
 4-31 teaching permit issued under this subchapter.

4-32 SECTION 8. Subchapter B, Chapter 21, Education Code, is  
 4-33 amended by adding Sections 21.0411, 21.0412, and 21.0413 to read as  
 4-34 follows:

4-35 Sec. 21.0411. PUBLIC TESTIMONY. The board shall develop  
 4-36 and implement policies designed to provide the public with a  
 4-37 reasonable opportunity to appear before the board and to speak on  
 4-38 any issue under the jurisdiction of the board.

4-39 Sec. 21.0412. NEGOTIATED RULEMAKING AND ALTERNATIVE  
 4-40 DISPUTE RESOLUTION. (a) The board shall develop and implement a  
 4-41 policy to encourage the use of:

4-42 (1) negotiated rulemaking procedures under Chapter  
 4-43 2008, Government Code, for the proposal of board rules; and

4-44 (2) appropriate alternative dispute resolution  
 4-45 procedures under Chapter 2009, Government Code, to assist in the  
 4-46 resolution of internal and external disputes under the board's  
 4-47 jurisdiction.

4-48 (b) The board's procedures relating to alternative dispute  
 4-49 resolution must conform, to the extent possible, to any model  
 4-50 guidelines issued by the State Office of Administrative Hearings  
 4-51 for the use of alternative dispute resolution by state agencies.

4-52 (c) The board shall designate a trained person to:

4-53 (1) coordinate the implementation of the policy  
 4-54 adopted under Subsection (a);

4-55 (2) serve as a resource for any training needed to  
 4-56 implement the procedures for negotiated rulemaking and alternative  
 4-57 dispute resolution; and

4-58 (3) collect data concerning the effectiveness of those  
 4-59 procedures, as implemented by the board.

4-60 Sec. 21.0413. TECHNOLOGY POLICY. The board shall develop  
 4-61 and implement a policy that requires the executive director and  
 4-62 board employees to research and propose appropriate technological  
 4-63 solutions to improve the board's ability to perform its functions.  
 4-64 The technological solutions must:

4-65 (1) ensure that the public is able to easily find  
 4-66 information about the board on the Internet;

4-67 (2) ensure that persons who want to use the board's  
 4-68 services are able to:

4-69 (A) interact with the board through the Internet;

5-1 and

5-2 (B) access any service that can be provided  
5-3 effectively through the Internet; and

5-4 (3) be cost-effective and developed through the  
5-5 board's planning processes.

5-6 SECTION 9. Subchapter B, Chapter 21, Education Code, is  
5-7 amended by adding Section 21.0421 to read as follows:

5-8 Sec. 21.0421. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS.

5-9 (a) The board may solicit and accept gifts, grants, and donations  
5-10 for the purposes of this chapter.

5-11 (b) Not later than December 31 of each year, the board shall  
5-12 report to the lieutenant governor and the speaker of the house of  
5-13 representatives:

5-14 (1) the source and amount of each gift, grant, and  
5-15 donation accepted under this section; and

5-16 (2) the source and amount of each gift, grant, or  
5-17 donation offered to but not accepted by the board.

5-18 SECTION 10. Subchapter B, Chapter 21, Education Code, is  
5-19 amended by adding Sections 21.0484 and 21.0521 to read as follows:

5-20 Sec. 21.0484. EXAMINATION RESULTS. (a) Not later than the  
5-21 30th day after the date a person takes a certification examination  
5-22 under this subchapter, the board shall notify the person of the  
5-23 examination results.

5-24 (b) If the examination is graded or reviewed by a testing  
5-25 service:

5-26 (1) the board shall notify the person of the  
5-27 examination results not later than the 14th day after the date the  
5-28 board receives the results from the testing service; and

5-29 (2) if notice of the examination results will be  
5-30 delayed for longer than 90 days after the examination date, the  
5-31 board shall notify the person of the reason for the delay before the  
5-32 90th day.

5-33 (c) The board may require a testing service to notify a  
5-34 person of the results of the person's examination.

5-35 (d) If requested in writing by a person who fails a  
5-36 certification examination administered under this subchapter, the  
5-37 board shall furnish the person with an analysis of the person's  
5-38 performance on the examination.

5-39 Sec. 21.0521. PROVISIONAL CERTIFICATE. (a) After a  
5-40 satisfactory review of an applicant's educator credentials, the  
5-41 board may issue a provisional certificate to an applicant who is  
5-42 currently certified or licensed in good standing as an educator in  
5-43 another jurisdiction, including a foreign country, that has  
5-44 certification or licensing requirements that are substantially  
5-45 equivalent to the requirements of this subchapter but who has not  
5-46 passed an examination determined by the board to be similar to and  
5-47 at least as rigorous as the examination prescribed under Section  
5-48 21.048.

5-49 (b) A provisional certificate issued under this section is  
5-50 valid for not longer than 12 months from the effective date of the  
5-51 provisional certificate.

5-52 (c) The board shall issue a standard certificate under this  
5-53 subchapter to the provisional certificate holder if the person is  
5-54 eligible to be certified under Section 21.052.

5-55 SECTION 11. Subsections (c) and (d), Section 21.055,  
5-56 Education Code, are amended to read as follows:

5-57 (c) Promptly after employing a person under this section, a  
5-58 school district shall send to the board the person's fingerprints  
5-59 and ~~commissioner~~ a written statement identifying the person, the  
5-60 person's qualifications as a teacher, and the subject or class the  
5-61 person will teach. The person may teach the subject or class  
5-62 pending action by the board ~~commissioner~~.

5-63 (d) Not later than the 30th day after the date the board  
5-64 ~~commissioner~~ receives the statement under Subsection (c), the  
5-65 board ~~commissioner~~ may inform the district in writing that the  
5-66 board ~~commissioner~~ finds the person is not qualified to teach.  
5-67 The person may not teach if the board ~~commissioner~~ finds the  
5-68 person is not qualified. If the board ~~commissioner~~ fails to act  
5-69 within the time prescribed by this subsection, the district may

6-1 issue to the person a school district teaching permit and the person  
6-2 may teach the subject or class identified in the statement.

6-3 SECTION 12. Subsection (d), Section 21.057, Education Code,  
6-4 is amended to read as follows:

6-5 (d) For purposes of this section, "inappropriately  
6-6 certified or uncertified teacher":

6-7 (1) includes:

6-8 (A) an individual serving on an emergency  
6-9 certificate issued under Section 21.041(b)(2); or

6-10 (B) an individual who does not hold any  
6-11 certificate or permit issued under this chapter and is not employed  
6-12 as specified by Subdivision (2)(E); and

6-13 (2) does not include an individual:

6-14 (A) who is a certified teacher assigned to teach  
6-15 a class or classes outside his or her area of certification, as  
6-16 determined by rules proposed by the board in specifying the  
6-17 certificate required for each assignment;

6-18 (B) serving on a certificate issued due to a  
6-19 hearing impairment under Section 21.048;

6-20 (C) serving on a certificate issued pursuant to  
6-21 enrollment in an approved alternative certification program under  
6-22 Section 21.049;

6-23 (D) certified by another state or country and  
6-24 serving on a certificate issued under Section 21.052 or a  
6-25 provisional certificate issued under Section 21.0521;

6-26 (E) serving on a school district teaching permit  
6-27 issued under Section 21.055; or

6-28 (F) employed under a waiver granted by the board  
6-29 [~~commissioner~~] pursuant to Section 21.059 [~~7.056~~].

6-30 SECTION 13. Subchapter B, Chapter 21, Education Code, is  
6-31 amended by adding Sections 21.058 through 21.062 to read as  
6-32 follows:

6-33 Sec. 21.058. COMPLAINTS. (a) The board shall maintain a  
6-34 file on each written complaint filed with the board.

6-35 (b) The file must include:

6-36 (1) the name of the person who filed the complaint;

6-37 (2) the date the complaint is received by the board;

6-38 (3) the subject matter of the complaint;

6-39 (4) the name of each person contacted in relation to  
6-40 the complaint;

6-41 (5) a summary of the results of the review or  
6-42 investigation of the complaint; and

6-43 (6) an explanation of the reason the file was closed,  
6-44 if the board closed the file without taking action other than to  
6-45 investigate the complaint.

6-46 (c) The board shall provide to the person filing the  
6-47 complaint and to each person who is a subject of the complaint a  
6-48 copy of the board's policies and procedures relating to complaint  
6-49 investigation and resolution.

6-50 (d) The board, at least quarterly until final disposition of  
6-51 the complaint, shall notify the person filing the complaint and  
6-52 each person who is a subject of the complaint of the status of the  
6-53 investigation unless the notice would jeopardize an undercover  
6-54 investigation.

6-55 Sec. 21.059. WAIVER OF CERTIFICATION REQUIREMENT. A school  
6-56 district may apply to the board for a waiver of a requirement under  
6-57 this subchapter that prohibits a teacher from teaching outside the  
6-58 teacher's area of certification.

6-59 Sec. 21.060. EXPIRATION OF CERTIFICATES. The board by rule  
6-60 may adopt a system under which certificates issued by the board  
6-61 expire on various dates during the year. For the year in which the  
6-62 certificate expiration date is changed, the board shall prorate  
6-63 certification fees on a monthly basis so that each certificate  
6-64 holder pays only that portion of the fee that is allocable to the  
6-65 number of months during which the certificate is valid. On renewal  
6-66 of the certificate on the new expiration date, the total renewal fee  
6-67 is payable.

6-68 Sec. 21.061. CERTIFICATE RENEWAL. (a) A person who is  
6-69 otherwise eligible to renew a certificate may renew an unexpired

7-1 certificate by paying the required renewal fee to the board before  
 7-2 the expiration date of the certificate. A person whose certificate  
 7-3 has expired may not engage in activities that require a certificate  
 7-4 until the certificate has been renewed.

7-5 (b) A person whose certificate has been expired for 90 days  
 7-6 or less may renew the certificate by paying to the board a renewal  
 7-7 fee that is equal to one and one-half times the normally required  
 7-8 renewal fee.

7-9 (c) A person whose certificate has been expired for more  
 7-10 than 90 days but less than one year may renew the certificate by  
 7-11 paying to the board a renewal fee that is equal to two times the  
 7-12 normally required renewal fee.

7-13 (d) A person whose certificate has been expired for one year  
 7-14 or more may not renew the certificate. The person may obtain a new  
 7-15 certificate by complying with the requirements and procedures,  
 7-16 including the examination requirements, for obtaining an original  
 7-17 certificate.

7-18 (e) A person who held a certificate in this state, moved to  
 7-19 another state, and currently holds a certificate and has been in  
 7-20 practice in the other state for the two years preceding the date of  
 7-21 application may obtain a new certificate without reexamination.  
 7-22 The person must pay to the board a fee that is equal to two times the  
 7-23 normally required renewal fee for the certificate.

7-24 (f) Not later than the 30th day before the date a person's  
 7-25 certificate is scheduled to expire, the board shall send written  
 7-26 notice of the impending expiration to the person at the person's  
 7-27 last known address according to the records of the board.

7-28 Sec. 21.062. REVOCATION, MODIFICATION, OR SUSPENSION OF  
 7-29 CERTIFICATE. (a) The board shall revoke, suspend, or refuse to  
 7-30 renew a certificate or reprimand a certificate holder for a  
 7-31 violation of this subchapter or a rule of the board.

7-32 (b) The board may place on probation a person whose  
 7-33 certificate has been suspended. If a certificate suspension is  
 7-34 probated, the board may require the person:

7-35 (1) to report regularly to the board on matters that  
 7-36 are the basis of the probation;

7-37 (2) to limit practice to the areas prescribed by the  
 7-38 board; or

7-39 (3) to continue or review professional education until  
 7-40 the person attains a degree of skill satisfactory to the board in  
 7-41 those areas that are the basis of the probation.

7-42 SECTION 14. Section 22.082, Education Code, is amended to  
 7-43 read as follows:

7-44 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
 7-45 BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator  
 7-46 Certification shall obtain from any law enforcement or criminal  
 7-47 justice agency all state and national criminal history record  
 7-48 information that relates to an applicant for or holder of a  
 7-49 certificate or permit issued under Subchapter B, Chapter 21. The  
 7-50 board shall require an applicant to pay any costs related to  
 7-51 obtaining criminal history information under this section.

7-52 SECTION 15. Section 411.090, Government Code, is amended to  
 7-53 read as follows:

7-54 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION  
 7-55 AND FINGERPRINTS: STATE BOARD FOR EDUCATOR CERTIFICATION.

7-56 (a) The State Board for Educator Certification is entitled to  
 7-57 obtain from the department any criminal history record information  
 7-58 maintained by the department about a person who has applied to the  
 7-59 board for a certificate or permit under Subchapter B, Chapter 21,  
 7-60 Education Code.

7-61 (b) Criminal history record information obtained by the  
 7-62 board under Subsection (a):

7-63 (1) may be used for any purpose related to the  
 7-64 issuance, denial, suspension, or cancellation of a certificate  
 7-65 issued by the board; and

7-66 (2) may not be released to any person except on court  
 7-67 order or with the consent of the applicant for a certificate[ ~~and~~

7-68  ~~(3) shall be destroyed by the board after the~~  
 7-69  ~~information is used for the authorized purposes].~~

8-1 (c) The State Board for Educator Certification may keep on  
8-2 file with the department all fingerprints obtained by the board  
8-3 under Section 21.0401, Education Code. The department shall notify  
8-4 the board of the arrest of any educator who has fingerprints on file  
8-5 with the department.

8-6 (d) In this section, "educator" has the meaning assigned by  
8-7 Section 5.001, Education Code.

8-8 SECTION 16. Section 21.042, Education Code, is repealed.

8-9 SECTION 17. Not later than January 1, 2004, the executive  
8-10 director of the State Board for Educator Certification or the  
8-11 executive director's designee shall prepare the written policy  
8-12 statement required by Section 21.0391, Education Code, as added by  
8-13 this Act.

8-14 SECTION 18. (a) Not later than January 1, 2004, the State  
8-15 Board for Educator Certification shall propose rules governing the  
8-16 certification of educational diagnosticians. Subsection (a),  
8-17 Section 21.003, Education Code, as amended by this Act, applies  
8-18 only to the employment of an educational diagnostician by a school  
8-19 district on or after September 1, 2004.

8-20 (b) The position on the State Board for Educator  
8-21 Certification that is filled by a citizen member and has a term  
8-22 scheduled to expire February 1, 2005, is abolished September 1,  
8-23 2003.

8-24 (c) Sections 21.0331 and 21.0332, Education Code, as added  
8-25 by this Act, do not affect the entitlement of a person serving as a  
8-26 member of the State Board for Educator Certification immediately  
8-27 before September 1, 2003, to continue to serve and function as a  
8-28 member of the board for the remainder of the person's term.  
8-29 Sections 21.0331 and 21.0332, Education Code, as added by this Act,  
8-30 apply only to a person appointed to the State Board for Educator  
8-31 Certification on or after September 1, 2003.

8-32 (d) Section 21.0484, Education Code, as added by this Act,  
8-33 applies only to an examination administered under Subchapter B,  
8-34 Chapter 21, Education Code, on or after September 1, 2003.

8-35 (e) Section 21.058, Education Code, as added by this Act,  
8-36 applies only to a complaint filed with the State Board for Educator  
8-37 Certification on or after September 1, 2003, regardless of whether  
8-38 the conduct or act that is the subject of the complaint occurred or  
8-39 was committed before, on, or after that date.

8-40 (f) Section 21.061, Education Code, as added by this Act,  
8-41 applies to fees for renewal of a certificate under Subchapter B,  
8-42 Chapter 21, Education Code, that expires on or after September 1,  
8-43 2003. Fees for renewal of a certificate that expired before that  
8-44 date are governed by the law in effect on the date the certificate  
8-45 expired, and the former law is continued in effect for that purpose.

8-46 SECTION 19. This Act takes effect September 1, 2003.

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