

By: Grusendorf

H.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to public education and public school finance matters;
imposing criminal 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 equal access to similar revenue per student at similar tax effort, considering all state and local revenues of districts after acknowledging all legitimate student and district cost

1 differences.

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

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

5 (1) adequate resources to provide each eligible
6 student an accredited instructional program and facilities
7 suitable to the student's educational needs; and

8 (2) access to substantially equalized financing for an
9 enriched program.

10 (b) The Foundation School Program consists of:

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

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

16 (B) substantially equal access to funds to
17 provide an enriched program; and

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

19 Sec. 42.003. STUDENT ELIGIBILITY. (a) A student is
20 entitled to the benefits of the Foundation School Program if the
21 student is five years of age or older and under 21 years of age on
22 September 1 of the school year and has not graduated from high
23 school.

24 (b) A student to whom Subsection (a) does not apply is
25 entitled to the benefits of the Foundation School Program if the
26 student is enrolled in a prekindergarten class under Section
27 29.153.

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

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

9 (1) the student performs satisfactorily on the
10 assessment instrument administered under Section 39.023(a) to
11 students in the third grade; and

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

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

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

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

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

26 (2) for a district that operates under a flexible year
27 program under Section 29.0821, the quotient of the sum of

1 attendance for each actual day of instruction as permitted by
2 Section 29.0821(b)(1) divided by the number of actual days of
3 instruction as permitted by Section 29.0821(b)(1); or

4 (3) for a district that operates under a flexible
5 school day program under Section 29.0822, the average daily
6 attendance as calculated by the commissioner in accordance with
7 Section 29.0822(d).

8 (b) A school district that experiences a decline of more
9 than two percent in average daily attendance shall be funded on the
10 basis of:

11 (1) the actual average daily attendance of the
12 preceding school year, if the decline is the result of the closing
13 or reduction in personnel of a military base; or

14 (2) an average daily attendance equal to 98 percent of
15 the actual average daily attendance of the preceding school year,
16 if the decline is not the result of the closing or reduction in
17 personnel of a military base.

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

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

26 (e) A public charter district is not entitled to funding
27 based on an adjustment under Subsection (b).

1 (f) If a student may receive course credit toward the
2 student's high school academic requirements and toward the
3 student's higher education academic requirements for a single
4 course, the time during which the student attends the course shall
5 be counted as part of the minimum number of instructional hours
6 required for a student to be considered a full-time student in
7 average daily attendance for purposes of this section.

8 Sec. 42.006. EQUALIZED FUNDING ELEMENTS. (a) The
9 Legislative Budget Board shall adopt rules, subject to appropriate
10 notice and opportunity for public comment, for the calculation for
11 each year of a biennium of the equalized funding elements, in
12 accordance with Subsection (c), necessary to achieve the state
13 policy under Section 42.001.

14 (b) Before each regular session of the legislature, the
15 board shall, as determined by the board, report the equalized
16 funding elements to the commissioner and the legislature.

17 (c) The funding elements must include:

18 (1) an accreditation allotment amount for the purposes
19 of Section 42.101 that represents the cost per student of a regular
20 education program that meets all mandates of law and regulation;

21 (2) adjustments designed to reflect the variation in
22 known resource costs and costs of education beyond the control of
23 school districts;

24 (3) appropriate program cost differentials and other
25 funding elements for the programs authorized under Subchapter C,
26 with the program funding level expressed as total dollar amounts
27 for each program and the specific dollar amount to be provided for

1 each eligible student or course for the appropriate year;

2 (4) the maximum tax rate to be used in determining a
3 school district's local share under Section 42.306(a);

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

6 (6) the amount to be appropriated for the school
7 facilities assistance program under Chapter 46.

8 (d) The board shall conduct a study of the funding elements
9 each biennium, as appropriate. The study must include a
10 determination of the projected cost to the state in the next state
11 fiscal biennium of ensuring the ability of each school district to
12 comply with all legal mandates and regulations without increasing
13 district tax rates.

14 (e) Notwithstanding Subsection (d), the board shall
15 contract for a comprehensive study of the funding elements. The
16 board shall report the results of the study to the commissioner and
17 the legislature not later than December 1, 2008. This subsection
18 expires January 1, 2009.

19 (f) The study required by Subsection (e) must include a
20 component on funding elements relating to special education
21 programs and services. The special education component must
22 include a review of the current funding elements relating to
23 special education programs and services, an analysis of funding
24 mechanisms used by other states, the solicitation and consideration
25 of recommendations from persons with expertise in the area of
26 special education, a review of best practices in the area of special
27 education, and the development of recommendations for a funding

1 system that supports success for students with disabilities and
2 that appropriately recognizes the variance in needs for specialized
3 services, including related services, without providing fiscal
4 incentives to improperly identify or fail to identify students who
5 need special education services. Regardless of the date on which
6 the report under Subsection (e) is required to be submitted, the
7 board shall submit a report on the results of the special education
8 component required by this subsection to the commissioner and the
9 legislature not later than December 1, 2006. This subsection
10 expires January 1, 2007.

11 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A
12 reference in law to the foundation school fund means the Texas
13 education fund.

14 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each
15 regular session of the legislature, the Legislative Budget Board
16 shall submit to the commissioner and the legislature a report that
17 includes:

18 (1) a description of the amount of all spending on
19 primary and secondary education in this state, disaggregated by
20 federal, state, and local spending and spending by private
21 entities; and

22 (2) an analysis of the state's portion of spending.

23 [Sections 42.009-42.100 reserved for expansion]

24 SUBCHAPTER B. BASIC PROGRAM

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

1 \$4,600.

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

4 (c) In addition to the accreditation allotment, a school
5 district is entitled to special student allotments in the manner
6 specified under Subchapter C.

7 [Sections 42.102-42.150 reserved for expansion]

8 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

9 Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) In this
10 section:

11 (1) "Full-time equivalent student" means 30 hours of
12 contact a week between a student and special education program
13 personnel.

14 (2) "Special education program" means a program under
15 Subchapter A, Chapter 29.

16 (b) For each student in average daily attendance in a
17 special education program in a mainstream instructional
18 arrangement, a school district is entitled to an annual allotment
19 of \$4,822.

20 (c) For each full-time equivalent student in average daily
21 attendance in a special education program in an instructional
22 arrangement other than a mainstream instructional arrangement, a
23 school district is entitled to an annual allotment in the following
24 amount, based on the student's instructional arrangement:

25 (1) \$17,370, for a student in a homebound
26 instructional arrangement;

27 (2) \$8,602, for a student in a hospital class

1 instructional arrangement;

2 (3) \$17,370, for a student in a speech therapy
3 instructional arrangement;

4 (4) \$8,602, for a student in a resource room
5 instructional arrangement;

6 (5) \$8,602, for a student in a self-contained, mild
7 and moderate, regular campus instructional arrangement;

8 (6) \$8,602, for a student in a self-contained, severe,
9 regular campus instructional arrangement;

10 (7) \$7,287, for a student in an off-home-campus
11 instructional arrangement;

12 (8) \$2,903, for a student in a nonpublic day school;

13 (9) \$5,533, for a student in a vocational adjustment
14 class;

15 (10) \$12,986, for a student who resides in a
16 residential care and treatment facility, other than a state school,
17 whose parent or guardian does not reside in the district, and who
18 receives educational services from a local school district; and

19 (11) \$7,726, for a student who resides in a state
20 school.

21 (d) For funding purposes, the number of contact hours
22 credited per day for each special education student in the
23 off-home-campus instructional arrangement may not exceed the
24 contact hours credited per day for the multidistrict class
25 instructional arrangement in the 1992-1993 school year.

26 (e) For funding purposes, the contact hours credited per day
27 for each special education student in the resource room;

1 self-contained, mild and moderate, regular campus; and
2 self-contained, severe, regular campus instructional arrangements
3 may not exceed the average of the statewide total contact hours
4 credited per day for those three instructional arrangements in the
5 1992-1993 school year.

6 (f) The commissioner by rule shall prescribe the
7 qualifications a special education instructional arrangement must
8 meet in order to be funded as a particular instructional
9 arrangement under this chapter. In prescribing the qualifications
10 that a mainstream instructional arrangement must meet, the
11 commissioner shall require that students with disabilities and
12 their teachers receive the direct, indirect, and support services
13 that are necessary to enrich the regular classroom and enable
14 student success.

15 (g) The commissioner shall adopt rules and procedures
16 governing contracts for residential placement of special education
17 students. The legislature shall provide by appropriation for the
18 state's share of the costs of those placements.

19 (h) Funds allocated under this section, other than an
20 indirect cost allotment established under commissioner rule, must
21 be used in the special education program under Subchapter A,
22 Chapter 29.

23 (i) The agency shall encourage the placement of students in
24 special education programs, including students in residential
25 instructional arrangements, in the least restrictive environment
26 appropriate for students' educational needs.

27 (j) Each year, the agency shall make and disseminate to each

1 school district a list of those districts that maintain for two
2 successive years a ratio of full-time equivalent special education
3 students placed in partially or totally self-contained classrooms
4 to the number of full-time equivalent students placed in resource
5 room or mainstream instructional arrangements that is 25 percent
6 higher than the statewide average ratio.

7 (k) A school district that provides an extended year program
8 required by federal law for special education students who may
9 regress is entitled to receive, for each full-time equivalent
10 student in average daily attendance, funds in an amount equal to 75
11 percent, or a lesser percentage determined by the commissioner, of
12 the sum of the accreditation allotment and the additional allotment
13 for the student's instructional arrangement under this section for
14 each day the program is provided divided by the number of days in
15 the minimum school year. The total amount of state funding for
16 extended year services under this subsection may not exceed \$10
17 million per year. A school district may use funds received under
18 this subsection only in providing an extended year program.

19 (l) From the total amount of funds appropriated for special
20 education under this chapter, the commissioner shall withhold an
21 amount specified in the General Appropriations Act and distribute
22 that amount to school districts for programs under Section 29.014.
23 The program established under that section is required only in
24 school districts in which the program is financed by funds
25 distributed under this subsection and any other funds available for
26 the program. After deducting the amount withheld under this
27 subsection from the total amount appropriated for special

1 education, the commissioner shall reduce each district's
2 allocation proportionately.

3 (m) From the total amount appropriated for purposes of this
4 section, the commissioner shall set aside an amount necessary to
5 pay the cost of the study of the funding elements for special
6 education required by Section 42.006(f). After setting aside funds
7 under this subsection, the commissioner shall reduce each
8 district's allotment in the manner provided by Section 42.313(f).
9 This subsection expires September 1, 2007.

10 Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) A school
11 district is entitled to an annual allotment for the costs of
12 providing accelerated programs in an amount determined by the
13 formula:

$$14 \qquad \qquad \qquad \underline{APA = F \times ADA \times PR}$$

15 where:

16 "APA" is the amount of the district's allotment;

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

19 "F" is the funding factor, which is 877, but not less than the
20 amount equal to 19 percent of the accreditation allotment under
21 Section 42.101; and

22 "PR" is the percentage of the district's total number of
23 students enrolled in prekindergarten through grade level eight who
24 participate in the national free or reduced-price lunch program as
25 reported through the Public Education Information Management
26 System (PEIMS) for the current school year or the percentage
27 determined in accordance with commissioner rule if the district is

1 not required to report participation in the national free or
2 reduced-price lunch program or if no campus in the district with
3 students enrolled in prekindergarten through grade level eight
4 participates in the national free or reduced-price lunch program.

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

7 (c) From the total amount of funds appropriated for
8 allotments under this section, the commissioner may, each fiscal
9 year:

10 (1) withhold an amount determined by the commissioner
11 as appropriate to finance activities under Section 39.024(d); and

12 (2) withhold an amount not exceeding \$1 million each
13 fiscal year and distribute the funds to school districts that incur
14 unanticipated expenditures resulting from a significant increase
15 in the enrollment of students who do not have disabilities and who
16 reside in residential placement facilities.

17 (d) From the total amount of funds appropriated for
18 allotments under this section, the commissioner shall, each fiscal
19 year:

20 (1) withhold an amount determined by the commissioner
21 as appropriate to finance activities under Section 39.024(c);

22 (2) withhold an amount to be determined by the
23 commissioner, but not less than \$10 million, and distribute that
24 amount for programs under Section 29.085, giving preference to a
25 school district that received funds for a program under that
26 section for the preceding school year;

27 (3) withhold the amount of \$7.5 million, or a greater

1 amount as determined in the General Appropriations Act, and
2 distribute that amount for programs under Subchapter A, Chapter 33,
3 giving preference to a school district that received funds for a
4 program under that subchapter for the preceding school year;

5 (4) withhold the amount of \$2.5 million for transfer
6 to the investment capital fund under Section 7.024; and

7 (5) withhold an amount sufficient to finance extended
8 year programs under Section 29.082, not to exceed five percent of
9 the amounts allocated under this section, giving preference to
10 extended year programs in districts with high concentrations of
11 educationally disadvantaged students.

12 (e) After deducting the amounts withheld under Subsections
13 (c) and (d) from the total amount appropriated for the allotments
14 under this section, the commissioner shall reduce each district's
15 allocation proportionately.

16 (f) Notwithstanding any other provision of law, a district
17 may use funds allocated under this section to provide Saturday
18 classes for students in grade levels one through four who fail to
19 perform satisfactorily on an assessment instrument administered
20 under Section 39.023. A district may contract with another entity
21 to provide Saturday classes under this subsection.

22 Sec. 42.153. TRANSITIONAL PROGRAM ALLOTMENT. (a) For each
23 student in average daily attendance in a bilingual education or
24 special language program under Subchapter B, Chapter 29, a district
25 is entitled to an annual allotment of:

26 (1) if the student is enrolled below the ninth grade
27 level, \$500, but not less than the amount equal to 10 percent of the

1 accreditation allotment under Section 42.101; or

2 (2) if the student is enrolled at or above the ninth
3 grade level, \$1,000, but not less than the amount equal to 21
4 percent of the accreditation allotment under Section 42.101.

5 (b) The legislature may provide by appropriation for a
6 greater allotment than the amounts prescribed by Subsection (a).

7 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

8 (a) For each student in average daily attendance in an approved
9 career and technology education program in grades seven through 12,
10 a district is entitled to an annual allotment of \$178 for each
11 annual credit hour the student is enrolled in the program, or a
12 greater amount for any school year provided by appropriation. This
13 subsection shall expire August 31, 2007.

14 (b) Beginning September 1, 2007, a district is entitled to
15 an annual allotment of \$178, or a greater amount for any school year
16 provided by appropriation, for each annual credit hour a student in
17 grades seven through 12 completes in the following career and
18 technology courses:

19 (1) advanced technical credit courses as approved by a
20 statewide advisory leadership committee for statewide
21 articulation;

22 (2) courses that lead to professional certification,
23 licensure, or a degree program; or

24 (3) courses designed for special education students.

25 Sec. 42.155. PUBLIC EDUCATION GRANT ALLOTMENT. (a) Except
26 as provided by Subsection (b), for each student in average daily
27 attendance who is using a public education grant under Subchapter

1 G, Chapter 29, to attend school in a district other than the
2 district in which the student resides, the district in which the
3 student attends school is entitled to an annual allotment of \$250 or
4 a greater amount for any school year provided by appropriation.

5 (b) The total number of allotments under this section to
6 which a school district is entitled may not exceed the number by
7 which the number of students using public education grants to
8 attend school in the district exceeds the number of students who
9 reside in the district and use public education grants to attend
10 school in another district.

11 Sec. 42.156. GIFTED AND TALENTED ALLOTMENT. (a) For each
12 identified student a school district serves in a program for gifted
13 and talented students that the district certifies to the
14 commissioner as complying with Subchapter D, Chapter 29, a district
15 is entitled to an annual allotment of \$526, or a greater amount for
16 any school year provided by appropriation.

17 (b) Not more than five percent of a district's students in
18 average daily attendance are eligible for funding under this
19 section.

20 (c) After each district has received allotted funds for this
21 program, the commissioner may use up to \$500,000 of the funds
22 allocated under this section for programs such as MATHCOUNTS,
23 Future Problem Solving, Odyssey of the Mind, and Academic
24 Decathlon, as long as these funds are used to train personnel and
25 provide program services. To be eligible for funding under this
26 subsection, a program must be determined by the commissioner to
27 provide services that are effective and consistent with the state

1 plan for gifted and talented education.

2 [Sections 42.157-42.170 reserved for expansion]

3 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS. (a) Unless
4 specifically provided otherwise by this code, but subject to
5 Section 42.172, a school district is not required to use amounts
6 allotted under this subchapter for the program for which the
7 amounts were allotted.

8 (b) Any restriction specifically imposed under this
9 subchapter on a school district's use of an amount allotted under
10 this subchapter applies equally to the amount by which the
11 allotment is adjusted under Section 42.301 or 42.302.

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

19 (1) a special education program under Subchapter A,
20 Chapter 29;

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

27 (3) a bilingual education or special language program

1 under Subchapter B, Chapter 29;

2 (4) a career and technology education program in
3 grades nine through 12 or a career and technology education program
4 for students with disabilities in grades seven through 12 under
5 Sections 29.182, 29.183, and 29.184; or

6 (5) a gifted and talented program under Subchapter D,
7 Chapter 29.

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

13 [Sections 42.173-42.200 reserved for expansion]

14 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

15 Sec. 42.201. TRANSPORTATION ALLOTMENT. (a) Each school
16 district or county operating a regular transportation system is
17 entitled to an allotment of \$1.50 per mile for each approved route
18 mile traveled by the system.

19 (b) If the amount of an allotment under this section that a
20 school district or county receives exceeds the district's or
21 county's cost of operating the transportation system, the district
22 or county may use the excess funds for any legal purpose.

23 (c) Subject to Subsection (d), the commissioner shall
24 reduce each district's or county's allotment under this section
25 proportionately to the extent necessary to permit the commissioner
26 to fund:

27 (1) amounts provided to school districts in accordance

1 with Section 42.301(d);

2 (2) the amount by which the adjustments provided to
3 school districts under Section 42.302(b) exceeds the amount of
4 adjustments that would be provided under that section using a
5 factor of .0004;

6 (3) the amount by which the adjustments provided to
7 school districts under Section 42.302(c) exceeds the amount of
8 adjustments that would be provided under that section using a
9 factor of .00025;

10 (4) the amount by which the adjustments provided to
11 school districts under Section 42.302(d) exceeds the amount of
12 adjustments that would be provided under that section using a
13 factor of .000025; and

14 (5) amounts provided to school districts in accordance
15 with Section 42.302(e).

16 (d) In prorating allotments under Subsection (c), the
17 commissioner shall ensure that each district or county receives an
18 allotment that reflects at least the reimbursement rate provided to
19 the district or county during the 2004-2005 school year.

20 [Sections 42.202-42.220 reserved for expansion]

21 SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

22 Sec. 42.221. NEW INSTRUCTIONAL FACILITY ALLOTMENT. A
23 school district is entitled to an additional allotment as provided
24 by this subchapter for operational expenses associated with opening
25 a new instructional facility.

26 Sec. 42.222. DEFINITION. In this subchapter,
27 "instructional facility" has the meaning assigned by Section

1 46.001.

2 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. For the
3 first school year in which students attend a new instructional
4 facility, a school district is entitled to an allotment of \$250 for
5 each student in average daily attendance at the facility or a
6 greater amount provided by appropriation.

7 Sec. 42.224. ALLOTMENT FOR SECOND YEAR OF OPERATION. (a)
8 For the second school year in which students attend a new
9 instructional facility, a school district is entitled to an
10 allotment of \$250 for each additional student in average daily
11 attendance at the facility or a greater amount provided by
12 appropriation.

13 (b) For purposes of this section, the number of additional
14 students in average daily attendance at a facility is the
15 difference between the number of students in average daily
16 attendance in the current year at that facility and the number of
17 students in average daily attendance at that facility in the
18 preceding year.

19 Sec. 42.225. PRORATION OF ALLOTMENTS. If the total amount
20 of allotments to which school districts are entitled under this
21 subchapter for a school year exceeds the amount appropriated for
22 allotments under this subchapter, the commissioner shall reduce
23 each district's allotment under this subchapter in the manner
24 provided by Section 42.313(f).

25 [Sections 42.226-42.250 reserved for expansion]

26 [Subchapter F reserved]

SUBCHAPTER G. ENRICHMENT PROGRAM

Sec. 42.251. PURPOSE. The purpose of the enrichment program component of the Foundation School Program is to provide each school district with the opportunity to supplement the basic program at a level of its own choice. An allotment under this subchapter may be used for any legal purpose other than capital outlay or debt service.

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

$$\text{GYA} = (\text{GL} \times \text{AF} \times \text{DETR} \times 100) - \text{LR}$$

where:

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

"GL" is the dollar amount guaranteed level, which is \$33 for the 2005-2006 school year, \$34 for the 2006-2007 school year, and \$38 for the 2007-2008 and subsequent school years, provided that a greater amount for any school year may be provided by appropriation;

"AF" is the application factor, which is determined by the commissioner by dividing the amount of the district's allotments under Subchapters B and C, as adjusted in accordance with Subchapter H, divided by the accreditation allotment specified in Section 42.101 for the applicable year;

"DETR" is the district enrichment tax rate of the school

1 district, which is the district's adopted maintenance and
2 operations tax rate minus the maximum rate specified under Section
3 42.306 or otherwise provided by appropriation for purposes of that
4 section; and

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

9 Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district
10 enrichment tax rate may not exceed \$0.15 per \$100 of valuation.

11 (a-1) Notwithstanding Subsection (a), the district
12 enrichment tax rate may not exceed:

13 (1) for the 2005 and 2006 tax years, the rate of \$0.05
14 per \$100 of valuation; and

15 (2) for the 2007 and 2008 tax years, the rate of \$0.10
16 per \$100 of valuation.

17 (b) A school district's enrichment tax rate must be approved
18 by the voters in accordance with Section 45.003 and Section 26.08,
19 Tax Code.

20 (c) Subsection (a-1) and this subsection expire January 1,
21 2009.

22 Sec. 42.254. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON
23 MILITARY INSTALLATION OR AT STATE SCHOOL. State enrichment
24 assistance under this subchapter for a school district located on a
25 federal military installation or at Moody State School is computed
26 using the average district enrichment tax rate and property value
27 per student of school districts in the county, as determined by the

1 commissioner.

2 [Sections 42.255-42.300 reserved for expansion]

3 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

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

21 (b-1) Notwithstanding Subsection (a), the cost of education
22 index for purposes of that subsection for the following school
23 years is determined in the following manner:

24 (1) for the 2005-2006 school year, the index shall be
25 computed giving a weight of 25 percent to the teacher fixed effects
26 index in the 2004 report commissioned by the Joint Select Committee
27 on Public School Finance of the 78th Legislature and a weight of 75

1 percent to the index used to determine a school district's
2 adjustment for the 2004-2005 school year;

3 (2) for the 2006-2007 school year, the index shall be
4 computed giving a weight of 50 percent to the teacher fixed effects
5 index in the 2004 report commissioned by the Joint Select Committee
6 on Public School Finance of the 78th Legislature and a weight of 50
7 percent to the index used to determine a school district's
8 adjustment for the 2004-2005 school year;

9 (3) for the 2007-2008 school year, the index shall be
10 computed giving a weight of 75 percent to the teacher fixed effects
11 index in the 2004 report commissioned by the Joint Select Committee
12 on Public School Finance of the 78th Legislature and a weight of 25
13 percent to the index used to determine a school district's
14 adjustment for the 2004-2005 school year; and

15 (4) for the 2008-2009 school year, the cost of
16 education index for purposes of Subsection (a) is the teacher fixed
17 effects index in the 2004 report commissioned by the Joint Select
18 Committee on Public School Finance of the 78th Legislature.

19 (c) The Legislative Budget Board shall biennially update
20 the cost of education index required by this section. The
21 Legislative Budget Board shall submit the updated index to the
22 legislature not later than December 1 of each even-numbered year.

23 (c-1) The Legislative Budget Board shall submit the initial
24 update required by Subsection (c) not later than December 1, 2008.

25 (c-2) Subsections (b-1), (c-1), and this subsection expire
26 September 1, 2009.

27 (d) If the index value provided by this section for a school

1 district is less than the index value used to calculate the cost of
2 education adjustment for that school district during the previous
3 school year, the district's adjustment shall be computed using the
4 index applied during the previous school year.

5 Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a)

6 The amounts of the accreditation allotments under Subchapter B and
7 each special student allotment under Subchapter C of certain small
8 and mid-sized school districts are adjusted in accordance with this
9 section to reflect district costs related to the district's size.

10 In this section:

11 (1) "A" is the amount of additional funding to which a
12 district is entitled based on an adjustment under this section;

13 (2) "ADA" is the number of students in average daily
14 attendance for which the district is entitled to an accreditation
15 allotment under Section 42.101; and

16 (3) "SA" is the sum of the district's accreditation
17 allotments under Subchapter B and each special student allotment
18 under Subchapter C, as adjusted in accordance with Section 42.301.

19 (b) The sum of the total accreditation allotments and any
20 special student allotments under Subchapter C of a school district
21 that contains at least 300 square miles and has not more than 1,600
22 students in average daily attendance is adjusted by applying the
23 formula:

24
$$A = ((1,600 - ADA) \times .000424) \times SA$$

25 (b-1) Notwithstanding Subsection (b), for the 2005-2006
26 school year the sum of the total accreditation allotments and any
27 special student allotments under Subchapter C of a school district

1 that contains at least 300 square miles and has not more than 1,600
2 students in average daily attendance is adjusted by applying the
3 formula:

4
$$A = ((1,600 - ADA) \times .000416) \times SA$$

5 (c) The sum of total accreditation allotments and any
6 special student allotments under Subchapter C of a school district
7 that contains less than 300 square miles and has not more than 1,600
8 students in average daily attendance is adjusted by applying the
9 formula:

10
$$A = ((1,600 - ADA) \times .000265) \times SA$$

11 (c-1) Notwithstanding Subsection (c), for the 2005-2006
12 school year the sum of the total accreditation allotments and any
13 special student allotments under Subchapter C of a school district
14 that contains less than 300 square miles and has not more than 1,600
15 students in average daily attendance is adjusted by applying the
16 formula:

17
$$A = ((1,600 - ADA) \times .000260) \times SA$$

18 (d) The sum of the total accreditation allotments and any
19 special student allotments under Subchapter C of a school district
20 that offers a kindergarten through grade 12 program and has less
21 than 5,000 students in average daily attendance is adjusted by
22 applying the formula, of the following formulas, that results in
23 the greatest adjusted allotment:

24 (1) the formula in Subsection (b) or (c) for which the
25 district is eligible; or

26
$$(2) A = ((5,000 - ADA) \times .0000265) \times SA$$

27 (d-1) Notwithstanding Subsection (d), for the 2005-2006

1 school year the sum of the total accreditation allotments and any
2 special student allotments under Subchapter C of a school district
3 that offers a kindergarten through grade 12 program and has less
4 than 5,000 students in average daily attendance is adjusted by
5 applying the formula, of the following formulas, that results in
6 the greatest adjusted allotment:

7 (1) the formula in Subsection (b-1) or (c-1) for which
8 the district is eligible; or

9 (2) $A = ((5,000 - ADA) \times .0000260) \times SA$

10 (e) In addition to the adjustment otherwise provided by this
11 section, the commissioner shall, in accordance with rules adopted
12 by the commissioner, provide an additional adjustment for each
13 school district that is located in a county with a population of
14 less than 5,000 and that contains a majority of the territory in the
15 county. To fund the adjustment provided by this subsection, the
16 commissioner shall withhold the amount of \$3 million each fiscal
17 year from amounts appropriated for the Foundation School Program.

18 (f) Subsections (b-1), (c-1), and (d-1) and this subsection
19 expire September 1, 2006.

20 Sec. 42.303. SPARSITY ADJUSTMENT. Notwithstanding
21 Sections 42.101 and 42.302:

22 (1) a school district that has fewer than 130 students
23 in average daily attendance is entitled to an adjusted
24 accreditation allotment on the basis of 130 students in average
25 daily attendance if the district offers a kindergarten through
26 grade 12 program and has preceding or current year's average daily
27 attendance of at least 90 students or is 30 miles or more by bus

1 route from the nearest high school district;

2 (2) a school district that offers a kindergarten
3 through grade eight program and whose preceding or current year's
4 average daily attendance was or is at least 50 students or that is
5 30 miles or more by bus route from the nearest high school district
6 is entitled to an adjusted accreditation allotment on the basis of
7 75 students in average daily attendance; and

8 (3) a school district that offers a kindergarten
9 through grade six program and whose preceding or current year's
10 average daily attendance was or is at least 40 students or that is
11 30 miles or more by bus route from the nearest high school district
12 is entitled to an adjusted accreditation allotment on the basis of
13 60 students in average daily attendance.

14 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
15 accreditation allotments under Subchapter B and the additional
16 allotments under Subchapters C, D, and E, as adjusted in accordance
17 with this subchapter, constitutes the tier one allotments. The sum
18 of the tier one allotments and the enrichment program allotments
19 under Subchapter G constitutes the total cost of the Foundation
20 School Program.

21 (b) The program shall be financed by:

22 (1) state funds appropriated for the purposes of
23 public school education;

24 (2) ad valorem tax revenue generated by an equalized
25 uniform school district effort;

26 (3) ad valorem tax revenue generated by local school
27 district effort for an enrichment program in accordance with

1 Subchapter G; and

2 (4) state available school funds distributed in
3 accordance with law.

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

11 Sec. 42.3051. USE OF REVENUE FOR PROFESSIONAL STAFF
12 COMPENSATION; ADDITIONAL STATE AID. (a) A school district shall
13 use at least 50 percent of all state and local maintenance and
14 operations revenue to provide compensation to classroom teachers,
15 full-time librarians, full-time counselors certified under
16 Subchapter B, Chapter 21, and full-time school nurses. For
17 purposes of this subsection, "compensation" includes salary,
18 benefits, incentive payments, and other costs associated with
19 professional staff compensation, as specified by commissioner
20 rule.

21 (b) For the 2005-2006 school year, a school district shall
22 ensure that average salaries provided to individuals listed in
23 Subsection (a) are increased by the greater of:

24 (1) \$2,000 per year; or

25 (2) the average amount that can be provided using 44
26 percent of the amount by which the district's maintenance and
27 operations revenue for the 2005-2006 school year exceeds the amount

1 of the district's maintenance and operations revenue for the
2 2004-2005 school year, not to exceed \$3,000 per year.

3 (c) A school district that paid employees an additional
4 amount during each of the 2003-2004 and 2004-2005 school years to
5 compensate for reductions made in the health coverage or
6 compensation supplementation provided by former Article 3.50-8,
7 Insurance Code, may apply to the commissioner for authority to
8 provide a lesser average salary increase than the amount otherwise
9 required by Subsection (b), to the extent equitable considering the
10 additional amount provided by the district during the 2003-2004 and
11 2004-2005 school years.

12 (d) A school district, including a school district that is
13 otherwise ineligible for state aid under this chapter, is entitled
14 to state aid in an amount, as determined by the commissioner, equal
15 to the difference, if any, between:

16 (1) an amount equal to the product of \$2,000
17 multiplied by the number of classroom teachers, full-time
18 librarians, full-time counselors certified under Subchapter B,
19 Chapter 21, and full-time school nurses employed by the district
20 and entitled to a minimum salary under Section 21.402; and

21 (2) the amount of additional funds to which the
22 district is entitled as a result of H.B. No. 2, Acts of the 79th
23 Legislature, 1st Called Session, 2005.

24 (e) A determination by the commissioner under this section
25 is final and may not be appealed.

26 (f) The commissioner shall adopt rules to implement this
27 section.

1 Sec. 42.3052. CRISIS INTERVENTION FUNDING. (a) To the
2 extent consistent with this section, the commissioner may set aside
3 funds appropriated to the agency for purposes of the Foundation
4 School Program to provide temporary emergency assistance to a
5 school district responding to flood, extreme weather conditions,
6 fuel curtailment, severe financial crisis, or other crisis or
7 disaster, as determined appropriate by the commissioner.

8 (b) Before setting aside funds under this section, the
9 commissioner shall notify the Legislative Budget Board and the
10 governor.

11 (c) The commissioner may not set aside funds under this
12 section if doing so would require proration of Foundation School
13 Program entitlements under this chapter.

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:

$$\text{LS} = \text{TR} \times \text{DPV}$$

17 where:

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

19 "TR" is a tax rate which for each hundred dollars of valuation
20 is an adopted tax rate of \$1.10, or a lesser rate for any school year
21 provided by appropriation; and

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

25 (a-1) Notwithstanding Subsection (a), for the 2005-2006
26 school year, the adopted tax rate referenced in that subsection is
27

1 \$1.15, or a lesser rate provided by appropriation.

2 (b) The commissioner shall adjust the values reported in the
3 official report of the comptroller as required by Section 403.302,
4 Government Code, to reflect reductions in taxable value of property
5 resulting from natural or economic disaster after January 1 in the
6 year in which the valuations are determined. The decision of the
7 commissioner is final. An adjustment does not affect the local
8 share of any other school district.

9 (c) A school district with a tax rate ("TR") of \$1.10 or the
10 rate otherwise provided by appropriation for purposes of Subsection
11 (a) is eligible to receive the full amount of the tier one allotment
12 to which the district is entitled under this chapter.

13 (c-1) Notwithstanding Subsection (c), for the 2005-2006
14 school year, a school district with a tax rate ("TR") of \$1.15 or
15 the rate otherwise provided by appropriation for purposes of
16 Subsection (a-1) is eligible to receive the full amount of the tier
17 one allotment to which the district is entitled under this chapter.

18 (d) If a school district's tax rate ("TR") is less than
19 \$1.10 or the rate otherwise provided by appropriation for purposes
20 of Subsection (a), the district's tier one allotment is adjusted by
21 a percentage determined by dividing the district's tax rate ("TR")
22 by \$1.10 or the rate otherwise provided by appropriation for
23 purposes of Subsection (a) and multiplying the resulting quotient
24 by 100. The commissioner shall determine the amount of the tier one
25 allotment to which a district is entitled under this subsection.
26 The commissioner's determination is final and may not be appealed.

27 (d-1) Notwithstanding Subsection (d), for the 2005-2006

1 school year, if a school district's tax rate ("TR") is less than
2 \$1.15 or the rate otherwise provided by appropriation for purposes
3 of Subsection (a-1), the district's tier one allotment is adjusted
4 by a percentage determined by dividing the district's tax rate
5 ("TR") by \$1.15 or the rate otherwise provided by appropriation for
6 purposes of Subsection (a-1) and multiplying the resulting quotient
7 by 100. The commissioner shall determine the amount of the tier one
8 allotment to which a district is entitled under this subsection.
9 The commissioner's determination is final and may not be appealed.

10 (e) In implementing any provision of this title that refers
11 to a school district's tier one allotment, the tier one allotment of
12 a district described by Subsection (d) is the proportionate amount
13 provided by that subsection.

14 (e-1) Notwithstanding Subsection (e), for the 2005-2006
15 school year, in implementing any provision of this title that
16 refers to a school district's tier one allotment, the tier one
17 allotment of a district described by Subsection (d-1) is the
18 proportionate amount provided by that subsection.

19 (e-2) Subsections (a-1), (c-1), (d-1), (e-1), and this
20 subsection expire September 1, 2006.

21 Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE
22 OF PROPERTY. (a) For purposes of Chapter 46 and this chapter, and
23 to the extent money specifically authorized to be used under this
24 section is available, the commissioner shall adjust the taxable
25 value of property in a school district that, due to factors beyond
26 the control of the board of trustees, experiences a rapid decline in
27 the tax base used in computing taxable values in excess of four

1 percent of the tax base used in the preceding year.

2 (b) To the extent that a sufficient amount of money is not
3 available to fund all adjustments under this section, the
4 commissioner shall reduce adjustments in the manner provided by
5 Section 42.313(f) so that the total amount of adjustments equals
6 the amount of money available to fund the adjustments.

7 (c) A decision of the commissioner under this section is
8 final and may not be appealed.

9 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

10 (a) In any school year, the commissioner may not provide funding
11 under this chapter based on a school district's taxable value of
12 property computed in accordance with Section 403.302(d)(2),
13 Government Code, unless:

14 (1) funds are specifically appropriated for purposes
15 of this section; or

16 (2) the commissioner determines that the total amount
17 of state funds appropriated for purposes of the Foundation School
18 Program for the school year exceeds the amount of state funds
19 distributed to school districts in accordance with Section 42.313
20 based on the taxable values of property in school districts
21 computed in accordance with Section 403.302(d), Government Code,
22 without any deduction for residence homestead exemptions granted
23 under Section 11.13(n), Tax Code.

24 (b) In making a determination under Subsection (a)(2), the
25 commissioner shall:

26 (1) notwithstanding Section 42.313(b), reduce the
27 entitlement under this chapter of a school district whose final

1 taxable value of property is higher than the estimate under Section
2 42.314 and make payments to school districts accordingly; and

3 (2) give priority to school districts that, due to
4 factors beyond the control of the board of trustees, experience a
5 rapid decline in the tax base used in calculating taxable values in
6 excess of four percent of the tax base used in the preceding year.

7 (c) In the first year of a state fiscal biennium, before
8 providing funding as provided by Subsection (a)(2), the
9 commissioner shall ensure that sufficient appropriated funds for
10 purposes of the Foundation School Program are available for the
11 second year of the biennium, including funds to be used for purposes
12 of Section 42.307.

13 (d) If the commissioner determines that the amount of funds
14 available under Subsection (a)(1) or (2) does not at least equal the
15 total amount of state funding to which districts would be entitled
16 if state funding under this chapter were based on the taxable values
17 of property in school districts computed in accordance with Section
18 403.302(d)(2), Government Code, the commissioner may, to the extent
19 necessary, provide state funding based on a uniform lesser fraction
20 of the deduction under Section 403.302(d)(2), Government Code.

21 (e) The commissioner shall notify school districts as soon
22 as practicable as to the availability of funds under this section.
23 For purposes of computing a rollback tax rate under Section 26.08,
24 Tax Code, a district shall adjust the district's tax rate limit to
25 reflect assistance received under this section.

26 Sec. 42.3081. ADJUSTMENT FOR UNPAID TAXES OF MAJOR
27 TAXPAYER. (a) The commissioner shall make adjustments as provided

1 by this section to a school district's taxable value of property for
2 purposes of this chapter and Chapter 46.

3 (b) A school district that has a major taxpayer, as
4 determined by the commissioner, that because of a protest of the
5 valuation of the taxpayer's property fails to pay all or a portion
6 of the ad valorem taxes due to the district may apply to the
7 commissioner for an adjustment under this section.

8 (c) The commissioner shall recover the benefit of any
9 adjustment made under this section by making offsetting adjustments
10 in the school district's taxable value of property for purposes of
11 this chapter or Chapter 46 on a final determination of the taxable
12 value of property that was the basis of the original adjustment, or
13 in the second school year following the year in which the adjustment
14 is made, whichever is earlier.

15 (d) A determination by the commissioner under this section
16 is final and may not be appealed.

17 Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT
18 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the
19 taxable value of property of a school district that contracts for
20 students residing in the district to be educated in another
21 district under Section 25.039(a) is adjusted by applying the
22 formula:

$$\text{ADPV} = \text{DPV} - (\text{TN}/\text{MTR})$$

24 where:

25 "ADPV" is the district's adjusted taxable value of property;

26 "DPV" is the taxable value of property in the district for the
27 preceding tax year determined under Subchapter M, Chapter 403,

1 Government Code;

2 "TN" is the total amount of tuition required to be paid by the
3 district under Section 25.039 for the school year for which the
4 adjustment is made, not to exceed the amount specified by
5 commissioner rule under Section 25.039(b); and

6 "MTR" is the maximum maintenance tax rate permitted under
7 Section 45.003, expressed as a rate to be applied to the total
8 valuation of taxable property.

9 Sec. 42.310. EFFECT OF APPRAISAL APPEAL. (a) If the final
10 determination of an appeal under Chapter 42, Tax Code, results in a
11 reduction in the taxable value of property that exceeds five
12 percent of the total taxable value of property in the school
13 district for the same tax year determined under Subchapter M,
14 Chapter 403, Government Code, the commissioner shall request the
15 comptroller to adjust its taxable property value findings for that
16 year consistent with the final determination of the appraisal
17 appeal.

18 (b) If the district would have received a greater amount
19 from the Texas education fund for the applicable school year using
20 the adjusted value, the commissioner shall add the difference to
21 subsequent distributions to the district from the Texas education
22 fund. An adjustment does not affect the local share of any other
23 district.

24 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)
25 Notwithstanding any other provision of this subtitle, and provided
26 that a school district imposes a tax at a minimum rate specified by
27 the commissioner, a school district is entitled to the amount of

1 state revenue necessary to maintain state and local revenue per
2 student in average daily attendance in the amount equal to the sum
3 of:

4 (1) the amount of state and local revenue per student
5 in average daily attendance for the maintenance and operation of
6 the district to which the district would have been entitled for the
7 2005-2006 school year under Chapter 42, as that chapter existed on
8 January 1, 2005, or, if the district would have been subject to
9 Chapter 41, as that chapter existed on January 1, 2005, the amount
10 to which the district would have been entitled under that chapter,
11 based on the funding elements in effect for the 2004-2005 school
12 year, and including:

13 (A) any amounts described by Rider 82, page
14 III-23, Chapter 1330, Acts of the 78th Legislature, Regular
15 Session, 2003 (the General Appropriations Act);

16 (B) the portion of any profit the district
17 received during the 2004-2005 school year as a result of an
18 agreement under Subchapter E, Chapter 41, that exceeds the amount
19 of state and local revenue that would have been available to the
20 district during that school year if the district imposed a
21 maintenance and operations tax of \$1.50 per \$100 of valuation
22 during that school year;

23 (C) any amount necessary to reflect an adjustment
24 made by the commissioner under Section 42.307; and

25 (D) any amount necessary to reflect an adjustment
26 made by the commissioner under Section 42.3081; and

27 (2) an amount equal to three percent of the amount

1 described by Subdivision (1).

2 (b) The amount of revenue to which a school district is
3 entitled because of the instructional materials and technology
4 allotment under Section 32.005 is not included in making a
5 determination under Subsection (a).

6 (c) The commissioner shall determine the minimum tax rate
7 for a school district under Subsection (a) on the basis of the tax
8 rate adopted by the district for maintenance and operations for the
9 2004-2005 school year.

10 (d) The commissioner shall determine the amount of state
11 funds to which a school district is entitled under this section. The
12 commissioner's determination is final and may not be appealed.

13 (e) Any amount to which a school district is entitled under
14 Subchapter G is not included in determining the amount to which the
15 district is entitled under this section.

16 Sec. 42.3111. IMPLEMENTATION OF REVENUE MAINTENANCE
17 PROVISIONS FOR DISTRICTS UNDER COUNTYWIDE EQUALIZATION SYSTEM. (a)
18 This section applies only to a school district that receives local
19 property tax revenue from a countywide equalization tax imposed in
20 accordance with former Chapter 18 and authorized by Section 11.301.

21 (b) In implementing any provision of this chapter that
22 entitles a school district to maintain the amount of state and local
23 revenue per student in average daily attendance that would have
24 been available to the district using the funding elements under
25 Chapters 41 and 42 in effect during the 2004-2005 school year, the
26 commissioner shall consider the tax rate of each district receiving
27 revenue from a countywide equalization tax to be the sum of the

1 equalization tax rate and the rate imposed by the district.

2 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)

3 Notwithstanding any other provision of this subtitle, but subject
4 to Subsection (e), the commissioner shall withhold from a school
5 district the amount of state funds necessary to ensure that the
6 district does not receive an amount of state and local revenue per
7 student in average daily attendance that is greater than the
8 following percentage of the amount described by Section 42.311(a):

9 (1) 108 percent for the 2005-2006 school year;

10 (2) 116 percent for the 2006-2007 school year; and

11 (3) 124 percent for the 2007-2008 school year.

12 (b) The commissioner shall determine the amount of state
13 funds required to be withheld under this section. The
14 commissioner's determination is final and may not be appealed.

15 (c) Any amount to which a school district is entitled under
16 Subchapter G is not included in determining the amount that the
17 district may receive under this section.

18 (d) Section 42.311(b) applies to any determinations made
19 under this section.

20 (e) If the amount to which a school district is entitled
21 under Section 42.311 exceeds the amount to which the district is
22 entitled under this section, the district is entitled to the
23 greater amount.

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

25 Sec. 42.313. DISTRIBUTION OF TEXAS EDUCATION FUND. (a) For
26 each school year the commissioner shall determine:

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

1 entitled under Subchapters B, C, D, and E, as adjusted in accordance
2 with this subchapter;

3 (2) the amount of money to which a school district is
4 entitled under Subchapter G;

5 (3) the amount of money allocated to a school district
6 from the available school fund;

7 (4) the amount of a school district's tier one local
8 share under Section 42.306; and

9 (5) the amount of a school district's enrichment
10 program local revenue under Section 42.252.

11 (b) Except as provided by this subsection, the commissioner
12 shall base the determinations under Subsection (a) on the estimates
13 provided to the legislature under Section 42.314 for each school
14 district for each school year. The General Appropriations Act may
15 provide alternate estimates of tax rates or total taxable value of
16 property for each school district for each school year, in which
17 case those estimates shall be used in making the determinations
18 under Subsection (a). The commissioner shall reduce the
19 entitlement of each district that has a final taxable value of
20 property for the second year of a state fiscal biennium that is
21 higher than the estimate under Section 42.314 or the General
22 Appropriations Act, as applicable. A reduction under this
23 subsection may not reduce the district's entitlement below the
24 amount to which it is entitled at its actual taxable value of
25 property.

26 (c) Each school district is entitled to an amount equal to
27 the difference for that district between the sum of Subsections

1 (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and
2 (a)(5).

3 (d) The commissioner shall approve warrants to each school
4 district equaling the amount of its entitlement, except as provided
5 by this section. Warrants for all money expended according to this
6 chapter shall be approved and transmitted to treasurers or
7 depositories of school districts in the same manner as warrants for
8 state available fund payments are transmitted. The total amount of
9 the warrants issued under this section may not exceed the total
10 amount appropriated for Foundation School Program purposes for that
11 fiscal year.

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

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

26 (g) Not later than March 1 of each year, the commissioner
27 shall determine the actual amount of state funds to which each

1 school district is entitled under this chapter for the current
2 school year and shall compare that amount with the amount of the
3 warrants issued to each district for that year. If the amount of
4 the warrants differs from the amount to which a district is entitled
5 because of variations in the district's tax rate, student
6 enrollment, or taxable value of property, the commissioner shall
7 adjust the district's entitlement for the next fiscal year
8 accordingly.

9 (g-1) Not later than March 1 of each even-numbered year, the
10 commissioner shall identify each school district in which the
11 actual student enrollment for the current school year is at least
12 three percent higher or lower than the estimate of student
13 enrollment used to determine the amount of warrants issued to the
14 district for that year. Subject to available funding, the
15 commissioner shall adjust the district's entitlement for the next
16 fiscal year so that the district receives, during that year,
17 warrants in the amount to which the district would be entitled on
18 the basis of a student enrollment that is three percent higher or
19 lower, as applicable, than the estimate of student enrollment
20 otherwise used to determine the district's entitlement. To the
21 extent that money is available in the second year of a state fiscal
22 biennium for adjustments under Subsection (g) and this subsection,
23 the commissioner shall give priority to adjustments under this
24 subsection.

25 (h) The legislature may appropriate funds necessary for
26 increases under Subsection (g) or (g-1) from funds that the
27 comptroller, at any time during the fiscal year, finds are

1 available.

2 (i) The commissioner shall compute for each school district
3 the total amount by which the district's allocation of state funds
4 is increased or reduced under Subsection (g) or (g-1) and shall
5 certify that amount to the district.

6 (j) Notwithstanding any other provision of this chapter,
7 the commissioner may adjust the amount of funds allocated to a
8 school district under this chapter for a school year if the district
9 collects less than 96 percent of the maintenance and operations
10 taxes, including delinquent taxes, levied by the district during
11 that school year.

12 Sec. 42.314. ESTIMATES REQUIRED. (a) Not later than
13 October 1 of each even-numbered year:

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

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

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

24 (c) For purposes of this section, the agency shall use the
25 estimate of student enrollment provided by the school district,
26 unless the agency's review of the estimate indicates that it is
27 inaccurate. The commissioner shall adopt criteria for use by the

1 agency in reviewing a district's estimate and shall develop
2 procedures to be used to resolve significant differences between
3 the district's estimate and any revised estimate proposed by the
4 agency. The procedures must provide a district with an opportunity
5 to demonstrate the basis of the district's estimate.

6 Sec. 42.315. FALSIFICATION OF RECORDS; REPORT. When, in
7 the opinion of the agency's director of school audits, audits or
8 reviews of accounting, enrollment, or other records of a school
9 district reveal deliberate falsification of the records, or
10 violation of the provisions of this chapter, through which the
11 district's share of state funds allocated under the authority of
12 this chapter would be, or has been, illegally increased, the
13 director shall promptly and fully report the fact to the State Board
14 of Education, the state auditor, and the appropriate county
15 attorney, district attorney, or criminal district attorney.

16 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In
17 this section:

18 (1) "Category 1 school district" means a school
19 district having a wealth per student of less than one-half of the
20 statewide average wealth per student.

21 (2) "Category 2 school district" means a school
22 district having a wealth per student of at least one-half of the
23 statewide average wealth per student but not more than the
24 statewide average wealth per student.

25 (3) "Category 3 school district" means a school
26 district having a wealth per student of more than the statewide
27 average wealth per student.

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

5 (b) Payments from the Texas education fund to each category
6 1 school district shall be made as follows:

7 (1) 15 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) 80 percent of the yearly entitlement of the
11 district shall be paid in eight equal installments to be made on or
12 before the 25th day of October, November, December, January, March,
13 May, June, and July; and

14 (3) five percent of the yearly entitlement of the
15 district shall be paid in an installment to be made on or before the
16 25th day of February.

17 (c) Payments from the Texas education fund to each category
18 2 school district shall be made as follows:

19 (1) 22 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 September of a fiscal year;

22 (2) 18 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 October;

25 (3) 9.5 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 November;

1 (4) 7.5 percent of the yearly entitlement of the
2 district shall be paid in an installment to be made on or before the
3 25th day of April;

4 (5) five percent of the yearly entitlement of the
5 district shall be paid in an installment to be made on or before the
6 25th day of May;

7 (6) 10 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 June;

10 (7) 13 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 July; and

13 (8) 15 percent of the yearly entitlement of the
14 district shall be paid in an installment to be made after the fifth
15 day of September and not later than the 10th day of September of the
16 calendar year following the calendar year of the payment made under
17 Subdivision (1).

18 (d) Payments from the Texas education fund to each category
19 3 school district shall be made as follows:

20 (1) 45 percent of the yearly entitlement of the
21 district shall be paid in an installment to be made on or before the
22 25th day of September of a fiscal year;

23 (2) 35 percent of the yearly entitlement of the
24 district shall be paid in an installment to be made on or before the
25 25th day of October; and

26 (3) 20 percent of the yearly entitlement of the
27 district shall be paid in an installment to be made after the fifth

1 day of September and not later than the 10th day of September of the
2 calendar year following the calendar year of the payment made under
3 Subdivision (1).

4 (e) The amount of any installment required by this section
5 may be modified to provide a school district with the proper amount
6 to which the district may be entitled by law and to correct errors
7 in the allocation or distribution of funds. If an installment under
8 this section is required to be equal to other installments, the
9 amount of other installments may be adjusted to provide for that
10 equality.

11 (f) Except as provided by Subsection (c)(8) or (d)(3), any
12 previously unpaid additional funds from prior years owed to a
13 district shall be paid to the district together with the September
14 payment of the current year entitlement.

15 Sec. 42.317. RECOVERY OF OVERALLOCATED FUNDS. (a) If a
16 school district has received an overallocation of state funds, the
17 agency shall, by withholding from subsequent allocations of state
18 funds or by requesting and obtaining a refund, recover from the
19 district an amount equal to the overallocation.

20 (b) If a district fails to comply with a request for a refund
21 under Subsection (a), the agency shall certify to the comptroller
22 that the amount constitutes a debt for purposes of Section 403.055,
23 Government Code. The agency shall provide to the comptroller the
24 amount of the overallocation and any other information required by
25 the comptroller. The comptroller may certify the amount of the debt
26 to the attorney general for collection.

27 (c) Any amounts recovered under this section shall be

1 deposited in the Texas education fund.

2 [Sections 42.318-42.400 reserved for expansion]

3 SUBCHAPTER I. ADDITIONAL EQUALIZATION

4 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

13 SECTION 1A.02. Section 30.003, Education Code, is amended
14 by adding Subsection (f-1) to read as follows:

15 (f-1) The commissioner shall determine the total amount
16 that the Texas School for the Blind and Visually Impaired and the
17 Texas School for the Deaf would have received from school districts
18 pursuant to this section if .B. No. __, Acts of the 79th
19 Legislature, 1st Called Session, 2005, had not reduced the
20 districts' share of the cost of providing education services. That
21 amount, minus any amount the schools do receive from school
22 districts, shall be set aside as a separate account in the
23 foundation school fund and appropriated to those schools for
24 educational purposes.

25 SECTION 1A.03. The heading to Chapter 41, Education Code,
26 is amended to read as follows:

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

2 SECTION 1A.04. Section 41.004, Education Code, is amended
3 to read as follows:

4 Sec. 41.004. ANNUAL REVIEW OF EQUALIZATION [~~PROPERTY~~
5 ~~WEALTH~~]. (a) Not later than July 15 of each year, using the
6 estimate of enrollment under Section 42.314 [~~42.254~~], the
7 commissioner shall review the local share and tier one allotment
8 [~~wealth per student~~] of each school district [~~districts~~] in the
9 state and shall notify:

10 (1) each district subject to commissioner action under
11 Section 42.401 [~~with wealth per student exceeding the equalized~~
12 ~~wealth level~~]; and

13 (2) [~~each district to which the commissioner proposes~~
14 ~~to annex property detached from a district notified under~~
15 ~~Subdivision (1), if necessary, under Subchapter C, and~~

16 [~~(3)~~] each district to which the commissioner proposes
17 to consolidate a district notified under Subdivision (1), if
18 necessary, under Subchapter H.

19 (b) If, before the dates provided by this subsection, a
20 district notified under Subsection (a)(1) has not purchased average
21 daily attendance credit as provided by Subchapter D [~~successfully~~
22 ~~exercised one or more options under Section 41.003 that reduce the~~
23 ~~district's wealth per student to a level equal to or less than the~~
24 ~~equalized wealth level~~], the commissioner [~~shall order the~~
25 ~~detachment of property from that district as provided by Subchapter~~
26 ~~C. If that detachment will not reduce the district's wealth per~~
27 ~~student to a level equal to or less than the equalized wealth level,~~

1 ~~the commissioner may not detach property under Subchapter C but]~~
2 shall order the consolidation of the district with one or more other
3 districts as provided by Subchapter H. ~~[An agreement under Section~~
4 ~~41.003(1) or (2) must be executed not later than September 1~~
5 ~~immediately following the notice under Subsection (a).]~~ An
6 election to authorize the purchase of average daily attendance
7 credit as provided by Subchapter D ~~[for an option under Section~~
8 ~~41.003(3), (4), or (5)]~~ must be ordered before September 1
9 immediately following the notice under Subsection (a).

10 (c) A district notified under Subsection (a) may not adopt a
11 tax rate for the tax year in which the district receives the notice
12 until the commissioner certifies that the district has entered into
13 an agreement under Subchapter D to purchase average daily
14 attendance credit ~~[achieved the equalized wealth level].~~

15 (d) A ~~[detachment and annexation or]~~ consolidation under
16 this chapter:

17 (1) is effective for Foundation School Program funding
18 purposes for the school year that begins in the calendar year in
19 which the ~~[detachment and annexation or]~~ consolidation is ~~[agreed~~
20 ~~to or]~~ ordered; and

21 (2) applies to the ad valorem taxation of property
22 beginning with the tax year in which the ~~[agreement or]~~ order is
23 effective.

24 SECTION 1A.05. Section 41.006(a), Education Code, is
25 amended to read as follows:

26 (a) The commissioner may adopt rules necessary for the
27 implementation of this chapter. The rules may provide for the

1 commissioner to make necessary adjustments to the provisions of
2 Chapter 42, including providing for the commissioner to make an
3 adjustment in the funding element established by Section 42.252
4 [~~42.302~~], at the earliest date practicable, to the amount the
5 commissioner believes, taking into consideration options exercised
6 by school districts under Section 42.401 [~~this chapter~~] and
7 estimates of student enrollments, will match appropriation levels.

8 SECTION 1A.06. Section 41.008(a), Education Code, is
9 amended to read as follows:

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

20 SECTION 1A.07. Section 41.009(a), Education Code, is
21 amended to read as follows:

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

27 SECTION 1A.08. Section 41.010, Education Code, is amended

1 to read as follows:

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

11 SECTION 1A.09. Section 41.013(a), Education Code, is
12 amended to read as follows:

13 (a) A [~~Except as provided by Subchapter C, a~~] decision of
14 the commissioner under this chapter is appealable under Section
15 7.057.

16 SECTION 1A.10. Section 41.091, Education Code, is amended
17 to read as follows:

18 Sec. 41.091. AGREEMENT. (a) "Wealth per student" means the
19 taxable value of property in a school district, as determined under
20 Subchapter M, Chapter 403, Government Code, divided by the quotient
21 of the district's allotments under Subchapters B and C, Chapter 42,
22 as adjusted in accordance with Subchapter H, Chapter 42, divided by
23 the accreditation allotment specified in Section 42.101 for the
24 applicable year.

25 (b) A school district subject to Section 42.401 [~~with a~~
26 ~~wealth per student that exceeds the equalized wealth level~~] may
27 execute an agreement with the commissioner to purchase attendance

1 credits in an amount equal to the lesser of:

2 (1) the difference between the district's local share
3 under Section 42.306 and the district's tier one allotment under
4 Section 42.304; or

5 (2) the amount equal to a percentage, as determined
6 under Subsection (c), of the maintenance and operations tax revenue
7 used in determining the district's local share under Section
8 42.306.

9 (c) The percentage under Subsection (b)(2) is an amount such
10 that, when added to the percentile in wealth per student that is
11 represented by the guaranteed level ("GL") under Section 42.252,
12 equals the 125th percentile in wealth per student.

13 (d) Not later than March 1 of each year, the commissioner
14 shall make an initial determination of the percentage under
15 Subsection (b)(2) for the following school year, based on the
16 preliminary taxable values of property certified by the comptroller
17 under Section 403.302(g), Government Code, and the estimates of
18 student attendance in the General Appropriations Act. Not later
19 than July 15 of each year, the commissioner shall make a final
20 determination of the percentage that reflects the final taxable
21 values of property certified by the comptroller under Subchapter M,
22 Chapter 403, Government Code. The commissioner's determination of
23 a final amount under this subsection may not be appealed.

24 (e) Notwithstanding Subsection (b), for the 2005-2006,
25 2006-2007, and 2007-2008 school years, the amount of attendance
26 credits required to be purchased is equal to the greater of:

27 (1) the amount required under Subsection (b); or

1 (2) the amount equal to the percentage of the
2 district's total maintenance and operations tax revenue that
3 permits the district to retain the maximum revenue allowed under
4 Section 42.312 for the applicable school year.

5 (f) Subsection (e) and this subsection expire September 1,
6 2008. [~~sufficient, in combination with any other actions taken~~
7 under this chapter, to reduce the district's wealth per student to a
8 level that is equal to or less than the equalized wealth level.]

9 SECTION 1A.11. Section 41.093(a), Education Code, is
10 amended to read as follows:

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

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

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

21 SECTION 1A.12. Section 41.251, Education Code, is amended
22 to read as follows:

23 Sec. 41.251. COMMISSIONER ORDER. If the commissioner is
24 required under Section 42.401 [~~41.004~~] to order the consolidation
25 of districts, the consolidation is governed by this subchapter.
26 The commissioner's order shall be effective on a date determined by
27 the commissioner, but not later than the earliest practicable date

1 after November 8.

2 SECTION 1A.13. Section 41.252, Education Code, is amended
3 by amending Subsections (a) and (c) and adding Subsection (d) to
4 read as follows:

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

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

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

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

24 (4) fourth, to include as few districts as possible
25 that are not subject to Section 42.401 and [~~fall below the equalized~~
26 ~~wealth level within the consolidation order that~~] have not
27 requested the commissioner to be included in a consolidation plan;

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

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

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

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

18 SECTION 1A.14. Section 41.257, Education Code, is amended
19 to read as follows:

20 Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS
21 AND TRANSPORTATION ALLOTMENT. The budget of the consolidated
22 district must apply the benefit of the adjustment or allotment to
23 the schools of the consolidating district to which Section 42.302,
24 42.303, or Subchapter D, Chapter 42, [~~42.103, 42.105, or 42.155~~]
25 would have applied in the event that the consolidated district
26 still qualifies as a small or sparse district.

27 SECTION 1A.15. Section 44.004, Education Code, is amended

1 by adding Subsection (c-1) to read as follows:

2 (c-1) The notice described by Subsection (b) must state in a
3 distinct row for each of the following taxes:

4 (1) the proposed rate for the school district's
5 maintenance and operations tax described by Section 45.003, under
6 the heading "Maintenance and Operations Tax";

7 (2) the proposed rate for the school district's
8 interest and sinking fund tax described by Section 45.001, under
9 the heading "Interest and Sinking School Debt Service Tax Approved
10 by Local Voters"; and

11 (3) the proposed rate for the school district's
12 enrichment tax described by Section 45.003, under the heading
13 "Local Enrichment Tax Approved by Local Voters."

14 SECTION 1A.16. Section 45.003, Education Code, is amended
15 by adding Subsections (b-1) and (f) to read as follows:

16 (b-1) An election for the issuance of bonds under Section
17 45.001 must include as separate propositions the following
18 categories of projects for which bonds may be issued:

19 (1) the construction, acquisition, and equipment of
20 instructional facilities, as defined by Section 46.001, and the
21 purchase of sites for instructional facilities;

22 (2) the construction, acquisition, and equipment of
23 school buildings other than instructional facilities and the
24 purchase of sites for those buildings;

25 (3) the purchase of new school buses; or

26 (4) another appropriate category for which bonds may
27 be issued.

1 (f) Notwithstanding any other provision of this section, a
2 district may not adopt a tax rate for the maintenance and operations
3 of the district that exceeds the sum of the maximum rate for
4 purposes of Section 42.253 and the rate specified in Section 42.306
5 or otherwise provided for that section by appropriation unless that
6 tax rate is approved by two-thirds of the qualified voters voting in
7 an election held for that purpose. A district's adoption of a rate
8 authorized by this subsection does not affect the limitation on a
9 district's entitlement to enrichment revenue provided by Section
10 42.253. This subsection does not authorize the adoption of a tax
11 rate for the maintenance and operations of the district that
12 exceeds the maximum rate prescribed by Subsection (d).

13 SECTION 1A.17. The heading to Section 26.08, Tax Code, is
14 amended to read as follows:

15 Sec. 26.08. SCHOOL DISTRICT TAXES AND ELECTIONS [~~ELECTION~~]
16 TO AUTHORIZE OR RATIFY SCHOOL TAXES.

17 SECTION 1A.18. Section 26.08, Tax Code, is amended by
18 amending Subsections (a), (b), (c), (e), (h), (i), and (j) and
19 adding Subsections (a-1)-(a-9) and (b-1) to read as follows:

20 (a) Except as provided by Subsection (b), a school district
21 must obtain voter authorization in an election each time the
22 district adopts a tax rate for the maintenance and operations of the
23 district that exceeds the rate levied by the district in the
24 preceding tax year.

25 (a-1) Notwithstanding Section 45.003, Education Code, and
26 except as provided by Subsection (a-3), (a-4), (a-5), or (a-6), for
27 the 2005 tax year, a school district may not impose a tax for the

1 maintenance and operations of the district that exceeds the greater
2 of:

3 (1) the rate equal to 76 percent of the rate adopted by
4 the district for maintenance and operations for the 2004 tax year;
5 or

6 (2) the rate necessary to ensure that the district
7 receives the amount of revenue to which the district is entitled
8 under Section 42.311, Education Code, provided that the rate may
9 not exceed \$1.15 on the \$100 valuation of taxable property.

10 (a-2) Notwithstanding Section 45.003, Education Code, and
11 except as provided by Subsection (a-3), (a-4), (a-5), or (a-6), for
12 the 2006 tax year, a school district may not impose a tax for the
13 maintenance and operations of the district that exceeds the greater
14 of:

15 (1) the rate equal to the sum of 73 percent of the rate
16 adopted by the district for maintenance and operations for the 2004
17 tax year and any additional rate for enrichment authorized by
18 district voters for the 2005 tax year; or

19 (2) the rate necessary to ensure that the district
20 receives the amount of revenue to which the district is entitled
21 under Section 42.311, Education Code, provided that the rate may
22 not exceed the sum of \$1.10 on the \$100 valuation of taxable
23 property and any additional rate for enrichment authorized by
24 district voters for the 2005 tax year.

25 (a-3) For the 2005 and 2006 tax years, a school district
26 may, without holding an additional election, impose a tax for the
27 maintenance and operations of the district at a rate that does not

1 exceed the lesser of the rate of \$1.15 or the rate of \$1.10 and any
2 additional rate for enrichment authorized by district voters for
3 the 2005 tax year, as applicable for the appropriate tax year, or
4 the sum of the rate authorized by Subsection (a-1) or (a-2), as
5 applicable for the appropriate tax year, and the rate of \$0.04 per
6 \$100 valuation of taxable value, provided that the rate imposed was
7 previously authorized by voters in an election held for that
8 purpose. A school district may impose a greater rate if the greater
9 rate is approved by the voters in an election held after the
10 effective date of __.B. No. __, Acts of the 79th Legislature, 1st
11 Called Session, 2005.

12 (a-4) For the 2005 and 2006 tax years, a school district
13 permitted by Subsection (a-1) or (a-2), as applicable for the
14 appropriate tax year, to impose a tax for the maintenance and
15 operations of the district at the rate of \$1.15 or \$1.10, as
16 applicable for the appropriate tax year, on the \$100 valuation of
17 taxable property may impose a tax for the maintenance and
18 operations of the district at a higher rate if approved by the
19 voters in an election held after the effective date of __.B. No. __,
20 Acts of the 79th Legislature, 1st Called Session, 2005.

21 (a-5) Notwithstanding any other provision of law, a school
22 district permitted by special law on January 1, 2005, to impose an
23 ad valorem tax for maintenance and operations at a rate greater than
24 \$1.50 on the \$100 valuation of taxable property in the district may:

25 (1) for the 2005 tax year:

26 (A) impose a tax for the maintenance and
27 operations of the district at a rate not to exceed the rate that is

1 \$0.35 less than the rate adopted by the district for maintenance and
2 operations for the 2004 tax year, provided that, notwithstanding
3 any other provision of law, the tax authorized by this subdivision
4 may not be considered an enrichment tax rate for purposes of
5 Subchapter G, Chapter 42, Education Code; and

6 (B) seek voter authorization to impose a tax for
7 maintenance and operations for purposes of Subchapter G, Chapter
8 42, Education Code, at a rate greater than the rate authorized by
9 Paragraph (A), provided that the rate authorized by this
10 subdivision may not exceed the maximum tax permitted under
11 Subchapter G, Chapter 42, Education Code; and

12 (2) for the 2006 and subsequent tax years:

13 (A) continue to impose a tax for the maintenance
14 and operations of the district at a rate not to exceed the rate that
15 is \$0.40 less than the rate adopted by the district for maintenance
16 and operations for the 2004 tax year, provided that,
17 notwithstanding any other provision of law, the tax authorized by
18 this subdivision may not be considered an enrichment tax rate for
19 purposes of Subchapter G, Chapter 42, Education Code; and

20 (B) seek voter authorization to impose a tax for
21 maintenance and operations for purposes of Subchapter G, Chapter
22 42, Education Code, at a rate greater than the rate authorized by
23 Paragraph (A), provided that the rate authorized by this
24 subdivision may not exceed the maximum tax permitted under
25 Subchapter G, Chapter 42, Education Code.

26 (a-6) Subsections (a-1), (a-2), (a-5), and (a-8) do not
27 apply to a school district operating under former Chapter 26,

1 Education Code, as it existed on May 1, 1995, as permitted under
2 Section 11.301, Education Code.

3 (a-7) All actions taken by the board of trustees of a school
4 district before the effective date of this Act that are necessary to
5 hold an election after the effective date of this Act are validated
6 as of the effective date of this Act.

7 (a-8) A school district that has adopted a tax rate for the
8 2005 tax year before the effective date of the amendment to this
9 section by .B. No. _____, Acts of the 79th Legislature, 1st Called
10 Session, 2005, must adopt a new tax rate for the 2005 tax year that
11 is consistent with Subsections (a-1)-(a-5).

12 (a-9) Subsections (a-1), (a-2), (a-3), (a-4), (a-8), and
13 this subsection expire January 1, 2007.

14 (b) If the governing body of a school district with a
15 maintenance and operations tax rate of less than the rate specified
16 in Section 42.306 or otherwise provided by appropriation for
17 purposes of that section adopts a tax rate that exceeds the
18 district's rollback tax rate, the registered voters of the district
19 at an election held for that purpose must determine whether to
20 approve the adopted tax rate. When increased expenditure of money
21 by a school district is necessary to respond to a disaster,
22 including a tornado, hurricane, flood, or other calamity, but not
23 including a drought, that has impacted a school district and the
24 governor has requested federal disaster assistance for the area in
25 which the school district is located, an election is not required
26 under this section to approve the tax rate adopted by the governing
27 body for the year following the year in which the disaster occurs.

1 (b-1) [~~(b)~~] The governing body shall order that the
2 election required by Subsection (b) be held in the school district
3 on a date not less than 30 or more than 90 days after the day on
4 which it adopted the tax rate. Section 41.001, Election Code, does
5 not apply to the election unless a date specified by that section
6 falls within the time permitted by this section. At the election,
7 the ballots shall be prepared to permit voting for or against the
8 proposition: "Approving the ad valorem tax rate of \$_____ per \$100
9 valuation in (name of school district) for the current year, a rate
10 that is \$_____ higher per \$100 valuation than the school district
11 rollback tax rate." The ballot proposition must include the
12 adopted tax rate and the difference between that rate and the
13 rollback tax rate in the appropriate places.

14 (c) If a majority of the votes cast in the election required
15 by Subsection (b) favor the proposition, the tax rate for the
16 current year is the rate that was adopted by the governing body.

17 (e) For purposes of Subsection (b) [~~this section~~], local tax
18 funds dedicated to a junior college district under Section
19 45.105(e), Education Code, shall be eliminated from the calculation
20 of the tax rate adopted by the governing body of the school
21 district. However, the funds dedicated to the junior college
22 district are subject to Section 26.085.

23 (h) For purposes of Subsection (b) [~~this section~~],
24 increases in taxable values and tax levies occurring within a
25 reinvestment zone under Chapter 311 (Tax Increment Financing Act),
26 in which the district is a participant, shall be eliminated from the
27 calculation of the tax rate adopted by the governing body of the

1 school district.

2 (i) For purposes of Subsection (b) [~~this section~~], the
3 rollback tax rate of a school district is the sum of:

4 (1) the tax rate that, applied to the current total
5 value for the district, would impose taxes in an amount that, when
6 added to state funds that would be distributed to the district under
7 Chapter 42, Education Code, for the school year beginning in the
8 current tax year using that tax rate, would provide the same amount
9 of state funds distributed under Chapter 42 and maintenance and
10 operations taxes of the district per student in [~~weighted~~] average
11 daily attendance for that school year that would have been
12 available to the district in the preceding year if the funding
13 elements for Chapters 41 and 42, Education Code, for the current
14 year had been in effect for the preceding year;

15 (2) the rate of \$0.04 [~~\$0.06~~] per \$100 of taxable
16 value; and

17 (3) the district's current debt rate.

18 (j) For purposes of Subsection (i), the amount of state
19 funds that would have been available to a school district in the
20 preceding year is computed using the district's [~~maximum~~] tax rate
21 for that [~~the current~~] year [~~under Section 42.253(e), Education~~
22 ~~Code~~].

23 SECTION 1A.19. Section 31.01, Tax Code, is amended by
24 adding Subsection (b-1) to read as follows:

25 (b-1) In addition to other requirements of this section, a
26 tax bill or the separate statement accompanying the tax bill for a
27 school district must state in a distinct row for each of the

1 following taxes:

2 (1) the rate for the maintenance and operations tax
3 described by Section 45.003, Education Code, and the amount of tax
4 due under that tax rate, under the heading "Maintenance and
5 Operations Tax";

6 (2) the rate for the interest and sinking fund tax
7 described by Section 45.001, Education Code, and the amount of tax
8 due under that tax rate, under the heading "Interest and Sinking
9 School Debt Service Tax Approved by Local Voters"; and

10 (3) the rate for the enrichment tax described by
11 Section 45.003, Education Code, and the amount of tax due under that
12 tax rate, under the heading "Local Enrichment Tax Approved by Local
13 Voters."

14 SECTION 1A.20. Section 311.013, Tax Code, is amended by
15 adding Subsection (n) to read as follows:

16 (n) This subsection applies only to a reinvestment zone
17 created before September 1, 1999, for which a school district
18 enters into an agreement to pay a portion of the tax increment
19 produced by the school district into the tax increment fund
20 established for the zone. In addition to the amount the school
21 district is otherwise required to pay into the tax increment fund
22 each year, the comptroller shall pay into the fund from any
23 available source an additional amount. The additional amount is
24 the amount by which the amount the district would have been required
25 to pay into the fund for the current year under the agreement if the
26 district levied taxes at the district's 2004 tax rate exceeds the
27 amount the district is otherwise required to pay into the fund for

1 the current year. This subsection ceases to apply to the
2 reinvestment zone on the later of the dates specified by Sections
3 311.017(a)(1) and (2) for the reinvestment zone.

4 SECTION 1A.21. Section 403.302, Government Code, is amended
5 by adding Subsections (c-1) and (c-2) to read as follows:

6 (c-1) This subsection applies only to a school district
7 whose central administrative office is located in a county with a
8 population of 9,000 or less and a total area of more than 6,000
9 square miles. If after conducting the annual study for a tax year
10 the comptroller determines that the local value for a school
11 district is not valid, the comptroller shall adjust the taxable
12 value determined under Subsections (a) and (b) as follows:

13 (1) for each category of property sampled and tested
14 by the comptroller in the school district, the comptroller shall
15 use the weighted mean appraisal ratio determined by the study,
16 unless the ratio is more than four percentage points lower than the
17 weighted mean appraisal ratio determined by the comptroller for
18 that category of property in the immediately preceding study, in
19 which case the comptroller shall use the weighted mean appraisal
20 ratio determined in the immediately preceding study minus four
21 percentage points;

22 (2) the comptroller shall use the category weighted
23 mean appraisal ratios as adjusted under Subdivision (1) to
24 establish a value estimate for each category of property sampled
25 and tested by the comptroller in the school district; and

26 (3) the value estimates established under Subdivision
27 (2), together with the local tax roll value for any categories not

1 sampled and tested by the comptroller, less total deductions
2 determined by the comptroller, determines the taxable value for the
3 school district.

4 (c-2) Subsection (c-1) and this subsection expire September
5 1, 2007.

6 SECTION 1A.22. Section 45.003(b-1), Education Code, as
7 added by this Act, applies only to an election on the issuance of
8 school district bonds for which the election order is issued on or
9 after September 1, 2005.

10 PART B. SCHOOL FACILITIES

11 SECTION 1B.01. Subchapter A, Chapter 46, Education Code, is
12 amended by adding Section 46.014 to read as follows:

13 Sec. 46.014. STUDY REGARDING INSTRUCTIONAL FACILITIES. (a)
14 The Legislative Budget Board, in cooperation with the agency, shall
15 study existing instructional facilities in this state.

16 (b) The study of instructional facilities must include an
17 examination of the following objectives and any other objectives
18 determined appropriate by the Legislative Budget Board and the
19 agency:

20 (1) information relating to the date of construction
21 or age of existing instructional facilities;

22 (2) information relating to the condition of existing
23 instructional facilities, including dates of the most recent major
24 renovations;

25 (3) a determination of the number of school districts
26 and campuses that have student populations that exceed the state
27 average for enrollment growth, including, if appropriate, a

1 determination of:

2 (A) the number of portable buildings in use by
3 each school district and campus;

4 (B) the square footage of instructional facility
5 space per student; and

6 (C) the number of instructional facilities that
7 are serving a number of students that exceeds the maximum capacity
8 of the facility;

9 (4) a determination of the extent to which
10 instructional facilities in this state are energy and water use
11 efficient; and

12 (5) a determination of the extent of a school
13 district's bonded indebtedness relating to facilities or
14 replacement costs.

15 (c) The Legislative Budget Board and the agency shall
16 determine the appropriate methodology for use in conducting the
17 study required by this section.

18 (d) Not later than December 1, 2006, the Legislative Budget
19 Board and the agency shall submit to the legislature a report based
20 on the study required by this section. This section expires January
21 15, 2007.

22 SECTION 1B.02. Subchapter B, Chapter 44, Education Code, is
23 amended by adding Sections 44.0411 and 44.0412 to read as follows:

24 Sec. 44.0411. SAFETY EQUIPMENT PROVISION IN CONTRACTS. (a)
25 A school district shall include in each contract for construction
26 of a school facility a requirement that the contractor ensure that
27 school crossing zones, reduced-speed signs with flashing lights,

1 and any safety equipment required for the facility and school
2 campus to comply with law in effect at the time the contract is
3 entered into are installed not later than the 30th day before the
4 date that the facility is scheduled to open. If there is more than
5 one contract for construction of the facility, the district shall
6 include the appropriate safety equipment requirement in each
7 appropriate contract.

8 (b) A school district shall include in each contract for
9 repair, rehabilitation, or alteration of a school facility a
10 requirement that the contractor ensure that any safety equipment
11 required by law in effect at the time the contract is entered into
12 and needed in connection with the portion of the facility on which
13 the repair, rehabilitation, or alteration is performed is installed
14 in a timely manner. If there is more than one contract for repair,
15 rehabilitation, or alteration of the facility, the district shall
16 include the appropriate safety equipment requirement in each
17 appropriate contract.

18 (c) Any safety equipment or device installed in compliance
19 with this section must comply with the requirements and
20 specifications of the manual adopted under Section 544.001,
21 Transportation Code, as the manual exists at the time the contract
22 for construction is entered into.

23 Sec. 44.0412. NOTICE TO TEXAS DEPARTMENT OF TRANSPORTATION
24 OR LOCAL ROAD AUTHORITY REQUIRED. (a) In this section, "local road
25 authority" means the local governmental entity responsible for the
26 construction, repair, and maintenance of a public highway or
27 street.

1 (b) Not later than the 15th day after the date that a school
2 district approves a plat for construction of a school facility or
3 applies for a building permit for a school facility, whichever is
4 earlier, the district shall deliver notice of the proposed facility
5 construction to:

6 (1) the Texas Department of Transportation, if the
7 facility will adjoin a highway or street that is part of the state
8 highway system; and

9 (2) the local road authority, if the facility will
10 adjoin a highway or street that is not a part of the state highway
11 system.

12 (c) The school district shall coordinate with the Texas
13 Department of Transportation or local road authority, as
14 applicable, to determine the traffic needs associated with the
15 proposed school facility.

16 (d) The Texas Department of Transportation or the local road
17 authority, as applicable, must approve all devices and safety
18 equipment included in a contract for the construction of a school
19 facility under Section 44.0411(a).

20 SECTION 1B.03. Section 46.008, Education Code, is amended
21 to read as follows:

22 Sec. 46.008. STANDARDS. (a) The commissioner shall
23 establish standards for adequacy of school facilities. The
24 standards must include requirements related to space, educational
25 adequacy, and construction quality. All new facilities constructed
26 after September 1, 1998, must meet the standards to be eligible to
27 be financed with state or local tax funds.

1 (b) To be eligible to be financed with state or local tax
2 funds, any portable, modular building capable of being relocated
3 that is purchased or leased after September 1, 2005, for use as a
4 school facility, regardless of whether the building is an
5 industrialized building as defined by Section 1202.003,
6 Occupations Code, must be inspected as provided by Subchapter E,
7 Chapter 1202, Occupations Code, to ensure compliance with the
8 mandatory building codes or approved designs, plans, and
9 specifications.

10 SECTION 1B.04. (a) Section 44.0411, Education Code, as
11 added by this Act, applies to any contract entered into by a school
12 district for construction, repair, rehabilitation, or alteration
13 of a school facility on or after the effective date of this Act.

14 (b) Section 44.0412, Education Code, as added by this Act,
15 applies to any contract entered into by a school district for
16 construction of a school facility on or after the effective date of
17 this Act.

18 PART C. SOCIAL SECURITY CONTRIBUTIONS

19 SECTION 1C.01. Subchapter B, Chapter 606, Government Code,
20 is amended by adding Section 606.0261 to read as follows:

21 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

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

26 (b) Payment of state assistance under this section is
27 limited to:

1 (1) school districts that covered district employees
2 under the social security program before January 1, 2005; and

3 (2) contributions made on behalf of employees in a
4 class of employees the district covered under the social security
5 program before January 1, 2005.

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

10 ARTICLE 2. EDUCATION EXCELLENCE

11 PART A. EDUCATION EMPLOYEES

12 SECTION 2A.01. Section 11.163, Education Code, is amended
13 by adding Subsection (f) to read as follows:

14 (f) The employment policy may not restrict the ability of a
15 school district employee to communicate directly with a member of
16 the board of trustees regarding a matter relating to the operation
17 of the district, except that the policy may prohibit:

18 (1) communication during:

19 (A) the employee's regular working hours at the
20 district; or

21 (B) the operating hours of a district campus; and

22 (2) ex parte communication relating to:

23 (A) a hearing under Subchapter E or F, Chapter
24 21; and

25 (B) another appeal or hearing in which ex parte
26 communication would be inappropriate pending a final decision by a
27 school district board of trustees.

1 SECTION 2A.02. Subchapter E, Chapter 11, Education Code, is
2 amended by adding Section 11.203 to read as follows:

3 Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR
4 PRINCIPALS. (a) The agency shall develop and implement a school
5 leadership pilot program for principals in cooperation with a
6 nonprofit corporation that has substantial experience in
7 developing best practices to improve leadership skills, student
8 achievement, student graduation rates, and teacher retention among
9 diverse student populations.

10 (b) The agency shall consult business schools, departments,
11 or programs at institutions of higher education to develop program
12 course work that focuses on management and business training and
13 ethnic diversity.

14 (c) A principal or a person interested in becoming a
15 principal may apply for participation in the program, in a form and
16 manner determined by the commissioner.

17 (d) A principal of a campus rated academically
18 unacceptable, as well as any person employed to replace that
19 principal, shall participate in the program and complete the
20 program requirements not later than a date determined by the
21 commissioner.

22 (e) To pay the costs of administering the program, the
23 commissioner shall retain a portion of the total amount of funds
24 allotted under the Foundation School Program that the commissioner
25 considers appropriate to finance activities under this section and
26 shall reduce the total amount of state funds allocated to each
27 district from any source in the same manner described for a

1 reduction in allotments under Section 42.313.

2 (f) To implement and administer the program, the
3 commissioner may accept grants, gifts, and donations from public
4 and private entities.

5 (g) The commissioner may adopt rules necessary to
6 administer this section.

7 (h) During the first semester of the 2008-2009 school year,
8 the agency shall evaluate the effectiveness of the program in
9 developing and enhancing the ability of principals participating in
10 the program to provide school leadership and improve student
11 achievement and graduation rates and teacher retention. Not later
12 than January 1, 2009, the agency shall submit a report explaining
13 the results of the study to the governor, lieutenant governor,
14 speaker of the house of representatives, and the presiding officers
15 of the standing committees of each house of the legislature with
16 primary jurisdiction over public education.

17 (i) This section expires September 1, 2010.

18 SECTION 2A.03. Section 21.207(b), Education Code, is
19 amended to read as follows:

20 (b) The hearing must be conducted in accordance with rules
21 adopted by the board. If the proposed nonrenewal is for a necessary
22 reduction in personnel due to a financial exigency or program
23 change adopted by the board, the hearing may be conducted before a
24 hearing examiner pursuant to rules adopted by the board, provided
25 that the board is provided a transcript of the hearing and proposed
26 findings of fact and conclusions of law before the board makes a
27 final decision on the proposed nonrenewal. The board may use the

1 process established under Subchapter F.

2 SECTION 2A.04. Subchapter B, Chapter 21, Education Code, is
3 amended by adding Section 21.062 to read as follows:

4 Sec. 21.062. CONFIDENTIALITY AND DISCLOSURE OF CERTAIN
5 INFORMATION. (a) The following information is confidential, is not
6 subject to public release under Chapter 552, Government Code, and
7 may be disclosed only as provided by this section and applicable
8 federal or state law:

9 (1) a report of alleged or suspected educator
10 misconduct made under this subchapter; and

11 (2) the files, reports, records, communications,
12 audiotapes, videotapes, and working papers used or developed in an
13 investigation under this subchapter.

14 (b) An educator who is the subject of an investigation by
15 the board under this subchapter is entitled to examine and make
16 copies of any information described by this section if the
17 information directly relates to the investigation.

18 SECTION 2A.05. Section 21.402, Education Code, is amended
19 by amending Subsections (a), (c), and (d) and adding Subsections
20 (c-1) and (c-2) to read as follows:

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

27 ~~[MS - SF x FS~~

1 ~~[where:~~

2 ~~["MS" is the minimum monthly salary,~~

3 ~~["SF" is the applicable salary factor specified by Subsection~~
 4 ~~(c), and~~

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

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

16	Years Experience	0	1	2
17	<u>Monthly Salary</u>	<u>\$2,524</u> [-.5656]	<u>\$2,581</u> [-.5790]	<u>\$2,639</u> [-.5924]
18	[Factor]			

19	Years Experience	3	4	5
20	<u>Monthly Salary</u>	<u>\$2,696</u> [-.6058]	<u>\$2,817</u> [-.6340]	<u>\$2,938</u> [-.6623]
21	[Factor]			

22	Years Experience	6	7	8
23	<u>Monthly Salary</u>	<u>\$3,059</u> [-.6906]	<u>\$3,172</u> [-.7168]	<u>\$3,278</u> [-.7416]
24	[Factor]			

25	Years Experience	9	10	11
26	<u>Monthly Salary</u>	<u>\$3,379</u> [-.7651]	<u>\$3,473</u> [-.7872]	<u>\$3,564</u> [-.8082]
27	[Factor]			

1	Years Experience	12	13	14
2	<u>Monthly Salary</u>	<u>\$3,649</u> [-.8281]	<u>\$3,728</u> [-.8467]	<u>\$3,805</u> [-.8645]
3	[Factor]			
4	Years Experience	15	16	17
5	<u>Monthly Salary</u>	<u>\$3,876</u> [-.8811]	<u>\$3,944</u> [-.8970]	<u>\$4,008</u> [-.9119]
6	[Factor]			
7	Years Experience	18	19	20 and over
8	<u>Monthly Salary</u>	<u>\$4,068</u> [-.9260]	<u>\$4,126</u> [-.9394]	<u>\$4,180</u> [-.9520]
9	[Factor]			

10 (c-1) Notwithstanding Subsection (a), for the 2005-2006
 11 school year, a classroom teacher, full-time librarian, full-time
 12 counselor certified under Subchapter B, or full-time school nurse
 13 is entitled to a monthly salary that is at least equal to the sum of:

14 (1) the monthly salary the employee would have
 15 received for the 2005-2006 school year under the district's salary
 16 schedule for the 2004-2005 school year, if that schedule had been in
 17 effect for the 2005-2006 school year, including any local
 18 supplement and any money representing a career ladder supplement
 19 the employee would have received in the 2005-2006 school year; and

20 (2) \$100.

21 (c-2) Subsection (c-1) and this subsection expire September
 22 1, 2006.

23 (d) A classroom teacher, full-time librarian, full-time
 24 counselor certified under Subchapter B, or full-time school nurse
 25 employed by a school district in the 2005-2006 [~~2000-2001~~] school
 26 year is, as long as the employee is employed by the same district,
 27 entitled to a salary that is at least equal to the salary the

1 employee received for the 2005-2006 [~~2000-2001~~] school year.

2 SECTION 2A.06. Subchapter I, Chapter 21, Education Code, is
3 amended by adding Section 21.4021 to read as follows:

4 Sec. 21.4021. STATE POLICY REGARDING TEACHER COMPENSATION
5 ABOVE MINIMUM SALARY SCHEDULE. (a) It is the policy of this state
6 that each school district may compensate and have the ability to
7 compensate any teacher in an amount greater than the amounts
8 required by Sections 21.402 and 21.403 based on the teacher's
9 ability to improve the academic achievement of students.

10 (b) In determining a teacher's compensation, a school
11 district may and should consider:

12 (1) the teacher's ability to improve the academic
13 achievement of the teacher's students;

14 (2) the grade level or subject the teacher is assigned
15 to teach;

16 (3) skills required beyond basic teaching skills; and

17 (4) the assignment of the teacher, including whether
18 the teacher is assigned to a subject or school that is difficult to
19 staff.

20 (c) A school district can and should provide additional
21 compensation to a teacher who substantially contributes to
22 improvement in student achievement.

23 SECTION 2A.07. Sections 21.405(a) and (c), Education Code,
24 are amended to read as follows:

25 (a) Except as provided by Subsection (c), each classroom
26 teacher, full-time school nurse, or full-time librarian is entitled
27 to at least a 30-minute lunch period free from all duties and

1 responsibilities connected with the instruction and supervision of
2 students. Each school district may set flexible or rotating
3 schedules for each classroom teacher, full-time school nurse, or
4 full-time librarian in the district for the implementation of the
5 duty-free lunch period.

6 (c) If necessary because of a personnel shortage, extreme
7 economic conditions, or an unavoidable or unforeseen circumstance,
8 a school district may require a classroom teacher, nurse, or
9 librarian entitled to a duty-free lunch to supervise students
10 during lunch. A classroom teacher, nurse, or librarian may not be
11 required to supervise students under this subsection more than one
12 day in any school week. The commissioner by rule shall prescribe
13 guidelines for determining what constitutes a personnel shortage,
14 extreme economic conditions, or an unavoidable or unforeseen
15 circumstance for purposes of this subsection.

16 SECTION 2A.08. Subchapter J, Chapter 21, Education Code, is
17 amended by adding Section 21.458 to read as follows:

18 Sec. 21.458. MENTORS. (a) Each school district may assign
19 a mentor teacher to each classroom teacher who has less than two
20 years of teaching experience. A teacher assigned as a mentor must:

- 21 (1) teach in the same school;
22 (2) to the extent practicable, teach the same subject
23 or grade level, as applicable; and
24 (3) meet the qualifications prescribed by
25 commissioner rules adopted under Subsection (b).

26 (b) The commissioner shall adopt rules necessary to
27 administer this section, including rules concerning the duties and

1 qualifications of a teacher who serves as a mentor. The rules
2 concerning qualifications must require that to serve as a mentor a
3 teacher must:

4 (1) complete a research-based mentor and induction
5 training program approved by the commissioner;

6 (2) complete a mentor training program provided by the
7 district; and

8 (3) have at least three complete years of teaching
9 experience with a proven record of assisting students, as a whole,
10 in achieving growth in student performance.

11 (c) The commissioner shall develop proposed rules under
12 Subsection (b) by negotiated rulemaking as provided by Chapter
13 2008, Government Code.

14 (d) From the funds appropriated to the agency for purposes
15 of this section, the commissioner shall adopt rules and provide
16 funding to school districts that assign mentor teachers under this
17 section. Funding provided to districts under this section may be
18 used only for providing:

19 (1) mentor teacher stipends;

20 (2) scheduled time for mentor teachers to provide
21 mentoring to assigned classroom teachers; and

22 (3) mentoring support through providers of mentor
23 training.

24 (e) In adopting rules under Subsection (d), the
25 commissioner shall rely on research-based mentoring programs that,
26 through external evaluation, have demonstrated success.

27 SECTION 2A.09. 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. (a)

4 The commissioner shall establish an educator excellence incentive
5 program under which school districts, in accordance with locally
6 developed plans approved by the commissioner, provide incentive
7 payments to employees who demonstrate superior success in growth in
8 student achievement.

9 (b) Each year a school district shall use an amount equal to
10 at least one percent of the district's total professional staff
11 payroll to provide incentive payments to employees in accordance
12 with this subchapter.

13 (c) Incentive payments under this subchapter may be used to:

14 (1) encourage classroom teachers to:

15 (A) teach at campuses with high percentages of
16 educationally disadvantaged students;

17 (B) serve as mentors to new teachers in
18 accordance with Section 21.458; or

19 (C) receive appropriate certification to teach
20 in a curriculum subject area in which the district is experiencing a
21 shortage of qualified teachers; or

22 (2) further the goals of any other locally designed
23 performance incentive program intended to improve student
24 achievement.

25 (d) The commissioner shall adopt rules necessary to
26 implement this subchapter. In adopting rules, the commissioner
27 shall:

1 (1) encourage local flexibility in designing
2 incentive plans that promote student achievement; and

3 (2) for purposes of Subsection (b), determine which
4 staff members are included as professional staff.

5 Sec. 21.652. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

6 (a) A school district shall develop a local incentive plan for
7 rewarding successful incremental growth in student achievement in
8 the district and submit the plan to the commissioner for approval.

9 (b) A local incentive plan must be designed to reward
10 individuals, campuses, or organizational units such as grade levels
11 at elementary schools or academic departments at high schools.

12 (c) A local incentive plan must provide for incentive
13 payments to classroom teachers and may provide for incentive
14 payments to other employees.

15 (d) The primary criteria for making incentive payments to
16 employees under a local incentive plan must be based on objective
17 measures of student achievement, including a measure of incremental
18 growth in student achievement under Section 39.034, and the plan
19 must provide for incentive payments to be awarded on the basis of
20 high achievement, incremental growth in achievement, or both. A
21 local incentive plan may also consider other indicators of employee
22 performance, such as teacher evaluations conducted by principals or
23 parents.

24 (e) A local incentive plan must:

25 (1) be developed through a process that includes
26 participation of classroom teachers in the school district; and

27 (2) be approved by the district-level planning and

1 decision-making committee.

2 (f) The campus-level planning and decision-making committee
3 shall determine the appropriate distribution of funds received by a
4 campus under this subchapter.

5 Sec. 21.653. EMPLOYMENT CONTRACTS. (a) A school district
6 shall provide in employment contracts that qualifying employees may
7 receive an incentive payment under the local incentive plan.

8 (b) The district shall indicate that any incentive payment
9 distributed is considered a payment for performance and not an
10 entitlement as part of an employee's salary.

11 Sec. 21.654. DECISION BY BOARD OF TRUSTEES. A decision by
12 the board of trustees or the board's designee in providing an
13 incentive payment under a local incentive plan approved under this
14 subchapter is final and may not be appealed.

15 SECTION 2A.10. Subchapter B, Chapter 22, Education Code, is
16 amended by adding Section 22.056 to read as follows:

17 Sec. 22.056. PROFESSIONAL LIABILITY INSURANCE FOR
18 CLASSROOM TEACHERS. (a) Using funds appropriated for the purpose
19 or otherwise available to the commissioner for the purpose, the
20 commissioner shall make available to each classroom teacher, at no
21 cost to the teacher, professional liability insurance to provide
22 the costs of defense and indemnification protection from claims for
23 damages arising out of any act or omission that is incident to or
24 within the scope of the duties of the teacher's position of
25 employment.

26 (b) The commissioner shall obtain the insurance required to
27 be made available by this section:

1 (1) in an amount determined appropriate by the
2 commissioner; and

3 (2) from one or more insurers authorized to engage in
4 the business of insurance in this state.

5 (c) The insurance required to be made available by this
6 section is in addition to the liability insurance provided by the
7 employing school district under a general liability policy.

8 (d) The commissioner may adopt rules necessary to implement
9 this section.

10 SECTION 2A.11. Subchapter A, Chapter 29, Education Code, is
11 amended by adding Section 29.019 to read as follows:

12 Sec. 29.019. SPEECH-LANGUAGE INSTRUCTION: ASSISTANTS. (a)
13 This section applies to an assistant who:

14 (1) has at least three years of experience in speech
15 therapy, as determined by the State Board of Examiners for
16 Speech-Language Pathology and Audiology; and

17 (2) is supervised by a licensed speech-language
18 pathologist.

19 (b) An assistant described by Subsection (a) may attend, as
20 related services personnel, a student admission, review, and
21 dismissal committee meeting if the meeting involves a student for
22 whom the assistant provides services. If an assistant attends a
23 meeting as provided by this section, the supervising
24 speech-language pathologist is not required to attend the meeting,
25 except as provided by Subsection (c).

26 (c) A supervising speech-language pathologist must attend a
27 committee meeting under Subsection (b):

1 (1) if the purpose of the committee meeting is to
2 develop a student's initial individualized education program under
3 Section 29.005; or

4 (2) if the purpose of the committee meeting is to
5 consider the student's dismissal, unless the supervising
6 speech-language pathologist has submitted the pathologist's
7 recommendation in writing on or before the date of the meeting.

8 (d) This section:

9 (1) does not create, increase, decrease, or otherwise
10 affect a supervising speech-language pathologist's liability for
11 actions taken by an assistant; and

12 (2) is not a waiver of a school district's sovereign
13 immunity.

14 SECTION 2A.12. Section 21.002(a), Education Code, is
15 amended to read as follows:

16 (a) A school district shall employ each classroom teacher,
17 principal, librarian, nurse, licensed athletic trainer, or
18 counselor under:

19 (1) a probationary contract, as provided by Subchapter
20 C;

21 (2) a continuing contract, as provided by Subchapter
22 D; or

23 (3) a term contract, as provided by Subchapter E.

24 SECTION 2A.13. Section 21.003(a), Education Code, is
25 amended to read as follows:

26 (a) A person may not be employed as a teacher, teacher
27 intern or teacher trainee, librarian, educational aide,

1 administrator, educational diagnostician, or counselor by a school
2 district unless the person holds an appropriate certificate or
3 permit issued as provided by Subchapter B.

4 SECTION 2A.14. (a) As soon as possible after September 1,
5 2005, the commissioner of education shall review the rules adopted
6 under Section 21.044, Education Code, relating to educator training
7 requirements and revise those rules as necessary to ensure that the
8 training requirements are sufficient to produce educators capable
9 of:

10 (1) satisfying the increased standards for highly
11 qualified educators prescribed by the No Child Left Behind Act of
12 2001 (Pub. L. No. 107-110);

13 (2) complying with certification standards in this
14 state; and

15 (3) teaching students in a manner that results in the
16 highest level of student performance.

17 (b) In conducting the review required by Subsection (a) of
18 this section, the commissioner of education shall give specific
19 attention to the degree to which educator training requirements
20 prepare educators to serve students of limited English proficiency
21 and students with learning disabilities.

22 PART B. STATE AND REGIONAL GOVERNANCE

23 SECTION 2B.01. Chapter 1, Education Code, is amended by
24 adding Section 1.005 to read as follows:

25 Sec. 1.005. EDUCATION RESEARCH CENTERS; SHARING STUDENT
26 INFORMATION. (a) In this section, "center" means a center for
27 education research authorized by this section.

1 (b) The commissioner of education and the commissioner of
2 higher education may establish not more than three centers for
3 education research for conducting research described by
4 Subsections (e) and (f).

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

6 (1) the Texas Education Agency;

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

8 (3) a public junior college, public senior college or
9 university, or public state college, as those terms are defined by
10 Section 61.003.

11 (d) A center may be operated under a memorandum of
12 understanding between the commissioner of education, the
13 commissioner of higher education, and the governing board of an
14 educational institution described by Subsection (c)(3). The
15 memorandum of understanding must require the commissioner of
16 education, or a person designated by the commissioner, and the
17 commissioner of higher education, or a person designated by the
18 commissioner, to provide direct, joint supervision of the center
19 under this section.

20 (e) A center shall conduct research for the benefit of
21 education in this state, including research relating to the impact
22 of state and federal education programs, the performance of
23 educator preparation programs, public school finance, and the best
24 practices of school districts with regard to classroom instruction,
25 bilingual education programs, special language programs, and
26 business practices.

27 (f) The commissioner of education and the commissioner of

1 higher education:

2 (1) under the memorandum of understanding described by
3 Subsection (d), may require a center to conduct certain research
4 projects considered of particular importance to the state, as
5 determined by the commissioners; and

6 (2) not later than the 45th day before the date a
7 research project required to be conducted under this subsection is
8 scheduled to begin, shall notify the governor, the Legislative
9 Budget Board, and the governing body of the educational institution
10 in which the center is established that the research project is
11 required.

12 (g) In conducting research under this section, a center:

13 (1) may use data on student performance, including
14 data that is confidential under the Family Educational Rights and
15 Privacy Act of 1974 (20 U.S.C. Section 1232g), the center has
16 collected from the Texas Education Agency, the Texas Higher
17 Education Coordinating Board, the State Board for Educator
18 Certification, any public or private institution of higher
19 education, and any school district; and

20 (2) shall comply with rules adopted by the
21 commissioner of education and the commissioner of higher education
22 to protect the confidentiality of student information, including
23 rules establishing procedures to ensure that confidential student
24 information is not duplicated or removed from a center in an
25 unauthorized manner.

26 (h) The commissioner of education and the commissioner of
27 higher education may:

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

3 (2) by rule impose reasonable fees, as appropriate,
4 for the use of a center's research, resources, or facilities.

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

9 (j) The commissioner of education and the commissioner of
10 higher education shall adopt rules as necessary to implement this
11 section.

12 SECTION 2B.02. Section 7.004, Education Code, as amended by
13 H.B. No. 1116, Acts of the 79th Legislature, Regular Session, 2005,
14 is amended to read as follows:

15 Sec. 7.004. SUNSET PROVISION. (a) The Texas Education
16 Agency is subject to Chapter 325, Government Code (Texas Sunset
17 Act). Unless continued in existence as provided by that chapter,
18 the agency is abolished September 1, 2017 [~~2007. In the review of~~
19 ~~the agency by the Sunset Advisory Commission, as required by this~~
20 ~~section, the sunset commission shall limit its review to the~~
21 ~~appropriateness of recommendations made by the sunset commission to~~
22 ~~the 79th Legislature. In the Sunset Advisory Commission's report~~
23 ~~to the 80th Legislature, the sunset commission may include any~~
24 ~~recommendations it considers appropriate].~~

25 (b) A review conducted under Chapter 325, Government Code
26 (Texas Sunset Act), in accordance with this section must include a
27 review of the regional education service centers under Chapter 8.

1 SECTION 2B.03. Subchapter A, Chapter 7, Education Code, is
2 amended by adding Section 7.007 to read as follows:

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

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

11 (c) Annually, the commissioner shall review the Public
12 Education Information Management System and shall repeal or amend
13 rules that require school districts to provide information through
14 the system that is not necessary. In reviewing and revising the
15 system, the commissioner shall develop rules to ensure that the
16 system:

17 (1) provides useful, accurate, and timely information
18 on student demographics and academic performance, personnel, and
19 school district finances;

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

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

25 (d) The commissioner's rules must ensure that the Public
26 Education Information Management System links student performance
27 data to other related information for purposes of efficient and

1 effective allocation of school resources.

2 SECTION 2B.04. Subchapter A, Chapter 7, Education Code, is
3 amended by adding Section 7.008 to read as follows:

4 Sec. 7.008. ELECTRONIC STUDENT RECORDS SYSTEM. (a) In this
5 section, "institution of higher education" has the meaning assigned
6 by Section 61.003.

7 (b) Each school district, public charter district, and
8 institution of higher education shall participate in an electronic
9 student records system that satisfies standards approved by the
10 commissioner of education and the commissioner of higher education.

11 (c) The electronic student records system must permit an
12 authorized state or district official or an authorized
13 representative of an institution of higher education to
14 electronically transfer to and from an educational institution in
15 which the student is enrolled and retrieve student transcripts,
16 including information concerning a student's:

- 17 (1) course or grade completion;
18 (2) teachers of record;
19 (3) assessment instrument results; and
20 (4) receipt of special education services, including
21 placement in a special education program and the individualized
22 education program developed.

23 (d) The commissioner of education or the commissioner of
24 higher education may solicit and accept grant funds to maintain the
25 electronic student records system and to make the system available
26 to school districts, public charter districts, and institutions of
27 higher education.

1 (e) The electronic student records system shall identify
2 public school students within the following categories on an
3 individual and aggregated basis by region and demographic group:

- 4 (1) enrolled in the state;
5 (2) transferred out of state;
6 (3) transferred to a private or home school;
7 (4) graduated from high school;
8 (5) deceased; or
9 (6) dropout.

10 (f) A private or independent institution of higher
11 education, as defined by Section 61.003, may participate in the
12 electronic student records system under this section. If a private
13 or independent institution of higher education elects to
14 participate, the institution must provide the funding to
15 participate in the system.

16 (g) Any person involved in the transfer and retrieval of
17 student information under this section is subject to any state or
18 federal law governing the release of or providing access to any
19 confidential information to the same extent as the educational
20 institution from which the data is collected. A person may not
21 release or distribute the data to any other person in a form that
22 contains confidential information.

23 (h) The electronic student records system shall be
24 implemented not later than the beginning of the 2006-2007 school
25 year. This subsection expires September 1, 2007.

26 SECTION 2B.05. Subchapter B, Chapter 7, Education Code, is
27 amended by adding Section 7.0211 to read as follows:

1 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may
2 receive gifts, grants, or donations from any public or private
3 source to perform any educational function the agency is authorized
4 to perform by law.

5 SECTION 2B.06. Section 7.028, Education Code, as renumbered
6 by Section 23.001(9), H.B. No. 2018, Acts of the 79th Legislature,
7 Regular Session, 2005, is amended to read as follows:

8 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING. (a)
9 Except as provided by Section 29.001(5), 29.010(a), [~~39.074,~~] or
10 39.075, the agency may monitor compliance with requirements
11 applicable to a process or program provided by a school district,
12 campus, program, or school granted charters under Chapter 11A or
13 12, including the process described by Subchapter F, Chapter 11, or
14 a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,
15 Subchapter A, Chapter 37, or Section 38.003, and the use of funds
16 provided for such a program under Subchapter C, Chapter 42, only as
17 necessary to ensure:

- 18 (1) compliance with federal law and regulations;
19 (2) financial accountability, including compliance
20 with grant requirements; and
21 (3) data integrity for purposes of:
22 (A) the Public Education Information Management
23 System (PEIMS); and
24 (B) accountability under Chapter 39.

25 (b) The board of trustees of a school district or the
26 governing body of a public charter district [~~an open-enrollment~~
27 ~~charter school~~] has primary responsibility for ensuring that the

1 district or school complies with all applicable requirements of
2 state educational programs.

3 SECTION 2B.07. Subchapter B, Chapter 7, Education Code, is
4 amended by adding Section 7.033 to read as follows:

5 Sec. 7.033. COMPREHENSIVE MONITORING SYSTEM. To the extent
6 permissible under Section 7.028, the agency shall develop and
7 implement a comprehensive, integrated monitoring system for
8 monitoring school district and charter school overall performance
9 under and compliance with federal and state education laws. The
10 system must incorporate performance and compliance information
11 collected by various agency divisions for each school district and
12 charter school, including information relating to:

- 13 (1) data integrity;
- 14 (2) the performance of district or school programs;
- 15 (3) financial accountability;
- 16 (4) academic accountability;
- 17 (5) previous history of compliance;
- 18 (6) complaints issues; and
- 19 (7) governance issues.

20 SECTION 2B.08. Sections 7.057(a) and (d), Education Code,
21 are amended to read as follows:

22 (a) Except as provided by Subsection (e) or Section 7.0571,
23 a person may appeal in writing to the commissioner if the person is
24 aggrieved by:

- 25 (1) the school laws of this state; or
 - 26 (2) actions or decisions of any school district board
- 27 of trustees that violate:

1 (A) the school laws of this state; or

2 (B) a provision of a written employment contract
3 between the school district and a school district employee, if a
4 violation causes or would cause monetary harm to the employee.

5 (d) Except as provided by Section 7.0571, a [A] person
6 aggrieved by an action of the agency or decision of the commissioner
7 may appeal to a district court in Travis County. An appeal must be
8 made by serving the commissioner with citation issued and served in
9 the manner provided by law for civil suits. The petition must state
10 the action or decision from which the appeal is taken. At trial,
11 the court shall determine all issues of law and fact, except as
12 provided by Section 33.081(g).

13 SECTION 2B.09. Subchapter C, Chapter 7, Education Code, is
14 amended by adding Section 7.0571 to read as follows:

15 Sec. 7.0571. INFORMAL REVIEW BY COMMISSIONER. (a) The
16 commissioner shall adopt rules under which a school district,
17 public charter district, or other person that wishes to challenge
18 an agency decision made under Chapter 39, 41, 42, or 46 must
19 petition the commissioner for an informal review by the
20 commissioner of the decision.

21 (b) The commissioner may limit a review under this section
22 to a written submission of any issue identified by the
23 commissioner.

24 (c) A final decision under this section is final and may not
25 be appealed under Section 7.057 or any other law.

26 SECTION 2B.10. Chapter 7, Education Code, is amended by
27 adding Subchapter E to read as follows:

1 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

2 Sec. 7.151. PERFORMANCE-BASED GRANT SYSTEM. (a) The
3 agency shall implement a comprehensive performance-based grant
4 system to collect and report grant performance and spending
5 information and to use that information in making future grants.

6 (b) The grant system must:

7 (1) connect grant activities and funding to student
8 academic performance; and

9 (2) provide for efficient grant application and
10 reporting procedures for grant programs administered by the agency.

11 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall
12 ensure that:

13 (1) the mission, purpose, and objectives of each
14 agency grant program support student academic performance or
15 another public education mission, objective, or goal specified
16 under Sections 4.001 and 4.002;

17 (2) each agency grant program coordinates with other
18 grant programs administered by the agency;

19 (3) grant programs with similar objectives have common
20 performance measures; and

21 (4) the most efficient methods for coordinating grant
22 objectives, grant activities, academic performance measures, and
23 funding are used in the agency's grant application and reporting
24 systems.

25 Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may
26 use existing data to identify and notify an eligible school
27 district or charter school of the opportunity to apply for a

1 state-funded discretionary grant.

2 Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.

3 The agency shall develop one or more consolidated applications to
4 be used by school districts and charter schools in applying for any
5 state-funded formula grant administered by the agency.

6 Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency
7 shall ensure that information relating to the grant system is
8 available to the legislature and the public.

9 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The
10 agency, in coordination with regional education service centers,
11 shall use data relating to grant programs, including grant spending
12 and performance information, to identify successful grant
13 programs. Based on the identification of successful grant
14 programs, each regional education service center shall provide
15 information concerning those programs to the school districts in
16 the service center's region.

17 (b) This section applies beginning with the 2009-2010
18 school year. This subsection expires June 1, 2010.

19 Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. (a) In developing
20 the performance-based grant system, the agency shall:

21 (1) identify each area of data collected for grant
22 programs and the method in which the agency collects the data;

23 (2) determine whether grant data that a school
24 district or charter school is required to collect is useful and
25 supports:

26 (A) a grant program's objectives; and

27 (B) the goals for academic performance and

1 accountability or another public education mission, objective, or
2 goal;

3 (3) determine whether grant data is analyzed and
4 disseminated efficiently; and

5 (4) review the agency's policies, procedures, and
6 reporting requirements relating to grant programs administered by
7 the agency to simplify and make more efficient the grant
8 application, award, and reporting processes for school districts
9 and charter schools.

10 (b) This section expires June 1, 2010.

11 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL
12 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the
13 agency shall provide the legislature with a status report
14 concerning the agency's development of the grant system. The
15 report may suggest any statutory changes needed to facilitate a
16 full transition to a performance-based grant system.

17 (b) Beginning with the 2009-2010 school year, the agency
18 shall make the performance-based grant system fully available to
19 school districts and charter schools.

20 (c) This section expires June 1, 2010.

21 SECTION 2B.11. Subchapter A, Chapter 8, Education Code, is
22 amended by adding Section 8.0031 to read as follows:

23 Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS.

24 (a) The commissioner shall adopt rules prescribing training for
25 members of regional education service center boards of directors.
26 The training curriculum may include:

27 (1) an overview of this code and any rules adopted

1 under this code;

2 (2) a review of recent state and federal education
3 legislation, rules, and regulations;

4 (3) a review of the powers and duties of a regional
5 education service center board of directors; and

6 (4) a review of any statewide or regional strategic
7 planning applicable to regional education service centers.

8 (b) A member of a regional education service center board of
9 directors must complete any training required by commissioner rule.

10 SECTION 2B.12. Sections 8.051(b), (c), and (d), Education
11 Code, are amended to read as follows:

12 (b) Each regional education service center shall annually
13 develop and submit to the commissioner for approval a plan for
14 improvement. Each plan must include the purposes and description
15 of the services the center will provide to:

16 (1) campuses rated academically unacceptable
17 ~~[identified as low-performing based on the indicators adopted]~~
18 under Section 39.072 ~~[39.051]~~;

19 (2) the lowest-performing campuses in the region; and

20 (3) other campuses.

21 (c) Each regional education service center shall provide
22 services that enable school districts to operate more efficiently
23 and economically, including collecting and disseminating:

24 (1) best practices information as provided by Section
25 7.010; and

26 (2) information concerning successful grant programs
27 to school districts as provided by Section 7.156.

1 (d) Each regional education service center shall maintain
2 core services for purchase by school districts and campuses. The
3 core services are:

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

6 (2) training and assistance in providing each program
7 that qualifies for a special education, compensatory education,
8 bilingual education, or gifted and talented student funding
9 allotment under Subchapter C, Chapter 42 [~~Section 42.151, 42.152,~~
10 ~~42.153, or 42.156~~];

11 (3) assistance specifically designed for a school
12 district or campus rated academically unacceptable under Section
13 39.072 [~~39.072(a) or a campus whose performance is considered~~
14 ~~unacceptable based on the indicators adopted under Section 39.051~~];

15 (4) training and assistance to teachers,
16 administrators, members of district boards of trustees, and members
17 of site-based decision-making committees;

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

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

23 SECTION 2B.13. Section 8.102, Education Code, is amended to
24 read as follows:

25 Sec. 8.102. DATA REPORTING. (a) Each regional education
26 service center shall report audited or budgeted financial
27 information and any other information requested by the commissioner

1 for use in assessing the performance of the center. The
2 commissioner shall develop a uniform system for regional education
3 service centers to report audited financial data, to report
4 information on the indicators adopted under Section 8.101, and to
5 provide information on client satisfaction with services provided
6 under Subchapter B.

7 (b) The uniform system for reporting required by Subsection
8 (a) must require regional education service centers to:

9 (1) use standard accepted cost accounting practices
10 approved by the commissioner for reporting all expenditures; and

11 (2) identify and report each expenditure separately by
12 purpose as educational, support, or administrative.

13 SECTION 2B.14. Section 8.103, Education Code, is amended to
14 read as follows:

15 Sec. 8.103. ANNUAL EVALUATION. (a) The commissioner shall
16 conduct an annual evaluation of each executive director and
17 regional education service center. Each evaluation must include:

18 (1) an audit of the center's finances;

19 (2) a review of the center's performance on the
20 indicators adopted under Section 8.101;

21 (3) a review of client satisfaction with services
22 provided under Subchapter B; and

23 (4) a review of any other factor the commissioner
24 determines to be appropriate.

25 (b) In the audit conducted under Subsection (a)(1), the
26 commissioner shall verify that the regional education service
27 center has identified each expenditure separately by purpose as

1 educational, support, or administrative as required by Section
2 8.102(b).

3 (c) The commissioner shall make the annual evaluation for a
4 fiscal year available to the public not later than January 1
5 following that fiscal year. The commissioner shall provide a copy
6 of the annual evaluation to any person who submits a written request
7 to the commissioner.

8 SECTION 2B.15. Subchapter A, Chapter 11, Education Code, is
9 amended by adding Section 11.003 to read as follows:

10 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later
11 than December 1, 2005, the commissioner shall evaluate the
12 feasibility of including a uniform indicator under Section
13 39.202(b) that measures effective administrative management
14 through the use of cooperative shared service arrangements. If the
15 commissioner determines that the adoption of a uniform indicator
16 described by this subsection is feasible, the commissioner by rule
17 shall include the indicator in the financial accountability rating
18 system under Subchapter I, Chapter 39, for school districts
19 beginning with the 2006-2007 school year. This subsection expires
20 September 1, 2007.

21 (b) Each regional education service center shall:

22 (1) notify each school district served by the center
23 regarding the opportunities available through the center for
24 cooperative shared service arrangements within the center's
25 service area; and

26 (2) evaluate the need for cooperative shared service
27 arrangements within the center's service area and consider

1 expanding center-sponsored cooperative shared service
2 arrangements.

3 (c) A school district that enters into an agreement for a
4 cooperative shared service arrangement described by Subsection (a)
5 is entitled to keep any money the district saves as a result of
6 reduced costs or increased efficiencies under the arrangement.

7 (d) Each regional education service center shall assist a
8 school district board of trustees in entering into an agreement
9 with another district or political subdivision, a regional
10 education service center, or an institution of higher education as
11 defined by Section 61.003, for a cooperative shared service
12 arrangement regarding administrative services, including
13 transportation, food service, purchasing, and payroll functions.

14 (e) The commissioner may:

15 (1) adopt by rule reasonable incentives to encourage
16 school districts and public charter districts to enter into
17 agreements for a cooperative shared service arrangement; and

18 (2) require a district or a public charter district to
19 enter into an agreement for a cooperative shared service
20 arrangement if the commissioner determines that the financial
21 management performance of the district is unsatisfactory.

22 SECTION 2B.16. Subchapter A, Chapter 29, Education Code, is
23 amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as
24 follows:

25 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
26 PROCESS HEARINGS. (a) The agency shall make available to a parent,
27 student, school district, attorney, or other interested person, and

1 shall place on the agency's Internet website, comprehensive, easily
2 understood information in English and Spanish concerning the
3 special education due process hearing process.

4 (b) The information described by Subsection (a) must
5 include:

6 (1) a description of the steps in the due process
7 hearing process;

8 (2) the text of any applicable administrative,
9 procedural, or evidentiary rule;

10 (3) a description of any notice requirements;

11 (4) an explanation of options for alternative dispute
12 resolution, including mediation;

13 (5) an explanation of a resolution session;

14 (6) answers to frequently asked questions; and

15 (7) other sources of information, including
16 electronic sources of information, such as special education case
17 law available on the Internet.

18 Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION
19 CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency
20 shall collect and at least biennially analyze any information,
21 including complaint information, relating to the performance of a
22 special education hearing officer for use in assessing:

23 (1) the effectiveness of the due process hearing
24 process; and

25 (2) the performance of a special education hearing
26 officer.

27 (b) The agency shall use the information described by

1 Subsection (a) in determining whether to renew a contract with a
2 special education hearing officer.

3 Sec. 29.0164. SPECIAL EDUCATION HEARING OFFICER: CONFLICT
4 OF INTEREST PROVISIONS. A special education hearing officer may
5 not accept employment or compensation from a school district during
6 a school year in which the hearing officer presides over a hearing
7 to which the district is a party.

8 SECTION 2B.17. Section 37.008, Education Code, is amended
9 by adding Subsection (o) to read as follows:

10 (o) For purposes of accountability under Chapter 39, a
11 student placed in a disciplinary alternative education program is
12 reported as if the student were enrolled at the student's assigned
13 campus in the student's regularly assigned education program,
14 including a special education program.

15 SECTION 2B.18. Subchapter C, Chapter 37, Education Code, is
16 amended by adding Section 37.085 to read as follows:

17 Sec. 37.085. REPORT ON BULLYING AND DISCRIMINATION. (a)
18 The agency shall collect data on the reasons for and prevalence of
19 bullying and discrimination in public schools.

20 (b) The agency shall deliver a report on the data collected
21 describing the results to the legislature not later than January 1,
22 2007.

23 (b-1) The commissioner shall set aside the amount necessary
24 to pay costs associated with this section from amounts appropriated
25 for allotments under Section 42.152, and reduce each district's
26 allotments under that section proportionately.

27 (c) This section expires June 1, 2007.

PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

SECTION 2C.01. Chapter 4, Education Code, is amended by adding Section 4.003 to read as follows:

Sec. 4.003. COMPLIANCE WITH CERTAIN UNFUNDED STATE MANDATES NOT REQUIRED. (a) For purposes of this section:

(1) "H.B. No. 2 mandate" means a provision of a state statute amended or added by H.B. No. 2, Acts of the 79th Legislature, 1st Called Session, 2005, or rule adopted under a statute amended or added by H.B. No. 2, Acts of the 79th Legislature, 1st Called Session, 2005, that requires:

(A) school district action to implement the provision; and

(B) an expenditure by a school district that would not have been required in the absence of the provision.

(2) "Unfunded H.B. No. 2 mandate" means an H.B. No. 2 mandate for which the legislature has not appropriated funds estimated to be sufficient to meet the state's share of financing the expenditure.

(b) The Legislative Budget Board shall, in cooperation with the commissioner, conduct a study of H.B. No. 2 mandates. The study shall identify each H.B. No. 2 mandate and any unfunded H.B. No. 2 mandate.

(c) Each school district shall cooperate with the board by providing information relating to the district's cost of implementing an H.B. No. 2 mandate. At the board's request, the agency, state auditor, comptroller, and other state officers and agencies shall assist the board in conducting the study and

1 analyzing information obtained from school districts.

2 (d) Not later than November 1, 2005, the board shall:

3 (1) prepare a certified list of any unfunded H.B. No. 2
4 mandate; and

5 (2) deliver the certified list to the secretary of
6 state for publication in the Texas Register.

7 (e) A school district is not required to comply with any
8 unfunded H.B. No. 2 mandate that appears on the certified list
9 published under Subsection (d).

10 SECTION 2C.02. Subchapter A, Chapter 7, Education Code, is
11 amended by adding Section 7.011 to read as follows:

12 Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM
13 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at
14 risk of dropping out of school" has the meaning described by Section
15 29.081.

16 (b) The agency shall develop a management information
17 system for funds awarded and allocated to school districts and
18 public charter districts for the purpose of providing services to
19 students at risk of dropping out of school.

20 (c) The funds management information system must produce
21 complete, accurate, and timely reports for agency officials and
22 policy makers. The reports must provide information on funding for
23 services for students at risk of dropping out of school, statewide
24 and aggregated by school district, including the following
25 information:

26 (1) the amount of an award;

27 (2) the beginning and ending period of a grant or

1 award;

2 (3) expenditures related to an award; and

3 (4) any amount of an award that was not distributed
4 because of a school district's failure to use awarded funds to
5 provide needed services during the funding period.

6 (d) The commissioner shall adopt rules as necessary to
7 administer this section. The rules adopted under this subsection
8 must ensure that:

9 (1) the funds management information system includes:

10 (A) the information described by Subsection (c)
11 for all funding sources for services described by Section 29.092
12 for students at risk of dropping out of school, excluding funding
13 information relating to a compensatory, intensive, or accelerated
14 instruction program under Section 29.081, a disciplinary
15 alternative education program established under Section 37.008, or
16 a program eligible under Title I of the Elementary and Secondary
17 Education Act of 1965, as provided by Pub. L. No. 103-382; and

18 (B) all state funds and federal pass-through
19 funds targeting students at risk of dropping out of school;

20 (2) the system is compatible with and is regularly
21 reconciled with the agency's central accounting system; and

22 (3) aggregate funding information is readily
23 available to agency personnel and policy makers, including
24 aggregate funding information relating to a compensatory,
25 intensive, or accelerated instruction program under Section
26 29.081, a disciplinary alternative education program established
27 under Section 37.008, or a program eligible under Title I of the

1 Elementary and Secondary Education Act of 1965, as provided by Pub.
2 L. No. 103-382.

3 SECTION 2C.03. Section 7.056(e), Education Code, as amended
4 by S.B. No. 658, Acts of the 79th Legislature, Regular Session,
5 2005, is amended to read as follows:

6 (e) Except as provided by Subsection (f), a school campus or
7 district may not receive an exemption or waiver under this section
8 from:

9 (1) a prohibition on conduct that constitutes a
10 criminal offense;

11 (2) a requirement imposed by federal law or rule,
12 including a requirement for special education or bilingual
13 education programs; or

14 (3) a requirement, restriction, or prohibition
15 relating to:

16 (A) essential knowledge or skills under Section
17 28.002 or minimum graduation requirements under Section 28.025;

18 (B) public school accountability as provided by
19 Subchapters B, C, D, and G, Chapter 39;

20 (C) extracurricular activities under Section
21 33.081 or participation in a University Interscholastic League
22 area, regional, or state competition under Section 33.0812;

23 (D) health and safety under Chapter 38;

24 (E) purchasing under Subchapter B, Chapter 44;

25 (F) elementary school class size limits, except
26 as provided by Section 25.112;

27 (G) removal of a disruptive student from the

1 classroom under Subchapter A, Chapter 37;

2 (H) at-risk programs under Subchapter C, Chapter
3 29;

4 (I) prekindergarten programs under Subchapter E,
5 Chapter 29;

6 (J) educator rights and benefits under
7 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
8 A, Chapter 22;

9 (K) special education programs under Subchapter
10 A, Chapter 29; ~~or~~

11 (L) bilingual education programs under
12 Subchapter B, Chapter 29; or

13 (M) the requirements for the first and last day
14 of instruction under Section 25.0811, except as provided by that
15 section.

16 SECTION 2C.04. Section 11.059, Education Code, is amended
17 to read as follows:

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

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

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

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

3 SECTION 2C.05. Subchapter C, Chapter 11, Education Code, is
4 amended by adding Section 11.066 to read as follows:

5 Sec. 11.066. REMOVAL FOR FAILURE TO ATTEND BOARD MEETINGS.

6 (a) It is a ground for removal of a trustee of an independent school
7 district that the trustee is absent from more than half of the
8 regularly scheduled board of trustees meetings during a calendar
9 year that the member is eligible to attend, unless the absence is
10 excused by a majority vote of the board of trustees.

11 (b) If the superintendent of the school district has
12 knowledge that a ground for removal under this section exists, the
13 superintendent shall notify the board of trustees. On a
14 determination that a potential ground for removal exists, the board
15 shall notify the appropriate county or district attorney or the
16 attorney general.

17 SECTION 2C.06. Section 11.201, Education Code, is amended
18 by adding Subsections (e) and (f) to read as follows:

19 (e) A superintendent may not receive any financial benefit
20 for personal services performed by the superintendent for any
21 business entity that conducts or solicits business with the school
22 district. Any financial benefit received by the superintendent for
23 performing personal services for any other entity must be approved
24 by the board of trustees on a case-by-case basis in an open meeting.

25 (f) A school district may not pay a superintendent a salary
26 in an amount that exceeds 400 percent of the salary of the highest
27 paid classroom teacher in the district.

1 SECTION 2C.07. Sections 11.253(d) and (h), Education Code,
2 are amended to read as follows:

3 (d) Each campus improvement plan must:

4 (1) assess the academic achievement for each student
5 in the school using the academic excellence indicator system as
6 described by Section 39.051;

7 (2) set the campus performance objectives based on the
8 academic excellence indicator system, including objectives for
9 special needs populations, including students in special education
10 programs under Subchapter A, Chapter 29;

11 (3) identify how the campus goals will be met for each
12 student;

13 (4) determine the resources needed to implement the
14 plan;

15 (5) identify staff needed to implement the plan;

16 (6) set timelines for reaching the goals;

17 (7) measure progress toward the performance
18 objectives periodically to ensure that the plan is resulting in
19 academic improvement;

20 (8) include goals and methods for violence prevention
21 and intervention on campus as approved by a site-based school
22 discipline policy committee established under Section 11.2531, if
23 such a committee is established and may include goals and methods
24 for dropout deterrence, and academic enhancement on campus, any of
25 which goals and methods may include ongoing, research-based teacher
26 development programs that focus on:

27 (A) developing healthy self-esteem in students;

1 (B) nurturing the well-being of students; and

2 (C) creating a nurturing classroom environment;

3 and

4 (9) provide for a program to encourage parental
5 involvement at the campus that may include research-based classes
6 and training in nurturing and providing positive discipline to a
7 child.

8 (h) A principal shall regularly consult the campus-level
9 committee and a site-based school discipline policy committee
10 established under Section 11.2531, if such a committee is
11 established, in the planning, operation, supervision, and
12 evaluation of the campus educational program.

13 SECTION 2C.08. Subchapter F, Chapter 11, Education Code, is
14 amended by adding Section 11.2531 to read as follows:

15 Sec. 11.2531. SITE-BASED SCHOOL DISCIPLINE POLICY
16 COMMITTEE. (a) Each school district shall permit the
17 establishment of a site-based school discipline policy committee at
18 a district campus.

19 (b) A group of classroom teachers at a campus may establish
20 a site-based school discipline policy committee by a petition
21 containing the signatures of at least 50 percent of the classroom
22 teachers at the campus. If such a petition is submitted to the
23 principal not later than the 10th instructional day of a school
24 year, the principal shall approve the establishment of the
25 committee.

26 (c) A member of a site-based school discipline policy
27 committee must be a full-time classroom teacher.

1 (d) Not later than the 20th instructional day of a school
2 year, the committee shall meet and elect by secret ballot an
3 executive board from its membership. The board shall establish
4 policies concerning the time and manner of committee and board
5 meetings.

6 (e) A site-based school discipline policy committee shall
7 establish policies regarding:

8 (1) discipline management and the student code of
9 conduct in accordance with Chapter 37;

10 (2) goals and methods for violence prevention and
11 intervention on campus;

12 (3) teacher and school personnel safety; and

13 (4) methods for teachers to address the committee or
14 the board regarding individual or systematic concerns in matters of
15 school discipline or school personnel safety.

16 SECTION 2C.09. Section 37.001(a), Education Code, as
17 amended by H.B. Nos. 283 and 603, Acts of the 79th Legislature,
18 Regular Session, 2005, is amended to read as follows:

19 (a) The board of trustees of an independent school district
20 shall, with the advice of its district-level committee established
21 under Subchapter F, Chapter 11, and of the site-based school
22 discipline policy committees for campuses in the district, if such
23 committees are established, adopt a student code of conduct for the
24 district. The student code of conduct must be posted and
25 prominently displayed at each school campus or made available for
26 review at the office of the campus principal. In addition to
27 establishing standards for student conduct, the student code of

1 conduct must:

2 (1) specify the circumstances, in accordance with this
3 subchapter, under which a student may be removed from a classroom,
4 campus, or disciplinary alternative education program;

5 (2) specify conditions that authorize or require a
6 principal or other appropriate administrator to transfer a student
7 to a disciplinary alternative education program;

8 (3) outline conditions under which a student may be
9 suspended as provided by Section 37.005 or expelled as provided by
10 Section 37.007;

11 (4) specify whether consideration is given, as a
12 factor in a decision to order suspension, removal to a disciplinary
13 alternative education program, or expulsion, to:

14 (A) self-defense;

15 (B) intent or lack of intent at the time the
16 student engaged in the conduct;

17 (C) a student's disciplinary history; or

18 (D) a disability that substantially impairs the
19 student's capacity to appreciate the wrongfulness of the student's
20 conduct;

21 (5) provide guidelines for setting the length of a
22 term of:

23 (A) a removal under Section 37.006; and

24 (B) an expulsion under Section 37.007;

25 (6) address the notification of a student's parent or
26 guardian of a violation of the student code of conduct committed by
27 the student that results in suspension, removal to a disciplinary

1 alternative education program, or expulsion;

2 (7) prohibit bullying, harassment, and making hit
3 lists and ensure that district employees enforce those
4 prohibitions; and

5 (8) provide, as appropriate for students at each grade
6 level, methods, including options, for:

7 (A) managing students in the classroom and on
8 school grounds;

9 (B) disciplining students; and

10 (C) preventing and intervening in student
11 discipline problems, including bullying, harassment, and making
12 hit lists.

13 SECTION 2C.10. Section 37.002(c), Education Code, is
14 amended to read as follows:

15 (c) If a teacher removes a student from class under
16 Subsection (b), the principal may place the student into another
17 appropriate classroom, into in-school suspension, or into a
18 disciplinary alternative education program as provided by Section
19 37.008. The principal may not return the student to that teacher's
20 class without the teacher's consent unless the site-based school
21 discipline policy committee established under Section 11.2531 or,
22 if such a committee is not established, the committee established
23 under Section 37.003 determines that such placement is the best or
24 only alternative available. The terms of the removal may prohibit
25 the student from attending or participating in school-sponsored or
26 school-related activity.

27 SECTION 2C.11. Section 37.002(d), Education Code, as

1 amended by H.B. No. 603, Acts of the 79th Legislature, Regular
2 Session, 2005, is amended to read as follows:

3 (d) A teacher shall remove from class and send to the
4 principal for placement in a disciplinary alternative education
5 program or for expulsion, as appropriate, a student who engages in
6 conduct described under Section 37.006 or 37.007. The student may
7 not be returned to that teacher's class without the teacher's
8 consent unless the site-based school discipline policy committee
9 established under Section 11.2531 or, if such a committee is not
10 established, the committee established under Section 37.003
11 determines that such placement is the best or only alternative
12 available. If the teacher removed the student from class because
13 the student has engaged in the elements of any offense listed in
14 Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C)
15 against the teacher, the student may not be returned to the
16 teacher's class without the teacher's consent. The teacher may not
17 be coerced to consent.

18 SECTION 2C.12. Section 25.031, Education Code, is amended
19 to read as follows:

20 Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF
21 GOVERNING BOARD. (a) In conformity with this subchapter, the board
22 of trustees of a school district or the board of county school
23 trustees or a school employee designated by the board may assign and
24 transfer any student from one school facility or classroom to
25 another within its jurisdiction.

26 (b) A student who transfers to a school campus other than
27 the campus the student would normally attend based on the student's

1 residence may not be subsequently transferred out of a class at that
2 campus before the end of a semester if the only purpose of the
3 subsequent transfer is to comply with the limit in Section 25.112.
4 A school district is not required to apply for an exception under
5 Section 25.112(d) for the class in which the student is enrolled.

6 SECTION 2C.13. Effective August 1, 2006, the heading to
7 Section 25.0811, Education Code, is amended to read as follows:

8 Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

9 SECTION 2C.14. Effective August 1, 2006, Section
10 25.0811(a), Education Code, is amended to read as follows:

11 [~~(a)~~] A school district shall [~~may not~~] begin instruction
12 for students for a school year on the first Tuesday after Labor Day.
13 The school year must end not later than June 7 unless:

14 (1) the district operates a year-round system under
15 Section 25.084; or

16 (2) the commissioner grants a waiver to extend the
17 school year at a campus as the result of a disaster, flood, extreme
18 weather condition, fuel curtailment, or other calamity that caused
19 a closure of the campus for a significant period [~~before the week in~~
20 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
21 ~~considered the first day of the week].~~

22 SECTION 2C.15. Section 25.085(e), Education Code, is
23 amended to read as follows:

24 (e) A person who voluntarily enrolls in school or
25 voluntarily attends school after the person's 18th birthday shall
26 attend school each school day for the entire period the program of
27 instruction is offered, and shall attend until the end of the school

1 year. Section 25.094 applies to a person described by this
2 subsection. Sections 25.093 and 25.095 do not apply to the parent
3 of a person described by this subsection. [A school district may
4 revoke for the remainder of the school year the enrollment of a
5 person who has more than five absences in a semester that are not
6 excused under Section 25.087. A person whose enrollment is revoked
7 under this subsection may be considered an unauthorized person on
8 school district grounds for purposes of Section 37.107.]

9 SECTION 2C.16. Subchapter Z, Chapter 25, Education Code, is
10 amended by adding Section 25.902 to read as follows:

11 Sec. 25.902. CERTAIN MANDATORY STUDENT IDENTIFICATION
12 METHODS PROHIBITED. (a) In this section, "radio frequency
13 identification technology" means a wireless identification system
14 that uses an electromagnetic radio frequency signal to transmit
15 data between a card, badge, or tag and another device without
16 physical contact.

17 (b) A school district may not require a student to use an
18 identification device that uses radio frequency identification
19 technology or similar technology to identify the student, transmit
20 information regarding the student, or track the location of the
21 student.

22 (c) A school district that permits the voluntary use of a
23 student identification device described by Subsection (b) shall
24 provide an alternative method of identification for a student if
25 the student's parent or guardian submits timely written objection
26 to the use of radio frequency identification technology.

27 SECTION 2C.17. Subchapter B, Chapter 28, Education Code, is

1 amended by adding Section 28.0216 to read as follows:

2 Sec. 28.0216. LIMITS ON ASSIGNMENT OF STUDENTS TO TEACHERS.

3 (a) A student in grades kindergarten through six may not be
4 assigned for two consecutive school years to a teacher who:

5 (1) has less than one year of teaching experience; or

6 (2) does not hold the appropriate certificate issued
7 by the State Board for Educator Certification.

8 (b) In a subject for which a student takes an assessment
9 instrument under Section 39.023(a) or (c), a student in grade seven
10 or higher may not be assigned for two consecutive school years to a
11 teacher who:

12 (1) has less than one year of teaching experience; or

13 (2) does not hold the appropriate certificate issued
14 by the State Board for Educator Certification.

15 SECTION 2C.18. Subchapter C, Chapter 29, Education Code, is
16 amended by adding Sections 29.092, 29.093, and 29.0931 to read as
17 follows:

18 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES
19 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this
20 section, "student at risk of dropping out of school" has the meaning
21 described by Section 29.081.

22 (b) To enable school districts and public charter districts
23 to provide supplemental programs and services for the benefit of
24 students at risk of dropping out of school, the commissioner each
25 school year shall award funds to a school district or public charter
26 district in accordance with a streamlined and simplified grant
27 process developed by the commissioner. To the extent practicable,

1 the grant process developed by the commissioner under this
2 subsection must comply with Subchapter E, Chapter 7.

3 (c) The commissioner shall consolidate funding from the
4 following currently funded programs and types of services,
5 excluding early childhood care and education programs and
6 accelerated reading or mathematics initiatives under Section
7 28.006, 28.007, or 28.0211:

8 (1) an optional extended year program under Section
9 29.082;

10 (2) a basic skills program for high school students
11 under Section 29.086;

12 (3) a summer school program of instruction for
13 students of limited English proficiency; and

14 (4) a grant for pregnancy-related services, including
15 a pregnancy, education, and parenting program.

16 (d) The commissioner may include grants under Section 7.024
17 as part of one or more consolidated grant application processes
18 developed under this section. The commissioner shall ensure that a
19 grant applied for under a consolidated application process under
20 this section and awarded under Section 7.024 is used only for the
21 purposes of Section 7.024.

22 (e) The commissioner may redistribute the funding of
23 programs described under Subsection (c) as necessary to accomplish
24 the purpose of improving the achievement of students at risk of
25 dropping out of school.

26 (f) A school district or public charter district that
27 receives an award of funds under this section may use the funds to

1 provide academic and support services to students at risk of
2 dropping out of school, including:

3 (1) services designed to provide intensive academic
4 instruction to increase student success and high school completion;

5 (2) services designed to provide intensive academic
6 instruction for and reduce the dropout rate of students at risk of
7 dropping out of school;

8 (3) after-school academic and support services;

9 (4) intensive instruction for preschool and
10 school-age students of limited English proficiency;

11 (5) any academic or support services for pregnant or
12 parenting students, including basic instruction and health and life
13 skills training and support for pregnant or parenting students;

14 (6) community-based services designed to address the
15 needs of students at risk of dropping out of school;

16 (7) programs or services designed to promote the
17 involvement of parents of students at risk of dropping out of
18 school; and

19 (8) services or programs promoting school and
20 community collaboration to restructure schools for the successful
21 achievement of all students, especially students at risk of
22 dropping out of school.

23 (g) The agency shall make available research-based guidance
24 to school districts and public charter districts to enable
25 successful implementation of the academic and support services
26 described by Subsection (f) that assist students at risk of
27 dropping out of school to succeed in school.

1 (h) Not later than November 1 of each year, a school
2 district or public charter district may submit an application for
3 funding for programs or services under this section. The school
4 district or public charter district must include an assessment of
5 needs for students at risk of dropping out of school, a
6 comprehensive plan for providing services for those students based
7 on the agency's research-based implementation guidance provided
8 under Subsection (g), and a report of all sources of funding for
9 providing services for those students. The commissioner shall
10 distribute an award of funds in the form of a block grant not later
11 than March 15 of each year.

12 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and the
13 Legislative Budget Board shall jointly develop a request for
14 proposals for a qualified third party to conduct a comprehensive
15 cost-outcome analysis of federal and state funding for programs
16 targeting students at risk of dropping out of school, as described
17 by Section 29.081, and the impact of those programs on student
18 achievement outcomes. In order to be qualified under this section,
19 a party must at a minimum have experience in educational program
20 evaluation and statistical analysis of public education data.

21 (b) The cost-outcome methodology developed by the
22 contractor under this section is subject to joint review and
23 approval by the agency and the Legislative Budget Board. The
24 cost-outcome analysis at a minimum must consist of the following
25 components:

26 (1) a methodology for assessing the
27 cost-effectiveness of individual school districts and public

1 charter districts in providing services to students at risk of
2 dropping out of school;

3 (2) performance measures that can be used to assess
4 the effectiveness of school districts and public charter districts
5 in administering academic and social service programs for students
6 at risk of dropping out of school;

7 (3) a methodology for evaluating best practices in
8 providing effective services for students at risk of dropping out
9 of school;

10 (4) a statistical methodology for:

11 (A) controlling for differences among individual
12 school districts and public charter districts that are not related
13 to funding streams included in the cost-outcome analysis; and

14 (B) disaggregating data by peer groups;

15 (5) a methodology for computing the relative impact of
16 funding sources on student achievement outcomes; and

17 (6) a methodology for reporting disaggregated results
18 for students at risk of dropping out of school.

19 (c) The agency and the Legislative Budget Board shall:

20 (1) not later than December 1 of each year:

21 (A) report findings from the cost-outcome
22 analysis to the lieutenant governor, the speaker of the house of
23 representatives, and the presiding officer of the standing
24 committee of each house of the legislature with primary
25 jurisdiction over public education, including data related to the
26 feasibility of constructing a cost-effectiveness measure for
27 school districts and public charter districts;

1 (B) make recommendations for the potential use of
2 the data, including the best methods to disseminate the information
3 to parents and school districts and public charter districts; and

4 (C) make the report and recommendations
5 described by Paragraphs (A) and (B) available to the public; and

6 (2) during the 2006-2007 school year, develop a plan
7 to implement the cost-outcome methodology to assess the
8 effectiveness of school districts and public charter districts in
9 providing services during the 2007-2008 school year to students at
10 risk of dropping out of school.

11 (d) During the state fiscal biennium beginning September 1,
12 2005, the commissioner shall retain an amount not to exceed
13 \$500,000 from the total amount of funds allotted under the
14 Foundation School Program to finance the comprehensive
15 cost-outcome analysis and shall reduce the total amount of state
16 funds allocated to each district from any source in the same manner
17 described for a reduction in allotments under Section 42.313.

18 (e) This section expires September 1, 2010.

19 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S
20 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a
21 cost-outcome analysis methodology for use in assessing the
22 effectiveness of school districts and public charter districts in
23 providing services for students at risk of dropping out of school,
24 as described by Section 29.081. The commissioner shall use the
25 adopted methodology until the commissioner determines that an
26 alternate methodology approved by the agency and the Legislative
27 Budget Board under Section 29.093(b) more accurately portrays the

1 cost-effectiveness of the analyzed services.

2 (b) The methodology adopted by the commissioner must
3 include the following components:

4 (1) a composite performance measure that combines key
5 indicators of student performance, disaggregated for students at
6 risk of dropping out of school;

7 (2) a format for reporting all state, federal, local,
8 and private sources of funding and total expenditures for
9 supplemental services for students at risk of dropping out of
10 school, reported by school district, public charter district, and
11 statewide; and

12 (3) a system for scoring and ranking school districts
13 and public charter districts, including criteria for establishing
14 school district and public charter district peer groups for
15 comparison purposes.

16 (c) Based on the cost-outcome analysis methodology, the
17 commissioner shall use the ranking system under Subsection (b)(3)
18 to determine annually the level at which school districts and
19 public charter districts are cost-effective in serving students at
20 risk of dropping out of school.

21 (d) Not later than December 1 of each year, the commissioner
22 shall:

23 (1) report the methodology and the results of the
24 cost-outcome analysis to the lieutenant governor, the speaker of
25 the house of representatives, and the presiding officer of the
26 standing committee of each house of the legislature with primary
27 jurisdiction over public education; and

1 (2) make the report under Subdivision (1) available to
2 the public.

3 (e) This section expires on the earlier of the approval of a
4 cost-outcome methodology by the agency and the Legislative Budget
5 Board under Section 29.093(b) or September 1, 2010.

6 SECTION 2C.19. Subchapter D, Chapter 33, Education Code, is
7 amended by adding Section 33.087 to read as follows:

8 Sec. 33.087. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT
9 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
10 eligible to participate in an extracurricular activity or a
11 University Interscholastic League competition is not ineligible
12 because the student is enrolled in a course offered for joint high
13 school and college credit or in a course offered under a concurrent
14 enrollment program, regardless of the location at which the course
15 is provided.

16 SECTION 2C.20. Subchapter A, Chapter 44, Education Code, is
17 amended by adding Section 44.011 to read as follows:

18 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL
19 ACTIVITIES. (a) A school district shall allocate at least 65
20 percent of the district's total revenue to fund direct
21 instructional activities in the district.

22 (a-1) Subsection (a) applies beginning with the 2008-2009
23 school year. For the 2005-2006, 2006-2007, and 2007-2008 school
24 years, a school district shall allocate the following percentages
25 of the district's total revenue to fund direct instructional
26 activities in the district:

27 (1) for the 2005-2006 school year, at least 50

1 percent;

2 (2) for the 2006-2007 school year, at least 55
3 percent; and

4 (3) for the 2007-2008 school year, at least 60
5 percent.

6 (a-2) Subsection (a-1) and this subsection expire August 1,
7 2008.

8 (b) For purposes of this section, expenditures for direct
9 instructional activities:

10 (1) include expenditures directly related to
11 classroom instruction for courses in the foundation curriculum
12 described by Section 28.002(a)(1) and subject to assessment under
13 Subchapter B, Chapter 39; and

14 (2) do not include expenditures directly related to
15 programs and services that are provided at the district's
16 discretion.

17 (c) The commissioner may adopt rules for purposes of this
18 section in a manner consistent with Subsection (b) and Section
19 44.0071.

20 SECTION 2C.21. Subchapter B, Chapter 44, Education Code, is
21 amended by adding Section 44.047 to read as follows:

22 Sec. 44.047. CERTAIN SCHOOL DISTRICT SERVICE CONTRACTS
23 INVOLVING SUPERINTENDENTS PROHIBITED. (a) In this section,
24 "business entity" has the meaning assigned by Section 171.001,
25 Local Government Code.

26 (b) For purposes of this section, a superintendent or a
27 retired superintendent has a substantial interest in a business

1 entity if the superintendent would have a substantial interest in
2 that business entity under Section 171.002(a), Local Government
3 Code.

4 (c) The commissioner shall adopt rules prohibiting the
5 board of trustees of a school district from entering into, with the
6 superintendent, with a person who has retired from service as the
7 superintendent of the district during the three-year period
8 preceding the date on which the contract is entered into, or with a
9 business entity in which the superintendent or retired
10 superintendent has a substantial interest, a contract under which
11 the district agrees to pay for services provided to the district.

12 (d) The rules adopted by the commissioner under Subsection
13 (c) must allow a person who has retired from service as the
14 superintendent of a school district to provide consulting services
15 to the district until the six-month anniversary of the date of the
16 person's retirement.

17 SECTION 2C.22. Section 42.002(a), Election Code, as amended
18 by H.B. No. 1209, Acts of the 79th Legislature, Regular Session,
19 2005, is amended to read as follows:

20 (a) The county election precincts are the election
21 precincts for the following elections:

22 (1) the general election for state and county
23 officers;

24 (2) a special election ordered by the governor;

25 (3) a primary election;

26 (4) a countywide election ordered by the commissioners
27 court, county judge, or other county authority, except an election

1 subject to Section 42.062(2); [~~and~~]

2 (5) any other election of a political subdivision not
3 located in a county with a population of more than 3.3 million or a
4 county adjacent to a county with a population of more than 3.3
5 million held on the November uniform election date, as provided by
6 Section 42.0621; and

7 (6) an election held by a school district on the
8 November uniform election date, as provided by Section 42.0622.

9 SECTION 2C.23. Subchapter C, Chapter 42, Election Code, is
10 amended by adding Section 42.0622 to read as follows:

11 Sec. 42.0622. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT
12 ELECTION. (a) A school district that holds an election on the
13 November uniform election date shall use the regular county
14 election precincts.

15 (b) If an election precinct contains territory from more
16 than one school district or more than one district used to elect a
17 member of the governing body of a school district, election
18 officials shall take reasonable measures to ensure that a voter
19 voting at that precinct may not vote in an election in which the
20 voter is not entitled to vote.

21 (c) This section does not require a school district to
22 contract with a county under Section 31.092 or hold a joint election
23 with a county under Chapter 271.

24 (d) The secretary of state shall prescribe procedures to
25 implement this section.

26 SECTION 2C.24. Section 43.004, Election Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) If a school district holds an election on the November
2 uniform election date, the school district shall designate as the
3 polling places for the election the regular county polling places
4 in the county election precincts that contain territory from the
5 school district.

6 SECTION 2C.25. (a) Section 11.059, Education Code, as
7 amended by this Act, applies to a school district trustee election
8 scheduled to be held on or after November 8, 2005.

9 (b) Except as provided by Subsection (c) of this section, a
10 school district trustee election that on the effective date of this
11 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
12 be held on November 7, 2006.

13 (c) If, under Subsection (b) of this section, the positions
14 of more than one-half of the trustees or as near to one-half as
15 possible would be scheduled for election on November 7, 2006, the
16 trustees holding those positions shall draw lots to determine, as
17 appropriate, which positions are subject to election in 2006 and
18 which are subject to election in 2008.

19 (d) To implement the changes made to Section 11.059,
20 Education Code, as amended by this Act, a person may serve a term as
21 school district trustee that is longer than the term for which the
22 person was elected.

23 SECTION 2C.26. Section 11.066, Education Code, as added by
24 this Act, applies only to trustee attendance at a board of trustees
25 meeting held on or after the effective date of this Act. Trustee
26 attendance at a board of trustees meeting held before the effective
27 date of this Act is governed by the law in effect when the meeting

1 was held, and the former law is continued in effect for that
2 purpose.

3 SECTION 2C.27. Section 11.201(e), Education Code, as added
4 by this Act, applies only to a contract between a superintendent of
5 a school district and a business entity that is entered into on or
6 after September 1, 2005. A contract between a superintendent of a
7 school district and a business entity that is entered into before
8 September 1, 2005, is governed by the law in effect on the date the
9 contract is entered into, and the former law is continued in effect
10 for that purpose.

11 SECTION 2C.28. Section 11.253(d), Education Code, as
12 amended by this Act, applies to campus improvement plans beginning
13 with the 2006-2007 school year.

14 SECTION 2C.29. Section 44.047, Education Code, as added by
15 this Act, applies only to a contract executed on or after the
16 effective date of this Act. A contract executed before the
17 effective date of this Act is governed by the law as it existed on
18 the date the contract was executed, and the former law is continued
19 in effect for that purpose.

20 SECTION 2C.30. Not later than January 1, 2007, the Texas
21 Education Agency shall adopt a five-year plan to renovate the
22 Public Education Information Management System (PEIMS) to provide
23 for efficient and effective information storage and retrieval for
24 the purposes of allocating scarce school resources. The renovation
25 must include a redesign of the records layout.

26 PART D. ACCOUNTABILITY

27 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is

1 amended by adding Section 7.0071 to read as follows:

2 Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The
3 commissioner by rule shall adopt procedures to make available in
4 English and Spanish, through the agency Internet website, all
5 financial information provided by school districts and campuses
6 through the Public Education Information Management System
7 (PEIMS), including campus-level expenditure information.

8 (b) In adopting rules under this section, the commissioner
9 shall provide a summarized format for reporting financial
10 information on the agency Internet website.

11 SECTION 2D.02. Section 28.006(j), Education Code, is
12 amended to read as follows:

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

22 SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is
23 amended by adding Section 7.010 to read as follows:

24 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In
25 coordination with the Legislative Budget Board and with the
26 assistance of the centers of education research established under
27 Section 1.005, the agency shall establish an online clearinghouse

1 of information relating to best practices of campuses and school
2 districts regarding instruction, resource allocation, and business
3 practices. To the extent practicable, the agency shall ensure that
4 information provided through the online clearinghouse is specific,
5 actionable information relating to the best practices of
6 high-performing and highly efficient campuses and school districts
7 rather than general guidelines relating to campus and school
8 district operation. The information must be provided in English and
9 Spanish and shall be accessible by campuses, school districts, and
10 interested members of the public.

11 (b) The agency shall solicit and collect from the
12 Legislative Budget Board, centers of education research
13 established under Section 1.005, and exemplary or recognized school
14 districts and public charter districts, as rated under Section
15 39.072, examples of best practices relating to instruction,
16 resource allocation, and business practices, including best
17 practices relating to curriculum, scope and sequence, compensation
18 and incentive systems, bilingual education and special language
19 programs, and the effective use of instructional technology,
20 including online courses.

21 (c) The agency may contract for the services of one or more
22 third-party contractors to develop and implement a system of
23 collecting and evaluating the best practices of campuses and school
24 districts as provided by this section. In addition to any other
25 considerations required by law, the agency must consider an
26 applicant's demonstrated competence and qualifications in
27 analyzing campus and school district practices in awarding a

1 contract under this subsection.

2 (d) The agency shall implement this section not later than
3 September 1, 2006. This subsection expires January 1, 2007.

4 SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is
5 amended by adding Section 11.004 to read as follows:

6 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
7 AND CAMPUSES. A school district or campus rated exemplary under
8 Section 39.072 is subject only to the prohibitions, restrictions,
9 and requirements of this title that apply to a public charter
10 district under Section 11A.052(b) as approved by the commissioner.

11 SECTION 2D.05. Section 25.005(b), Education Code, is
12 amended to read as follows:

13 (b) A reciprocity agreement must:

14 (1) address procedures for:

15 (A) transferring student records;

16 (B) awarding credit for completed course work;

17 and

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

22 (2) include appropriate criteria developed by the
23 agency.

24 SECTION 2D.06. The heading to Section 28.0211, Education
25 Code, is amended to read as follows:

26 Sec. 28.0211. SATISFACTORY PERFORMANCE ON ASSESSMENT
27 INSTRUMENTS REQUIRED FOR PROMOTION TO CERTAIN GRADE LEVELS;

1 ACCELERATED INSTRUCTION.

2 SECTION 2D.07. Subchapter B, Chapter 28, Education Code, is
3 amended by adding Section 28.0215 to read as follows:

4 Sec. 28.0215. SATISFACTORY PERFORMANCE REQUIRED:
5 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) A student may not
6 receive course credit for a course described by Section 39.023(c)
7 unless the student performs satisfactorily on the end-of-course
8 assessment instrument for the course.

9 (b) The commissioner may adopt rules establishing a
10 procedure for a student who did not perform satisfactorily on an
11 end-of-course assessment instrument to retake the assessment
12 instrument and obtain course credit.

13 SECTION 2D.08. Section 28.025, Education Code, as amended
14 by H.B. No. 25, Acts of the 79th Legislature, Regular Session, 2005,
15 is amended by amending Subsections (c), (d), and (e) and adding
16 Subsection (f) to read as follows:

17 (c) A person may receive a diploma if the person is eligible
18 for a diploma under Section 28.0251. In other cases, a student may
19 graduate and receive a diploma only if~~+~~

20 [~~(1)~~] the student successfully completes:

21 (1) the curriculum requirements identified by the
22 State Board of Education under Subsection (a) [~~and complies with~~
23 ~~Section 39.025~~]; or

24 (2) [~~the student successfully completes~~] an
25 individualized education program developed under Section 29.005.

26 (d) Except as provided by Section 39.0241, a person may not
27 receive a diploma unless the person complies with Section 39.025.

1 For each year in which a person must comply with Section 39.025 to
2 receive a diploma, a [A] school district may issue a certificate of
3 coursework completion to a student who successfully completes the
4 curriculum requirements identified by the State Board of Education
5 under Subsection (a) but who fails to comply with Section 39.025. A
6 school district may allow a student who receives a certificate to
7 participate in a graduation ceremony with students receiving high
8 school diplomas. This subsection ceases to apply on the date the
9 commissioner certifies that the implementation of amendments made
10 by __.B. No. __, Acts of the 79th Legislature, 1st Called Session,
11 2005, to Sections 39.023(a) and (c) and 39.051(b) is complete under
12 the transition plan adopted under Section 39.0241. This subsection
13 expires September 1, 2011.

14 (e) Each school district shall report the academic
15 achievement record of students who have completed a minimum,
16 recommended, or advanced high school program on transcript forms
17 adopted by the State Board of Education. The transcript forms
18 adopted by the board must be designed to clearly differentiate
19 between each of the high school programs.

20 (f) The transcript forms adopted by the State Board of
21 Education under Subsection (e) must be designed to [and] identify
22 whether a student received a diploma or a certificate of coursework
23 completion. This subsection expires September 1, 2012.

24 SECTION 2D.09. Section 28.026, Education Code, is amended
25 to read as follows:

26 Sec. 28.026. NOTICE OF AUTOMATIC COLLEGE ADMISSION. (a)
27 The board of trustees of a school district shall require each high

1 school in the district to post appropriate signs in each
2 counselor's office, in each principal's office, and in each
3 administrative building indicating the substance of Section 51.803
4 regarding automatic college admission. To assist in the
5 dissemination of this information, the school district shall:

6 (1) require that each high school counselor and class
7 advisor be provided a detailed explanation of the substance of
8 Section 51.803;

9 (2) require that each high school counselor and senior
10 class advisor explain to eligible students the substance of Section
11 51.803; and

12 (3) not later than the 14th day after the last day of
13 classes for the fall semester or an equivalent date in the case of a
14 school operated on a year-round system under Section 25.084,
15 provide each eligible senior student under Section 51.803 and the
16 student's parent or guardian~~[, at the commencement of a class's~~
17 ~~senior year,~~] with a written notification of the student's
18 eligibility with a detailed explanation in plain language of the
19 substance of Section 51.803.

20 (b) The agency shall adopt a form to use in providing notice
21 under Subsection (a)(3). The notice to a student and the student's
22 parent or guardian must be on a single form. The form may contain
23 one or more signature lines to indicate receipt of notice by the
24 student or the student's parent or guardian. In providing notice
25 under Subsection (a)(3), a school district shall use the form
26 adopted by the agency.

27 SECTION 2D.10. Sections 29.053(b) and (d), Education Code,

1 are amended to read as follows:

2 (b) Within the first five [~~four~~] weeks following the first
3 day of school, the language proficiency assessment committee
4 established under Section 29.063 shall determine and report to the
5 board of trustees of the district the number of students of limited
6 English proficiency on each campus and shall classify each student
7 according to the language in which the student possesses primary
8 proficiency. The board shall report that information to the agency
9 before November 1 each year.

10 (d) Each district that is required to offer bilingual
11 education and special language programs under this section shall
12 offer the following for students of limited English proficiency:

13 (1) bilingual education in prekindergarten at
14 campuses that offer prekindergarten classes;

15 (2) bilingual education in kindergarten through the
16 elementary grades;

17 (3) [~~(2)~~] bilingual education, instruction in English
18 as a second language, or other transitional language instruction
19 approved by the agency in post-elementary grades through grade 8;
20 and

21 (4) [~~(3)~~] instruction in English as a second language
22 in grades 9 through 12.

23 SECTION 2D.11. Section 29.081(b), Education Code, is
24 amended to read as follows:

25 (b) Each district shall provide accelerated instruction to
26 a student enrolled in the district who has taken an end-of-course
27 [~~the secondary exit-level~~] assessment instrument administered

1 under Section 39.023(c) and has not performed satisfactorily on the
2 assessment instrument [~~each section~~] or who is at risk of dropping
3 out of school.

4 SECTION 2D.12. Subchapter C, Chapter 29, Education Code, is
5 amended by adding Section 29.0822 to read as follows:

6 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)
7 Notwithstanding Section 25.081 or 25.082, a school district may
8 provide a flexible school day program for students in grades nine
9 through 12 who have dropped out of school or who are at risk of
10 dropping out of school as defined by Section 29.081.

11 (b) To enable a school district to provide a program under
12 this section that meets the needs of students described by
13 Subsection (a), a school district may:

14 (1) provide flexibility in the number of hours each
15 day a student attends;

16 (2) provide flexibility in the number of days each
17 week a student attends; or

18 (3) allow a student to enroll in less or more than a
19 full course load.

20 (c) A course offered in a program under this section must
21 provide for at least the same number of instructional hours as
22 required for a course offered in a program that meets the required
23 minimum number of instructional days under Section 25.081 and the
24 required length of school day under Section 25.082.

25 (d) The commissioner may adopt rules for the administration
26 of this section. The commissioner shall calculate average daily
27 attendance for students served under this section. The

1 commissioner shall allow accumulations of hours of instruction for
2 students whose schedule would not otherwise allow full state
3 funding. Funding under this subsection shall be determined based
4 on the number of instructional days in the district calendar and a
5 seven-hour school day, but attendance may be cumulated over a
6 school year, inclusive of any summer or vacation sessions. The
7 attendance of students who accumulate less than the number of
8 attendance hours required under this subsection shall be
9 proportionately reduced for funding purposes. The commissioner may
10 set maximum funding amounts for an individual course under this
11 section.

12 SECTION 2D.13. Section 29.187(b), Education Code, is
13 amended to read as follows:

14 (b) An award granted under this section is not in lieu of a
15 diploma [~~or certificate of coursework completion~~] issued under
16 Section 28.025.

17 SECTION 2D.14. Section 29.202, Education Code, is amended
18 to read as follows:

19 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate
20 yearly progress standard" means a standard:

21 (1) determined by the commissioner and approved by the
22 United States Department of Education as provided by the No Child
23 Left Behind Act of 2001 (Pub. L. No. 107-110); and

24 (2) used to measure various indicators of educational
25 success to determine the progress of a campus towards academic
26 achievement.

27 (b) A student is eligible to receive a public education

1 grant or to attend another public school in the district in which
2 the student resides under this subchapter if the student is
3 assigned to attend a public school campus:

4 (1) at which 50 percent or more of the students did not
5 perform satisfactorily on an assessment instrument administered
6 under Section 39.023(a) or (c) in any two of the preceding three
7 years; ~~[or]~~

8 (2) that was, at any time in the preceding three years,
9 considered academically unacceptable ~~[low-performing]~~ under
10 Section 39.132; or

11 (3) that has not met the adequate yearly progress
12 standard for the same indicator of educational success for the
13 preceding two years.

14 (c) ~~(b)~~ After a student has used a public education grant
15 to attend a school in a district other than the district in which
16 the student resides, [+

17 ~~(1)]~~ the student does not become ineligible for the
18 grant if the school on which the student's initial eligibility is
19 based no longer meets the criteria under Subsection (b) ~~(a), and~~

20 ~~(2) the student becomes ineligible for the grant if~~
21 ~~the student is assigned to attend a school that does not meet the~~
22 ~~criteria under Subsection (a)].~~

23 SECTION 2D.15. Subchapter G, Chapter 29, Education Code, is
24 amended by adding Section 29.2021 to read as follows:

25 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
26 between this subchapter and a provision of Section 1116, No Child
27 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left

1 Behind Act of 2001 prevails.

2 SECTION 2D.16. Section 29.203(f), Education Code, is
3 amended to read as follows:

4 (f) The school district in which a student resides shall
5 provide each student attending a school in another district under
6 this subchapter transportation free of charge to and from the
7 school the student would otherwise attend, except as provided by
8 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
9 6316).

10 SECTION 2D.17. Section 30.021(e), Education Code, is
11 amended to read as follows:

12 (e) The school shall cooperate with public and private
13 agencies and organizations serving students and other persons with
14 visual impairments in the planning, development, and
15 implementation of effective educational and rehabilitative service
16 delivery systems associated with educating students with visual
17 impairments. To maximize and make efficient use of state
18 facilities, funding, and resources, the services provided in this
19 area may include conducting a cooperative program with other
20 agencies to serve students who have graduated from high school by
21 completing all academic requirements applicable to students in
22 regular education, excluding satisfactory performance on the
23 end-of-course [~~exit-level~~] assessment instruments required by
24 commissioner rule under Section 39.023(c) [~~instrument~~], who are
25 younger than 22 years of age on September 1 of the school year and
26 who have identified needs related to vocational training,
27 independent living skills, orientation and mobility, social and

1 leisure skills, compensatory skills, or remedial academic skills.

2 SECTION 2D.18. Subchapter Z, Chapter 29, Education Code, is
3 amended by adding Section 29.913 to read as follows:

4 Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate
5 middle school, junior high school, and high school students about
6 the importance of higher education, each school district and each
7 open-enrollment charter school offering those grades shall
8 designate one week during the school year as "Education. Go Get It"
9 Week.

10 (b) During the designated week, each middle school, junior
11 high school, and high school shall provide students with
12 comprehensive grade-appropriate information regarding the pursuit
13 of higher education. The information provided must include
14 information regarding:

15 (1) higher education options available to students;

16 (2) standard admission requirements for institutions
17 of higher education, including:

18 (A) overall high school grade point average;

19 (B) required curriculum; and

20 (C) scores necessary on generally recognized
21 tests or assessments used in admissions determinations, including
22 the Scholastic Assessment Test and the American College Test;

23 (3) automatic admission of certain students to general
24 academic teaching institutions as provided by Section 51.803; and

25 (4) financial aid availability and requirements,
26 including the financial aid information provided by counselors
27 under Section 33.007(b).

1 (c) In addition to the information provided under
2 Subsection (b), each middle school, junior high school, and high
3 school shall provide to the students during the designated week at
4 least one public speaker to promote the importance of higher
5 education.

6 SECTION 2D.19. Sections 30.104(b) and (c), Education Code,
7 as amended by H.B. No. 25, Acts of the 79th Legislature, Regular
8 Session, 2005, are amended to read as follows:

9 (b) A student may graduate and receive a diploma from a
10 Texas Youth Commission educational program if[+]

11 ~~[(1)]~~ the student successfully completes:

12 (1) the curriculum requirements identified by the
13 State Board of Education under Section 28.025(a) [~~and complies with~~
14 ~~Section 39.025~~]; or

15 (2) [~~the student successfully completes~~] the
16 curriculum requirements under Section 28.025(a) as modified by an
17 individualized education program developed under Section 29.005.

18 (c) Except as provided by Section 39.0241, a person may not
19 receive a diploma unless the person complies with Section 39.025.
20 For each year in which a person must comply with Section 39.025 to
21 receive a diploma, a [A] Texas Youth Commission educational program
22 may issue a certificate of course-work completion to a student who
23 successfully completes the curriculum requirements identified by
24 the State Board of Education under Section 28.025(a) but who fails
25 to comply with Section 39.025. This subsection ceases to apply on
26 the date the commissioner certifies that the implementation of the
27 amendments made by __.B. No. __, Acts of the 79th Legislature, 1st

1 Called Session, 2005, to Sections 39.023(a) and (c) and 39.051(b)
2 is complete under the transition plan adopted under Section
3 39.0241. This subsection expires September 1, 2012.

4 SECTION 2D.20. Section 39.022, Education Code, is amended
5 to read as follows:

6 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of
7 Education by rule shall create and implement a statewide assessment
8 program that is knowledge- and skills-based to ensure school
9 accountability for student achievement that achieves the goals
10 provided under Section 4.002. After adopting rules under this
11 section, the State Board of Education shall consider the importance
12 of maintaining stability in the statewide assessment program when
13 adopting any subsequent modification of the rules.

14 (b) The commissioner by rule shall provide for the
15 administration of assessment instruments under this subchapter.

16 SECTION 2D.21. Section 39.023, Education Code, is amended
17 by amending Subsections (a)-(e), (i), and (l)-(n) and adding
18 Subsections (a-1), (b-1), and (e-1) to read as follows:

19 (a) The agency shall adopt or develop appropriate
20 criterion-referenced assessment instruments designed to assess
21 essential knowledge and skills in reading, writing, mathematics,
22 social studies, and science. All students, except students
23 assessed under Subsection (b) or (l) or exempted under Section
24 39.027, shall be assessed in:

25 (1) mathematics, annually in grades three through
26 seven without the aid of technology and in grade [~~grades~~] eight
27 [~~through 11~~] with the aid of technology on any assessment

1 instruments that include algebra;

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

4 (3) writing, including spelling and grammar, in grades
5 four and seven;

6 (4) [~~English language arts, in grade 10,~~
7 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~
8 10];

9 (5) [~~6~~] science, in grades five and [~~7~~] eight [~~and~~
10 10]; and

11 (6) [~~7~~] any other subject and grade required by
12 federal law.

13 (a-1) An assessment instrument under this section may
14 include questions that test a broader range of knowledge and skills
15 or that are at a higher difficulty level for the purpose of
16 differentiating student achievement. A student may not be required
17 to answer a question described by this subsection correctly to
18 perform satisfactorily on the assessment instrument or to be
19 promoted to the next grade level. To ensure a valid bank of
20 questions for use each year, the agency is not required to release a
21 question that is being field-tested until after the fifth school
22 year the question is used on an assessment instrument administered
23 under this section.

24 (b) The agency shall develop or adopt appropriate
25 criterion-referenced assessment instruments to be administered to
26 each student in a special education program under Subchapter A,
27 Chapter 29, who receives modified instruction in the essential

1 knowledge and skills identified under Section 28.002 for the
2 assessed subject but for whom an assessment instrument adopted
3 under Subsection (a), even with allowable accommodations
4 [~~modifications~~], would not provide an appropriate measure of
5 student achievement, as determined by the student's admission,
6 review, and dismissal committee. The assessment instruments
7 required under this subsection must assess essential knowledge and
8 skills [~~and growth~~] in the subjects of reading, mathematics, and
9 writing and any other subject required by federal law. A student's
10 admission, review, and dismissal committee shall determine whether
11 any allowable accommodation [~~modification~~] is necessary in
12 administering to the student an assessment instrument required
13 under this subsection or whether an alternate assessment instrument
14 must be used to measure alternate academic achievement standards.
15 A student's admission, review, and dismissal committee shall
16 determine the high school graduation assessment requirements for a
17 student in a special education program under Subchapter A, Chapter
18 29, and may use local alternative assessment instruments if
19 multiple testing opportunities are not available for a student. To
20 the extent practicable, the [~~The~~] assessment instruments required
21 under this subsection shall be administered on the same schedule as
22 the assessment instruments administered under Subsection (a). The
23 commissioner shall adopt rules to implement this subsection.

24 (b-1) The agency shall adopt or develop appropriate
25 criterion-referenced instruments as required by federal law
26 designed to measure alternate academic achievement standards for
27 students in a special education program under Subchapter A, Chapter

1 29, with the most significant cognitive disabilities.

2 (c) The agency shall also adopt end-of-course [~~secondary~~
3 ~~exit-level~~] assessment instruments for secondary-level courses in
4 Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics,
5 Integrated Physics and Chemistry, English I, English II, English
6 III, English IV, World Geography, World History, United States
7 History, and any other course as determined by rule by the
8 commissioner [~~designed to be administered to students in grade 11~~
9 ~~to assess essential knowledge and skills in mathematics, English~~
10 ~~language arts, social studies, and science. The mathematics~~
11 ~~section must include at least Algebra I and geometry with the aid of~~
12 ~~technology. The English language arts section must include at~~
13 ~~least English III and must include the assessment of essential~~
14 ~~knowledge and skills in writing. The social studies section must~~
15 ~~include early American and United States history. The science~~
16 ~~section must include at least biology and integrated chemistry and~~
17 ~~physics. The assessment instruments must be designed to assess a~~
18 ~~student's mastery of minimum skills necessary for high school~~
19 ~~graduation and readiness to enroll in an institution of higher~~
20 ~~education~~]. If a student is in a special education program under
21 Subchapter A, Chapter 29, the student's admission, review, and
22 dismissal committee shall determine whether any allowable
23 accommodation [~~modification~~] is necessary in administering to the
24 student an assessment instrument required under this subsection [~~or~~
25 ~~whether the student should be exempted under Section 39.027(a)(2)~~].
26 The State Board of Education shall administer the assessment
27 instruments. The State Board of Education shall adopt a schedule

1 for the administration of end-of-course [~~secondary exit-level~~]
2 assessment instruments. [~~Each student who did not perform~~
3 ~~satisfactorily on any secondary exit-level assessment instrument~~
4 ~~when initially tested shall be given multiple opportunities to~~
5 ~~retake that assessment instrument.~~] A student who performs at or
6 above a level established by the Texas Higher Education
7 Coordinating Board on the end-of-course [~~secondary exit-level~~]
8 assessment instruments is exempt from the requirements of Section
9 51.3062 [~~51.306~~]. The performance level established by the Texas
10 Higher Education Coordinating Board under this subsection
11 represents the level of academic achievement indicating a student
12 is prepared for college course work. The performance level may be
13 used as an indicator to measure progress toward college
14 preparedness of public school students in this state.

15 (d) The commissioner may participate in multistate efforts
16 to develop voluntary standardized end-of-course assessment
17 instruments. The commissioner by rule may require a school
18 district to administer an end-of-course assessment instrument
19 developed through the multistate efforts. The admission, review,
20 and dismissal committee of a student in a special education program
21 under Subchapter A, Chapter 29, shall determine whether any
22 allowable accommodation [~~modification~~] is necessary in
23 administering to the student an end-of-course assessment
24 instrument or whether the student should be exempted [~~under Section~~
25 ~~39.027(a)(2)~~].

26 (e) Under rules adopted by the State Board of Education:

27 (1) the agency shall release to each school district

1 questions and answer keys to each assessment instrument
 2 administered under Subsections (a), (b), (c), and (l) and Section
 3 39.027 not later than the 30th day after the date results are
 4 released for that year under Subsection (h) or another law or rule,
 5 as applicable; and

6 (2) ~~[7]~~ every other year, the agency shall release the
 7 questions and answer keys to each assessment instrument
 8 administered under Subsection ~~[(a), (b), (c),]~~ (d) ~~[, or (l)]~~ after
 9 the last time the instrument is administered for that school year.

10 (e-1) To ensure a valid bank of questions for use in
 11 assessment instruments administered under Subsection (a), (b),
 12 (c), (d), or (l) or Section 39.027 each year, the agency is not
 13 required under Subsection (e) to release a question that is being
 14 field-tested and was not used to compute the student's score on the
 15 instrument. The agency, under board rule, shall ~~[also]~~ release,
 16 after the last time an assessment instrument is administered for
 17 that school year ~~[, under board rule]~~, each question that is no
 18 longer being field-tested and that was not used to compute a
 19 student's score.

20 (i) The provisions of this section, except Subsection (d),
 21 are subject to modification by rules adopted under Section 39.022.
 22 Each assessment instrument adopted or developed under this section
 23 ~~[these rules and each assessment instrument required under~~
 24 ~~Subsection (d)]~~ must be reliable and valid and must meet any
 25 applicable federal requirements for measurement of student
 26 progress.

27 (1) The agency ~~[State Board of Education]~~ shall adopt or

1 develop a Spanish version [~~rules for the administration~~] of the
2 assessment instruments adopted under Subsection (a) for [~~in Spanish~~
3 ~~to~~] students in grades three through six who are of limited English
4 proficiency, as defined by Section 29.052, whose primary language
5 is Spanish, and who are not otherwise exempt from the
6 administration of an assessment instrument under Section 39.027
7 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency
8 whose primary language is Spanish, other than a student to whom
9 Subsection (b) or (b-1) applies, may be assessed using assessment
10 instruments in Spanish under this subsection for up to three years
11 or assessment instruments in English under Subsection (a). The
12 language proficiency assessment committee established under
13 Section 29.063 shall determine which students are administered
14 assessment instruments in Spanish under this subsection.

15 (m) The commissioner by rule shall develop procedures under
16 which the language proficiency assessment committee established
17 under Section 29.063 shall determine which students in grades three
18 through 10 are exempt from the administration of the assessment
19 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules
20 adopted under this subsection shall ensure that the language
21 proficiency assessment committee provides that the exempted
22 students are administered the assessment instruments under
23 Subsections (a) and (c) at the earliest practical date. As
24 necessary to comply with federal requirements, the commissioner by
25 rule shall develop procedures under which a student who is exempt
26 from the administration of an assessment instrument under Section
27 39.027 is administered a linguistically accommodated assessment

1 instrument.

2 (n) This subsection applies only to a student who is
 3 determined to have dyslexia or a related disorder and who is an
 4 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~
 5 ~~its subsequent amendments~~]. The agency shall adopt or develop
 6 appropriate [~~criterion-referenced~~] assessment administration
 7 procedures, including accommodations for a [~~instruments designed~~
 8 ~~to assess the ability of and to be administered to each~~] student to
 9 whom this subsection applies. The [~~for whom the assessment~~
 10 ~~instruments adopted under Subsection (a), even with allowable~~
 11 ~~modifications, would not provide an appropriate measure of student~~
 12 ~~achievement, as determined by the~~] committee established by the
 13 board of trustees of the district to determine the placement of
 14 students with dyslexia or related disorders [~~. The committee~~] shall
 15 determine whether the [~~any~~] allowable accommodations are
 16 [~~modification is~~] necessary in administering to a student an
 17 assessment instrument required under this section [~~subsection. The~~
 18 ~~assessment instruments required under this subsection shall be~~
 19 ~~administered on the same schedule as the assessment instruments~~
 20 ~~administered under Subsection (a)]].~~

21 SECTION 2D.22. Subchapter B, Chapter 39, Education Code, is
 22 amended by adding Section 39.0232 to read as follows:

23 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
 24 extent practicable and appropriate, the agency shall provide for
 25 assessment instruments required under Section 39.023 to be designed
 26 so that those assessment instruments can be computer-adaptive.

27 (b) To the extent practicable and appropriate, the agency

1 shall require school districts to administer to students the
2 computer-adaptive assessment instruments.

3 (c) The agency shall implement this section not later than
4 March 1, 2006. This subsection expires September 1, 2006.

5 SECTION 2D.23. Sections 39.024(a) and (c), Education Code,
6 are amended to read as follows:

7 (a) Except as otherwise provided by this subsection, the
8 State Board of Education shall determine the level of performance
9 considered to be satisfactory on the assessment instruments
10 administered under Section 39.023. The commissioner by rule
11 ~~[admission, review, and dismissal committee of a student being~~
12 ~~assessed under Section 39.023(b)]~~ shall determine the level of
13 performance considered to be satisfactory on the assessment
14 instruments administered under Section 39.023(b) or (b-1) ~~[to that~~
15 ~~student]~~ in accordance with applicable federal requirements
16 ~~[criteria established by agency rule].~~

17 (c) The agency shall develop study guides for the assessment
18 instruments administered under Sections 39.023(a) and (1) ~~[(c)]~~.
19 To assist parents in providing assistance during the period that
20 school is recessed for summer, each school district shall
21 distribute the study guides to parents of students who do not
22 perform satisfactorily on one or more parts of the ~~[an]~~ assessment
23 instrument ~~[administered under this subchapter].~~

24 SECTION 2D.24. Subchapter B, Chapter 39, Education Code, is
25 amended by adding Section 39.0241 to read as follows:

26 Sec. 39.0241. TRANSITION PLAN FOR USE OF ASSESSMENT
27 INSTRUMENTS. (a) The commissioner shall by rule adopt a transition

1 plan to implement the amendments made by __.B. No. __, Acts of the
2 79th Legislature, 1st Called Session, 2005, relating to
3 end-of-course assessment instruments, including Sections 39.023(a)
4 and (c) and 39.051(b)(5). The rules must provide for the
5 administration of end-of-course assessment instruments adopted
6 under Section 39.023(c) to begin during the 2009-2010 school year.
7 During the period under which the transition to end-of-course
8 assessment instruments is made:

9 (1) the commissioner may retain, administer, and use
10 for campus and district ratings under Subchapter D the assessment
11 instruments required by Section 39.023(a) or (c), as that section
12 existed before amendment by __.B. No. __, Acts of the 79th
13 Legislature, 1st Called Session, 2005;

14 (2) the agency may defer releasing assessment
15 instrument questions and answer keys as required by Section
16 39.023(e) to the extent necessary to develop additional assessment
17 instruments; and

18 (3) the commissioner may make the end-of-course
19 assessment instrument for Algebra I available to campuses and
20 school districts to administer and use and may make the
21 end-of-course assessment instruments for each other course
22 specified under Section 39.023(c) available to campuses and
23 districts as each assessment instrument is adopted, but the results
24 of those assessment instruments may not be used for campus and
25 district ratings under Subchapter D.

26 (b) Rules adopted under Subsection (a) must require that
27 each student who will be subject to the requirements implemented

1 under the amendments made by __.B. No. __, Acts of the 79th
2 Legislature, 1st Called Session, 2005, relating to end-of-course
3 assessment instruments, including Section 39.023(c), is entitled
4 to notice of the specific requirements applicable to the student.
5 Notice under this subsection must be provided not later than the
6 date the student enters the ninth grade.

7 (c) Implementation of the end-of-course assessment
8 instruments shall begin with the assessment instrument for Algebra
9 I.

10 (d) A reference in this code to an end-of-course assessment
11 instrument administered under Section 39.023(c) includes a
12 secondary exit-level assessment instrument administered as
13 provided by Subsection (a).

14 (e) This section expires September 1, 2010.

15 SECTION 2D.25. Effective September 1, 2006, Subchapter B,
16 Chapter 39, Education Code, is amended by adding Section 39.0261 to
17 read as follows:

18 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
19 addition to the assessment instruments otherwise authorized or
20 required by this subchapter:

21 (1) each school year and at state cost, a school
22 district may administer to students in any two grade levels other
23 than the 11th or 12th grade an established, valid, reliable, and
24 nationally norm-referenced preliminary college preparation
25 assessment instrument; and

26 (2) high school students in the spring of the 11th
27 grade or during the 12th grade may select and take once, at state

1 cost, one of the valid, reliable, and nationally norm-referenced
2 assessment instruments used by colleges and universities as part of
3 their undergraduate admissions processes.

4 (b) The agency shall:

5 (1) select and approve vendors of the specific
6 assessment instruments administered under this section; and

7 (2) pay all fees associated with the administration of
8 the assessment instrument from funds allotted under the Foundation
9 School Program, and the commissioner shall reduce the total amount
10 of state funds allocated to each district from any source in the
11 same manner described for a reduction in allotments under Section
12 42.313.

13 (c) A vendor that administers an assessment instrument for a
14 district under this section shall report the results of the
15 assessment instrument to the agency.

16 (d) Subsection (a)(2) does not prohibit a high school
17 student in the spring of the 11th grade or during the 12th grade
18 from selecting and taking, at the student's own expense, one of the
19 valid, reliable, and nationally norm-referenced assessment
20 instruments used by colleges and universities as part of their
21 undergraduate admissions processes more than once.

22 SECTION 2D.26. Sections 39.027(a), (e), and (g), Education
23 Code, are amended to read as follows:

24 (a) A student in grades three through 10 may be exempted
25 from the administration of an assessment instrument under:

26 (1) ~~[Section 39.023(a) or (b) if the student is~~
27 ~~eligible for a special education program under Section 29.003 and~~

1 ~~the student's individualized education program does not include~~
2 ~~instruction in the essential knowledge and skills under Section~~
3 ~~28.002 at any grade level;~~

4 ~~[(2) Section 39.023(c) or (d) if the student is~~
5 ~~eligible for a special education program under Section 29.003 and:~~

6 ~~[(A) the student's individualized education~~
7 ~~program does not include instruction in the essential knowledge and~~
8 ~~skills under Section 28.002 at any grade level; or~~

9 ~~[(B) the assessment instrument, even with~~
10 ~~allowable modifications, would not provide an appropriate measure~~
11 ~~of the student's achievement as determined by the student's~~
12 ~~admission, review, and dismissal committee;~~

13 ~~[(3)] Section 39.023(a), (b), (b-1), or (l) for a~~
14 ~~period of up to one year after initial enrollment in a school in the~~
15 ~~United States if the student is of limited English proficiency, as~~
16 ~~defined by Section 29.052, and has not demonstrated proficiency in~~
17 ~~English as determined by the assessment system under Subsection~~
18 ~~(e); or~~

19 (2) ~~[(4)]~~ Section 39.023(a), (b), (b-1), or (l) for a
20 period of up to two years in addition to the exemption period
21 authorized by Subdivision (1) ~~[(3)]~~ if the student has received an
22 exemption under Subdivision (1) ~~[(3)]~~ and:

23 (A) is a recent unschooled immigrant; or

24 (B) is in a grade for which no assessment
25 instrument in the primary language of the student is available.

26 (e) As provided by applicable federal requirements, the
27 ~~[The]~~ commissioner shall develop an assessment system that shall be

1 used for evaluating the academic progress toward attaining academic
2 language proficiency in English, including reading proficiency in
3 English, of all students of limited English proficiency, as defined
4 by Section 29.052. A student who has demonstrated the designated
5 level of [~~is exempt from the administration of an assessment~~
6 ~~instrument under Subsection (a)(3) or (4) who achieves~~] reading
7 proficiency in English as determined by the assessment system
8 developed under this subsection is not eligible for an exemption
9 under Subsection (a)(1) or (2). [~~shall be administered the~~
10 ~~assessment instruments described by Sections 39.023(a) and (c).~~
11 ~~The performance under the assessment system developed under this~~
12 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~
13 ~~shall be included in the academic excellence indicator system under~~
14 ~~Section 39.051, the performance report under Section 39.053, and~~
15 ~~the comprehensive annual report under Section 39.182.~~]

16 (g) For purposes of this section, "recent unschooled
17 immigrant" means an immigrant who initially enrolled in a school in
18 the United States not more than 12 months before the date of the
19 administration of an assessment instrument under Section 39.023
20 [~~39.023(a) or (1)~~] and who, as a result of inadequate schooling
21 outside of the United States, lacks the necessary foundation in the
22 essential knowledge and skills of the curriculum prescribed under
23 Section 28.002 as determined by the language proficiency assessment
24 committee established under Section 29.063. For purposes of this
25 subsection and to the extent authorized by federal law, a child's
26 prior enrollment in a school in the United States shall be
27 determined on the basis of documents and records required under

1 Section 25.002(a).

2 SECTION 2D.27. Subchapter B, Chapter 39, Education Code, is
3 amended by adding Sections 39.034 and 39.035 to read as follows:

4 Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT
5 ACHIEVEMENT. (a) The commissioner shall determine a method by
6 which the agency may measure incremental growth in student
7 achievement from one school year to the next on an assessment
8 instrument required under this subchapter.

9 (b) The agency shall report to each school district the
10 comparisons made under Subsection (a). Each school district shall
11 provide the comparisons to each teacher for all students who were:

- 12 (1) assessed on an assessment instrument; and
13 (2) taught by that teacher in the subject for which the
14 assessment instrument was administered.

15 (c) The school a student attends shall provide a record of
16 the comparison made under this section and provided to the school
17 under Subsection (b) in a written notice to the student's parents.

18 (d) To the extent practicable, the agency shall combine the
19 report of the comparisons required under this section with the
20 report of the student's performance on assessment instruments
21 administered under Section 39.023.

22 (e) The commissioner shall implement this section not later
23 than September 1, 2006. This subsection expires January 1, 2008.

24 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF
25 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other
26 employee, contractor, or volunteer of a school district or public
27 charter district commits an offense if, for the primary purpose of

1 influencing the results of an assessment instrument administered
2 under this subchapter, the person intentionally:

3 (1) discriminates in school admissions based on a
4 student's academic ability in a manner that is not otherwise
5 permitted by law;

6 (2) refers a student to a special education program
7 under Subchapter A, Chapter 29, or a bilingual or special language
8 program under Subchapter B, Chapter 29, for the purpose of gaining
9 an exemption for the student from the administration of the
10 assessment instrument;

11 (3) requires or encourages a student to be absent from
12 a school campus during the day on which the assessment instrument is
13 administered at the campus;

14 (4) tampers with the assessment instrument or related
15 materials to alter the results of the assessment instrument; or

16 (5) engages in any other action designed to alter the
17 accuracy of the results of the assessment instrument.

18 (b) An administrator, teacher, other employee, contractor,
19 or volunteer of a school district or public charter district
20 commits an offense if the person intentionally takes retaliatory
21 action against a district employee for reporting an offense under
22 Subsection (a). For purposes of this subsection, retaliatory
23 action includes suspending an employee or terminating an employee's
24 employment.

25 (c) An offense under this section is a Class A misdemeanor.

26 (d) An offense under Subsection (a)(4) is in addition to any
27 offense under Section 37.10(c)(2), Penal Code, arising from the

1 same action.

2 SECTION 2D.28. Effective August 1, 2006, Subchapter B,
3 Chapter 39, Education Code, is amended by adding Section 39.036 to
4 read as follows:

5 Sec. 39.036. DIAGNOSTIC EXAMINATION FOR CERTAIN STUDENTS.

6 (a) The commissioner shall adopt a diagnostic examination to assess
7 each student entering a public charter district. The examination
8 must be designed to determine the grade level at which a student is
9 performing.

10 (b) Not later than one month after a student enrolls in a
11 public charter district, the public charter district must
12 administer to the student the diagnostic examination adopted by the
13 commissioner under this section.

14 SECTION 2D.29. Section 39.051(b), Education Code, as
15 amended by Chapters 433 and 805, Acts of the 78th Legislature,
16 Regular Session, 2003, is reenacted and amended to read as follows:

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

24 (1) except as provided by Section 39.0511, the results
25 of assessment instruments required under Sections 39.023(a), (c),
26 and (1), aggregated by grade level and subject area;

27 (2) dropout rates, including dropout rates and

1 district completion rates for grade levels 7 [~~9~~] through 12,
2 computed:

3 (A) as a longitudinal rate and an annual
4 completion rate by grade; and

5 (B) in accordance with standards and definitions
6 adopted by the National Center for Education Statistics of the
7 United States Department of Education;

8 (3) high school graduation rates, computed in
9 accordance with standards and definitions adopted in compliance
10 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.
11 107-110);

12 (4) student attendance rates;

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

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

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

25 (8) incremental growth in student achievement, as
26 measured under Section 39.034, aggregated by grade level and
27 subject area;

1 (9) the number and percentage of students at risk of
2 dropping out of school, the number and percentage of those students
3 who are administered each assessment instrument required under
4 Section 39.023, the number and percentage of those students who
5 perform satisfactorily on the assessment instruments, and the
6 results of those students, grouped by number and percentage, on the
7 assessment instruments, disaggregated by subject area and grade
8 level;

9 (10) the number and percentage of students, aggregated
10 by grade level, provided accelerated instruction under Section
11 28.0211(c), the results of assessments administered under that
12 section, the percentage of students promoted through the grade
13 placement committee process under Section 28.0211, the subject of
14 the assessment instrument on which each student failed to perform
15 satisfactorily, and the performance of those students in the school
16 year following that promotion on the assessment instruments
17 required under Section 39.023;

18 (11) [~~(9)~~] for students who have failed to perform
19 satisfactorily on an assessment instrument required under Section
20 39.023(a) or (c), the numerical progress of those students grouped
21 by number and percentage on subsequent assessment instruments
22 required under those sections, aggregated by grade level and
23 subject area;

24 (12) [~~(10)~~] the percentage of students exempted, by
25 exemption category, from the assessment program generally
26 applicable under this chapter; [~~and~~]

27 (13) [~~(11)~~] the percentage of students of limited

1 English proficiency exempted from the administration of an
2 assessment instrument under Sections 39.027(a)(1) and (2);

3 (14) [39.027(a)(3) and (4)] the percentage of students
4 in a special education program under Subchapter A, Chapter 29,
5 assessed through assessment instruments developed or adopted under
6 Section 39.023(b);

7 (15) for students of limited English proficiency, as
8 defined by Section 29.052, a measure of progress toward English
9 language proficiency, as determined by the commissioner, including
10 the student's performance after transferring out of a bilingual
11 education program or instruction in English as a second language;

12 (16) the performance of students who are not
13 educationally disadvantaged on an assessment instrument under
14 Sections 39.023(a), (b), (c), and (l) and dropout rates and
15 district completion rates for grades 9 through 12 for those
16 students; and

17 (17) the measure of reduction or increase in any
18 disparity between educationally disadvantaged students and all
19 other students in:

20 (A) performance on assessment instruments
21 administered under Subchapter B; and

22 (B) high school graduation rates computed as
23 described by Subdivision (3).

24 SECTION 2D.30. Section 39.051(d), Education Code, is
25 amended to read as follows:

26 (d) Annually, the commissioner shall define exemplary,
27 recognized, and unacceptable performance for each academic

1 excellence indicator included under Subsections (b)(1) through (8)
2 and (15) [~~(6)~~] and shall project the standards for each of those
3 levels of performance for succeeding years. For the indicator
4 under Subsection (b)(10) [~~(b)(7)~~], the commissioner shall define
5 exemplary, recognized, and unacceptable performance based on
6 student performance for the period covering both the current and
7 preceding academic years. In defining exemplary, recognized, and
8 unacceptable performance for the indicators under Subsections
9 (b)(2) and (4) [~~(3)~~], the commissioner may not consider as a dropout
10 or as a student who has failed to attend school a student whose
11 failure to attend school results from:

- 12 (1) the student's expulsion under Section 37.007; and
13 (2) as applicable:
14 (A) adjudication as having engaged in delinquent
15 conduct or conduct indicating a need for supervision, as defined by
16 Section 51.03, Family Code; or
17 (B) conviction of and sentencing for an offense
18 under the Penal Code.

19 SECTION 2D.31. Effective August 1, 2006, Subchapter C,
20 Chapter 39, Education Code, is amended by adding Section 39.0511 to
21 read as follows:

22 Sec. 39.0511. INDICATOR FOR CERTAIN STUDENTS. (a) The
23 academic excellence indicator described by Section 39.051(b)(1) is
24 not considered in determining the performance of a public charter
25 district.

26 (b) In determining the performance of a public charter
27 district, the commissioner shall consider the growth in student

1 achievement of students enrolled at the public charter district, as
2 determined by comparing student performance on the diagnostic
3 examinations administered under Section 39.036 and student
4 performance on assessment instruments required under Section
5 39.023(a), (c), and (l).

6 SECTION 2D.32. Section 39.052(b), Education Code, is
7 amended to read as follows:

8 (b) The report card shall include the following
9 information:

10 (1) where applicable, the academic excellence
11 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];

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

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

15 (4) the district's instructional expenditures ratio
16 and instructional employees ratio computed under Section 44.0071,
17 and the statewide average of those ratios, as determined by the
18 commissioner.

19 SECTION 2D.33. Section 39.055, Education Code, is amended
20 to read as follows:

21 Sec. 39.055. [~~ANNUAL~~] AUDIT OF DROPOUT RECORDS; REPORT.

22 (a) The commissioner shall develop a process for auditing school
23 district dropout records electronically. The commissioner shall
24 also develop a system and standards for review of the audit or use
25 systems already available at the agency. The system must be
26 designed to identify districts that are at high risk of having
27 inaccurate dropout records and that, as a result, may be subject to

1 a special accreditation investigation under Section 39.075
2 ~~[require on-site monitoring of dropout records. If the electronic~~
3 ~~audit of a district's dropout records indicates that a district is~~
4 ~~not at high risk of having inaccurate dropout records, the district~~
5 ~~may not be subject to on-site monitoring under this subsection. If~~
6 ~~the risk-based system indicates that a district is at high risk of~~
7 ~~having inaccurate dropout records, the district is entitled to an~~
8 ~~opportunity to respond to the commissioner's determination before~~
9 ~~on-site monitoring may be conducted. The district must respond not~~
10 ~~later than the 30th day after the date the commissioner notifies the~~
11 ~~district of the commissioner's determination. If the district's~~
12 ~~response does not change the commissioner's determination that the~~
13 ~~district is at high risk of having inaccurate dropout records or if~~
14 ~~the district does not respond in a timely manner, the commissioner~~
15 ~~shall order agency staff to conduct on-site monitoring of the~~
16 ~~district's dropout records].~~

17 (b) ~~[(c)]~~ The commissioner shall notify the superintendent
18 ~~[board of trustees]~~ of a school district of any objection the
19 commissioner has to the district's dropout data, any violation of
20 sound accounting practices or of a law or rule revealed by the data,
21 or any recommendation by the commissioner concerning the data. If
22 the data reflect that a penal law has been violated, the
23 commissioner shall notify the county attorney, district attorney,
24 or criminal district attorney, as appropriate, and the attorney
25 general. The commissioner is entitled to access to all district
26 records the commissioner considers necessary or appropriate for the
27 review, analysis, or approval of district dropout data.

1 SECTION 2D.34. Sections 39.071 and 39.072, Education Code,
2 are amended to read as follows:

3 Sec. 39.071. ACCREDITATION. (a) Accreditation of a school
4 district is determined in accordance with this section
5 ~~[subchapter]~~.

6 (b) Each year, the commissioner shall determine the
7 accreditation status of each school district. In determining
8 accreditation status, the commissioner:

9 (1) shall evaluate and consider the performance of the
10 district under:

11 (A) the academic accountability system under
12 Section 39.072; and

13 (B) the financial accountability system under
14 Subchapter I;

15 (2) shall evaluate and consider:

16 (A) the results of any special accreditation
17 investigation under Section 39.075; and

18 (B) the district's current special education
19 monitoring or compliance status with the agency; and

20 (3) may consider:

21 (A) the district's compliance with statutory
22 requirements and requirements imposed by rule of the commissioner
23 or State Board of Education under specific statutory authority that
24 relate to:

25 (i) reporting data through the Public
26 Education Information Management System (PEIMS) or other reports
27 required by state or federal law or court order;

1 (ii) the high school graduation
2 requirements under Section 28.025; or

3 (iii) an item listed under Sections
4 7.056(e)(3)(C)-(I) that applies to the district;

5 (B) the effectiveness of the district's programs
6 for special populations; and

7 (C) the effectiveness of the district's career
8 and technology program.

9 (c) Based on a school district's performance under
10 Subsection (b), the commissioner shall:

11 (1) assign a district an accreditation status of:

12 (A) accredited;

13 (B) accredited-warned; or

14 (C) accredited-probation; or

15 (2) revoke the accreditation of the district and order
16 closure of the district under Section 39.131.

17 (d) The commissioner shall notify a school district that
18 receives an accreditation status of accredited-warned or
19 accredited-probation that the performance of the district is below
20 a standard required under this section. The commissioner shall
21 require the district to notify the parents of students enrolled in
22 the district and property owners in the district of the district's
23 accreditation status and the implications of that accreditation
24 status.

25 (e) A school district that is not accredited may not
26 receive funds from the agency or hold itself out as operating a
27 public school of this state.

1 (f) This chapter may not be construed to invalidate a
2 diploma awarded, course credit earned, or grade promotion granted
3 by a school district before the commissioner revoked the district's
4 accreditation.

5 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
6 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
7 adopt rules for assigning [~~to evaluate the performance of school~~
8 ~~districts and to assign~~] to each school district and campus a
9 performance rating as follows:

10 (1) exemplary (meets or exceeds state exemplary
11 standards);

12 (2) recognized (meets or exceeds required improvement
13 or [~~and~~] within 10 percent of state exemplary standards);

14 (3) academically acceptable (below the exemplary and
15 recognized standards but exceeds the academically unacceptable
16 standards); or

17 (4) academically unacceptable (below the state
18 clearly unacceptable performance standard and does not meet
19 required improvement).

20 (b) The academic excellence indicators adopted under
21 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~
22 ~~district's current special education compliance status with the~~
23 ~~agency~~] shall be the main considerations of the agency in the rating
24 of a school [~~the~~] district or campus under this section.
25 [~~Additional criteria in the rules may include consideration of:~~

26 [~~(1) compliance with statutory requirements and~~
27 ~~requirements imposed by rule of the State Board of Education under~~

1 ~~specific statutory authority that relate to:~~

2 ~~[(A) reporting data through the Public Education~~
3 ~~Information Management System (PEIMS),~~

4 ~~[(B) the high school graduation requirements~~
5 ~~under Section 28.025, or~~

6 ~~[(C) an item listed in Sections~~
7 ~~7.056(e)(3)(C)-(I) that applies to the district,~~

8 ~~[(2) the effectiveness of the district's programs for~~
9 ~~special populations; and~~

10 ~~[(3) the effectiveness of the district's career and~~
11 ~~technology programs.]~~

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

22 (d) Each annual evaluation shall include an analysis of the
23 indicators under Section 39.051(b) to determine district and campus
24 performance in relation to:

- 25 (1) state standards established for each indicator;
26 (2) required improvement as defined under Section
27 39.051(c); and

1 (3) comparable improvement as determined under
2 Section 39.051(c).

3 (e) The academic performance rating of a school district may
4 be raised or lowered based on the district's performance or may be
5 lowered based on the unacceptable performance of one or more
6 campuses in the district. The academic performance rating of a
7 school district may also be lowered based on a determination that
8 data provided to the agency by the district that is necessary for
9 conducting an annual evaluation under this section is unreliable.

10 (f) The commissioner shall notify a school district if the
11 performance of the district or a campus in the district is below a
12 standard required under this section. The commissioner shall
13 require the school district to notify the parents of students who
14 are enrolled in the district and property owners in the district of
15 the academic performance rating and the implications of that
16 rating. The notice must be provided in English and Spanish and any
17 additional language authorized by the commissioner.

18 (g) Notwithstanding any other provision of this code, for
19 purposes of determining the performance of a school district or
20 public charter district under this chapter, including the academic
21 performance rating [accreditation status] of the district or
22 school, a student attending a campus that is a [confined by court
23 order in a residential program or] facility operated by or under
24 contract with the Texas Youth Commission, a pre-adjudication secure
25 detention facility or a post-adjudication secure correctional
26 facility that is registered with the Texas Juvenile Probation
27 Commission, or a residential facility is not considered to be a

1 student of the school district or public charter district school
2 serving the student [~~in which the program or facility is physically~~
3 ~~located~~]. For purposes of this section, an involuntary residential
4 facility, including a detention center, residential treatment
5 center, or psychiatric hospital, is not considered a campus in
6 determining accreditation status. [~~The performance of such a~~
7 ~~student on an assessment instrument or other academic excellence~~
8 ~~indicator adopted under Section 39.051 shall be determined,~~
9 ~~reported, and considered separately from the performance of~~
10 ~~students attending a school of the district in which the program or~~
11 ~~facility is physically located.~~]

12 SECTION 2D.35. Subchapter D, Chapter 39, Education Code, is
13 amended by adding Section 39.0722 to read as follows:

14 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)
15 In addition to school district performance ratings under Section
16 39.072, the commissioner shall annually rate districts according to
17 the degree to which the districts prepare students for
18 postsecondary success, including student performance on assessment
19 instruments administered under Section 39.0261 and on the
20 applicable indicators under Sections 39.051(b) and 39.0721. The
21 commissioner shall consult with the P-16 Council established under
22 Section 61.076 when adopting criteria under this section.

23 (b) The commissioner may adopt rules as necessary to
24 administer this section.

25 SECTION 2D.36. Section 39.075(a), Education Code, is
26 amended to read as follows:

27 (a) The commissioner may [~~shall~~] authorize special

1 accreditation investigations to be conducted:

2 (1) when excessive numbers of absences of students
3 eligible to be tested on state assessment instruments are
4 determined;

5 (2) when excessive numbers of allowable exemptions
6 from the required state assessment instrument are determined;

7 (3) in response to complaints submitted to the agency
8 with respect to alleged violations of civil rights or other
9 requirements imposed on the state by federal law or court order;

10 (4) in response to established monitoring or
11 compliance reviews of the district's financial accounting
12 practices and state and federal program requirements;

13 (5) when extraordinary numbers of student placements
14 in alternative education programs, other than placements under
15 Sections 37.006 and 37.007, are determined;

16 (6) in response to an allegation involving a conflict
17 between members of the board of trustees or between the board and
18 the district administration if it appears that the conflict
19 involves a violation of a role or duty of the board members or the
20 administration clearly defined by this code;

21 (7) when excessive numbers of students in special
22 education programs under Subchapter A, Chapter 29, are assessed
23 through assessment instruments developed or adopted under Section
24 39.023(b); [~~or~~]

25 (8) in response to questions concerning a program,
26 including special education, that is required by federal law or for
27 which the district receives federal funds;

1 (9) when an annual review indicates the academically
2 unacceptable performance under Section 39.072 of one or more
3 campuses in a district, except that the resulting investigation is
4 limited to those campuses;

5 (10) in response to concerns regarding the integrity
6 of data submitted to the agency;

7 (11) in response to allegations of a violation of
8 student assessment procedures for assessment instruments adopted
9 under Section 39.023; or

10 (12) as the commissioner otherwise determines
11 necessary.

12 SECTION 2D.37. Section 39.075(c), Education Code, as
13 amended by Chapters 396 and 931, Acts of the 76th Legislature,
14 Regular Session, 1999, is reenacted and amended to read as follows:

15 (c) Based on the results of a special accreditation
16 investigation, the commissioner may:

17 (1) take appropriate action under Subchapter G;

18 (2) raise or lower the district's accreditation status
19 [rating]; or

20 (3) take action under both Subdivisions (1) and (2).

21 SECTION 2D.38. Section 39.076, Education Code, is amended
22 by amending Subsection (a) and adding Subsections (a-1), (a-2),
23 (a-3), and (c) to read as follows:

24 (a) The agency shall adopt written procedures for
25 conducting [~~on-site~~] investigations under this subchapter. The
26 agency shall make the procedures available to the complainant, the
27 alleged violator, and the public. Agency staff must be trained in

1 the procedures and must follow the procedures in conducting the
2 investigation.

3 (a-1) An investigation conducted under this subchapter may
4 be an on-site, desk, or data-based investigation as determined by
5 the commissioner.

6 (a-2) If conducting an on-site investigation, the
7 investigators may obtain information from administrators,
8 teachers, or parents of students enrolled in the school district.
9 The commissioner shall adopt rules for:

10 (1) obtaining information from parents and using that
11 information in the investigator's report; and

12 (2) obtaining information from teachers in a manner
13 that prevents a campus or district from screening the information.

14 (a-3) The agency may give written notice of any impending
15 on-site investigation to the superintendent and the board of
16 trustees of a school district.

17 (c) The investigators conducting an on-site investigation
18 shall report the results of the investigation orally and in writing
19 to the board of trustees of the district and, as appropriate, to
20 campus administrators, and shall make recommendations concerning
21 any necessary improvements or sources of aid, such as regional
22 education service centers.

23 SECTION 2D.39. Subchapter D, Chapter 39, Education Code, is
24 amended by adding Sections 39.077 and 39.078 to read as follows:

25 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
26 school district or public charter district that wishes to challenge
27 a decision to assign or lower an accreditation status, an academic

1 performance rating, or a financial accountability rating must
2 petition for an informal review as provided by Section 7.0571.

3 (b) A final decision by the commissioner to assign or lower
4 an accreditation status, an academic performance rating, or a
5 financial accountability rating following a review under Section
6 7.0571 is final and may not be appealed.

7 Sec. 39.078. RULES. (a) The commissioner may adopt rules
8 as necessary to administer this subchapter.

9 (b) Unless a provision of this code clearly specifies
10 otherwise, any rule adopted under Subsection (a) must apply
11 accreditation requirements and academic performance ratings under
12 this subchapter to:

13 (1) a public charter district in the same manner as the
14 requirements and ratings are applied to a school district; and

15 (2) a campus operated by a public charter district in
16 the same manner as the requirements and ratings are applied to a
17 campus operated by a school district.

18 SECTION 2D.40. Subchapter F, Chapter 39, Education Code, is
19 amended by adding Section 39.113 to read as follows:

20 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
21 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
22 rules to create an incentive award system for annual growth in
23 student achievement. A school that achieves incremental growth in
24 student achievement, as described in Subsection (b), is eligible
25 for an award if the school:

26 (1) has a student population of at least 50 percent
27 educationally disadvantaged students;

1 (2) achieves an accreditation performance rating of
2 academically acceptable or better; and

3 (3) demonstrates superior growth in the academic
4 performance of educationally disadvantaged students.

5 (b) The commissioner by rule shall adopt performance
6 criteria to measure annual growth in student academic performance.
7 The commissioner shall consider the following criteria, as
8 applicable:

9 (1) annual growth in student achievement that
10 contributes to closing performance gaps among various populations
11 of students;

12 (2) improvements in student scores on the assessment
13 instruments required under Section 39.023;

14 (3) growth in high school completion rates;

15 (4) improvement in student scores on college advanced
16 placement tests; and

17 (5) any other factor that contributes to student
18 achievement.

19 (c) From funds appropriated for the purposes of this
20 section, the commissioner shall award grants to campuses that meet
21 performance criteria adopted under Subsection (b). The
22 commissioner shall allocate awards to campuses not later than
23 December 1 of each year, based on growth in student achievement as
24 measured for the preceding two school years.

25 (c-1) The commissioner shall award grants under this
26 section beginning September 1, 2006. This subsection expires
27 January 1, 2007.

1 (d) At least 75 percent of an award under this section must
2 be used for additional teacher compensation at the campus level.
3 The commissioner by rule shall provide for allocating awards under
4 this subsection, including providing individual awards of at least
5 \$3,000 for each teacher at a campus receiving an award under this
6 subsection.

7 (e) Grants from funds appropriated for the award program may
8 be awarded beginning the 2006-2007 school year and may not exceed
9 \$100 million in the 2006-2007 school year except as expressly
10 authorized by the General Appropriations Act or other law.

11 (f) A determination of the commissioner under this section
12 is final and may not be appealed.

13 (g) The commissioner shall annually evaluate the
14 effectiveness of the state incentive program for improving student
15 performance on at-risk campuses established under this section.
16 The evaluation must consider:

17 (1) the performance of students in districts under
18 this section on assessment instruments administered under Section
19 39.023;

20 (2) the districts' high school graduation and
21 completion rates; and

22 (3) the districts' teacher attrition rates.

23 SECTION 2D.41. Section 39.131, Education Code, is amended
24 to read as follows:

25 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
26 district does not satisfy the accreditation criteria under Section
27 39.071, the academic performance standards under Section 39.072, or

1 any financial accountability standard as determined by
2 commissioner rule, the commissioner shall take any of the following
3 actions[~~, listed in order of severity,~~] to the extent the
4 commissioner determines necessary:

5 (1) issue public notice of the deficiency to the board
6 of trustees;

7 (2) order a hearing conducted by the board of trustees
8 of the district for the purpose of notifying the public of the
9 unacceptable performance, the improvements in performance expected
10 by the agency, and the sanctions that may be imposed under this
11 section if the performance does not improve;

12 (3) order the preparation of a student achievement
13 improvement plan that addresses each academic excellence indicator
14 for which the district's performance is unacceptable, the
15 submission of the plan to the commissioner for approval, and
16 implementation of the plan;

17 (4) order a hearing to be held before the commissioner
18 or the commissioner's designee at which the president of the board
19 of trustees of the district and the superintendent shall appear and
20 explain the district's low performance, lack of improvement, and
21 plans for improvement;

22 (5) arrange an on-site investigation of the district;

23 (6) appoint an agency monitor to participate in and
24 report to the agency on the activities of the board of trustees or
25 the superintendent;

26 (7) appoint a conservator to oversee the operations of
27 the district;

1 (8) appoint a management team to direct the operations
2 of the district in areas of unacceptable performance or require the
3 district to obtain certain services under a contract with another
4 person;

5 (9) if a district has a current accreditation status
6 of accredited-warned or accredited-probation, is ~~[been]~~ rated ~~[as]~~
7 academically unacceptable, or fails to satisfy financial
8 accountability standards as determined by commissioner rule ~~[for a~~
9 ~~period of one year or more]~~, appoint a board of managers to exercise
10 the powers and duties of the board of trustees;

11 (10) if for two consecutive school years, including
12 the current school year, a district has received an accreditation
13 status of accredited-warned or accredited-probation, has been
14 rated academically unacceptable, or has failed to satisfy financial
15 accountability standards as determined by commissioner rule,
16 revoke the district's accreditation and ~~[been rated as academically~~
17 ~~unacceptable for a period of two years or more]~~:

18 (A) order closure of the district and annex the
19 district to one or more adjoining districts under Section 13.054;
20 or

21 (B) in the case of a home-rule school district or
22 public charter district ~~[open-enrollment charter school]~~, order
23 closure of all programs operated under the district's or school's
24 charter; or

25 (11) if a district has been rated ~~[as]~~ academically
26 unacceptable for ~~[a period of]~~ two consecutive school years,
27 including the current school year, ~~[or more]~~ due to the district's

1 dropout rates, impose sanctions designed to improve high school
2 completion rates, including:

3 (A) ordering the development of a dropout
4 prevention plan for approval by the commissioner;

5 (B) restructuring the district or appropriate
6 school campuses to improve identification of and service to
7 students who are at risk of dropping out of school, as defined by
8 Section 29.081;

9 (C) ordering lower student-to-counselor ratios
10 on school campuses with high dropout rates; and

11 (D) ordering the use of any other intervention
12 strategy effective in reducing dropout rates, including mentor
13 programs and flexible class scheduling.

14 (b) This subsection applies regardless of whether a
15 district has satisfied the accreditation criteria. If for two
16 consecutive school years, including the current school year, [~~a~~
17 ~~period of one year or more~~] a district has had a conservator or
18 management team assigned, the commissioner may appoint a board of
19 managers, a majority of whom must be residents of the district, to
20 exercise the powers and duties of the board of trustees.

21 SECTION 2D.42. Section 39.132, Education Code, is amended
22 to read as follows:

23 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND
24 CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any
25 standard under Section 39.072 [~~39.073(b)~~], the campus is considered
26 an academically unacceptable [~~a low-performing~~] campus. The
27 commissioner may permit the campus to participate in an innovative

1 redesign of the campus to improve campus performance or shall [~~may~~]
2 take any of the other following actions[~~, listed in order of~~
3 ~~severity~~], to the extent the commissioner determines necessary:

4 (1) issue public notice of the deficiency to the board
5 of trustees;

6 (2) order a hearing conducted by the board of trustees
7 at the campus for the purpose of:

8 (A) notifying the public of the unacceptable
9 performance, the improvements in performance expected by the
10 agency, and the sanctions that may be imposed under this section if
11 the performance does not improve within a designated period of
12 time; and

13 (B) soliciting public comment on the initial
14 steps being taken to improve performance;

15 (3) [~~order the preparation of a report regarding the~~
16 ~~parental involvement program at the campus and a plan describing~~
17 ~~strategies for improving parental involvement at the campus,~~

18 [~~(4) order the preparation of a report regarding the~~
19 ~~effectiveness of the district- and campus-level planning and~~
20 ~~decision-making committees established under Subchapter F, Chapter~~
21 ~~11, and a plan describing strategies for improving the~~
22 ~~effectiveness of those committees,~~

23 [~~(5)~~] order the preparation of a student [~~achievement~~]
24 improvement plan that addresses each academic excellence indicator
25 for which the campus's performance is unacceptable, the submission
26 of the plan to the commissioner for approval, and implementation of
27 the plan;

1 (4) [~~(6)~~] order a hearing to be held before the
2 commissioner or the commissioner's designee at which the president
3 of the board of trustees, the superintendent, and the campus
4 principal shall appear and explain the campus's low performance,
5 lack of improvement, and plans for improvement;

6 (5) appoint a technical assistance team under Section
7 39.1321; or

8 (6) appoint a campus intervention team under Section
9 39.1321.

10 ~~[(7) appoint a special campus intervention team to:~~

11 ~~[(A) conduct a comprehensive on-site evaluation~~
12 ~~of the campus to determine the cause for the campus's low~~
13 ~~performance and lack of progress;~~

14 ~~[(B) recommend actions, including reallocation~~
15 ~~of resources and technical assistance, changes in school procedures~~
16 ~~or operations, staff development for instructional and~~
17 ~~administrative staff, intervention for individual administrators~~
18 ~~or teachers, waivers from state statute or rule, or other actions~~
19 ~~the team considers appropriate;~~

20 ~~[(C) assist in the development of a campus plan~~
21 ~~for student achievement; and~~

22 ~~[(D) assist the commissioner in monitoring the~~
23 ~~progress of the campus in implementing the campus plan for~~
24 ~~improvement of student achievement; or~~

25 ~~[(8) if a campus has been a low-performing campus for a~~
26 ~~period of one year or more, appoint a board of managers composed of~~
27 ~~residents of the district to exercise the powers and duties of the~~

1 ~~board of trustees of the district in relation to the campus.~~

2 ~~[(b) If a campus has been a low-performing campus for a~~
3 ~~period of two consecutive years or more, the commissioner shall~~
4 ~~order the closure of the district or charter program on the campus~~
5 ~~or reconstitute the campus. In reconstituting the campus, a~~
6 ~~special campus intervention team shall be assembled for the purpose~~
7 ~~of deciding which educators may be retained at that campus. If an~~
8 ~~educator is not retained, the educator may be assigned to another~~
9 ~~position in the district.]~~

10 SECTION 2D.43. Subchapter G, Chapter 39, Education Code, is
11 amended by adding Sections 39.1321-39.13245 to read as follows:

12 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION
13 TEAMS. (a) If a campus is rated academically acceptable for the
14 current school year but would be rated as academically unacceptable
15 if performance standards to be used for the following school year
16 were applied to the current school year, the commissioner shall
17 select and assign a technical assistance team to assist the campus
18 in executing a school improvement plan and any other school
19 improvement strategies the commissioner determines appropriate.

20 (b) If a campus has been identified as academically
21 unacceptable under Section 39.132, the commissioner shall appoint a
22 campus intervention team.

23 (c) To the extent practicable, the commissioner shall
24 select and assign the technical assistance team under Subsection
25 (a) or the campus intervention team under Subsection (b) before the
26 first day of instruction for the school year.

27 (d) The commissioner may determine when the services of a

1 technical assistance team or campus intervention team are no longer
2 needed at a campus under this section.

3 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A
4 campus intervention team shall:

5 (1) conduct a comprehensive on-site evaluation of the
6 campus to determine the cause for the campus's low performance and
7 lack of progress;

8 (2) recommend actions, including reallocation of
9 resources and technical assistance, changes in school procedures or
10 operations, staff development for instructional and administrative
11 staff, intervention for individual administrators or teachers,
12 waivers from state statute or rule, or other actions the team
13 considers appropriate;

14 (3) assist in the development of a school improvement
15 plan for student achievement; and

16 (4) assist the commissioner in monitoring the progress
17 of the campus in implementing the school improvement plan for
18 improvement of student achievement.

19 (b) A campus intervention team assigned under Section
20 39.1321 to a campus shall conduct a comprehensive on-site
21 evaluation of the campus to determine the cause for the campus's low
22 performance and lack of progress. The team shall have wide latitude
23 to determine what factors to assess and how to conduct the
24 assessment. Some factors to be considered are:

25 (1) an assessment of the staff to determine the
26 percentage of certified teachers who are teaching in their field,
27 the number of teachers with less than three years of experience, and

1 teacher turnover rates;

2 (2) compliance with the appropriate class-size rules
3 and number of class-size waivers received;

4 (3) an assessment of the quality, quantity, and
5 appropriateness of instructional materials, including the
6 availability of technology-based instructional materials;

7 (4) a report on the parental involvement strategies
8 and the effectiveness of the strategies;

9 (5) an assessment of the extent and quality of the
10 mentoring program provided for new teachers on the campus;

11 (6) an assessment of the type and quality of the
12 professional development provided to the staff;

13 (7) a demographic analysis of the student population,
14 including student demographics, at-risk populations, and special
15 education percentages;

16 (8) a report of disciplinary incidents and school
17 safety information;

18 (9) financial and accounting practices; and

19 (10) an assessment of the appropriateness of the
20 curriculum and teaching strategies.

21 (c) On completing the evaluation under this section, the
22 campus intervention team shall recommend actions, including:

23 (1) reallocation of resources;

24 (2) distribution of additional funds to the campus
25 from funds set aside by the agency for purposes of assisting
26 campuses in meeting standards specified in the intervention plan;

27 (3) technical assistance;

- 1 (4) changes in school procedures or operations;
2 (5) staff development for instructional and
3 administrative staff;
4 (6) intervention for individual administrators or
5 teachers;
6 (7) waivers from state statutes or rules; or
7 (8) other actions the campus intervention team
8 considers appropriate.

9 (d) In executing a school improvement plan developed under
10 Subsection (a)(3), the campus intervention team shall:

11 (1) assist the campus in implementing research-based
12 practices for curriculum development and classroom instruction,
13 including bilingual education and special education programs, if
14 appropriate, and financial management;

15 (2) provide technical assistance based on
16 scientifically based research, including data analysis, academic
17 deficiency identification, intervention implementation, and budget
18 analysis, to strengthen and improve the instructional programs at
19 the campus; and

20 (3) submit the school improvement plan to the
21 commissioner for approval.

22 (e) A campus intervention team appointed under Section
23 39.1321(b):

24 (1) shall continue to work with a campus until:

25 (A) the campus is rated academically acceptable
26 for a two-year period; or

27 (B) the campus is rated academically acceptable

1 for a one-year period and the commissioner determines that the
2 campus is operating and will continue to operate in a manner that
3 improves student achievement; and

4 (2) may continually update the school improvement
5 plan, with approval from the commissioner, to meet the needs of the
6 campus.

7 (f) Notwithstanding any other provision of this subchapter,
8 if the commissioner determines that a campus for which an
9 intervention is ordered under Section 39.1321(b) is not fully
10 implementing the campus intervention team's recommendations or
11 school improvement plan, the commissioner may order the
12 reconstitution of the campus, pursue alternative management of the
13 campus as provided by Section 39.1325, or order closure of the
14 campus.

15 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has
16 been identified as academically unacceptable for a period of two
17 consecutive school years, including the current school year, the
18 commissioner shall order the reconstitution of the campus and
19 assign a campus intervention team. In determining whether a campus
20 is rated academically unacceptable for a second year under this
21 subsection, dropout rates and completion rates may not be
22 considered. In reconstituting the campus, a campus intervention
23 team shall assist the campus in:

24 (1) developing a school improvement plan;

25 (2) obtaining approval of the plan from the
26 commissioner; and

27 (3) executing the plan on approval by the

1 commissioner.

2 (b) The campus intervention team shall decide which
3 educators may be retained at that campus. A principal who has been
4 employed by the campus in that capacity during the two-year period
5 described by Subsection (a) may not be retained at that campus. A
6 teacher of a subject assessed by an assessment instrument under
7 Section 39.023 may be retained only if the campus intervention team
8 determines that a pattern exists of significant academic growth by
9 students taught by the teacher. If an educator is not retained, the
10 educator may be assigned to another position in the district.

11 (c) A campus subject to Subsection (a) shall implement the
12 school improvement plan as approved by the commissioner. The
13 commissioner may appoint a monitor, conservator, management team,
14 or a board of managers to the district to ensure and oversee the
15 implementation of the school improvement plan.

16 (d) Notwithstanding any other provision of this subchapter,
17 if the commissioner determines that a campus subject to Subsection
18 (a) is not fully implementing the school improvement plan, the
19 commissioner may pursue alternative management of the campus as
20 provided by Section 39.1325, or may order closure of the campus.

21 (e) If a campus is considered an academically unacceptable
22 campus for more than two consecutive school years, the commissioner
23 may order reconstitution or closure of the campus or pursue
24 alternative management under Section 39.1325.

25 (f) If a campus is considered an academically unacceptable
26 campus for the subsequent school year after the campus is
27 reconstituted under this section, the commissioner shall pursue

1 alternative management under Section 39.1325.

2 Sec. 39.1324. EXCEPTION TO MANDATORY SANCTIONS: PUBLIC
3 CHARTER DISTRICTS. Notwithstanding Section 39.131 or 39.1323,
4 before ordering the closure or reconstitution of a public charter
5 district identified as academically unacceptable for a period of
6 two consecutive school years, the commissioner shall assign a
7 technical assistance and campus intervention team to determine
8 appropriate action to take regarding the public charter district,
9 which may include closure, reconstitution, or continued operation
10 with operational improvements. The technical assistance and campus
11 intervention team shall operate in the same manner provided by
12 Section 39.1322.

13 Sec. 39.13245. TRANSITIONAL SANCTIONS PROVISIONS. For the
14 2005-2006 school year, the commissioner shall assign a campus
15 intervention team or a technical assistance team to a campus under
16 Section 39.1321 on the basis of academic performance ratings for
17 the 2004-2005 school year. The commissioner may impose a sanction
18 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the
19 basis of academic performance ratings for the 2004-2005 school year
20 and the 2005-2006 school year. A sanction ordered by the
21 commissioner before July 1, 2005, shall remain in effect for the
22 2005-2006 school year. The commissioner may allow a principal
23 subject to Section 39.1323(b) to remain at a campus for the
24 2005-2006 school year. This section expires September 1, 2007.

25 SECTION 2D.44. Subchapter G, Chapter 39, Education Code, is
26 amended by adding Sections 39.1325 and 39.1326 to read as follows:

27 Sec. 39.1325. MANAGEMENT OF CERTAIN ACADEMICALLY

1 UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section
2 if the campus has been identified as academically unacceptable
3 under Section 39.132 and the commissioner orders alternative
4 management under Section 39.1323(e) or (f).

5 (b) The commissioner shall solicit proposals from qualified
6 entities to assume management of a campus subject to this section.

7 (c) If the commissioner determines that the basis for
8 identifying a campus as academically unacceptable is limited to a
9 specific condition that may be remedied with targeted technical
10 assistance, the commissioner may:

11 (1) provide the campus a one-year waiver under this
12 section; and

13 (2) require the district to contract for the
14 appropriate technical assistance.

15 (d) The commissioner may annually solicit proposals under
16 this section for the management of a campus subject to this section.
17 The commissioner shall notify a qualified entity that has been
18 approved as a provider under this section. The district must
19 execute a contract with an approved provider and relinquish control
20 of the campus before January 1 of the school year.

21 (e) To qualify for consideration as a managing entity under
22 this section, the entity must submit a proposal that provides
23 information relating to the entity's management and leadership team
24 that will participate in management of the campus under
25 consideration, including information relating to individuals that
26 have:

27 (1) documented success in whole school interventions

1 that increased the educational and performance levels of students
2 in academically unacceptable campuses;

3 (2) a proven record of effectiveness with programs
4 assisting low-performing students;

5 (3) a proven ability to apply research-based school
6 intervention strategies;

7 (4) a proven record of financial ability to perform
8 under the management contract; and

9 (5) any other experience or qualifications the
10 commissioner determines necessary.

11 (f) In selecting a managing entity under this section, the
12 commissioner shall give preference to an entity that:

13 (1) meets any qualifications under this section; and

14 (2) has documented success in educating students from
15 similar demographic groups and with similar educational needs as
16 the students who attend the campus that is to be operated by a
17 managing entity under this section.

18 (g) The school district may negotiate the term of a
19 management contract for not more than five years with an option to
20 renew the contract. The management contract must include a
21 provision describing the district's responsibilities in supporting
22 the operation of the campus. The commissioner shall approve the
23 contract before the contract is executed and, as appropriate, may
24 require the district, as a term of the contract, to support the
25 campus in the same manner as the district was required to support
26 the campus before the execution of the management contract.

27 (h) A management contract under this section shall include

1 provisions approved by the commissioner that require the managing
2 entity to demonstrate improvement in campus performance, including
3 negotiated performance measures. The performance measures must be
4 consistent with the priorities of this chapter. The commissioner
5 shall evaluate a managing entity's performance on the first and
6 second anniversaries of the date of the management contract. If the
7 evaluation fails to demonstrate improvement as negotiated under the
8 contract by the first anniversary of the date of the management
9 contract, the district may terminate the management contract, with
10 the commissioner's consent, for nonperformance or breach of
11 contract and select another provider from an approved list provided
12 by the commissioner. If the evaluation fails to demonstrate
13 significant improvement, as determined by the commissioner, by the
14 second anniversary of the date of the management contract, the
15 district shall terminate the management contract and select another
16 provider from an approved list provided by the commissioner or
17 resume operation of the campus if approved by the commissioner. If
18 the commissioner approves the district's operation of the campus,
19 the commissioner shall assign a technical assistance team to assist
20 the campus.

21 (i) Notwithstanding any other provision of this code, the
22 funding for a campus operated by a managing entity must be
23 equivalent to the funding of the other campuses in the district on a
24 per student basis so that the managing entity receives the same
25 funding the campus would otherwise have received.

26 (j) Each campus operated by a managing entity under this
27 section is subject to this chapter in the same manner as any other

1 campus in the district.

2 (k) The commissioner may adopt rules necessary to implement
3 this section.

4 (1) With respect to the management of a campus under this
5 section:

6 (1) a managing entity is considered to be a
7 governmental body for purposes of Chapters 551 and 552, Government
8 Code; and

9 (2) any requirement in Chapter 551 or 552, Government
10 Code, that applies to a school district or the board of trustees of
11 a school district applies to a managing entity.

12 Sec. 39.1326. REVIEW OF SANCTIONS FOR CAMPUSES SERVING
13 RESIDENTIAL FACILITIES. (a) A school district or public charter
14 district may petition the commissioner to review an academically
15 unacceptable rating assigned to a campus if the campus
16 predominantly served students residing in a residential facility
17 during the rating period.

18 (b) If the commissioner determines that the basis for
19 identifying the campus as academically unacceptable was limited to
20 a condition that was not related to the educational purpose of the
21 residential facility, the commissioner may take any of the
22 following actions as the commissioner determines appropriate:

23 (1) change, modify, or suspend the academically
24 unacceptable rating; or

25 (2) impose any sanction otherwise authorized under
26 Section 39.131 or 39.132.

27 (c) The commissioner may consider a factor other than a

1 factor used to assign a rating in evaluating a campus under this
2 section. The commissioner may assign a campus intervention team
3 under Section 39.1321 at the expense of the school district or
4 public charter district as provided by Section 39.134 to develop a
5 long-term intervention plan to improve services for students.

6 (d) On a determination that a campus subject to this section
7 is appropriately meeting the educational needs of its students, the
8 commissioner may waive revocation of a public charter district for
9 a period not to exceed two years. A waiver under this subsection
10 may be extended for additional two-year periods based on subsequent
11 evaluations of the campus.

12 (e) This section does not limit the commissioner's ability
13 to sanction a public charter district for the performance of a
14 campus subject to this section or any other law.

15 (f) A decision by the commissioner under this section is
16 final and may not be appealed.

17 SECTION 2D.45. Section 39.133, Education Code, is amended
18 to read as follows:

19 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
20 review annually the performance of a district or campus subject to a
21 sanction under this subchapter to determine the appropriate actions
22 to be implemented under this subchapter. The determination shall
23 take into account the number, severity, and duration of the
24 problems identified. [The commissioner must review at least
25 annually the performance of a district for which the accreditation
26 rating has been lowered due to unacceptable student performance and
27 may not raise the rating until the district has demonstrated

1 ~~improved student performance.]~~ If the review reveals a lack of
2 improvement, the commissioner shall increase the level of state
3 intervention and sanction unless the commissioner finds good cause
4 for maintaining the current status.

5 (b) The commissioner shall review at least annually the
6 performance of a school district for which the academic performance
7 rating has been lowered due to unacceptable student performance and
8 may not raise the rating until the district has demonstrated
9 improved student performance.

10 SECTION 2D.46. Section 39.134, Education Code, is amended
11 to read as follows:

12 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
13 a monitor, conservator, management team, ~~[or special]~~ campus
14 intervention team, technical assistance team, or managing entity
15 under Section 39.1321 shall be paid by the district. If the
16 district fails or refuses to pay the costs in a timely manner, the
17 commissioner may:

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

20 (2) recover the amount of the costs in the manner
21 provided for recovery of an overallocation of state funds under
22 Section 42.317 [~~42.258~~].

23 SECTION 2D.47. Subchapter G, Chapter 39, Education Code, is
24 amended by adding Section 39.1371 to read as follows:

25 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
26 responsible for managing an intervention of a campus subject to
27 sanctions under this subchapter.

1 (b) To be employed as an intervention manager in the school
2 intervention management division, a person must demonstrate:

3 (1) a proven ability to implement whole school
4 interventions that increase the educational and performance levels
5 of students in low-performing campuses;

6 (2) a proven record of effectiveness with programs
7 assisting low-performing students;

8 (3) a proven ability to apply research-based school
9 intervention strategies; and

10 (4) any other factor the commissioner determines
11 necessary.

12 (c) The agency shall:

13 (1) monitor the progress of technical assistance teams
14 and campus intervention teams appointed by the commissioner under
15 this subchapter; and

16 (2) supervise the activities of the managing entities
17 under Section 39.1325.

18 (d) The agency shall:

19 (1) establish by rule and publish school improvement
20 objectives;

21 (2) advocate for the increased use of research-based
22 effective practices; and

23 (3) coordinate campus improvement activities of the
24 agency and regional education service centers.

25 (e) The commissioner may contract for services under this
26 section.

27 SECTION 2D.48. Section 39.182(a), Education Code, as

1 amended by S.B. No. 42, Acts of the 79th Legislature, Regular
2 Session, 2005, is amended to read as follows:

3 (a) Not later than December 1 of each year, the agency shall
4 prepare and deliver to the governor, the lieutenant governor, the
5 speaker of the house of representatives, each member of the
6 legislature, the Legislative Budget Board, and the clerks of the
7 standing committees of the senate and house of representatives with
8 primary jurisdiction over the public school system a comprehensive
9 report covering the preceding school year and containing:

10 (1) an evaluation of the achievements of the state
11 educational program in relation to the statutory goals for the
12 public education system under Section 4.002;

13 (2) an evaluation of the status of education in the
14 state as reflected by the academic excellence indicators adopted
15 under Section 39.051;

16 (3) a summary compilation of the percentage of
17 graduating students who attain scores on the end-of-course
18 assessment instruments required under Section 39.023(c) that are
19 equivalent to a passing score on the assessment instrument required
20 under Section 51.3062;

21 (4) a summary compilation of overall student
22 performance on academic skills assessment instruments required by
23 Section 39.023 with the number and percentage of students exempted
24 from the administration of those instruments and the basis of the
25 exemptions, aggregated by grade level, subject area, campus, and
26 district, with appropriate interpretations and analysis, and
27 disaggregated by race, ethnicity, gender, and socioeconomic

1 status;

2 (5) [~~(4)~~] a summary compilation of overall
3 performance of students placed in a disciplinary alternative
4 education program established under Section 37.008 on academic
5 skills assessment instruments required by Section 39.023 with the
6 number of those students exempted from the administration of those
7 instruments and the basis of the exemptions, aggregated by
8 district, grade level, and subject area, with appropriate
9 interpretations and analysis, and disaggregated by race,
10 ethnicity, gender, and socioeconomic status;

11 (6) [~~(5)~~] a summary compilation of the progress
12 [~~overall performance~~] of students at risk of dropping out of
13 school, as defined by Section 29.081(d), including information
14 described by the academic excellence indicators under Sections
15 39.051(b)(7), (8), (10), and (11), provided statewide and
16 aggregated by district, on academic skills assessment instruments
17 required by Section 39.023 and any other assessment instrument
18 required by the commissioner [~~with the number of those students~~
19 ~~exempted from the administration of those instruments and the basis~~
20 ~~of the exemptions, aggregated by district, grade level, and subject~~
21 ~~area~~], with appropriate interpretations and analysis, and
22 disaggregated by race, ethnicity, gender, and socioeconomic
23 status;

24 (7) [~~(6)~~] an evaluation of the correlation between
25 student grades and student performance on academic skills
26 assessment instruments required by Section 39.023;

27 (8) [~~(7)~~] a statement of the dropout rate of students

1 in grade levels 7 through 12, expressed in the aggregate and by
2 grade level, and a statement of the completion rates of students for
3 grade levels 9 through 12;

4 (9) [~~(8)~~] a statement of:

5 (A) the completion rate of students who enter
6 grade level 9 and graduate not more than four years later;

7 (B) the completion rate of students who enter
8 grade level 9 and graduate, including students who require more
9 than four years to graduate;

10 (C) the completion rate of students who enter
11 grade level 9 and not more than four years later receive a high
12 school equivalency certificate;

13 (D) the completion rate of students who enter
14 grade level 9 and receive a high school equivalency certificate,
15 including students who require more than four years to receive a
16 certificate; and

17 (E) the number and percentage of all students who
18 have not been accounted for under Paragraph (A), (B), (C), or (D);

19 (10) [~~(9)~~] a statement of the projected
20 cross-sectional and longitudinal dropout rates for grade levels 9
21 through 12 for the next five years, assuming no state action is
22 taken to reduce the dropout rate;

23 (11) [~~(10)~~] a description of a systematic, measurable
24 plan for reducing the projected cross-sectional and longitudinal
25 dropout rates to five percent or less for the 1997-1998 school year;

26 (12) [~~(11)~~] a summary of the information required by
27 Section 29.083 regarding grade level retention of students and

1 information concerning:

2 (A) the number and percentage of students
3 retained; and

4 (B) the performance of retained students on
5 assessment instruments required under Section 39.023(a);

6 (13) [~~(12)~~] information, aggregated by district type
7 and disaggregated by race, ethnicity, gender, and socioeconomic
8 status, on:

9 (A) the number of students placed in a
10 disciplinary alternative education program established under
11 Section 37.008;

12 (B) the average length of a student's placement
13 in a disciplinary alternative education program established under
14 Section 37.008;

15 (C) the academic performance of students on
16 assessment instruments required under Section 39.023(a) during the
17 year preceding and during the year following placement in a
18 disciplinary alternative education program; and

19 (D) the dropout rates of students who have been
20 placed in a disciplinary alternative education program established
21 under Section 37.008;

22 (14) [~~(13)~~] a list of each school district or campus
23 that does not satisfy performance standards, with an explanation of
24 the actions taken by the commissioner to improve student
25 performance in the district or campus and an evaluation of the
26 results of those actions;

27 (15) [~~(14)~~] an evaluation of the status of the

1 curriculum taught in public schools, with recommendations for
2 legislative changes necessary to improve or modify the curriculum
3 required by Section 28.002;

4 (16) [~~(15)~~] a description of all funds received by and
5 each activity and expenditure of the agency;

6 (17) [~~(16)~~] a summary and analysis of the
7 instructional expenditures ratios and instructional employees
8 ratios of school districts computed under Section 44.0071;

9 (18) [~~(17)~~] a summary of the effect of deregulation,
10 including exemptions and waivers granted under Section 7.056 [~~or~~
11 ~~39.112~~];

12 (19) [~~(18)~~] a statement of the total number and length
13 of reports that school districts and school district employees must
14 submit to the agency, identifying which reports are required by
15 federal statute or rule, state statute, or agency rule, and a
16 summary of the agency's efforts to reduce overall reporting
17 requirements;

18 (20) [~~(19)~~] a list of each school district that is not
19 in compliance with state special education requirements,
20 including:

21 (A) the period for which the district has not
22 been in compliance;

23 (B) the manner in which the agency considered the
24 district's failure to comply in determining the district's
25 accreditation status; and

26 (C) an explanation of the actions taken by the
27 commissioner to ensure compliance and an evaluation of the results

1 of those actions;

2 (21) an evaluation of public charter districts,
3 including:

4 (A) the academic performance of students
5 enrolled in public charter districts, disaggregated by race,
6 ethnicity, gender, and socioeconomic status;

7 (B) the costs of instruction, administration,
8 and transportation incurred by public charter districts; and

9 (C) other issues, as determined by the
10 commissioner [~~(20) a comparison of the performance of~~
11 ~~open-enrollment charter schools and school districts on the~~
12 ~~academic excellence indicators specified in Section 39.051(b) and~~
13 ~~accountability measures adopted under Section 39.051(g), with a~~
14 ~~separately aggregated comparison of the performance of~~
15 ~~open-enrollment charter schools predominantly serving students at~~
16 ~~risk of dropping out of school, as defined by Section 29.081(d),~~
17 ~~with the performance of school districts];~~

18 (22) [(21)] a summary of the information required by
19 Section 38.0141 regarding student health and physical activity from
20 each school district;

21 (23) a statement of the percentage of students scoring
22 at the proficient and advanced levels on the National Assessment of
23 Educational Progress; and

24 (24) [(22)] any additional information considered
25 important by the commissioner or the State Board of Education.

26 SECTION 2D.49. Section 39.182(b), Education Code, is
27 amended to read as follows:

1 (b) In reporting the information required by Subsection
2 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate
3 the performance data of students enrolled in a special education
4 program under Subchapter A, Chapter 29, or a bilingual education or
5 special language program under Subchapter B, Chapter 29.

6 SECTION 2D.50. Section 39.182, Education Code, is amended
7 by adding Subsections (b-1) and (b-2) to read as follows:

8 (b-1) The report must include an assessment of the impact of
9 the performance-based grant system developed under Subchapter E,
10 Chapter 7, on student academic performance, including:

11 (1) an analysis of performance and spending
12 information relating to grants administered by the agency; and

13 (2) recommendations on any statutory changes needed
14 for the agency to more effectively administer grant programs,
15 including recommendations on whether to eliminate or modify
16 inefficient grant programs, expand effective grant programs, or
17 consolidate similar grant programs to maximize the effectiveness
18 and efficiencies of those programs.

19 (b-2) Subsection (b-1) applies beginning January 1, 2009.
20 This subsection expires February 1, 2009.

21 SECTION 2D.51. Section 39.202(a), Education Code, is
22 amended to read as follows:

23 (a) The commissioner shall, in consultation with the
24 comptroller, develop and implement a financial accountability
25 rating system for school districts in this state that includes
26 procedures for:

27 (1) providing additional transparency to public

1 education finance;

2 (2) establishing financial accountability standards
3 commensurate with academic standards reaching to the campus level;
4 and

5 (3) enabling the commissioner and district
6 administrators to provide meaningful financial oversight and
7 improvement.

8 SECTION 2D.52. Section 39.203(b), Education Code, is
9 amended to read as follows:

10 (b) The annual financial management report must include:

11 (1) a description of the district's financial
12 management performance based on a comparison, provided by the
13 agency, of the district's performance on the standards [~~indicators~~]
14 adopted under Section 39.202 [~~39.202(b)~~] to:

15 (A) state-established standards; and

16 (B) the district's previous performance on the
17 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

18 (2) a description of the district's actual
19 expenditures for each campus and any difference between those
20 campus expenditures and the foundation school program allotments
21 received for the campus; and

22 (3) any descriptive information required by the
23 commissioner.

24 SECTION 2D.53. Subchapter I, Chapter 39, Education Code, is
25 amended by adding Section 39.205 to read as follows:

26 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than
27 September 1, 2006, the agency shall submit a report to the

1 legislature on the status of the financial accountability system
2 that recommends to the legislature methods for linking school
3 district financial management performance and academic
4 performance.

5 (b) This section expires September 2, 2006.

6 SECTION 2D.54. Subchapter A, Chapter 44, Education Code, is
7 amended by adding Section 44.0073 to read as follows:

8 Sec. 44.0073. INSTRUCTIONAL COSTS. (a) For purposes of
9 this section:

10 (1) "Direct instructional costs" includes a school
11 district's expenses related to instruction, instructional
12 resources and media services, curriculum development,
13 instructional staff development, instructional leadership, school
14 leadership, and evaluation and counseling services.

15 (2) "Indirect instructional costs" includes:

16 (A) a school district's expenses related to
17 social work services, health services, student transportation,
18 food services, facility maintenance and operations, security and
19 monitoring services, and data processing services; and

20 (B) payments to another district under the public
21 education grant program under Subchapter G, Chapter 29, payments to
22 another district that is a member of a shared services arrangement,
23 payments to a fiscal agent, and payments under Section 37.012 to a
24 juvenile justice alternative education program.

25 (b) For purposes of school district financial
26 accountability, the agency shall identify each district's direct
27 and indirect instructional costs for the preceding fiscal year and

1 make that information available to the public on the agency's
2 Internet website.

3 SECTION 2D.55. Section 51.3062(q), Education Code, is
4 amended to read as follows:

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

19 SECTION 2D.56. (a) Not later than the 2006-2007 school
20 year, the Texas Education Agency shall collect information
21 concerning:

22 (1) incremental growth in student achievement for
23 purposes of Section 39.051(b)(8), Education Code, as amended by
24 this Act; and

25 (2) the measure of progress toward English language
26 proficiency for purposes of Section 39.051(b)(15), Education Code,
27 as added by this Act.

1 (b) Not later than the 2007-2008 school year, the Texas
2 Education Agency shall include, in evaluating the performance of
3 school districts, campuses, and public charter districts under
4 Subchapter D, Chapter 39, Education Code:

5 (1) incremental growth in student achievement under
6 Section 39.051(b)(8), Education Code, as amended by this Act; and

7 (2) the measure of progress toward English language
8 proficiency under Section 39.051(b)(15), Education Code, as added
9 by this Act.

10 SECTION 2D.57. The commissioner of education shall develop
11 and implement the reporting procedures for:

12 (1) districts to prepare and distribute annual
13 financial management reports under Section 39.203, Education Code,
14 as amended by this Act, beginning with the 2006-2007 school year;
15 and

16 (2) campuses to provide financial information under
17 Section 39.202, Education Code, as amended by this Act, beginning
18 with the 2007-2008 school year.

19 PART E. INSTRUCTIONAL MATERIALS

20 SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is
21 amended by adding Section 7.030 to read as follows:

22 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED
23 GRANT PROGRAMS. (a) The agency shall conduct a review of
24 state-funded and federally funded grant programs and incentives
25 designed to improve student academic performance and shall actively
26 determine the full extent to which funds awarded under those
27 programs may be used to enhance or expand the use of technology in

1 public schools. For purposes of removing barriers to and
2 encouraging the use of technology in public schools, the
3 commissioner may, as appropriate, issue a waiver to one or more
4 schools.

5 (b) Not later than December 1, 2006, the agency shall submit
6 a report regarding the findings of the review conducted under this
7 section to the legislature. The report must include a summary of
8 promising practices for current grant programs that leverage
9 technology. This section expires January 15, 2007.

10 SECTION 2E.02. Section 7.055(b)(28), Education Code, is
11 amended to read as follows:

12 (28) The commissioner shall perform duties relating to
13 the funding, adoption, and purchase of instructional materials
14 [~~textbooks~~] under Chapter 31.

15 SECTION 2E.03. Section 7.056(f), Education Code, is amended
16 to read as follows:

17 (f) A school district or campus that is required to develop
18 and implement a student achievement improvement plan under Section
19 39.131 or 39.132 may receive an exemption or waiver under this
20 section from any law or rule other than:

21 (1) a prohibition on conduct that constitutes a
22 criminal offense;

23 (2) a requirement imposed by federal law or rule;

24 (3) a requirement, restriction, or prohibition
25 imposed by state law or rule relating to:

26 (A) public school accountability as provided by
27 Subchapters B, C, D, and G, Chapter 39; or

1 (B) educator rights and benefits under
2 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
3 A, Chapter 22; or

4 (4) [~~textbook~~] selection of instructional materials
5 under Chapter 31.

6 SECTION 2E.04. Section 7.102(c)(23), Education Code, is
7 amended to read as follows:

8 (23) The board shall adopt and purchase or license
9 instructional materials [~~textbooks~~] as provided by Chapter 31 and
10 adopt rules required by that chapter.

11 SECTION 2E.05. Sections 7.108(a) and (c), Education Code,
12 are amended to read as follows:

13 (a) A person interested in selling bonds of any type or a
14 person engaged in manufacturing, shipping, selling, or advertising
15 instructional materials [~~textbooks~~] or otherwise connected with
16 the instructional material [~~textbook~~] business commits an offense
17 if the person makes or authorizes a political contribution to or
18 takes part in, directly or indirectly, the campaign of any person
19 seeking election to or serving on the board.

20 (c) In this section:

21 (1) "Instructional material" has the meaning assigned
22 by Section 31.002.

23 (2) "Political contribution" has the meaning assigned
24 by Section 251.001, Election Code.

25 [~~(2) "Textbook" has the meaning assigned by Section~~
26 ~~31.002.~~]

27 SECTION 2E.06. The heading to Section 7.112, Education

1 Code, is amended to read as follows:

2 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
3 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

4 SECTION 2E.07. Section 7.112(a), Education Code, is amended
5 to read as follows:

6 (a) A former member of the State Board of Education who is
7 employed by or otherwise receives compensation from a [~~textbook~~]
8 publisher of instructional materials may not, before the second
9 anniversary of the date on which the person last served as a member
10 of the State Board of Education:

11 (1) confer with a member of the board of trustees of a
12 school district concerning instructional materials [~~a textbook~~]
13 published by that [~~textbook~~] publisher; or

14 (2) appear at a meeting of the board of trustees on
15 behalf of the [~~textbook~~] publisher.

16 SECTION 2E.08. Section 7.112(c)(2), Education Code, is
17 amended to read as follows:

18 (2) "Instructional material" and "publisher"
19 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
20 31.002.

21 SECTION 2E.09. Section 11.158(b), Education Code, is
22 amended to read as follows:

23 (b) The board may not charge fees for:

24 (1) instructional materials [~~textbooks~~], workbooks,
25 laboratory supplies, or other supplies necessary for participation
26 in any instructional course except as authorized under this code;

27 (2) field trips required as a part of a basic education

1 program or course;

2 (3) any specific form of dress necessary for any
3 required educational program or diplomas;

4 (4) the payment of instructional costs for necessary
5 school personnel employed in any course or educational program
6 required for graduation;

7 (5) library materials [~~books~~] required to be used for
8 any educational course or program, other than fines for lost,
9 damaged, or overdue materials [~~books~~];

10 (6) admission to any activity the student is required
11 to attend as a prerequisite to graduation;

12 (7) admission to or examination in any required
13 educational course or program; or

14 (8) lockers.

15 SECTION 2E.10. Section 11.164(a), Education Code, is
16 amended to read as follows:

17 (a) The board of trustees of each school district shall
18 limit redundant requests for information and the number and length
19 of written reports that a classroom teacher is required to prepare.
20 A classroom teacher may not be required to prepare any written
21 information other than:

22 (1) any report concerning the health, safety, or
23 welfare of a student;

24 (2) a report of a student's grade on an assignment or
25 examination;

26 (3) a report of a student's academic progress in a
27 class or course;

1 (4) a report of a student's grades at the end of each
2 grade reporting period;

3 (5) a [~~textbook~~] report on instructional materials;

4 (6) a unit or weekly lesson plan that outlines, in a
5 brief and general manner, the information to be presented during
6 each period at the secondary level or in each subject or topic at
7 the elementary level;

8 (7) an attendance report;

9 (8) any report required for accreditation review;

10 (9) any information required by a school district that
11 relates to a complaint, grievance, or actual or potential
12 litigation and that requires the classroom teacher's involvement;
13 or

14 (10) any information specifically required by law,
15 rule, or regulation.

16 SECTION 2E.11. Section 19.007(e), Education Code, is
17 amended to read as follows:

18 (e) The district may participate in the instructional
19 materials [~~textbook~~] program under Chapter 31.

20 SECTION 2E.12. Sections 26.006(a) and (c), Education Code,
21 are amended to read as follows:

22 (a) A parent is entitled to:

23 (1) review all teaching materials, instructional
24 materials [~~textbooks~~], and other teaching aids used in the
25 classroom of the parent's child; and

26 (2) review each test administered to the parent's
27 child after the test is administered.

1 (c) A student's parent is entitled to request that the
2 public school [~~district or open-enrollment charter school~~] the
3 student attends allow the student to take home any instructional
4 materials [~~textbook~~] used by the student. Subject to the
5 availability of the instructional materials [~~a textbook~~], the
6 [~~district or~~] school shall honor the request. A student who takes
7 home instructional materials [~~a textbook~~] must return the
8 instructional materials [~~textbook~~] to school at the beginning of
9 the next school day if requested to do so by the student's teacher.
10 In this subsection, "instructional material" [~~"textbook"~~] has the
11 meaning assigned by Section 31.002.

12 SECTION 2E.13. Sections 28.002(c) and (h), Education Code,
13 are amended to read as follows:

14 (c) The State Board of Education, with the direct
15 participation of educators, parents, business and industry
16 representatives, and employers shall by rule identify the essential
17 knowledge and skills of each subject of the required curriculum
18 that all students should be able to demonstrate and that will be
19 used in evaluating instructional materials [~~textbooks~~] under
20 Chapter 31 and addressed on the assessment instruments required
21 under Subchapter B, Chapter 39. As a condition of accreditation,
22 the board shall require each district to provide instruction in the
23 essential knowledge and skills at appropriate grade levels.

24 (h) The State Board of Education and each school district
25 shall foster the continuation of the tradition of teaching United
26 States and Texas history and the free enterprise system in regular
27 subject matter and in reading courses and in the adoption of

1 instructional materials [~~textbooks~~]. A primary purpose of the
2 public school curriculum is to prepare thoughtful, active citizens
3 who understand the importance of patriotism and can function
4 productively in a free enterprise society with appreciation for the
5 basic democratic values of our state and national heritage.

6 SECTION 2E.14. Subchapter A, Chapter 28, Education Code, is
7 amended by adding Section 28.010 to read as follows:

8 Sec. 28.010. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a) The
9 agency shall develop or acquire ongoing, computer-adaptive,
10 interactive assessment tools for each subject and grade level for
11 which an assessment instrument is adopted under Section 39.023.

12 (b) From funds appropriated for the purpose, the agency
13 shall make assessment tools developed or acquired under this
14 section available to public schools at no cost.

15 SECTION 2E.15. The heading to Chapter 31, Education Code,
16 is amended to read as follows:

17 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

18 SECTION 2E.16. Section 31.001, Education Code, is amended
19 to read as follows:

20 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
21 Instructional materials [~~Textbooks~~] selected for use in the public
22 schools shall be furnished without cost to the students attending
23 those schools in accordance with Section 3(b), Article VII, Texas
24 Constitution.

25 SECTION 2E.17. Sections 31.002(1), (2), and (4), Education
26 Code, are amended to read as follows:

27 (1) "Instructional material" [~~"Electronic textbook"~~]

1 means a medium for conveying information to a student. The term
2 includes a book, supplementary materials, a combination of a book
3 and supplementary materials, computer software, interactive
4 videodisc, magnetic media, CD-ROM, computer courseware, on-line
5 services, an electronic medium, or other means of conveying
6 information to the student or otherwise contributing to the
7 learning process through electronic means.

8 (2) "Publisher" means a person who prepares
9 instructional materials for sale or distribution to educational
10 institutions. The term includes an on-line service or a developer
11 or distributor of [~~an~~] electronic instructional materials
12 [~~textbook~~].

13 (4) "Technological equipment" means hardware, a
14 device, or equipment necessary for:

15 (A) instructional use in the classroom,
16 including to gain access to or enhance the use of [~~an~~] electronic
17 instructional materials [~~textbook~~]; or

18 (B) professional use by a classroom teacher.

19 SECTION 2E.18. Section 31.003, Education Code, is amended
20 to read as follows:

21 Sec. 31.003. RULES. The State Board of Education shall
22 [~~may~~] adopt rules, consistent with this chapter, for the approval
23 [~~adoption~~], requisition, distribution, care, use, and disposal of
24 instructional materials [~~textbooks~~].

25 SECTION 2E.19. The heading to Subchapter B, Chapter 31,
26 Education Code, is amended to read as follows:

27 SUBCHAPTER B. STATE APPROVAL

[~~FUNDING, ADOPTION, AND PURCHASE~~]

SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.0251 and 31.0252 to read as follows:

Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS; REVIEW. (a) A publisher may at any time submit an instructional material to the State Board of Education for approval. As part of a submission, a publisher must include a statement that identifies in writing the essential knowledge and skills for a subject and grade level as determined by the board under Section 28.002 that the instructional material covers.

(b) The board shall:

(1) promptly review each instructional material submitted for approval; and

(2) determine whether the essential knowledge and skills identified in the submission are covered in the student version of the instructional material, as well as in the teacher version of the instructional material.

Sec. 31.0252. APPROVAL BY STATE BOARD OF EDUCATION. (a) The State Board of Education shall meet biannually to approve instructional materials submitted under Section 31.0251. The board must approve or reject each submitted instructional material not later than the second meeting held under this section after the date the instructional material was submitted.

(b) By majority vote, the State Board of Education shall approve an instructional material submitted under Section 31.0251 unless the board determines, based on the board's own review, that the student version of the instructional material, as well as the

1 teacher version of the instructional material, does not each
2 contain the essential knowledge and skills identified by the
3 publisher in the submission. The board shall identify the
4 essential knowledge and skills for a subject and grade level that an
5 approved instructional material covers in both the student and
6 teacher versions of the instructional material.

7 (c) Each approved instructional material must be free from
8 factual errors.

9 (d) For each subject and grade level, the board shall list
10 the approved instructional materials. The board shall
11 periodically:

12 (1) review each list of approved instructional
13 materials; and

14 (2) by majority vote, remove approved instructional
15 materials that the board determines no longer adequately cover the
16 appropriate essential knowledge and skills.

17 SECTION 2E.21. Sections 31.026-31.030, Education Code, are
18 amended to read as follows:

19 Sec. 31.026. CONTRACT; PRICE. (a) The Department of
20 Information Resources may [~~State Board of Education shall~~] execute
21 a contract[+]

22 [~~(1)~~] for the purchase or licensing of each approved
23 instructional material [~~adopted textbook other than an electronic~~
24 ~~textbook; and~~

25 [~~(2) for the purchase or licensing of each adopted~~
26 ~~electronic textbook~~].

27 (b) A contract must require the publisher to provide all of

1 the approved instructional materials [~~the number of textbooks~~]
2 required by public schools [~~school districts~~] in this state for the
3 term of the contract [~~, which must coincide with the board's~~
4 ~~adoption cycle~~].

5 (c) As applicable, a contract must provide for the purchase
6 or licensing of instructional materials [~~a textbook~~] at a
7 [~~specific~~] price determined through negotiation between the
8 publisher and the Department of Information Resources that does [~~,~~
9 ~~which may~~] not exceed the lowest price paid by any other state or
10 any school or school district. The price must be fixed for the term
11 of the contract.

12 (d) The Department of Information Resources shall execute a
13 blanket purchase order with the publisher of an approved
14 instructional material. A school district may requisition
15 instructional materials under the purchase order.

16 (e) The agency and the Department of Information Resources
17 shall enter into an interagency contract specifying each agency's
18 duties regarding the purchasing and licensing of instructional
19 materials.

20 (f) The contract may allow the publisher of an approved
21 instructional material to update the material as provided by
22 Section 31.033.

23 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~
24 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each
25 public school [~~district and open-enrollment charter school~~] with
26 information that fully describes each of the publisher's approved
27 instructional materials. [~~adopted textbooks. On request of a~~

1 ~~school district, a publisher shall provide a sample copy of an~~
2 ~~adopted textbook.]~~

3 (b) A publisher shall provide at least two sample copies of
4 each approved instructional material [~~adopted textbook~~] to be
5 maintained at each regional education service center.

6 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

7 (a) The State Board of Education may provide for [~~purchase~~] special
8 instructional materials [~~textbooks~~] for the education of blind and
9 visually impaired students in public schools. In addition, for a
10 teacher who is blind or visually impaired, the board shall provide a
11 teacher's edition in Braille or large type, as requested by the
12 teacher, for each printed instructional material [~~textbook~~] the
13 teacher uses in the instruction of students. The printed teacher
14 edition must be available at the same time the printed student
15 instructional materials [~~textbooks~~] become available.

16 (b) The publisher of an approved printed instructional
17 material [~~adopted textbook~~] shall provide the agency with
18 computerized [~~textbook~~] files for the production of Braille
19 instructional materials [~~textbooks~~] or other versions of
20 instructional materials [~~textbooks~~] to be used by students with
21 disabilities, on request of the State Board of Education. A
22 publisher shall arrange the computerized [~~textbook~~] files in one of
23 several optional formats specified by the State Board of Education.

24 (c) The board shall require electronic instructional
25 materials submitted for approval under Section 31.0251 to comply
26 with the standards established under Section 508, Rehabilitation
27 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~

1 ~~providing for the acceptance, requisition, and distribution of~~
2 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~
3 ~~Section 101 et seq.]~~ for use by students enrolled in:

4 (1) public schools; or

5 (2) private nonprofit schools, if state funds, other
6 than for administrative costs, are not involved.

7 (d) In this section:

8 (1) "Blind or visually impaired student" includes any
9 student whose visual acuity is impaired to the extent that the
10 student is unable to read the text [~~print~~] in [~~a~~] regularly approved
11 instructional materials [~~adopted textbook~~] used in the student's
12 class.

13 (2) "Special instructional materials" [~~textbook~~]
14 means instructional materials [~~a textbook~~] in Braille, large type
15 or any other medium or any apparatus that conveys information to a
16 student or otherwise contributes to the learning process.

17 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
18 [~~TEXTBOOKS~~]. The board shall approve instructional materials
19 [~~purchase or otherwise acquire textbooks~~] for use in bilingual
20 education classes.

21 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
22 State Board of Education shall adopt rules to ensure that used
23 instructional materials [~~textbooks~~] sold to public schools [~~school~~
24 ~~districts and open-enrollment charter schools~~] are not sample
25 copies that contain factual errors. The rules may provide for the
26 imposition of an administrative penalty in accordance with Section
27 31.151 against a seller of used instructional materials [~~textbooks~~]

1 who knowingly violates this section.

2 SECTION 2E.22. Section 31.031(b), Education Code, as added
3 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
4 2005, is amended to read as follows:

5 (b) From the amount set aside by the State Board of
6 Education under Section 31.021(c) or allocated to a school district
7 under Section 32.005(d), the school district that a student
8 entitled to free textbooks under the pilot project established by
9 Section 54.2161 attends shall pay the costs of each textbook the
10 student requires for a course described by Section 54.2161(b)(2).

11 SECTION 2E.23. Subchapter B, Chapter 31, Education Code, is
12 amended by adding Sections 31.032 and 31.033 to read as follows:

13 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL
14 MATERIALS. The publisher of an approved electronic instructional
15 material may offer the material to public schools on an annual
16 subscription basis.

17 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The
18 publisher of an approved instructional material may, under the
19 terms of a contract under Section 31.026, update the instructional
20 material. The State Board of Education by rule shall provide for an
21 expedited review process to determine the extent to which an
22 updated instructional material:

23 (1) is aligned with the essential knowledge and skills
24 for the subject and grade level; and

25 (2) does not contain factual errors.

26 SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is
27 amended by adding Sections 31.1012 and 31.1013 to read as follows:

1 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. A school
2 district shall:

3 (1) select the instructional materials to be used by
4 the district; and

5 (2) using funds allotted under Section 32.005 or other
6 funds that may be used for the purpose, purchase those materials:

7 (A) directly from the publisher of the materials;
8 or

9 (B) through the Department of Information
10 Resources, if the materials have been approved by the State Board of
11 Education.

12 Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL
13 MATERIALS. Each school district shall annually certify to the
14 agency that, for each subject in the required curriculum and each
15 grade level, the district provides each student with instructional
16 materials that are aligned with the essential knowledge and skills
17 adopted by the State Board of Education for that subject and grade
18 level.

19 SECTION 2E.25. Section 31.102, Education Code, is amended
20 to read as follows:

21 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional
22 material [~~textbook~~] purchased as provided by this chapter is the
23 property of this state.

24 (b) Subsection (a) applies to an electronic instructional
25 material [~~textbook~~] only to the extent of any applicable licensing
26 agreement.

27 (c) The board of trustees of a school district [~~or the~~

1 ~~governing body of an open-enrollment charter school~~] is the legal
 2 custodian of instructional materials [~~textbooks~~] purchased as
 3 provided by this chapter for the district [~~or school~~]. The board of
 4 trustees shall distribute instructional materials [~~textbooks~~] to
 5 students in the manner that the board [~~or governing body~~]
 6 determines is most effective and economical.

7 SECTION 2E.26. Sections 31.104-31.106, Education Code, are
 8 amended to read as follows:

9 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of
 10 trustees of a school district [~~or the governing body of an~~
 11 ~~open-enrollment charter school~~] may delegate to an employee the
 12 authority to requisition, distribute, and manage the inventory of
 13 instructional materials [~~textbooks~~] in a manner consistent with
 14 this chapter and rules adopted under this chapter.

15 (b) A school district [~~or open-enrollment charter school~~]
 16 may order replacements for instructional materials [~~textbooks~~]
 17 that have been lost or damaged directly from[+]

18 [~~(1) the textbook depository, or~~

19 [~~(2)~~] the [~~textbook~~] publisher of the instructional
 20 materials [~~or manufacturer if the textbook publisher or~~
 21 ~~manufacturer does not have a designated textbook depository in this~~
 22 ~~state under Section 31.151(a)(6)(B)]].~~

23 (c) Each instructional material [~~textbook~~] must state that
 24 the instructional material [~~textbook~~] is the property of or is
 25 licensed to this state, as appropriate. The board may require the
 26 publisher of a textbook that must be returned by a student under
 27 Subsection (d) to place a bar code with a unique identifying number

1 on the textbook. Each instructional material [~~textbook~~], other
2 than an electronic instructional material [~~textbook~~], must be
3 covered by the student under the direction of the teacher. A student
4 must return all instructional materials [~~textbooks~~] to the teacher
5 at the end of the school year or when the student withdraws from
6 school.

7 (d) Each student, or the student's parent or guardian, is
8 responsible for each instructional material [~~textbook~~] not
9 returned by the student. A student who fails to return all
10 instructional materials [~~textbooks~~] forfeits the right to free
11 instructional materials [~~textbooks~~] until each instructional
12 material [~~textbook~~] previously issued but not returned is paid for
13 by the student, parent, or guardian. As provided by policy of the
14 board of trustees [~~or governing body~~], a school district [~~or~~
15 ~~open-enrollment charter school~~] may waive or reduce the payment
16 requirement if the student is from a low-income family. The
17 district [~~or school~~] shall allow the student to use instructional
18 materials [~~textbooks~~] at school during each school day. If an
19 instructional material [~~a textbook~~] is not returned or paid for,
20 the district [~~or school~~] may withhold the student's records. A
21 district [~~or school~~] may not, under this subsection, prevent a
22 student from graduating, participating in a graduation ceremony, or
23 receiving a diploma.

24 (e) The board of trustees of a school district may not
25 require an employee of the district to pay for an instructional
26 material [~~a textbook~~] or instructional technology that is stolen,
27 misplaced, or not returned by a student.

1 Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL
2 MATERIALS [TEXTBOOKS]. (a) The board of trustees of a school
3 district [~~or governing body of an open-enrollment charter school~~]
4 may sell instructional materials [textbooks], other than
5 electronic instructional materials [textbooks], to a student or
6 another school at a [~~the state contract~~] price determined by board
7 rule. Money [The district shall send money] from the sale of
8 instructional materials may be used only to purchase items that may
9 be purchased lawfully using the allotment provided by Section
10 32.005.

11 (b) Subject to any applicable licensing agreement, the
12 board of trustees of a school district may:

13 (1) exchange instructional materials with another
14 school district; or

15 (2) loan instructional materials to another school
16 district [textbooks to the commissioner as required by the
17 commissioner. The commissioner shall deposit the money in the
18 state textbook fund].

19 Sec. 31.106. USE OF LOCAL FUNDS. A [~~In addition to any~~
20 ~~textbook selected under this chapter, a~~] school district [~~or~~
21 ~~open-enrollment charter school~~] may use local funds to purchase any
22 instructional materials [textbooks].

23 SECTION 2E.27. The heading to Section 31.151, Education
24 Code, is amended to read as follows:

25 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

26 SECTION 2E.28. Sections 31.151(a), (b), and (d), Education
27 Code, are amended to read as follows:

1 (a) A publisher [~~or manufacturer~~] of instructional
2 materials [~~textbooks~~]:

3 (1) shall furnish any instructional material
4 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state^[7]
5 at a price that does not exceed the lowest price at which the
6 publisher offers that instructional material [~~textbook~~] for
7 adoption or sale to any state, public school, or school district in
8 the United States;

9 (2) shall automatically reduce the price of an
10 instructional material [~~a textbook~~] sold for use in a public school
11 [~~district or open-enrollment charter school~~] to the extent that the
12 price is reduced elsewhere in the United States;

13 (3) shall provide any instructional material
14 [~~textbook~~] or ancillary item free of charge in this state to the
15 same extent that the publisher [~~or manufacturer~~] provides the
16 instructional material [~~textbook~~] or ancillary item free of charge
17 to any state, public school, or school district in the United
18 States;

19 (4) shall guarantee that each copy of an instructional
20 material [~~a textbook~~] sold in this state is at least equal in
21 quality to copies of that instructional material [~~textbook~~] sold
22 elsewhere in the United States and is free from factual error;

23 (5) may not become associated or connected with,
24 directly or indirectly, any combination in restraint of trade in
25 instructional materials [~~textbooks~~] or enter into any
26 understanding or combination to control prices or restrict
27 competition in the sale of instructional materials [~~textbooks~~] for

1 use in this state;

2 (6) shall~~+~~

3 [~~(A) maintain a depository in this state or~~
4 ~~arrange with a depository in this state to receive and fill orders~~
5 ~~for textbooks, other than on-line textbooks or on-line textbook~~
6 ~~components, consistent with State Board of Education rules; or~~

7 [~~(B)~~] deliver instructional materials
8 [~~textbooks~~] to a public school [~~district or open-enrollment charter~~
9 ~~school~~] without a delivery charge to the school [~~district,~~
10 ~~open-enrollment charter school,~~] or state~~, if:~~

11 [~~(i) the publisher or manufacturer does not~~
12 ~~maintain or arrange with a depository in this state under Paragraph~~
13 ~~(A) and the publisher's or manufacturer's textbooks and related~~
14 ~~products are warehoused or otherwise stored less than 300 miles~~
15 ~~from a border of this state; or~~

16 [~~(ii) the textbooks are on-line textbooks~~
17 ~~or on-line textbook components~~];

18 (7) shall, at the time an order for instructional
19 materials [~~textbooks~~] is acknowledged, provide to public [~~school~~
20 ~~districts or open-enrollment charter~~] schools an accurate shipping
21 date for instructional materials [~~textbooks~~] that are
22 back-ordered;

23 (8) shall guarantee delivery of instructional
24 materials [~~textbooks~~] at least 10 business days before the opening
25 day of school of the year for which the instructional materials
26 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
27 are ordered by a date specified in the sales contract; and

1 (9) shall submit to the State Board of Education an
2 affidavit certifying any instructional material [~~textbook~~] the
3 publisher [~~or manufacturer~~] offers in this state to be free of
4 factual errors at the time the publisher executes the contract
5 required by Section 31.026.

6 (b) The State Board of Education may impose a reasonable
7 administrative penalty against a publisher [~~or manufacturer~~] who
8 knowingly violates Subsection (a). The board shall provide for a
9 hearing to be held to determine whether a penalty is to be imposed
10 and, if so, the amount of the penalty. The board shall base the
11 amount of the penalty on:

- 12 (1) the seriousness of the violation;
- 13 (2) any history of a previous violation;
- 14 (3) the amount necessary to deter a future violation;
- 15 (4) any effort to correct the violation; and
- 16 (5) any other matter justice requires.

17 (d) A penalty collected under this section shall be
18 deposited to the credit of the foundation school [~~state textbook~~]
19 fund.

20 SECTION 2E.29. The heading to Section 31.152, Education
21 Code, is amended to read as follows:

22 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS
23 [~~TEXTBOOKS~~].

24 SECTION 2E.30. Sections 31.152(a), (b), and (d), Education
25 Code, are amended to read as follows:

26 (a) A school trustee, administrator, or teacher commits an
27 offense if that person receives any commission or rebate on any

1 instructional materials [~~textbooks~~] used in the schools with which
2 the person is associated as a trustee, administrator, or teacher.

3 (b) A school trustee, administrator, or teacher commits an
4 offense if the person accepts a gift, favor, or service that:

5 (1) is given to the person or the person's school;

6 (2) might reasonably tend to influence a trustee,
7 administrator, or teacher in the selection of instructional
8 materials [~~a textbook~~]; and

9 (3) could not be lawfully purchased with state
10 instructional materials funds [~~from the state textbook fund~~].

11 (d) In this section, "gift, favor, or service" does not
12 include:

13 (1) staff development, in-service, or teacher
14 training; or

15 (2) ancillary [~~instructional~~] materials, such as maps
16 or worksheets, that convey information to the student or otherwise
17 contribute to the learning process.

18 SECTION 2E.31. The heading to Section 31.153, Education
19 Code, is amended to read as follows:

20 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
21 [~~TEXTBOOK~~] LAW.

22 SECTION 2E.32. Section 31.153(a), Education Code, is
23 amended to read as follows:

24 (a) A person commits an offense if the person knowingly
25 violates any law providing for the purchase or distribution of free
26 instructional materials [~~textbooks~~] for the public schools.

27 SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is

1 amended to read as follows:

2 SUBCHAPTER E. DISPOSITION OF
3 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

4 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS
5 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State
6 Board of Education, may provide for the disposition of:

7 (1) instructional materials [~~textbooks~~], other than
8 electronic instructional materials [~~textbooks~~], that are no longer
9 in acceptable condition to be used for instructional purposes; or

10 (2) discontinued instructional materials [~~textbooks~~],
11 other than electronic instructional materials [~~textbooks~~].

12 (b) The commissioner, as provided by rules adopted by the
13 State Board of Education, shall make available on request copies of
14 discontinued instructional materials [~~textbooks~~], other than
15 electronic instructional materials [~~textbooks~~], for use in
16 libraries maintained in municipal and county jails and facilities
17 of the institutional division of the Texas Department of Criminal
18 Justice and other state agencies.

19 (c) The State Board of Education shall adopt rules under
20 which a public school [~~district or open-enrollment charter school~~]
21 may donate discontinued instructional materials [~~textbooks~~], other
22 than electronic instructional materials [~~textbooks~~], to a student,
23 to an adult education program, or to a nonprofit organization.

24 SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is
25 amended by adding Section 32.0011 to read as follows:

26 Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND
27 IMPLEMENTATION. (a) The commissioner, in consultation with the

1 lieutenant governor, the speaker of the house of representatives,
2 and the presiding officers of the standing committees of the senate
3 and the house of representatives with jurisdiction over the agency,
4 shall appoint an advisory committee of business, education, and
5 public members to assist the agency and permit the agency to monitor
6 changing technology in business, industry, and education.

7 (b) The advisory committee is subject to Chapters 551 and
8 552, Government Code.

9 SECTION 2E.35. Sections 32.002 and 32.003, Education Code,
10 are amended to read as follows:

11 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A
12 public school [~~district~~] is not required by this subchapter to
13 acquire or use technology that has been approved, selected, or
14 contracted for by the State Board of Education or the commissioner.

15 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The
16 commissioner may contract with developers of technology to supply
17 technology for use by public schools [~~school districts~~] throughout
18 this state.

19 SECTION 2E.36. The heading to Section 32.005, Education
20 Code, is amended to read as follows:

21 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
22 ALLOTMENT.

23 SECTION 2E.37. Effective September 1, 2005, Section 32.005,
24 Education Code, is amended by amending Subsections (a) and (b) and
25 adding Subsection (d) to read as follows:

26 (a) Each school district is entitled to an allotment of \$50
27 [~~\$30~~] for each student in average daily attendance or a different

1 amount for any year provided by appropriation.

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

3 (1) provide for the purchase by school districts of
4 instructional materials [~~electronic textbooks~~] or technological
5 equipment that contributes to student learning; and

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

10 (d) This subsection applies only if the pilot project
11 established under Section 54.2161 is implemented. In addition to
12 amounts to which the district is entitled under Subsection (a), a
13 school district is entitled to an amount sufficient for the
14 district to pay the costs of textbooks for students participating
15 in the pilot project established under Section 54.2161. This
16 subsection expires August 15, 2009.

17 SECTION 2E.38. Effective September 1, 2006, Section 32.005,
18 Education Code, is amended by amending Subsection (a) and adding
19 Subsection (a-1) to read as follows:

20 (a) Each school district is entitled to an allotment of \$125
21 [~~\$30~~] for each student in average daily attendance or a different
22 amount for any year provided by appropriation.

23 (a-1) From the funds a school district receives under
24 Subsection (a), the district shall use an amount equal to \$50 for
25 each student in average daily attendance to fund targeted
26 technology programs under Section 32.006. A school district shall
27 use funds for targeted technology programs in a manner that allows

1 each student and teacher assigned to a targeted campus, grade level
2 on a campus, or specific educational program to benefit from a
3 targeted technology program. The commissioner shall adopt rules
4 concerning the use of funds under this subsection. This subsection
5 expires August 31, 2007.

6 SECTION 2E.39. Effective September 1, 2007, Section 32.005,
7 Education Code, is amended by amending Subsection (a) and adding
8 Subsection (a-1) to read as follows:

9 (a) Each school district is entitled to an allotment of \$150
10 [~~\$30~~] for each student in average daily attendance or a different
11 amount for any year provided by appropriation.

12 (a-1) From the funds a school district receives under
13 Subsection (a), the district shall use an amount equal to \$60 for
14 each student in average daily attendance to fund targeted
15 technology programs under Section 32.006. A school district shall
16 use funds for targeted technology programs in a manner that allows
17 each student and teacher assigned to a targeted campus, grade level
18 on a campus, or specific educational program to benefit from a
19 targeted technology program. The commissioner shall adopt rules
20 concerning the use of funds under this subsection.

21 SECTION 2E.40. Subchapter A, Chapter 32, Education Code, is
22 amended by adding Sections 32.006 and 32.007 to read as follows:

23 Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each school
24 district shall use funds designated for targeted technology
25 programs under Section 32.005(a-1) in accordance with this section
26 and in a manner consistent with the long-range plan developed by the
27 State Board of Education under Section 32.001 and the district's

1 own technology plan. A school district may use funds from other
2 sources, including grants, donations, and state and federal funds,
3 to provide targeted technology programs.

4 (b) A targeted technology program must provide for each
5 student and teacher at a targeted campus or grade level on a
6 targeted campus:

7 (1) the provision of:

8 (A) wireless electronic mobile computing
9 devices;

10 (B) productivity software and hardware,
11 including writing, computation, presentation, printing, and
12 communication tools;

13 (C) electronic learning software aligned with
14 the essential knowledge and skills adopted by the State Board of
15 Education under Section 28.002;

16 (D) library and other research tools;

17 (E) electronic assessment tools;

18 (F) electronic learning tools to improve
19 communications among students, teachers, school administrators,
20 parents, and the community; and

21 (G) classroom management systems;

22 (2) professional development for teachers to
23 integrate the tools and solutions described by Subdivision (1); or

24 (3) the provision of other infrastructure,
25 components, and technologies to support and enhance student
26 performance through individual instruction programs.

27 (c) The Legislative Budget Board shall:

1 (1) conduct a biennial study of the cost of school
2 district targeted technology programs, including the cost of
3 implementing those programs on a statewide basis; and

4 (2) based on the results of the study required by
5 Subdivision (1), make recommendations to the legislature before the
6 beginning of each regular session of the legislature concerning
7 statewide implementation of targeted technology programs.

8 (d) Each biennium, the Legislative Budget Board and the
9 commissioner shall jointly conduct a performance evaluation of
10 school district targeted technology programs.

11 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

12 (a) The commissioner may enter into an agreement with a public
13 broadcasting station, or a consortium of public broadcasting
14 stations, under which the station or consortium will provide online
15 instructional content and educational materials.

16 (b) From funds appropriated to the agency, the commissioner
17 may, under an agreement entered into under Subsection (a), make
18 instructional materials available through public broadcasting
19 stations for purposes of instruction and professional development
20 and for use in providing adult-based education.

21 (c) An agreement entered into under Subsection (a) must, to
22 the extent practicable, provide access to instructional materials
23 and online content to persons located in all parts of this state.

24 (d) For purposes of providing high-quality online
25 instructional materials under this section, the commissioner may:

26 (1) use federal funds that may be used for those
27 purposes; or

1 (2) use unexpended balances of funds appropriated to
2 the agency for educational purposes, including adult education.

3 SECTION 2E.41. The heading to Section 32.154, Education
4 Code, as added by Chapter 834, Acts of the 78th Legislature, Regular
5 Session, 2003, is amended to read as follows:

6 Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

7 SECTION 2E.42. Section 32.154, Education Code, as added by
8 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,
9 is amended by amending Subsection (b) and adding Subsection (a-1)
10 to read as follows:

11 (a-1) In addition to school districts and schools selected
12 before September 1, 2005, for participation in the technology
13 immersion pilot project, the agency shall expand the program by
14 selecting for participation in the pilot project for the 2005-2006
15 and subsequent school years each high school to which a school
16 district regularly assigns students who were enrolled in grade
17 eight during the 2004-2005 school year at a district school
18 participating in the pilot project. The agency shall establish
19 criteria for expanding the pilot project under this subsection.

20 (b) Except as provided by Subsection (a-1), the [The] agency
21 shall select the participating [~~districts and~~] schools for the
22 pilot project based on each [~~district's or~~] school's need for the
23 pilot project. In selecting participants, the agency shall
24 consider the following criteria:

25 (1) whether the [~~district or~~] school has limited
26 access to educational resources that could be improved through the
27 use of wireless mobile computing devices and other technologies;

1 (2) whether the [~~district or~~] school has the following
2 problems and whether those problems can be mitigated through the
3 use of wireless mobile computing devices and other technologies:

4 (A) documented teacher shortages in critical
5 areas;

6 (B) limited access to advanced placement
7 courses;

8 (C) low rates of satisfactory performance on
9 assessment instruments under Subchapter B, Chapter 39; and

10 (D) high dropout rates;

11 (3) the [~~district's or~~] school's readiness to
12 incorporate technology into its classrooms;

13 (4) the possibility of obtaining a trained technology
14 support staff and high-speed Internet services for the [~~district
15 or~~] school; and

16 (5) the methods the [~~district or~~] school will use to
17 measure the progress of the pilot project in the district or school
18 in accordance with Section 32.155(e).

19 SECTION 2E.43. Section 32.156, Education Code, as added by
20 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,
21 is amended to read as follows:

22 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

23 (a) The agency may develop and adopt strategies for making
24 instructional materials [~~textbooks~~] available through the portal
25 or through other means in an electronic format as an alternative or
26 supplement to traditional instructional materials [~~textbooks~~].

27 (b) In developing and adopting strategies under this

1 section, the agency shall seek to achieve a system under which a
2 student may, in addition to [~~a~~] traditional instructional materials
3 [~~textbook~~], be provided with secure Internet access to each
4 instructional material [~~textbook~~] used by the student.

5 SECTION 2E.44. Section 32.161(b), Education Code, is
6 amended to read as follows:

7 (b) To the extent possible considering other statutory
8 requirements, the commissioner and agency shall encourage the use
9 of instructional materials [~~textbook—funds~~] and technology
10 allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner
11 that facilitates the development and use of the portal.

12 SECTION 2E.45. Subchapter B, Chapter 39, Education Code, is
13 amended by adding Section 39.0232 to read as follows:

14 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
15 extent practicable and appropriate, the agency shall provide for
16 assessment instruments required under Section 39.023 to be designed
17 so that those assessment instruments can be computer-adaptive.

18 (b) To the extent practicable and appropriate, the agency
19 shall require school districts to administer to students the
20 computer-adaptive assessment instruments.

21 (c) The commissioner may adopt rules to implement this
22 section.

23 (d) As necessary to implement this section, the
24 commissioner by rule may delay the release of assessment instrument
25 questions and answer keys under Section 39.023(e).

26 (e) The agency shall implement this section not later than
27 May 1, 2007. This subsection expires September 1, 2007.

1 SECTION 2E.46. Subchapter B, Chapter 44, Education Code, is
2 amended by adding Section 44.046 to read as follows:

3 Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS.
4 Notwithstanding Section 44.031, a public school may purchase
5 instructional materials, as defined by Section 31.002, under a
6 blanket purchase order executed by the Department of Information
7 Resources under Section 31.026.

8 SECTION 2E.47. Sections 31.002(3), 31.021, 31.022, 31.023,
9 31.024, 31.025, 31.101, 31.103, and 31.1031, Education Code, and
10 Sections 32.154(a) and (c), Education Code, as added by Chapter
11 834, Acts of the 78th Legislature, Regular Session, 2003, are
12 repealed.

13 PART F. BILINGUAL EDUCATION AND SPECIAL
14 EDUCATION PROGRAMS

15 SECTION 2F.01. Subchapter B, Chapter 21, Education Code, is
16 amended by adding Sections 21.0485 and 21.0486 to read as follows:

17 Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER
18 CERTIFICATION. (a) To ensure that there are teachers with special
19 training to work with other teachers and with students in a dual
20 language education program, the board shall establish a dual
21 language education teaching certificate.

22 (b) The board shall adopt rules establishing the training
23 requirements, including the minimum academic qualifications, a
24 person must accomplish to obtain a certificate under this section.

25 (c) The board shall adopt rules establishing the
26 requirements for a teacher who receives training in a foreign
27 country to obtain a certificate under this section.

1 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

2 (a) To ensure that there are teachers with special training to
3 work with other teachers and with students in order to improve
4 student performance in English and other languages, the board shall
5 establish:

6 (1) a master language teacher certificate to teach
7 bilingual education, dual language instruction, or English as a
8 second language at elementary school grade levels;

9 (2) a master language teacher certificate to teach
10 bilingual education, dual language instruction, or English as a
11 second language at middle school grade levels; and

12 (3) a master language teacher certificate to teach
13 dual language instruction at high school grade levels.

14 (b) The board shall issue the appropriate master language
15 teacher certificate to each eligible person.

16 (c) To be eligible for a master language teacher
17 certificate, a person must:

18 (1) hold a teaching certificate issued under this
19 subchapter;

20 (2) have at least three years of experience teaching
21 bilingual education, dual language instruction, or English as a
22 second language;

23 (3) satisfactorily complete a knowledge-based course
24 of instruction on second language acquisition and the science of
25 teaching children language that includes training in language
26 instruction and professional peer mentoring techniques that,
27 through scientific testing, have been proven effective;

1 (4) perform satisfactorily on the appropriate master
2 language certification examination prescribed by the board; and
3 (5) satisfy any other requirements prescribed by the
4 board.

5 SECTION 2F.02. Section 21.050(b), Education Code, is
6 amended to read as follows:

7 (b) The board may not require more than 18 semester credit
8 hours of education courses at the baccalaureate level for the
9 granting of a teaching certificate. The board shall provide for a
10 minimum number of semester credit hours of internship to be
11 included in the hours needed for certification. The board may
12 propose rules requiring additional credit hours for certification
13 in bilingual education, dual language instruction, English as a
14 second language, early childhood education, or special education.

15 SECTION 2F.03. Section 21.054, Education Code, is amended
16 by adding Subsection (c) to read as follows:

17 (c) Rules adopted under Subsection (a) must permit an
18 educator to fulfill continuing education requirements by acquiring
19 conversational skills in one or more languages other than English
20 and academic language development in the subject area for which the
21 educator provides instruction. The rules must permit educators to
22 obtain language instruction through a variety of methods, including
23 attendance at workshops offered by qualified entities and
24 enrollment on a noncredit basis in courses offered by public or
25 private colleges and universities.

26 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is
27 amended by adding Section 21.060 to read as follows:

1 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.

2 On issuing an educator certificate to an educational aide or
3 renewing such a certificate, the board shall notify the person to
4 whom the certificate is issued of the existence of the educational
5 aide exemption under Section 54.214.

6 SECTION 2F.05. Section 28.0051, Education Code, is amended
7 by adding Subsection (d) to read as follows:

8 (d) The board shall provide for the issuance of teaching
9 certificates appropriate for dual language instruction to teachers
10 who:

11 (1) possess a speaking, reading, and writing language
12 ability in a language other than English in which a dual language
13 immersion program is offered; and

14 (2) meet the general requirements of Subchapter B,
15 Chapter 21.

16 SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is
17 amended by adding Section 28.0052 to read as follows:

18 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)
19 The commissioner shall establish a pilot project in school
20 districts selected by the commissioner under which the agency
21 examines dual language education programs and the effect of those
22 programs on a student's ability to graduate from high school.

23 (b) In selecting school districts under Subsection (a), the
24 commissioner shall:

25 (1) select districts that:
26 (A) will commit to at least a three-year dual
27 language education program; and

1 (B) demonstrate a substantially equal enrollment
2 of students with limited English proficiency and students whose
3 primary language is English or, if a district does not have a
4 sufficient number of limited English proficiency students to meet
5 the equal enrollment standard, include the enrollment of students
6 with limited English proficiency, students whose primary language
7 is English, and bilingual students; and

8 (2) give preference to a district that:

9 (A) demonstrates the potential for expanding the
10 program through middle school; and

11 (B) will implement the program at the
12 kindergarten level.

13 (c) The commissioner by rule shall require a district to
14 limit activities of the dual language education program during the
15 first year of the program to planning activities, including:

16 (1) hiring and training teachers and ensuring teacher
17 certification;

18 (2) establishing parental and community support for
19 the program; and

20 (3) acquiring adequate learning materials in both
21 program languages.

22 (d) From amounts appropriated to the agency, the
23 commissioner shall award grants to school districts that
24 participate in the program. A grant under this section must be in
25 an amount sufficient to pay the costs to the district of
26 participating in the program, as determined by the commissioner. A
27 determination of the commissioner under this subsection is final

1 and may not be appealed.

2 (e) A school district that applies for the expansion of an
3 existing dual language education program is eligible for a grant
4 under Subsection (d).

5 (f) A school district may use a grant awarded under
6 Subsection (d) for:

7 (1) classroom materials;

8 (2) tuition and textbook expenses for students seeking
9 teacher certification under Section 21.0485; and

10 (3) other necessary costs of operating the program, as
11 approved by the commissioner.

12 (f-1) During the 2005-2006 school year, the commissioner
13 may award grants to school districts under this section only for the
14 purpose of planning activities described by Subsection (c) in an
15 amount not to exceed two percent of the total amount required to
16 fully implement the pilot program for the 2006-2007 school year.
17 This subsection expires September 1, 2007.

18 (g) Grants under this section may not exceed \$13 million for
19 each biennium.

20 (h) The agency shall report to the legislature describing
21 the agency's activities under the pilot project, the effect of the
22 project on grade-level completion, and the recommendations arising
23 from the project. The agency shall submit an interim report under
24 this subsection not later than January 1, 2009, and a final report
25 not later than January 1, 2011.

26 (i) This section expires August 1, 2011.

27 SECTION 2F.07. Section 29.056, Education Code, is amended

1 by amending Subsections (a), (d), and (g) and adding Subsections
2 (g-1) and (i) to read as follows:

3 (a) The agency shall establish standardized criteria for
4 the identification, assessment, and classification of students of
5 limited English proficiency eligible for entry into the program or
6 exit from the program. Except as provided by this subsection, the
7 [The] student's parent must approve a student's entry into the
8 program, exit from the program, or placement in the program. A
9 school district shall provide notice to the student's parent that
10 the district intends to transfer the student from the program. If
11 the student's parent fails to respond to the notice on or before the
12 30th day after the date the notice is provided, the district may
13 transfer the student from the program without the student's
14 parent's approval. The district must inform the student's parent of
15 the student's transfer from the program. The school district or
16 parent may appeal the decision under Section 29.064. The criteria
17 for identification, assessment, and classification may include:

18 (1) results of a home language survey conducted within
19 four weeks of each student's enrollment to determine the language
20 normally used in the home and the language normally used by the
21 student, conducted in English and the home language, signed by the
22 student's parents if the student is in kindergarten through grade 8
23 or by the student if the student is in grades 9 through 12, and kept
24 in the student's permanent folder by the language proficiency
25 assessment committee;

26 (2) the results of an agency-approved English language
27 proficiency test administered to all students identified through

1 the home survey as normally speaking a language other than English
2 to determine the level of English language proficiency, with
3 students in kindergarten or grade 1 being administered an oral
4 English proficiency test and students in grades 2 through 12 being
5 administered an oral English proficiency test and, if the oral
6 English proficiency test demonstrates proficiency, a written
7 English proficiency test; and

8 (3) the results of an agency-approved proficiency test
9 in the primary language administered to all students identified
10 under Subdivision (2) as being of limited English proficiency to
11 determine the level of primary language proficiency, with students
12 in kindergarten or grade 1 being administered an oral primary
13 language proficiency test and students in grades 2 through 12 being
14 administered an oral and written primary language proficiency test.

15 (d) Not later than the 20th [~~10th~~] day after the date of the
16 student's classification as a student of limited English
17 proficiency, the language proficiency assessment committee shall
18 give written notice of the classification to the student's parent.
19 The notice must be in English and the parent's primary language.
20 The parents of students eligible to participate in the required
21 bilingual education program shall be informed of the benefits of
22 the bilingual education or special language program and that it is
23 an integral part of the school program.

24 (g) A district may transfer a student of limited English
25 proficiency out of a bilingual education or special language
26 program for the first time or a subsequent time if the student is
27 able to participate equally in a regular all-English instructional

1 program as determined by:

2 (1) agency-approved tests administered at the end of
3 each school year to determine the extent to which the student has
4 developed oral and written language proficiency and specific
5 language skills in [~~both the student's primary language and~~
6 English;

7 (2) satisfactory performance on the reading
8 assessment instrument under Section 39.023(a) or the English I or
9 II assessment instrument under Section 39.023(c), as applicable,
10 with the assessment instrument administered in English, or, if the
11 student is enrolled in the first or second grade, an achievement
12 score at or above the 40th percentile in the reading and language
13 arts sections of an English standardized test approved by the
14 agency; and

15 (3) agency-approved [~~other indications of a student's~~
16 ~~overall progress, including~~] criterion-referenced tests and the
17 results of a [~~test scores,~~] subjective teacher evaluation[~~, and~~
18 ~~parental evaluation~~].

19 (g-1) A school district may transfer a student of limited
20 English proficiency who is eligible for special education services
21 under Subchapter A out of a bilingual education or special language
22 program and into a special education program if the language
23 proficiency assessment committee and the student's admission,
24 review, and dismissal committee agree that the student has a
25 learning disability and would be better served in a special
26 education program. The student's admission, review, and dismissal
27 committee must document that the student has a learning disability

1 that cannot be addressed effectively in a bilingual education or
2 special language program and that the student's learning disability
3 is not due to the student's limited English proficiency. The
4 commissioner by rule shall adopt criteria for a school district to
5 use in transferring a student under this subsection.

6 (i) On approval of the student's parent, a school district
7 may allow a student of limited English proficiency who meets the
8 criteria for being transferred out of a bilingual education or
9 special language program to continue participating in the program.

10 SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is
11 amended by adding Section 29.0561 to read as follows:

12 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;
13 REENROLLMENT. (a) The language proficiency assessment committee
14 shall reevaluate a student who is transferred out of a bilingual
15 education or special language program under Section 29.056(g) if
16 the student earns a failing grade in a subject in the foundation
17 curriculum under Section 28.002(a)(1) during any grading period in
18 the first two school years after the student is transferred to
19 determine whether the student should be reenrolled in a bilingual
20 education or special language program.

21 (b) During the first two school years after a student is
22 transferred out of a bilingual education or special language
23 program under Section 29.056(g), the language proficiency
24 assessment committee shall review the student's performance and
25 consider:

26 (1) the total amount of time the student was enrolled
27 in a bilingual education or special language program;

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

3 (3) the student's performance on each assessment
4 instrument administered under Section 39.023(a) or (c);

5 (4) the number of credits the student has earned
6 toward high school graduation, if applicable; and

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

9 (c) After an evaluation under this section, the language
10 proficiency assessment committee may require intensive instruction
11 for the student or reenroll the student in a bilingual education or
12 special language program.

13 SECTION 2F.09. Subchapter B, Chapter 29, Education Code, is
14 amended by adding Section 29.065 to read as follows:

15 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
16 PROFICIENCY. The commissioner by rule shall develop a longitudinal
17 measure of progress toward English language proficiency under which
18 a student of limited English proficiency is evaluated from the time
19 the student enters public school until, for two consecutive school
20 years, the student scores at a specific level determined by the
21 commissioner on the reading assessment instrument under Section
22 39.023(a) or the English I or II assessment instrument under
23 Section 39.023(c), as applicable. The commissioner shall:

24 (1) as part of the measure of progress, include
25 student advancement from one proficiency level to a higher level
26 under the reading proficiency in English assessment system
27 developed under Section 39.027(e) and from the highest level under

1 that assessment system to the level determined by the commissioner
2 under this section on the reading assessment instrument under
3 Section 39.023(a) or the English I or II assessment instrument
4 under Section 39.023(c), as applicable; and

5 (2) to the extent practicable in developing the
6 measure of progress, use applicable research and analysis done in
7 developing an annual measurable achievement objective as required
8 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
9 6842).

10 SECTION 2F.10. Not later than January 1, 2006, the
11 Educators' Professional Practices Board shall adopt rules:

12 (1) establishing requirements and prescribing an
13 examination for master language teacher certification as required
14 by Section 21.0486, Education Code, as added by this Act;

15 (2) establishing requirements and prescribing an
16 examination for dual language instruction teacher certification as
17 required by Section 21.050(b), Education Code, as amended by this
18 Act, and Section 28.0051(d), Education Code, as added by this Act;
19 and

20 (3) permitting an educator to fulfill continuing
21 education requirements by acquiring conversational skill in a
22 language other than English, as required by Section 21.054(c),
23 Education Code, as added by this Act.

24 PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

25 SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is
26 amended by adding Section 29.124 to read as follows:

27 Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this

1 section, "public senior college or university" has the meaning
2 assigned by Section 61.003.

3 (b) A Texas governor's school is a summer residential
4 program for high-achieving high school students. A governor's
5 school program may include any or all of the following educational
6 curricula:

7 (1) mathematics and science;

8 (2) humanities; or

9 (3) leadership and public policy.

10 (c) A public senior college or university may apply to the
11 commissioner to administer a Texas governor's school program under
12 this section. The commissioner shall give preference to a public
13 senior college or university that applies in cooperation with a
14 nonprofit association. The commissioner shall give additional
15 preference if the nonprofit association receives private
16 foundation funds that may be used to finance the program.

17 (d) The commissioner may approve an application under this
18 section only if the applicant:

19 (1) applies within the period and in the manner
20 required by rule adopted by the commissioner;

21 (2) submits a program proposal that includes:

22 (A) a curriculum consistent with Subsection (b);

23 (B) criteria for selecting students to
24 participate in the program;

25 (C) a statement of the length of the program,
26 which must be at least three weeks; and

27 (D) a statement of the location of the program;

1 (3) agrees to use a grant under this section only for
2 the purpose of administering a program; and

3 (4) satisfies any other requirements established by
4 rule adopted by the commissioner.

5 (e) From funds appropriated for the purpose, the
6 commissioner may make a grant in an amount not to exceed \$750,000
7 each year to public senior colleges or universities whose
8 applications are approved under this section to pay the costs of
9 administering a Texas governor's school program.

10 (f) The commissioner may adopt other rules necessary to
11 implement this section.

12 SECTION 2G.02. Section 39.051, Education Code, is amended
13 by adding Subsection (b-1) to read as follows:

14 (b-1) In addition to the indicators adopted under
15 Subsection (b), the commissioner shall adopt the following
16 indicators relating to high academic achievement to be considered
17 in assigning a district an exemplary performance rating under
18 Section 39.072:

19 (1) the percentage of students, disaggregated by race,
20 ethnicity, gender, and socioeconomic status, who are enrolled in an
21 educational program for gifted and talented students;

22 (2) student results on advanced placement and
23 international baccalaureate examinations, including the percentage
24 of students scoring three or higher on the advanced placement
25 examinations and the percentage of students scoring four or higher
26 on the international baccalaureate examinations;

27 (3) student results on the Scholastic Assessment Test

1 (SAT) and the American College Test (ACT);

2 (4) the percentage of students scoring in the top five
3 percent on nationally recognized norm-referenced assessment
4 instruments;

5 (5) the percentage of high school students enrolled in
6 an advanced course;

7 (6) the percentage of students achieving commended
8 performance, as determined by the State Board of Education, on an
9 assessment instrument required under Section 39.023(a), (c), or
10 (1);

11 (7) the percentage of students completing the
12 recommended or advanced high school program established under
13 Section 28.025; and

14 (8) the percentage of the district's graduating
15 students who enroll in an institution of higher education for the
16 academic year following graduation.

17 SECTION 2G.03. Section 39.053(a), Education Code, is
18 amended to read as follows:

19 (a) Each board of trustees shall publish an annual report
20 describing the educational performance of the district and of each
21 campus in the district that includes uniform student performance
22 and descriptive information as determined under rules adopted by
23 the commissioner. The annual report must also include:

24 (1) campus performance objectives established under
25 Section 11.253 and the progress of each campus toward those
26 objectives, which shall be available to the public;

27 (2) the performance rating for the district as

1 provided under Section 39.072(a) and the performance rating of each
2 campus in the district as provided under Section 39.072(c);

3 (3) the district's current special education
4 compliance status with the agency;

5 (4) a statement of the number, rate, and type of
6 violent or criminal incidents that occurred on each district
7 campus, to the extent permitted under the Family Educational Rights
8 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

9 (5) information concerning school violence prevention
10 and violence intervention policies and procedures that the district
11 is using to protect students; ~~and~~

12 (6) the findings that result from evaluations
13 conducted under the Safe and Drug-Free Schools and Communities Act
14 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
15 amendments; ~~and~~

16 (7) information received under Section 51.403(e) for
17 each high school campus in the district, presented in a form
18 determined by the commissioner; and

19 (8) information relating to high academic achievement
20 in the district, as determined by the district's performance on the
21 indicators under Section 39.051(b-1).

22 SECTION 2G.04. (a) Not later than the 2006-2007 school
23 year, the Texas Education Agency shall collect information
24 concerning high academic achievement for purposes of Section
25 39.051(b-1), Education Code, as added by this Act.

26 (b) Not later than the 2007-2008 school year, the Texas
27 Education Agency shall include information concerning high

1 academic achievement for purposes of Section 39.051(b-1),
2 Education Code, as added by this Act, in evaluating the performance
3 of school districts, campuses, and public charter districts under
4 Subchapter D, Chapter 39, Education Code.

5 (c) Not later than the 2007-2008 school year, the Texas
6 Education Agency shall include the information required by Section
7 39.182(a)(23), Education Code, as amended by this Act, in the
8 agency's comprehensive annual report under Section 39.182,
9 Education Code.

10 PART H. PREKINDERGARTEN PROGRAMS

11 SECTION 2H.01. Section 29.1532, Education Code, is amended
12 by amending Subsection (b) and adding Subsections (d), (e), (f),
13 and (g) to read as follows:

14 (b) A [If a] school [district contracts with a private
15 entity for the operation of the] district's prekindergarten
16 program, including a program operated by a private entity
17 contracting with the district, [the program] must at a minimum
18 comply with the applicable child-care licensing standards adopted
19 by the Department of Family and Protective [and Regulatory]
20 Services under Section 42.042, Human Resources Code. The State
21 Board of Education shall adopt rules designed to ensure the school
22 district's compliance with the standards.

23 (d) Before a school district may implement a
24 prekindergarten program, the district shall:

25 (1) investigate the possibility of sharing program
26 sites with existing child-care programs licensed by the Department
27 of Family and Protective Services and existing federal Head Start

1 programs; and

2 (2) coordinate use of any sites to the greatest extent
3 possible.

4 (e) A school district shall implement to the greatest extent
5 possible coordinated use of licensed child-care and Head Start
6 sites with existing prekindergarten programs.

7 (f) The commissioner may adopt rules relating to the
8 operation of prekindergarten and early childhood care and education
9 programs that receive prekindergarten expansion grant program
10 funds to foster school readiness in children enrolled in those
11 programs.

12 (g) All of the entities that choose to share or coordinate
13 concerning use of a particular program site under this section
14 shall enter into a joint memorandum of understanding. The
15 memorandum of understanding must include the same or similar
16 provisions required by Section 29.160(c-1).

17 PART I. SCHOOL DISCIPLINE

18 SECTION 2I.01. Chapter 26, Education Code, is amended by
19 adding Section 26.0083 to read as follows:

20 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY
21 ACTION. (a) A parent is entitled to notice from a school district
22 or public charter district as provided by this section if the
23 parent's child is removed from class under Section 37.006 for
24 placement in a disciplinary alternative education program or under
25 Section 37.007 for expulsion or placement in a juvenile justice
26 alternative education program. A school district or public charter
27 district shall make a good faith effort to provide the notice

1 required by this subsection on the same day the parent's child is
2 removed from class. If the district fails to provide the notice on
3 that day, the district shall provide or mail the notice not later
4 than 5 p.m. on the first business day after the day the student is
5 removed from class.

6 (b) A noncustodial parent who has requested notice of
7 disciplinary actions as provided by Section 37.0091 is entitled to
8 notice under Subsection (a).

9 SECTION 2I.02. Section 37.001(a), Education Code, as
10 amended by H.B. No. 283 and H.B. No. 603, Acts of the 79th
11 Legislature, Regular Session, 2005, is amended to read as follows:

12 (a) The board of trustees of an independent school district
13 shall, with the advice of its district-level committee established
14 under Subchapter F, Chapter 11, adopt a student code of conduct for
15 the district. The student code of conduct must be posted and
16 prominently displayed at each school campus or made available for
17 review at the office of the campus principal. In addition to
18 establishing standards for student conduct, the student code of
19 conduct must:

20 (1) specify the circumstances, in accordance with this
21 subchapter, under which a student may be removed from a classroom,
22 campus, or disciplinary alternative education program;

23 (2) specify conditions that authorize or require a
24 principal or other appropriate administrator to transfer a student
25 to a disciplinary alternative education program;

26 (3) outline conditions under which a student may be
27 suspended as provided by Section 37.005 or expelled as provided by

1 Section 37.007;

2 (4) specify whether consideration is given, as a
3 factor in a decision to order suspension, removal to a disciplinary
4 alternative education program, or expulsion, to:

5 (A) self-defense;

6 (B) intent or lack of intent at the time the
7 student engaged in the conduct;

8 (C) a student's disciplinary history; or

9 (D) a disability that substantially impairs the
10 student's capacity to appreciate the wrongfulness of the student's
11 conduct;

12 (5) provide guidelines for setting the length of a
13 term of:

14 (A) a removal under Section 37.006; and

15 (B) an expulsion under Section 37.007;

16 (6) address the notification of a student's parent or
17 guardian of a violation of the student code of conduct committed by
18 the student that results in suspension, removal to a disciplinary
19 alternative education program, or expulsion;

20 (7) prohibit bullying, harassment, and making hit
21 lists and ensure that district employees enforce those
22 prohibitions; ~~and~~

23 (8) provide, as appropriate for students at each grade
24 level, methods, including options, for:

25 (A) managing students in the classroom and on
26 school grounds;

27 (B) disciplining students; and

1 (C) preventing and intervening in student
2 discipline problems, including bullying, harassment, and making
3 hit lists; and

4 (9) provide guidelines under which:

5 (A) a student who unknowingly brings to school a
6 prohibited item, including an item described by Section
7 37.007(a)(1) or (b)(2), may avoid disciplinary action by turning
8 over the item to a school official; and

9 (B) the school official provides written notice
10 of the incident to the student's parent.

11 SECTION 21.03. Section 37.007(a), Education Code, is
12 amended to read as follows:

13 (a) A student shall be expelled from a school if the
14 student, on school property or while attending a school-sponsored
15 or school-related activity on or off of school property:

16 (1) uses, exhibits, or knowingly possesses:

17 (A) a firearm as defined by Section 46.01(3),
18 Penal Code;

19 (B) an illegal knife as defined by Section
20 46.01(6), Penal Code, or by local policy;

21 (C) a club as defined by Section 46.01(1), Penal
22 Code; or

23 (D) a weapon listed as a prohibited weapon under
24 Section 46.05, Penal Code;

25 (2) engages in conduct that contains the elements of
26 the offense of:

27 (A) aggravated assault under Section 22.02,

1 Penal Code, sexual assault under Section 22.011, Penal Code, or
2 aggravated sexual assault under Section 22.021, Penal Code;

3 (B) arson under Section 28.02, Penal Code;

4 (C) murder under Section 19.02, Penal Code,
5 capital murder under Section 19.03, Penal Code, or criminal
6 attempt, under Section 15.01, Penal Code, to commit murder or
7 capital murder;

8 (D) indecency with a child under Section 21.11,
9 Penal Code;

10 (E) aggravated kidnapping under Section 20.04,
11 Penal Code;

12 (F) aggravated robbery under Section 29.03,
13 Penal Code;

14 (G) manslaughter under Section 19.04, Penal
15 Code; or

16 (H) criminally negligent homicide under Section
17 19.05, Penal Code; or

18 (3) engages in conduct specified by Section
19 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

20 SECTION 21.04. Section 37.007(b), Education Code, as
21 amended by H.B. No. 2018, Acts of the 79th Legislature, Regular
22 Session, 2005, is amended to read as follows:

23 (b) A student may be expelled if the student:

24 (1) engages in conduct involving a public school that
25 contains the elements of the offense of false alarm or report under
26 Section 42.06, Penal Code, or terroristic threat under Section
27 22.07, Penal Code;

1 (2) while on or within 300 feet of school property, as
2 measured from any point on the school's real property boundary
3 line, or while attending a school-sponsored or school-related
4 activity on or off of school property:

5 (A) sells, gives, or delivers to another person
6 or knowingly possesses, uses, or is under the influence of any
7 amount of:

8 (i) marihuana or a controlled substance, as
9 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
10 Section 801 et seq.;

11 (ii) a dangerous drug, as defined by
12 Chapter 483, Health and Safety Code; or

13 (iii) an alcoholic beverage, as defined by
14 Section 1.04, Alcoholic Beverage Code;

15 (B) engages in conduct that contains the elements
16 of an offense relating to an abusable volatile chemical under
17 Sections 485.031 through 485.034, Health and Safety Code;

18 (C) engages in conduct that contains the elements
19 of an offense under Section 22.01(a)(1), Penal Code, against a
20 school district employee or a volunteer as defined by Section
21 22.053; or

22 (D) engages in conduct that contains the elements
23 of the offense of deadly conduct under Section 22.05, Penal Code;

24 (3) subject to Subsection (d), while within 300 feet
25 of school property, as measured from any point on the school's real
26 property boundary line:

27 (A) engages in conduct specified by Subsection

1 (a); or

2 (B) possesses a firearm, as defined by 18 U.S.C.
3 Section 921; or

4 (4) engages in conduct that contains the elements of
5 any offense listed in Subsection (a)(2)(A) or (C) or the offense of
6 aggravated robbery under Section 29.03, Penal Code, against another
7 student, without regard to whether the conduct occurs on or off of
8 school property or while attending a school-sponsored or
9 school-related activity on or off of school property.

10 SECTION 2I.05. Section 37.004, Education Code, is amended
11 by adding Subsections (e) and (f) to read as follows:

12 (e) Notwithstanding any other provision of this subchapter,
13 in a county with a juvenile justice alternative education program
14 established under Section 37.011, the expulsion under a provision
15 of Section 37.007 described by this subsection of a student with a
16 disability who receives special education services must occur in
17 accordance with this subsection and Subsection (f). The school
18 district from which the student was expelled shall, in accordance
19 with applicable federal law, provide the administrator of the
20 juvenile justice alternative education program or the
21 administrator's designee with reasonable notice of the meeting of
22 the student's admission, review, and dismissal committee to discuss
23 the student's expulsion. A representative of the juvenile justice
24 alternative education program may participate in the meeting to the
25 extent that the meeting relates to the student's placement in the
26 program. This subsection applies only to an expulsion under:

27 (1) Section 37.007(b), (c), or (f); or

1 (2) Section 37.007(d) as a result of conduct that
2 contains the elements of any offense listed in Section 37.007(b)(3)
3 against any employee or volunteer in retaliation for or as a result
4 of the person's employment or association with a school district.

5 (f) If, after placement of a student in a juvenile justice
6 alternative education program under Subsection (e), the
7 administrator of the program or the administrator's designee has
8 concerns that the student's educational or behavioral needs cannot
9 be met in the program, the administrator or designee shall
10 immediately provide written notice of those concerns to the school
11 district from which the student was expelled. The student's
12 admission, review, and dismissal committee shall meet to reconsider
13 the placement of the student in the program. The district shall, in
14 accordance with applicable federal law, provide the administrator
15 or designee with reasonable notice of the meeting, and a
16 representative of the program may participate in the meeting to the
17 extent that the meeting relates to the student's continued
18 placement in the program.

19 SECTION 2I.06. Section 37.008, Education Code, is amended
20 by amending Subsections (m) and (m-1) and adding Subsection (n) to
21 read as follows:

22 (m) Notwithstanding Section 7.028, the [The] commissioner
23 shall adopt rules necessary to evaluate through an annual
24 monitoring process [annually] the performance of each district's
25 disciplinary alternative education program established under this
26 subchapter. The monitoring process [evaluation] required by this
27 section may be electronic and shall be based on indicators defined

1 by the commissioner, but must include student performance on
 2 assessment instruments required under Section [~~Sections~~] 39.023(a)
 3 and at least one indicator that measures student academic progress
 4 [~~and (c)~~]. Academically, the mission of disciplinary alternative
 5 education programs shall be to enable students to perform at grade
 6 level.

7 (m-1) The agency shall integrate the monitoring process
 8 developed under Subsection (m) with the monitoring the agency is
 9 authorized to conduct under Section 7.028(a). The commissioner may
 10 require [~~shall develop a process for evaluating~~] a school district
 11 to contract at the district's expense in the manner provided by
 12 Section 39.134 with a public or private service provider for
 13 services determined by the commissioner to be necessary to:

14 (1) improve student performance;

15 (2) improve disciplinary alternative education
 16 program effectiveness; and

17 (3) [~~electronically. The commissioner shall also~~
 18 ~~develop a system and standards for review of the evaluation or use~~
 19 ~~systems already available at the agency. The system must be~~
 20 ~~designed to identify districts that are at high risk of having~~
 21 ~~inaccurate disciplinary alternative education program data or of~~
 22 ~~failing to~~] comply with disciplinary alternative education program
 23 state and federal requirements.

24 (n) [~~The commissioner shall notify the board of trustees of~~
 25 ~~a district of any objection the commissioner has to the district's~~
 26 ~~disciplinary alternative education program data or of a violation~~
 27 ~~of a law or rule revealed by the data, including any violation of~~

1 ~~disciplinary alternative education program requirements, or of any~~
2 ~~recommendation by the commissioner concerning the data. If the~~
3 ~~data reflect that a penal law has been violated, the commissioner~~
4 ~~shall notify the county attorney, district attorney, or criminal~~
5 ~~district attorney, as appropriate, and the attorney general.]~~ The
6 commissioner is entitled to access to all district records the
7 commissioner considers necessary or appropriate for the review,
8 analysis, or approval of disciplinary alternative education
9 program data.

10 SECTION 2I.07. Sections 37.020(b) and (c), Education Code,
11 are amended to read as follows:

12 (b) For each placement in a disciplinary alternative
13 education program established under Section 37.008, the district
14 shall report:

15 (1) information identifying the student, including
16 the student's race, sex, and date of birth, that will enable the
17 agency to compare placement data with information collected through
18 other reports;

19 (2) information indicating whether the student was
20 enrolled in a special education program under Subchapter A, Chapter
21 29, at the time of the placement;

22 (3) information indicating whether the placement was
23 based on:

24 (A) conduct violating the student code of conduct
25 adopted under Section 37.001;

26 (B) conduct for which a student may be removed
27 from class under Section 37.002(b);

1 (C) conduct for which placement in a disciplinary
2 alternative education program is required by Section 37.006; or

3 (D) conduct occurring while a student was
4 enrolled in another district and for which placement in a
5 disciplinary alternative education program is permitted by Section
6 37.008(j);

7 (4) [~~(3)~~] the number of full or partial days the
8 student was assigned to the program and the number of full or
9 partial days the student attended the program; and

10 (5) [~~(4)~~] the number of placements that were
11 inconsistent with the guidelines included in the student code of
12 conduct under Section 37.001(a)(5).

13 (c) For each expulsion under Section 37.007, the district
14 shall report:

15 (1) information identifying the student, including
16 the student's race, sex, and date of birth, that will enable the
17 agency to compare placement data with information collected through
18 other reports;

19 (2) information indicating whether the student was
20 enrolled in a special education program under Subchapter A, Chapter
21 29, at the time of the expulsion;

22 (3) information indicating whether the expulsion was
23 based on:

24 (A) conduct for which expulsion is required under
25 Section 37.007, including information specifically indicating
26 whether a student was expelled on the basis of Section 37.007(e); or

27 (B) conduct for which expulsion is permitted

1 under Section 37.007;

2 (4) [~~(3)~~] the number of full or partial days the
3 student was expelled;

4 (5) [~~(4)~~] information indicating whether:

5 (A) the student was placed in a juvenile justice
6 alternative education program under Section 37.011;

7 (B) the student was placed in a disciplinary
8 alternative education program; or

9 (C) the student was not placed in a juvenile
10 justice or other disciplinary alternative education program; and

11 (6) [~~(5)~~] the number of expulsions that were
12 inconsistent with the guidelines included in the student code of
13 conduct under Section 37.001(a)(5).

14 SECTION 2I.08. Subchapter A, Chapter 37, Education Code, is
15 amended by adding Section 37.023 to read as follows:

16 Sec. 37.023. LIMITATION ON REFERRAL TO LAW ENFORCEMENT
17 OFFICIAL FOR VIOLATION OF STUDENT CODE OF CONDUCT. A school
18 administrator may not refer a student to a law enforcement official
19 on the basis of conduct by the student that violates the student
20 code of conduct but that the administrator knows or has reason to
21 know is not a criminal offense.

22 SECTION 2I.09. A school district's prekindergarten program
23 established before September 1, 2005, is not required to comply
24 with the applicable child-care standards adopted by the Department
25 of Family and Protective Services, as required by Section
26 29.1532(b), Education Code, as amended by this Act, until September
27 1, 2008.

1 SECTION 2I.10. Section 37.004(g), Education Code, is
2 repealed.

3 PART J. CRIMINAL HISTORY RECORDS INFORMATION

4 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is
5 amended by adding Section 21.0401 to read as follows:

6 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
7 board shall obtain a complete set of fingerprints from:

8 (1) each applicant for a certificate issued under this
9 subchapter;

10 (2) each applicant for or holder of a teaching permit
11 issued under this subchapter; and

12 (3) each person described by Section 11A.153 or
13 Section 21.0032 for whom the board has received information from a
14 public charter district.

15 SECTION 2J.02. Section 21.041(c), Education Code, is
16 amended to read as follows:

17 (c) The board shall propose a rule adopting a fee for:

18 (1) the issuance and maintenance of each [an] educator
19 certificate that is adequate to cover the cost of administration of
20 this subchapter, including costs related to the operation of the
21 board and any amount necessary to cover the cost of obtaining
22 fingerprints under Section 21.0401 or conducting a national
23 criminal background review and investigation under Sections
24 21.0032 and 22.082; and

25 (2) the cost of obtaining fingerprints from or
26 conducting a national criminal background review of a holder of a
27 teaching permit issued under this subchapter.

1 SECTION 2J.03. Section 22.082, Education Code, is amended
2 to read as follows:

3 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
4 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The
5 agency [~~State Board for Educator Certification~~] shall obtain from
6 any law enforcement or criminal justice agency all state and
7 national criminal history record information that relates to:

8 (1) an applicant for or holder of a certificate or
9 permit issued under Subchapter B, Chapter 21; or

10 (2) a person described by Section 11A.153 or 21.0032.

11 (b) The Educators' Professional Practices Board may obtain
12 from any law enforcement or criminal justice agency all criminal
13 history record information that relates to a holder of a
14 certificate issued under Subchapter B, Chapter 21.

15 (c) The agency shall require each applicant, holder, and
16 person described by Subsection (a)(2) to pay any costs to the agency
17 related to obtaining criminal history record information related to
18 the person under this section.

19 SECTION 2J.04. Section 22.083(d), Education Code, is
20 amended to read as follows:

21 (d) The superintendent of a district or the director of a
22 public charter district [~~an open-enrollment charter school~~],
23 private school, regional education service center, or shared
24 services arrangement shall promptly notify the Educators'
25 Professional Practices [~~State~~] Board [~~for Educator Certification~~]
26 in writing if the person obtains or has knowledge of information
27 showing that an applicant for or holder of a certificate issued

1 under Subchapter B, Chapter 21, has a reported criminal history.

2 SECTION 2J.05. Sections 22.085 and 22.086, Education Code,
3 are amended to read as follows:

4 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.

5 A school district, public charter district [~~open-enrollment~~
6 ~~charter school~~], private school, regional education service
7 center, or shared services arrangement may discharge an employee if
8 the district or school obtains information of the employee's
9 conviction of a felony or of a misdemeanor involving moral
10 turpitude that the employee did not disclose to the agency or the
11 Educators' Professional Practices Board [~~State Board for Educator~~
12 ~~Certification~~] or the district, school, service center, or shared
13 services arrangement. An employee discharged under this section is
14 considered to have been discharged for misconduct for purposes of
15 Section 207.044, Labor Code.

16 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,
17 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
18 ~~Certification~~], a school district, a public charter district [~~an~~
19 ~~open-enrollment charter school~~], a private school, a regional
20 education service center, a shared services arrangement, or an
21 employee of the agency, board, district, school, service center, or
22 shared services arrangement is not civilly or criminally liable for
23 making a report required under this subchapter.

24 SECTION 2J.06. Section 411.090, Government Code, is amended
25 to read as follows:

26 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
27 AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR~~

1 ~~EDUCATOR CERTIFICATION~~]. (a) The Texas Education Agency [~~State~~
2 ~~Board for Educator Certification~~] is entitled to obtain from the
3 department any criminal history record information maintained by
4 the department about:

5 (1) a person who has applied or expressed to the
6 commissioner an intention to apply [~~board~~] for a certificate or
7 permit or holds a certificate or permit under Subchapter B, Chapter
8 21, Education Code; or

9 (2) a person described by Section 11A.153 or 21.0032,
10 Education Code.

11 (b) Criminal history record information obtained by the
12 agency [~~board~~] under Subsection (a):

13 (1) may be used for any purpose related to the issuance
14 or [~~7~~] denial [~~7, suspension, or cancellation~~] of a certificate issued
15 under Subchapter B, Chapter 21, Education Code, or for any purpose
16 authorized by Section 11A.153 or 21.0032, Education Code [~~by the~~
17 ~~board~~];

18 (2) may be provided to the Educators' Professional
19 Practices Board to be used for any purpose related to the suspension
20 or revocation of a certificate issued under Subchapter B, Chapter
21 21, Education Code;

22 (3) may not be released to any other person except on
23 court order or with the consent of the subject of the criminal
24 history record information [~~applicant for a certificate~~]; and

25 (4) [~~3~~] shall be destroyed by the agency [~~board~~]
26 after the information is used for the authorized purposes.

27 (c) The Texas Education Agency may keep on file with the

1 department all fingerprints obtained by the agency under Section
2 21.0401, Education Code. The department shall notify the agency of
3 the arrest of any person who has fingerprints on file with the
4 department pursuant to that section.

5 (d) On receipt of notice from the department of an arrest of
6 a person described by Section 11A.153 or 21.0032, Education Code,
7 the Texas Education Agency shall notify the public charter district
8 affected.

9 PART K. HEALTH AND SAFETY

10 SECTION 2K.01. The heading to Section 34.008, Education
11 Code, is amended to read as follows:

12 Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, ~~[OR]~~
13 COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

14 SECTION 2K.02. Section 34.008(a), Education Code, is
15 amended to read as follows:

16 (a) A board of county school trustees or school district
17 board of trustees may contract with a mass transit authority, ~~[or]~~
18 commercial transportation company, or a juvenile board for all or
19 any part of a district's public school transportation if the
20 authority, ~~[or]~~ company, or board:

21 (1) requires its school bus drivers to have the
22 qualifications required by and to be certified in accordance with
23 standards established by the Department of Public Safety; and

24 (2) uses only those school buses or mass transit
25 authority buses in transporting 15 or more public school students
26 that meet or exceed safety standards for school buses established
27 under Section 34.002, Education Code.

1 SECTION 2K.03. Chapter 34, Education Code, is amended by
2 adding Section 34.012 to read as follows:

3 Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person
4 may offer to donate safety or lap belts or money for the purchase of
5 safety or lap belts for a school district's school buses.

6 (b) The board of trustees of a school district shall
7 consider any offer made by a person under Subsection (a). The board
8 of trustees may accept or decline the offer after adequate
9 consideration.

10 (c) The board of trustees may acknowledge a person who
11 donates safety or lap belts or money for the purchase of safety or
12 lap belts for a school bus under this section by displaying a small,
13 discreet sign on the side or back of the bus recognizing the person
14 who made the donation. The sign may not serve as an advertisement
15 for the person who made the donation.

16 SECTION 2K.04. Chapter 34, Education Code, is amended by
17 adding Section 34.013 to read as follows:

18 Sec. 34.013. LOCATION OF BUS STOP. (a) When designating
19 the location of a bus stop, a school district shall consider the
20 proximity of the bus stop to the residence of an individual as to
21 whom the district superintendent or a school administrator has
22 received notice under Article 62.054, Code of Criminal Procedure.

23 (b) The district shall attempt to locate each bus stop at
24 least 1,500 feet from the residence of an individual described by
25 Subsection (a), as measured in a straight line from the nearest
26 property line of the residence to the bus stop.

27 SECTION 2K.05. Subchapter A, Chapter 38, Education Code, is

1 amended by adding Section 38.0041 to read as follows:

2 Sec. 38.0041. CHILD ABUSE AND NEGLECT RECOGNITION AND
3 RESPONSE TRAINING PILOT PROGRAM. (a) In this section, "abuse" and
4 "neglect" have the meanings assigned by Section 261.001, Family
5 Code.

6 (b) Not later than July 31, 2006, the agency, in
7 consultation with the Department of Family and Protective Services,
8 shall develop a pilot program to train school district employees in
9 recognizing and responding appropriately to child abuse and
10 neglect.

11 (c) The pilot program must be designed to provide uniform
12 training standards for school district employees throughout this
13 state.

14 (d) The commissioner shall select at least two school
15 districts in which to implement the pilot program. One of the
16 districts must be located in a county that has a population of fewer
17 than 1.4 million and contains at least 12 school districts. The
18 districts selected by the commissioner shall implement the pilot
19 program beginning with the 2006-2007 school year.

20 (e) Not later than January 1, 2011, the commissioner shall
21 submit a report concerning the effectiveness of the pilot program
22 to the governor, the lieutenant governor, the speaker of the house
23 of representatives, and the presiding officer of the standing
24 committee of each house of the legislature with primary
25 jurisdiction over public education.

26 (f) This section expires September 1, 2011.

27 SECTION 2K.06. The heading to Section 38.015, Education

1 Code, is amended to read as follows:

2 Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR
3 ANAPHYLAXIS MEDICINE BY STUDENTS.

4 SECTION 2K.07. Sections 38.015(a) and (b), Education Code,
5 are amended to read as follows:

6 (a) In this section:

7 (1) "Parent" includes a person standing in parental
8 relation.

9 (2) "Self-administration of prescription asthma or
10 anaphylaxis medicine" means a student's discretionary use of
11 prescription asthma or anaphylaxis medicine.

12 (b) A student with asthma or anaphylaxis is entitled to
13 possess and self-administer prescription asthma or anaphylaxis
14 medicine while on school property or at a school-related event or
15 activity if:

16 (1) the prescription [~~asthma~~] medicine has been
17 prescribed for that student as indicated by the prescription label
18 on the medicine;

19 (2) the student has demonstrated to the student's
20 physician or other licensed health care provider and the school
21 nurse, if available, the skill level necessary to self-administer
22 the prescription medication, including the use of any device
23 required to administer the medication;

24 (3) the self-administration is done in compliance with
25 the prescription or written instructions from the student's
26 physician or other licensed health care provider; and

27 (4) [~~(3)~~] a parent of the student provides to the

1 school:

2 (A) a written authorization, signed by the
3 parent, for the student to self-administer the prescription
4 [~~asthma~~] medicine while on school property or at a school-related
5 event or activity; and

6 (B) a written statement from the student's
7 physician or other licensed health care provider, signed by the
8 physician or provider, that states:

9 (i) that the student has asthma or
10 anaphylaxis and is capable of self-administering the prescription
11 [~~asthma~~] medicine;

12 (ii) the name and purpose of the medicine;

13 (iii) the prescribed dosage for the
14 medicine;

15 (iv) the times at which or circumstances
16 under which the medicine may be administered; and

17 (v) the period for which the medicine is
18 prescribed.

19 SECTION 2K.08. The heading to Chapter 95, Health and Safety
20 Code, as added by Chapter 1465, Acts of the 77th Legislature,
21 Regular Session, 2001, is amended to read as follows:

22 CHAPTER 95. RISK ASSESSMENT FOR TYPE 2 DIABETES

23 [~~ACANTHOSIS NIGRICAENS SCREENING~~]

24 SECTION 2K.09. Section 95.001, Health and Safety Code, as
25 added by Chapter 1465, Acts of the 77th Legislature, Regular
26 Session, 2001, is amended by adding Subdivision (1-a) to read as
27 follows:

1 (1-a) "Department" means the Department of State
2 Health Services.

3 SECTION 2K.10. Sections 95.002, 95.003, and 95.004, Health
4 and Safety Code, as added by Chapter 1465, Acts of the 77th
5 Legislature, Regular Session, 2001, are amended to read as follows:

6 Sec. 95.002. TYPE 2 DIABETES [~~ACANTHOSIS NIGRICANS~~]
7 EDUCATION AND RISK ASSESSMENT PROGRAM [~~SCREENING PROJECT~~].

8 (a) The office shall administer a risk assessment program for Type
9 2 diabetes [~~an acanthosis nigricans screening program~~] in
10 accordance with this chapter.

11 (b) The executive council by rule shall coordinate the risk
12 assessment for Type 2 diabetes [~~screening~~] of individuals who
13 attend public or private schools located in Texas Education Agency
14 Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18,
15 19, and 20 and, by using existing funding as efficiently as possible
16 or by using other available funding, in additional regional
17 education service centers.

18 (c) The rules must include procedures necessary to
19 administer the risk assessment program, including procedures that
20 require each school to record and report risk assessment
21 [~~screening~~] activities using:

22 (1) the Centers for Disease Control and Prevention's
23 Epi Info or similar surveillance software selected by the office;

24 or

25 (2) an existing database used to administer and track
26 risk assessment data.

27 (d) The office shall require a risk assessment for Type 2

1 diabetes [~~acanthosis nigricans screening~~] to be performed at the
2 same time hearing and vision screening is performed under Chapter
3 36 or spinal screening is performed under Chapter 37. The risk
4 assessment for Type 2 diabetes should:

5 (1) identify students with a body mass index above the
6 normal range; and

7 (2) further assess students identified under
8 Subdivision (1) for acanthosis nigricans and elevated blood
9 pressure.

10 (e) The office may:

11 (1) coordinate the risk assessment for Type 2 diabetes
12 [~~acanthosis nigricans screening~~] activities of school districts,
13 private schools, state agencies, volunteer organizations,
14 universities, and other entities so that the efforts of each entity
15 are complementary and not fragmented and duplicative; and

16 (2) [~~The office may~~] provide technical assistance
17 to those entities in developing risk assessment [~~screening~~]
18 programs.

19 (f) The office shall:

20 (1) [~~and may~~] provide educational and other material
21 to assist local risk assessment [~~screening~~] activities;

22 (2) [~~(f) The office shall~~] monitor the quality of
23 risk assessment [~~screening~~] activities provided under this
24 chapter; and

25 (3) consult with the Board of Nurse Examiners to
26 determine the training requirements necessary for a nurse or other
27 person to conduct risk assessment activities under this chapter.

1 (g) The office shall periodically provide information on
2 obesity, Type 2 diabetes, and related conditions to physicians.

3 (h) The office shall provide to the department the
4 information necessary for the department to conduct an evaluation
5 of the risk assessment program conducted under this chapter in
6 accordance with the recommendations of the Type 2 Diabetes Risk
7 Assessment Program Advisory Committee under Section 103.0125. This
8 subsection expires September 1, 2007.

9 Sec. 95.003. COMPLIANCE WITH RISK ASSESSMENT [~~SCREENING~~]
10 REQUIREMENTS. (a) Each individual required by rules adopted under
11 this chapter to be assessed [~~screened~~] shall undergo approved risk
12 assessment [~~screening~~] for Type 2 diabetes [~~acanthosis nigricans~~].
13 The individual shall comply with the requirements as soon as
14 possible after the individual's admission to a school and as
15 required by rule. The individual or, if the individual is a minor,
16 the minor's parent, managing conservator, or guardian may
17 substitute a professional examination for the risk assessment
18 [~~screening~~].

19 (b) An individual is exempt from risk assessment
20 [~~screening~~] if risk assessment [~~screening~~] conflicts with the
21 tenets and practices of a recognized church or religious
22 denomination of which the individual is an adherent or a member. To
23 qualify for the exemption, the individual or, if the individual is a
24 minor, the individual's parent, managing conservator, or guardian
25 must submit to the chief administrator of the school on or before
26 the day of the risk assessment process [~~screening procedure~~] an
27 affidavit stating the objections to the risk assessment

1 ~~[screening]~~.

2 (c) The chief administrator of each school shall ensure that
3 each individual admitted to the school complies with the risk
4 assessment ~~[screening]~~ requirements set by the executive council or
5 submits an affidavit of exemption.

6 Sec. 95.004. RECORDS; REPORTS. (a) The chief
7 administrator of each school shall maintain, on a form prescribed
8 by the executive council, risk assessment ~~[screening]~~ records for
9 each individual in attendance~~[r]~~ and enter the risk assessment
10 information for each individual on the Centers for Disease Control
11 and Prevention's Epi Info or similar surveillance software selected
12 by the office. The risk assessment ~~[the]~~ records are open for
13 inspection by the office or the local health department.

14 (b) The office may, directly or through local health
15 departments, enter a school and inspect records maintained by the
16 school relating to risk assessment ~~[screening]~~ for Type 2 diabetes
17 ~~[acanthosis nigricans]~~.

18 (c) An individual's risk assessment ~~[screening]~~ records may
19 be transferred among schools without the consent of the individual
20 or, if the individual is a minor, the minor's parent, managing
21 conservator, or guardian.

22 (d) The person performing the risk assessment ~~[screening]~~
23 shall send a report indicating that an individual may be at risk for
24 developing Type 2 diabetes ~~[have acanthosis nigricans]~~ to the
25 individual or, if the individual is a minor, the minor's parent,
26 managing conservator, or guardian. The report must include:

27 (1) an explanation of:

1 (A) the process for assessing risk for developing
2 Type 2 diabetes;

3 (B) the body mass index;

4 (C) the risk factors associated with developing
5 Type 2 diabetes; and

6 (D) the reasons the individual was identified in
7 the risk assessment process as being at risk for developing Type 2
8 diabetes [~~acanthosis nigricans and related conditions~~];

9 (2) a statement concerning an individual's or family's
10 need for further evaluation for Type 2 diabetes and related ~~[of]~~
11 ~~conditions [related to acanthosis nigricans]; and~~

12 (3) instructions to help the individual or family
13 receive evaluation by a physician or other health care provider
14 ~~[and intervention by the school district].~~

15 (e) Each school shall submit to the office an annual report
16 on the risk assessment ~~[screening]~~ status of the individuals in
17 attendance during the reporting year and shall include in the
18 report any other information required by the office.

19 (f) The annual report required under Subsection (e) must be
20 compiled from the information entered into the surveillance
21 software and be on a form prescribed by the executive council ~~[and~~
22 ~~must be submitted according to the executive council's rules].~~

23 (g) The office shall analyze and compile a summary of the
24 reports submitted by schools under Subsection (e), file a copy of
25 the summary with the Type 2 Diabetes Risk Assessment Program
26 Advisory Committee established under Section 103.0125, and make the
27 summary available to schools and the public on request.

1 (h) [(f)] Not later than January 15 of each odd-numbered
2 year, the office shall submit to the department [~~governor and the~~
3 ~~legislature~~] a report concerning the effectiveness of the risk
4 assessment program for Type 2 diabetes [~~acanthosis nigricans~~
5 ~~screening program~~] established by this chapter.

6 SECTION 2K.11. Chapter 95, Health and Safety Code, as added
7 by Chapter 1465, Acts of the 77th Legislature, Regular Session,
8 2001, is amended by adding Section 95.005 to read as follows:

9 Sec. 95.005. GIFTS AND GRANTS. The office may accept gifts,
10 grants, and donations to support the Type 2 diabetes risk
11 assessment program conducted under this chapter.

12 SECTION 2K.12. Chapter 103, Health and Safety Code, is
13 amended by adding Section 103.0125 to read as follows:

14 Sec. 103.0125. TYPE 2 DIABETES RISK ASSESSMENT PROGRAM
15 ADVISORY COMMITTEE. (a) The council shall establish the Type 2
16 Diabetes Risk Assessment Program Advisory Committee to advise the
17 Texas-Mexico Border Health Coordination Office of The University of
18 Texas--Pan American on the Type 2 diabetes risk assessment program
19 conducted under Chapter 95.

20 (b) The advisory committee is composed of:

21 (1) the following representatives appointed by the
22 executive head of the agency, organization, school, or school
23 district the representative serves:

24 (A) one representative of the council;

25 (B) one representative of the department;

26 (C) one representative of the Texas Education
27 Agency;

1 (D) a representative from The University of
2 Texas--Pan American;

3 (E) one representative of the Texas Medical
4 Association;

5 (F) one representative of the Texas Pediatric
6 Society;

7 (G) one representative of the American Heart
8 Association;

9 (H) one representative of the American Diabetes
10 Association;

11 (I) one school district administrator
12 representative from a school district selected by the council;

13 (J) one school nurse representative from a rural
14 school selected by the council; and

15 (K) one school nurse representative from an urban
16 school selected by the council; and

17 (2) one parent or guardian of a child in this state
18 with Type 2 diabetes, appointed by the council.

19 (c) A person may not be a member of the advisory committee if
20 the person is required to register as a lobbyist under Chapter 305,
21 Government Code, because of the person's activities for
22 compensation on behalf of a health care profession or related
23 business or another profession related to the operation of the
24 council.

25 (d) The representative of the council appointed under
26 Subsection (b)(1)(A) shall serve as the presiding officer of the
27 advisory committee.

1 (e) Chapter 2110, Government Code, does not apply to the
2 size, composition, or duration of the advisory committee.

3 (f) The advisory committee shall:

4 (1) recommend the person who should be responsible for
5 conducting risk assessment activities under Chapter 95 for schools
6 that do not employ a school nurse;

7 (2) advise the Texas-Mexico Border Health
8 Coordination Office of The University of Texas--Pan American on the
9 age groups that would benefit most from the risk assessment
10 activities under Chapter 95;

11 (3) recommend a method to record and report the number
12 of children who are identified in the risk assessment process as
13 being at risk for having or developing Type 2 diabetes and who
14 qualify for the national free or reduced-price lunch program
15 established under 42 U.S.C. Section 1751 et seq.;

16 (4) recommend a timeline for the Texas-Mexico Border
17 Health Coordination Office of The University of Texas--Pan American
18 to implement the advisory committee's recommended risk assessment
19 activities, surveillance methods, reports, and quality
20 improvements; and

21 (5) contribute to the state plan for diabetes
22 treatment developed by the council under Section 103.013 by
23 providing statistics and information on the risk assessment
24 activities conducted under Chapter 95 and recommendations for
25 assisting children in this state at risk for developing Type 2
26 diabetes.

27 (g) The advisory committee shall recommend to the

1 department a method for the department to evaluate the Type 2
2 diabetes risk assessment program administered under Chapter 95.
3 The department shall conduct the evaluation in accordance with this
4 subsection and the advisory committee's recommendations under this
5 subsection and file a report on the evaluation with the governor and
6 the presiding officer of each house of the legislature not later
7 than January 1, 2007. The method must include:

8 (1) an evaluation of the burden and benefits of the
9 program;

10 (2) an evaluation of the costs and expenses of the
11 program to determine the most efficient use of the resources
12 available for the program;

13 (3) recommendations for legislation that amends
14 Chapter 95; and

15 (4) any other component that the advisory committee
16 considers advisable.

17 (h) Subsection (g) and this subsection expire September 1,
18 2007.

19 SECTION 2K.13. (a) As early as practicable after the
20 effective date of this Act, the executive head of the following
21 entities shall appoint a representative to serve on the Type 2
22 Diabetes Risk Assessment Program Advisory Committee created under
23 Section 103.0125, Health and Safety Code, as added by this Act:

24 (1) the Texas Diabetes Council;

25 (2) the Department of State Health Services;

26 (3) the Texas Education Agency;

27 (4) the Texas Medical Association;

- 1 (5) the Texas Pediatric Society;
- 2 (6) the American Heart Association;
- 3 (7) the American Diabetes Association;
- 4 (8) The University of Texas--Pan American; and
- 5 (9) the schools and school district selected by the
- 6 Texas Diabetes Council for this purpose.

7 (b) As early as practicable after the effective date of this
8 Act, the head of the Texas Diabetes Council shall appoint a parent
9 or guardian of a child in this state with Type 2 diabetes to serve on
10 the Type 2 Diabetes Risk Assessment Program Advisory Committee
11 created under Section 103.0125, Health and Safety Code, as added by
12 this Act.

13 SECTION 2K.14. Subdivision (6), Section 95.001, Health and
14 Safety Code, as added by Chapter 1465, Acts of the 77th Legislature,
15 Regular Session, 2001, is repealed.

16 SECTION 2K.15. Section 34.012, Education Code, as added by
17 this Act, applies beginning with the 2005-2006 school year.

18 PART L. CURRICULUM

19 SECTION 2L.01. Section 28.002, Education Code, is amended
20 by adding Subsection (d) to read as follows:

21 (d) In identifying the essential knowledge and skills of
22 United States history, the State Board of Education shall consult
23 with an advisory committee appointed under this subsection in
24 addition to those persons with whom the board is required under
25 Subsection (c) to consult. Each member of the board shall appoint
26 to the advisory committee a person to represent that member on the
27 committee. Each representative serves at the will of the

1 appointing board member and must be a person with expertise in one
2 or more areas of United States history. The board must include
3 among the essential knowledge and skills of United States history
4 that the board identifies knowledge and skills of United States
5 history from the colonial period through the present. The amount of
6 class time provided to study United States history that occurred
7 before 1877 and the amount of testing over history that occurred
8 before 1877, including any assessment required under Section
9 39.023, must be as equal as practicable to the amount of class time
10 and testing for history beginning in 1877.

11 SECTION 2L.02. As soon as practicable after the effective
12 date of this Act, the State Board of Education shall identify the
13 essential knowledge and skills of the public school United States
14 history curriculum in accordance with Section 28.002(d), Education
15 Code, as added by this Act, and approve new United States history
16 instructional materials in accordance with Section 31.0252,
17 Education Code, as added by this Act.

18 SECTION 2L.03. Section 28.002, Education Code, is amended
19 by adding Subsection (p) to read as follows:

20 (p) The State Board of Education, in conjunction with the
21 office of the attorney general, shall develop a parenting and
22 paternity awareness program that a school district shall use in the
23 district's high school health curriculum. The program must:

24 (1) address parenting skills and responsibilities,
25 including child support and other legal rights and responsibilities
26 that come with parenthood;

27 (2) address relationship skills, including money

1 management, communication skills, and marriage preparation; and
2 (3) in district high schools that do not have a family
3 violence prevention program, address skills relating to the
4 prevention of family violence.

5 SECTION 2L.04. (a) Not later than May 1, 2006, the State
6 Board of Education shall develop a parenting and paternity
7 awareness program as provided by Section 28.002(p), Education Code,
8 as added by this Act.

9 (b) A school district shall use the parenting and paternity
10 awareness program developed by the State Board of Education as
11 provided by Section 28.002(p), Education Code, as added by this
12 Act, beginning with the 2006-2007 school year.

13 PART M. CLASSROOM SERVICE BY MEMBERS OF THE LEGISLATURE

14 SECTION 2M.01. Subchapter Z, Chapter 22, Education Code, is
15 amended by adding Section 22.902 to read as follows:

16 Sec. 22.902. CLASSROOM SERVICE BY MEMBERS OF THE
17 LEGISLATURE. (a) Each member of the legislature shall provide at
18 least eight hours of service in a public school classroom during
19 each two-year period that begins on January 1 of an odd-numbered
20 year.

21 (b) A member of the legislature may comply with this section
22 by:

- 23 (1) serving as a substitute teacher;
24 (2) acting as a mentor or tutor to a student;
25 (3) making presentations to students on topics chosen
26 by the member that are relevant to the curriculum; or
27 (4) acting in another manner that enhances the

1 education received by students and involves the member's presence
2 in the classroom.

3 SECTION 2M.02. Notwithstanding Section 22.902, Education
4 Code, as added by this Act, a member of the 79th Legislature is not
5 required to provide more than four hours of classroom service as
6 described by that section during the two-year period beginning
7 January 1, 2005.

8 ARTICLE 3. CONFORMING AMENDMENTS

9 SECTION 3.01. Section 7.024(a), Education Code, is amended
10 to read as follows:

11 (a) The investment capital fund consists of money
12 transferred to the fund as provided by Section 42.152(d)(4)
13 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of
14 this fund are to assist eligible public schools to implement
15 practices and procedures consistent with deregulation and school
16 restructuring in order to improve student achievement and to help
17 schools identify and train parents and community leaders who will
18 hold the school and the school district accountable for achieving
19 high academic standards.

20 SECTION 3.02. Section 7.055(b)(34), Education Code, is
21 amended to read as follows:

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

25 SECTION 3.03. Section 11.158(a), Education Code, is amended
26 to read as follows:

27 (a) The board of trustees of an independent school district

1 may require payment of:

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

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

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

11 (4) a fee for personal physical education and athletic
12 equipment and apparel, although any student may provide the
13 student's own equipment or apparel if it meets reasonable
14 requirements and standards relating to health and safety
15 established by the board;

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

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

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

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

25 (9) a fee for items of personal apparel that become the
26 property of the student and that are used in extracurricular
27 activities;

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

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

5 (12) a fee for a course offered for credit that
6 requires the use of facilities not available on the school premises
7 or the employment of an educator who is not part of the school's
8 regular staff, if participation in the course is at the student's
9 option;

10 (13) a fee for a course offered during summer school,
11 except that the board may charge a fee for a course required for
12 graduation only if the course is also offered without a fee during
13 the regular school year;

14 (14) a reasonable fee for transportation of a student
15 who lives within two miles of the school the student attends to and
16 from that school[, ~~except that the board may not charge a fee for~~
17 ~~transportation for which the school district receives funds under~~
18 ~~Section 42.155(d)~~]; or

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

25 SECTION 3.04. Section 12.013(b), Education Code, is amended
26 to read as follows:

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

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

3 (2) a provision of this title relating to limitations
4 on liability; and

5 (3) a prohibition, restriction, or requirement, as
6 applicable, imposed by this title or a rule adopted under this
7 title, relating to:

8 (A) the Public Education Information Management
9 System (PEIMS) to the extent necessary to monitor compliance with
10 this subchapter as determined by the commissioner;

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

13 (C) criminal history records under Subchapter C,
14 Chapter 22;

15 (D) student admissions under Section 25.001;

16 (E) school attendance under Sections 25.085,
17 25.086, and 25.087;

18 (F) inter-district or inter-county transfers of
19 students under Subchapter B, Chapter 25;

20 (G) elementary class size limits under Section
21 25.112, in the case of any campus in the district that is considered
22 academically unacceptable [~~low-performing~~] under Section 39.132;

23 (H) high school graduation under Section 28.025;

24 (I) special education programs under Subchapter
25 A, Chapter 29;

26 (J) bilingual education under Subchapter B,
27 Chapter 29;

1 (K) prekindergarten programs under Subchapter E,
2 Chapter 29;

3 (L) safety provisions relating to the
4 transportation of students under Sections 34.002, 34.003, 34.004,
5 and 34.008;

6 (M) computation and distribution of state aid
7 under Chapters 31, 42, and 43;

8 (N) extracurricular activities under Section
9 33.081;

10 (O) health and safety under Chapter 38;

11 (P) public school accountability under
12 Subchapters B, C, D, and G, Chapter 39;

13 (Q) equalization [~~equalized wealth~~] under
14 Section 42.401 [~~Chapter 41~~];

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

17 (S) purchasing under Chapter 44.

18 SECTION 3.05. Section 13.054(f), Education Code, is amended
19 to read as follows:

20 (f) For five years beginning with the school year in which
21 the annexation occurs, the commissioner shall annually adjust the
22 local share [~~fund assignment~~] of a district to which territory is
23 annexed under this section by multiplying the enlarged district's
24 local share [~~fund assignment~~] computed under Section 42.306
25 [~~42.252~~] by a fraction, the numerator of which is the number of
26 students residing in the district preceding the date of the
27 annexation and the denominator of which is the number of students

1 residing in the district as enlarged on the date of the annexation.

2 SECTION 3.06. Sections 13.282(a) and (b), Education Code,
3 are amended to read as follows:

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

6 (1) the sum of the entitlements computed under Section
7 42.313 [~~42.253~~] that would have been paid to the districts included
8 in the reorganized district if the districts had not been
9 consolidated; and

10 (2) the amount to which the reorganized district is
11 entitled under Section 42.313 [~~42.253~~].

12 (b) If the reorganized district is not eligible for an
13 entitlement under Section 42.313 [~~42.253~~], the amount of the
14 incentive aid payments may not exceed the sum of the entitlements
15 computed under Section 42.313 [~~42.253~~] for which the districts
16 included in the reorganized district were eligible in the school
17 year when they were consolidated.

18 SECTION 3.07. Section 21.410(h), Education Code, is amended
19 to read as follows:

20 (h) A grant a school district receives under this section is
21 in addition to any funding the district receives under Chapter 42.
22 The commissioner shall distribute funds under this section with the
23 Foundation School Program payment to which the district is entitled
24 as soon as practicable after the end of the school year as
25 determined by the commissioner. A district to which Section 42.401
26 [~~Chapter 41~~] applies is entitled to the grants paid under this
27 section. The commissioner shall determine the timing of the

1 distribution of grants to a district that does not receive
2 Foundation School Program payments.

3 SECTION 3.08. Section 21.411(h), Education Code, is amended
4 to read as follows:

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

15 SECTION 3.09. Section 21.412(h), Education Code, is amended
16 to read as follows:

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

27 SECTION 3.10. Section 21.414(h), Education Code, as

1 renumbered by Section 23.001(12), H.B. No. 2018, Acts of the 79th
2 Legislature, Regular Session, 2005, is amended to read as follows:

3 (h) A grant a school district receives under this section is
4 in addition to any funding the district receives under Chapter 42.
5 The commissioner shall distribute funds under this section with the
6 Foundation School Program payment to which the district is entitled
7 as soon as practicable after the end of the school year as
8 determined by the commissioner. A district to which Section 42.401
9 [~~Chapter 41~~] applies is entitled to the grants paid under this
10 section. The commissioner shall determine the timing of the
11 distribution of grants to a district that does not receive
12 Foundation School Program payments.

13 SECTION 3.11. Section 21.453(b), Education Code, is amended
14 to read as follows:

15 (b) The commissioner may allocate funds from the account to
16 regional education service centers to provide staff development
17 resources to school districts that:

18 (1) are rated academically unacceptable;

19 (2) have one or more campuses rated academically
20 unacceptable [~~as low-performing~~]; or

21 (3) are otherwise in need of assistance as indicated
22 by the academic performance of students, as determined by the
23 commissioner.

24 SECTION 3.12. Section 22.004(c), Education Code, as amended
25 by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th Legislature,
26 Regular Session, 2005, is amended to read as follows:

27 (c) The cost of the coverage provided under the program

1 described by Subsection (a) shall be paid by the state, the
2 district, and the employees in the manner provided by Subchapter F,
3 Chapter 1579, Insurance Code. The cost of coverage provided under a
4 plan adopted under Subsection (b) shall be shared by the employees
5 and the district using the contributions by the state described by
6 Subchapter F, Chapter 1579, Insurance Code [~~, or Subchapter D~~].

7 SECTION 3.13. Section 29.008(b), Education Code, is amended
8 to read as follows:

9 (b) Except as provided by Subsection (c), costs of an
10 approved contract for residential placement may be paid from a
11 combination of federal, state, and local funds. The local share of
12 the total contract cost for each student is that portion of the
13 local tax effort that exceeds the district's local share [~~fund~~
14 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average
15 daily attendance in the district. If the contract involves a
16 private facility, the state share of the total contract cost is that
17 amount remaining after subtracting the local share. If the
18 contract involves a public facility, the state share is that amount
19 remaining after subtracting the local share from the portion of the
20 contract that involves the costs of instructional and related
21 services. For purposes of this subsection, "local tax effort"
22 means the total amount of money generated by taxes imposed for debt
23 service and maintenance and operation less any amounts paid into a
24 tax increment fund under Chapter 311, Tax Code.

25 SECTION 3.14. Section 29.014(d), Education Code, is amended
26 to read as follows:

27 (d) The accreditation [~~basic~~] allotment for a student

1 enrolled in a district to which this section applies is adjusted by:

2 (1) the cost of education adjustment under Section
3 42.301 [~~42.102~~] for the school district in which the district is
4 geographically located; and

5 (2) any other appropriate factor adopted by the
6 commissioner [~~the weight for a homebound student under Section~~
7 ~~42.151(a)~~].

8 SECTION 3.15. Section 29.087(j), Education Code, is amended
9 to read as follows:

10 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
11 46, a student attending a program authorized by this section may be
12 counted in attendance only for the actual number of hours each
13 school day the student attends the program, in accordance with
14 Sections 25.081 and 25.082.

15 SECTION 3.16. Section 29.161(a), Education Code, as added
16 by S.B. No. 23, Acts of the 79th Legislature, Regular Session, 2005,
17 is amended to read as follows:

18 (a) The State Center for Early Childhood Development, in
19 conjunction with the P-16 Council established under Section 61.076
20 [~~61.077~~], shall develop and adopt a school readiness certification
21 system for use in certifying the effectiveness of prekindergarten
22 programs, Head Start and Early Head Start programs,
23 government-subsidized child-care programs provided by nonprofit or
24 for-profit entities, government-subsidized faith-based child-care
25 programs, and other government-subsidized child-care programs in
26 preparing children for kindergarten. The system shall be made
27 available on a voluntary basis to program providers seeking to

1 obtain certification as evidence of the quality of the program
2 provided.

3 [SECTION 3.17 reserved]

4 SECTION 3.18. Section 29.203(b), Education Code, is amended
5 to read as follows:

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

16 SECTION 3.19. Section 33.002(a), Education Code, is amended
17 to read as follows:

18 (a) This section applies only to a school district that
19 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

20 SECTION 3.20. Section 34.002(c), Education Code, is amended
21 to read as follows:

22 (c) A school district that fails or refuses to meet the
23 safety standards for school buses established under this section is
24 ineligible to share in the transportation allotment under
25 Subchapter D, Chapter 42, [~~Section 42.155~~] until the first
26 anniversary of the date the district begins complying with the
27 safety standards.

1 SECTION 3.21. Section 37.0061, Education Code, is amended
2 to read as follows:

3 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
4 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
5 education services to pre-adjudicated and post-adjudicated
6 students who are confined by court order in a juvenile residential
7 facility operated by a juvenile board is entitled to count such
8 students in the district's average daily attendance for purposes of
9 receipt of state funds under the Foundation School Program. [~~If the
10 district has a wealth per student greater than the guaranteed
11 wealth level but less than the equalized wealth level, the district
12 in which the student is enrolled on the date a court orders the
13 student to be confined to a juvenile residential facility shall
14 transfer to the district providing education services an amount
15 equal to the difference between the average Foundation School
16 Program costs per student of the district providing education
17 services and the sum of the state aid and the money from the
18 available school fund received by the district that is attributable
19 to the student for the portion of the school year for which the
20 district provides education services to the student.~~]

21 SECTION 3.22. Section 39.031, Education Code, is amended to
22 read as follows:

23 Sec. 39.031. COST. (a) The commissioner shall set aside an
24 appropriate amount from the Foundation School Program to pay the
25 cost of preparing, administering, or grading the assessment
26 instruments and the [~~shall be paid from the funds allotted under
27 Section 42.152, and each district shall bear the cost in the same~~]

1 ~~manner described for a reduction in allotments under Section~~
2 ~~42.253. If a district does not receive an allotment under Section~~
3 ~~42.152, the commissioner shall subtract the cost from the~~
4 ~~district's other foundation school fund allotments.~~

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

8 (b) After setting aside an appropriate amount in accordance
9 with this section, the commissioner shall reduce each district's
10 tier one allotments proportionately. A reduction in tier one
11 allotments under this subsection does not affect the computation of
12 the guaranteed amount of revenue per student per cent of tax effort
13 under Section 42.252.

14 (c) Any amount set aside under this section must be approved
15 by the Legislative Budget Board and the governor's office of
16 budget, planning, and policy.

17 SECTION 3.23. Section 39.183, Education Code, is amended to
18 read as follows:

19 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The
20 agency shall prepare and deliver to the governor, the lieutenant
21 governor, the speaker of the house of representatives, each member
22 of the legislature, the Legislative Budget Board, and the clerks of
23 the standing committees of the senate and house of representatives
24 with primary jurisdiction over the public school system a regional
25 and district level report covering the preceding two school years
26 and containing:

27 (1) a summary of school district compliance with the

1 student/teacher ratios and class-size limitations prescribed by
2 Sections 25.111 and 25.112, including:

3 (A) the number of campuses and classes at each
4 campus granted an exception from Section 25.112; and

5 (B) the performance rating under Subchapter D of
6 each campus granted an exception from Section 25.112;

7 (2) a summary of the exemptions and waivers granted to
8 school districts under Section 7.056 [~~or 39.112~~] and a review of the
9 effectiveness of each campus or district following deregulation;

10 (3) an evaluation of the performance of the system of
11 regional education service centers based on the indicators adopted
12 under Section 8.101 and client satisfaction with services provided
13 under Subchapter B, Chapter 8;

14 (4) an evaluation of accelerated instruction programs
15 offered under Section 28.006, including an assessment of the
16 quality of such programs and the performance of students enrolled
17 in such programs; and

18 (5) the number of classes at each campus that are
19 currently being taught by individuals who are not certified in the
20 content areas of their respective classes.

21 SECTION 3.24. Section 43.002(b), Education Code, is amended
22 to read as follows:

23 (b) Of the amounts available for transfer from the general
24 revenue fund to the available school fund for the months of January
25 and February of each fiscal year, no more than the amount necessary
26 to enable the comptroller to distribute from the available school
27 fund an amount equal to 9-1/2 percent of the estimated annual

1 available school fund apportionment to category 1 school districts,
 2 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the
 3 estimated annual available school fund apportionment to category 2
 4 school districts, as defined by Section 42.316 [~~42.259~~], may be
 5 transferred from the general revenue fund to the available school
 6 fund. Any remaining amount that would otherwise be available for
 7 transfer for the months of January and February shall be
 8 transferred from the general revenue fund to the available school
 9 fund in equal amounts in June and in August of the same fiscal year.

10 SECTION 3.25. Section 46.003(a), Education Code, is amended
 11 to read as follows:

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

$$19 \quad \text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

20 where:

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

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

26 "ADA" is the greater of the number of students in average
 27 daily attendance, as determined under Section 42.005, in the

1 district or 400;

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

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

11 SECTION 3.26. Section 46.006(g), Education Code, is amended
12 to read as follows:

13 (g) In this section, "wealth per student" means a school
14 district's taxable value of property as determined under Subchapter
15 M, Chapter 403, Government Code, [~~or, if applicable, Section~~
16 ~~42.2521,~~] divided by the district's average daily attendance as
17 determined under Section 42.005.

18 SECTION 3.27. Sections 46.009(b), (e), and (f), Education
19 Code, are amended to read as follows:

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

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

27 (2) reduce each district's Texas education [~~foundation~~

1 ~~school]~~ fund allocations in the manner provided by Section
2 42.313(f) [~~42.253(h)~~].

3 (e) Section 42.317 [~~42.258~~] applies to payments under this
4 subchapter.

5 (f) If a school district would have received a greater
6 amount under this subchapter for the applicable school year using
7 the adjusted value determined under Section 42.310 [~~42.257~~], the
8 commissioner shall add the difference between the adjusted value
9 and the amount the district received under this subchapter to
10 subsequent distributions to the district under this subchapter.

11 SECTION 3.28. Section 46.013, Education Code, is amended to
12 read as follows:

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

17 SECTION 3.29. Section 46.032(a), Education Code, is amended
18 to read as follows:

19 (a) Each school district is guaranteed a specified amount
20 per student in state and local funds for each cent of tax effort to
21 pay the principal of and interest on eligible bonds. The amount of
22 state support, subject only to the maximum amount under Section
23 46.034, is determined by the formula:

24
$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

25 where:

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

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

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

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

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

15 SECTION 3.30. Section 46.037, Education Code, is amended to
16 read as follows:

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

21 SECTION 3.31. Section 56.208, Education Code, is amended to
22 read as follows:

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

27 (b) The commissioner of education shall reduce the total

1 annual amount of Texas education [~~foundation school~~] fund payments
2 made to a school district by an amount equal to $F \times A$, where:

3 (1) "F" is the lesser of one or the quotient of the
4 district's local share for the preceding school year under Section
5 42.306 [~~42.252~~] divided by the tier one allotment under Section
6 42.304 [~~amount of money to which the district was entitled under~~
7 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

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

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

19 SECTION 3.32. Section 105.301(e), Education Code, is
20 amended to read as follows:

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

24 (1) professional employees of the academy are entitled
25 to the limited liability of an employee under Section 22.0511,
26 22.0512, or 22.052;

27 (2) a student's attendance at the academy satisfies

1 compulsory school attendance requirements; and

2 (3) for each student enrolled, the academy is entitled
3 to allotments from the foundation school program under Chapter 42
4 as if the academy were a school district without a tier one local
5 share for purposes of Section 42.306 [~~42.253~~].

6 SECTION 3.33. Section 317.005(f), Government Code, is
7 amended to read as follows:

8 (f) The governor or board may adopt an order under this
9 section withholding or transferring any portion of the total amount
10 appropriated to finance the foundation school program for a fiscal
11 year. The governor or board may not adopt such an order if it would
12 result in an allocation of money between particular programs or
13 statutory allotments under the foundation school program contrary
14 to the statutory proration formula provided by Section 42.313(f)
15 [~~42.253(h)~~], Education Code. The governor or board may transfer an
16 amount to the total amount appropriated to finance the foundation
17 school program for a fiscal year and may increase the accreditation
18 [~~basic~~] allotment. The governor or board may adjust allocations of
19 amounts between particular programs or statutory allotments under
20 the foundation school program only for the purpose of conforming
21 the allocations to actual pupil enrollments or attendance.

22 SECTION 3.34. Section 403.093(d), Government Code, is
23 amended to read as follows:

24 (d) The comptroller shall transfer from the general revenue
25 fund to the Texas education [~~foundation school~~] fund an amount of
26 money necessary to fund the foundation school program as provided
27 by Chapter 42, Education Code. The comptroller shall make the

1 transfers in installments as necessary to comply with Section
2 42.316 [~~42.259~~], Education Code. An installment must be made not
3 earlier than two days before the date an installment to school
4 districts is required by Section 42.316 [~~42.259~~], Education Code,
5 and must not exceed the amount necessary for that payment.

6 SECTION 3.35. Section 403.302(k), Government Code, is
7 amended to read as follows:

8 (k) For purposes of Section 42.308 [~~42.2522~~], Education
9 Code, the comptroller shall certify to the commissioner of
10 education:

11 (1) a final value for each school district computed
12 without any deduction for residence homestead exemptions granted
13 under Section 11.13(n), Tax Code; and

14 (2) a final value for each school district computed
15 after deducting one-half the total dollar amount of residence
16 homestead exemptions granted under Section 11.13(n), Tax Code.

17 SECTION 3.36. Section 404.121(1), Government Code, is
18 amended to read as follows:

19 (1) "Cash flow deficit" for any period means the
20 excess, if any, of expenditures paid and transfers made from the
21 general revenue fund in the period, including payments provided by
22 Section 42.316 [~~42.259~~], Education Code, over taxes and other
23 revenues deposited to the fund in the period, other than revenues
24 deposited pursuant to Section 403.092, that are legally available
25 for the expenditures and transfers.

26 SECTION 3.37. Section 466.355(c), Government Code, is
27 amended to read as follows:

1 (c) Each August the comptroller shall:

2 (1) estimate the amount to be transferred to the Texas
3 education [~~foundation school~~] fund on or before September 15; and

4 (2) notwithstanding Subsection (b)(4), transfer the
5 amount estimated in Subdivision (1) to the Texas education
6 [~~foundation school~~] fund before August 25 [~~installment payments are~~
7 ~~made under Section 42.259, Education Code~~].

8 SECTION 3.38. Section 822.201(c), Government Code, as
9 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th
10 Legislature, Regular Session, 2005, is amended to read as follows:

11 (c) Excluded from salary and wages are:

12 (1) expense payments;

13 (2) allowances;

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

15 (4) maintenance or other nonmonetary compensation;

16 (5) fringe benefits;

17 (6) deferred compensation other than as provided by
18 Subsection (b)(3);

19 (7) compensation that is not made pursuant to a valid
20 employment agreement;

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

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

26 (10) amounts received under the educator excellence
27 incentive program under Subchapter N, Chapter 21, Education Code

1 ~~[any amount received by an employee under Subchapter D, Chapter 22,~~
2 ~~Education Code, former Article 3.50-8, Insurance Code, former~~
3 ~~Chapter 1580, Insurance Code, or Rider 9, Page III-39, Chapter~~
4 ~~1330, Acts of the 78th Legislature, Regular Session, 2003 (the~~
5 ~~General Appropriations Act)]; and~~

6 (11) any compensation not described by Subsection (b).

7 SECTION 3.39. Section 2175.304(c), Government Code, is
8 amended to read as follows:

9 (c) The procedures established under Subsection (b) must
10 give preference to transferring the property directly to a public
11 school or school district or to an assistance organization
12 designated by the school district before disposing of the property
13 in another manner. If more than one public school or school
14 district or assistance organization seeks to acquire the same
15 property on substantially the same terms, the system, institution,
16 or agency shall give preference to a public school that is
17 considered academically unacceptable under Section 39.132,
18 Education Code, ~~[low-performing by the commissioner of education]~~
19 or to a school district that has a relatively low ~~[taxable]~~ wealth
20 per student, as determined by the commissioner of education ~~[that~~
21 ~~entitles the district to an allotment of state funds under~~
22 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance
23 organization designated by such a school district.

24 SECTION 3.40. Section 1579.251, Insurance Code, is amended
25 by amending Subsection (a) and adding Subsection (c) to read as
26 follows:

27 (a) The state shall assist employees of participating

1 school districts and charter schools in the purchase of group
2 health coverage under this chapter by providing for each covered
3 employee the amount of \$900 each state fiscal year or a greater
4 amount as provided by the General Appropriations Act. The state
5 contribution shall be distributed through the school finance
6 formulas under Chapters 41 and 42, Education Code, and used by
7 school districts and charter schools to pay contributions under a
8 group health coverage plan for employees [~~as provided by Sections~~
9 ~~42.2514 and 42.260, Education Code~~].

10 (c) A school district or charter school that does not
11 participate in the program is entitled to state assistance computed
12 and distributed as provided by Subsection (a). State funds
13 received under this subsection must be used to pay for employee
14 health coverage.

15 SECTION 3.41. Section 1581.702, Insurance Code, as amended
16 by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th Legislature,
17 Regular Session, 2005, is amended to read as follows:

18 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
19 additional support for a school district to which this section
20 applies in an amount computed by multiplying the total amount of
21 supplemental compensation that district employees would have
22 received [~~by district employees~~] under Chapter 1580, as it existed
23 on January 1, 2005 [~~Subchapter D, Chapter 22, Education Code~~], by
24 0.062.

25 SECTION 3.42. Section 302.006(c), Labor Code, is amended to
26 read as follows:

27 (c) To be eligible to receive a scholarship awarded under

1 this section, a person must:

2 (1) be employed in a child-care facility, as defined
3 by Section 42.002, Human Resources Code;

4 (2) intend to obtain a credential, certificate, or
5 degree specified in Subsection (b);

6 (3) agree to work for at least 18 additional months in
7 a child-care facility, as defined by Section 42.002, Human
8 Resources Code, that accepts federal Child Care Development Fund
9 subsidies and that, at the time the person begins to fulfill the
10 work requirement imposed by this subdivision, is located:

11 (A) within the attendance zone of a public school
12 campus considered academically unacceptable [~~low-performing~~] under
13 Section 39.132, Education Code; or

14 (B) in an economically disadvantaged community,
15 as determined by the commission; and

16 (4) satisfy any other requirements adopted by the
17 commission.

18 SECTION 3.43. Section 6.02(b), Tax Code, is amended to read
19 as follows:

20 (b) A taxing unit that has boundaries extending into two or
21 more counties may choose to participate in only one of the appraisal
22 districts. In that event, the boundaries of the district chosen
23 extend outside the county to the extent of the unit's boundaries.
24 To be effective, the choice must be approved by resolution of the
25 board of directors of the district chosen. [~~The choice of a school
26 district to participate in a single appraisal district does not
27 apply to property annexed to the school district under Subchapter C~~]

1 ~~or C, Chapter 41, Education Code, unless:~~

2 ~~[(1) the school district taxes property other than~~
3 ~~property annexed to the district under Subchapter C or G, Chapter~~
4 ~~41, Education Code, in the same county as the annexed property; or~~

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

8 SECTION 3.44. Section 21.02(a), Tax Code, is amended to
9 read as follows:

10 (a) Except as provided by [~~Subsection (b) and~~] Sections
11 21.021, 21.04, and 21.05, tangible personal property is taxable by
12 a taxing unit if:

13 (1) it is located in the unit on January 1 for more
14 than a temporary period;

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

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

21 (4) the owner resides (for property not used for
22 business purposes) or maintains the owner's [~~his~~] principal place
23 of business in this state (for property used for business purposes)
24 in the unit and the property is taxable in this state but does not
25 have a taxable situs pursuant to Subdivisions (1) through (3) [~~of~~
26 ~~this section~~].

27 SECTION 3.45. Section 313.029, Tax Code, is amended to read

1 as follows:

2 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
3 a school district grants an application for a limitation on
4 appraised value under this subchapter, for each of the first two tax
5 years that begins after the date the application is approved, the
6 governing body of the school district may not adopt a tax rate that
7 exceeds the school district's rollback tax rate under Section
8 26.08, if applicable, for that year. If, in any tax year in which a
9 restriction on the school district's tax rate under this section is
10 in effect, the governing body approves a subsequent application for
11 a limitation on appraised value under this section, the restriction
12 on the school district's tax rate is extended until the first tax
13 year that begins after the second anniversary of the date the
14 subsequent application is approved.

15 ARTICLE 4. CHARTER SCHOOLS

16 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,
17 Chapter 12, Education Code, is repealed.

18 (b) Except as provided by Section 11A.1041, Education Code,
19 as added by this Act, each open-enrollment charter school operating
20 or holding a charter to operate on August 1, 2006, shall be
21 dissolved in accordance with Subchapter J, Chapter 11A, Education
22 Code, as added by this Act.

23 SECTION 4.02. Subtitle C, Title 2, Education Code, is
24 amended by adding Chapter 11A to read as follows:

25 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 11A.001. DEFINITIONS. In this chapter:

1 (1) "Charter holder" means the entity to which a
2 charter is granted under this chapter.

3 (2) "Governing body of a charter holder" means the
4 board of directors, board of trustees, or other governing body of a
5 charter holder.

6 (3) "Governing body of a public charter district"
7 means the board of directors, board of trustees, or other governing
8 body of a public charter district. The term includes the governing
9 body of a charter holder if that body acts as the governing body of
10 the public charter district.

11 (4) "Management company" means a person, other than a
12 charter holder, who provides management services for a public
13 charter district.

14 (5) "Management services" means services related to
15 the management or operation of a public charter district,
16 including:

17 (A) planning, operating, supervising, and
18 evaluating the public charter district's educational programs,
19 services, and facilities;

20 (B) making recommendations to the governing body
21 of the public charter district relating to the selection of school
22 personnel;

23 (C) managing the public charter district's
24 day-to-day operations as its administrative manager;

25 (D) preparing and submitting to the governing
26 body of the public charter district a proposed budget;

27 (E) recommending policies to be adopted by the

1 governing body of the public charter district, developing
2 appropriate procedures to implement policies adopted by the
3 governing body of the public charter district, and overseeing the
4 implementation of adopted policies; and

5 (F) providing leadership for the attainment of
6 student performance at the public charter district based on the
7 indicators adopted under Section 39.051 or by the governing body of
8 the public charter district.

9 (6) "Officer of a public charter district" means:

10 (A) the principal, director, or other chief
11 operating officer of a public charter district or campus; or

12 (B) a person charged with managing the finances
13 of a public charter district.

14 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this
15 chapter, the State Board of Education may grant a charter on the
16 application of an eligible entity for a public charter district to
17 operate in a facility of a commercial or nonprofit entity, an
18 eligible entity, or a school district, including a home-rule school
19 district. In this subsection, "eligible entity" means:

20 (1) an institution of higher education as defined
21 under Section 61.003;

22 (2) a private or independent institution of higher
23 education as defined under Section 61.003;

24 (3) an organization that is exempt from federal income
25 taxation under Section 501(a), Internal Revenue Code of 1986, as an
26 organization described by Section 501(c)(3) of that code; or

27 (4) a governmental entity in this state.

1 (b) The State Board of Education may grant a charter for a
2 public charter district only to an applicant that meets all
3 financial, governing, and operational standards adopted by the
4 commissioner under this chapter.

5 (c) The State Board of Education may not grant more than a
6 total of 215 charters for public charter districts.

7 (d) An educator employed by a school district before the
8 effective date of a charter for a public charter district operated
9 at a school district facility may not be transferred to or employed
10 by the public charter district over the educator's objection.

11 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter
12 district:

13 (1) shall provide instruction to and assess a number
14 of students at a number of elementary or secondary grade levels, as
15 provided by the charter, sufficient to permit the agency to assign
16 an accountability rating under Chapter 39;

17 (2) is governed under the governing structure required
18 by this chapter and described by the charter;

19 (3) retains authority to operate under the charter
20 contingent on satisfactory student performance as provided by the
21 charter in accordance with Section 11A.103; and

22 (4) does not have authority to impose taxes.

23 Sec. 11A.004. STATUS. A public charter district or campus
24 is part of the public school system of this state.

25 Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related
26 to operation of a public charter district, a public charter
27 district is immune from liability to the same extent as a school

1 district, and its employees and volunteers are immune from
2 liability to the same extent as school district employees and
3 volunteers. Except as provided by Section 11A.154, a member of the
4 governing body of a public charter district or of a charter holder
5 is immune from liability to the same extent as a school district
6 trustee.

7 Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.

8 A reference in law to an open-enrollment charter school means a
9 public charter district or public charter campus, as applicable.

10 [Sections 11A.007-11A.050 reserved for expansion]

11 SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

12 Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND
13 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by
14 Subsection (b) or (c), a public charter district is subject to
15 federal and state laws and rules governing public schools and to
16 municipal zoning ordinances governing public schools.

17 (b) A public charter district is subject to this code and
18 rules adopted under this code only to the extent the applicability
19 to a public charter district of a provision of this code or a rule
20 adopted under this code is specifically provided.

21 (c) Notwithstanding Subsection (a), a campus of a public
22 charter district located in whole or in part in a municipality with
23 a population of 20,000 or less is not subject to a municipal zoning
24 ordinance governing public schools.

25 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter
26 district has the powers granted to schools under this title.

27 (b) A public charter district is subject to:

1 (1) a provision of this title establishing a criminal
2 offense; and

3 (2) a prohibition, restriction, or requirement, as
4 applicable, imposed by this title or a rule adopted under this
5 title, relating to:

6 (A) the Public Education Information Management
7 System (PEIMS) under Section 7.007;

8 (B) reporting an educator's misconduct under
9 Section 21.006;

10 (C) criminal history records under Subchapter C,
11 Chapter 22;

12 (D) reading instruments and accelerated reading
13 instruction programs under Section 28.006;

14 (E) satisfactory performance on assessment
15 instruments and to accelerated instruction under Section 28.0211;

16 (F) intensive programs of instruction under
17 Section 28.0213;

18 (G) high school graduation under Section 28.025;

19 (H) special education programs under Subchapter
20 A, Chapter 29, including a requirement that special education
21 teachers obtain appropriate certification;

22 (I) bilingual education under Subchapter B,
23 Chapter 29, including a requirement that bilingual education
24 teachers obtain appropriate certification;

25 (J) prekindergarten programs under Subchapter E,
26 Chapter 29;

27 (K) extracurricular activities under Section

1 33.081;

2 (L) discipline management practices or behavior
3 management techniques under Section 37.0021;

4 (M) health and safety under Chapter 38; and

5 (N) public school accountability under
6 Subchapters B, C, D, G, and I, Chapter 39.

7 (c) A public charter district is entitled to the same level
8 of services provided to school districts by regional education
9 service centers. The commissioner shall adopt rules that provide
10 for the representation of public charter districts on the boards of
11 directors of regional education service centers.

12 (d) The commissioner may by rule permit a public charter
13 district to voluntarily participate in any state program available
14 to school districts, including a purchasing program, if the public
15 charter district complies with all terms of the program.

16 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC
17 INFORMATION LAWS. (a) With respect to the operation of a public
18 charter district, the governing body of a charter holder and the
19 governing body of a public charter district are considered to be
20 governmental bodies for purposes of Chapters 551 and 552,
21 Government Code.

22 (b) With respect to the operation of a public charter
23 district, any requirement in Chapter 551 or 552, Government Code,
24 that applies to a school district, the board of trustees of a school
25 district, or public school students applies to a public charter
26 district, the governing body of a charter holder, the governing
27 body of a public charter district, or students in attendance at a

1 public charter district campus.

2 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL
3 GOVERNMENT RECORDS. (a) With respect to the operation of a public
4 charter district, a public charter district is considered to be a
5 local government for purposes of Subtitle C, Title 6, Local
6 Government Code, and Subchapter J, Chapter 441, Government Code.

7 (b) Records of a public charter district, a charter holder,
8 or a management company that relate to a public charter district are
9 government records for all purposes under state law.

10 (c) Any requirement in Subtitle C, Title 6, Local Government
11 Code, or Subchapter J, Chapter 441, Government Code, that applies
12 to a school district, the board of trustees of a school district, or
13 an officer or employee of a school district applies to a public
14 charter district or management company, the governing body of a
15 charter holder, the governing body of a public charter district, or
16 an officer or employee of a public charter district or management
17 company except that the records of a public charter district or
18 management company that ceases to operate shall be transferred in
19 the manner prescribed by Subsection (d).

20 (d) The records of a public charter district or management
21 company that ceases to operate shall be transferred in the manner
22 specified by the commissioner to a custodian designated by the
23 commissioner. The commissioner may designate any appropriate
24 entity to serve as custodian, including the agency, a regional
25 education service center, or a school district. In designating a
26 custodian, the commissioner shall ensure that the transferred
27 records, including student and personnel records, are transferred

1 to a custodian capable of:

2 (1) maintaining the records;

3 (2) making the records readily accessible to students,
4 parents, former school employees, and other persons entitled to
5 access; and

6 (3) complying with applicable state or federal law
7 restricting access to the records.

8 (e) If the charter holder of a public charter district that
9 ceases to operate or an officer or employee of the district or a
10 management company refuses to transfer school records in the manner
11 specified by the commissioner under Subsection (d), the
12 commissioner may ask the attorney general to petition a court for
13 recovery of the records. If the court grants the petition, the
14 court shall award attorney's fees and court costs to the state.

15 (f) A record described by this section is a public school
16 record for purposes of Section 37.10(c)(2), Penal Code.

17 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC
18 PURCHASING AND CONTRACTING. (a) This section applies to a public
19 charter district unless the district's charter otherwise describes
20 procedures for purchasing and contracting and the procedures are
21 approved by the State Board of Education.

22 (b) A public charter district is considered to be:

23 (1) a governmental entity for purposes of:

24 (A) Subchapter D, Chapter 2252, Government Code;
25 and

26 (B) Subchapter B, Chapter 271, Local Government
27 Code;

1 (2) a political subdivision for purposes of Subchapter
2 A, Chapter 2254, Government Code; and

3 (3) a local government for purposes of Sections
4 2256.009-2256.016, Government Code.

5 (c) To the extent consistent with this section, a
6 requirement in a law listed in this section that applies to a school
7 district or the board of trustees of a school district applies to a
8 public charter district, the governing body of a charter holder, or
9 the governing body of a public charter district.

10 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF
11 INTEREST. (a) A member of the governing body of a charter holder, a
12 member of the governing body of a public charter district, or an
13 officer of a public charter district is considered to be a local
14 public official for purposes of Chapter 171, Local Government Code.
15 For purposes of that chapter:

16 (1) a member of the governing body of a charter holder
17 or a member of the governing body or officer of a public charter
18 district is considered to have a substantial interest in a business
19 entity if a person related to the member or officer in the third
20 degree by consanguinity or affinity, as determined under Chapter
21 573, Government Code, has a substantial interest in the business
22 entity under Section 171.002, Local Government Code; and

23 (2) a teacher at a public charter district may serve as
24 a member of the governing body of the charter holder or the
25 governing body of the public charter district if the teachers
26 serving on the governing body:

27 (A) do not constitute a quorum of the governing

1 body or any committee of the governing body; and

2 (B) comply with the requirements of Sections
3 171.003-171.007, Local Government Code.

4 (b) To the extent consistent with this section, a
5 requirement of a law listed in this section that applies to a school
6 district or the board of trustees of a school district applies to a
7 public charter district, the governing body of a charter holder, or
8 the governing body of a public charter district.

9 (c) An employee who is not a teacher may serve as a member of
10 the governing body of a charter holder or the governing body of a
11 public charter district if:

12 (1) the charter holder operating the public charter
13 district where the individual is employed and serves as a member of
14 the governing body operated an open-enrollment charter school under
15 Subchapter D, Chapter 12, on August 31, 2005;

16 (2) the individual was employed by the charter holder
17 and serving as a member of the governing body on August 31, 2005, in
18 compliance with former Section 12.1054; and

19 (3) the individual had been continuously so employed
20 and serving since a date on or before January 1, 2005.

21 (d) If under Subsection (c) an individual continues to be
22 employed and serve as a member of the governing body, the individual
23 may not participate in any deliberation or voting on the
24 appointment, reappointment, confirmation of the appointment or
25 reappointment, employment, reemployment, change in the status,
26 compensation, or dismissal of the individual if that action applies
27 only to the individual and is not taken regarding a bona fide class

1 or category of employees. In addition, the individual may not hear,
2 consider, or act on any grievance or complaint concerning the
3 individual or a matter with which the individual has dealt in the
4 individual's capacity as an employee.

5 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public
6 charter district, including the governing body of a public charter
7 district and any district employee with final authority to hire a
8 district employee, is subject to a prohibition, restriction, or
9 requirement, as applicable, imposed by state law or by a rule
10 adopted under state law, relating to nepotism under Chapter 573,
11 Government Code.

12 (b) Notwithstanding Subsection (a), a member of the
13 governing body of a charter holder or public charter district may
14 not be related in the third degree by consanguinity or affinity, as
15 determined under Chapter 573, Government Code, to another member of
16 the governing body of the charter holder or public charter
17 district.

18 (c) This section does not apply to an appointment,
19 confirmation of an appointment, or vote for an appointment or
20 confirmation of an appointment of an individual to a position if:

21 (1) the charter holder operating the public charter
22 district where the individual is employed or serves as a member of
23 the governing body operated an open-enrollment charter school under
24 Subchapter D, Chapter 12, on August 31, 2005;

25 (2) the individual was employed or serving in the
26 position on August 31, 2005, in compliance with former Section
27 12.1055; and

1 (3) the individual has been continuously employed or
2 serving since a date on or before January 1, 2005.

3 (d) If, under Subsection (c), an individual continues to be
4 employed or serve in a position, the public official to whom the
5 individual is related in a prohibited degree may not participate in
6 any deliberation or voting on the appointment, reappointment,
7 confirmation of the appointment or reappointment, employment,
8 reemployment, change in status, compensation, or dismissal of the
9 individual if that action applies only to the individual and is not
10 taken regarding a bona fide class or category of employees.

11 [Sections 11A.058-11A.100 reserved for expansion]

12 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

13 Sec. 11A.101. APPLICATION. (a) The State Board of
14 Education shall adopt:

15 (1) an application form and a procedure that must be
16 used to apply for a charter for a public charter district; and

17 (2) criteria to use in selecting a program for which to
18 grant a charter.

19 (b) The application form must provide for including the
20 information required under Section 11A.103 to be contained in a
21 charter.

22 (c) The State Board of Education may approve or deny an
23 application based on criteria it adopts and on financial,
24 governing, and operational standards adopted by the commissioner
25 under this chapter. The criteria the board adopts must include:

26 (1) criteria relating to improving student
27 performance and encouraging innovative programs; and

1 (2) criteria relating to the educational benefit for
2 students residing in the geographic area to be served by the
3 proposed public charter district, as compared to any significant
4 financial difficulty that a loss in enrollment may have on any
5 school district whose enrollment is likely to be affected by the
6 public charter district.

7 (d) A public charter district may not begin operating under
8 this chapter unless the commissioner has certified that the
9 applicant has acceptable administrative and accounting systems and
10 procedures in place for the operation of the proposed public
11 charter district.

12 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The
13 commissioner by rule shall adopt a procedure for providing notice
14 to the following persons on receipt by the State Board of Education
15 of an application for a charter for a public charter school under
16 Section 11A.002:

17 (1) the board of trustees of each school district from
18 which the proposed charter school is likely to draw students, as
19 determined by the commissioner; and

20 (2) each member of the legislature that represents the
21 geographic area to be served by the proposed school, as determined
22 by the commissioner.

23 Sec. 11A.103. CONTENT. (a) Each charter granted under this
24 chapter must:

25 (1) describe the educational program to be offered,
26 which must include the required curriculum as provided by Section
27 28.002;

1 (2) establish educational goals, which must include
2 acceptable student performance as determined under Chapter 39;

3 (3) specify the grade levels to be offered, which must
4 be sufficient to permit the agency to assign an accountability
5 rating under Chapter 39;

6 (4) describe the facilities to be used;

7 (5) describe the geographical area served by the
8 program, which may not be statewide; and

9 (6) specify any type of enrollment criteria to be
10 used.

11 (b) A charter holder of a public charter district shall
12 consider including in the district's charter a requirement that the
13 district develop and administer personal graduation plans under
14 Section 28.0212.

15 (c) The terms of a charter may not include plans for future
16 increases in student enrollment, grade levels, campuses, or
17 geographical area, except that:

18 (1) the charter may contain a plan for adding grade
19 levels as necessary to comply with Section 11A.253(c) or (d); and

20 (2) the commissioner may approve such an increase in a
21 charter revision request under Section 11A.106.

22 Sec. 11A.104. FORM. A charter for a public charter district
23 shall be in the form of a license issued by the State Board of
24 Education to the charter holder.

25 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN
26 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner
27 shall immediately grant a charter under this chapter to the

1 following entities on or before August 1, 2006:

2 (1) an eligible entity holding a charter granted
3 before September 1, 2002, under Subchapter D, Chapter 12, as that
4 subchapter existed on January 1, 2005, if:

5 (A) for fiscal years 2004 and 2005, the entity
6 had total assets that exceeded total liabilities, as determined by
7 the entity's annual audit report under Section 44.008;

8 (B) at least 30 percent of all students enrolled
9 at the entity's open-enrollment charter school and administered an
10 assessment instrument under Section 39.023(a), (c), or (l)
11 performed satisfactorily on the assessment instrument in
12 mathematics, as determined by the school's assessment instrument
13 results for the 2005-2006 school year; and

14 (C) at least 30 percent of all students enrolled
15 at the entity's open-enrollment charter school and administered an
16 assessment instrument under Section 39.023(a), (c), or (l)
17 performed satisfactorily on the assessment instrument in reading or
18 English language arts, as applicable, as determined by the school's
19 assessment instrument results for the 2005-2006 school year;

20 (2) a governmental entity holding a charter under
21 Subchapter D, Chapter 12, as that subchapter existed on January 1,
22 2005;

23 (3) an eligible entity holding a charter under
24 Subchapter D, Chapter 12, as that subchapter existed on January 1,
25 2005, if at least 85 percent of students enrolled in the school
26 reside in a residential facility; and

27 (4) an eligible entity granted a charter on or after

1 September 1, 2002, under Subchapter D, Chapter 12, as that
2 subchapter existed on January 1, 2005.

3 (b) Assessment instrument results for fewer than five
4 students are not considered for purposes of Subsection (a)(1)(B) or
5 (C).

6 (c) The commissioner shall determine which entities are
7 eligible for a charter under this section as soon as practicable.

8 (d) The content and terms of a charter granted to an
9 eligible entity under this section must be the same as those under
10 which the entity operated under Subchapter D, Chapter 12, as that
11 subchapter existed on January 1, 2005, except that where the terms
12 conflict with this chapter, this chapter prevails.

13 (e) An eligible entity holding multiple charters prior to
14 January 1, 2005, may not combine those charters into one charter for
15 a public charter district but must retain each of those charters
16 which count towards the limit imposed under Section 11A.002(c).

17 (f) Section 11A.157 does not apply to an entity granted a
18 charter under this section.

19 (g) A decision of the commissioner under this section is not
20 subject to a hearing or an appeal to a district court.

21 (h) This section expires January 1, 2008.

22 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

23 (a) For purposes of Section 11A.1041(a), the commissioner shall
24 compute the percentage of students who performed satisfactorily on
25 an assessment instrument in a manner consistent with this section.

26 (b) The commissioner may only consider the performance of a
27 student who was enrolled as of the date for reporting enrollment for

1 the fall semester under the Public Education Information Management
2 System (PEIMS).

3 (c) In computing performance under this section, the
4 commissioner must:

5 (1) add the results for third through 11th grade
6 assessment instruments in English and third through sixth grade
7 assessment instruments in Spanish across grade levels tested at all
8 campuses operated by the charter holder and evaluate those results
9 for all students;

10 (2) combine the results for third through ninth grade
11 assessment instruments in reading and 10th and 11th grade
12 assessment instruments in English language arts and evaluate those
13 results as a single subject; and

14 (3) separately determine student performance for
15 reading and mathematics as a percentage equal to the sum of students
16 who performed satisfactorily on the specific subject area
17 assessment instrument in all grade levels tested at all campuses
18 operated by the charter holder divided by the number of students who
19 took the specific subject area assessment instrument in grade
20 levels tested at all campuses operated by the charter holder.

21 (d) To the extent consistent with this section, the
22 commissioner shall use the methodology used to compute passing
23 rates for reading and mathematics assessment instruments for
24 purposes of determining accountability ratings under Chapter 39 for
25 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

26 (e) This section expires January 1, 2008.

27 Sec. 11A.105. CHARTER GRANTED. Each charter the State

1 Board of Education grants for a public charter district must:

2 (1) satisfy this chapter; and

3 (2) include the information that is required under
4 Section 11A.103 consistent with the information provided in the
5 application and any modification the board requires.

6 Sec. 11A.106. REVISION. (a) A revision of a charter of a
7 public charter district may be made only with the approval of the
8 commissioner.

9 (b) Not more than once each year, a public charter district
10 may request approval to revise the maximum student enrollment
11 described by the district's charter.

12 (c) The commissioner may not approve a charter revision that
13 increases a public charter district's enrollment, increases the
14 grade levels offered, increases the number of campuses, or changes
15 the boundaries of the geographic area served by the program unless
16 the commissioner determines that:

17 (1) the public charter district has operated one or
18 more campuses for at least three school years;

19 (2) each campus operated by the public charter
20 district has been rated at least academically acceptable under
21 Subchapter D, Chapter 39, for each of its most recent three years of
22 operation;

23 (3) each campus operated by the public charter
24 district has achieved performance levels that are at least five
25 percentage points above the applicable accountability standard for
26 academically acceptable performance on statewide assessments under
27 Subchapter D, Chapter 39, as determined by the commissioner, for

1 all tested subjects for each of its most recent two years of
2 operation;

3 (4) the public charter district has been rated
4 superior, above standard, standard, or the equivalent, under the
5 financial accountability system under Subchapter I, Chapter 39;

6 (5) during the three years preceding the proposed
7 charter revision, the public charter district and its campuses have
8 not been subject to an intervention or sanction under Subchapter D,
9 Chapter 39, including an intervention or sanction related to:

10 (A) the quality of data or reports required by
11 state or federal law or court order;

12 (B) high school graduation requirements under
13 Section 28.025; or

14 (C) the effectiveness of programs for special
15 student populations; and

16 (6) the charter revision is in the best interest of
17 students of this state.

18 (d) In making a determination under Subsection (c)(6), the
19 commissioner shall review all available information relating to the
20 charter holder, including the charter holder's:

21 (1) academic and financial performance;

22 (2) history of compliance with applicable laws;

23 (3) staffing, financial, and organizational data; and

24 (4) any other information regarding the charter
25 holder's capacity to successfully implement the requested charter
26 revision.

27 (e) The commissioner may not approve a charter revision that

1 proposes an increase in:

2 (1) a public charter district's enrollment, unless the
3 charter holder adopts a business plan for implementing the
4 enrollment increase that includes components identified by the
5 commissioner; or

6 (2) the grade levels offered by a public charter
7 district, unless the charter holder adopts an educational plan for
8 the additional grade levels that includes components identified by
9 the commissioner.

10 (f) The commissioner may approve a charter revision
11 authorizing a public charter district to serve students in a
12 geographical area that is not contiguous with the existing
13 boundaries of the district, but may not approve a statewide
14 geographical boundary.

15 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON
16 PROBATION, OR REVOCATION. (a) The commissioner may modify, place
17 on probation, or revoke the charter of a public charter district if
18 the commissioner determines under Section 11A.108 that the charter
19 holder:

20 (1) committed a material violation of the charter;

21 (2) failed to satisfy generally accepted accounting
22 standards of fiscal management;

23 (3) failed to protect the health, safety, welfare, or
24 best interests of the students enrolled at the public charter
25 district; or

26 (4) failed to comply with this chapter or another
27 applicable law or rule.

1 (b) The commissioner shall revoke the charter of a public
2 charter district without a hearing if:

3 (1) in two consecutive years, the public charter
4 district:

5 (A) is rated academically unacceptable under
6 Subchapter D, Chapter 39; or

7 (B) is rated financially unacceptable by the
8 commissioner under Subchapter I, Chapter 39; or

9 (2) all campuses operated by the public charter
10 district have been ordered closed under Section 39.131(a) or
11 39.1322(f).

12 (c) A revocation under Subsection (b)(1) is effective on
13 January 1 following the school year in which the public charter
14 district received a second unacceptable rating.

15 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON
16 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a
17 procedure to be used for modifying, placing on probation, or
18 revoking the charter of a public charter district under Section
19 11A.107(a).

20 (b) The procedure adopted under Subsection (a) must provide
21 an opportunity for a hearing to the charter holder.

22 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON
23 PROBATION, OR REVOCATION. A charter holder may appeal a
24 modification, placement on probation, or revocation under this
25 subchapter only in the manner provided by the applicable procedures
26 adopted by the commissioner under Section 11A.108. The charter
27 holder may not otherwise appeal to the commissioner and may not

1 appeal to a district court.

2 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.

3 If the commissioner revokes a charter of a public charter district,
4 if a district is ordered closed under Chapter 39, or if a public
5 charter district surrenders its charter, the district may not:

6 (1) continue to operate under this chapter; or

7 (2) receive state funds under this chapter.

8 [Sections 11A.111-11A.150 reserved for expansion]

9 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF

10 CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND

11 MANAGEMENT COMPANIES

12 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

13 The governing body of a charter holder is responsible for the
14 management, operation, and accountability of the public charter
15 district, regardless of whether the governing body delegates the
16 governing body's powers and duties to another person.

17 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER

18 HOLDER. The governing body of a charter holder must be composed of
19 at least five members.

20 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF

21 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS
22 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a
23 person may not serve as a member of the governing body of a charter
24 holder, as a member of the governing body of a public charter
25 district, or as an officer or employee of a public charter district
26 if the person:

27 (1) has been convicted of a felony or a misdemeanor

1 involving moral turpitude;

2 (2) has been convicted of an offense listed in Section
3 37.007(a);

4 (3) has been convicted of an offense listed in Article
5 62.001(5), Code of Criminal Procedure; or

6 (4) has a substantial interest in a management
7 company.

8 (b) A person who has been convicted of an offense described
9 by Subsection (a)(1), (2), or (3) may serve as a member of the
10 governing body of a charter holder, as a member of the governing
11 body of a public charter district, or as an officer or employee of a
12 public charter district if the commissioner determines that the
13 person is fit to serve in that capacity. In making a determination
14 under this subsection, the commissioner shall consider:

15 (1) the factors described by Section 53.022,
16 Occupations Code, for determining the extent to which a conviction
17 relates to an occupation;

18 (2) the factors described by Section 53.023,
19 Occupations Code, for determining the fitness of a person to
20 perform the duties and discharge the responsibilities of an
21 occupation; and

22 (3) other appropriate factors, as determined by the
23 commissioner.

24 (c) For purposes of Subsection (a)(4), a person has a
25 substantial interest in a management company if the person or a
26 relative within the third degree by consanguinity or affinity, as
27 determined under Chapter 573, Government Code:

1 (1) has a controlling interest in the company;

2 (2) owns more than 10 percent of the voting interest in
3 the company;

4 (3) owns more than \$25,000 of the fair market value of
5 the company;

6 (4) has a direct or indirect participating interest by
7 shares, stock, or otherwise, regardless of whether voting rights
8 are included, in more than 10 percent of the profits, proceeds, or
9 capital gains of the company;

10 (5) is a member of the board of directors or other
11 governing body of the company;

12 (6) serves as an elected officer of the company; or

13 (7) is an employee of the company.

14 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF
15 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit
16 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
17 Statutes), Chapter 22, Business Organizations Code, or other law,
18 on request of the commissioner, the attorney general shall bring
19 suit against a member of the governing body of a charter holder for
20 breach of a fiduciary duty by the member, including misapplication
21 of public funds.

22 (b) The attorney general may bring suit under Subsection (a)
23 for:

24 (1) damages;

25 (2) injunctive relief; or

26 (3) any other equitable remedy determined to be
27 appropriate by the court.

1 (c) This section is cumulative of all other remedies.

2 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF
3 CHARTER HOLDER. (a) The commissioner shall adopt rules
4 prescribing training for members of governing bodies of charter
5 holders.

6 (b) The rules adopted under Subsection (a) may:

7 (1) specify the minimum amount and frequency of the
8 training;

9 (2) require the training to be provided by:

10 (A) the agency and regional education service
11 centers;

12 (B) entities other than the agency and service
13 centers, subject to approval by the commissioner; or

14 (C) both the agency, service centers, and other
15 entities; and

16 (3) require training to be provided concerning:

17 (A) basic school law, including school finance;

18 (B) health and safety issues;

19 (C) accountability requirements related to the
20 use of public funds; and

21 (D) other requirements relating to
22 accountability to the public, such as open meetings requirements
23 under Chapter 551, Government Code, and public information
24 requirements under Chapter 552, Government Code.

25 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder
26 shall file with the commissioner a copy of its articles of
27 incorporation and bylaws, or comparable documents if the charter

1 holder does not have articles of incorporation or bylaws, within
2 the period and in the manner prescribed by the commissioner.

3 (b) Each public charter district shall file annually with
4 the commissioner the following information in a form prescribed by
5 the commissioner:

6 (1) the name, address, and telephone number of each
7 officer and member of the governing body of the charter holder; and

8 (2) the amount of annual compensation the public
9 charter district pays to each officer and member of the governing
10 body.

11 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During
12 a public charter district's first year of operation, the charter
13 holder shall submit quarterly financial reports to the
14 commissioner. The commissioner by rule shall determine the form
15 and content of the financial reports under this section.

16 Sec. 11A.158. PEIMS INFORMATION. The governing body of a
17 public charter district shall comply with Section 7.007.

18 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A
19 management company that provides management services to a public
20 charter district is liable for damages incurred by the state or a
21 school district as a result of the failure of the company to comply
22 with its contractual or other legal obligation to provide services
23 to the district.

24 (b) On request of the commissioner, the attorney general may
25 bring suit on behalf of the state against a management company
26 liable under Subsection (a) for:

27 (1) damages, including any state funding received by

1 the company and any consequential damages suffered by the state;

2 (2) injunctive relief; or

3 (3) any other equitable remedy determined to be
4 appropriate by the court.

5 (c) This section is cumulative of all other remedies and
6 does not affect:

7 (1) the liability of a management company to the
8 charter holder; or

9 (2) the liability of a charter holder, a member of the
10 governing body of a charter holder, or a member of the governing
11 body of a public charter district to the state.

12 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

13 (a) The charter holder or the governing body of a public charter
14 district may not accept a loan from a management company that has a
15 contract to provide management services to:

16 (1) the district; or

17 (2) another public charter district that operates
18 under a charter granted to the charter holder.

19 (b) A charter holder or the governing body of a public
20 charter district that accepts a loan from a management company may
21 not enter into a contract with that management company to provide
22 management services to the district.

23 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any
24 contract, including a contract renewal, between a public charter
25 district and a management company proposing to provide management
26 services to the district must require the management company to
27 maintain all records related to the management services separately

1 from any other records of the management company.

2 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS
3 PROHIBITED. The commissioner may prohibit, deny renewal of,
4 suspend, or revoke a contract between a public charter district and
5 a management company providing management services to the district
6 if the commissioner determines that the management company has:

7 (1) failed to provide educational or related services
8 in compliance with the company's contractual or other legal
9 obligation to any public charter district in this state or to any
10 other similar entity in another state;

11 (2) failed to protect the health, safety, or welfare
12 of the students enrolled at a public charter district served by the
13 company;

14 (3) violated this chapter or a rule adopted under this
15 chapter; or

16 (4) otherwise failed to comply with any contractual or
17 other legal obligation to provide services to the district.

18 [Sections 11A.163-11A.200 reserved for expansion]

19 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

20 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent
21 with Subsection (c), a charter holder is entitled to receive for the
22 public charter district funding under Chapter 42 as if the public
23 charter district were a school district without a local share for
24 purposes of Section 42.306 and without any local revenue ("LR") for
25 purposes of Section 42.252. In determining funding for a public
26 charter district, adjustments under Sections 42.301, 42.302, and
27 42.303 and the district enrichment tax rate ("DTR") under Section

1 42.252 are based on the average adjustment and average district
2 enrichment tax rate for the state.

3 (a-1) Notwithstanding Subsection (a), an entity granted a
4 charter under Section 11A.1041 is entitled to receive funding for
5 each student in weighted average daily attendance in an amount
6 equal to the greater of the amount determined under Subsection (a)
7 or the amount to which the entity was entitled for the 2003-2004 or
8 2004-2005 school year, as determined by the commissioner. A
9 determination of the commissioner under this subsection is final
10 and not subject to appeal. This subsection expires September 1,
11 2013.

12 (b) To the extent consistent with Subsection (c), a public
13 charter district is entitled to funds that are available to school
14 districts from the agency or the commissioner, including grants and
15 other discretionary funding and any teacher incentive payments
16 under Section 39.113, unless the statute authorizing the funding
17 explicitly provides that a public charter district is not entitled
18 to the funding.

19 (c) A charter holder is entitled to receive for a public
20 charter district funding under this section only if the holder:

21 (1) provides information for the Public Education
22 Information Management System (PEIMS) as required by this chapter;

23 (2) submits to the commissioner appropriate fiscal and
24 financial records as required by this chapter and the commissioner;
25 and

26 (3) receives an annual unqualified opinion in the
27 standard report filed pursuant to Section 11A.210.

1 (d) The commissioner shall suspend the funding of a charter
2 holder that fails to comply with Subsection (c) until the
3 commissioner determines that the charter holder is in compliance or
4 has cured any noncompliance and has adopted adequate procedures to
5 prevent future noncompliance.

6 (e) The commissioner may adopt rules to provide and account
7 for state funding of public charter districts under this section. A
8 rule adopted under this section may be similar to a provision of
9 this code that is not similar to Section 11A.052(b) if the
10 commissioner determines that the rule is related to financing of
11 public charter districts and is necessary or prudent to provide or
12 account for state funds.

13 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF
14 SALARIES. (a) This section applies only to a charter holder that
15 on January 1, 2005:

16 (1) operated an open-enrollment charter school under
17 former Subchapter D, Chapter 12; and

18 (2) participated in the program under Chapter 1579,
19 Insurance Code.

20 (b) In addition to any amounts to which a charter holder is
21 entitled under this chapter, a charter holder is entitled to state
22 aid in an amount, as determined by the commissioner, equal to the
23 product of \$1,000 multiplied by the number of classroom teachers,
24 full-time librarians, and full-time counselors certified under
25 Subchapter B, Chapter 21, and full-time school nurses appropriately
26 licensed under Chapter 301, Occupations Code, who are employed by
27 the charter holder at a public charter district.

1 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In
2 this section, "instructional facility" has the meaning assigned by
3 Section 46.001.

4 (b) A charter holder is initially eligible for
5 instructional facilities allotments in accordance with this
6 section if:

7 (1) any campus of a public charter district for which
8 the charter holder has been granted a license has for two
9 consecutive school years been rated exemplary or recognized under
10 Subchapter D, Chapter 39, or has performed at a comparable level, as
11 determined by the commissioner for purposes of this section; and

12 (2) on the most recent audit of the financial
13 operations of the district conducted pursuant to Section 11A.210,
14 the district has satisfied generally accepted accounting standards
15 of fiscal management as evidenced by an unqualified opinion in the
16 standard report issued and filed pursuant to Section 11A.210.

17 (b-1) Notwithstanding Subsection (b), a charter holder is
18 eligible for instructional facilities allotments for the 2006-2007
19 school year in accordance with this section if any campus of a
20 public charter district for which the charter holder has been
21 granted a license has been rated exemplary or recognized under
22 Subchapter D, Chapter 39, for at least two of the 2003-2004,
23 2004-2005, and 2005-2006 school years.

24 (b-2) Subsection (b-1) and this subsection expire September
25 1, 2007.

26 (c) Once a public charter district satisfies the initial
27 eligibility requirements under Subsection (b) and receives an

1 allotment under this section, the district continues to remain
2 eligible until the district receives an accountability rating of
3 unacceptable under Subchapter D, Chapter 39, at which point the
4 district is again subject to the eligibility requirements of
5 Subsection (b).

6 (d) The commissioner annually shall review the eligibility
7 of a public charter district campus for purposes of this section.

8 (e) Except as otherwise provided by this section, a charter
9 holder is entitled to an annual allotment in an amount determined by
10 the commissioner, not to exceed \$1,000 or a different amount
11 provided by appropriation, for each student in average daily
12 attendance during the preceding year at a campus of a public charter
13 district that is eligible for an allotment under this section.

14 (f) A charter holder who receives funds under this section
15 may use the funds only to:

16 (1) purchase real property on which to construct an
17 instructional facility for a public charter district campus for
18 which the funds were paid under Subsection (e);

19 (2) purchase, lease, construct, expand, or renovate
20 instructional facilities for a public charter district campus for
21 which the funds were paid under Subsection (e);

22 (3) pay debt service in connection with instructional
23 facilities purchased or improved for a campus of the public charter
24 district that meets the requirements under Subsection (b); or

25 (4) maintain and operate public charter district
26 instructional facilities.

27 (g) A decision of the commissioner under Subsection (e) is

1 final and may not be appealed.

2 (h) The commissioner shall by rule establish procedures to
3 ensure that funds a charter holder claims to be using for purposes
4 of Subsection (f)(3) are used only for that purpose.

5 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received
6 under Section 11A.201 or 11A.202 by a charter holder:

7 (1) are considered to be public funds for all purposes
8 under state law;

9 (2) are held in trust by the charter holder for the
10 benefit of this state and the students of the public charter
11 district;

12 (3) may be used only for a purpose for which a school
13 may use local funds under Section 45.105(c) in the case of funds
14 received under Section 11A.201, and may be used only for a purpose
15 specified under Section 11A.202(f) in the case of funds received
16 under Section 11A.202; and

17 (4) pending their use, must be deposited into a bank,
18 as defined by Section 45.201, with which the charter holder has
19 entered into a depository contract under Section 11A.204.

20 (b) Funds deposited under Subsection (a)(4) may be directly
21 deposited into an account controlled by a bond trustee acting for
22 the charter holder pursuant to a bond indenture agreement requiring
23 direct deposit.

24 (c) The commissioner shall adopt rules for identifying
25 public funds in accordance with Subsection (a).

26 (d) The commissioner may bring an action in district court
27 in Travis County for injunctive or other relief to enforce this

1 section. In identifying public funds held by a charter holder, the
2 court shall use the criteria adopted by the commissioner under
3 Subsection (c). Except as otherwise provided by this subsection,
4 the court shall enter any order under this subsection concerning
5 public funds held by the charter holder necessary to best serve the
6 interests of the students of a public charter district. In the case
7 of a public charter district that has ceased to operate, the court
8 shall enter any order under this subsection concerning public funds
9 held by the charter holder necessary to best serve the interests of
10 this state.

11 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank
12 selected as a school depository and the charter holder shall enter
13 into a depository contract, bond, or other necessary instrument
14 setting forth the duties and agreements pertaining to the
15 depository, in a form and with the content prescribed by the State
16 Board of Education.

17 (b) The depository bank shall attach to the contract and
18 file with the charter holder a bond in an initial amount equal to
19 the estimated highest daily balance, determined by the charter
20 holder, of all deposits that the charter holder will have in the
21 depository during the term of the contract, less any applicable
22 Federal Deposit Insurance Corporation insurance. The bond must be
23 payable to the charter holder and must be signed by the depository
24 bank and by a surety company authorized to engage in business in
25 this state. The depository bank shall increase the amount of the
26 bond if the charter holder determines the increase is necessary to
27 adequately protect the funds of the charter holder deposited with

1 the depository bank.

2 (c) The bond shall be conditioned on:

3 (1) the faithful performance of all duties and
4 obligations imposed by law on the depository;

5 (2) the payment on presentation of all checks or
6 drafts on order of the charter holder, in accordance with its orders
7 entered by the charter holder according to law;

8 (3) the payment on demand of any demand deposit in the
9 depository;

10 (4) the payment, after the expiration of the period of
11 notice required, of any time deposit in the depository;

12 (5) the faithful keeping of school funds by the
13 depository and the accounting for the funds according to law; and

14 (6) the faithful paying over to the successor
15 depository all balances remaining in the accounts.

16 (d) The bond and the surety on the bond must be approved by
17 the charter holder. A premium on the depository bond may not be
18 paid out of charter holder funds related to operation of the public
19 charter district.

20 (e) The charter holder shall file a copy of the depository
21 contract and bond with the agency.

22 (f) Instead of the bond required under Subsection (b), the
23 depository bank may deposit or pledge, with the charter holder or
24 with a trustee designated by the charter holder, approved
25 securities, as defined by Section 45.201, in an amount sufficient
26 to adequately protect the funds of the charter holder deposited
27 with the depository bank. A depository bank may give a bond and

1 deposit or pledge approved securities in an aggregate amount
2 sufficient to adequately protect the funds of the charter holder
3 deposited with the depository bank. The charter holder shall
4 periodically designate the amount of approved securities or the
5 aggregate amount of the bond and approved securities necessary to
6 adequately protect the charter holder. The charter holder may not
7 designate an amount less than the balance of charter holder funds on
8 deposit with the depository bank from day to day, less any
9 applicable Federal Deposit Insurance Corporation insurance. The
10 depository bank may substitute approved securities on obtaining the
11 approval of the charter holder. For purposes of this subsection,
12 the approved securities are valued at their market value.

13 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter
14 holder who accepts state funds under Section 11A.201 or 11A.202
15 agrees to be subject to all requirements, prohibitions, and
16 sanctions authorized under this chapter.

17 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE
18 FUNDS. (a) Property purchased or leased with funds received by a
19 charter holder under Section 11A.201 or 11A.202:

20 (1) is considered to be public property for all
21 purposes under state law;

22 (2) is held in trust by the charter holder for the
23 benefit of this state and the students of the public charter
24 district; and

25 (3) may be used only for a purpose for which a school
26 district may use school district property.

27 (b) The commissioner shall:

1 (1) take possession and assume control of the property
2 described by Subsection (a) of a public charter district that
3 ceases to operate; and

4 (2) supervise the disposition of the property in
5 accordance with law.

6 (c) This section does not affect the priority of a security
7 interest in or lien on property established by a creditor in
8 compliance with law if the security interest or lien arose in
9 connection with the sale or lease of the property to the charter
10 holder.

11 (d) The commissioner shall adopt rules for identifying
12 public property in accordance with Subsection (a).

13 (e) The commissioner may bring an action in district court
14 in Travis County for injunctive or other relief to enforce this
15 section. In identifying public property held by a charter holder,
16 the court shall use the criteria adopted by the commissioner under
17 Subsection (d). Except as otherwise provided by this subsection,
18 the court shall enter any order under this subsection concerning
19 public property held by the charter holder necessary to best serve
20 the interests of the students of a public charter district. In the
21 case of a public charter district that has ceased to operate, the
22 court shall enter any order under this subsection concerning public
23 property held by the charter holder necessary to best serve the
24 interests of this state. The court may order title to real or
25 personal public property held by the charter holder transferred to
26 a trust established for the purpose of managing the property or may
27 make other disposition of the property necessary to best serve the

1 interests of this state.

2 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER
3 DISTRICT LAND OR FACILITIES. A municipality to which a charter is
4 granted under this chapter may borrow funds, issue obligations, or
5 otherwise spend its funds to acquire land or acquire, construct,
6 expand, or renovate school buildings or facilities and related
7 improvements for its public charter district within the city limits
8 of the municipality in the same manner the municipality is
9 authorized to borrow funds, issue obligations, or otherwise spend
10 its funds in connection with any other public works project.

11 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND
12 TECHNOLOGY. A public charter district is entitled to funding for
13 instructional materials under Chapter 31 and technology under
14 Subchapter A, Chapter 32, and is subject to those provisions as if
15 the public charter district were a school district.

16 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public
17 charter district shall annually adopt a budget for the district.

18 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public
19 charter district shall conduct an annual audit in a manner that
20 complies with Section 44.008.

21 [Sections 11A.211-11A.250 reserved for expansion]

22 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

23 Sec. 11A.251. ADMISSION POLICY. A public charter district
24 may not discriminate in admission policy on the basis of sex,
25 national origin, ethnicity, religion, disability, or academic,
26 artistic, or athletic ability or the district the child would
27 otherwise attend in accordance with this code.

1 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to
2 a public charter district campus, the governing body of the
3 district shall:

4 (1) require the applicant to complete and submit an
5 application not later than a reasonable deadline the district
6 establishes; and

7 (2) on receipt of more acceptable applications for
8 admission under this section than available positions in the
9 school:

10 (A) fill the available positions by lottery; or

11 (B) subject to Subsection (b), fill the available
12 positions in the order in which applications received before the
13 application deadline were received.

14 (b) A public charter district may fill applications for
15 admission under Subsection (a)(2)(B) only if the district published
16 a notice of the opportunity to apply for admission to the district.

17 A notice published under this subsection must:

18 (1) state the application deadline;

19 (2) be published in a newspaper of general circulation
20 in the community in which the district campus is located not later
21 than the seventh day before the application deadline; and

22 (3) be made available on the public charter district's
23 Internet website, if available.

24 (c) A public charter district may exempt an applicant from
25 the requirements of Subsection (a)(2) if the applicant is:

26 (1) the child or grandchild of a member of the
27 governing body of the charter holder at the time the district's

1 charter was first granted;

2 (2) the child of an employee of the district or the
3 charter holder; or

4 (3) a sibling of a student who is enrolled in the
5 district.

6 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided
7 by Subsection (b) or as otherwise determined impracticable by the
8 commissioner, during a public charter district's first year of
9 operation, the district must have a student enrollment of at least
10 100 and not more than 500 at any time during the school year.

11 (b) A public charter district may have a student enrollment
12 of less than 100 if approved by the commissioner.

13 (c) Not later than a public charter district's third year of
14 operation, at least 25 percent of the district's students must be
15 enrolled in one or more grade levels for which assessment
16 instruments are administered under Section 39.023(a).

17 (d) The commissioner may grant a waiver from the
18 requirements of Subsection (c) for a public charter district that
19 opens a campus serving prekindergarten or kindergarten students and
20 agrees to:

21 (1) add at least one higher grade level class each
22 school year after opening the campus; and

23 (2) until the campus complies with Subsection (c),
24 adopt accountability measures to assess the performance of the
25 students not assessed under Section 39.023(a).

26 (e) The commissioner may grant a waiver from the
27 requirements of Subsection (c) for a public charter district that

1 was operating an open-enrollment charter school campus on January
2 1, 2005, serving prekindergarten, kindergarten, and first, second,
3 and third grade students if the public charter district:

4 (1) adopts one or more nationally norm-referenced
5 assessment instruments approved by the commissioner;

6 (2) administers the assessment instruments to its
7 second grade students at intervals and in the manner specified by
8 commissioner rule; and

9 (3) meets the applicable standards for student
10 performance on the assessment instruments, as determined by
11 commissioner rule.

12 (f) The commissioner shall adopt rules necessary to
13 implement this section.

14 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public
15 charter district may not charge tuition to an eligible student who
16 applies for admission to the district under this chapter.

17 (b) The governing body of a public charter district may
18 require a student to pay any fee that the board of trustees of a
19 school district may charge under Section 11.158(a). The governing
20 body may not require a student to pay a fee that the board of
21 trustees of a school district may not charge under Section
22 11.158(b).

23 Sec. 11A.255. TRANSPORTATION. A public charter district
24 shall provide transportation to each student attending the school
25 to the same extent a school district is required by law to provide
26 transportation to district students.

27 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY

1 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The
2 governing body of a public charter district shall adopt a code of
3 conduct for the district or for each campus in the district.

4 (b) The code of conduct must include:

5 (1) standards for student behavior, including the
6 types of prohibited behaviors and the possible consequences of
7 misbehavior; and

8 (2) the district's due process procedures regarding
9 expulsion of a student.

10 (c) A final decision of the governing body of a public
11 charter district regarding action taken under the code of conduct
12 may not be appealed.

13 (d) A public charter district may not expel a student for a
14 reason that is not authorized by Section 37.007 or specified in the
15 district's code of conduct as conduct that may result in expulsion.

16 (e) Section 37.002 does not apply to a public charter
17 district except to the extent specified by the governing body of the
18 public charter district in the district's code of conduct.

19 [Sections 11A.257-11A.300 reserved for expansion]

20 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

21 Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except
22 as otherwise required by this section or chapter, a person employed
23 as a teacher by a public charter district must hold a baccalaureate
24 degree.

25 (b) To the extent required by federal law, including 20
26 U.S.C. Section 7801(11), a person employed as a teacher by a public
27 charter district must hold a baccalaureate degree.

1 Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE
2 QUALIFICATIONS. (a) Each public charter district shall provide to
3 the parent or guardian of each student enrolled at a campus in the
4 district written notice of the qualifications of each professional
5 employee, including each teacher, employed at the campus.

6 (b) The notice must include:

7 (1) any professional or educational degree held by the
8 employee;

9 (2) a statement of any certification under Subchapter
10 B, Chapter 21, held by the employee; and

11 (3) any relevant experience of the employee.

12 Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The
13 governing body of a public charter district shall obtain a complete
14 set of fingerprints from each person described by Section
15 21.0032(a).

16 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF
17 CERTAIN APPLICANTS. A public charter district must comply with
18 Section 21.0032 before employing or otherwise securing the services
19 of a person as a teacher, teacher intern or trainee, librarian,
20 educational aide, administrator, or counselor, regardless of
21 whether the applicant is certified under Subchapter B, Chapter 21.

22 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
23 TEXAS. (a) An employee of a public charter district who qualifies
24 for membership in the Teacher Retirement System of Texas shall be
25 covered under the system to the same extent a qualified employee of
26 a school district is covered.

27 (b) For each employee of a public charter district covered

1 under the system, the public charter district is responsible for
2 making any contribution that otherwise would be the legal
3 responsibility of a school district, and the state is responsible
4 for making contributions to the same extent it would be legally
5 responsible if the employee were a school district employee.

6 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

7 (a) This section applies only to a charter holder that on January
8 1, 2005:

9 (1) operated an open-enrollment charter school under
10 former Subchapter D, Chapter 12; and

11 (2) participated in the program under Chapter 1579,
12 Insurance Code.

13 (b) Using state funds received by the charter holder for
14 that purpose under Section 11A.2011, a charter holder each school
15 year shall pay each classroom teacher, full-time librarian,
16 full-time counselor certified under Subchapter B, Chapter 21, and
17 full-time school nurse appropriately licensed under Chapter 301,
18 Occupations Code, employed by the charter holder an amount at least
19 equal to \$1,000.

20 (c) A payment under this section is in addition to wages the
21 charter holder would otherwise pay the employee during the school
22 year.

23 [Sections 11A.307-11A.350 reserved for expansion]

24 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

25 Sec. 11A.351. AUDIT. (a) To the extent consistent with
26 this section, the commissioner may audit the records of:

27 (1) a public charter district or campus;

1 (2) a charter holder; and

2 (3) a management company.

3 (b) An audit under Subsection (a) must be limited to matters
4 directly related to the management or operation of a public charter
5 district, including any financial, student, and administrative
6 records.

7 (c) Unless the commissioner has specific cause to conduct an
8 additional audit, the commissioner may not conduct more than one
9 on-site audit of a public charter district under this section
10 during any fiscal year, including any audit of financial, student,
11 and administrative records. For purposes of this subsection, an
12 audit of a charter holder or management company associated with a
13 public charter district is not considered an audit of the district.

14 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a
15 subpoena to compel the attendance and testimony of a witness or the
16 production of materials relevant to an audit or investigation under
17 this chapter.

18 (b) A subpoena may be issued throughout the state and may be
19 served by any person designated by the commissioner.

20 (c) If a person fails to comply with a subpoena issued under
21 this section, the commissioner, acting through the attorney
22 general, may file suit to enforce the subpoena in a district court
23 in Travis County or in the county in which the audit or
24 investigation is conducted. The court shall order compliance with
25 the subpoena if the court finds that good cause exists to issue the
26 subpoena.

27 (d) This section expires September 1, 2007.

1 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take
2 any of the actions described by Subsection (b) or by Section
3 39.131(a), to the extent the commissioner determines necessary, if
4 a public charter district, as determined by a report issued under
5 Section 39.076(b):

6 (1) commits a material violation of the district's
7 charter;

8 (2) fails to satisfy generally accepted accounting
9 standards of fiscal management; or

10 (3) fails to comply with this chapter or another
11 applicable rule or law.

12 (b) The commissioner may temporarily withhold funding,
13 suspend the authority of a public charter district to operate, or
14 take any other reasonable action the commissioner determines
15 necessary to protect the health, safety, or welfare of students
16 enrolled at a district campus based on evidence that conditions at
17 the district campus present a danger to the health, safety, or
18 welfare of the students.

19 (c) After the commissioner acts under Subsection (b), the
20 public charter district may not receive funding and may not resume
21 operating until a determination is made that:

22 (1) despite initial evidence, the conditions at the
23 district campus do not present a danger of material harm to the
24 health, safety, or welfare of students; or

25 (2) the conditions at the district campus that
26 presented a danger of material harm to the health, safety, or
27 welfare of students have been corrected.

1 (d) Not later than the third business day after the date the
2 commissioner acts under Subsection (b), the commissioner shall
3 provide the charter holder an opportunity for a hearing. This
4 subsection does not apply to an action taken by the commissioner
5 under Chapter 39.

6 (e) Immediately after a hearing under Subsection (d), the
7 commissioner must cease the action under Subsection (b) or initiate
8 action under Section 11A.108.

9 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN
10 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the
11 Foundation School Program, the commissioner shall reduce the total
12 amount of state funds allocated to each district from any source in
13 the same manner described for a reduction in allotments under
14 Section 42.313 and adopt and implement a program for supervising
15 the administration of assessment instruments under Section 39.023
16 during the 2005-2006 school year at an open-enrollment charter
17 school, other than a school operated by an entity described by
18 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent
19 of all students enrolled at the school and administered an
20 assessment instrument under Section 39.023(a), (c), or (l)
21 performed satisfactorily on:

22 (1) the assessment instrument in mathematics, as
23 determined by the school's assessment instrument results for the
24 2004-2005 school year; or

25 (2) the assessment instrument in reading or English
26 language arts, as applicable, as determined by the school's
27 assessment instrument results for the 2004-2005 school year.

1 (b) The program adopted under Subsection (a) must be
2 designed to:

3 (1) ensure that the location at which an assessment
4 instrument is administered is secure and under the supervision of
5 persons who do not have any interest in the results of the
6 assessment instrument; and

7 (2) provide direct supervision of:

8 (A) the transportation of the assessment
9 instrument materials to and from the location at which the
10 instrument is administered; and

11 (B) the administration of the assessment
12 instrument to students.

13 (c) The commissioner may adopt rules necessary to
14 administer this section and may take any action that the
15 commissioner determines necessary to ensure the integrity of the
16 results of an assessment instrument administered at an
17 open-enrollment charter school described by Subsection (a).

18 (d) After deducting the amount withheld under Subsection
19 (a) from the total amount appropriated for the Foundation School
20 Program, the commissioner shall reduce the total amount of state
21 funds allocated to each district from any source in the same manner
22 described for a reduction in allotments under Section 42.313.

23 (e) An open-enrollment charter school's failure to fully
24 cooperate with the commissioner under this section is sufficient
25 grounds for revocation of the district's charter, as determined by
26 the commissioner.

27 (f) This section expires September 1, 2006.

1 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The
2 commissioner shall periodically consult with representatives of
3 charter holders regarding the duties and mission of the agency
4 relating to the operation of public charter districts. The
5 commissioner shall determine the frequency of the consultations.

6 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing
7 in this chapter may be construed to limit the commissioner's
8 authority under Chapter 39.

9 Sec. 11A.356. RULES. The commissioner may adopt rules for
10 the administration of this chapter.

11 [Sections 11A.357-11A.400 reserved for expansion]

12 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

13 Sec. 11A.401. AUTHORIZATION. (a) In this section,
14 "eligible entity" means an organization that is exempt from
15 taxation under Section 501(a), Internal Revenue Code of 1986, as an
16 organization described by Section 501(c)(3) of that code.

17 (b) In accordance with this subchapter, the commissioner
18 may authorize not more than three charter holders to grant a charter
19 to an eligible entity to operate a blue ribbon charter campus if:

20 (1) the charter holder proposes to grant the blue
21 ribbon charter to replicate a distinctive education program;

22 (2) the charter holder has demonstrated the ability to
23 replicate the education program;

24 (3) the education program has been implemented by the
25 charter holder for at least seven school years; and

26 (4) the charter school in which the charter holder has
27 implemented the program has been rated recognized or exemplary

1 under Section 39.072 for at least five school years.

2 (b-1) An eligible entity that assumed operation of an
3 existing charter school program during the seven years preceding
4 the proposed authorization under Subsection (b) may be authorized
5 to grant a blue ribbon charter under Subsection (b) if:

6 (1) the performance level of the program at a campus
7 before and after the entity assumed operation of the program meets
8 the qualifications described by Subsection (b); and

9 (2) the entity has met the qualifications described by
10 Subsection (b) since assuming operation of the program.

11 (c) A charter holder may grant a blue ribbon charter only to
12 an applicant that meets any financial, governing, and operational
13 standards adopted by the commissioner under this subchapter.

14 (d) A charter holder may grant not more than two blue ribbon
15 charters under this subchapter.

16 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue
17 ribbon charter campus is considered a public charter district
18 campus for purposes of state and federal law.

19 (b) A blue ribbon charter granted under this subchapter is
20 not considered for purposes of the limit on the number of public
21 charter districts imposed by Section 11A.002.

22 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE
23 RIBBON CHARTER CAMPUS. (a) The governing body of the public
24 charter district authorizing a blue ribbon charter is responsible
25 for the management and operation of the campus operated under a
26 blue ribbon charter. A blue ribbon charter campus is subject to the
27 rules and policies of the governing body of the charter holder that

1 granted the blue ribbon charter.

2 (b) For purposes of academic and financial accountability
3 and all other purposes under this chapter and Chapter 39, a blue
4 ribbon charter campus is considered a campus of the public charter
5 district operated by the charter holder that granted the blue
6 ribbon charter.

7 (c) A charter holder is entitled to receive funding for a
8 blue ribbon charter campus as if the blue ribbon charter campus were
9 a campus of the public charter district operated by the charter
10 holder.

11 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The
12 commissioner by rule shall adopt an application form and procedures
13 for a charter holder to apply for authorization to grant a blue
14 ribbon charter to an eligible entity under this subchapter.

15 (b) The application must specify:

16 (1) the criteria that will be used to grant blue ribbon
17 charters;

18 (2) procedures for governance and management of
19 campuses operating under a blue ribbon charter; and

20 (3) the performance standard by which continuation of
21 a blue ribbon charter will be determined.

22 (c) A determination by the commissioner regarding an
23 application under this section is final and may not be appealed.

24 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The
25 commissioner may revoke a charter holder's authorization to grant a
26 blue ribbon charter or operate a campus granted a blue ribbon
27 charter if the commissioner determines that the purposes of this

1 subchapter are not being satisfied.

2 (b) On revocation of a charter holder's authority under this
3 section, the charter holder shall:

4 (1) operate a campus granted a blue ribbon charter as a
5 standard campus of the charter holder under this chapter; or

6 (2) close the campus effective at the end of the school
7 year in which the commissioner revokes the authorization.

8 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter
9 granted under this subchapter must:

10 (1) describe the educational program to be offered,
11 which may be a general or specialized education program;

12 (2) provide that continuation of the charter is
13 contingent on satisfactory student performance under Subchapter B,
14 Chapter 39, and on compliance with other applicable accountability
15 provisions under Chapter 39;

16 (3) specify any basis, in addition to a basis
17 specified by this subchapter, on which the charter may be placed on
18 probation or revoked;

19 (4) prohibit discrimination in admission on the basis
20 of national origin, ethnicity, race, religion, or disability;

21 (5) describe the governing structure of the blue
22 ribbon charter campus;

23 (6) specify any procedure or requirement, in addition
24 to those under Chapter 38, that the campus will follow to ensure the
25 health and safety of students and employees; and

26 (7) describe the manner in which the campus and
27 charter holder granting the blue ribbon charter will comply with

1 financial and operational requirements, including requirements
2 related to the Public Education Information Management System
3 (PEIMS) under Section 11A.158 and the audit requirements under
4 Section 11A.210.

5 (b) A charter holder may reserve the right to approve
6 contracts, governance alterations, personnel decisions, and other
7 matters affecting the operation of the blue ribbon charter campus.

8 (c) A blue ribbon charter must specify the basis and
9 procedure to be used by the charter holder for placing the blue
10 ribbon charter campus on probation or revoking the charter, which
11 must include an opportunity for an informal review of the blue
12 ribbon charter campus and governing body of the campus by the
13 charter holder. A charter holder's decision to place on probation
14 or revoke a blue ribbon charter is final and may not be appealed.

15 Sec. 11A.407. FORM. A blue ribbon charter issued under this
16 subchapter must be in the form and substance of a written contract
17 signed by the president or equivalent officer of the governing body
18 of the charter holder granting the blue ribbon charter and the
19 president or equivalent officer of the governing body of the
20 eligible entity to which the blue ribbon charter is granted.

21 Sec. 11A.408. REVISION. A blue ribbon charter granted
22 under this subchapter may be revised with the approval of the
23 charter holder that granted the charter.

24 [Sections 11A.409-11A.450 reserved for expansion]

25 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER
26 SCHOOLS

27 Sec. 11A.451. DEFINITIONS. In this subchapter:

1 (1) "Assets" means:

2 (A) public funds, as determined under Section
3 12.107, as that section existed on January 1, 2005; and

4 (B) public property, as determined under Section
5 12.128, as that section existed on January 1, 2005.

6 (2) "Records" means government records, as determined
7 under Section 12.1052, as that section existed on January 1, 2005.

8 Sec. 11A.452. APPLICABILITY. The commissioner shall
9 appoint a receiver under this subchapter for each open-enrollment
10 charter school that on June 1, 2005, was operating under a charter
11 issued under Subchapter D, Chapter 12, as that subchapter existed
12 on January 1, 2005, and:

13 (1) is not authorized to operate as a public charter
14 district under this chapter; or

15 (2) elects not to operate as a public charter district
16 under this chapter.

17 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)
18 The commissioner shall appoint a receiver to protect the assets and
19 direct the dissolution of open-enrollment charter schools subject
20 to this subchapter.

21 (b) The receiver shall execute a bond in an amount set by the
22 commissioner to ensure the proper performance of the receiver's
23 duties.

24 (c) Until discharged by the commissioner, the receiver
25 shall perform the duties that the commissioner directs to preserve
26 the assets and direct the dissolution of the open-enrollment
27 charter school under this subchapter.

1 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After
2 appointment and execution of bond under Section 11A.453, the
3 receiver shall take possession of:

4 (1) assets and records in the possession of the
5 open-enrollment charter school specified by the commissioner; and

6 (2) any Foundation School Program funds and any other
7 public funds received by the school's charter holder.

8 (b) On request of the receiver, the attorney general shall
9 file a suit for attachment, garnishment, or involuntary bankruptcy
10 and take any other action necessary for the dissolution of an
11 open-enrollment charter school under this subchapter.

12 (c) If the charter holder of an open-enrollment charter
13 school or an officer or employee of such a school refuses to
14 transfer school assets or records to a receiver under this
15 subsection, the receiver may ask the attorney general to petition a
16 court for recovery of the assets or records. If the court grants
17 the petition, the court shall award attorney's fees and court costs
18 to the state.

19 (d) A record described by this section is a public school
20 record for purposes of Section 37.10(c)(2), Penal Code.

21 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall
22 wind up the affairs of an open-enrollment charter school and,
23 except as provided by Subsection (b), reduce its assets to cash for
24 the purpose of discharging all existing liabilities and obligations
25 of the school. In winding up the affairs of a school, the receiver
26 shall cooperate in any bankruptcy proceeding affecting the school.
27 The receiver shall distribute any remaining balance to the

1 commissioner.

2 (b) A receiver shall offer free of charge any equipment and
3 supplies of an open-enrollment charter school dissolved under this
4 subchapter to school districts, giving priority to districts based
5 on the percentage of the charter school's students that reside in
6 the districts.

7 (c) The commissioner shall use money in the foundation
8 school fund and money received under this section to pay the costs
9 described by Section 11A.458 and discharge liabilities and
10 obligations of open-enrollment charter schools under this
11 subchapter. The commissioner shall deposit any remaining balance
12 in the foundation school fund.

13 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of
14 an open-enrollment charter school subject to this subchapter shall
15 be transferred in the manner specified by the commissioner to a
16 custodian designated by the commissioner. The commissioner may
17 designate any appropriate entity to serve as custodian of records,
18 including the agency, a regional education service center, or a
19 school district. In designating a custodian, the commissioner
20 shall ensure that the transferred records, including student and
21 personnel records, are transferred to a custodian capable of:

22 (1) maintaining the records;

23 (2) making the records readily accessible to students,
24 parents, former school employees, and other persons entitled to
25 access; and

26 (3) complying with applicable state or federal law
27 restricting access to the records.

1 (b) The commissioner is entitled to access to any records
2 transferred to a custodian under this section as the commissioner
3 determines necessary for auditing, investigative, or monitoring
4 purposes.

5 Sec. 11A.457. LIABILITY. A receiver is not personally
6 liable for actions taken by the receiver under this subchapter.

7 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may
8 authorize reimbursement of reasonable costs related to the
9 receivership, including:

10 (1) payment of fees to the receiver for the receiver's
11 services; and

12 (2) payment of fees to attorneys, accountants, or any
13 other person that provides goods or services necessary to the
14 operation of the receivership.

15 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The
16 competitive bidding requirements of this code and the contracting
17 requirements of Chapter 2155, Government Code, do not apply to the
18 appointment of a receiver, attorney, accountant, or other person
19 appointed under this subchapter.

20 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is
21 amended by adding Section 12.1058 to read as follows:

22 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT
23 PROVISIONS. (a) An open-enrollment charter school is subject to
24 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,
25 11A.304, 11A.352, 21.0032, and 21.058.

26 (b) The commissioner may bring an action for injunctive or
27 other relief as provided by Section 11A.203(d) to enforce Section

1 12.107.

2 (c) For purposes of this section, a reference in a law
3 described by this section to a public charter district means an
4 open-enrollment charter school.

5 SECTION 4.04. Sections 12.152 and 12.156, Education Code,
6 are amended to read as follows:

7 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this
8 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of
9 Education may grant a charter on the application of a public senior
10 college or university for a public [~~an open-enrollment~~] charter
11 district [~~school~~] to operate on the campus of the public senior
12 college or university or in the same county in which the campus of
13 the public senior college or university is located.

14 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)
15 Except as otherwise provided by this subchapter, Chapter 11A
16 [~~Subchapter D~~] applies to a college or university charter school as
17 though the college or university charter school were granted a
18 charter under that chapter [~~subchapter~~].

19 (b) A charter granted under this subchapter is not
20 considered for purposes of the limit on the number of public
21 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section
22 11A.002 [~~12.101(b)~~].

23 (c) A college or university charter school is not subject to
24 a prohibition, restriction, or requirement relating to:

25 (1) open meetings and public information under Section
26 11A.053;

27 (2) maintenance of records under Section 11A.054;

- 1 (3) purchasing and contracting under Section 11A.055;
2 (4) conflict of interest under Section 11A.056;
3 (5) nepotism under Section 11A.057;
4 (6) composition of a governing body under Section
5 11A.152;
6 (7) restrictions on serving as a member of a governing
7 body or as an officer or employee under Section 11A.153;
8 (8) liability of members of a governing body under
9 Section 11A.154;
10 (9) training for members of a governing body under
11 Section 11A.155;
12 (10) bylaws and annual reports under Section 11A.156;
13 (11) quarterly financial reports under Section
14 11A.157; and
15 (12) depository bond and security requirements under
16 Section 11A.204.

17 (d) A college or university charter school and the governing
18 body of the school are subject to regulations and procedures that
19 govern a public senior college or university relating to open
20 meetings, records retention, purchasing, contracting, conflicts of
21 interest, and nepotism.

22 SECTION 4.05. Section 5.001, Education Code, is amended by
23 adding Subdivision (5-a) and amending Subdivision (6) to read as
24 follows:

25 (5-a) "Public charter campus" means a campus operated
26 by a public charter district.

27 (6) "Public charter district [~~Open-enrollment charter~~

1 school]" means a public school authorized by [~~that has been~~
2 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

3 SECTION 4.06. Section 7.003, Education Code, is amended to
4 read as follows:

5 Sec. 7.003. LIMITATION ON AUTHORITY. An educational
6 function not specifically delegated to the agency or the board
7 under this code is reserved to and shall be performed by school
8 districts or [~~open-enrollment~~] charter schools.

9 SECTION 4.07. Section 7.055(b)(17), Education Code, is
10 amended to read as follows:

11 (17) The commissioner shall distribute funds to public
12 charter districts [~~open-enrollment charter schools~~] as required
13 under Chapter 11A [~~Subchapter D, Chapter 12~~].

14 SECTION 4.08. Section 7.102(c)(9), Education Code, is
15 amended to read as follows:

16 (9) The board may grant a charter for a public charter
17 district [~~an open-enrollment charter or approve a charter revision~~]
18 as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

19 SECTION 4.09. Section 12.002, Education Code, is amended to
20 read as follows:

21 Sec. 12.002. CLASSES OF CHARTER. The classes of charter
22 under this chapter are:

23 (1) a home-rule school district charter as provided by
24 Subchapter B;

25 (2) a campus or campus program charter as provided by
26 Subchapter C; or

27 (3) a college or university [~~an open-enrollment~~]

1 charter as provided by Subchapter E [D].

2 SECTION 4.10. Subchapter A, Chapter 21, Education Code, is
3 amended by adding Section 21.0032 to read as follows:

4 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER
5 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or
6 serve as a teacher, teacher intern or teacher trainee, librarian,
7 educational aide, administrator, educational diagnostician, or
8 counselor for a public charter district unless the person has been
9 cleared by the agency following a national criminal history record
10 review and investigation under this section.

11 (b) Before or immediately after employing or securing the
12 services of a person described by Subsection (a), a public charter
13 district shall send to the agency the person's fingerprints and
14 social security number. The person may be employed or serve pending
15 action by the agency.

16 (c) The agency shall review and investigate the person's
17 national criminal history record information, educator
18 certification discipline history in any state, and other
19 information in the same manner as a review or investigation
20 conducted regarding an initial application for educator
21 certification. If the agency finds the person would not be eligible
22 for educator certification, the agency shall notify the public
23 charter district in writing that the person may not be employed or
24 serve in a capacity described by Subsection (a).

25 (d) On receipt of written notice under Subsection (c), a
26 public charter district may not employ or permit the person to serve
27 unless the person timely submits a written appeal under this

1 section. The agency shall conduct an appeal under this subsection
2 in the same manner as an appeal regarding the denial of an initial
3 application for educator certification.

4 SECTION 4.11. Sections 21.058(b) and (c), Education Code,
5 are amended to read as follows:

6 (b) Notwithstanding Section 21.041(b)(7), not later than
7 the fifth day after the date the board receives notice under Article
8 42.018, Code of Criminal Procedure, of the conviction of a person
9 described by Section 21.0032 or who holds a certificate under this
10 subchapter, the board shall:

11 (1) revoke the certificate or clearance held by the
12 person; and

13 (2) provide to the person and to any school district or
14 public charter district [~~open-enrollment charter school~~] employing
15 the person at the time of revocation written notice of:

16 (A) the revocation; and

17 (B) the basis for the revocation.

18 (c) A school district or public charter district
19 [~~open-enrollment charter school~~] that receives notice under
20 Subsection (b) of the revocation of a certificate issued under this
21 subchapter shall:

22 (1) immediately remove the person whose certificate
23 has been revoked from campus or from an administrative office, as
24 applicable, to prevent the person from having any contact with a
25 student; and

26 (2) as soon as practicable, terminate the employment
27 of the person in accordance with the person's contract and with this

1 subchapter.

2 SECTION 4.12. Sections 22.083(b) and (c), Education Code,
3 are amended to read as follows:

4 (b) A public charter district may [~~An open-enrollment~~
5 ~~charter school shall~~] obtain from the Department of Public Safety
6 [~~any law enforcement or criminal justice agency~~] all criminal
7 history record information that relates to:

8 (1) a person whom the district [~~school~~] intends to
9 employ in any capacity; or

10 (2) a person who has indicated, in writing, an
11 intention to serve as a volunteer with the district [~~school~~].

12 (c) A school district, public charter district
13 [~~open-enrollment charter school~~], private school, regional
14 education service center, or shared services arrangement may obtain
15 from a federal or state [~~any~~] law enforcement or criminal justice
16 agency all criminal history record information that relates to:

17 (1) a volunteer or employee of the district, school,
18 service center, or shared services arrangement; or

19 (2) an employee of or applicant for employment by a
20 person that contracts with the district, school, service center, or
21 shared services arrangement to provide services, if:

22 (A) the employee or applicant has or will have
23 continuing duties related to the contracted services; and

24 (B) the duties are or will be performed on school
25 property or at another location where students are regularly
26 present.

27 SECTION 4.13. Section 22.084, Education Code, is amended to

1 read as follows:

2 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL
3 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided
4 by Subsections (c) and (d), a school district, public charter
5 district [~~open-enrollment charter school~~], private school,
6 regional education service center, or shared services arrangement
7 that contracts with a person for transportation services shall
8 obtain from the Department of Public Safety [~~any law enforcement or~~
9 ~~criminal justice agency~~] all criminal history record information
10 that relates to:

- 11 (1) a person employed by the person as a bus driver; or
12 (2) a person the person intends to employ as a bus
13 driver.

14 (b) Except as provided by Subsections (c) and (d), a person
15 that contracts with a school district, public charter district
16 [~~open-enrollment charter school~~], private school, regional
17 education service center, or shared services arrangement to provide
18 transportation services shall submit to the district, school,
19 service center, or shared services arrangement the name and other
20 identification data required to obtain criminal history record
21 information of each person described by Subsection (a). If the
22 district, school, service center, or shared services arrangement
23 obtains information that a person described by Subsection (a) has
24 been convicted of a felony or a misdemeanor involving moral
25 turpitude, the district, school, service center, or shared services
26 arrangement shall inform the chief personnel officer of the person
27 with whom the district, school, service center, or shared services

1 arrangement has contracted, and the person may not employ that
2 person to drive a bus on which students are transported without the
3 permission of the board of trustees of the district or service
4 center, the governing body of the public charter district
5 [~~open-enrollment charter school~~], or the chief executive officer of
6 the private school or shared services arrangement.

7 (c) A commercial transportation company that contracts with
8 a school district, public charter district [~~open-enrollment~~
9 ~~charter school~~], private school, regional education service
10 center, or shared services arrangement to provide transportation
11 services may obtain from a federal or state [~~any~~] law enforcement or
12 criminal justice agency all criminal history record information
13 that relates to:

14 (1) a person employed by the commercial transportation
15 company as a bus driver, bus monitor, or bus aide; or

16 (2) a person the commercial transportation company
17 intends to employ as a bus driver, bus monitor, or bus aide.

18 (d) If the commercial transportation company obtains
19 information that a person employed or to be employed by the company
20 has been convicted of a felony or a misdemeanor involving moral
21 turpitude, the company may not employ that person to drive or to
22 serve as a bus monitor or bus aide on a bus on which students are
23 transported without the permission of the board of trustees of the
24 district or service center, the governing body of the public
25 charter district [~~open-enrollment charter school~~], or the chief
26 executive officer of the private school or shared services
27 arrangement. Subsections (a) and (b) do not apply if information is

1 obtained as provided by Subsection (c).

2 SECTION 4.14. Section 25.087, Education Code, is amended by
3 amending Subsection (b) and adding Subsection (c) to read as
4 follows:

5 (b) A school district shall excuse a student from attending
6 school for:

7 (1) the following purposes, including travel for those
8 purposes:

9 (A) [purpose of] observing religious holy days;

10 (B) appearing at a governmental office to
11 complete paperwork required in connection with the student's
12 application for United States citizenship or to take part in a
13 naturalization oath ceremony;

14 (C) attending an appointment with the student's
15 probation officer;

16 (D) attending an adoption proceeding involving
17 the student; or

18 (E) attending a required court appearance; or

19 (2) a [including traveling for that purpose. A
20 school district shall excuse a student for] temporary absence
21 resulting from health care professionals if that student commences
22 classes or returns to school on the same day of the appointment.

23 (c) A student whose absence is excused under Subsection (b)
24 [this subsection] may not be penalized for that absence and shall be
25 counted as if the student attended school for purposes of
26 calculating the average daily attendance of students in the school
27 district. A student whose absence is excused under Subsection (b)

1 ~~[this subsection]~~ shall be allowed a reasonable time to make up
2 school work missed on those days. If the student satisfactorily
3 completes the school work, the day of absence shall be counted as a
4 day of compulsory attendance.

5 SECTION 4.15. Section 25.088, Education Code, is amended to
6 read as follows:

7 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school
8 attendance officer may be selected by:

- 9 (1) the county school trustees of any county;
10 (2) the board of trustees of any school district or the
11 boards of trustees of two or more school districts jointly; or
12 (3) the governing body of a public charter district
13 ~~[an open-enrollment charter school]~~.

14 SECTION 4.16. Section 25.089(a), Education Code, is amended
15 to read as follows:

16 (a) An attendance officer may be compensated from the funds
17 of the county, independent school district, or public charter
18 district ~~[open-enrollment charter school]~~, as applicable.

19 SECTION 4.17. Section 25.090(b), Education Code, is amended
20 to read as follows:

21 (b) If the governing body of a public charter district ~~[an~~
22 ~~open-enrollment charter school]~~ has not selected an attendance
23 officer for a district campus, the duties of attendance officer
24 shall be performed by the peace officers of the county in which the
25 campus ~~[school]~~ is located.

26 SECTION 4.18. Sections 25.093(d) and (e), Education Code,
27 are amended to read as follows:

1 (d) A fine collected under this section shall be deposited
2 as follows:

3 (1) one-half shall be deposited to the credit of the
4 operating fund of, as applicable:

5 (A) the school district in which the child
6 attends school;

7 (B) the public charter district [~~open-enrollment~~
8 ~~charter school~~] the child attends; or

9 (C) the juvenile justice alternative education
10 program that the child has been ordered to attend; and

11 (2) one-half shall be deposited to the credit of:

12 (A) the general fund of the county, if the
13 complaint is filed in the justice court or the constitutional
14 county court; or

15 (B) the general fund of the municipality, if the
16 complaint is filed in municipal court.

17 (e) At the trial of any person charged with violating this
18 section, the attendance records of the child may be presented in
19 court by any authorized employee of the school district or public
20 charter district [~~open-enrollment charter school~~], as applicable.

21 SECTION 4.19. Sections 25.095(a) and (b), Education Code,
22 are amended to read as follows:

23 (a) A school district or public charter district
24 [~~open-enrollment charter school~~] shall notify a student's parent in
25 writing at the beginning of the school year that if the student is
26 absent from school on 10 or more days or parts of days within a
27 six-month period in the same school year or on three or more days or

1 parts of days within a four-week period:

2 (1) the student's parent is subject to prosecution
3 under Section 25.093; and

4 (2) the student is subject to prosecution under
5 Section 25.094 or to referral to a juvenile court in a county with a
6 population of less than 100,000 for conduct that violates that
7 section.

8 (b) A school district or public charter district shall
9 notify a student's parent if the student has been absent from
10 school, without excuse under Section 25.087, on three days or parts
11 of days within a four-week period. The notice must:

12 (1) inform the parent that:

13 (A) it is the parent's duty to monitor the
14 student's school attendance and require the student to attend
15 school; and

16 (B) the parent is subject to prosecution under
17 Section 25.093; and

18 (2) request a conference between school officials and
19 the parent to discuss the absences.

20 SECTION 4.20. Section 25.0951(a), Education Code, as
21 amended by H.B. No. 1575, Acts of the 79th Legislature, Regular
22 Session, 2005, is amended to read as follows:

23 (a) If a student fails to attend school without excuse on 10
24 or more days or parts of days within a six-month period in the same
25 school year, a school district or public charter district shall
26 within seven school days of the student's last absence:

27 (1) file a complaint against the student or the

1 student's parent or both in a county, justice, or municipal court
2 for an offense under Section 25.093 or 25.094, as appropriate, or
3 refer the student to a juvenile court in a county with a population
4 of less than 100,000 for conduct that violates Section 25.094; or

5 (2) refer the student to a juvenile court for conduct
6 indicating a need for supervision under Section 51.03(b)(2), Family
7 Code.

8 SECTION 4.21. Section 25.0951(b), Education Code, is
9 amended to read as follows:

10 (b) If a student fails to attend school without excuse on
11 three or more days or parts of days within a four-week period but
12 does not fail to attend school for the time described by Subsection
13 (a), the school district or public charter district may:

14 (1) file a complaint against the student or the
15 student's parent or both in a county, justice, or municipal court
16 for an offense under Section 25.093 or 25.094, as appropriate, or
17 refer the student to a juvenile court in a county with a population
18 of less than 100,000 for conduct that violates Section 25.094; or

19 (2) refer the student to a juvenile court for conduct
20 indicating a need for supervision under Section 51.03(b)(2), Family
21 Code.

22 SECTION 4.22. Sections 26.0085(a), (c), (d), and (e),
23 Education Code, are amended to read as follows:

24 (a) A school district or public charter district
25 [~~open-enrollment charter school~~] that seeks to withhold
26 information from a parent who has requested public information
27 relating to the parent's child under Chapter 552, Government Code,

1 and that files suit as described by Section 552.324, Government
2 Code, to challenge a decision by the attorney general issued under
3 Subchapter G, Chapter 552, Government Code, must bring the suit not
4 later than the 30th calendar day after the date the school district
5 or public charter district [~~open-enrollment charter school~~]
6 receives the decision of the attorney general being challenged.

7 (c) Notwithstanding any other law, a school district or
8 public charter district [~~open-enrollment charter school~~] may not
9 appeal the decision of a court in a suit filed under Subsection (a).
10 This subsection does not affect the right of a parent to appeal the
11 decision.

12 (d) If the school district or public charter district
13 [~~open-enrollment charter school~~] does not bring suit within the
14 period established by Subsection (a), the school district or public
15 charter district [~~open-enrollment charter school~~] shall comply
16 with the decision of the attorney general.

17 (e) A school district or public charter district
18 [~~open-enrollment charter school~~] that receives a request from a
19 parent for public information relating to the parent's child shall
20 comply with Chapter 552, Government Code. If an earlier deadline
21 for bringing suit is established under Chapter 552, Government
22 Code, Subsection (a) does not apply. This section does not affect
23 the earlier deadline for purposes of Section 552.353(b)(3),
24 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer
25 for public information.

26 SECTION 4.23. Section 28.0211(j), Education Code, is
27 amended to read as follows:

1 (j) A school district [~~or open-enrollment charter school~~]
2 shall provide students required to attend accelerated programs
3 under this section with transportation to those programs if the
4 programs occur outside of regular school hours.

5 SECTION 4.24. Section 29.010(f), Education Code, is amended
6 to read as follows:

7 (f) This section does not create an obligation for or impose
8 a requirement on a school district [~~or open-enrollment charter~~
9 ~~school~~] that is not also created or imposed under another state law
10 or a federal law.

11 SECTION 4.25. Sections 29.012(a) and (c), Education Code,
12 are amended to read as follows:

13 (a) Except as provided by Subsection (b)(2), not later than
14 the third day after the date a person 22 years of age or younger is
15 placed in a residential facility, the residential facility shall:

16 (1) if the person is three years of age or older,
17 notify the school district in which the facility is located, unless
18 the facility is a public charter district [~~an open-enrollment~~
19 ~~charter school~~]; or

20 (2) if the person is younger than three years of age,
21 notify a local early intervention program in the area in which the
22 facility is located.

23 (c) For purposes of enrollment in a school, a person who
24 resides in a residential facility is considered a resident of the
25 school district or geographical area served by the public charter
26 district campus [~~open-enrollment charter school~~] in which the
27 facility is located.

1 SECTION 4.26. Sections 29.062(c)-(e), Education Code, are
2 amended to read as follows:

3 (c) Not later than the 30th day after the date of an on-site
4 monitoring inspection, the agency shall report its findings to the
5 school district [~~or open-enrollment charter school~~] and to the
6 division of accreditation.

7 (d) The agency shall notify a school district [~~or~~
8 ~~open-enrollment charter school~~] found in noncompliance in writing,
9 not later than the 30th day after the date of the on-site
10 monitoring. The district [~~or open-enrollment charter school~~] shall
11 take immediate corrective action.

12 (e) If a school district [~~or open-enrollment charter~~
13 ~~school~~] fails to satisfy appropriate standards adopted by the
14 commissioner for purposes of Subsection (a), the agency shall apply
15 sanctions, which may include the removal of accreditation, loss of
16 foundation school funds, or both.

17 SECTION 4.27. Sections 29.087(a)-(c), (e), (k), and (l),
18 Education Code, are amended to read as follows:

19 (a) The agency shall develop a process by which a school
20 district or public charter district [~~open-enrollment charter~~
21 ~~school~~] may apply to the commissioner for authority to operate a
22 program to prepare eligible students to take a high school
23 equivalency examination.

24 (b) Any school district or public charter district
25 [~~open-enrollment charter school~~] may apply for authorization to
26 operate a program under this section. As part of the application
27 process, the commissioner shall require a school district or public

1 charter district [~~or school~~] to provide information regarding the
2 operation of any similar program during the preceding five years.

3 (b-1) A school district or public charter district
4 [~~open-enrollment charter school~~] authorized by the commissioner on
5 or before August 31, 2003, to operate a program under this section
6 may continue to operate that program in accordance with this
7 section.

8 (c) A school district or public charter district
9 [~~open-enrollment charter school~~] may not increase enrollment of
10 students in a program authorized by this section by more than five
11 percent of the number of students enrolled in the similar program
12 operated by the school district or public charter district [~~or~~
13 ~~school~~] during the 2000-2001 school year.

14 (e) A school district or public charter district
15 [~~open-enrollment charter school~~] shall inform each student who has
16 completed a program authorized by this section of the time and place
17 at which the student may take the high school equivalency
18 examination. Notwithstanding any provision of this section, a
19 student may not take the high school equivalency examination except
20 as authorized by Section 7.111.

21 (k) The board of trustees of a school district or the
22 governing body [~~board~~] of a public charter district [~~an~~
23 ~~open-enrollment charter school~~] shall:

24 (1) hold a public hearing concerning the proposed
25 application of the school district or public charter district [~~or~~
26 ~~school~~] before applying to operate a program authorized by this
27 section; and

1 (2) subsequently hold a public hearing annually to
2 review the performance of the program.

3 (1) The commissioner may revoke a school district's or
4 public charter district's [~~open-enrollment charter school's~~]
5 authorization under this section after consideration of relevant
6 factors, including performance of students participating in the
7 school district's or public charter district's [~~or school's~~]
8 program on assessment instruments required under Chapter 39, the
9 percentage of students participating in the school district's or
10 public charter district's [~~or school's~~] program who complete the
11 program and perform successfully on the high school equivalency
12 examination, and other criteria adopted by the commissioner. A
13 decision by the commissioner under this subsection is final and may
14 not be appealed.

15 SECTION 4.28. Sections 29.155(a)-(d), (i), and (j),
16 Education Code, are amended to read as follows:

17 (a) From amounts appropriated for the purposes of this
18 section, the commissioner may make grants to school districts and
19 public charter districts [~~open-enrollment charter schools~~] to
20 implement or expand kindergarten and prekindergarten programs by:

21 (1) operating an existing half-day kindergarten or
22 prekindergarten program on a full-day basis; or

23 (2) implementing a prekindergarten program at a campus
24 that does not have a prekindergarten program.

25 (b) A school district or public charter district
26 [~~open-enrollment charter school~~] may use funds received under this
27 section to employ teachers and other personnel for a kindergarten

1 or prekindergarten program and acquire curriculum materials or
2 equipment, including computers, for use in kindergarten and
3 prekindergarten programs.

4 (c) To be eligible for a grant under this section, a school
5 district or public charter district [~~open-enrollment charter~~
6 ~~school~~] must apply to the commissioner in the manner and within the
7 time prescribed by the commissioner.

8 (d) In awarding grants under this section, the commissioner
9 shall give priority to districts and public charter districts
10 [~~open-enrollment charter schools~~] in which the level of performance
11 of students on the assessment instruments administered under
12 Section 39.023 to students in grade three is substantially below
13 the average level of performance on those assessment instruments
14 for all school districts in the state.

15 (i) In carrying out the purposes of Subsection (g), a school
16 district or public charter district [~~open-enrollment charter~~
17 ~~school~~] may use funds granted to the school district or public
18 charter district [~~or school~~] under this section [~~subsection~~] in
19 contracting with another entity, including a private entity.

20 (j) If a school district or public charter district
21 [~~open-enrollment charter school~~] returns to the commissioner funds
22 granted under this section, the commissioner may grant those funds
23 to another entity, including a private entity, for the purposes of
24 Subsection (g).

25 SECTION 4.29. Section 29.905(b), Education Code, is amended
26 to read as follows:

27 (b) The agency shall make the program available to a school

1 on the request of the board of trustees of [~~or~~] the school district
2 of which the school is a part, or if the school is a public charter
3 district [~~an open-enrollment charter school~~], on the request of the
4 governing body of the public charter district [~~school~~].

5 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is
6 amended by adding Section 32.1011 to read as follows:

7 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.
8 This subchapter applies to a public charter district as if the
9 public charter district were a school district.

10 SECTION 4.31. Section 32.102, Education Code, is amended to
11 read as follows:

12 Sec. 32.102. AUTHORITY. (a) As provided by this
13 subchapter, a school district [~~or open-enrollment charter school~~]
14 may transfer to a student enrolled in the district [~~or school~~]:

15 (1) any data processing equipment donated to the
16 district [~~or school~~], including equipment donated by:

- 17 (A) a private donor; or
18 (B) a state eleemosynary institution or a state
19 agency under Section 2175.128, Government Code;

20 (2) any equipment purchased by the district [~~or~~
21 ~~school~~], to the extent consistent with Section 32.105; and

22 (3) any surplus or salvage equipment owned by the
23 district [~~or school~~].

24 (b) A school district [~~or open-enrollment charter school~~]
25 may accept:

26 (1) donations of data processing equipment for
27 transfer under this subchapter; and

1 (2) any gifts, grants, or donations of money or
2 services to purchase, refurbish, or repair data processing
3 equipment under this subchapter.

4 SECTION 4.32. Section 32.103, Education Code, is amended to
5 read as follows:

6 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is
7 eligible to receive data processing equipment under this subchapter
8 only if the student does not otherwise have home access to data
9 processing equipment, as determined by the student's school
10 district [~~or open-enrollment charter school~~].

11 (b) In transferring data processing equipment to students,
12 a school district [~~or open-enrollment charter school~~] shall give
13 preference to educationally disadvantaged students.

14 SECTION 4.33. Section 32.104, Education Code, is amended to
15 read as follows:

16 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before
17 transferring data processing equipment to a student, a school
18 district [~~or open-enrollment charter school~~] must:

19 (1) adopt rules governing transfers under this
20 subchapter, including provisions for technical assistance to the
21 student by the district [~~or school~~];

22 (2) determine that the transfer serves a public
23 purpose and benefits the district [~~or school~~]; and

24 (3) remove from the equipment any offensive,
25 confidential, or proprietary information, as determined by the
26 district [~~or school~~].

27 SECTION 4.34. Section 32.105, Education Code, is amended to

1 read as follows:

2 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school
3 district [~~or open-enrollment charter school~~] may spend public funds
4 to:

- 5 (1) purchase, refurbish, or repair any data processing
6 equipment transferred to a student under this subchapter; and
7 (2) store, transport, or transfer data processing
8 equipment under this subchapter.

9 SECTION 4.35. Section 32.106, Education Code, is amended to
10 read as follows:

11 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided
12 by Subsection (b), a student who receives data processing equipment
13 from a school district [~~or open-enrollment charter school~~] under
14 this subchapter shall return the equipment to the district [~~or~~
15 ~~school~~] not later than the earliest of:

- 16 (1) five years after the date the student receives the
17 equipment;
18 (2) the date the student graduates;
19 (3) the date the student transfers to another school
20 district [~~or open-enrollment charter school~~]; or
21 (4) the date the student withdraws from school.

22 (b) Subsection (a) does not apply if, at the time the
23 student is required to return the data processing equipment under
24 that subsection, the district [~~or school~~] determines that the
25 equipment has no marketable value.

26 SECTION 4.36. Section 33.007, Education Code, is amended to
27 read as follows:

1 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)
2 Each counselor at an elementary, middle, or junior high school,
3 including a public charter district [~~an open-enrollment charter~~
4 ~~school~~] offering those grades, shall advise students and their
5 parents or guardians regarding the importance of higher education,
6 coursework designed to prepare students for higher education, and
7 financial aid availability and requirements.

8 (b) During the first school year a student is enrolled in a
9 high school or at the high school level in a public charter district
10 [~~an open-enrollment charter school~~], and again during a student's
11 senior year, a counselor shall provide information about higher
12 education to the student and the student's parent or guardian. The
13 information must include information regarding:

- 14 (1) the importance of higher education;
- 15 (2) the advantages of completing the recommended or
16 advanced high school program adopted under Section 28.025(a);
- 17 (3) the disadvantages of taking courses to prepare for
18 a high school equivalency examination relative to the benefits of
19 taking courses leading to a high school diploma;
- 20 (4) financial aid eligibility;
- 21 (5) instruction on how to apply for federal financial
22 aid;
- 23 (6) the center for financial aid information
24 established under Section 61.0776;
- 25 (7) the automatic admission of certain students to
26 general academic teaching institutions as provided by Section
27 51.803; and

1 (8) the eligibility and academic performance
2 requirements for the TEXAS Grant as provided by Subchapter M,
3 Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature,~~
4 ~~Regular Session, 1999~~].

5 SECTION 4.37. Section 33.901, Education Code, is amended to
6 read as follows:

7 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of
8 the students enrolled in one or more schools in a school district or
9 enrolled in a public charter district campus [~~an open-enrollment~~
10 ~~charter school~~] are eligible for free or reduced-price breakfasts
11 under the national school breakfast program provided for by the
12 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing
13 body of the district or the public charter district
14 [~~open-enrollment charter school~~] shall participate in the program
15 and make the benefits of the program available to all eligible
16 students in the schools or campus [~~school~~].

17 SECTION 4.38. Section 37.007(e), Education Code, is amended
18 to read as follows:

19 (e) In accordance with 20 U.S.C. Section 7151, a local
20 educational agency, including a school district, home-rule school
21 district, or public charter district [~~open-enrollment charter~~
22 ~~school~~], shall expel a student who brings a firearm, as defined by
23 18 U.S.C. Section 921, to school. The student must be expelled from
24 the student's regular campus for a period of at least one year,
25 except that:

26 (1) the superintendent or other chief administrative
27 officer of the school district or of the other local educational

1 agency, as defined by 20 U.S.C. Section 7801, may modify the length
2 of the expulsion in the case of an individual student;

3 (2) the district or other local educational agency
4 shall provide educational services to an expelled student in a
5 disciplinary alternative education program as provided by Section
6 37.008 if the student is younger than 10 years of age on the date of
7 expulsion; and

8 (3) the district or other local educational agency may
9 provide educational services to an expelled student who is 10 years
10 of age or older in a disciplinary alternative education program as
11 provided in Section 37.008.

12 SECTION 4.39. Section 37.008(j), Education Code, as amended
13 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
14 2005, is amended to read as follows:

15 (j) If a student placed in a disciplinary alternative
16 education program enrolls in another school district before the
17 expiration of the period of placement, the board of trustees of the
18 district requiring the placement shall provide to the district in
19 which the student enrolls, at the same time other records of the
20 student are provided, a copy of the placement order. The district
21 in which the student enrolls shall inform each educator who will
22 have responsibility for, or will be under the direction and
23 supervision of an educator who will have responsibility for, the
24 instruction of the student of the contents of the placement order.
25 Each educator shall keep the information received under this
26 subsection confidential from any person not entitled to the
27 information under this subsection, except that the educator may

1 share the information with the student's parent or guardian as
2 provided for by state or federal law. The district in which the
3 student enrolls may continue the disciplinary alternative
4 education program placement under the terms of the order or may
5 allow the student to attend regular classes without completing the
6 period of placement. A school district may take any action
7 permitted by this subsection if:

8 (1) the student was placed in a disciplinary
9 alternative education program by a public charter district [~~an~~
10 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and
11 the public charter district [~~school~~] provides to the school
12 district a copy of the placement order; or

13 (2) the student was placed in a disciplinary
14 alternative education program by a school district in another state
15 and:

16 (A) the out-of-state district provides to the
17 school district a copy of the placement order; and

18 (B) the grounds for the placement by the
19 out-of-state district are grounds for placement in the school
20 district in which the student is enrolling.

21 SECTION 4.40. Section 37.022(a)(2), Education Code, as
22 renumbered by Section 23.001(16), H.B. No. 2018, Acts of the 79th
23 Legislature, Regular Session, 2005, is amended to read as follows:

24 (2) "District or school" includes an independent
25 school district, a home-rule school district, a campus or campus
26 program charter holder, or a public charter district [~~an~~
27 ~~open-enrollment charter school~~].

1 SECTION 4.41. Section 44.008(a), Education Code, is amended
2 to read as follows:

3 (a) The board of school trustees of each school district
4 shall have its school district fiscal accounts audited annually at
5 district expense by a certified or public accountant holding a
6 permit from the Texas State Board of Public Accountancy. Except as
7 determined impracticable by the commissioner, the accountant must
8 have completed at least one peer-reviewed audit of a school
9 district, governmental entity, quasi-governmental entity, or
10 nonprofit corporation and received an unqualified opinion from the
11 peer review. The audit must be completed following the close of
12 each fiscal year.

13 SECTION 4.42. Section 46.012, Education Code, is amended to
14 read as follows:

15 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
16 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
17 ~~open-enrollment charter school~~] is not entitled to an allotment
18 under this subchapter.

19 SECTION 4.43. Section 46.036, Education Code, is amended to
20 read as follows:

21 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
22 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
23 ~~open-enrollment charter school~~] is not entitled to an allotment
24 under this subchapter.

25 SECTION 4.44. Section 53.02(13), Education Code, is amended
26 to read as follows:

27 (13) "Authorized charter school" means a public

1 charter district [~~an open-enrollment charter school~~] that holds a
2 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

3 SECTION 4.45. The heading to Section 53.351, Education
4 Code, is amended to read as follows:

5 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN-ENROLLMENT~~]
6 CHARTER SCHOOL FACILITIES.

7 SECTION 4.46. Sections 53.351(a), (c), (d), (f), and (g),
8 Education Code, are amended to read as follows:

9 (a) The Texas Public Finance Authority shall establish a
10 nonprofit corporation to issue revenue bonds on behalf of
11 authorized [~~open-enrollment~~] charter schools for the acquisition,
12 construction, repair, or renovation of educational facilities of
13 those schools.

14 (c) The corporation has all powers granted under the Texas
15 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
16 Texas Civil Statutes) for the purpose of aiding authorized
17 [~~open-enrollment~~] charter schools in providing educational
18 facilities. The corporation may make expenditures from the fund
19 described by Subsection (e) and may solicit and accept grants for
20 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,
21 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and
22 govern the corporation and its procedures and bonds.

23 (d) The corporation shall adopt rules governing the
24 issuance of bonds on behalf of an authorized [~~open-enrollment~~]
25 charter school.

26 (f) A revenue bond issued under this section is not a debt of
27 the state or any state agency, political corporation, or political

1 subdivision of the state and is not a pledge of the faith and credit
2 of any of these entities. A revenue bond is payable solely from the
3 revenue of the authorized [~~open-enrollment~~] charter school on whose
4 behalf the bond is issued. A revenue bond issued under this section
5 must contain on its face a statement to the effect that:

6 (1) neither the state nor a state agency, political
7 corporation, or political subdivision of the state is obligated to
8 pay the principal of or interest on the bond; and

9 (2) neither the faith and credit nor the taxing power
10 of the state or any state agency, political corporation, or
11 political subdivision of the state is pledged to the payment of the
12 principal of or interest on the bond.

13 (g) An educational facility financed in whole or in part
14 under this section is exempt from taxation if the facility:

15 (1) is owned by an authorized [~~open-enrollment~~]
16 charter school;

17 (2) is held for the exclusive benefit of the school;
18 and

19 (3) is held for the exclusive use of the students,
20 faculty, and staff members of the school.

21 SECTION 4.47. Section 411.097(c), Government Code, is
22 amended to read as follows:

23 (c) A public charter district [~~An open-enrollment charter~~
24 ~~school~~] is entitled to obtain from the department criminal history
25 record information maintained by the department that relates to a
26 person who:

27 (1) is a member of the governing body of the public

1 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],
2 Education Code; or

3 (2) has agreed to serve as a member of the governing
4 body of the public charter district [~~school~~].

5 SECTION 4.48. Sections 2175.128(a) and (b), Government
6 Code, are amended to read as follows:

7 (a) If a disposition of a state agency's surplus or salvage
8 data processing equipment is not made under Section 2175.125 or
9 2175.184, the state agency shall transfer the equipment to:

10 (1) a school district or public charter district
11 [~~open-enrollment charter school~~] in this state under Subchapter C,
12 Chapter 32, Education Code;

13 (2) an assistance organization specified by the school
14 district or public charter district; or

15 (3) the Texas Department of Criminal Justice.

16 (b) If a disposition of the surplus or salvage data
17 processing equipment of a state eleemosynary institution or an
18 institution or agency of higher education is not made under other
19 law, the institution or agency shall transfer the equipment to:

20 (1) a school district or public charter district
21 [~~open-enrollment charter school~~] in this state under Subchapter C,
22 Chapter 32, Education Code;

23 (2) an assistance organization specified by the school
24 district or public charter district; or

25 (3) the Texas Department of Criminal Justice.

26 SECTION 4.49. Section 2306.630(a), Government Code, is
27 amended to read as follows:

1 (a) Subject to Subsection (b), the following entities may
2 apply to receive a grant for an eligible project under this
3 subchapter:

4 (1) a private, nonprofit, tax-exempt organization
5 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26
6 U.S.C. Section 501(c)(3));

7 (2) a public agency that operates a community-based
8 youth employment training program;

9 (3) a community housing development organization
10 certified by the state;

11 (4) an educational facility approved by the Texas
12 Youth Commission;

13 (5) a corps-based community service organization;

14 (6) a public charter district [~~an open-enrollment~~
15 ~~charter school~~] approved by the State Board of Education [~~Texas~~
16 ~~Education Agency~~]; or

17 (7) another entity authorized by board rule.

18 SECTION 4.50. Section 1575.002(6), Insurance Code, is
19 amended to read as follows:

20 (6) "Public school" means:

21 (A) a school district;

22 (B) another educational district whose employees
23 are members of the Teacher Retirement System of Texas;

24 (C) a regional education service center
25 established under Chapter 8, Education Code; or

26 (D) a public charter district [~~an~~
27 ~~open-enrollment charter school~~] established under Chapter 11A

1 [~~Subchapter D, Chapter 12~~], Education Code.

2 SECTION 4.51. Section 1579.002(3), Insurance Code, is
3 amended to read as follows:

4 (3) "Charter school" means a public charter district
5 [~~an open-enrollment charter school~~] established under Chapter 11A
6 [~~Subchapter D, Chapter 12~~], Education Code.

7 SECTION 4.52. Section 140.005, Local Government Code, is
8 amended to read as follows:

9 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,
10 OR OTHER DISTRICT. The governing body of a school district, public
11 charter district [~~open-enrollment charter school~~], junior college
12 district, or a district or authority organized under Article III,
13 Section 52, or Article XVI, Section 59, of the Texas Constitution,
14 shall prepare an annual financial statement showing for each fund
15 subject to the authority of the governing body during the fiscal
16 year:

17 (1) the total receipts of the fund, itemized by source
18 of revenue, including taxes, assessments, service charges, grants
19 of state money, gifts, or other general sources from which funds are
20 derived;

21 (2) the total disbursements of the fund, itemized by
22 the nature of the expenditure; and

23 (3) the balance in the fund at the close of the fiscal
24 year.

25 SECTION 4.53. Section 140.006(c), Local Government Code, is
26 amended to read as follows:

27 (c) The presiding officer of a school district shall submit

1 a financial statement prepared under Section 140.005 to a daily,
2 weekly, or biweekly newspaper published within the boundaries of
3 the district. If a daily, weekly, or biweekly newspaper is not
4 published within the boundaries of the school district, the
5 financial statement shall be published in the manner provided by
6 Subsections (a) and (b). The financial statement of a public
7 charter district [~~an open-enrollment charter school~~] shall be made
8 available in the manner provided by Chapter 552, Government Code.

9 SECTION 4.54. Section 375.303(2), Local Government Code, is
10 amended to read as follows:

11 (2) "Eligible project" means a program authorized by
12 Section 379A.051 and a project as defined by Sections 2(11) and
13 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,
14 Vernon's Texas Civil Statutes). Notwithstanding this definition,
15 seeking a charter for or operating a public charter district [~~an~~
16 ~~open-enrollment charter school~~] authorized by Chapter 11A
17 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an
18 eligible project.

19 SECTION 4.55. Sections 375.308(b) and (c), Local Government
20 Code, are amended to read as follows:

21 (b) An authority may not:

22 (1) issue bonds or notes without the prior approval of
23 the governing body of the municipality that created the authority;

24 (2) seek a charter for or operate, within the
25 boundaries of the authority, a public charter district [~~an~~
26 ~~open-enrollment charter school~~] authorized by Chapter 11A
27 [~~Subchapter D, Chapter 12~~], Education Code; or

1 (3) levy ad valorem property taxes.

2 (c) A municipality may not seek a charter for or operate a
3 public charter district [~~an open-enrollment charter school~~]
4 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education
5 Code, within the boundaries of the authority.

6 SECTION 4.56. Section 541.201(15), Transportation Code, is
7 amended to read as follows:

8 (15) "School activity bus" means a bus designed to
9 accommodate more than 15 passengers, including the operator, that
10 is owned, operated, rented, or leased by a school district, county
11 school, public charter district [~~open-enrollment charter school~~],
12 regional education service center, or shared services arrangement
13 and that is used to transport public school students on a
14 school-related activity trip, other than on routes to and from
15 school. The term does not include a chartered bus, a bus operated
16 by a mass transit authority, or a school bus.

17 SECTION 4.57. Section 57.042(9), Utilities Code, is amended
18 to read as follows:

19 (9) "Public school" means a public elementary or
20 secondary school, including a public charter district [~~an~~
21 ~~open-enrollment charter school~~], a home-rule school district
22 school, and a school with a campus or campus program charter.

23 SECTION 4.58. Section 4(2), Chapter 22, Acts of the 57th
24 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
25 Texas Civil Statutes), is amended to read as follows:

26 (2) "Educational institution" means a school district
27 or a public charter district [~~an open-enrollment charter school~~].

1 SECTION 4.59. The following laws are repealed:

2 (1) Section 12.106, Education Code; and

3 (2) Section 40, Chapter 1504, Acts of the 77th
4 Legislature, Regular Session, 2001.

5 SECTION 4.60. Notwithstanding the repeal of Sections 12.107
6 and 12.128, Education Code, by this Act, those sections continue to
7 apply to state funds and property received or purchased by an
8 open-enrollment charter school before September 1, 2006.

9 SECTION 4.61. The changes in law made by Sections 4.04-4.60
10 of this article apply beginning August 1, 2006, except that
11 Sections 4.10, 4.11, 4.41, and 4.59 apply beginning September 1,
12 2005.

13 [ARTICLES 5-6 RESERVED]

14 ARTICLE 7. STATE BOARD FOR EDUCATOR CERTIFICATION

15 SECTION 7.01. Section 21.035, Education Code, as amended by
16 H.B. 1116, Acts of the 79th Legislature, Regular Session, 2005, is
17 amended to read as follows:

18 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is
19 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
20 continued in existence as provided by that chapter, the board is
21 abolished and this subchapter expires September 1, 2007 [~~The Texas~~
22 ~~Education Agency shall provide the board's administrative~~
23 ~~functions and services].~~

24 SECTION 7.02. Subchapter B, Chapter 21, Education Code, is
25 amended by adding Section 21.039 to read as follows:

26 Sec. 21.039. EXECUTIVE DIRECTOR; PERSONNEL. The board
27 shall employ an executive director. The executive director shall:

1 (1) perform duties as assigned by the board or
2 specified by law;

3 (2) administer and enforce all laws and rules
4 implemented by the board;

5 (3) issue the certificates authorized under this
6 subchapter; and

7 (4) hire and dismiss the employees of the board.

8 ARTICLE 8. REPEALER; APPLICABILITY; EFFECTIVE DATE

9 SECTION 8.01. (a) Sections 1-3, Chapter 201, Acts of the
10 78th Legislature, Regular Session, 2003, are repealed.

11 (b) Section 4, S.B. No. 151, Acts of the 79th Legislature,
12 Regular Session, 2005, is repealed.

13 (c) Sections 2 and 10(b), H.B. No. 2753, Acts of the 79th
14 Legislature, Regular Session, 2005, are repealed.

15 (d) Section 23.001(17), H.B. No. 2018, Acts of the 79th
16 Legislature, Regular Session, 2005, is repealed.

17 (e) Section 4, S.B. No. 23, Acts of the 79th Legislature,
18 Regular Session, 2005, is repealed.

19 (f) The following provisions of the Education Code are
20 repealed:

21 (1) Subchapter D, Chapter 22, as added by S.B. No. 1691
22 and S.B. No. 1863, Acts of the 79th Legislature, Regular Session,
23 2005;

24 (2) Subchapters B, C, E, F, and G, Chapter 41;

25 (3) Chapter 42, as it existed on January 1, 2005; and

26 (4) Sections 21.357, 21.402(b) and (e), 25.0811(b) and
27 (c), 29.056(h), 29.203(c) and (g), 39.023(j), 39.024(e),

1 39.027(b), (c), and (f), 39.073, 39.074, 39.112, 41.001, 41.002,
2 41.003, 41.0031, 41.007, 41.009(b), 41.011, 41.092, 41.099,
3 41.252(b), 44.004(c) and (d), and 105.301(f).

4 (g) Section 403.302(j), Government Code, is repealed.

5 (h) The following provisions of the Insurance Code are
6 repealed:

7 (1) Section 1579.253(b);

8 (2) Section 1581.053(b); and

9 (3) Subchapter C, Chapter 1581.

10 (i) Sections 6.02(g), 6.03(m), 21.02(b), and 26.08(k), (l),
11 and (m), Tax Code, are repealed.

12 SECTION 8.02. Except as otherwise provided by this Act,
13 this Act applies beginning with the 2005-2006 school year.

14 SECTION 8.03. (a) Except as otherwise provided by this Act,
15 this Act takes effect September 1, 2005, if it receives a vote of
16 two-thirds of all the members elected to each house, as provided by
17 Section 39, Article III, Texas Constitution. If this Act does not
18 receive the vote necessary for effect on that date:

19 (1) this Act takes effect on the 91st day after the
20 last day of the legislative session; and

21 (2) a provision of this Act that states that the
22 provision takes effect September 1, 2005, takes effect on the
23 effective date as provided by Subdivision (1) of this subsection.

24 (b) This Act takes effect only if H.B. No. __, Acts of the
25 79th Legislature, 1st Called Session, 2005, becomes law. If that
26 bill does not become law, this Act has no effect.