

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, 2006. This subsection
18 expires January 1, 2007.

19 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A
20 reference in law to the foundation school fund means the Texas
21 education fund.

22 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each
23 regular session of the legislature, the Legislative Budget Board
24 shall submit to the commissioner and the legislature a report that
25 includes:

26 (1) a description of the amount of all spending on
27 primary and secondary education in this state, disaggregated by

1 federal, state, and local spending and spending by private
2 entities; and

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

4 [Sections 42.009-42.100 reserved for expansion]

5 SUBCHAPTER B. BASIC PROGRAM

6 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
7 ALLOTMENTS. (a) For each student in average daily attendance, a
8 school district is entitled to an accreditation allotment of
9 \$4,600.

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

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

15 [Sections 42.102-42.150 reserved for expansion]

16 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

17 Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) In this
18 section:

19 (1) "Full-time equivalent student" means 30 hours of
20 contact a week between a student and special education program
21 personnel.

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

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

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

6 (1) \$17,370, for a student in a homebound
7 instructional arrangement;

8 (2) \$8,602, for a student in a hospital class
9 instructional arrangement;

10 (3) \$17,370, for a student in a speech therapy
11 instructional arrangement;

12 (4) \$8,602, for a student in a resource room
13 instructional arrangement;

14 (5) \$8,602, for a student in a self-contained, mild
15 and moderate, regular campus instructional arrangement;

16 (6) \$8,602, for a student in a self-contained, severe,
17 regular campus instructional arrangement;

18 (7) \$7,287, for a student in an off-home-campus
19 instructional arrangement;

20 (8) \$2,903, for a student in a nonpublic day school;

21 (9) \$5,533, for a student in a vocational adjustment
22 class;

23 (10) \$12,986, for a student who resides in a
24 residential care and treatment facility, other than a state school,
25 whose parent or guardian does not reside in the district, and who
26 receives educational services from a local school district; and

27 (11) \$7,726, for a student who resides in a state

1 school.

2 (d) For funding purposes, the number of contact hours
3 credited per day for each special education student in the
4 off-home-campus instructional arrangement may not exceed the
5 contact hours credited per day for the multidistrict class
6 instructional arrangement in the 1992-1993 school year.

7 (e) For funding purposes, the contact hours credited per day
8 for each special education student in the resource room;
9 self-contained, mild and moderate, regular campus; and
10 self-contained, severe, regular campus instructional arrangements
11 may not exceed the average of the statewide total contact hours
12 credited per day for those three instructional arrangements in the
13 1992-1993 school year.

14 (f) The commissioner by rule shall prescribe the
15 qualifications a special education instructional arrangement must
16 meet in order to be funded as a particular instructional
17 arrangement under this chapter. In prescribing the qualifications
18 that a mainstream instructional arrangement must meet, the
19 commissioner shall require that students with disabilities and
20 their teachers receive the direct, indirect, and support services
21 that are necessary to enrich the regular classroom and enable
22 student success.

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

27 (h) Except as provided by Subsection (m), funds allocated

1 under this section, other than an indirect cost allotment
2 established under commissioner rule, must be used in the special
3 education program under Subchapter A, Chapter 29.

4 (i) The agency shall encourage the placement of students in
5 special education programs, including students in residential
6 instructional arrangements, in the least restrictive environment
7 appropriate for students' educational needs.

8 (j) Each year, the agency shall make and disseminate to each
9 school district a list of those districts that maintain for two
10 successive years a ratio of full-time equivalent special education
11 students placed in partially or totally self-contained classrooms
12 to the number of full-time equivalent students placed in resource
13 room or mainstream instructional arrangements that is 25 percent
14 higher than the statewide average ratio.

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

27 (l) From the total amount of funds appropriated for special

1 education under this chapter, the commissioner shall withhold an
2 amount specified in the General Appropriations Act and distribute
3 that amount to school districts for programs under Section 29.014.
4 The program established under that section is required only in
5 school districts in which the program is financed by funds
6 distributed under this subsection and any other funds available for
7 the program. After deducting the amount withheld under this
8 subsection from the total amount appropriated for special
9 education, the commissioner shall reduce each district's
10 allocation proportionately.

11 (m) Notwithstanding any other provision of law, a school
12 district may use funds allocated under this section to provide
13 Saturday classes for students in grade levels one through four who
14 fail to perform satisfactorily on an assessment instrument
15 administered under Section 39.023.

16 Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) A school
17 district is entitled to an annual allotment for the costs of
18 providing accelerated programs in an amount determined by the
19 formula:

$$\text{APA} = F \times \text{ADA} \times \text{PR}$$

21 where:

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

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

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

1 "PR" is the percentage of the district's total number of
2 students enrolled in prekindergarten through grade level eight who
3 participate in the national free or reduced-price lunch program as
4 reported through the Public Education Information Management
5 System (PEIMS) for the current school year or the percentage
6 determined in accordance with commissioner rule if the district is
7 not required to report participation in the national free or
8 reduced-price lunch program or if no campus in the district with
9 students enrolled in prekindergarten through grade level eight
10 participates in the national free or reduced-price lunch program.

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

13 (c) From the total amount of funds appropriated for
14 allotments under this section, the commissioner may, each fiscal
15 year:

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

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

23 (d) From the total amount of funds appropriated for
24 allotments under this section, the commissioner shall, each fiscal
25 year:

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

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

6 (3) withhold the amount of \$7.5 million, or a greater
7 amount as determined in the General Appropriations Act, and
8 distribute that amount for programs under Subchapter A, Chapter 33,
9 giving preference to a school district that received funds for a
10 program under that subchapter for the preceding school year;

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

13 (5) withhold an amount sufficient to finance extended
14 year programs under Section 29.082, not to exceed five percent of
15 the amounts allocated under this section, giving preference to
16 extended year programs in districts with high concentrations of
17 educationally disadvantaged students.

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

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

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

20 (b) The total number of allotments under this section to
21 which a school district is entitled may not exceed the number by
22 which the number of students using public education grants to
23 attend school in the district exceeds the number of students who
24 reside in the district and use public education grants to attend
25 school in another district.

26 Sec. 42.156. GIFTED AND TALENTED ALLOTMENT. (a) For each
27 identified student a school district serves in a program for gifted

1 and talented students that the district certifies to the
2 commissioner as complying with Subchapter D, Chapter 29, a district
3 is entitled to an annual allotment of \$526, or a greater amount for
4 any school year provided by appropriation.

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

8 (c) After each district has received allotted funds for this
9 program, the commissioner may use up to \$500,000 of the funds
10 allocated under this section for programs such as MATHCOUNTS,
11 Future Problem Solving, Odyssey of the Mind, and Academic
12 Decathlon, as long as these funds are used to train personnel and
13 provide program services. To be eligible for funding under this
14 subsection, a program must be determined by the commissioner to
15 provide services that are effective and consistent with the state
16 plan for gifted and talented education.

17 [Sections 42.157-42.170 reserved for expansion]

18 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS. (a) Unless
19 specifically provided otherwise by this code, but subject to
20 Section 42.172, a school district is not required to use amounts
21 allotted under this subchapter for the program for which the
22 amounts were allotted.

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

27 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding

1 any other provision of this code, but subject to Subsection (b), a
2 school district may not spend in any school year for a program or
3 service listed below an amount per student in average daily
4 attendance that is less than the amount the district spent for that
5 program or service per student in average daily attendance during
6 the 2004-2005 school year:

7 (1) a special education program under Subchapter A,
8 Chapter 29;

9 (2) supplemental programs and services designed to
10 eliminate any disparity in performance on assessment instruments
11 administered under Subchapter B, Chapter 39, or disparity in the
12 rates of high school completion between students at risk of
13 dropping out of school, as defined by Section 29.081, and all other
14 students;

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

17 (4) a career and technology education program in
18 grades nine through 12 or a career and technology education program
19 for students with disabilities in grades seven through 12 under
20 Sections 29.182, 29.183, and 29.184; or

21 (5) a gifted and talented program under Subchapter D,
22 Chapter 29.

23 (b) The commissioner may authorize a school district to
24 spend less than the amount required by this section if the
25 commissioner, considering the district's unique circumstances,
26 determines that the requirement imposes an undue hardship on the
27 district.

1 [Sections 42.173-42.200 reserved for expansion]

2 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

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

11 [Sections 42.202-42.220 reserved for expansion]

12 SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

13 Sec. 42.221. NEW INSTRUCTIONAL FACILITY ALLOTMENT. A
14 school district is entitled to an additional allotment as provided
15 by this subchapter for operational expenses associated with opening
16 a new instructional facility.

17 Sec. 42.222. DEFINITION. In this subchapter,
18 "instructional facility" has the meaning assigned by Section
19 46.001.

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

25 Sec. 42.224. ALLOTMENT FOR SECOND YEAR OF OPERATION. (a)
26 For the second school year in which students attend a new
27 instructional facility, a school district is entitled to an

1 allotment of \$250 for each additional student in average daily
2 attendance at the facility or a greater amount provided by
3 appropriation.

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

10 Sec. 42.225. PRORATION OF ALLOTMENTS. If the total amount
11 of allotments to which school districts are entitled under this
12 subchapter for a school year exceeds the amount appropriated for
13 allotments under this subchapter, the commissioner shall reduce
14 each district's allotment under this subchapter in the manner
15 provided by Section 42.313(f).

16 [Sections 42.226-42.250 reserved for expansion]

17 [Subchapter F reserved]

18 SUBCHAPTER G. ENRICHMENT PROGRAM

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

25 Sec. 42.252. ALLOTMENT. Each school district is guaranteed
26 a specified amount per student in state and local funds for each
27 cent of enrichment tax effort up to the maximum level specified in

1 this subchapter. The amount of state support, subject only to the
2 maximum amount under Section 42.253, is determined by the formula:

$$3 \quad \underline{GYA = (GL \times AF \times DETR \times 100) - LR}$$

4 where:

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

7 "GL" is the dollar amount guaranteed level, which is \$33 for
8 the 2005-2006 school year, \$34 for the 2006-2007 school year, and
9 \$38 for the 2007-2008 and subsequent school years, provided that a
10 greater amount for any school year may be provided by
11 appropriation;

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

17 "DETR" is the district enrichment tax rate of the school
18 district, which is the district's adopted maintenance and
19 operations tax rate minus the maximum rate specified under Section
20 42.306 or otherwise provided by appropriation for purposes of that
21 section; and

22 "LR" is the local revenue, which is determined by multiplying
23 "DETR" by the quotient of the district's taxable value of property
24 as determined under Subchapter M, Chapter 403, Government Code,
25 divided by 100.

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

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

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

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

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

10 (c) Subsection (a-1) and this subsection expire January 1,
11 2009.

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

19 [Sections 42.255-42.300 reserved for expansion]

20 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

21 Sec. 42.301. COST OF EDUCATION ADJUSTMENT. (a) The amounts
22 of the accreditation allotments under Subchapter B and each special
23 student allotment under Subchapter C are adjusted to reflect the
24 geographic variation in known resource costs and costs of education
25 due to factors beyond the control of the school district. The
26 amount of the adjustment is 50 percent of the total amount that
27 would result from application of the cost of education index

1 adopted under Subsection (b), or a greater amount for any school
2 year provided by appropriation.

3 (b) The Legislative Budget Board shall adopt a cost of
4 education index based on a statistical analysis conducted on a
5 revenue neutral basis that is designed to isolate the independent
6 effects of uncontrollable factors on the compensation that school
7 districts must pay, including teacher salaries and other benefits.
8 The analysis must include, at a minimum, variations in teacher
9 characteristics, teacher work environments, and the economic and
10 social conditions of the communities in which teachers reside.

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

14 (1) for the 2005-2006 school year, the index shall be
15 computed giving a weight of 25 percent to the teacher fixed effects
16 index in the 2004 report commissioned by the Joint Select Committee
17 on Public School Finance of the 78th Legislature and a weight of 75
18 percent to the index used to determine a school district's
19 adjustment for the 2004-2005 school year;

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

26 (3) for the 2007-2008 school year, the index shall be
27 computed giving a weight of 75 percent to the teacher fixed effects

1 index in the 2004 report commissioned by the Joint Select Committee
2 on Public School Finance of the 78th Legislature and a weight of 25
3 percent to the index used to determine a school district's
4 adjustment for the 2004-2005 school year; and

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

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

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

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

17 Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a)
18 The amounts of the accreditation allotments under Subchapter B and
19 each special student allotment under Subchapter C of certain small
20 and mid-sized school districts are adjusted in accordance with this
21 section to reflect district costs related to the district's size.
22 In this section:

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

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

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

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

$$9 \qquad \qquad \qquad \underline{A = ((1,600 - ADA) \times .0004) \times SA}$$

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

$$15 \qquad \qquad \qquad \underline{A = ((1,600 - ADA) \times .00025) \times SA}$$

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

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

$$24 \qquad \qquad \qquad \underline{(2) A = ((5,000 - ADA) \times .000025) \times SA}$$

25 Sec. 42.303. SPARSITY ADJUSTMENT. Notwithstanding
 26 Sections 42.101 and 42.302:

27 (1) a school district that has fewer than 130 students

1 in average daily attendance is entitled to an adjusted
2 accreditation allotment on the basis of 130 students in average
3 daily attendance if the district offers a kindergarten through
4 grade 12 program and has preceding or current year's average daily
5 attendance of at least 90 students or is 30 miles or more by bus
6 route from the nearest high school district;

7 (2) a school district that offers a kindergarten
8 through grade eight program and whose preceding or current year's
9 average daily attendance was or is at least 50 students or that is
10 30 miles or more by bus route from the nearest high school district
11 is entitled to an adjusted accreditation allotment on the basis of
12 75 students in average daily attendance; and

13 (3) a school district that offers a kindergarten
14 through grade six program and whose preceding or current year's
15 average daily attendance was or is at least 40 students or that is
16 30 miles or more by bus route from the nearest high school district
17 is entitled to an adjusted accreditation allotment on the basis of
18 60 students in average daily attendance.

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

26 (b) The program shall be financed by:

27 (1) state funds appropriated for the purposes of

1 public school education;

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

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

7 (4) state available school funds distributed in
8 accordance with law.

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

16 Sec. 42.3051. PROFESSIONAL STAFF SALARIES AND ADDITIONAL
17 STATE AID. (a) For the 2005-2006 school year, a school district
18 shall provide classroom teachers, full-time librarians, full-time
19 counselors certified under Subchapter B, Chapter 21, and full-time
20 school nurses with, in addition to the amounts required under
21 Section 21.402, annual salaries that are increased additionally by
22 an average of \$1,000.

23 (b) A school district, including a school district that is
24 otherwise ineligible for state aid under this chapter, is entitled
25 to state aid in an amount, as determined by the commissioner, equal
26 to the difference, if any, between:

27 (1) an amount equal to the product of \$2,000

1 multiplied by the number of classroom teachers, full-time
2 librarians, full-time counselors certified under Subchapter B, and
3 full-time school nurses employed by the district and entitled to a
4 minimum salary under Section 21.402; and

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

8 (c) A determination by the commissioner under this section
9 is final and may not be appealed.

10 (d) The commissioner may adopt rules to implement this
11 section.

12 Sec. 42.3052. CRISIS INTERVENTION FUNDING. (a) To the
13 extent consistent with this section, the commissioner may set aside
14 funds appropriated to the agency for purposes of the Foundation
15 School Program to provide temporary emergency assistance to a
16 school district responding to flood, extreme weather conditions,
17 fuel curtailment, severe financial crisis, or other crisis or
18 disaster, as determined appropriate by the commissioner.

19 (b) Before setting aside funds under this section, the
20 commissioner shall notify the Legislative Budget Board and the
21 governor.

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

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

1 LS = TR X DPV

2 where:

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

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

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

10 (a-1) Notwithstanding Subsection (a), for the 2005-2006
11 school year, the adopted tax rate referenced in that subsection is
12 \$1.15, or a lesser rate provided by appropriation.

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

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

24 (c-1) Notwithstanding Subsection (c), for the 2005-2006
25 school year, a school district with a tax rate ("TR") of \$1.15 or
26 the rate otherwise provided by appropriation for purposes of
27 Subsection (a-1) is eligible to receive the full amount of the tier

1 one allotment to which the district is entitled under this chapter.

2 (d) If a school district's tax rate ("TR") is less than
3 \$1.10 or the rate otherwise provided by appropriation for purposes
4 of Subsection (a), the district's tier one allotment is adjusted by
5 a percentage determined by dividing the district's tax rate ("TR")
6 by \$1.10 or the rate otherwise provided by appropriation for
7 purposes of Subsection (a) and multiplying the resulting quotient
8 by 100. The commissioner shall determine the amount of the tier one
9 allotment to which a district is entitled under this subsection.
10 The commissioner's determination is final and may not be appealed.

11 (d-1) Notwithstanding Subsection (d), for the 2005-2006
12 school year, if a school district's tax rate ("TR") is less than
13 \$1.15 or the rate otherwise provided by appropriation for purposes
14 of Subsection (a-1), the district's tier one allotment is adjusted
15 by a percentage determined by dividing the district's tax rate
16 ("TR") by \$1.15 or the rate otherwise provided by appropriation for
17 purposes of Subsection (a-1) and multiplying the resulting quotient
18 by 100. The commissioner shall determine the amount of the tier one
19 allotment to which a district is entitled under this subsection.
20 The commissioner's determination is final and may not be appealed.

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

25 (e-1) Notwithstanding Subsection (e), for the 2005-2006
26 school year, in implementing any provision of this title that
27 refers to a school district's tier one allotment, the tier one

1 allotment of a district described by Subsection (d-1) is the
2 proportionate amount provided by that subsection.

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

5 Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE
6 OF PROPERTY. (a) For purposes of Chapter 46 and this chapter, and
7 to the extent money specifically authorized to be used under this
8 section is available, the commissioner shall adjust the taxable
9 value of property in a school district that, due to factors beyond
10 the control of the board of trustees, experiences a rapid decline in
11 the tax base used in computing taxable values in excess of four
12 percent of the tax base used in the preceding year.

13 (b) To the extent that a sufficient amount of money is not
14 available to fund all adjustments under this section, the
15 commissioner shall reduce adjustments in the manner provided by
16 Section 42.313(f) so that the total amount of adjustments equals
17 the amount of money available to fund the adjustments.

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

20 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

25 (1) funds are specifically appropriated for purposes
26 of this section; or

27 (2) the commissioner determines that the total amount

1 of state funds appropriated for purposes of the Foundation School
2 Program for the school year exceeds the amount of state funds
3 distributed to school districts in accordance with Section 42.313
4 based on the taxable values of property in school districts
5 computed in accordance with Section 403.302(d), Government Code,
6 without any deduction for residence homestead exemptions granted
7 under Section 11.13(n), Tax Code.

8 (b) In making a determination under Subsection (a)(2), the
9 commissioner shall:

10 (1) notwithstanding Section 42.313(b), reduce the
11 entitlement under this chapter of a school district whose final
12 taxable value of property is higher than the estimate under Section
13 42.314 and make payments to school districts accordingly; and

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

18 (c) In the first year of a state fiscal biennium, before
19 providing funding as provided by Subsection (a)(2), the
20 commissioner shall ensure that sufficient appropriated funds for
21 purposes of the Foundation School Program are available for the
22 second year of the biennium, including funds to be used for purposes
23 of Section 42.307.

24 (d) If the commissioner determines that the amount of funds
25 available under Subsection (a)(1) or (2) does not at least equal the
26 total amount of state funding to which districts would be entitled
27 if state funding under this chapter were based on the taxable values

1 of property in school districts computed in accordance with Section
2 403.302(d)(2), Government Code, the commissioner may, to the extent
3 necessary, provide state funding based on a uniform lesser fraction
4 of the deduction under Section 403.302(d)(2), Government Code.

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

10 Sec. 42.3081. ADJUSTMENT FOR UNPAID TAXES OF MAJOR
11 TAXPAYER. (a) The commissioner shall make adjustments as provided
12 by this section to a school district's taxable value of property for
13 purposes of this chapter and Chapter 46.

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

19 (c) The commissioner shall recover the benefit of any
20 adjustment made under this section by making offsetting adjustments
21 in the school district's taxable value of property for purposes of
22 this chapter or Chapter 46 on a final determination of the taxable
23 value of property that was the basis of the original adjustment, or
24 in the second school year following the year in which the adjustment
25 is made, whichever is earlier.

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

1 Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT
2 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the
3 taxable value of property of a school district that contracts for
4 students residing in the district to be educated in another
5 district under Section 25.039(a) is adjusted by applying the
6 formula:

$$7 \qquad \qquad \qquad \text{ADPV} = \text{DPV} - (\text{TN}/\text{MTR})$$

8 where:

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

10 "DPV" is the taxable value of property in the district for the
11 preceding tax year determined under Subchapter M, Chapter 403,
12 Government Code;

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

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

20 Sec. 42.310. EFFECT OF APPRAISAL APPEAL. (a) If the final
21 determination of an appeal under Chapter 42, Tax Code, results in a
22 reduction in the taxable value of property that exceeds five
23 percent of the total taxable value of property in the school
24 district for the same tax year determined under Subchapter M,
25 Chapter 403, Government Code, the commissioner shall request the
26 comptroller to adjust its taxable property value findings for that
27 year consistent with the final determination of the appraisal

1 appeal.

2 (b) If the district would have received a greater amount
3 from the Texas education fund for the applicable school year using
4 the adjusted value, the commissioner shall add the difference to
5 subsequent distributions to the district from the Texas education
6 fund. An adjustment does not affect the local share of any other
7 district.

8 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)
9 Notwithstanding any other provision of this subtitle, and provided
10 that a school district imposes a tax at a minimum rate specified by
11 the commissioner, a school district is entitled to the amount of
12 state revenue necessary to maintain state and local revenue per
13 student in average daily attendance in the amount equal to the sum
14 of:

15 (1) the amount of state and local revenue per student
16 in average daily attendance for the maintenance and operation of
17 the district to which the district would have been entitled for the
18 2005-2006 school year under Chapter 42, as that chapter existed on
19 January 1, 2005, or, if the district would have been subject to
20 Chapter 41, as that chapter existed on January 1, 2005, the amount
21 to which the district would have been entitled under that chapter,
22 based on the funding elements in effect for the 2004-2005 school
23 year, and including:

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

27 (B) the portion of any profit the district

1 received during the 2004-2005 school year as a result of an
2 agreement under Subchapter E, Chapter 41, that exceeds the amount
3 of state and local revenue that would have been available to the
4 district during that school year if the district imposed a
5 maintenance and operations tax of \$1.50 per \$100 of valuation
6 during that school year;

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

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

11 (2) an amount equal to three percent of the amount
12 described by Subdivision (1).

13 (b) The amount of revenue to which a school district is
14 entitled because of the instructional materials and technology
15 allotment under Section 32.005 is not included in making a
16 determination under Subsection (a).

17 (c) The commissioner shall determine the minimum tax rate
18 for a school district under Subsection (a) on the basis of the tax
19 rate adopted by the district for maintenance and operations for the
20 2004-2005 school year.

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

24 (e) Any amount to which a school district is entitled under
25 Subchapter G is not included in determining the amount to which the
26 district is entitled under this section.

27 Sec. 42.3111. IMPLEMENTATION OF REVENUE MAINTENANCE

1 PROVISIONS FOR DISTRICTS UNDER COUNTYWIDE EQUALIZATION SYSTEM. (a)
2 This section applies only to a school district that receives local
3 property tax revenue from a countywide equalization tax imposed in
4 accordance with former Chapter 18 and authorized by Section 11.301.

5 (b) In implementing any provision of this chapter that
6 entitles a school district to maintain the amount of state and local
7 revenue per student in average daily attendance that would have
8 been available to the district using the funding elements under
9 Chapters 41 and 42 in effect during the 2004-2005 school year, the
10 commissioner shall consider the tax rate of each district receiving
11 revenue from a countywide equalization tax to be the sum of the
12 equalization tax rate and the rate imposed by the district.

13 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)
14 Notwithstanding any other provision of this subtitle, but subject
15 to Subsection (e), the commissioner shall withhold from a school
16 district the amount of state funds necessary to ensure that the
17 district does not receive an amount of state and local revenue per
18 student in average daily attendance that is greater than the
19 following percentage of the amount described by Section 42.311(a):

- 20 (1) 108 percent for the 2005-2006 school year;
- 21 (2) 116 percent for the 2006-2007 school year; and
- 22 (3) 124 percent for the 2007-2008 school year.

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

26 (c) Any amount to which a school district is entitled under
27 Subchapter G is not included in determining the amount that the

1 district may receive under this section.

2 (d) Section 42.311(b) applies to any determinations made
3 under this section.

4 (e) If the amount to which a school district is entitled
5 under Section 42.311 exceeds the amount to which the district is
6 entitled under this section, the district is entitled to the
7 greater amount.

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

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

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

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

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

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

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

22 (b) Except as provided by this subsection, the commissioner
23 shall base the determinations under Subsection (a) on the estimates
24 provided to the legislature under Section 42.314 for each school
25 district for each school year. The General Appropriations Act may
26 provide alternate estimates of tax rates or total taxable value of
27 property for each school district for each school year, in which

1 case those estimates shall be used in making the determinations
2 under Subsection (a). The commissioner shall reduce the
3 entitlement of each district that has a final taxable value of
4 property for the second year of a state fiscal biennium that is
5 higher than the estimate under Section 42.314 or the General
6 Appropriations Act, as applicable. A reduction under this
7 subsection may not reduce the district's entitlement below the
8 amount to which it is entitled at its actual taxable value of
9 property.

10 (c) Each school district is entitled to an amount equal to
11 the difference for that district between the sum of Subsections
12 (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and
13 (a)(5).

14 (d) The commissioner shall approve warrants to each school
15 district equaling the amount of its entitlement, except as provided
16 by this section. Warrants for all money expended according to this
17 chapter shall be approved and transmitted to treasurers or
18 depositories of school districts in the same manner as warrants for
19 state available fund payments are transmitted. The total amount of
20 the warrants issued under this section may not exceed the total
21 amount appropriated for Foundation School Program purposes for that
22 fiscal year.

23 (e) If a school district demonstrates to the satisfaction of
24 the commissioner that the estimate of the district's tax rate,
25 student enrollment, or taxable value of property used in
26 determining the amount of state funds to which the district is
27 entitled are so inaccurate as to result in undue financial hardship

1 to the district, the commissioner may adjust funding to that
2 district in that school year to the extent that funds are available
3 for that year.

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

10 (g) Not later than March 1 of each year, the commissioner
11 shall determine the actual amount of state funds to which each
12 school district is entitled under this chapter for the current
13 school year and shall compare that amount with the amount of the
14 warrants issued to each district for that year. If the amount of
15 the warrants differs from the amount to which a district is entitled
16 because of variations in the district's tax rate, student
17 enrollment, or taxable value of property, the commissioner shall
18 adjust the district's entitlement for the next fiscal year
19 accordingly.

20 (g-1) Not later than March 1 of each even-numbered year, the
21 commissioner shall identify each school district in which the
22 actual student enrollment for the current school year is at least
23 three percent higher or lower than the estimate of student
24 enrollment used to determine the amount of warrants issued to the
25 district for that year. Subject to available funding, the
26 commissioner shall adjust the district's entitlement for the next
27 fiscal year so that the district receives, during that year,

1 warrants in the amount to which the district would be entitled on
2 the basis of a student enrollment that is three percent higher or
3 lower, as applicable, than the estimate of student enrollment
4 otherwise used to determine the district's entitlement. To the
5 extent that money is available in the second year of a state fiscal
6 biennium for adjustments under Subsection (g) and this subsection,
7 the commissioner shall give priority to adjustments under this
8 subsection.

9 (h) The legislature may appropriate funds necessary for
10 increases under Subsection (g) or (g-1) from funds that the
11 comptroller, at any time during the fiscal year, finds are
12 available.

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

17 (j) Notwithstanding any other provision of this chapter,
18 the commissioner may adjust the amount of funds allocated to a
19 school district under this chapter for a school year if the district
20 collects less than 98 percent of the maintenance and operations
21 taxes levied by the district during that school year.

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

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

27 (2) the comptroller shall submit to the legislature an

1 estimate of the total taxable value of all property in the state as
2 determined under Subchapter M, Chapter 403, Government Code, for
3 the following biennium.

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

7 (c) For purposes of this section, the agency shall use the
8 estimate of student enrollment provided by the school district,
9 unless the agency's review of the estimate indicates that it is
10 inaccurate. The commissioner shall adopt criteria for use by the
11 agency in reviewing a district's estimate and shall develop
12 procedures to be used to resolve significant differences between
13 the district's estimate and any revised estimate proposed by the
14 agency. The procedures must provide a district with an opportunity
15 to demonstrate the basis of the district's estimate.

16 Sec. 42.315. FALSIFICATION OF RECORDS; REPORT. When, in
17 the opinion of the agency's director of school audits, audits or
18 reviews of accounting, enrollment, or other records of a school
19 district reveal deliberate falsification of the records, or
20 violation of the provisions of this chapter, through which the
21 district's share of state funds allocated under the authority of
22 this chapter would be, or has been, illegally increased, the
23 director shall promptly and fully report the fact to the State Board
24 of Education, the state auditor, and the appropriate county
25 attorney, district attorney, or criminal district attorney.

26 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In
27 this section:

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

4 (2) "Category 2 school district" means a school
5 district having a wealth per student of at least one-half of the
6 statewide average wealth per student but not more than the
7 statewide average wealth per student.

8 (3) "Category 3 school district" means a school
9 district having a wealth per student of more than the statewide
10 average wealth per student.

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

15 (b) Payments from the Texas education fund to each category
16 1 school district shall be made as follows:

17 (1) 15 percent of the yearly entitlement of the
18 district shall be paid in an installment to be made on or before the
19 25th day of September of a fiscal year;

20 (2) 80 percent of the yearly entitlement of the
21 district shall be paid in eight equal installments to be made on or
22 before the 25th day of October, November, December, January, March,
23 May, June, and July; and

24 (3) five percent of the yearly entitlement of the
25 district shall be paid in an installment to be made on or before the
26 25th day of February.

27 (c) Payments from the Texas education fund to each category

1 2 school district shall be made as follows:

2 (1) 22 percent of the yearly entitlement of the
3 district shall be paid in an installment to be made on or before the
4 25th day of September of a fiscal year;

5 (2) 18 percent of the yearly entitlement of the
6 district shall be paid in an installment to be made on or before the
7 25th day of October;

8 (3) 9.5 percent of the yearly entitlement of the
9 district shall be paid in an installment to be made on or before the
10 25th day of November;

11 (4) 7.5 percent of the yearly entitlement of the
12 district shall be paid in an installment to be made on or before the
13 25th day of April;

14 (5) 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 May;

17 (6) 10 percent of the yearly entitlement of the
18 district shall be paid in an installment to be made on or before the
19 25th day of June;

20 (7) 13 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 July; and

23 (8) 15 percent of the yearly entitlement of the
24 district shall be paid in an installment to be made after the fifth
25 day of September and not later than the 10th day of September of the
26 calendar year following the calendar year of the payment made under
27 Subdivision (1).

1 (d) Payments from the Texas education fund to each category
2 3 school district shall be made as follows:

3 (1) 45 percent of the yearly entitlement of the
4 district shall be paid in an installment to be made on or before the
5 25th day of September of a fiscal year;

6 (2) 35 percent of the yearly entitlement of the
7 district shall be paid in an installment to be made on or before the
8 25th day of October; and

9 (3) 20 percent of the yearly entitlement of the
10 district shall be paid in an installment to be made after the fifth
11 day of September and not later than the 10th day of September of the
12 calendar year following the calendar year of the payment made under
13 Subdivision (1).

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

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

25 Sec. 42.317. RECOVERY OF OVERALLOCATED FUNDS. (a) If a
26 school district has received an overallocation of state funds, the
27 agency shall, by withholding from subsequent allocations of state

1 funds or by requesting and obtaining a refund, recover from the
2 district an amount equal to the overallocation.

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

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

12 [Sections 42.318-42.400 reserved for expansion]

13 SUBCHAPTER I. ADDITIONAL EQUALIZATION

14 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

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

25 (f-1) The commissioner shall determine the total amount
26 that the Texas School for the Blind and Visually Impaired and the
27 Texas School for the Deaf would have received from school districts

1 pursuant to this section if H.B. No. __, Acts of the 79th
2 Legislature, 1st Called Session, 2005, had not reduced the
3 districts' share of the cost of providing education services. That
4 amount, minus any amount the schools do receive from school
5 districts, shall be set aside as a separate account in the
6 foundation school fund and appropriated to those schools for
7 educational purposes.

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

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

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

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

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

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

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

1 (b) If, before the dates provided by this subsection, a
2 district notified under Subsection (a)(1) has not purchased average
3 daily attendance credit as provided by Subchapter D [~~successfully~~
4 ~~exercised one or more options under Section 41.003 that reduce the~~
5 ~~district's wealth per student to a level equal to or less than the~~
6 ~~equalized wealth level~~], the commissioner [~~shall order the~~
7 ~~detachment of property from that district as provided by Subchapter~~
8 ~~G. If that detachment will not reduce the district's wealth per~~
9 ~~student to a level equal to or less than the equalized wealth level,~~
10 ~~the commissioner may not detach property under Subchapter G but~~
11 shall order the consolidation of the district with one or more other
12 districts as provided by Subchapter H. [~~An agreement under Section~~
13 ~~41.003(1) or (2) must be executed not later than September 1~~
14 ~~immediately following the notice under Subsection (a).~~] An
15 election to authorize the purchase of average daily attendance
16 credit as provided by Subchapter D [~~for an option under Section~~
17 ~~41.003(3), (4), or (5)] must be ordered before September 1
18 immediately following the notice under Subsection (a).~~

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

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

26 (1) is effective for Foundation School Program funding
27 purposes for the school year that begins in the calendar year in

1 which the [~~detachment and annexation or~~] consolidation is [~~agreed~~
2 ~~to or~~] ordered; and

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

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

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

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

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

1 Code.

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

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

9 SECTION 1A.08. Section 41.010, Education Code, is amended
10 to read as follows:

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

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

22 (a) A [~~Except as provided by Subchapter C, a~~] decision of
23 the commissioner under this chapter is appealable under Section
24 7.057.

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

27 Sec. 41.091. AGREEMENT. (a) "Wealth per student" means the

1 taxable value of property in a school district, as determined under
2 Subchapter M, Chapter 403, Government Code, divided by the quotient
3 of the district's allotments under Subchapters B and C, Chapter 42,
4 as adjusted in accordance with Subchapter H, Chapter 42, divided by
5 the accreditation allotment specified in Section 42.101 for the
6 applicable year.

7 (b) A school district subject to Section 42.401 [~~with a~~
8 ~~wealth per student that exceeds the equalized wealth level~~] may
9 execute an agreement with the commissioner to purchase attendance
10 credits in an amount equal to the lesser of:

11 (1) the difference between the district's local share
12 under Section 42.306 and the district's tier one allotment under
13 Section 42.304; or

14 (2) the amount equal to a percentage, as determined
15 under Subsection (c), of the maintenance and operations tax revenue
16 used in determining the district's local share under Section
17 42.306.

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

22 (d) Not later than March 1 of each year, the commissioner
23 shall make an initial determination of the percentage under
24 Subsection (b)(2) for the following school year, based on the
25 preliminary taxable values of property certified by the comptroller
26 under Section 403.302(g), Government Code, and the estimates of
27 student attendance in the General Appropriations Act. Not later

1 than July 15 of each year, the commissioner shall make a final
2 determination of the percentage that reflects the final taxable
3 values of property certified by the comptroller under Subchapter M,
4 Chapter 403, Government Code. The commissioner's determination of
5 a final amount under this subsection may not be appealed.

6 (e) Notwithstanding Subsection (b), for the 2005-2006,
7 2006-2007, and 2007-2008 school years, the amount of attendance
8 credits required to be purchased is equal to the greater of:

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

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

14 (f) Subsection (e) and this subsection expire September 1,
15 2008. [~~sufficient, in combination with any other actions taken~~
16 ~~under this chapter, to reduce the district's wealth per student to a~~
17 ~~level that is equal to or less than the equalized wealth level.]~~

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

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

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

26 (2) the amount of the statewide district average of
27 maintenance and operations tax revenue per student in ~~[weighted]~~

1 average daily attendance for the school year preceding the school
2 year for which the contract is executed.

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

5 Sec. 41.251. COMMISSIONER ORDER. If the commissioner is
6 required under Section 42.401 [~~41.004~~] to order the consolidation
7 of districts, the consolidation is governed by this subchapter.
8 The commissioner's order shall be effective on a date determined by
9 the commissioner, but not later than the earliest practicable date
10 after November 8.

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

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

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

26 (2) second, to the district that has the lowest local
27 share percentage [~~wealth per student~~] and is located in the same

1 county;

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

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

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

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

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

23 (d) In this section, "local share percentage" means a
24 percentage determined by dividing a school district's local share
25 under Section 42.306 by the district's tier one allotment under
26 Section 42.304.

27 SECTION 1A.14. Section 41.257, Education Code, is amended

1 to read as follows:

2 Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS
3 AND TRANSPORTATION ALLOTMENT. The budget of the consolidated
4 district must apply the benefit of the adjustment or allotment to
5 the schools of the consolidating district to which Section 42.302,
6 42.303, or Subchapter D, Chapter 42, [42.103, 42.105, or 42.155]
7 would have applied in the event that the consolidated district
8 still qualifies as a small or sparse district.

9 SECTION 1A.15. Section 44.004, Education Code, is amended
10 by adding Subsection (c-1) to read as follows:

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

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

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

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

23 SECTION 1A.16. Section 45.003, Education Code, is amended
24 by adding Subsection (f) to read as follows:

25 (f) Notwithstanding any other provision of this section, a
26 district may not adopt a tax rate for the maintenance and operations
27 of the district that exceeds the sum of the maximum rate for

1 purposes of Section 42.253 and the rate specified in Section 42.306
2 or otherwise provided for that section by appropriation unless that
3 tax rate is approved by two-thirds of the qualified voters voting in
4 an election held for that purpose. A district's adoption of a rate
5 authorized by this subsection does not affect the limitation on a
6 district's entitlement to enrichment revenue provided by Section
7 42.253. This subsection does not authorize the adoption of a tax
8 rate for the maintenance and operations of the district that
9 exceeds the maximum rate prescribed by Subsection (d). This
10 subsection expires January 1, 2009.

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

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

15 SECTION 1A.18. Section 26.08, Tax Code, is amended by
16 amending Subsections (a), (b), (c), (e), (h), (i), and (j) and
17 adding Subsections (a-1)-(a-8) and (b-1) to read as follows:

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

23 (a-1) Notwithstanding Section 45.003, Education Code, and
24 except as provided by Subsection (a-3), (a-4), or (a-5), for the
25 2005 tax year, a school district may not impose a tax for the
26 maintenance and operations of the district that exceeds the greater
27 of:

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

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

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

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

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

23 (a-3) For the 2005 and 2006 tax years, a school district
24 may, without holding an additional election, impose a tax for the
25 maintenance and operations of the district at a rate that does not
26 exceed the lesser of the rate of \$1.15 or the rate of \$1.10 and any
27 additional rate for enrichment authorized by district voters for

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

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

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

23 (1) for the 2005 tax year:

24 (A) impose a tax for the maintenance and
25 operations of the district at a rate not to exceed the rate that is
26 \$0.35 less than the rate adopted by the district for maintenance and
27 operations for the 2004 tax year, provided that, notwithstanding

1 any other provision of law, the tax authorized by this subdivision
2 may not be considered an enrichment tax rate for purposes of
3 Subchapter G, Chapter 42, Education Code; and

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

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

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

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

24 (a-6) All actions taken by the board of trustees of a school
25 district before the effective date of this Act that are necessary to
26 hold an election after the effective date of this Act are validated
27 as of the effective date of this Act.

1 (a-7) A school district that has adopted a tax rate for the
2 2005 tax year before the effective date of the amendment to this
3 section by .B. No. _____, Acts of the 79th Legislature, 1st Called
4 Session, 2005, must adopt a new tax rate for the 2005 tax year that
5 is consistent with Subsections (a-1)-(a-5).

6 (a-8) Subsections (a-1), (a-2), (a-3), (a-4), (a-7), and
7 this subsection expire January 1, 2007.

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

22 (b-1) [~~(b)~~] The governing body shall order that the
23 election required by Subsection (b) be held in the school district
24 on a date not less than 30 or more than 90 days after the day on
25 which it adopted the tax rate. Section 41.001, Election Code, does
26 not apply to the election unless a date specified by that section
27 falls within the time permitted by this section. At the election,

1 the ballots shall be prepared to permit voting for or against the
2 proposition: "Approving the ad valorem tax rate of \$_____ per \$100
3 valuation in (name of school district) for the current year, a rate
4 that is \$_____ higher per \$100 valuation than the school district
5 rollback tax rate." The ballot proposition must include the
6 adopted tax rate and the difference between that rate and the
7 rollback tax rate in the appropriate places.

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

11 (e) For purposes of Subsection (b) [~~this section~~], local tax
12 funds dedicated to a junior college district under Section
13 45.105(e), Education Code, shall be eliminated from the calculation
14 of the tax rate adopted by the governing body of the school
15 district. However, the funds dedicated to the junior college
16 district are subject to Section 26.085.

17 (h) For purposes of Subsection (b) [~~this section~~],
18 increases in taxable values and tax levies occurring within a
19 reinvestment zone under Chapter 311 (Tax Increment Financing Act),
20 in which the district is a participant, shall be eliminated from the
21 calculation of the tax rate adopted by the governing body of the
22 school district.

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

25 (1) the tax rate that, applied to the current total
26 value for the district, would impose taxes in an amount that, when
27 added to state funds that would be distributed to the district under

1 Chapter 42, Education Code, for the school year beginning in the
2 current tax year using that tax rate, would provide the same amount
3 of state funds distributed under Chapter 42 and maintenance and
4 operations taxes of the district per student in ~~[weighted]~~ average
5 daily attendance for that school year that would have been
6 available to the district in the preceding year if the funding
7 elements for Chapters 41 and 42, Education Code, for the current
8 year had been in effect for the preceding year;

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

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

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

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

19 (b-1) In addition to other requirements of this section, a
20 tax bill or the separate statement accompanying the tax bill for a
21 school district must state in a distinct row for each of the
22 following taxes:

23 (1) the rate for the maintenance and operations tax
24 described by Section 45.003, Education Code, and the amount of tax
25 due under that tax rate, under the heading "Maintenance and
26 Operations Tax";

27 (2) the rate for the interest and sinking fund tax

1 described by Section 45.001, Education Code, and the amount of tax
2 due under that tax rate, under the heading "Interest and Sinking
3 School Debt Service Tax Approved by Local Voters"; and

4 (3) the rate for the enrichment tax described by
5 Section 45.003, Education Code, and the amount of tax due under that
6 tax rate, under the heading "Local Enrichment Tax Approved by Local
7 Voters."

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

10 (n) This subsection applies only to a reinvestment zone
11 created before September 1, 1999, for which a school district
12 enters into an agreement to pay a portion of the tax increment
13 produced by the school district into the tax increment fund
14 established for the zone. In addition to the amount the school
15 district is otherwise required to pay into the tax increment fund
16 each year, the comptroller shall pay into the fund from any
17 available source an additional amount. The additional amount is
18 the amount by which the amount the district would have been required
19 to pay into the fund for the current year under the agreement if the
20 district levied taxes at the district's 2004 tax rate exceeds the
21 amount the district is otherwise required to pay into the fund for
22 the current year. This subsection ceases to apply to the
23 reinvestment zone on the later of the dates specified by Sections
24 311.017(a)(1) and (2) for the reinvestment zone.

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

27 (c-1) This subsection applies only to a school district

1 whose central administrative office is located in a county with a
2 population of 9,000 or less and a total area of more than 6,000
3 square miles. If after conducting the annual study for a tax year
4 the comptroller determines that the local value for a school
5 district is not valid, the comptroller shall adjust the taxable
6 value determined under Subsections (a) and (b) as follows:

7 (1) for each category of property sampled and tested
8 by the comptroller in the school district, the comptroller shall
9 use the weighted mean appraisal ratio determined by the study,
10 unless the ratio is more than four percentage points lower than the
11 weighted mean appraisal ratio determined by the comptroller for
12 that category of property in the immediately preceding study, in
13 which case the comptroller shall use the weighted mean appraisal
14 ratio determined in the immediately preceding study minus four
15 percentage points;

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

20 (3) the value estimates established under Subdivision
21 (2), together with the local tax roll value for any categories not
22 sampled and tested by the comptroller, less total deductions
23 determined by the comptroller, determines the taxable value for the
24 school district.

25 (c-2) Subsection (c-1) and this subsection expire September
26 1, 2007.

PART B. SCHOOL FACILITIES

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

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

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

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

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

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

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

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

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

(4) a determination of the extent to which

1 instructional facilities in this state are energy and water use
2 efficient; and

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

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

9 (d) Not later than December 1, 2006, the Legislative Budget
10 Board and the agency shall submit to the legislature a report based
11 on the study required by this section. This section expires January
12 15, 2007.

13 PART C. SOCIAL SECURITY CONTRIBUTIONS

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

16 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

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

21 (b) Payment of state assistance under this section is
22 limited to:

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

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

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

5 ARTICLE 2. EDUCATION EXCELLENCE

6 PART A. EDUCATION EMPLOYEES

7 SECTION 2A.01. Subchapter E, Chapter 11, Education Code, is
8 amended by adding Section 11.203 to read as follows:

9 Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR
10 PRINCIPALS. (a) The agency shall develop and implement a school
11 leadership pilot program for principals in cooperation with a
12 nonprofit corporation that has substantial experience in
13 developing best practices to improve leadership skills, student
14 achievement, student graduation rates, and teacher retention.

15 (b) The agency shall consult business schools, departments,
16 or programs at institutions of higher education to develop program
17 course work that focuses on management and business training.

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

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

26 (e) To pay the costs of administering the program, the
27 commissioner shall retain a portion of the total amount of funds

1 allotted under the Foundation School Program that the commissioner
2 considers appropriate to finance activities under this section and
3 shall reduce the total amount of state funds allocated to each
4 district from any source in the same manner described for a
5 reduction in allotments under Section 42.253.

6 (f) To implement and administer the program, the
7 commissioner may accept grants, gifts, and donations from public
8 and private entities.

9 (g) The commissioner may adopt rules necessary to
10 administer this section.

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

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

22 SECTION 2A.02. Section 21.045, Education Code, is amended
23 by amending Subsection (a) and adding Subsection (e) to read as
24 follows:

25 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
26 establishing standards to govern the approval and continuing
27 accountability of all educator preparation programs based on

1 information that is disaggregated with respect to sex and ethnicity
2 and that includes:

3 (1) results of the certification examinations
4 prescribed under Section 21.048(a); ~~and~~

5 (2) performance based on the appraisal system for
6 beginning teachers adopted by the commissioner;

7 (3) performance of students taught by beginning
8 teachers, as determined on the basis of incremental growth in
9 student achievement, as measured under Section 39.034, and any
10 other factor considered appropriate by the commissioner; and

11 (4) retention rates of beginning teachers in the
12 profession ~~[board]~~.

13 (e) The agency shall annually submit student performance
14 data to the commissioner for purposes of Subsection (a)(3). The
15 agency shall provide the data to the commissioner in a manner that
16 protects the names of individual students.

17 SECTION 2A.03. Subchapter B, Chapter 21, Education Code, is
18 amended by adding Section 21.0461 to read as follows:

19 Sec. 21.0461. TEMPORARY CERTIFICATE FOR SUPERINTENDENT OR
20 PRINCIPAL. (a) The board may issue a temporary certificate under
21 this section for:

22 (1) assistant principal;

23 (2) principal; or

24 (3) superintendent.

25 (b) A candidate for certification under this section must:

26 (1) hold a baccalaureate or advanced degree from an
27 institution of higher education;

1 (2) have significant management and leadership
2 experience, as determined by the board of trustees of the school
3 district that will employ the person under the temporary
4 certificate; and

5 (3) perform satisfactorily on the appropriate
6 examination prescribed under Section 21.048.

7 (c) A school district may require that a person who is
8 employed by the district and who holds a certificate issued under
9 this section complete a training program.

10 (d) A certificate issued to a person under this section is
11 valid only in the school district in which the person is initially
12 employed after receiving the certificate.

13 (e) A certificate issued under this section:

14 (1) expires on the third anniversary of the date on
15 which the certificate was issued; and

16 (2) is not renewable.

17 (f) The board shall issue a standard certificate to a person
18 who holds a temporary certificate issued under this section if the
19 school district employing the person under the temporary
20 certificate:

21 (1) has employed the person for at least three years in
22 the capacity for which the person seeks a standard certificate; and

23 (2) has recommended the person to the board and
24 favorably reviewed, primarily using objective measures of student
25 performance and improvement in the district, the person's
26 performance.

27 (g) A school district employing a person who holds a

1 temporary certificate issued under this section must provide the
2 person with intensive support during the person's first year of
3 employment with the district, including:

4 (1) mentoring; and

5 (2) intensive, high-quality professional development.

6 SECTION 2A.04. Section 21.104(a), Education Code, is
7 amended to read as follows:

8 (a) A teacher employed under a probationary contract may be
9 discharged at any time for:

10 (1) good cause as determined by the board of trustees;

11 or

12 (2) a financial exigency that requires a reduction in
13 personnel~~[, good cause being the failure to meet the accepted~~
14 ~~standards of conduct for the profession as generally recognized and~~
15 ~~applied in similarly situated school districts in this state].~~

16 SECTION 2A.05. Subchapter C, Chapter 21, Education Code, is
17 amended by adding Section 21.1041 to read as follows:

18 Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER
19 PROBATIONARY CONTRACT. (a) If the board of trustees proposes to
20 discharge a teacher under Section 21.104(a)(2), the board shall
21 give written notice of the proposed action to the teacher.

22 (b) If the teacher desires a hearing after receiving notice
23 of the proposed discharge, the teacher shall notify the board of
24 trustees in writing, not later than the 15th day after the date the
25 teacher receives the notice of the proposed action. The board shall
26 provide for a hearing to be held not later than the 15th day after
27 the date the board receives the request for a hearing unless the

1 parties agree in writing to a different date. The hearing must be
2 closed unless the teacher requests an open hearing. The hearing
3 must be conducted in accordance with rules adopted by the board. At
4 the hearing, the teacher may:

5 (1) be represented by a representative of the
6 teacher's choice;

7 (2) hear the evidence supporting the reason for the
8 discharge;

9 (3) cross-examine adverse witnesses; and

10 (4) present evidence.

11 (c) After a hearing held under Subsection (b), the board of
12 trustees shall:

13 (1) take the appropriate action to discharge the
14 teacher or allow the teacher to complete the probationary contract
15 term; and

16 (2) notify the teacher in writing of its decision not
17 later than the 15th day after the date of the hearing.

18 (d) If the teacher does not request a hearing under
19 Subsection (b), the board of trustees shall take the appropriate
20 action to discharge the teacher and shall notify the teacher in
21 writing of that action not later than the 30th day after the date
22 the notice of proposed discharge for a financial exigency that
23 requires a reduction in personnel was sent to the teacher.

24 SECTION 2A.06. Subchapter E, Chapter 21, Education Code, is
25 amended by adding Section 21.2111 to read as follows:

26 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM
27 CONTRACT. (a) If the board of trustees proposes to discharge a

1 teacher under Section 21.211(a)(2), the board shall give written
2 notice of the proposed action to the teacher.

3 (b) If the teacher desires a hearing after receiving notice
4 of the proposed discharge, the teacher shall notify the board of
5 trustees in writing, not later than the 15th day after the date the
6 teacher receives the notice of the proposed action. The board shall
7 provide for a hearing to be held not later than the 15th day after
8 the date the board receives the request for a hearing unless the
9 parties agree in writing to a different date. The hearing must be
10 closed unless the teacher requests an open hearing. The hearing
11 must be conducted in accordance with rules adopted by the board. At
12 the hearing, the teacher may:

13 (1) be represented by a representative of the
14 teacher's choice;

15 (2) hear the evidence supporting the reason for the
16 discharge;

17 (3) cross-examine adverse witnesses; and

18 (4) present evidence.

19 (c) After the hearing, the board of trustees shall:

20 (1) take the appropriate action to discharge the
21 teacher or allow the teacher to complete the current contract term;
22 and

23 (2) notify the teacher in writing of its decision not
24 later than the 15th day after the date of the hearing.

25 (d) If the teacher does not request a hearing under
26 Subsection (b), the board of trustees shall take the appropriate
27 action to discharge the teacher and shall notify the teacher in

1 writing of that action not later than the 30th day after the date
2 the notice of proposed discharge for a financial exigency that
3 requires a reduction in personnel was sent to the teacher.

4 SECTION 2A.07. Section 21.251, Education Code, is amended
5 to read as follows:

6 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
7 if a teacher requests a hearing after receiving notice of the
8 proposed decision to:

9 (1) terminate the teacher's continuing contract at any
10 time;

11 (2) except as provided by Subsection (b)(3), terminate
12 the teacher's probationary or term contract before the end of the
13 contract period; or

14 (3) suspend the teacher without pay.

15 (b) This subchapter does not apply to:

16 (1) a decision to terminate a teacher's employment at
17 the end of a probationary contract; [~~or~~]

18 (2) a decision not to renew a teacher's term contract,
19 unless the board of trustees of the employing district has decided
20 to use the process prescribed by this subchapter for that purpose;
21 or

22 (3) a decision to terminate a teacher's probationary
23 contract or term contract before the end of the contract period for
24 a financial exigency that requires a reduction in personnel.

25 SECTION 2A.08. Section 21.301(a), Education Code, is
26 amended to read as follows:

27 (a) Not later than the 20th day after the date the board of

1 trustees or board subcommittee announces its decision under Section
2 21.259, ~~[or]~~ the board advises the teacher of its decision not to
3 renew the teacher's contract under Section 21.208, or the board
4 advises the teacher of its decision to terminate the teacher's
5 probationary contract under Section 21.1041(c) or (d) or term
6 contract under Section 21.2111(c) or (d), the teacher may appeal
7 the decision by filing a petition for review with the commissioner.

8 SECTION 2A.09. Section 21.303(a), Education Code, is
9 amended to read as follows:

10 (a) If the board of trustees decided not to renew a
11 teacher's term contract or decided to terminate a teacher's
12 probationary contract under Section 21.1041(c) or (d) or term
13 contract under Section 21.2111(c) or (d), the commissioner may not
14 substitute the commissioner's judgment for that of the board of
15 trustees unless the decision was arbitrary, capricious, or unlawful
16 or is not supported by substantial evidence.

17 SECTION 2A.10. Section 21.402, Education Code, is amended
18 by amending Subsections (a), (c), and (d) and adding Subsections
19 (c-1) and (c-2) to read as follows:

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

$$[MS - SF \times FS]$$

26
27 ~~[where:~~

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

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

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

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

15	Years Experience	0	1	2
16	<u>Monthly Salary</u>	<u>\$2,524</u> [-.5656]	<u>\$2,581</u> [-.5790]	<u>\$2,639</u> [-.5924]
17	[Factor]			
18	Years Experience	3	4	5
19	<u>Monthly Salary</u>	<u>\$2,696</u> [-.6058]	<u>\$2,817</u> [-.6340]	<u>\$2,938</u> [-.6623]
20	[Factor]			
21	Years Experience	6	7	8
22	<u>Monthly Salary</u>	<u>\$3,059</u> [-.6906]	<u>\$3,172</u> [-.7168]	<u>\$3,278</u> [-.7416]
23	[Factor]			
24	Years Experience	9	10	11
25	<u>Monthly Salary</u>	<u>\$3,379</u> [-.7651]	<u>\$3,473</u> [-.7872]	<u>\$3,564</u> [-.8082]
26	[Factor]			
27	Years Experience	12	13	14

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

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

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

19 (2) \$100.

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

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

1 SECTION 2A.11. Subchapter I, Chapter 21, Education Code, is
2 amended by adding Section 21.4021 to read as follows:

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

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

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

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

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

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

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

22 SECTION 2A.12. Subchapter J, Chapter 21, Education Code, is
23 amended by adding Section 21.458 to read as follows:

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

27 (1) teach in the same school;

1 (2) to the extent practicable, teach the same subject
2 or grade level, as applicable; and

3 (3) meet the qualifications prescribed by
4 commissioner rules adopted under Subsection (b).

5 (b) The commissioner shall adopt rules necessary to
6 administer this section, including rules concerning the duties and
7 qualifications of a teacher who serves as a mentor. The rules
8 concerning qualifications must require that to serve as a mentor a
9 teacher must:

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

12 (2) complete a mentor training program provided by the
13 district; and

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

17 (c) The commissioner shall develop proposed rules under
18 Subsection (b) by negotiated rulemaking as provided by Chapter
19 2008, Government Code.

20 (d) From the funds appropriated to the agency for purposes
21 of this section, the commissioner shall adopt rules and provide
22 funding to school districts that assign mentor teachers under this
23 section. Funding provided to districts under this section may be
24 used only for providing:

25 (1) mentor teacher stipends;

26 (2) scheduled time for mentor teachers to provide
27 mentoring to assigned classroom teachers; and

1 (3) mentoring support through providers of mentor
2 training.

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

6 SECTION 2A.13. Chapter 21, Education Code, is amended by
7 adding Subchapter N to read as follows:

8 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

9 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)
10 The commissioner shall establish an educator excellence incentive
11 program under which school districts, in accordance with locally
12 developed plans approved by the commissioner, provide incentive
13 payments to employees who demonstrate superior success in growth in
14 student achievement.

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

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

20 (1) encourage classroom teachers to:

21 (A) teach at campuses with high percentages of
22 educationally disadvantaged students; or

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

25 (2) further the goals of any other locally designed
26 performance incentive program intended to improve student
27 achievement.

1 (d) The commissioner shall adopt rules necessary to
2 implement this subchapter. In adopting rules, the commissioner
3 shall:

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

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

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

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

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

15 (c) A local incentive plan must provide for incentive
16 payments to classroom teachers and may provide for incentive
17 payments to other employees.

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

27 (e) A local incentive plan must:

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

3 (2) be approved by the district-level planning and
4 decision-making committee.

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

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

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

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

18 SECTION 2A.14. Subchapter B, Chapter 22, Education Code, is
19 amended by adding Section 22.056 to read as follows:

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

1 employment.

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

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

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

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

11 (d) The commissioner may adopt rules necessary to implement
12 this section.

13 SECTION 2A.15. Subchapter A, Chapter 29, Education Code, is
14 amended by adding Section 29.019 to read as follows:

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

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

20 (2) is supervised by a licensed speech-language
21 pathologist.

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

1 except as provided by Subsection (c).

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

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

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

11 (d) This section:

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

15 (2) is not a waiver of a school district's sovereign
16 immunity.

17 SECTION 2A.16. (a) As soon as possible after September 1,
18 2005, the commissioner of education shall review the rules adopted
19 under Section 21.044, Education Code, relating to educator training
20 requirements and revise those rules as necessary to ensure that the
21 training requirements are sufficient to produce educators capable
22 of:

23 (1) satisfying the increased standards for highly
24 qualified educators prescribed by the No Child Left Behind Act of
25 2001 (Pub. L. No. 107-110);

26 (2) complying with certification standards in this
27 state; and

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

3 (b) In conducting the review required by Subsection (a) of
4 this section, the commissioner of education shall give specific
5 attention to the degree to which educator training requirements
6 prepare educators to serve students of limited English proficiency
7 and students with learning disabilities.

8 SECTION 2A.17. Sections 21.104, 21.251, 21.301, and
9 21.303, Education Code, as amended by this Act, and Sections
10 21.1041 and 21.2111, Education Code, as added by this Act, apply
11 only to a discharge under a probationary or term contract for which
12 written notice of the proposed discharge is given to a teacher on or
13 after September 1, 2005. A discharge under a probationary or term
14 contract for which written notice of the proposed discharge is
15 given to a teacher before September 1, 2005, is governed by the law
16 in effect when the notice is given, and the former law is continued
17 in effect for that purpose.

18 PART B. STATE AND REGIONAL GOVERNANCE

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

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

24 (b) The commissioner of education and the commissioner of
25 higher education may establish not more than three centers for
26 education research for conducting research described by
27 Subsections (e) and (f).

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

2 (1) the Texas Education Agency;

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

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

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

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

23 (f) The commissioner of education and the commissioner of
24 higher education:

25 (1) under the memorandum of understanding described by
26 Subsection (d), may require a center to conduct certain research
27 projects considered of particular importance to the state, as

1 determined by the commissioners; and

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

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

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

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

22 (h) The commissioner of education and the commissioner of
23 higher education may:

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

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

1 (i) This section does not authorize the disclosure of
2 student information that may not be disclosed under the Family
3 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
4 1232g).

5 (j) The commissioner of education and the commissioner of
6 higher education shall adopt rules as necessary to implement this
7 section.

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

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

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

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

26 Sec. 7.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM
27 (PEIMS). (a) Each school district shall participate in the Public

1 Education Information Management System (PEIMS) and shall provide
2 through that system information required for the administration of
3 this code.

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

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

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

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

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

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

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

27 Sec. 7.008. ELECTRONIC STUDENT RECORDS SYSTEM. (a) In this

1 section, "institution of higher education" has the meaning assigned
2 by Section 61.003.

3 (b) Each school district, public charter district, and
4 institution of higher education shall participate in an electronic
5 student records system that satisfies standards approved by the
6 commissioner of education and the commissioner of higher education.

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

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

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

24 (e) A private or independent institution of higher
25 education, as defined by Section 61.003, may participate in the
26 electronic student records system under this section. If a private
27 or independent institution of higher education elects to

1 participate, the institution must provide the funding to
2 participate in the system.

3 (f) Any person involved in the transfer and retrieval of
4 student information under this section is subject to any state or
5 federal law governing the release of or providing access to any
6 confidential information to the same extent as the educational
7 institution from which the data is collected. A person may not
8 release or distribute the data to any other person in a form that
9 contains confidential information.

10 (g) The electronic student records system shall be
11 implemented not later than the beginning of the 2006-2007 school
12 year. This subsection expires September 1, 2007.

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

15 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may
16 receive gifts, grants, or donations from any public or private
17 source to perform any educational function the agency is authorized
18 to perform by law.

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

22 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING. (a)
23 Except as provided by Section 29.001(5), 29.010(a), [~~39.074~~] or
24 39.075, the agency may monitor compliance with requirements
25 applicable to a process or program provided by a school district,
26 campus, program, or school granted charters under Chapter 12,
27 including the process described by Subchapter F, Chapter 11, or a

1 program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,
2 Subchapter A, Chapter 37, or Section 38.003, and the use of funds
3 provided for such a program under Subchapter C, Chapter 42, only as
4 necessary to ensure:

- 5 (1) compliance with federal law and regulations;
- 6 (2) financial accountability, including compliance
7 with grant requirements; and
- 8 (3) data integrity for purposes of:
 - 9 (A) the Public Education Information Management
10 System (PEIMS); and
 - 11 (B) accountability under Chapter 39.

12 (b) The board of trustees of a school district or the
13 governing body of a public charter district [~~an open-enrollment~~
14 ~~charter school~~] has primary responsibility for ensuring that the
15 district or school complies with all applicable requirements of
16 state educational programs.

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

19 Sec. 7.033. COMPREHENSIVE MONITORING SYSTEM. To the extent
20 permissible under Section 7.028, the agency shall develop and
21 implement a comprehensive, integrated monitoring system for
22 monitoring school district and charter school overall performance
23 under and compliance with federal and state education laws. The
24 system must incorporate performance and compliance information
25 collected by various agency divisions for each school district and
26 charter school, including information relating to:

- 27 (1) data integrity;

- 1 (2) the performance of district or school programs;
- 2 (3) financial accountability;
- 3 (4) academic accountability;
- 4 (5) previous history of compliance;
- 5 (6) complaints issues; and
- 6 (7) governance issues.

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

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

- 12 (1) the school laws of this state; or
- 13 (2) actions or decisions of any school district board
14 of trustees that violate:

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

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

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

27 SECTION 2B.09. Subchapter C, Chapter 7, Education Code, is

1 amended by adding Section 7.0571 to read as follows:

2 Sec. 7.0571. INFORMAL REVIEW BY COMMISSIONER. (a) The
3 commissioner shall adopt rules under which a school district,
4 public charter district, or other person that wishes to challenge
5 an agency decision made under Chapter 39, 41, 42, or 46 must
6 petition the commissioner for an informal review by the
7 commissioner of the decision.

8 (b) The commissioner may limit a review under this section
9 to a written submission of any issue identified by the
10 commissioner.

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

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

15 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

20 (b) The grant system must:

21 (1) connect grant activities and funding to student
22 academic performance; and

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

25 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall
26 ensure that:

27 (1) the mission, purpose, and objectives of each

1 agency grant program support student academic performance or
2 another public education mission, objective, or goal specified
3 under Sections 4.001 and 4.002;

4 (2) each agency grant program coordinates with other
5 grant programs administered by the agency;

6 (3) grant programs with similar objectives have common
7 performance measures; and

8 (4) the most efficient methods for coordinating grant
9 objectives, grant activities, academic performance measures, and
10 funding are used in the agency's grant application and reporting
11 systems.

12 Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may
13 use existing data to identify and notify an eligible school
14 district or charter school of the opportunity to apply for a
15 state-funded discretionary grant.

16 Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.
17 The agency shall develop one or more consolidated applications to
18 be used by school districts and charter schools in applying for any
19 state-funded formula grant administered by the agency.

20 Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency
21 shall ensure that information relating to the grant system is
22 available to the legislature and the public.

23 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The
24 agency, in coordination with regional education service centers,
25 shall use data relating to grant programs, including grant spending
26 and performance information, to identify successful grant
27 programs. Based on the identification of successful grant

1 programs, each regional education service center shall provide
2 information concerning those programs to the school districts in
3 the service center's region.

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

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

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

10 (2) determine whether grant data that a school
11 district or charter school is required to collect is useful and
12 supports:

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

14 (B) the goals for academic performance and
15 accountability or another public education mission, objective, or
16 goal;

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

19 (4) review the agency's policies, procedures, and
20 reporting requirements relating to grant programs administered by
21 the agency to simplify and make more efficient the grant
22 application, award, and reporting processes for school districts
23 and charter schools.

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

25 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL
26 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the
27 agency shall provide the legislature with a status report

1 concerning the agency's development of the grant system. The
2 report may suggest any statutory changes needed to facilitate a
3 full transition to a performance-based grant system.

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

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

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

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

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

14 (1) an overview of this code and any rules adopted
15 under this code;

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

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

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

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

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

26 (b) Each regional education service center shall annually
27 develop and submit to the commissioner for approval a plan for

1 improvement. Each plan must include the purposes and description
2 of the services the center will provide to:

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

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

7 (3) other campuses.

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

11 (1) best practices information as provided by Section
12 7.010; and

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

15 (d) Each regional education service center shall maintain
16 core services for purchase by school districts and campuses. The
17 core services are:

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

20 (2) training and assistance in providing each program
21 that qualifies for a special education, compensatory education,
22 bilingual education, or gifted and talented student funding
23 allotment under Subchapter C, Chapter 42 ~~[Section 42.151, 42.152,
24 ~~42.153, or 42.156]~~;~~

25 (3) assistance specifically designed for a school
26 district or campus rated academically unacceptable under Section
27 39.072 ~~[39.072(a) or a campus whose performance is considered~~

1 ~~unacceptable based on the indicators adopted under Section 39.051]~~;

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

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

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

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

12 Sec. 8.102. DATA REPORTING. (a) Each regional education
13 service center shall report audited or budgeted financial
14 information and any other information requested by the commissioner
15 for use in assessing the performance of the center. The
16 commissioner shall develop a uniform system for regional education
17 service centers to report audited financial data, to report
18 information on the indicators adopted under Section 8.101, and to
19 provide information on client satisfaction with services provided
20 under Subchapter B.

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

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

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

27 SECTION 2B.14. Section 8.103, Education Code, is amended to

1 read as follows:

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

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

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

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

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

12 (b) In the audit conducted under Subsection (a)(1), the
13 commissioner shall verify that the regional education service
14 center has identified each expenditure separately by purpose as
15 educational, support, or administrative as required by Section
16 8.102(b).

17 (c) The commissioner shall make the annual evaluation for a
18 fiscal year available to the public not later than January 1
19 following that fiscal year. The commissioner shall provide a copy
20 of the annual evaluation to any person who submits a written request
21 to the commissioner.

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

24 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later
25 than December 1, 2005, the commissioner shall evaluate the
26 feasibility of including a uniform indicator under Section
27 39.202(b) that measures effective administrative management

1 through the use of cooperative shared service arrangements. If the
2 commissioner determines that the adoption of a uniform indicator
3 described by this subsection is feasible, the commissioner by rule
4 shall include the indicator in the financial accountability rating
5 system under Subchapter I, Chapter 39, for school districts
6 beginning with the 2006-2007 school year. This subsection expires
7 September 1, 2007.

8 (b) Each regional education service center shall:

9 (1) notify each school district served by the center
10 regarding the opportunities available through the center for
11 cooperative shared service arrangements within the center's
12 service area; and

13 (2) evaluate the need for cooperative shared service
14 arrangements within the center's service area and consider
15 expanding center-sponsored cooperative shared service
16 arrangements.

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

21 (d) Each regional education service center shall assist a
22 school district board of trustees in entering into an agreement
23 with another district or political subdivision, a regional
24 education service center, or an institution of higher education as
25 defined by Section 61.003, for a cooperative shared service
26 arrangement regarding administrative services, including
27 transportation, food service, purchasing, and payroll functions.

1 (e) The commissioner may:

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

5 (2) require a district or a public charter district to
6 enter into an agreement for a cooperative shared service
7 arrangement if the commissioner determines that the financial
8 management performance of the district is unsatisfactory.

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

12 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
13 PROCESS HEARINGS. (a) The agency shall make available to a parent,
14 student, school district, attorney, or other interested person, and
15 shall place on the agency's Internet website, comprehensive, easily
16 understood information concerning the special education due
17 process hearing process.

18 (b) The information described by Subsection (a) must
19 include:

20 (1) a description of the steps in the due process
21 hearing process;

22 (2) the text of any applicable administrative,
23 procedural, or evidentiary rule;

24 (3) a description of any notice requirements;

25 (4) an explanation of options for alternative dispute
26 resolution, including mediation;

27 (5) an explanation of a resolution session;

1 (6) answers to frequently asked questions; and
2 (7) other sources of information, including
3 electronic sources of information, such as special education case
4 law available on the Internet.

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

10 (1) the effectiveness of the due process hearing
11 process; and

12 (2) the performance of a special education hearing
13 officer.

14 (b) The agency shall use the information described by
15 Subsection (a) in determining whether to renew a contract with a
16 special education hearing officer.

17 Sec. 29.0164. SPECIAL EDUCATION HEARING OFFICER: CONFLICT
18 OF INTEREST PROVISIONS. A special education hearing officer may
19 not accept employment or compensation from a school district that
20 is a party to a hearing over which the hearing officer is presiding.

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

23 (o) For purposes of accountability under Chapter 39, a
24 student placed in a disciplinary alternative education program is
25 reported as if the student were enrolled at the student's assigned
26 campus in the student's regularly assigned education program,
27 including a special education program.

PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.011 to read as follows:

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

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

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

- (1) the amount of an award;
- (2) the beginning and ending period of a grant or award;
- (3) expenditures related to an award; and
- (4) any amount of an award that was not distributed because of a school district's failure to use awarded funds to provide needed services during the funding period.

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

1 (1) the funds management information system includes:

2 (A) the information described by Subsection (c)
3 for all funding sources for services described by Section 29.092
4 for students at risk of dropping out of school, excluding funding
5 information relating to a compensatory, intensive, or accelerated
6 instruction program under Section 29.081, a disciplinary
7 alternative education program established under Section 37.008, or
8 a program eligible under Title I of the Elementary and Secondary
9 Education Act of 1965, as provided by Pub. L. No. 103-382; and

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

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

14 (3) aggregate funding information is readily
15 available to agency personnel and policy makers, including
16 aggregate funding information relating to a compensatory,
17 intensive, or accelerated instruction program under Section
18 29.081, a disciplinary alternative education program established
19 under Section 37.008, or a program eligible under Title I of the
20 Elementary and Secondary Education Act of 1965, as provided by Pub.
21 L. No. 103-382.

22 SECTION 2C.02. Section 7.056(e), Education Code, as amended
23 by S.B. No. 658, Acts of the 79th Legislature, Regular Session,
24 2005, is amended to read as follows:

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

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

3 (2) a requirement imposed by federal law or rule,
4 including a requirement for special education or bilingual
5 education programs; or

6 (3) a requirement, restriction, or prohibition
7 relating to:

8 (A) essential knowledge or skills under Section
9 28.002 or minimum graduation requirements under Section 28.025;

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

12 (C) extracurricular activities under Section
13 33.081 or participation in a University Interscholastic League
14 area, regional, or state competition under Section 33.0812;

15 (D) health and safety under Chapter 38;

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

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

19 (G) removal of a disruptive student from the
20 classroom under Subchapter A, Chapter 37;

21 (H) at-risk programs under Subchapter C, Chapter
22 29;

23 (I) prekindergarten programs under Subchapter E,
24 Chapter 29;

25 (J) educator rights and benefits under
26 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
27 A, Chapter 22;

1 (K) special education programs under Subchapter
2 A, Chapter 29; ~~or~~

3 (L) bilingual education programs under
4 Subchapter B, Chapter 29; or

5 (M) the requirements for the first and last day
6 of instruction under Section 25.0811, except as provided by that
7 section.

8 SECTION 2C.03. Section 11.059, Education Code, is amended
9 to read as follows:

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

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

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

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

22 SECTION 2C.04. Subchapter C, Chapter 11, Education Code, is
23 amended by adding Section 11.066 to read as follows:

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

25 (a) It is a ground for removal of a trustee of an independent school
26 district that the trustee is absent from more than half of the
27 regularly scheduled board of trustees meetings during a calendar

1 year that the member is eligible to attend, unless the absence is
2 excused by a majority vote of the board of trustees.

3 (b) If the superintendent of the school district has
4 knowledge that a ground for removal under this section exists, the
5 superintendent shall notify the board of trustees. On a
6 determination that a potential ground for removal exists, the board
7 shall notify the appropriate county or district attorney or the
8 attorney general.

9 SECTION 2C.05. Subchapter D, Chapter 11, Education Code, is
10 amended by adding Section 11.1511 to read as follows:

11 Sec. 11.1511. ELECTRONIC NOTICE FOR PUBLIC HEARINGS OR
12 MEETINGS PERMITTED. (a) Instead of publishing notice for a public
13 hearing or public meeting in the manner prescribed by statute, a
14 school district may publish any required notice on its Internet
15 website if authorized by rule adopted by the trustees of the
16 independent school district.

17 (b) A school district that publishes notice under this
18 section must have a link on its Internet website that is clearly
19 identified as the link to public notices for public hearings or
20 public meetings.

21 SECTION 2C.06. Section 11.201, Education Code, is amended
22 by adding Subsection (e) to read as follows:

23 (e) A superintendent may not receive any financial benefit
24 for personal services performed by the superintendent for any
25 business entity that conducts or solicits business with the school
26 district. Any financial benefit received by the superintendent for
27 performing personal services for any other entity must be approved

1 by the board of trustees on a case-by-case basis in an open meeting.

2 SECTION 2C.07. Section 25.031, Education Code, is amended
3 to read as follows:

4 Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF
5 GOVERNING BOARD. (a) In conformity with this subchapter, the board
6 of trustees of a school district or the board of county school
7 trustees or a school employee designated by the board may assign and
8 transfer any student from one school facility or classroom to
9 another within its jurisdiction.

10 (b) A student who transfers to a school campus other than
11 the campus the student would normally attend based on the student's
12 residence may not be subsequently transferred out of a class at that
13 campus before the end of a semester if the only purpose of the
14 subsequent transfer is to comply with the limit in Section 25.112.
15 A school district is not required to apply for an exception under
16 Section 25.112(d) for the class in which the student is enrolled.

17 SECTION 2C.08. Effective August 1, 2006, the heading to
18 Section 25.0811, Education Code, is amended to read as follows:

19 Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

20 SECTION 2C.09. Effective August 1, 2006, Section
21 25.0811(a), Education Code, is amended to read as follows:

22 [~~(a)~~] A school district shall [~~may not~~] begin instruction
23 for students for a school year on the first Tuesday after Labor Day.
24 The school year must end not later than June 7 unless:

25 (1) the district operates a year-round system under
26 Section 25.084; or

27 (2) the commissioner grants a waiver to extend the

1 school year at a campus as the result of a disaster, flood, extreme
2 weather condition, fuel curtailment, or other calamity that caused
3 a closure of the campus for a significant period [~~before the week in~~
4 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
5 ~~considered the first day of the week~~].

6 SECTION 2C.10. Subchapter Z, Chapter 25, Education Code, is
7 amended by adding Section 25.902 to read as follows:

8 Sec. 25.902. CERTAIN MANDATORY STUDENT IDENTIFICATION
9 METHODS PROHIBITED. (a) In this section, "radio frequency
10 identification technology" means a wireless identification system
11 that uses an electromagnetic radio frequency signal to transmit
12 data between a card, badge, or tag and another device without
13 physical contact.

14 (b) A school district may not require a student to use an
15 identification device that uses radio frequency identification
16 technology or similar technology to identify the student, transmit
17 information regarding the student, or track the location of the
18 student.

19 (c) A school district that permits the voluntary use of a
20 student identification device described by Subsection (b) shall
21 provide an alternative method of identification for a student if
22 the student's parent or guardian submits timely written objection
23 to the use of radio frequency identification technology.

24 SECTION 2C.11. Subchapter C, Chapter 29, Education Code, is
25 amended by adding Sections 29.092, 29.093, and 29.0931 to read as
26 follows:

27 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES

1 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this
2 section, "student at risk of dropping out of school" has the meaning
3 described by Section 29.081.

4 (b) To enable school districts and public charter districts
5 to provide supplemental programs and services for the benefit of
6 students at risk of dropping out of school, the commissioner each
7 school year shall award funds to a school district or public charter
8 district in accordance with a streamlined and simplified grant
9 process developed by the commissioner. To the extent practicable,
10 the grant process developed by the commissioner under this
11 subsection must comply with Subchapter E, Chapter 7.

12 (c) The commissioner shall consolidate funding from the
13 following currently funded programs and types of services,
14 excluding early childhood care and education programs and
15 accelerated reading or mathematics initiatives under Section
16 28.006, 28.007, or 28.0211:

17 (1) an optional extended year program under Section
18 29.082;

19 (2) a basic skills program for high school students
20 under Section 29.086;

21 (3) a summer school program of instruction for
22 students of limited English proficiency; and

23 (4) a grant for pregnancy-related services, including
24 a pregnancy, education, and parenting program.

25 (d) The commissioner may include grants under Section 7.024
26 as part of one or more consolidated grant application processes
27 developed under this section. The commissioner shall ensure that a

1 grant applied for under a consolidated application process under
2 this section and awarded under Section 7.024 is used only for the
3 purposes of Section 7.024.

4 (e) The commissioner may redistribute the funding of
5 programs described under Subsection (c) as necessary to accomplish
6 the purpose of improving the achievement of students at risk of
7 dropping out of school.

8 (f) A school district or public charter district that
9 receives an award of funds under this section may use the funds to
10 provide academic and support services to students at risk of
11 dropping out of school, including:

12 (1) services designed to provide intensive academic
13 instruction to increase student success and high school completion;

14 (2) services designed to provide intensive academic
15 instruction for and reduce the dropout rate of students at risk of
16 dropping out of school;

17 (3) after-school academic and support services;

18 (4) intensive instruction for preschool and
19 school-age students of limited English proficiency;

20 (5) any academic or support services for pregnant or
21 parenting students, including basic instruction and health and life
22 skills training and support for pregnant or parenting students;

23 (6) community-based services designed to address the
24 needs of students at risk of dropping out of school;

25 (7) programs or services designed to promote the
26 involvement of parents of students at risk of dropping out of
27 school; and

1 (8) services or programs promoting school and
2 community collaboration to restructure schools for the successful
3 achievement of all students, especially students at risk of
4 dropping out of school.

5 (g) The agency shall make available research-based guidance
6 to school districts and public charter districts to enable
7 successful implementation of the academic and support services
8 described by Subsection (f) that assist students at risk of
9 dropping out of school to succeed in school.

10 (h) Not later than November 1 of each year, a school
11 district or public charter district may submit an application for
12 funding for programs or services under this section. The school
13 district or public charter district must include an assessment of
14 needs for students at risk of dropping out of school, a
15 comprehensive plan for providing services for those students based
16 on the agency's research-based implementation guidance provided
17 under Subsection (g), and a report of all sources of funding for
18 providing services for those students. The commissioner shall
19 distribute an award of funds in the form of a block grant not later
20 than March 15 of each year.

21 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and the
22 Legislative Budget Board shall jointly develop a request for
23 proposals for a qualified third party to conduct a comprehensive
24 cost-outcome analysis of federal and state funding for programs
25 targeting students at risk of dropping out of school, as described
26 by Section 29.081, and the impact of those programs on student
27 achievement outcomes. In order to be qualified under this section,

1 a party must at a minimum have experience in educational program
2 evaluation and statistical analysis of public education data.

3 (b) The cost-outcome methodology developed by the
4 contractor under this section is subject to joint review and
5 approval by the agency and the Legislative Budget Board. The
6 cost-outcome analysis at a minimum must consist of the following
7 components:

8 (1) a methodology for assessing the
9 cost-effectiveness of individual school districts and public
10 charter districts in providing services to students at risk of
11 dropping out of school;

12 (2) performance measures that can be used to assess
13 the effectiveness of school districts and public charter districts
14 in administering academic and social service programs for students
15 at risk of dropping out of school;

16 (3) a methodology for evaluating best practices in
17 providing effective services for students at risk of dropping out
18 of school;

19 (4) a statistical methodology for:

20 (A) controlling for differences among individual
21 school districts and public charter districts that are not related
22 to funding streams included in the cost-outcome analysis; and

23 (B) disaggregating data by peer groups;

24 (5) a methodology for computing the relative impact of
25 funding sources on student achievement outcomes; and

26 (6) a methodology for reporting disaggregated results
27 for students at risk of dropping out of school.

1 (c) The agency and the Legislative Budget Board shall:

2 (1) not later than December 1 of each year:

3 (A) report findings from the cost-outcome
4 analysis to the lieutenant governor, the speaker of the house of
5 representatives, and the presiding officer of the standing
6 committee of each house of the legislature with primary
7 jurisdiction over public education, including data related to the
8 feasibility of constructing a cost-effectiveness measure for
9 school districts and public charter districts;

10 (B) make recommendations for the potential use of
11 the data, including the best methods to disseminate the information
12 to parents and school districts and public charter districts; and

13 (C) make the report and recommendations
14 described by Paragraphs (A) and (B) available to the public; and

15 (2) during the 2006-2007 school year, develop a plan
16 to implement the cost-outcome methodology to assess the
17 effectiveness of school districts and public charter districts in
18 providing services during the 2007-2008 school year to students at
19 risk of dropping out of school.

20 (d) During the state fiscal biennium beginning September 1,
21 2005, the commissioner shall retain an amount not to exceed
22 \$500,000 from the total amount of funds allotted under the
23 Foundation School Program to finance the comprehensive
24 cost-outcome analysis and shall reduce the total amount of state
25 funds allocated to each district from any source in the same manner
26 described for a reduction in allotments under Section 42.253.

27 (e) This section expires September 1, 2010.

1 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S
2 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a
3 cost-outcome analysis methodology for use in assessing the
4 effectiveness of school districts and public charter districts in
5 providing services for students at risk of dropping out of school,
6 as described by Section 29.081. The commissioner shall use the
7 adopted methodology until the commissioner determines that an
8 alternate methodology approved by the agency and the Legislative
9 Budget Board under Section 29.093(b) more accurately portrays the
10 cost-effectiveness of the analyzed services.

11 (b) The methodology adopted by the commissioner must
12 include the following components:

13 (1) a composite performance measure that combines key
14 indicators of student performance, disaggregated for students at
15 risk of dropping out of school;

16 (2) a format for reporting all state, federal, local,
17 and private sources of funding and total expenditures for
18 supplemental services for students at risk of dropping out of
19 school, reported by school district, public charter district, and
20 statewide; and

21 (3) a system for scoring and ranking school districts
22 and public charter districts, including criteria for establishing
23 school district and public charter district peer groups for
24 comparison purposes.

25 (c) Based on the cost-outcome analysis methodology, the
26 commissioner shall use the ranking system under Subsection (b)(3)
27 to determine annually the level at which school districts and

1 public charter districts are cost-effective in serving students at
2 risk of dropping out of school.

3 (d) Not later than December 1 of each year, the commissioner
4 shall:

5 (1) report the methodology and the results of the
6 cost-outcome analysis to the lieutenant governor, the speaker of
7 the house of representatives, and the presiding officer of the
8 standing committee of each house of the legislature with primary
9 jurisdiction over public education; and

10 (2) make the report under Subdivision (1) available to
11 the public.

12 (e) This section expires on the earlier of the approval of a
13 cost-outcome methodology by the agency and the Legislative Budget
14 Board under Section 29.093(b) or September 1, 2010.

15 SECTION 2C.12. Subchapter D, Chapter 33, Education Code, is
16 amended by adding Section 33.087 to read as follows:

17 Sec. 33.087. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT
18 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
19 eligible to participate in an extracurricular activity or a
20 University Interscholastic League competition is not ineligible
21 because the student is enrolled in a course offered for joint high
22 school and college credit or in a course offered under a concurrent
23 enrollment program, regardless of the location at which the course
24 is provided.

25 SECTION 2C.13. Section 44.031(g), Education Code, is
26 amended to read as follows:

27 (g) Except as provided by Section 44.045, notice [~~Notice~~] of

1 the time by when and place where the bids or proposals, or the
2 responses to a request for qualifications, will be received and
3 opened shall be published in the county in which the district's
4 central administrative office is located, once a week for at least
5 two weeks before the deadline for receiving bids, proposals, or
6 responses to a request for qualifications. If there is not a
7 newspaper in that county, the advertising shall be published in a
8 newspaper in the county nearest the county seat of the county in
9 which the district's central administrative office is located. In
10 a two-step procurement process, the time and place where the
11 second-step bids, proposals, or responses will be received are not
12 required to be published separately.

13 SECTION 2C.14. Section 44.033(b), Education Code, is
14 amended to read as follows:

15 (b) Except as provided by Section 44.045, for [~~For~~] each
16 12-month period, the district shall publish a notice in two
17 successive issues of any newspaper of general circulation in the
18 county in which the school is located. If there is no newspaper in
19 the county in which the school is located, the advertising shall be
20 published in a newspaper in the county nearest the county seat of
21 the county in which the school is located, specifying the
22 categories of personal property to be purchased under this section
23 and soliciting the names, addresses, and telephone numbers of
24 vendors that are interested in supplying any of the categories to
25 the district. For each category, the district shall create a vendor
26 list consisting of each vendor that responds to the published
27 notice and any additional vendors the district elects to include.

1 SECTION 2C.15. Subchapter B, Chapter 44, Education Code, is
2 amended by adding Section 44.045 to read as follows:

3 Sec. 44.045. ELECTRONIC NOTICE. Instead of the detailed
4 notice required under Sections 44.031(g) and 44.033(b), a school
5 district may publish an abbreviated notice that states the
6 universal resource locator of the publicly accessible Internet
7 website where the detailed notice is published. The detailed
8 notice must be continuously available on the website for whichever
9 of the following periods is longer:

10 (1) the two weeks before the deadline for receiving
11 bids, proposals, or responses to a request for qualifications; or

12 (2) the period required for the printed publication of
13 the detailed notice.

14 SECTION 2C.16. Section 42.002(a), Election Code, as amended
15 by H.B. No. 1209, Acts of the 79th Legislature, Regular Session,
16 2005, is amended to read as follows:

17 (a) The county election precincts are the election
18 precincts for the following elections:

19 (1) the general election for state and county
20 officers;

21 (2) a special election ordered by the governor;

22 (3) a primary election;

23 (4) a countywide election ordered by the commissioners
24 court, county judge, or other county authority, except an election
25 subject to Section 42.062(2); ~~and~~

26 (5) any other election of a political subdivision not
27 located in a county with a population of more than 3.3 million or a

1 county adjacent to a county with a population of more than 3.3
2 million held on the November uniform election date, as provided by
3 Section 42.0621; and

4 (6) an election held by a school district on the
5 November uniform election date, as provided by Section 42.0622.

6 SECTION 2C.17. Subchapter C, Chapter 42, Election Code, is
7 amended by adding Section 42.0622 to read as follows:

8 Sec. 42.0622. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT
9 ELECTION. (a) A school district that holds an election on the
10 November uniform election date shall use the regular county
11 election precincts.

12 (b) If an election precinct contains territory from more
13 than one school district or more than one district used to elect a
14 member of the governing body of a school district, election
15 officials shall take reasonable measures to ensure that a voter
16 voting at that precinct may not vote in an election in which the
17 voter is not entitled to vote.

18 (c) This section does not require a school district to
19 contract with a county under Section 31.092 or hold a joint election
20 with a county under Chapter 271.

21 (d) The secretary of state shall prescribe procedures to
22 implement this section.

23 SECTION 2C.18. Section 43.004, Election Code, is amended by
24 adding Subsection (c) to read as follows:

25 (c) If a school district holds an election on the November
26 uniform election date, the school district shall designate as the
27 polling places for the election the regular county polling places

1 in the county election precincts that contain territory from the
2 school district.

3 SECTION 2C.19. Subchapter Z, Chapter 271, Local Government
4 Code, is amended by adding Section 271.908 to read as follows:

5 Sec. 271.908. ELECTRONIC NOTICE BY SCHOOL DISTRICT.

6 Instead of the detailed notice required by Sections 271.055 and
7 272.001, a school district may publish an abbreviated notice that
8 states the universal resource locator of the publicly accessible
9 Internet website where the detailed notice is published. The
10 detailed notice must be continuously available on the website for
11 whichever of the following periods is longer:

12 (1) the 14 days before the school district takes the
13 action for which the notice is required; or

14 (2) the period required for the printed publication of
15 the detailed notice.

16 SECTION 2C.20. Section 272.001(a), Local Government Code,
17 is amended to read as follows:

18 (a) Except for the types of land and interests covered by
19 Subsection (b), (g), (h), (i), or (j), and except as provided by
20 Sections [Section] 253.008 and 271.908, before land owned by a
21 political subdivision of the state may be sold or exchanged for
22 other land, notice to the general public of the offer of the land
23 for sale or exchange must be published in a newspaper of general
24 circulation in either the county in which the land is located or, if
25 there is no such newspaper, in an adjoining county. The notice must
26 include a description of the land, including its location, and the
27 procedure by which sealed bids to purchase the land or offers to

1 exchange the land may be submitted. The notice must be published on
2 two separate dates and the sale or exchange may not be made until
3 after the 14th day after the date of the second publication.

4 SECTION 2C.21. (a) Section 11.059, Education Code, as
5 amended by this Act, applies to a school district trustee election
6 scheduled to be held on or after November 8, 2005.

7 (b) Except as provided by Subsection (c) of this section, a
8 school district trustee election that on the effective date of this
9 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
10 be held on November 7, 2006.

11 (c) If, under Subsection (b) of this section, the positions
12 of more than one-half of the trustees or as near to one-half as
13 possible would be scheduled for election on November 7, 2006, the
14 trustees holding those positions shall draw lots to determine, as
15 appropriate, which positions are subject to election in 2006 and
16 which are subject to election in 2008.

17 (d) To implement the changes made to Section 11.059,
18 Education Code, as amended by this Act, a person may serve a term as
19 school district trustee that is longer than the term for which the
20 person was elected.

21 SECTION 2C.22. Section 11.066, Education Code, as added by
22 this Act, applies only to trustee attendance at a board of trustees
23 meeting held on or after the effective date of this Act. Trustee
24 attendance at a board of trustees meeting held before the effective
25 date of this Act is governed by the law in effect when the meeting
26 was held, and the former law is continued in effect for that
27 purpose.

1 SECTION 2C.23. Section 11.201(e), Education Code, as added
2 by this Act, applies only to a contract between a superintendent of
3 a school district and a business entity that is entered into on or
4 after September 1, 2005. A contract between a superintendent of a
5 school district and a business entity that is entered into before
6 September 1, 2005, is governed by the law in effect on the date the
7 contract is entered into, and the former law is continued in effect
8 for that purpose.

9 SECTION 2C.24. Not later than January 1, 2007, the Texas
10 Education Agency shall adopt a five-year plan to renovate the
11 Public Education Information Management System (PEIMS) to provide
12 for efficient and effective information storage and retrieval for
13 the purposes of allocating scarce school resources. The renovation
14 must include a redesign of the records layout.

15 PART D. ACCOUNTABILITY

16 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is
17 amended by adding Section 7.0071 to read as follows:

18 Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The
19 commissioner by rule shall adopt procedures to make available,
20 through the agency Internet website, all financial information
21 provided by school districts and campuses through the Public
22 Education Information Management System (PEIMS), including
23 campus-level expenditure information.

24 (b) In adopting rules under this section, the commissioner
25 shall provide a summarized format for reporting financial
26 information on the agency Internet website.

27 SECTION 2D.02. Section 28.006(j), Education Code, is

1 amended to read as follows:

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

11 SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is
12 amended by adding Section 7.010 to read as follows:

13 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In
14 coordination with the Legislative Budget Board and with the
15 assistance of the centers of education research established under
16 Section 1.005, the agency shall establish an online clearinghouse
17 of information relating to best practices of campuses and school
18 districts regarding instruction, resource allocation, and business
19 practices. To the extent practicable, the agency shall ensure that
20 information provided through the online clearinghouse is specific,
21 actionable information relating to the best practices of
22 high-performing and highly efficient campuses and school districts
23 rather than general guidelines relating to campus and school
24 district operation. The information must be accessible by campuses,
25 school districts, and interested members of the public.

26 (b) The agency shall solicit and collect from the
27 Legislative Budget Board, centers of education research

1 established under Section 1.005, and exemplary or recognized school
2 districts and public charter districts, as rated under Section
3 39.072, examples of best practices relating to instruction,
4 resource allocation, and business practices, including best
5 practices relating to curriculum, scope and sequence, compensation
6 and incentive systems, bilingual education and special language
7 programs, and the effective use of instructional technology,
8 including online courses.

9 (c) The agency may contract for the services of one or more
10 third-party contractors to develop and implement a system of
11 collecting and evaluating the best practices of campuses and school
12 districts as provided by this section. In addition to any other
13 considerations required by law, the agency must consider an
14 applicant's demonstrated competence and qualifications in
15 analyzing campus and school district practices in awarding a
16 contract under this subsection.

17 (d) The agency shall implement this section not later than
18 September 1, 2006. This subsection expires January 1, 2007.

19 SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is
20 amended by adding Section 11.004 to read as follows:

21 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
22 AND CAMPUSES. A school district or campus rated exemplary under
23 Section 39.072 is subject only to the prohibitions, restrictions,
24 and requirements of this title that apply to a public charter
25 district under Section 11A.052(b) as approved by the commissioner.

26 SECTION 2D.05. Section 25.005(b), Education Code, is
27 amended to read as follows:

1 (b) A reciprocity agreement must:

2 (1) address procedures for:

3 (A) transferring student records;

4 (B) awarding credit for completed course work;

5 and

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

10 (2) include appropriate criteria developed by the
11 agency.

12 SECTION 2D.06. The heading to Section 28.0211, Education
13 Code, is amended to read as follows:

14 Sec. 28.0211. SATISFACTORY PERFORMANCE ON ASSESSMENT
15 INSTRUMENTS REQUIRED FOR PROMOTION TO CERTAIN GRADE LEVELS;
16 ACCELERATED INSTRUCTION.

17 SECTION 2D.07. Subchapter B, Chapter 28, Education Code, is
18 amended by adding Section 28.0215 to read as follows:

19 Sec. 28.0215. SATISFACTORY PERFORMANCE REQUIRED:
20 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) A student may not
21 receive course credit for a course described by Section 39.023(c)
22 unless the student performs satisfactorily on the end-of-course
23 assessment instrument for the course.

24 (b) The commissioner may adopt rules establishing a
25 procedure for a student who did not perform satisfactorily on an
26 end-of-course assessment instrument to retake the assessment
27 instrument and obtain course credit.

1 SECTION 2D.08. Section 28.025, Education Code, as amended
2 by H.B. No. 25, Acts of the 79th Legislature, Regular Session, 2005,
3 is amended by amending Subsections (c), (d), and (e) and adding
4 Subsection (f) to read as follows:

5 (c) A person may receive a diploma if the person is eligible
6 for a diploma under Section 28.0251. In other cases, a student may
7 graduate and receive a diploma only if~~+~~

8 [~~(1)~~] the student successfully completes:

9 (1) the curriculum requirements identified by the
10 State Board of Education under Subsection (a) [~~and complies with~~
11 ~~Section 39.025~~]; or

12 (2) [~~the student successfully completes~~] an
13 individualized education program developed under Section 29.005.

14 (d) Except as provided by Section 39.0241, a person may not
15 receive a diploma unless the person complies with Section 39.025.
16 For each year in which a person must comply with Section 39.025 to
17 receive a diploma, a [A] school district may issue a certificate of
18 coursework completion to a student who successfully completes the
19 curriculum requirements identified by the State Board of Education
20 under Subsection (a) but who fails to comply with Section 39.025. A
21 school district may allow a student who receives a certificate to
22 participate in a graduation ceremony with students receiving high
23 school diplomas. This subsection ceases to apply on the date the
24 commissioner certifies that the implementation of amendments made
25 by __.B. No. __, Acts of the 79th Legislature, 1st Called Session,
26 2005, to Sections 39.023(a) and (c) and 39.051(b) is complete under
27 the transition plan adopted under Section 39.0241. This subsection

1 expires September 1, 2011.

2 (e) Each school district shall report the academic
3 achievement record of students who have completed a minimum,
4 recommended, or advanced high school program on transcript forms
5 adopted by the State Board of Education. The transcript forms
6 adopted by the board must be designed to clearly differentiate
7 between each of the high school programs.

8 (f) The transcript forms adopted by the State Board of
9 Education under Subsection (e) must be designed to [and] identify
10 whether a student received a diploma or a certificate of coursework
11 completion. This subsection expires September 1, 2012.

12 SECTION 2D.09. Sections 29.053(b) and (d), Education Code,
13 are amended to read as follows:

14 (b) Within the first five [~~four~~] weeks following the first
15 day of school, the language proficiency assessment committee
16 established under Section 29.063 shall determine and report to the
17 board of trustees of the district the number of students of limited
18 English proficiency on each campus and shall classify each student
19 according to the language in which the student possesses primary
20 proficiency. The board shall report that information to the agency
21 before November 1 each year.

22 (d) Each district that is required to offer bilingual
23 education and special language programs under this section shall
24 offer the following for students of limited English proficiency:

25 (1) bilingual education in prekindergarten at
26 campuses that offer prekindergarten classes;

27 (2) bilingual education in kindergarten through the

1 elementary grades;

2 (3) [~~(2)~~] bilingual education, instruction in English
3 as a second language, or other transitional language instruction
4 approved by the agency in post-elementary grades through grade 8;
5 and

6 (4) [~~(3)~~] instruction in English as a second language
7 in grades 9 through 12.

8 SECTION 2D.10. Section 29.081(b), Education Code, is
9 amended to read as follows:

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

16 SECTION 2D.11. Subchapter C, Chapter 29, Education Code, is
17 amended by adding Section 29.0822 to read as follows:

18 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)
19 Notwithstanding Section 25.081 or 25.082, a school district may
20 provide a flexible school day program for students in grades nine
21 through 12 who have dropped out of school or who are at risk of
22 dropping out of school as defined by Section 29.081.

23 (b) To enable a school district to provide a program under
24 this section that meets the needs of students described by
25 Subsection (a), a school district may:

26 (1) provide flexibility in the number of hours each
27 day a student attends;

1 (2) provide flexibility in the number of days each
2 week a student attends; or

3 (3) allow a student to enroll in less or more than a
4 full course load.

5 (c) A course offered in a program under this section must
6 provide for at least the same number of instructional hours as
7 required for a course offered in a program that meets the required
8 minimum number of instructional days under Section 25.081 and the
9 required length of school day under Section 25.082.

10 (d) The commissioner may adopt rules for the administration
11 of this section. The commissioner shall calculate average daily
12 attendance for students served under this section. The
13 commissioner shall allow accumulations of hours of instruction for
14 students whose schedule would not otherwise allow full state
15 funding. Funding under this subsection shall be determined based
16 on the number of instructional days in the district calendar and a
17 seven-hour school day, but attendance may be cumulated over a
18 school year, inclusive of any summer or vacation sessions. The
19 attendance of students who accumulate less than the number of
20 attendance hours required under this subsection shall be
21 proportionately reduced for funding purposes. The commissioner may
22 set maximum funding amounts for an individual course under this
23 section.

24 SECTION 2D.12. Section 29.187(b), Education Code, is
25 amended to read as follows:

26 (b) An award granted under this section is not in lieu of a
27 diploma [~~or certificate of coursework completion~~] issued under

1 Section 28.025.

2 SECTION 2D.13. Section 29.202, Education Code, is amended
3 to read as follows:

4 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate
5 yearly progress standard" means a standard:

6 (1) determined by the commissioner and approved by the
7 United States Department of Education as provided by the No Child
8 Left Behind Act of 2001 (Pub. L. No. 107-110); and

9 (2) used to measure various indicators of educational
10 success to determine the progress of a campus towards academic
11 achievement.

12 (b) A student is eligible to receive a public education
13 grant or to attend another public school in the district in which
14 the student resides under this subchapter if the student is
15 assigned to attend a public school campus:

16 (1) at which 50 percent or more of the students did not
17 perform satisfactorily on an assessment instrument administered
18 under Section 39.023(a) or (c) in any two of the preceding three
19 years; ~~or~~

20 (2) that was, at any time in the preceding three years,
21 considered academically unacceptable ~~[low-performing]~~ under
22 Section 39.132; or

23 (3) that has not met the adequate yearly progress
24 standard for the same indicator of educational success for the
25 preceding two years.

26 (c) ~~[(b)]~~ After a student has used a public education grant
27 to attend a school in a district other than the district in which

1 the student resides, ~~+~~

2 [~~1~~] the student does not become ineligible for the
3 grant if the school on which the student's initial eligibility is
4 based no longer meets the criteria under Subsection (b) [~~(a)~~, and
5 [~~2~~] ~~the student becomes ineligible for the grant if~~
6 ~~the student is assigned to attend a school that does not meet the~~
7 ~~criteria under Subsection (a)] .~~

8 SECTION 2D.14. Subchapter G, Chapter 29, Education Code, is
9 amended by adding Section 29.2021 to read as follows:

10 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
11 between this subchapter and a provision of Section 1116, No Child
12 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
13 Behind Act of 2001 prevails.

14 SECTION 2D.15. Section 29.203(f), Education Code, is
15 amended to read as follows:

16 (f) The school district in which a student resides shall
17 provide each student attending a school in another district under
18 this subchapter transportation free of charge to and from the
19 school the student would otherwise attend, except as provided by
20 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
21 6316).

22 SECTION 2D.16. Section 30.021(e), Education Code, is
23 amended to read as follows:

24 (e) The school shall cooperate with public and private
25 agencies and organizations serving students and other persons with
26 visual impairments in the planning, development, and
27 implementation of effective educational and rehabilitative service

1 delivery systems associated with educating students with visual
 2 impairments. To maximize and make efficient use of state
 3 facilities, funding, and resources, the services provided in this
 4 area may include conducting a cooperative program with other
 5 agencies to serve students who have graduated from high school by
 6 completing all academic requirements applicable to students in
 7 regular education, excluding satisfactory performance on the
 8 end-of-course [~~exit-level~~] assessment instruments required by
 9 commissioner rule under Section 39.023(c) [~~instrument~~], who are
 10 younger than 22 years of age on September 1 of the school year and
 11 who have identified needs related to vocational training,
 12 independent living skills, orientation and mobility, social and
 13 leisure skills, compensatory skills, or remedial academic skills.

14 SECTION 2D.17. Sections 30.104(b) and (c), Education Code,
 15 as amended by H.B. No. 25, Acts of the 79th Legislature, Regular
 16 Session, 2005, are amended to read as follows:

17 (b) A student may graduate and receive a diploma from a
 18 Texas Youth Commission educational program if[+]

19 [~~(1)~~] the student successfully completes:

20 (1) (1) the curriculum requirements identified by the
 21 State Board of Education under Section 28.025(a) [~~and complies with~~
 22 ~~Section 39.025~~]; or

23 (2) [~~the student successfully completes~~] the
 24 curriculum requirements under Section 28.025(a) as modified by an
 25 individualized education program developed under Section 29.005.

26 (c) 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] Texas Youth Commission educational program
3 may issue a certificate of course-work completion to a student who
4 successfully completes the curriculum requirements identified by
5 the State Board of Education under Section 28.025(a) but who fails
6 to comply with Section 39.025. This subsection ceases to apply on
7 the date the commissioner certifies that the implementation of the
8 amendments made by ___B. No. ___, Acts of the 79th Legislature, 1st
9 Called Session, 2005, to Sections 39.023(a) and (c) and 39.051(b)
10 is complete under the transition plan adopted under Section
11 39.0241. This subsection expires September 1, 2012.

12 SECTION 2D.18. Section 39.022, Education Code, is amended
13 to read as follows:

14 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of
15 Education by rule shall create and implement a statewide assessment
16 program that is knowledge- and skills-based to ensure school
17 accountability for student achievement that achieves the goals
18 provided under Section 4.002. After adopting rules under this
19 section, the State Board of Education shall consider the importance
20 of maintaining stability in the statewide assessment program when
21 adopting any subsequent modification of the rules.

22 (b) The commissioner by rule shall provide for the
23 administration of assessment instruments under this subchapter.

24 SECTION 2D.19. Section 39.023, Education Code, is amended
25 by amending Subsections (a)-(e), (i), and (l)-(n) and adding
26 Subsections (a-1) and (b-1) to read as follows:

27 (a) The agency shall adopt or develop appropriate

1 criterion-referenced assessment instruments designed to assess
2 essential knowledge and skills in reading, writing, mathematics,
3 social studies, and science. All students, except students
4 assessed under Subsection (b) or (l) or exempted under Section
5 39.027, shall be assessed in:

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

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

12 (3) writing, including spelling and grammar, in grades
13 four and seven;

14 (4) [~~English language arts, in grade 10,~~
15 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~
16 ~~10~~];

17 (5) [~~6~~] science, in grades five and [~~7~~] eight [~~, and~~
18 ~~10~~]; and

19 (6) [~~7~~] any other subject and grade required by
20 federal law.

21 (a-1) An assessment instrument under this section may
22 include questions that test a broader range of knowledge and skills
23 or that are at a higher difficulty level for the purpose of
24 differentiating student achievement. A student may not be required
25 to answer a question described by this subsection correctly to
26 perform satisfactorily on the assessment instrument or to be
27 promoted to the next grade level. To ensure a valid bank of

1 questions for use each year, the agency is not required to release a
2 question that is being field-tested until after the fifth school
3 year the question is used on an assessment instrument administered
4 under this section.

5 (b) The agency shall develop or adopt appropriate
6 criterion-referenced assessment instruments to be administered to
7 each student in a special education program under Subchapter A,
8 Chapter 29, who receives modified instruction in the essential
9 knowledge and skills identified under Section 28.002 for the
10 assessed subject but for whom an assessment instrument adopted
11 under Subsection (a), even with allowable accommodations
12 [~~modifications~~], would not provide an appropriate measure of
13 student achievement, as determined by the student's admission,
14 review, and dismissal committee. The assessment instruments
15 required under this subsection must assess essential knowledge and
16 skills [~~and growth~~] in the subjects of reading, mathematics, and
17 writing and any other subject required by federal law. A student's
18 admission, review, and dismissal committee shall determine whether
19 any allowable accommodation [~~modification~~] is necessary in
20 administering to the student an assessment instrument required
21 under this subsection or whether an alternate assessment instrument
22 must be used to measure alternate academic achievement standards.
23 A student's admission, review, and dismissal committee shall
24 determine the high school graduation assessment requirements for a
25 student in a special education program under Subchapter A, Chapter
26 29, and may use local alternative assessment instruments if
27 multiple testing opportunities are not available for a student. To

1 the extent practicable, the [The] assessment instruments required
2 under this subsection shall be administered on the same schedule as
3 the assessment instruments administered under Subsection (a). The
4 commissioner shall adopt rules to implement this subsection.

5 (b-1) The agency shall adopt or develop appropriate
6 criterion-referenced instruments as required by federal law
7 designed to measure alternate academic achievement standards for
8 students in a special education program under Subchapter A, Chapter
9 29, with the most significant cognitive disabilities.

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

1 ~~education~~]. If a student is in a special education program under
2 Subchapter A, Chapter 29, the student's admission, review, and
3 dismissal committee shall determine whether any allowable
4 accommodation [~~modification~~] is necessary in administering to the
5 student an assessment instrument required under this subsection or
6 whether the student should be exempted under Section 39.027(a)(2).
7 The State Board of Education shall administer the assessment
8 instruments. The State Board of Education shall adopt a schedule
9 for the administration of end-of-course [~~secondary exit-level~~]
10 assessment instruments. [~~Each student who did not perform~~
11 ~~satisfactorily on any secondary exit-level assessment instrument~~
12 ~~when initially tested shall be given multiple opportunities to~~
13 ~~retake that assessment instrument.~~] A student who performs at or
14 above a level established by the Texas Higher Education
15 Coordinating Board on the end-of-course [~~secondary exit-level~~]
16 assessment instruments is exempt from the requirements of Section
17 51.3062 [~~51.306~~]. The performance level established by the Texas
18 Higher Education Coordinating Board under this subsection
19 represents the level of academic achievement indicating a student
20 is prepared for college course work. The performance level may be
21 used as an indicator to measure progress toward college
22 preparedness of public school students in this state.

23 (d) The commissioner may participate in multistate efforts
24 to develop voluntary standardized end-of-course assessment
25 instruments. The commissioner by rule may require a school
26 district to administer an end-of-course assessment instrument
27 developed through the multistate efforts. The admission, review,

1 and dismissal committee of a student in a special education program
2 under Subchapter A, Chapter 29, shall determine whether any
3 allowable accommodation [~~modification~~] is necessary in
4 administering to the student an end-of-course assessment
5 instrument or whether the student should be exempted [~~under Section~~
6 ~~39.027(a)(2)~~].

7 (e) Under rules adopted by the State Board of Education,
8 [~~every other year,~~] the agency shall release the questions and
9 answer keys to each assessment instrument administered under
10 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after
11 August 1 after the second anniversary of the date [~~after the last~~
12 ~~time~~] the instrument was [~~is~~] administered [~~for that school year~~].
13 To ensure a valid bank of questions for use each year, the agency is
14 not required to release a question that is being field-tested and
15 was not used to compute the student's score on the instrument. The
16 agency shall also release, under board rule, each question that is
17 no longer being field-tested and that was not used to compute a
18 student's score.

19 (i) The provisions of this section, except Subsection (d),
20 are subject to modification by rules adopted under Section 39.022.
21 Each assessment instrument adopted or developed under this section
22 [~~these rules and each assessment instrument required under~~
23 ~~Subsection (d)~~] must be reliable and valid and must meet any
24 applicable federal requirements for measurement of student
25 progress.

26 (l) The agency [~~State Board of Education~~] shall adopt or
27 develop a Spanish version [~~rules for the administration~~] of the

1 assessment instruments adopted under Subsection (a) for [~~in Spanish~~
2 ~~to~~] students in grades three through six who are of limited English
3 proficiency, as defined by Section 29.052, whose primary language
4 is Spanish, and who are not otherwise exempt from the
5 administration of an assessment instrument under Section 39.027
6 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency
7 whose primary language is Spanish, other than a student to whom
8 Subsection (b) or (b-1) applies, may be assessed using assessment
9 instruments in Spanish under this subsection for up to three years
10 or assessment instruments in English under Subsection (a). The
11 language proficiency assessment committee established under
12 Section 29.063 shall determine which students are administered
13 assessment instruments in Spanish under this subsection.

14 (m) The commissioner by rule shall develop procedures under
15 which the language proficiency assessment committee established
16 under Section 29.063 shall determine which students in grades three
17 through 10 are exempt from the administration of the assessment
18 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules
19 adopted under this subsection shall ensure that the language
20 proficiency assessment committee provides that the exempted
21 students are administered the assessment instruments under
22 Subsections (a) and (c) at the earliest practical date. As
23 necessary to comply with federal requirements, the commissioner by
24 rule shall develop procedures under which a student who is exempt
25 from the administration of an assessment instrument under Section
26 39.027 is administered a linguistically accommodated assessment
27 instrument.

1 (n) This subsection applies only to a student who is
 2 determined to have dyslexia or a related disorder and who is an
 3 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~
 4 ~~its subsequent amendments~~]. The agency shall adopt or develop
 5 appropriate [~~critterion-referenced~~] assessment administration
 6 procedures, including accommodations for a [instruments designed
 7 to assess the ability of and to be administered to each] student to
 8 whom this subsection applies. The [~~for whom the assessment~~
 9 ~~instruments adopted under Subsection (a), even with allowable~~
 10 ~~modifications, would not provide an appropriate measure of student~~
 11 ~~achievement, as determined by the]~~ committee established by the
 12 board of trustees of the district to determine the placement of
 13 students with dyslexia or related disorders [~~. The committee~~] shall
 14 determine whether the [~~any~~] allowable accommodations are
 15 [~~modification is~~] necessary in administering to a student an
 16 assessment instrument required under this section [~~subsection. The~~
 17 ~~assessment instruments required under this subsection shall be~~
 18 ~~administered on the same schedule as the assessment instruments~~
 19 ~~administered under Subsection (a)]].~~

20 SECTION 2D.20. Subchapter B, Chapter 39, Education Code, is
 21 amended by adding Section 39.0232 to read as follows:

22 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
 23 extent practicable and appropriate, the agency shall provide for
 24 assessment instruments required under Section 39.023 to be designed
 25 so that those assessment instruments can be computer-adaptive.

26 (b) To the extent practicable and appropriate, the agency
 27 shall require school districts to administer to students the

1 computer-adaptive assessment instruments.

2 (c) The agency shall implement this section not later than
3 March 1, 2006. This subsection expires September 1, 2006.

4 SECTION 2D.21. Sections 39.024(a) and (c), Education Code,
5 are amended to read as follows:

6 (a) Except as otherwise provided by this subsection, the
7 State Board of Education shall determine the level of performance
8 considered to be satisfactory on the assessment instruments
9 administered under Section 39.023. The commissioner by rule
10 ~~[admission, review, and dismissal committee of a student being~~
11 ~~assessed under Section 39.023(b)]~~ shall determine the level of
12 performance considered to be satisfactory on the assessment
13 instruments administered under Section 39.023(b) or (b-1) ~~[to that~~
14 ~~student]~~ in accordance with applicable federal requirements
15 ~~[criteria established by agency rule].~~

16 (c) The agency shall develop study guides for the assessment
17 instruments administered under Sections 39.023(a) and (1) ~~[(c)]~~.
18 To assist parents in providing assistance during the period that
19 school is recessed for summer, each school district shall
20 distribute the study guides to parents of students who do not
21 perform satisfactorily on one or more parts of the ~~[an]~~ assessment
22 instrument ~~[administered under this subchapter].~~

23 SECTION 2D.22. Subchapter B, Chapter 39, Education Code, is
24 amended by adding Section 39.0241 to read as follows:

25 Sec. 39.0241. TRANSITION PLAN FOR USE OF ASSESSMENT
26 INSTRUMENTS. (a) The commissioner shall by rule adopt a transition
27 plan to implement the amendments made by __.B. No. __, Acts of the

1 79th Legislature, 1st Called Session, 2005, relating to
2 end-of-course assessment instruments, including Sections 39.023(a)
3 and (c) and 39.051(b)(5). The rules must provide for the
4 administration of end-of-course assessment instruments adopted
5 under Section 39.023(c) to begin during the 2009-2010 school year.
6 During the period under which the transition to end-of-course
7 assessment instruments is made:

8 (1) the commissioner shall retain, administer, and use
9 for campus and district ratings under Subchapter D the assessment
10 instruments required by Section 39.023(a) or (c), as that section
11 existed before amendment by __.B. No. __, Acts of the 79th
12 Legislature, 1st Called Session, 2005;

13 (2) the agency may defer releasing assessment
14 instrument questions and answer keys as required by Section
15 39.023(e) to the extent necessary to develop additional assessment
16 instruments; and

17 (3) the commissioner may make the end-of-course
18 assessment instrument for Algebra I available to campuses and
19 school districts to administer and use and may make the
20 end-of-course assessment instruments for each other course
21 specified under Section 39.023(c) available to campuses and
22 districts as each assessment instrument is adopted, but the results
23 of those assessment instruments may not be used for campus and
24 district ratings under Subchapter D.

25 (b) Rules adopted under Subsection (a) must require that
26 each student who will be subject to the requirements implemented
27 under the amendments made by __.B. No. __, Acts of the 79th

1 Legislature, 1st Called Session, 2005, relating to end-of-course
2 assessment instruments, including Section 39.023(c), is entitled
3 to notice of the specific requirements applicable to the student.
4 Notice under this subsection must be provided not later than the
5 date the student enters the ninth grade.

6 (c) Implementation of the end-of-course assessment
7 instruments shall begin with the assessment instrument for Algebra
8 I.

9 (d) A reference in this code to an end-of-course assessment
10 instrument administered under Section 39.023(c) includes a
11 secondary exit-level assessment instrument administered as
12 provided by Subsection (a).

13 (e) This section expires September 1, 2010.

14 SECTION 2D.23. Effective September 1, 2006, Subchapter B,
15 Chapter 39, Education Code, is amended by adding Section 39.0261 to
16 read as follows:

17 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
18 addition to the assessment instruments otherwise authorized or
19 required by this subchapter:

20 (1) each school year and at state cost, a school
21 district shall administer to students in any two grade levels other
22 than the 11th or 12th grade an established, valid, reliable, and
23 nationally norm-referenced preliminary college preparation
24 assessment instrument; and

25 (2) high school students in the spring of the 11th
26 grade or during the 12th grade may select and take once, at state
27 cost, one of the valid, reliable, and nationally norm-referenced

1 assessment instruments used by colleges and universities as part of
2 their undergraduate admissions processes.

3 (b) The agency shall:

4 (1) select and approve vendors of the specific
5 assessment instruments administered under this section; and

6 (2) pay all fees associated with the administration of
7 the assessment instrument from funds allotted under the Foundation
8 School Program, and the commissioner shall reduce the total amount
9 of state funds allocated to each district from any source in the
10 same manner described for a reduction in allotments under Section
11 42.313.

12 (c) A vendor that administers an assessment instrument for a
13 district under this section shall report the results of the
14 assessment instrument to the agency.

15 (d) Subsection (a)(2) does not prohibit a high school
16 student in the spring of the 11th grade or during the 12th grade
17 from selecting and taking, at the student's own expense, one of the
18 valid, reliable, and nationally norm-referenced assessment
19 instruments used by colleges and universities as part of their
20 undergraduate admissions processes more than once.

21 SECTION 2D.24. Sections 39.027(a), (e), and (g), Education
22 Code, are amended to read as follows:

23 (a) A student in grades three through 10 may be exempted
24 from the administration of an assessment instrument under:

25 (1) ~~[Section 39.023(a) or (b) if the student is~~
26 ~~eligible for a special education program under Section 29.003 and~~
27 ~~the student's individualized education program does not include~~

1 ~~instruction in the essential knowledge and skills under Section~~
2 ~~28.002 at any grade level;~~

3 ~~[(2) Section 39.023(c) or (d) if the student is~~
4 ~~eligible for a special education program under Section 29.003 and:~~

5 ~~[(A) the student's individualized education~~
6 ~~program does not include instruction in the essential knowledge and~~
7 ~~skills under Section 28.002 at any grade level; or~~

8 ~~[(B) the assessment instrument, even with~~
9 ~~allowable modifications, would not provide an appropriate measure~~
10 ~~of the student's achievement as determined by the student's~~
11 ~~admission, review, and dismissal committee;~~

12 ~~[(3)] Section 39.023(a), (b), (b-1), or (l) for a~~
13 ~~period of up to one year after initial enrollment in a school in the~~
14 ~~United States if the student is of limited English proficiency, as~~
15 ~~defined by Section 29.052, and has not demonstrated proficiency in~~
16 ~~English as determined by the assessment system under Subsection~~
17 ~~(e); or~~

18 (2) ~~[(4)]~~ Section 39.023(a), (b), (b-1), or (l) for a
19 period of up to two years in addition to the exemption period
20 authorized by Subdivision (1) ~~[(3)]~~ if the student has received an
21 exemption under Subdivision (1) ~~[(3)]~~ and:

22 (A) is a recent unschooled immigrant; or

23 (B) is in a grade for which no assessment
24 instrument in the primary language of the student is available.

25 (e) As provided by applicable federal requirements, the
26 ~~[The]~~ commissioner shall develop an assessment system that shall be
27 used for evaluating the academic progress toward attaining academic

1 language proficiency in English, including reading proficiency in
2 English, of all students of limited English proficiency, as defined
3 by Section 29.052. A student who has demonstrated the designated
4 level of [~~is exempt from the administration of an assessment~~
5 ~~instrument under Subsection (a)(3) or (4) who achieves]~~ reading
6 proficiency in English as determined by the assessment system
7 developed under this subsection is not eligible for an exemption
8 under Subsection (a)(1) or (2). [~~shall be administered the~~
9 ~~assessment instruments described by Sections 39.023(a) and (c).~~
10 ~~The performance under the assessment system developed under this~~
11 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~
12 ~~shall be included in the academic excellence indicator system under~~
13 ~~Section 39.051, the performance report under Section 39.053, and~~
14 ~~the comprehensive annual report under Section 39.182.~~]

15 (g) For purposes of this section, "recent unschooled
16 immigrant" means an immigrant who initially enrolled in a school in
17 the United States not more than 12 months before the date of the
18 administration of an assessment instrument under Section 39.023
19 [~~39.023(a) or (1)~~] and who, as a result of inadequate schooling
20 outside of the United States, lacks the necessary foundation in the
21 essential knowledge and skills of the curriculum prescribed under
22 Section 28.002 as determined by the language proficiency assessment
23 committee established under Section 29.063. For purposes of this
24 subsection and to the extent authorized by federal law, a child's
25 prior enrollment in a school in the United States shall be
26 determined on the basis of documents and records required under
27 Section 25.002(a).

1 SECTION 2D.25. Subchapter B, Chapter 39, Education Code, is
2 amended by adding Sections 39.034 and 39.035 to read as follows:

3 Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT
4 ACHIEVEMENT. (a) The commissioner shall determine a method by
5 which the agency may measure incremental growth in student
6 achievement from one school year to the next on an assessment
7 instrument required under this subchapter.

8 (b) The agency shall report to each school district the
9 comparisons made under Subsection (a). Each school district shall
10 provide the comparisons to each teacher for all students who were:

11 (1) assessed on an assessment instrument; and

12 (2) taught by that teacher in the subject for which the
13 assessment instrument was administered.

14 (c) The school a student attends shall provide a record of
15 the comparison made under this section and provided to the school
16 under Subsection (b) in a written notice to the student's parents.

17 (d) To the extent practicable, the agency shall combine the
18 report of the comparisons required under this section with the
19 report of the student's performance on assessment instruments
20 administered under Section 39.023.

21 (e) The commissioner shall implement this section not later
22 than September 1, 2006. This subsection expires January 1, 2008.

23 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF
24 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other
25 employee, contractor, or volunteer of a school district or public
26 charter district commits an offense if, for the primary purpose of
27 influencing the results of an assessment instrument administered

1 under this subchapter, the person intentionally:

2 (1) discriminates in school admissions based on a
3 student's academic ability in a manner that is not otherwise
4 permitted by law;

5 (2) refers a student to a special education program
6 under Subchapter A, Chapter 29, or a bilingual or special language
7 program under Subchapter B, Chapter 29, for the purpose of gaining
8 an exemption for the student from the administration of the
9 assessment instrument;

10 (3) requires or encourages a student to be absent from
11 a school campus during the day on which the assessment instrument is
12 administered at the campus;

13 (4) tampers with the assessment instrument or related
14 materials to alter the results of the assessment instrument; or

15 (5) engages in any other action designed to alter the
16 accuracy of the results of the assessment instrument.

17 (b) An offense under this section is a Class A misdemeanor.

18 (c) An offense under Subsection (a)(4) is in addition to any
19 offense under Section 37.10(c)(2), Penal Code, arising from the
20 same action.

21 SECTION 2D.26. Section 39.051(b), Education Code, as
22 amended by Chapters 433 and 805, Acts of the 78th Legislature,
23 Regular Session, 2003, is reenacted and amended to read as follows:

24 (b) Performance on the indicators adopted under this
25 section shall be compared to state-established standards. The
26 degree of change from one school year to the next in performance on
27 each indicator adopted under this section shall also be considered.

1 The indicators must be based on information that is disaggregated
2 by race, ethnicity, gender, and socioeconomic status and must
3 include:

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

7 (2) dropout rates, including dropout rates and
8 district completion rates for grade levels 7 [~~9~~] through 12,
9 computed:

10 (A) as a longitudinal rate and an annual
11 completion rate by grade; and

12 (B) in accordance with standards and definitions
13 adopted by the National Center for Education Statistics of the
14 United States Department of Education;

15 (3) high school graduation rates, computed in
16 accordance with standards and definitions adopted in compliance
17 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.
18 107-110);

19 (4) student attendance rates;

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

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

1 (7) the results of the Scholastic Assessment Test
2 (SAT), the American College Test (ACT), articulated postsecondary
3 degree programs described by Section 61.852, and certified
4 workforce training programs described by Chapter 311, Labor Code;

5 (8) incremental growth in student achievement, as
6 measured under Section 39.034, aggregated by grade level and
7 subject area;

8 (9) the number and percentage of students at risk of
9 dropping out of school, the number and percentage of those students
10 who are administered each assessment instrument required under
11 Section 39.023, the number and percentage of those students who
12 perform satisfactorily on the assessment instruments, and the
13 results of those students, grouped by number and percentage, on the
14 assessment instruments, disaggregated by subject area and grade
15 level;

16 (10) the number and percentage of students, aggregated
17 by grade level, provided accelerated instruction under Section
18 28.0211(c), the results of assessments administered under that
19 section, the percentage of students promoted through the grade
20 placement committee process under Section 28.0211, the subject of
21 the assessment instrument on which each student failed to perform
22 satisfactorily, and the performance of those students in the school
23 year following that promotion on the assessment instruments
24 required under Section 39.023;

25 (11) [~~(9)~~] for students who have failed to perform
26 satisfactorily on an assessment instrument required under Section
27 39.023(a) or (c), the numerical progress of those students grouped

1 by number and percentage on subsequent assessment instruments
2 required under those sections, aggregated by grade level and
3 subject area;

4 (12) [~~(10)~~] the percentage of students exempted, by
5 exemption category, from the assessment program generally
6 applicable under this chapter; [~~and~~]

7 (13) [~~(11)~~] the percentage of students of limited
8 English proficiency exempted from the administration of an
9 assessment instrument under Sections 39.027(a)(1) and (2);

10 (14) [~~39.027(a)(3) and (4)~~] the percentage of students
11 in a special education program under Subchapter A, Chapter 29,
12 assessed through assessment instruments developed or adopted under
13 Section 39.023(b);

14 (15) for students of limited English proficiency, as
15 defined by Section 29.052, a measure of progress toward English
16 language proficiency, as determined by the commissioner, including
17 the student's performance after transferring out of a bilingual
18 education program or instruction in English as a second language;
19 and

20 (16) the performance of students who are not
21 educationally disadvantaged on an assessment instrument under
22 Sections 39.023(a), (b), (c), and (l) and dropout rates and
23 district completion rates for grades 9 through 12 for those
24 students.

25 SECTION 2D.27. Section 39.051(d), Education Code, is
26 amended to read as follows:

27 (d) Annually, the commissioner shall define exemplary,

1 recognized, and unacceptable performance for each academic
2 excellence indicator included under Subsections (b)(1) through (8)
3 and (15) [~~(6)~~] and shall project the standards for each of those
4 levels of performance for succeeding years. For the indicator
5 under Subsection (b)(10) [~~(b)(7)~~], the commissioner shall define
6 exemplary, recognized, and unacceptable performance based on
7 student performance for the period covering both the current and
8 preceding academic years. In defining exemplary, recognized, and
9 unacceptable performance for the indicators under Subsections
10 (b)(2) and (4) [~~(3)~~], the commissioner may not consider as a dropout
11 or as a student who has failed to attend school a student whose
12 failure to attend school results from:

- 13 (1) the student's expulsion under Section 37.007; and
- 14 (2) as applicable:
 - 15 (A) adjudication as having engaged in delinquent
 - 16 conduct or conduct indicating a need for supervision, as defined by
 - 17 Section 51.03, Family Code; or
 - 18 (B) conviction of and sentencing for an offense
 - 19 under the Penal Code.

20 SECTION 2D.28. Section 39.052(b), Education Code, is
21 amended to read as follows:

22 (b) The report card shall include the following
23 information:

- 24 (1) where applicable, the academic excellence
25 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];
- 26 (2) average class size by grade level and subject;
- 27 (3) the administrative and instructional costs per

1 student, computed in a manner consistent with Section 44.0071; and

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

6 SECTION 2D.29. Section 39.055, Education Code, is amended
7 to read as follows:

8 Sec. 39.055. [~~ANNUAL~~] AUDIT OF DROPOUT RECORDS; REPORT.

9 (a) The commissioner shall develop a process for auditing school
10 district dropout records electronically. The commissioner shall
11 also develop a system and standards for review of the audit or use
12 systems already available at the agency. The system must be
13 designed to identify districts that are at high risk of having
14 inaccurate dropout records and that, as a result, may be subject to
15 a special accreditation investigation under Section 39.075
16 ~~[require on-site monitoring of dropout records. If the electronic~~
17 ~~audit of a district's dropout records indicates that a district is~~
18 ~~not at high risk of having inaccurate dropout records, the district~~
19 ~~may not be subject to on-site monitoring under this subsection. If~~
20 ~~the risk-based system indicates that a district is at high risk of~~
21 ~~having inaccurate dropout records, the district is entitled to an~~
22 ~~opportunity to respond to the commissioner's determination before~~
23 ~~on-site monitoring may be conducted. The district must respond not~~
24 ~~later than the 30th day after the date the commissioner notifies the~~
25 ~~district of the commissioner's determination. If the district's~~
26 ~~response does not change the commissioner's determination that the~~
27 ~~district is at high risk of having inaccurate dropout records or if~~

1 ~~the district does not respond in a timely manner, the commissioner~~
2 ~~shall order agency staff to conduct on-site monitoring of the~~
3 ~~district's dropout records].~~

4 **(b)** ~~[(e)]~~ The commissioner shall notify the superintendent
5 ~~[board of trustees]~~ of a school district of any objection the
6 commissioner has to the district's dropout data, any violation of
7 sound accounting practices or of a law or rule revealed by the data,
8 or any recommendation by the commissioner concerning the data. If
9 the data reflect that a penal law has been violated, the
10 commissioner shall notify the county attorney, district attorney,
11 or criminal district attorney, as appropriate, and the attorney
12 general. The commissioner is entitled to access to all district
13 records the commissioner considers necessary or appropriate for the
14 review, analysis, or approval of district dropout data.

15 SECTION 2D.30. Sections 39.071 and 39.072, Education Code,
16 are amended to read as follows:

17 Sec. 39.071. ACCREDITATION. **(a)** Accreditation of a school
18 district is determined in accordance with this section
19 ~~[subchapter]~~.

20 **(b)** Each year, the commissioner shall determine the
21 accreditation status of each school district. In determining
22 accreditation status, the commissioner:

23 **(1)** shall evaluate and consider the performance of the
24 district under:

25 **(A)** the academic accountability system under
26 Section 39.072; and

27 **(B)** the financial accountability system under

1 Subchapter I;

2 (2) shall evaluate and consider:

3 (A) the results of any special accreditation
4 investigation under Section 39.075; and

5 (B) the district's current special education
6 monitoring or compliance status with the agency; and

7 (3) may consider:

8 (A) the district's compliance with statutory
9 requirements and requirements imposed by rule of the commissioner
10 or State Board of Education under specific statutory authority that
11 relate to:

12 (i) reporting data through the Public
13 Education Information Management System (PEIMS) or other reports
14 required by state or federal law or court order;

15 (ii) the high school graduation
16 requirements under Section 28.025; or

17 (iii) an item listed under Sections
18 7.056(e)(3)(C)-(I) that applies to the district;

19 (B) the effectiveness of the district's programs
20 for special populations; and

21 (C) the effectiveness of the district's career
22 and technology program.

23 (c) Based on a school district's performance under
24 Subsection (b), the commissioner shall:

25 (1) assign a district an accreditation status of:

26 (A) accredited;

27 (B) accredited-warned; or

1 (C) accredited-probation; or

2 (2) revoke the accreditation of the district and order
3 closure of the district under Section 39.131.

4 (d) The commissioner shall notify a school district that
5 receives an accreditation status of accredited-warned or
6 accredited-probation that the performance of the district is below
7 a standard required under this section. The commissioner shall
8 require the district to notify the parents of students enrolled in
9 the district and property owners in the district of the district's
10 accreditation status and the implications of that accreditation
11 status.

12 (e) A school district that is not accredited may not
13 receive funds from the agency or hold itself out as operating a
14 public school of this state.

15 (f) This chapter may not be construed to invalidate a
16 diploma awarded, course credit earned, or grade promotion granted
17 by a school district before the commissioner revoked the district's
18 accreditation.

19 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
20 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
21 adopt rules for assigning [~~to evaluate the performance of school~~
22 ~~districts and to assign~~] to each school district and campus a
23 performance rating as follows:

24 (1) exemplary (meets or exceeds state exemplary
25 standards);

26 (2) recognized (meets or exceeds required improvement
27 or [~~and~~] within 10 percent of state exemplary standards);

1 (3) academically acceptable (below the exemplary and
2 recognized standards but exceeds the academically unacceptable
3 standards); or

4 (4) academically unacceptable (below the state
5 clearly unacceptable performance standard and does not meet
6 required improvement).

7 (b) The academic excellence indicators adopted under
8 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~
9 ~~district's current special education compliance status with the~~
10 ~~agency]~~ shall be the main considerations of the agency in the rating
11 of a school [~~the~~] district or campus under this section.
12 [~~Additional criteria in the rules may include consideration of:~~

13 [~~(1) compliance with statutory requirements and~~
14 ~~requirements imposed by rule of the State Board of Education under~~
15 ~~specific statutory authority that relate to:~~

16 [~~(A) reporting data through the Public Education~~
17 ~~Information Management System (PEIMS),~~

18 [~~(B) the high school graduation requirements~~
19 ~~under Section 28.025, or~~

20 [~~(C) an item listed in Sections~~
21 ~~7.056(e)(3)(C)-(I) that applies to the district,~~

22 [~~(2) the effectiveness of the district's programs for~~
23 ~~special populations, and~~

24 [~~(3) the effectiveness of the district's career and~~
25 ~~technology programs.~~]

26 (c) The agency shall evaluate [~~against state standards~~] and
27 [~~shall~~], not later than August 1 of each year, report the

1 performance of each school [~~campus in a~~] district and campus. [~~each~~
2 ~~open-enrollment charter school on the basis of the campus's~~
3 ~~performance on the indicators adopted under Sections 39.051(b)(1)~~
4 ~~through (7). Consideration of the effectiveness of district~~
5 ~~programs under Subsection (b)(2) or (3) must be based on data~~
6 ~~collected through the Public Education Information Management~~
7 ~~System for purposes of accountability under this chapter and~~
8 ~~include the results of assessments required under Section 39.023.]~~

9 (d) Each annual evaluation shall include an analysis of the
10 indicators under Section 39.051(b) to determine district and campus
11 performance in relation to:

12 (1) state standards established for each indicator;

13 (2) required improvement as defined under Section
14 39.051(c); and

15 (3) comparable improvement as determined under
16 Section 39.051(c).

17 (e) The academic performance rating of a school district may
18 be raised or lowered based on the district's performance or may be
19 lowered based on the unacceptable performance of one or more
20 campuses in the district. The academic performance rating of a
21 school district may also be lowered based on a determination that
22 data provided to the agency by the district that is necessary for
23 conducting an annual evaluation under this section is unreliable.

24 (f) The commissioner shall notify a school district if the
25 performance of the district or a campus in the district is below a
26 standard required under this section. The commissioner shall
27 require the school district to notify the parents of students who

1 are enrolled in the district and property owners in the district of
2 the academic performance rating and the implications of that
3 rating.

4 (g) Notwithstanding any other provision of this code, for
5 purposes of determining the performance of a school district or
6 public charter district under this chapter, including the academic
7 performance rating [accreditation status] of the district or
8 school, a student attending a campus that is a [confined by court
9 order in a residential program or] facility operated by or under
10 contract with the Texas Youth Commission, a pre-adjudication secure
11 detention facility or a post-adjudication secure correctional
12 facility that is registered with the Texas Juvenile Probation
13 Commission, or a residential facility is not considered to be a
14 student of the school district or public charter district school
15 serving the student [in which the program or facility is physically
16 located]. For purposes of this section, an involuntary residential
17 facility, including a detention center, residential treatment
18 center, or psychiatric hospital, is not considered a campus in
19 determining accreditation status. [The performance of such a
20 student on an assessment instrument or other academic excellence
21 indicator adopted under Section 39.051 shall be determined,
22 reported, and considered separately from the performance of
23 students attending a school of the district in which the program or
24 facility is physically located.]

25 SECTION 2D.31. Subchapter D, Chapter 39, Education Code, is
26 amended by adding Section 39.0722 to read as follows:

27 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)

1 In addition to school district performance ratings under Section
2 39.072, the commissioner shall annually rate districts according to
3 the degree to which the districts prepare students for
4 postsecondary success, including student performance on assessment
5 instruments administered under Section 39.0261 and on the
6 applicable indicators under Sections 39.051(b) and 39.0721. The
7 commissioner shall consult with the P-16 Council established under
8 Section 61.076 when adopting criteria under this section.

9 (b) The commissioner may adopt rules as necessary to
10 administer this section.

11 SECTION 2D.32. Section 39.075(a), Education Code, is
12 amended to read as follows:

13 (a) The commissioner may [~~shall~~] authorize special
14 accreditation investigations to be conducted:

15 (1) when excessive numbers of absences of students
16 eligible to be tested on state assessment instruments are
17 determined;

18 (2) when excessive numbers of allowable exemptions
19 from the required state assessment instrument are determined;

20 (3) in response to complaints submitted to the agency
21 with respect to alleged violations of civil rights or other
22 requirements imposed on the state by federal law or court order;

23 (4) in response to established monitoring or
24 compliance reviews of the district's financial accounting
25 practices and state and federal program requirements;

26 (5) when extraordinary numbers of student placements
27 in alternative education programs, other than placements under

1 Sections 37.006 and 37.007, are determined;

2 (6) in response to an allegation involving a conflict
3 between members of the board of trustees or between the board and
4 the district administration if it appears that the conflict
5 involves a violation of a role or duty of the board members or the
6 administration clearly defined by this code;

7 (7) when excessive numbers of students in special
8 education programs under Subchapter A, Chapter 29, are assessed
9 through assessment instruments developed or adopted under Section
10 39.023(b); ~~[or]~~

11 (8) in response to questions concerning a program,
12 including special education, that is required by federal law or for
13 which the district receives federal funds;

14 (9) when an annual review indicates the academically
15 unacceptable performance under Section 39.072 of one or more
16 campuses in a district, except that the resulting investigation is
17 limited to those campuses;

18 (10) in response to concerns regarding the integrity
19 of data submitted to the agency;

20 (11) in response to allegations of a violation of
21 student assessment procedures for assessment instruments adopted
22 under Section 39.023; or

23 (12) as the commissioner otherwise determines
24 necessary.

25 SECTION 2D.33. Section 39.075(c), Education Code, as
26 amended by Chapters 396 and 931, Acts of the 76th Legislature,
27 Regular Session, 1999, is reenacted and amended to read as follows:

1 (c) Based on the results of a special accreditation
2 investigation, the commissioner may:

3 (1) take appropriate action under Subchapter G;

4 (2) raise or lower the district's accreditation status
5 [~~rating~~]; or

6 (3) take action under both Subdivisions (1) and (2).

7 SECTION 2D.34. Section 39.076, Education Code, is amended
8 by amending Subsection (a) and adding Subsections (a-1), (a-2),
9 (a-3), and (c) to read as follows:

10 (a) The agency shall adopt written procedures for
11 conducting [~~on-site~~] investigations under this subchapter. The
12 agency shall make the procedures available to the complainant, the
13 alleged violator, and the public. Agency staff must be trained in
14 the procedures and must follow the procedures in conducting the
15 investigation.

16 (a-1) An investigation conducted under this subchapter may
17 be an on-site, desk, or data-based investigation as determined by
18 the commissioner.

19 (a-2) If conducting an on-site investigation, the
20 investigators may obtain information from administrators,
21 teachers, or parents of students enrolled in the school district.
22 The commissioner shall adopt rules for:

23 (1) obtaining information from parents and using that
24 information in the investigator's report; and

25 (2) obtaining information from teachers in a manner
26 that prevents a campus or district from screening the information.

27 (a-3) The agency may give written notice of any impending

1 on-site investigation to the superintendent and the board of
2 trustees of a school district.

3 (c) The investigators conducting an on-site investigation
4 shall report the results of the investigation orally and in writing
5 to the board of trustees of the district and, as appropriate, to
6 campus administrators, and shall make recommendations concerning
7 any necessary improvements or sources of aid, such as regional
8 education service centers.

9 SECTION 2D.35. Subchapter D, Chapter 39, Education Code, is
10 amended by adding Sections 39.077 and 39.078 to read as follows:

11 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
12 school district or public charter district that wishes to challenge
13 a decision to assign or lower an accreditation status, an academic
14 performance rating, or a financial accountability rating must
15 petition for an informal review as provided by Section 7.0571.

16 (b) A final decision by the commissioner to assign or lower
17 an accreditation status, an academic performance rating, or a
18 financial accountability rating following a review under Section
19 7.0571 is final and may not be appealed.

20 Sec. 39.078. RULES. (a) The commissioner may adopt rules
21 as necessary to administer this subchapter.

22 (b) Unless a provision of this code clearly specifies
23 otherwise, any rule adopted under Subsection (a) must apply
24 accreditation requirements and academic performance ratings under
25 this subchapter to:

26 (1) a public charter district in the same manner as the
27 requirements and ratings are applied to a school district; and

1 (2) a campus operated by a public charter district in
2 the same manner as the requirements and ratings are applied to a
3 campus operated by a school district.

4 SECTION 2D.36. Subchapter F, Chapter 39, Education Code, is
5 amended by adding Section 39.113 to read as follows:

6 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
7 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
8 rules to create an incentive award system for annual growth in
9 student achievement. A school that achieves incremental growth in
10 student achievement, as described in Subsection (b), is eligible
11 for an award if the school:

12 (1) has a student population of at least 50 percent
13 educationally disadvantaged students;

14 (2) achieves an accreditation performance rating of
15 academically acceptable or better; and

16 (3) demonstrates superior growth in the academic
17 performance of educationally disadvantaged students.

18 (b) The commissioner by rule shall adopt performance
19 criteria to measure annual growth in student academic performance.
20 The commissioner shall consider the following criteria, as
21 applicable:

22 (1) annual growth in student achievement that
23 contributes to closing performance gaps among various populations
24 of students;

25 (2) improvements in student scores on the assessment
26 instruments required under Section 39.023;

27 (3) growth in high school completion rates;

1 (4) improvement in student scores on college advanced
2 placement tests; and

3 (5) any other factor that contributes to student
4 achievement.

5 (c) From funds appropriated for the purposes of this
6 section, the commissioner shall award grants to campuses that meet
7 performance criteria adopted under Subsection (b). The
8 commissioner shall allocate awards to campuses not later than
9 December 1 of each year, based on growth in student achievement as
10 measured for the preceding two school years.

11 (c-1) The commissioner shall award grants under this
12 section beginning September 1, 2006. This subsection expires
13 January 1, 2007.

14 (d) At least 75 percent of an award under this section must
15 be used for additional teacher compensation at the campus level.
16 The commissioner by rule shall provide for allocating awards under
17 this subsection, including providing individual awards of at least
18 \$3,000 for each teacher at a campus receiving an award under this
19 subsection.

20 (e) Grants from funds appropriated for the award program may
21 be awarded beginning the 2006-2007 school year and may not exceed
22 \$100 million in the 2006-2007 school year except as expressly
23 authorized by the General Appropriations Act or other law.

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

26 (g) The commissioner shall annually evaluate the
27 effectiveness of the state incentive program for improving student

1 performance on at-risk campuses established under this section.

2 The evaluation must consider:

3 (1) the performance of students in districts under
4 this section on assessment instruments administered under Section
5 39.023;

6 (2) the districts' high school graduation and
7 completion rates; and

8 (3) the districts' teacher attrition rates.

9 SECTION 2D.37. Section 39.131, Education Code, is amended
10 to read as follows:

11 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
12 district does not satisfy the accreditation criteria under Section
13 39.071, the academic performance standards under Section 39.072, or
14 any financial accountability standard as determined by
15 commissioner rule, the commissioner shall take any of the following
16 actions[~~, listed in order of severity,~~] to the extent the
17 commissioner determines necessary:

18 (1) issue public notice of the deficiency to the board
19 of trustees;

20 (2) order a hearing conducted by the board of trustees
21 of the district for the purpose of notifying the public of the
22 unacceptable performance, the improvements in performance expected
23 by the agency, and the sanctions that may be imposed under this
24 section if the performance does not improve;

25 (3) order the preparation of a student achievement
26 improvement plan that addresses each academic excellence indicator
27 for which the district's performance is unacceptable, the

1 submission of the plan to the commissioner for approval, and
2 implementation of the plan;

3 (4) order a hearing to be held before the commissioner
4 or the commissioner's designee at which the president of the board
5 of trustees of the district and the superintendent shall appear and
6 explain the district's low performance, lack of improvement, and
7 plans for improvement;

8 (5) arrange an on-site investigation of the district;

9 (6) appoint an agency monitor to participate in and
10 report to the agency on the activities of the board of trustees or
11 the superintendent;

12 (7) appoint a conservator to oversee the operations of
13 the district;

14 (8) appoint a management team to direct the operations
15 of the district in areas of unacceptable performance or require the
16 district to obtain certain services under a contract with another
17 person;

18 (9) if a district has a current accreditation status
19 of accredited-warned or accredited-probation, is [been] rated [as]
20 academically unacceptable, or fails to satisfy financial
21 accountability standards as determined by commissioner rule [for a
22 period of one year or more], appoint a board of managers to exercise
23 the powers and duties of the board of trustees;

24 (10) if for two consecutive school years, including
25 the current school year, a district has received an accreditation
26 status of accredited-warned or accredited-probation, has been
27 rated academically unacceptable, or has failed to satisfy financial

1 accountability standards as determined by commissioner rule,
2 revoke the district's accreditation and [~~been rated as academically~~
3 ~~unacceptable for a period of two years or more~~]:

4 (A) order closure of the district and annex the
5 district to one or more adjoining districts under Section 13.054;
6 or

7 (B) in the case of a home-rule school district or
8 public charter district [~~open-enrollment charter school~~], order
9 closure of all programs operated under the district's or school's
10 charter; or

11 (11) if a district has been rated [~~as~~] academically
12 unacceptable for [~~a period of~~] two consecutive school years,
13 including the current school year, [~~or more~~] due to the district's
14 dropout rates, impose sanctions designed to improve high school
15 completion rates, including:

16 (A) ordering the development of a dropout
17 prevention plan for approval by the commissioner;

18 (B) restructuring the district or appropriate
19 school campuses to improve identification of and service to
20 students who are at risk of dropping out of school, as defined by
21 Section 29.081;

22 (C) ordering lower student-to-counselor ratios
23 on school campuses with high dropout rates; and

24 (D) ordering the use of any other intervention
25 strategy effective in reducing dropout rates, including mentor
26 programs and flexible class scheduling.

27 (b) This subsection applies regardless of whether a

1 district has satisfied the accreditation criteria. If for two
2 consecutive school years, including the current school year, [~~a~~
3 ~~period of one year or more~~] a district has had a conservator or
4 management team assigned, the commissioner may appoint a board of
5 managers, a majority of whom must be residents of the district, to
6 exercise the powers and duties of the board of trustees.

7 SECTION 2D.38. Section 39.132, Education Code, is amended
8 to read as follows:

9 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND
10 CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any
11 standard under Section 39.072 [~~39.073(b)~~], the campus is considered
12 an academically unacceptable [~~a low-performing~~] campus. The
13 commissioner may permit the campus to participate in an innovative
14 redesign of the campus to improve campus performance or shall [~~may~~]
15 take any of the other following actions[~~, listed in order of~~
16 ~~severity~~], to the extent the commissioner determines necessary:

17 (1) issue public notice of the deficiency to the board
18 of trustees;

19 (2) order a hearing conducted by the board of trustees
20 at the campus for the purpose of:

21 (A) notifying the public of the unacceptable
22 performance, the improvements in performance expected by the
23 agency, and the sanctions that may be imposed under this section if
24 the performance does not improve within a designated period of
25 time; and

26 (B) soliciting public comment on the initial
27 steps being taken to improve performance;

1 (3) ~~[order the preparation of a report regarding the~~
2 ~~parental involvement program at the campus and a plan describing~~
3 ~~strategies for improving parental involvement at the campus;~~

4 ~~[(4) order the preparation of a report regarding the~~
5 ~~effectiveness of the district- and campus-level planning and~~
6 ~~decision-making committees established under Subchapter F, Chapter~~
7 ~~11, and a plan describing strategies for improving the~~
8 ~~effectiveness of those committees;~~

9 ~~[(5)]~~ order the preparation of a student ~~[achievement]~~
10 improvement plan that addresses each academic excellence indicator
11 for which the campus's performance is unacceptable, the submission
12 of the plan to the commissioner for approval, and implementation of
13 the plan;

14 (4) ~~[(6)]~~ order a hearing to be held before the
15 commissioner or the commissioner's designee at which the president
16 of the board of trustees, the superintendent, and the campus
17 principal shall appear and explain the campus's low performance,
18 lack of improvement, and plans for improvement;

19 (5) appoint a technical assistance team under Section
20 39.1321; or

21 (6) appoint a campus intervention team under Section
22 39.1321.

23 ~~[(7) appoint a special campus intervention team to:~~

24 ~~[(A) conduct a comprehensive on-site evaluation~~
25 ~~of the campus to determine the cause for the campus's low~~
26 ~~performance and lack of progress;~~

27 ~~[(B) recommend actions, including reallocation~~

1 ~~of resources and technical assistance, changes in school procedures~~
2 ~~or operations, staff development for instructional and~~
3 ~~administrative staff, intervention for individual administrators~~
4 ~~or teachers, waivers from state statute or rule, or other actions~~
5 ~~the team considers appropriate,~~

6 ~~[(C) assist in the development of a campus plan~~
7 ~~for student achievement; and~~

8 ~~[(D) assist the commissioner in monitoring the~~
9 ~~progress of the campus in implementing the campus plan for~~
10 ~~improvement of student achievement; or~~

11 ~~[(8) if a campus has been a low-performing campus for a~~
12 ~~period of one year or more, appoint a board of managers composed of~~
13 ~~residents of the district to exercise the powers and duties of the~~
14 ~~board of trustees of the district in relation to the campus.~~

15 ~~[(b) If a campus has been a low-performing campus for a~~
16 ~~period of two consecutive years or more, the commissioner shall~~
17 ~~order the closure of the district or charter program on the campus~~
18 ~~or reconstitute the campus. In reconstituting the campus, a~~
19 ~~special campus intervention team shall be assembled for the purpose~~
20 ~~of deciding which educators may be retained at that campus. If an~~
21 ~~educator is not retained, the educator may be assigned to another~~
22 ~~position in the district.]~~

23 SECTION 2D.39. Subchapter G, Chapter 39, Education Code, is
24 amended by adding Sections 39.1321-39.1324 to read as follows:

25 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION
26 TEAMS. (a) If a campus is rated academically acceptable for the
27 current school year but would be rated as academically unacceptable

1 if performance standards to be used for the following school year
2 were applied to the current school year, the commissioner shall
3 select and assign a technical assistance team to assist the campus
4 in executing a school improvement plan and any other school
5 improvement strategies the commissioner determines appropriate.

6 (b) If a campus has been identified as academically
7 unacceptable under Section 39.132, the commissioner shall appoint a
8 campus intervention team.

9 (c) To the extent practicable, the commissioner shall
10 select and assign the technical assistance team under Subsection
11 (a) or the campus intervention team under Subsection (b) before the
12 first day of instruction for the school year.

13 (d) The commissioner may determine when the services of a
14 technical assistance team or campus intervention team are no longer
15 needed at a campus under this section.

16 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A
17 campus intervention team shall:

18 (1) conduct a comprehensive on-site evaluation of the
19 campus to determine the cause for the campus's low performance and
20 lack of progress;

21 (2) recommend actions, including reallocation of
22 resources and technical assistance, changes in school procedures or
23 operations, staff development for instructional and administrative
24 staff, intervention for individual administrators or teachers,
25 waivers from state statute or rule, or other actions the team
26 considers appropriate;

27 (3) assist in the development of a school improvement

1 plan for student achievement; and

2 (4) assist the commissioner in monitoring the progress
3 of the campus in implementing the school improvement plan for
4 improvement of student achievement.

5 (b) A campus intervention team assigned under Section
6 39.1321 to a campus shall conduct a comprehensive on-site
7 evaluation of the campus to determine the cause for the campus's low
8 performance and lack of progress. The team shall have wide latitude
9 to determine what factors to assess and how to conduct the
10 assessment. Some factors to be considered are:

11 (1) an assessment of the staff to determine the
12 percentage of certified teachers who are teaching in their field,
13 the number of teachers with less than three years of experience, and
14 teacher turnover rates;

15 (2) compliance with the appropriate class-size rules
16 and number of class-size waivers received;

17 (3) an assessment of the quality, quantity, and
18 appropriateness of instructional materials, including the
19 availability of technology-based instructional materials;

20 (4) a report on the parental involvement strategies
21 and the effectiveness of the strategies;

22 (5) an assessment of the extent and quality of the
23 mentoring program provided for new teachers on the campus;

24 (6) an assessment of the type and quality of the
25 professional development provided to the staff;

26 (7) a demographic analysis of the student population,
27 including student demographics, at-risk populations, and special

1 education percentages;

2 (8) a report of disciplinary incidents and school
3 safety information;

4 (9) financial and accounting practices; and

5 (10) an assessment of the appropriateness of the
6 curriculum and teaching strategies.

7 (c) On completing the evaluation under this section, the
8 campus intervention team shall recommend actions, including:

9 (1) reallocation of resources;

10 (2) distribution of additional funds to the campus
11 from funds set aside by the agency for purposes of assisting
12 campuses in meeting standards specified in the intervention plan;

13 (3) technical assistance;

14 (4) changes in school procedures or operations;

15 (5) staff development for instructional and
16 administrative staff;

17 (6) intervention for individual administrators or
18 teachers;

19 (7) waivers from state statutes or rules; or

20 (8) other actions the campus intervention team
21 considers appropriate.

22 (d) In executing a school improvement plan developed under
23 Subsection (a)(3), the campus intervention team shall:

24 (1) assist the campus in implementing research-based
25 practices for curriculum development and classroom instruction,
26 including bilingual education and special education programs, if
27 appropriate, and financial management;

1 (2) provide technical assistance based on
2 scientifically based research, including data analysis, academic
3 deficiency identification, intervention implementation, and budget
4 analysis, to strengthen and improve the instructional programs at
5 the campus; and

6 (3) submit the school improvement plan to the
7 commissioner for approval.

8 (e) A campus intervention team appointed under Section
9 39.1321(b):

10 (1) shall continue to work with a campus until:

11 (A) the campus is rated academically acceptable
12 for a two-year period; or

13 (B) the campus is rated academically acceptable
14 for a one-year period and the commissioner determines that the
15 campus is operating and will continue to operate in a manner that
16 improves student achievement; and

17 (2) may continually update the school improvement
18 plan, with approval from the commissioner, to meet the needs of the
19 campus.

20 (f) Notwithstanding any other provision of this subchapter,
21 if the commissioner determines that a campus for which an
22 intervention is ordered under Section 39.1321(b) is not fully
23 implementing the campus intervention team's recommendations or
24 school improvement plan, the commissioner may order the
25 reconstitution of the campus, pursue alternative management of the
26 campus as provided by Section 39.1325, or order closure of the
27 campus.

1 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has
2 been identified as academically unacceptable for a period of two
3 consecutive school years, including the current school year, the
4 commissioner shall order the reconstitution of the campus and
5 assign a campus intervention team. In determining whether a campus
6 is rated academically unacceptable for a second year under this
7 subsection, dropout rates and completion rates may not be
8 considered. In reconstituting the campus, a campus intervention
9 team shall assist the campus in:

- 10 (1) developing a school improvement plan;
11 (2) obtaining approval of the plan from the
12 commissioner; and
13 (3) executing the plan on approval by the
14 commissioner.

15 (b) The campus intervention team shall decide which
16 educators may be retained at that campus. A principal who has been
17 employed by the campus in that capacity during the two-year period
18 described by Subsection (a) may not be retained at that campus. A
19 teacher of a subject assessed by an assessment instrument under
20 Section 39.023 may be retained only if the campus intervention team
21 determines that a pattern exists of significant academic growth by
22 students taught by the teacher. If an educator is not retained, the
23 educator may be assigned to another position in the district.

24 (c) A campus subject to Subsection (a) shall implement the
25 school improvement plan as approved by the commissioner. The
26 commissioner may appoint a monitor, conservator, management team,
27 or a board of managers to the district to ensure and oversee the

1 implementation of the school improvement plan.

2 (d) Notwithstanding any other provision of this subchapter,
3 if the commissioner determines that a campus subject to Subsection
4 (a) is not fully implementing the school improvement plan, the
5 commissioner may pursue alternative management of the campus as
6 provided by Section 39.1325, or may order closure of the campus.

7 (e) If a campus is considered an academically unacceptable
8 campus for three consecutive school years, the commissioner may
9 order reconstitution or closure of the campus or pursue alternative
10 management under Section 39.1325.

11 (f) If a campus is considered an academically unacceptable
12 campus for the subsequent school year after the campus is
13 reconstituted under this section, the commissioner shall pursue
14 alternative management under Section 39.1325.

15 Sec. 39.1324. TRANSITIONAL SANCTIONS PROVISIONS. For the
16 2005-2006 school year, the commissioner shall assign a campus
17 intervention team or a technical assistance team to a campus under
18 Section 39.1321 on the basis of academic performance ratings for
19 the 2004-2005 school year. The commissioner may impose a sanction
20 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the
21 basis of academic performance ratings for the 2004-2005 school year
22 and the 2005-2006 school year. A sanction ordered by the
23 commissioner before July 1, 2005, shall remain in effect for the
24 2005-2006 school year. The commissioner may allow a principal
25 subject to Section 39.1323(b) to remain at a campus for the
26 2005-2006 school year. This section expires September 1, 2007.

27 SECTION 2D.40. Subchapter G, Chapter 39, Education Code, is

1 amended by adding Sections 39.1325 and 39.1326 to read as follows:

2 Sec. 39.1325. MANAGEMENT OF CERTAIN ACADEMICALLY
3 UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section
4 if the campus has been identified as academically unacceptable
5 under Section 39.132 and the commissioner orders alternative
6 management under Section 39.1323(e) or (f).

7 (b) The commissioner shall solicit proposals from qualified
8 entities to assume management of a campus subject to this section.

9 (c) If the commissioner determines that the basis for
10 identifying a campus as academically unacceptable is limited to a
11 specific condition that may be remedied with targeted technical
12 assistance, the commissioner may:

13 (1) provide the campus a one-year waiver under this
14 section; and

15 (2) require the district to contract for the
16 appropriate technical assistance.

17 (d) The commissioner may annually solicit proposals under
18 this section for the management of a campus subject to this section.
19 The commissioner shall notify a qualified entity that has been
20 approved as a provider under this section. The district must
21 execute a contract with an approved provider and relinquish control
22 of the campus before January 1 of the school year.

23 (e) To qualify for consideration as a managing entity under
24 this section, the entity must submit a proposal that provides
25 information relating to the entity's management and leadership team
26 that will participate in management of the campus under
27 consideration, including information relating to individuals that

1 have:

2 (1) documented success in whole school interventions
3 that increased the educational and performance levels of students
4 in academically unacceptable campuses;

5 (2) a proven record of effectiveness with programs
6 assisting low-performing students;

7 (3) a proven ability to apply research-based school
8 intervention strategies;

9 (4) a proven record of financial ability to perform
10 under the management contract; and

11 (5) any other experience or qualifications the
12 commissioner determines necessary.

13 (f) In selecting a managing entity under this section, the
14 commissioner shall give preference to an entity that:

15 (1) meets any qualifications under this section; and

16 (2) has documented success in educating students from
17 similar demographic groups and with similar educational needs as
18 the students who attend the campus that is to be operated by a
19 managing entity under this section.

20 (g) The school district may negotiate the term of a
21 management contract for not more than five years with an option to
22 renew the contract. The management contract must include a
23 provision describing the district's responsibilities in supporting
24 the operation of the campus. The commissioner shall approve the
25 contract before the contract is executed and, as appropriate, may
26 require the district, as a term of the contract, to support the
27 campus in the same manner as the district was required to support

1 the campus before the execution of the management contract.

2 (h) A management contract under this section shall include
3 provisions approved by the commissioner that require the managing
4 entity to demonstrate improvement in campus performance, including
5 negotiated performance measures. The performance measures must be
6 consistent with the priorities of this chapter. The commissioner
7 shall evaluate a managing entity's performance on the first and
8 second anniversaries of the date of the management contract. If the
9 evaluation fails to demonstrate improvement as negotiated under the
10 contract by the first anniversary of the date of the management
11 contract, the district may terminate the management contract, with
12 the commissioner's consent, for nonperformance or breach of
13 contract and select another provider from an approved list provided
14 by the commissioner. If the evaluation fails to demonstrate
15 significant improvement, as determined by the commissioner, by the
16 second anniversary of the date of the management contract, the
17 district shall terminate the management contract and select another
18 provider from an approved list provided by the commissioner or
19 resume operation of the campus if approved by the commissioner. If
20 the commissioner approves the district's operation of the campus,
21 the commissioner shall assign a technical assistance team to assist
22 the campus.

23 (i) Notwithstanding any other provision of this code, the
24 funding for a campus operated by a managing entity must be
25 equivalent to the funding of the other campuses in the district on a
26 per student basis so that the managing entity receives the same
27 funding the campus would otherwise have received.

1 (j) Each campus operated by a managing entity under this
2 section is subject to this chapter in the same manner as any other
3 campus in the district.

4 (k) The commissioner may adopt rules necessary to implement
5 this section.

6 (l) With respect to the management of a campus under this
7 section:

8 (1) a managing entity is considered to be a
9 governmental body for purposes of Chapters 551 and 552, Government
10 Code; and

11 (2) any requirement in Chapter 551 or 552, Government
12 Code, that applies to a school district or the board of trustees of
13 a school district applies to a managing entity.

14 Sec. 39.1326. REVIEW OF SANCTIONS FOR CAMPUSES SERVING
15 RESIDENTIAL FACILITIES. (a) A school district or public charter
16 district may petition the commissioner to review an academically
17 unacceptable rating assigned to a campus if the campus
18 predominantly served students residing in a residential facility
19 during the rating period.

20 (b) If the commissioner determines that the basis for
21 identifying the campus as academically unacceptable was limited to
22 a condition that was not related to the educational purpose of the
23 residential facility, the commissioner may take any of the
24 following actions as the commissioner determines appropriate:

25 (1) change, modify, or suspend the academically
26 unacceptable rating; or

27 (2) impose any sanction otherwise authorized under

1 Section 39.131 or 39.132.

2 (c) The commissioner may consider a factor other than a
3 factor used to assign a rating in evaluating a campus under this
4 section. The commissioner may assign a campus intervention team
5 under Section 39.1321 at the expense of the school district or
6 public charter district as provided by Section 39.134 to develop a
7 long-term intervention plan to improve services for students.

8 (d) On a determination that a campus subject to this section
9 is appropriately meeting the educational needs of its students, the
10 commissioner may waive revocation of a public charter district for
11 a period not to exceed two years. A waiver under this subsection
12 may be extended for additional two-year periods based on subsequent
13 evaluations of the campus.

14 (e) This section does not limit the commissioner's ability
15 to sanction a public charter district for the performance of a
16 campus subject to this section or any other law.

17 (f) A decision by the commissioner under this section is
18 final and may not be appealed.

19 SECTION 2D.41. Section 39.133, Education Code, is amended
20 to read as follows:

21 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
22 review annually the performance of a district or campus subject to a
23 sanction under this subchapter to determine the appropriate actions
24 to be implemented under this subchapter. The determination shall
25 take into account the number, severity, and duration of the
26 problems identified. [The commissioner must review at least
27 annually the performance of a district for which the accreditation

1 ~~rating has been lowered due to unacceptable student performance and~~
2 ~~may not raise the rating until the district has demonstrated~~
3 ~~improved student performance.]~~ If the review reveals a lack of
4 improvement, the commissioner shall increase the level of state
5 intervention and sanction unless the commissioner finds good cause
6 for maintaining the current status.

7 (b) The commissioner shall review at least annually the
8 performance of a school district for which the academic performance
9 rating has been lowered due to unacceptable student performance and
10 may not raise the rating until the district has demonstrated
11 improved student performance.

12 SECTION 2D.42. Section 39.134, Education Code, is amended
13 to read as follows:

14 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
15 a monitor, conservator, management team, ~~[or special]~~ campus
16 intervention team, technical assistance team, or managing entity
17 under Section 39.1321 shall be paid by the district. If the
18 district fails or refuses to pay the costs in a timely manner, the
19 commissioner may:

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

22 (2) recover the amount of the costs in the manner
23 provided for recovery of an overallocation of state funds under
24 Section 42.317 [~~42.258~~].

25 SECTION 2D.43. Subchapter G, Chapter 39, Education Code, is
26 amended by adding Section 39.1371 to read as follows:

27 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is

1 responsible for managing an intervention of a campus subject to
2 sanctions under this subchapter.

3 (b) To be employed as an intervention manager in the school
4 intervention management division, a person must demonstrate:

5 (1) a proven ability to implement whole school
6 interventions that increase the educational and performance levels
7 of students in low-performing campuses;

8 (2) a proven record of effectiveness with programs
9 assisting low-performing students;

10 (3) a proven ability to apply research-based school
11 intervention strategies; and

12 (4) any other factor the commissioner determines
13 necessary.

14 (c) The agency shall:

15 (1) monitor the progress of technical assistance teams
16 and campus intervention teams appointed by the commissioner under
17 this subchapter; and

18 (2) supervise the activities of the managing entities
19 under Section 39.1325.

20 (d) The agency shall:

21 (1) establish by rule and publish school improvement
22 objectives;

23 (2) advocate for the increased use of research-based
24 effective practices; and

25 (3) coordinate campus improvement activities of the
26 agency and regional education service centers.

27 (e) The commissioner may contract for services under this

1 section.

2 SECTION 2D.44. Section 39.182(a), Education Code, as
3 amended by S.B. No. 42, Acts of the 79th Legislature, Regular
4 Session, 2005, is amended to read as follows:

5 (a) Not later than December 1 of each year, the agency shall
6 prepare and deliver to the governor, the lieutenant governor, the
7 speaker of the house of representatives, each member of the
8 legislature, the Legislative Budget Board, and the clerks of the
9 standing committees of the senate and house of representatives with
10 primary jurisdiction over the public school system a comprehensive
11 report covering the preceding school year and containing:

12 (1) an evaluation of the achievements of the state
13 educational program in relation to the statutory goals for the
14 public education system under Section 4.002;

15 (2) an evaluation of the status of education in the
16 state as reflected by the academic excellence indicators adopted
17 under Section 39.051;

18 (3) a summary compilation of the percentage of
19 graduating students who attain scores on the end-of-course
20 assessment instruments required under Section 39.023(c) that are
21 equivalent to a passing score on the assessment instrument required
22 under Section 51.3062;

23 (4) a summary compilation of overall student
24 performance on academic skills assessment instruments required by
25 Section 39.023 with the number and percentage of students exempted
26 from the administration of those instruments and the basis of the
27 exemptions, aggregated by grade level, subject area, campus, and

1 district, with appropriate interpretations and analysis, and
2 disaggregated by race, ethnicity, gender, and socioeconomic
3 status;

4 (5) [~~(4)~~] a summary compilation of overall
5 performance of students placed in a disciplinary alternative
6 education program established under Section 37.008 on academic
7 skills assessment instruments required by Section 39.023 with the
8 number of those students exempted from the administration of those
9 instruments and the basis of the exemptions, aggregated by
10 district, grade level, and subject area, with appropriate
11 interpretations and analysis, and disaggregated by race,
12 ethnicity, gender, and socioeconomic status;

13 (6) [~~(5)~~] a summary compilation of the progress
14 [~~overall performance~~] of students at risk of dropping out of
15 school, as defined by Section 29.081(d), including information
16 described by the academic excellence indicators under Sections
17 39.051(b)(7), (8), (10), and (11), provided statewide and
18 aggregated by district, on academic skills assessment instruments
19 required by Section 39.023 and any other assessment instrument
20 required by the commissioner [~~with the number of those students~~
21 ~~exempted from the administration of those instruments and the basis~~
22 ~~of the exemptions, aggregated by district, grade level, and subject~~
23 ~~area~~], with appropriate interpretations and analysis, and
24 disaggregated by race, ethnicity, gender, and socioeconomic
25 status;

26 (7) [~~(6)~~] an evaluation of the correlation between
27 student grades and student performance on academic skills

1 assessment instruments required by Section 39.023;

2 (8) [~~(7)~~] a statement of the dropout rate of students
3 in grade levels 7 through 12, expressed in the aggregate and by
4 grade level, and a statement of the completion rates of students for
5 grade levels 9 through 12;

6 (9) [~~(8)~~] a statement of:

7 (A) the completion rate of students who enter
8 grade level 9 and graduate not more than four years later;

9 (B) the completion rate of students who enter
10 grade level 9 and graduate, including students who require more
11 than four years to graduate;

12 (C) the completion rate of students who enter
13 grade level 9 and not more than four years later receive a high
14 school equivalency certificate;

15 (D) the completion rate of students who enter
16 grade level 9 and receive a high school equivalency certificate,
17 including students who require more than four years to receive a
18 certificate; and

19 (E) the number and percentage of all students who
20 have not been accounted for under Paragraph (A), (B), (C), or (D);

21 (10) [~~(9)~~] a statement of the projected
22 cross-sectional and longitudinal dropout rates for grade levels 9
23 through 12 for the next five years, assuming no state action is
24 taken to reduce the dropout rate;

25 (11) [~~(10)~~] a description of a systematic, measurable
26 plan for reducing the projected cross-sectional and longitudinal
27 dropout rates to five percent or less for the 1997-1998 school year;

1 (12) [~~(11)~~] a summary of the information required by
2 Section 29.083 regarding grade level retention of students and
3 information concerning:

4 (A) the number and percentage of students
5 retained; and

6 (B) the performance of retained students on
7 assessment instruments required under Section 39.023(a);

8 (13) [~~(12)~~] information, aggregated by district type
9 and disaggregated by race, ethnicity, gender, and socioeconomic
10 status, on:

11 (A) the number of students placed in a
12 disciplinary alternative education program established under
13 Section 37.008;

14 (B) the average length of a student's placement
15 in a disciplinary alternative education program established under
16 Section 37.008;

17 (C) the academic performance of students on
18 assessment instruments required under Section 39.023(a) during the
19 year preceding and during the year following placement in a
20 disciplinary alternative education program; and

21 (D) the dropout rates of students who have been
22 placed in a disciplinary alternative education program established
23 under Section 37.008;

24 (14) [~~(13)~~] a list of each school district or campus
25 that does not satisfy performance standards, with an explanation of
26 the actions taken by the commissioner to improve student
27 performance in the district or campus and an evaluation of the

1 results of those actions;

2 (15) [~~(14)~~] an evaluation of the status of the
3 curriculum taught in public schools, with recommendations for
4 legislative changes necessary to improve or modify the curriculum
5 required by Section 28.002;

6 (16) [~~(15)~~] a description of all funds received by and
7 each activity and expenditure of the agency;

8 (17) [~~(16)~~] a summary and analysis of the
9 instructional expenditures ratios and instructional employees
10 ratios of school districts computed under Section 44.0071;

11 (18) [~~(17)~~] a summary of the effect of deregulation,
12 including exemptions and waivers granted under Section 7.056 or
13 39.112;

14 (19) [~~(18)~~] a statement of the total number and length
15 of reports that school districts and school district employees must
16 submit to the agency, identifying which reports are required by
17 federal statute or rule, state statute, or agency rule, and a
18 summary of the agency's efforts to reduce overall reporting
19 requirements;

20 (20) [~~(19)~~] a list of each school district that is not
21 in compliance with state special education requirements,
22 including:

23 (A) the period for which the district has not
24 been in compliance;

25 (B) the manner in which the agency considered the
26 district's failure to comply in determining the district's
27 accreditation status; and

1 (C) an explanation of the actions taken by the
2 commissioner to ensure compliance and an evaluation of the results
3 of those actions;

4 (21) an evaluation of public charter districts,
5 including:

6 (A) the academic performance of students
7 enrolled in public charter districts, disaggregated by race,
8 ethnicity, gender, and socioeconomic status;

9 (B) the costs of instruction, administration,
10 and transportation incurred by public charter districts; and

11 (C) other issues, as determined by the
12 commissioner [~~(20) a comparison of the performance of~~
13 ~~open-enrollment charter schools and school districts on the~~
14 ~~academic excellence indicators specified in Section 39.051(b) and~~
15 ~~accountability measures adopted under Section 39.051(g), with a~~
16 ~~separately aggregated comparison of the performance of~~
17 ~~open-enrollment charter schools predominantly serving students at~~
18 ~~risk of dropping out of school, as defined by Section 29.081(d),~~
19 ~~with the performance of school districts];~~

20 (22) [(21)] a summary of the information required by
21 Section 38.0141 regarding student health and physical activity from
22 each school district;

23 (23) a statement of the percentage of students scoring
24 at the proficient and advanced levels on the National Assessment of
25 Educational Progress; and

26 (24) [(22)] any additional information considered
27 important by the commissioner or the State Board of Education.

1 SECTION 2D.45. Section 39.182(b), Education Code, is
2 amended to read as follows:

3 (b) In reporting the information required by Subsection
4 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate
5 the performance data of students enrolled in a special education
6 program under Subchapter A, Chapter 29, or a bilingual education or
7 special language program under Subchapter B, Chapter 29.

8 SECTION 2D.46. Section 39.182, Education Code, is amended
9 by adding Subsections (b-1) and (b-2) to read as follows:

10 (b-1) The report must include an assessment of the impact of
11 the performance-based grant system developed under Subchapter E,
12 Chapter 7, on student academic performance, including:

13 (1) an analysis of performance and spending
14 information relating to grants administered by the agency; and

15 (2) recommendations on any statutory changes needed
16 for the agency to more effectively administer grant programs,
17 including recommendations on whether to eliminate or modify
18 inefficient grant programs, expand effective grant programs, or
19 consolidate similar grant programs to maximize the effectiveness
20 and efficiencies of those programs.

21 (b-2) Subsection (b-1) applies beginning January 1, 2009.
22 This subsection expires February 1, 2009.

23 SECTION 2D.47. Section 39.202(a), Education Code, is
24 amended to read as follows:

25 (a) The commissioner shall, in consultation with the
26 comptroller, develop and implement a financial accountability
27 rating system for school districts in this state that includes

1 procedures for:

2 (1) providing additional transparency to public
3 education finance;

4 (2) establishing financial accountability standards
5 commensurate with academic standards reaching to the campus level;
6 and

7 (3) enabling the commissioner and district
8 administrators to provide meaningful financial oversight and
9 improvement.

10 SECTION 2D.48. Section 39.203(b), Education Code, is
11 amended to read as follows:

12 (b) The annual financial management report must include:

13 (1) a description of the district's financial
14 management performance based on a comparison, provided by the
15 agency, of the district's performance on the standards [~~indicators~~]
16 adopted under Section 39.202 [~~39.202(b)~~] to:

17 (A) state-established standards; and

18 (B) the district's previous performance on the
19 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

20 (2) a description of the district's actual
21 expenditures for each campus for the standards described by Section
22 39.202 and any difference between those campus expenditures and the
23 foundation school program allotments received for the campus;

24 (3) the individual campus financial statements
25 required by Section 39.202; and

26 (4) any descriptive information required by the
27 commissioner.

1 SECTION 2D.49. Subchapter I, Chapter 39, Education Code, is
2 amended by adding Section 39.205 to read as follows:

3 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than
4 September 1, 2006, the agency shall submit a report to the
5 legislature on the status of the financial accountability system
6 that recommends to the legislature methods for linking school
7 district financial management performance and academic
8 performance.

9 (b) This section expires September 2, 2006.

10 SECTION 2D.50. Subchapter A, Chapter 44, Education Code, is
11 amended by adding Section 44.0073 to read as follows:

12 Sec. 44.0073. INSTRUCTIONAL COSTS. (a) For purposes of
13 this section:

14 (1) "Direct instructional costs" includes a school
15 district's expenses related to instruction, instructional
16 resources and media services, curriculum development,
17 instructional staff development, instructional leadership, school
18 leadership, and evaluation and counseling services.

19 (2) "Indirect instructional costs" includes:

20 (A) a school district's expenses related to
21 social work services, health services, student transportation,
22 food services, facility maintenance and operations, security and
23 monitoring services, and data processing services; and

24 (B) payments to another district under the public
25 education grant program under Subchapter G, Chapter 29, payments to
26 another district that is a member of a shared services arrangement,
27 payments to a fiscal agent, and payments under Section 37.012 to a

1 juvenile justice alternative education program.

2 (b) For purposes of school district financial
3 accountability, the agency shall identify each district's direct
4 and indirect instructional costs for the preceding fiscal year and
5 make that information available to the public on the agency's
6 Internet website.

7 SECTION 2D.51. Section 51.3062(q), Education Code, is
8 amended to read as follows:

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

23 SECTION 2D.52. (a) Not later than the 2006-2007 school
24 year, the Texas Education Agency shall collect information
25 concerning:

26 (1) incremental growth in student achievement for
27 purposes of Section 39.051(b)(8), Education Code, as amended by

1 this Act; and

2 (2) the measure of progress toward English language
3 proficiency for purposes of Section 39.051(b)(15), Education Code,
4 as added by this Act.

5 (b) Not later than the 2007-2008 school year, the Texas
6 Education Agency shall include, in evaluating the performance of
7 school districts, campuses, and public charter districts under
8 Subchapter D, Chapter 39, Education Code:

9 (1) incremental growth in student achievement under
10 Section 39.051(b)(8), Education Code, as amended by this Act; and

11 (2) the measure of progress toward English language
12 proficiency under Section 39.051(b)(15), Education Code, as added
13 by this Act.

14 SECTION 2D.53. The commissioner of education shall develop
15 and implement the reporting procedures for:

16 (1) districts to prepare and distribute annual
17 financial management reports under Section 39.203, Education Code,
18 as amended by this Act, beginning with the 2006-2007 school year;
19 and

20 (2) campuses to provide financial information under
21 Section 39.202, Education Code, as amended by this Act, beginning
22 with the 2007-2008 school year.

23 PART E. INSTRUCTIONAL MATERIALS

24 SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is
25 amended by adding Section 7.030 to read as follows:

26 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED
27 GRANT PROGRAMS. (a) The agency shall conduct a review of

1 state-funded and federally funded grant programs and incentives
2 designed to improve student academic performance and shall actively
3 determine the full extent to which funds awarded under those
4 programs may be used to enhance or expand the use of technology in
5 public schools. For purposes of removing barriers to and
6 encouraging the use of technology in public schools, the
7 commissioner may, as appropriate, issue a waiver to one or more
8 schools.

9 (b) Not later than December 1, 2006, the agency shall submit
10 a report regarding the findings of the review conducted under this
11 section to the legislature. The report must include a summary of
12 promising practices for current grant programs that leverage
13 technology. This section expires January 15, 2007.

14 SECTION 2E.02. Section 7.055(b)(28), Education Code, is
15 amended to read as follows:

16 (28) The commissioner shall perform duties relating to
17 the funding, adoption, and purchase of instructional materials
18 [~~textbooks~~] under Chapter 31.

19 SECTION 2E.03. Section 7.056(f), Education Code, is amended
20 to read as follows:

21 (f) A school district or campus that is required to develop
22 and implement a student achievement improvement plan under Section
23 39.131 or 39.132 may receive an exemption or waiver under this
24 section from any law or rule other than:

25 (1) a prohibition on conduct that constitutes a
26 criminal offense;

27 (2) a requirement imposed by federal law or rule;

1 (3) a requirement, restriction, or prohibition
2 imposed by state law or rule relating to:

3 (A) public school accountability as provided by
4 Subchapters B, C, D, and G, Chapter 39; or

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

8 (4) [~~textbook~~] selection of instructional materials
9 under Chapter 31.

10 SECTION 2E.04. Section 7.102(c)(23), Education Code, is
11 amended to read as follows:

12 (23) The board shall adopt and purchase or license
13 instructional materials [~~textbooks~~] as provided by Chapter 31 and
14 adopt rules required by that chapter.

15 SECTION 2E.05. Sections 7.108(a) and (c), Education Code,
16 are amended to read as follows:

17 (a) A person interested in selling bonds of any type or a
18 person engaged in manufacturing, shipping, selling, or advertising
19 instructional materials [~~textbooks~~] or otherwise connected with
20 the instructional material [~~textbook~~] business commits an offense
21 if the person makes or authorizes a political contribution to or
22 takes part in, directly or indirectly, the campaign of any person
23 seeking election to or serving on the board.

24 (c) In this section:

25 (1) "Instructional material" has the meaning assigned
26 by Section 31.002.

27 (2) "Political contribution" has the meaning assigned

1 by Section 251.001, Election Code.

2 [~~(2) "Textbook" has the meaning assigned by Section~~
3 ~~31.002.~~]

4 SECTION 2E.06. The heading to Section 7.112, Education
5 Code, is amended to read as follows:

6 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
7 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

8 SECTION 2E.07. Section 7.112(a), Education Code, is amended
9 to read as follows:

10 (a) A former member of the State Board of Education who is
11 employed by or otherwise receives compensation from a [~~textbook~~]
12 publisher of instructional materials may not, before the second
13 anniversary of the date on which the person last served as a member
14 of the State Board of Education:

15 (1) confer with a member of the board of trustees of a
16 school district concerning instructional materials [~~a textbook~~]
17 published by that [~~textbook~~] publisher; or

18 (2) appear at a meeting of the board of trustees on
19 behalf of the [~~textbook~~] publisher.

20 SECTION 2E.08. Section 7.112(c)(2), Education Code, is
21 amended to read as follows:

22 (2) "Instructional material" and "publisher"
23 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
24 31.002.

25 SECTION 2E.09. Section 11.158(b), Education Code, is
26 amended to read as follows:

27 (b) The board may not charge fees for:

1 (1) instructional materials [~~textbooks~~], workbooks,
2 laboratory supplies, or other supplies necessary for participation
3 in any instructional course except as authorized under this code;

4 (2) field trips required as a part of a basic education
5 program or course;

6 (3) any specific form of dress necessary for any
7 required educational program or diplomas;

8 (4) the payment of instructional costs for necessary
9 school personnel employed in any course or educational program
10 required for graduation;

11 (5) library materials [~~books~~] required to be used for
12 any educational course or program, other than fines for lost,
13 damaged, or overdue materials [~~books~~];

14 (6) admission to any activity the student is required
15 to attend as a prerequisite to graduation;

16 (7) admission to or examination in any required
17 educational course or program; or

18 (8) lockers.

19 SECTION 2E.10. Section 11.164(a), Education Code, is
20 amended to read as follows:

21 (a) The board of trustees of each school district shall
22 limit redundant requests for information and the number and length
23 of written reports that a classroom teacher is required to prepare.
24 A classroom teacher may not be required to prepare any written
25 information other than:

26 (1) any report concerning the health, safety, or
27 welfare of a student;

1 (2) a report of a student's grade on an assignment or
2 examination;

3 (3) a report of a student's academic progress in a
4 class or course;

5 (4) a report of a student's grades at the end of each
6 grade reporting period;

7 (5) a [~~textbook~~] report on instructional materials;

8 (6) a unit or weekly lesson plan that outlines, in a
9 brief and general manner, the information to be presented during
10 each period at the secondary level or in each subject or topic at
11 the elementary level;

12 (7) an attendance report;

13 (8) any report required for accreditation review;

14 (9) any information required by a school district that
15 relates to a complaint, grievance, or actual or potential
16 litigation and that requires the classroom teacher's involvement;
17 or

18 (10) any information specifically required by law,
19 rule, or regulation.

20 SECTION 2E.11. Section 19.007(e), Education Code, is
21 amended to read as follows:

22 (e) The district may participate in the instructional
23 materials [~~textbook~~] program under Chapter 31.

24 SECTION 2E.12. Sections 26.006(a) and (c), Education Code,
25 are amended to read as follows:

26 (a) A parent is entitled to:

27 (1) review all teaching materials, instructional

1 materials [~~textbooks~~], and other teaching aids used in the
2 classroom of the parent's child; and

3 (2) review each test administered to the parent's
4 child after the test is administered.

5 (c) A student's parent is entitled to request that the
6 public school [~~district or open-enrollment charter school~~] the
7 student attends allow the student to take home any instructional
8 materials [~~textbook~~] used by the student. Subject to the
9 availability of the instructional materials [~~a textbook~~], the
10 [~~district or~~] school shall honor the request. A student who takes
11 home instructional materials [~~a textbook~~] must return the
12 instructional materials [~~textbook~~] to school at the beginning of
13 the next school day if requested to do so by the student's teacher.
14 In this subsection, "instructional material" [~~"textbook"~~] has the
15 meaning assigned by Section 31.002.

16 SECTION 2E.13. Sections 28.002(c) and (h), Education Code,
17 are amended to read as follows:

18 (c) The State Board of Education, with the direct
19 participation of educators, parents, business and industry
20 representatives, and employers shall by rule identify the essential
21 knowledge and skills of each subject of the required curriculum
22 that all students should be able to demonstrate and that will be
23 used in evaluating instructional materials [~~textbooks~~] under
24 Chapter 31 and addressed on the assessment instruments required
25 under Subchapter B, Chapter 39. As a condition of accreditation,
26 the board shall require each district to provide instruction in the
27 essential knowledge and skills at appropriate grade levels.

1 (h) The State Board of Education and each school district
2 shall foster the continuation of the tradition of teaching United
3 States and Texas history and the free enterprise system in regular
4 subject matter and in reading courses and in the adoption of
5 instructional materials [~~textbooks~~]. A primary purpose of the
6 public school curriculum is to prepare thoughtful, active citizens
7 who understand the importance of patriotism and can function
8 productively in a free enterprise society with appreciation for the
9 basic democratic values of our state and national heritage.

10 SECTION 2E.14. Subchapter A, Chapter 28, Education Code, is
11 amended by adding Section 28.010 to read as follows:

12 Sec. 28.010. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a) The
13 agency shall develop or acquire ongoing, computer-adaptive,
14 interactive assessment tools for each subject and grade level for
15 which an assessment instrument is adopted under Section 39.023.

16 (b) From funds appropriated for the purpose, the agency
17 shall make assessment tools developed or acquired under this
18 section available to public schools at no cost.

19 SECTION 2E.15. The heading to Chapter 31, Education Code,
20 is amended to read as follows:

21 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

22 SECTION 2E.16. Section 31.001, Education Code, is amended
23 to read as follows:

24 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
25 Instructional materials [~~Textbooks~~] selected for use in the public
26 schools shall be furnished without cost to the students attending
27 those schools in accordance with Section 3(b), Article VII, Texas

1 Constitution.

2 SECTION 2E.17. Sections 31.002(1), (2), and (4), Education
3 Code, are amended to read as follows:

4 (1) "Instructional material" [~~"Electronic textbook"~~]
5 means a medium for conveying information to a student. The term
6 includes a book, supplementary materials, a combination of a book
7 and supplementary materials, computer software, interactive
8 videodisc, magnetic media, CD-ROM, computer courseware, on-line
9 services, an electronic medium, or other means of conveying
10 information to the student or otherwise contributing to the
11 learning process through electronic means.

12 (2) "Publisher" means a person who prepares
13 instructional materials for sale or distribution to educational
14 institutions. The term includes an on-line service or a developer
15 or distributor of [~~an~~] electronic instructional materials
16 [~~textbook~~].

17 (4) "Technological equipment" means hardware, a
18 device, or equipment necessary for:

19 (A) instructional use in the classroom,
20 including to gain access to or enhance the use of [~~an~~] electronic
21 instructional materials [~~textbook~~]; or

22 (B) professional use by a classroom teacher.

23 SECTION 2E.18. Section 31.003, Education Code, is amended
24 to read as follows:

25 Sec. 31.003. RULES. The State Board of Education shall
26 [~~may~~] adopt rules, consistent with this chapter, for the approval
27 [~~adoption~~], requisition, distribution, care, use, and disposal of

1 instructional materials [~~textbooks~~].

2 SECTION 2E.19. The heading to Subchapter B, Chapter 31,
3 Education Code, is amended to read as follows:

4 SUBCHAPTER B. STATE APPROVAL
5 [~~FUNDING, ADOPTION, AND PURCHASE~~]

6 SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is
7 amended by adding Sections 31.0251 and 31.0252 to read as follows:

8 Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS;
9 REVIEW. (a) A publisher may at any time submit an instructional
10 material to the State Board of Education for approval. As part of a
11 submission, a publisher must include a statement that identifies in
12 writing the essential knowledge and skills for a subject and grade
13 level as determined by the board under Section 28.002 that the
14 instructional material covers.

15 (b) The board shall:

16 (1) promptly review each instructional material
17 submitted for approval; and

18 (2) determine whether the instructional material
19 covers the essential knowledge and skills identified in the
20 submission.

21 Sec. 31.0252. APPROVAL BY STATE BOARD OF EDUCATION. (a)
22 The State Board of Education shall meet biannually to approve
23 instructional materials submitted under Section 31.0251. The board
24 must approve or reject each submitted instructional material not
25 later than the second meeting held under this section after the date
26 the instructional material was submitted.

27 (b) By majority vote, the State Board of Education shall

1 approve an instructional material submitted under Section 31.0251
2 unless the board determines, based on the board's own review, that
3 the instructional material does not contain the essential knowledge
4 and skills identified by the publisher in the submission. The board
5 shall identify the essential knowledge and skills for a subject and
6 grade level that an approved instructional material covers.

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(c), 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 commissioner shall establish a dual
21 language education teaching certificate.

22 (b) The commissioner shall adopt rules establishing the
23 training requirements, including the minimum academic
24 qualifications, a person must accomplish to obtain a certificate
25 under this section.

26 (c) The commissioner shall adopt rules establishing the
27 requirements for a teacher who receives training in a foreign

1 country to obtain a certificate under this section.

2 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

3 (a) To ensure that there are teachers with special training to
4 work with other teachers and with students in order to improve
5 student performance in English and other languages, the
6 commissioner shall establish:

7 (1) a master language teacher certificate to teach
8 bilingual education, dual language instruction, or English as a
9 second language at elementary school grade levels;

10 (2) a master language teacher certificate to teach
11 bilingual education, dual language instruction, or English as a
12 second language at middle school grade levels; and

13 (3) a master language teacher certificate to teach
14 dual language instruction at high school grade levels.

15 (b) The board shall issue the appropriate master language
16 teacher certificate to each eligible person.

17 (c) To be eligible for a master language teacher
18 certificate, a person must:

19 (1) hold a teaching certificate issued under this
20 subchapter;

21 (2) have at least three years of experience teaching
22 bilingual education, dual language instruction, or English as a
23 second language;

24 (3) satisfactorily complete a knowledge-based course
25 of instruction on second language acquisition and the science of
26 teaching children language that includes training in language
27 instruction and professional peer mentoring techniques that,

1 through scientific testing, have been proven effective;

2 (4) perform satisfactorily on the appropriate master
3 language certification examination prescribed by the board; and

4 (5) satisfy any other requirements prescribed by the
5 board.

6 SECTION 2F.02. Section 21.050(b), Education Code, is
7 amended to read as follows:

8 (b) The commissioner [~~board~~] may not require more than 18
9 semester credit hours of education courses at the baccalaureate
10 level for the granting of a teaching certificate. The commissioner
11 [~~board~~] shall provide for a minimum number of semester credit hours
12 of internship to be included in the hours needed for certification.
13 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring
14 additional credit hours for certification in bilingual education,
15 dual language instruction, English as a second language, early
16 childhood education, or special education.

17 SECTION 2F.03. Section 21.054, Education Code, is amended
18 by adding Subsection (c) to read as follows:

19 (c) Rules adopted under Subsection (a) must permit an
20 educator to fulfill continuing education requirements by acquiring
21 conversational skills in one or more languages other than English
22 and academic language development in the subject area for which the
23 educator provides instruction. The rules must permit educators to
24 obtain language instruction through a variety of methods, including
25 attendance at workshops offered by qualified entities and
26 enrollment on a noncredit basis in courses offered by public or
27 private colleges and universities.

1 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is
2 amended by adding Section 21.060 to read as follows:

3 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.
4 On issuing an educator certificate to an educational aide or
5 renewing such a certificate, the board shall notify the person to
6 whom the certificate is issued of the existence of the educational
7 aide exemption under Section 54.214.

8 SECTION 2F.05. Section 28.0051, Education Code, is amended
9 by adding Subsection (d) to read as follows:

10 (d) The commissioner shall provide for the issuance of
11 teaching certificates appropriate for dual language instruction to
12 teachers who:

13 (1) possess a speaking, reading, and writing language
14 ability in a language other than English in which a dual language
15 immersion program is offered; and

16 (2) meet the general requirements of Subchapter B,
17 Chapter 21.

18 SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is
19 amended by adding Section 28.0052 to read as follows:

20 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)
21 The commissioner shall establish a pilot project in school
22 districts selected by the commissioner under which the agency
23 examines dual language education programs and the effect of those
24 programs on a student's ability to graduate from high school.

25 (b) In selecting school districts under Subsection (a), the
26 commissioner shall:

27 (1) select districts that:

1 (A) will commit to at least a three-year dual
2 language education program; and

3 (B) demonstrate a substantially equal enrollment
4 of students with limited English proficiency and students whose
5 primary language is English or, if a district does not have a
6 sufficient number of limited English proficiency students to meet
7 the equal enrollment standard, include the enrollment of students
8 with limited English proficiency, students whose primary language
9 is English, and bilingual students; and

10 (2) give preference to a district that:

11 (A) demonstrates the potential for expanding the
12 program through middle school; and

13 (B) will implement the program at the
14 kindergarten level.

15 (c) The commissioner by rule shall require a district to
16 limit activities of the dual language education program during the
17 first year of the program to planning activities, including:

18 (1) hiring and training teachers and ensuring teacher
19 certification;

20 (2) establishing parental and community support for
21 the program; and

22 (3) acquiring adequate learning materials in both
23 program languages.

24 (d) From amounts appropriated to the agency, the
25 commissioner shall award grants to school districts that
26 participate in the program. A grant under this section must be in
27 an amount sufficient to pay the costs to the district of

1 participating in the program, as determined by the commissioner. A
2 determination of the commissioner under this subsection is final
3 and may not be appealed.

4 (e) A school district that applies for the expansion of an
5 existing dual language education program is eligible for a grant
6 under Subsection (d).

7 (f) A school district may use a grant awarded under
8 Subsection (d) for:

9 (1) classroom materials;

10 (2) tuition and textbook expenses for students seeking
11 teacher certification under Section 21.0485; and

12 (3) other necessary costs of operating the program, as
13 approved by the commissioner.

14 (f-1) During the 2005-2006 school year, the commissioner
15 may award grants to school districts under this section only for the
16 purpose of planning activities described by Subsection (c) in an
17 amount not to exceed two percent of the total amount required to
18 fully implement the pilot program for the 2006-2007 school year.
19 This subsection expires September 1, 2007.

20 (g) Grants under this section may not exceed \$13 million for
21 each biennium.

22 (h) The agency shall report to the legislature describing
23 the agency's activities under the pilot project, the effect of the
24 project on grade-level completion, and the recommendations arising
25 from the project. The agency shall submit an interim report under
26 this subsection not later than January 1, 2009, and a final report
27 not later than January 1, 2011.

1 (i) This section expires August 1, 2011.

2 SECTION 2F.07. Section 29.056, Education Code, is amended
3 by amending Subsections (a), (d), and (g) and adding Subsections
4 (g-1) and (i) to read as follows:

5 (a) The agency shall establish standardized criteria for
6 the identification, assessment, and classification of students of
7 limited English proficiency eligible for entry into the program or
8 exit from the program. Except as provided by this subsection, the
9 [The] student's parent must approve a student's entry into the
10 program, exit from the program, or placement in the program. A
11 school district shall provide notice to the student's parent that
12 the district intends to transfer the student from the program. If
13 the student's parent fails to respond to the notice on or before the
14 30th day after the date the notice is provided, the district may
15 transfer the student from the program without the student's
16 parent's approval. The district must inform the student's parent of
17 the student's transfer from the program. The school district or
18 parent may appeal the decision under Section 29.064. The criteria
19 for identification, assessment, and classification may include:

20 (1) results of a home language survey conducted within
21 four weeks of each student's enrollment to determine the language
22 normally used in the home and the language normally used by the
23 student, conducted in English and the home language, signed by the
24 student's parents if the student is in kindergarten through grade 8
25 or by the student if the student is in grades 9 through 12, and kept
26 in the student's permanent folder by the language proficiency
27 assessment committee;

1 (2) the results of an agency-approved English language
2 proficiency test administered to all students identified through
3 the home survey as normally speaking a language other than English
4 to determine the level of English language proficiency, with
5 students in kindergarten or grade 1 being administered an oral
6 English proficiency test and students in grades 2 through 12 being
7 administered an oral English proficiency test and, if the oral
8 English proficiency test demonstrates proficiency, a written
9 English proficiency test; and

10 (3) the results of an agency-approved proficiency test
11 in the primary language administered to all students identified
12 under Subdivision (2) as being of limited English proficiency to
13 determine the level of primary language proficiency, with students
14 in kindergarten or grade 1 being administered an oral primary
15 language proficiency test and students in grades 2 through 12 being
16 administered an oral and written primary language proficiency test.

17 (d) Not later than the 20th [~~10th~~] day after the date of the
18 student's classification as a student of limited English
19 proficiency, the language proficiency assessment committee shall
20 give written notice of the classification to the student's parent.
21 The notice must be in English and the parent's primary language.
22 The parents of students eligible to participate in the required
23 bilingual education program shall be informed of the benefits of
24 the bilingual education or special language program and that it is
25 an integral part of the school program.

26 (g) A district may transfer a student of limited English
27 proficiency out of a bilingual education or special language

1 program for the first time or a subsequent time if the student is
2 able to participate equally in a regular all-English instructional
3 program as determined by:

4 (1) agency-approved tests administered at the end of
5 each school year to determine the extent to which the student has
6 developed oral and written language proficiency and specific
7 language skills in [~~both the student's primary language and~~
8 English;

9 (2) satisfactory performance on the reading
10 assessment instrument under Section 39.023(a) or the English I or
11 II assessment instrument under Section 39.023(c), as applicable,
12 with the assessment instrument administered in English, or, if the
13 student is enrolled in the first or second grade, an achievement
14 score at or above the 40th percentile in the reading and language
15 arts sections of an English standardized test approved by the
16 agency; and

17 (3) agency-approved [~~other indications of a student's~~
18 ~~overall progress, including~~] criterion-referenced tests and the
19 results of a [~~test scores,~~] subjective teacher evaluation[~~, and~~
20 ~~parental evaluation~~].

21 (g-1) A school district may transfer a student of limited
22 English proficiency who is eligible for special education services
23 under Subchapter A out of a bilingual education or special language
24 program and into a special education program if the language
25 proficiency assessment committee and the student's admission,
26 review, and dismissal committee agree that the student has a
27 learning disability and would be better served in a special

1 education program. The student's admission, review, and dismissal
2 committee must document that the student has a learning disability
3 that cannot be addressed effectively in a bilingual education or
4 special language program and that the student's learning disability
5 is not due to the student's limited English proficiency. The
6 commissioner by rule shall adopt criteria for a school district to
7 use in transferring a student under this subsection.

8 (i) On approval of the student's parent, a school district
9 may allow a student of limited English proficiency who meets the
10 criteria for being transferred out of a bilingual education or
11 special language program to continue participating in the program.

12 SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is
13 amended by adding Section 29.0561 to read as follows:

14 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;
15 REENROLLMENT. (a) The language proficiency assessment committee
16 shall reevaluate a student who is transferred out of a bilingual
17 education or special language program under Section 29.056(g) if
18 the student earns a failing grade in a subject in the foundation
19 curriculum under Section 28.002(a)(1) during any grading period in
20 the first two school years after the student is transferred to
21 determine whether the student should be reenrolled in a bilingual
22 education or special language program.

23 (b) During the first two school years after a student is
24 transferred out of a bilingual education or special language
25 program under Section 29.056(g), the language proficiency
26 assessment committee shall review the student's performance and
27 consider:

1 (1) the total amount of time the student was enrolled
2 in a bilingual education or special language program;

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

5 (3) the student's performance on each assessment
6 instrument administered under Section 39.023(a) or (c);

7 (4) the number of credits the student has earned
8 toward high school graduation, if applicable; and

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

11 (c) After an evaluation under this section, the language
12 proficiency assessment committee may require intensive instruction
13 for the student or reenroll the student in a bilingual education or
14 special language program.

15 SECTION 2F.09. Subchapter B, Chapter 29, Education Code, is
16 amended by adding Section 29.065 to read as follows:

17 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
18 PROFICIENCY. The commissioner by rule shall develop a longitudinal
19 measure of progress toward English language proficiency under which
20 a student of limited English proficiency is evaluated from the time
21 the student enters public school until, for two consecutive school
22 years, the student scores at a specific level determined by the
23 commissioner on the reading assessment instrument under Section
24 39.023(a) or the English I or II assessment instrument under
25 Section 39.023(c), as applicable. The commissioner shall:

26 (1) as part of the measure of progress, include
27 student advancement from one proficiency level to a higher level

1 under the reading proficiency in English assessment system
2 developed under Section 39.027(e) and from the highest level under
3 that assessment system to the level determined by the commissioner
4 under this section on the reading assessment instrument under
5 Section 39.023(a) or the English I or II assessment instrument
6 under Section 39.023(c), as applicable; and

7 (2) to the extent practicable in developing the
8 measure of progress, use applicable research and analysis done in
9 developing an annual measurable achievement objective as required
10 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
11 6842).

12 SECTION 2F.10. Not later than January 1, 2006, the
13 commissioner of education shall adopt rules:

14 (1) establishing requirements and prescribing an
15 examination for master language teacher certification as required
16 by Section 21.0486, Education Code, as added by this Act; and

17 (2) establishing requirements and prescribing an
18 examination for dual language instruction teacher certification as
19 required by Section 21.050(b), Education Code, as amended by this
20 Act, and Section 28.0051(d), Education Code, as added by this Act.

21 PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

22 SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is
23 amended by adding Section 29.124 to read as follows:

24 Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this
25 section, "public senior college or university" has the meaning
26 assigned by Section 61.003.

27 (b) A Texas governor's school is a summer residential

1 program for high-achieving high school students. A governor's
2 school program may include any or all of the following educational
3 curricula:

- 4 (1) mathematics and science;
5 (2) humanities; or
6 (3) leadership and public policy.

7 (c) A public senior college or university may apply to the
8 commissioner to administer a Texas governor's school program under
9 this section. The commissioner shall give preference to a public
10 senior college or university that applies in cooperation with a
11 nonprofit association. The commissioner shall give additional
12 preference if the nonprofit association receives private
13 foundation funds that may be used to finance the program.

14 (d) The commissioner may approve an application under this
15 section only if the applicant:

16 (1) applies within the period and in the manner
17 required by rule adopted by the commissioner;

18 (2) submits a program proposal that includes:

19 (A) a curriculum consistent with Subsection (b);

20 (B) criteria for selecting students to
21 participate in the program;

22 (C) a statement of the length of the program,
23 which must be at least three weeks; and

24 (D) a statement of the location of the program;

25 (3) agrees to use a grant under this section only for
26 the purpose of administering a program; and

27 (4) satisfies any other requirements established by

1 rule adopted by the commissioner.

2 (e) From funds appropriated for the purpose, the
3 commissioner may make a grant in an amount not to exceed \$750,000
4 each year to public senior colleges or universities whose
5 applications are approved under this section to pay the costs of
6 administering a Texas governor's school program.

7 (f) The commissioner may adopt other rules necessary to
8 implement this section.

9 SECTION 2G.02. Section 39.051, Education Code, is amended
10 by adding Subsection (b-1) to read as follows:

11 (b-1) In addition to the indicators adopted under
12 Subsection (b), the commissioner shall adopt the following
13 indicators relating to high academic achievement to be considered
14 in assigning a district an exemplary performance rating under
15 Section 39.072:

16 (1) the percentage of students, disaggregated by race,
17 ethnicity, gender, and socioeconomic status, who are enrolled in an
18 educational program for gifted and talented students;

19 (2) student results on advanced placement and
20 international baccalaureate examinations, including the percentage
21 of students scoring three or higher on the advanced placement
22 examinations and the percentage of students scoring four or higher
23 on the international baccalaureate examinations;

24 (3) student results on the Scholastic Assessment Test
25 (SAT) and the American College Test (ACT);

26 (4) the percentage of students scoring in the top five
27 percent on nationally recognized norm-referenced assessment

1 instruments;

2 (5) the percentage of high school students enrolled in
3 an advanced course;

4 (6) the percentage of students achieving commended
5 performance, as determined by the State Board of Education, on an
6 assessment instrument required under Section 39.023(a), (c), or
7 (1);

8 (7) the percentage of students completing the
9 recommended or advanced high school program established under
10 Section 28.025; and

11 (8) the percentage of the district's graduating
12 students who enroll in an institution of higher education for the
13 academic year following graduation.

14 SECTION 2G.03. Section 39.053(a), Education Code, is
15 amended to read as follows:

16 (a) Each board of trustees shall publish an annual report
17 describing the educational performance of the district and of each
18 campus in the district that includes uniform student performance
19 and descriptive information as determined under rules adopted by
20 the commissioner. The annual report must also include:

21 (1) campus performance objectives established under
22 Section 11.253 and the progress of each campus toward those
23 objectives, which shall be available to the public;

24 (2) the performance rating for the district as
25 provided under Section 39.072(a) and the performance rating of each
26 campus in the district as provided under Section 39.072(c);

27 (3) the district's current special education

1 compliance status with the agency;

2 (4) a statement of the number, rate, and type of
3 violent or criminal incidents that occurred on each district
4 campus, to the extent permitted under the Family Educational Rights
5 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

6 (5) information concerning school violence prevention
7 and violence intervention policies and procedures that the district
8 is using to protect students; ~~and~~

9 (6) the findings that result from evaluations
10 conducted under the Safe and Drug-Free Schools and Communities Act
11 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
12 amendments; ~~and~~

13 (7) information received under Section 51.403(e) for
14 each high school campus in the district, presented in a form
15 determined by the commissioner; and

16 (8) information relating to high academic achievement
17 in the district, as determined by the district's performance on the
18 indicators under Section 39.051(b-1).

19 SECTION 2G.04. (a) Not later than the 2006-2007 school
20 year, the Texas Education Agency shall collect information
21 concerning high academic achievement for purposes of Section
22 39.051(b-1), Education Code, as added by this Act.

23 (b) Not later than the 2007-2008 school year, the Texas
24 Education Agency shall include information concerning high
25 academic achievement for purposes of Section 39.051(b-1),
26 Education Code, as added by this Act, in evaluating the performance
27 of school districts, campuses, and public charter districts under

1 Subchapter D, Chapter 39, Education Code.

2 (c) Not later than the 2007-2008 school year, the Texas
3 Education Agency shall include the information required by Section
4 39.182(a)(23), Education Code, as amended by this Act, in the
5 agency's comprehensive annual report under Section 39.182,
6 Education Code.

7 PART H. PREKINDERGARTEN PROGRAMS

8 SECTION 2H.01. Section 29.1532, Education Code, is amended
9 by adding Subsections (d), (e), and (f) to read as follows:

10 (d) Before a school district may implement a
11 prekindergarten program, the district shall:

12 (1) investigate the possibility of sharing program
13 sites with existing child-care programs licensed by the Department
14 of Family and Protective Services and existing federal Head Start
15 programs; and

16 (2) coordinate use of any sites to the greatest extent
17 possible.

18 (e) A school district shall implement to the greatest extent
19 possible coordinated use of licensed child-care and Head Start
20 sites with existing prekindergarten programs.

21 (f) The commissioner may adopt rules relating to the
22 operation of prekindergarten and early childhood care and education
23 programs that receive state funds to foster school readiness in
24 children enrolled in those programs.

25 PART I. SCHOOL DISCIPLINE

26 SECTION 2I.01. Chapter 26, Education Code, is amended by
27 adding Section 26.0083 to read as follows:

1 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY
2 ACTION. (a) A parent is entitled to notice from a school district
3 or public charter district as provided by this section if the
4 parent's child is removed from class under Section 37.006 for
5 placement in a disciplinary alternative education program or under
6 Section 37.007 for expulsion or placement in a juvenile justice
7 alternative education program. A school district or public charter
8 district shall make a good faith effort to provide the notice
9 required by this subsection on the same day the parent's child is
10 removed from class. If the district fails to provide the notice on
11 that day, the district shall provide or mail the notice not later
12 than 5 p.m. on the first business day after the day the student is
13 removed from class.

14 (b) A noncustodial parent who has requested notice of
15 disciplinary actions as provided by Section 37.0091 is entitled to
16 notice under Subsection (a).

17 SECTION 2I.02. Section 37.008, Education Code, is amended
18 by amending Subsections (m) and (m-1) and adding Subsection (n) to
19 read as follows:

20 (m) Notwithstanding Section 7.028, the [The] commissioner
21 shall adopt rules necessary to evaluate through an annual
22 monitoring process [annually] the performance of each district's
23 disciplinary alternative education program established under this
24 subchapter. The monitoring process [evaluation] required by this
25 section may be electronic and shall be based on indicators defined
26 by the commissioner, but must include student performance on
27 assessment instruments required under Section [Sections] 39.023(a)

1 and at least one indicator that measures student academic progress
2 ~~[and (c)]~~. Academically, the mission of disciplinary alternative
3 education programs shall be to enable students to perform at grade
4 level.

5 (m-1) The agency shall integrate the monitoring process
6 developed under Subsection (m) with the monitoring the agency is
7 authorized to conduct under Section 7.028(a). The commissioner may
8 require ~~[shall develop a process for evaluating]~~ a school district
9 to contract at the district's expense in the manner provided by
10 Section 39.134 with a public or private service provider for
11 services determined by the commissioner to be necessary to:

12 (1) improve student performance;

13 (2) improve disciplinary alternative education
14 program effectiveness; and

15 (3) ~~[electronically. The commissioner shall also~~
16 ~~develop a system and standards for review of the evaluation or use~~
17 ~~systems already available at the agency. The system must be~~
18 ~~designed to identify districts that are at high risk of having~~
19 ~~inaccurate disciplinary alternative education program data or of~~
20 ~~failing to]~~ comply with disciplinary alternative education program
21 state and federal requirements.

22 (n) ~~[The commissioner shall notify the board of trustees of~~
23 ~~a district of any objection the commissioner has to the district's~~
24 ~~disciplinary alternative education program data or of a violation~~
25 ~~of a law or rule revealed by the data, including any violation of~~
26 ~~disciplinary alternative education program requirements, or of any~~
27 ~~recommendation by the commissioner concerning the data. If the~~

1 ~~data reflect that a penal law has been violated, the commissioner~~
2 ~~shall notify the county attorney, district attorney, or criminal~~
3 ~~district attorney, as appropriate, and the attorney general.]~~ The
4 commissioner is entitled to access to all district records the
5 commissioner considers necessary or appropriate for the review,
6 analysis, or approval of disciplinary alternative education
7 program data.

8 SECTION 2I.03. Sections 37.020(b) and (c), Education Code,
9 are amended to read as follows:

10 (b) For each placement in a disciplinary alternative
11 education program established under Section 37.008, the district
12 shall report:

13 (1) information identifying the student, including
14 the student's race, sex, and date of birth, that will enable the
15 agency to compare placement data with information collected through
16 other reports;

17 (2) information indicating whether the student was
18 enrolled in a special education program under Subchapter A, Chapter
19 29, at the time of the placement;

20 (3) information indicating whether the placement was
21 based on:

22 (A) conduct violating the student code of conduct
23 adopted under Section 37.001;

24 (B) conduct for which a student may be removed
25 from class under Section 37.002(b);

26 (C) conduct for which placement in a disciplinary
27 alternative education program is required by Section 37.006; or

1 (D) conduct occurring while a student was
2 enrolled in another district and for which placement in a
3 disciplinary alternative education program is permitted by Section
4 37.008(j);

5 (4) [~~(3)~~] the number of full or partial days the
6 student was assigned to the program and the number of full or
7 partial days the student attended the program; and

8 (5) [~~(4)~~] the number of placements that were
9 inconsistent with the guidelines included in the student code of
10 conduct under Section 37.001(a)(5).

11 (c) For each expulsion under Section 37.007, the district
12 shall report:

13 (1) information identifying the student, including
14 the student's race, sex, and date of birth, that will enable the
15 agency to compare placement data with information collected through
16 other reports;

17 (2) information indicating whether the student was
18 enrolled in a special education program under Subchapter A, Chapter
19 29, at the time of the expulsion;

20 (3) information indicating whether the expulsion was
21 based on:

22 (A) conduct for which expulsion is required under
23 Section 37.007, including information specifically indicating
24 whether a student was expelled on the basis of Section 37.007(e); or

25 (B) conduct for which expulsion is permitted
26 under Section 37.007;

27 (4) [~~(3)~~] the number of full or partial days the

1 student was expelled;

2 (5) [~~(4)~~] information indicating whether:

3 (A) the student was placed in a juvenile justice
4 alternative education program under Section 37.011;

5 (B) the student was placed in a disciplinary
6 alternative education program; or

7 (C) the student was not placed in a juvenile
8 justice or other disciplinary alternative education program; and

9 (6) [~~(5)~~] the number of expulsions that were
10 inconsistent with the guidelines included in the student code of
11 conduct under Section 37.001(a)(5).

12 PART J. CRIMINAL HISTORY RECORDS INFORMATION

13 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is
14 amended by adding Section 21.0401 to read as follows:

15 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
16 board shall obtain a complete set of fingerprints from:

17 (1) each applicant for a certificate issued under this
18 subchapter;

19 (2) each applicant for or holder of a teaching permit
20 issued under this subchapter; and

21 (3) each person described by Section 11A.153 or
22 Section 21.0032 for whom the board has received information from a
23 public charter district.

24 SECTION 2J.02. Section 21.041(c), Education Code, is
25 amended to read as follows:

26 (c) The commissioner by rule [~~board~~] shall set fees [~~propose~~
27 ~~a rule adopting a fee~~] for:

1 (1) the issuance and maintenance of each [an] educator
2 certificate that is adequate to cover the cost of administration of
3 this subchapter, including costs related to the operation of the
4 board and any amount necessary to cover the cost of obtaining
5 fingerprints under Section 21.0401 or conducting a national
6 criminal background review and investigation under Sections
7 21.0032 and 22.082; and

8 (2) the cost of obtaining fingerprints from or
9 conducting a national criminal background review of a holder of a
10 teaching permit issued under this subchapter.

11 SECTION 2J.03. Section 22.082, Education Code, is amended
12 to read as follows:

13 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
14 EDUCATION AUTHORITIES [BOARD FOR EDUCATOR CERTIFICATION]. (a) The
15 agency [State Board for Educator Certification] shall obtain from
16 any law enforcement or criminal justice agency all state and
17 national criminal history record information that relates to:

18 (1) an applicant for or holder of a certificate or
19 permit issued under Subchapter B, Chapter 21; or

20 (2) a person described by Section 11A.153 or 21.0032.

21 (b) The Educators' Professional Practices Board may obtain
22 from any law enforcement or criminal justice agency all criminal
23 history record information that relates to a holder of a
24 certificate issued under Subchapter B, Chapter 21.

25 (c) The agency shall require each applicant, holder, and
26 person described by Subsection (a)(2) to pay any costs to the agency
27 related to obtaining criminal history record information related to

1 the person under this section.

2 SECTION 2J.04. Section 22.083(d), Education Code, is
3 amended to read as follows:

4 (d) The superintendent of a district or the director of a
5 public charter district [~~an open-enrollment charter school~~],
6 private school, regional education service center, or shared
7 services arrangement shall promptly notify the Educators'
8 Professional Practices [State] Board [~~for Educator Certification~~]
9 in writing if the person obtains or has knowledge of information
10 showing that an applicant for or holder of a certificate issued
11 under Subchapter B, Chapter 21, has a reported criminal history.
12 The board shall notify the commissioner of the reported criminal
13 history.

14 SECTION 2J.05. Sections 22.085 and 22.086, Education Code,
15 are amended to read as follows:

16 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.
17 A school district, public charter district [~~open-enrollment~~
18 ~~charter school~~], private school, regional education service
19 center, or shared services arrangement may discharge an employee if
20 the district or school obtains information of the employee's
21 conviction of a felony or of a misdemeanor involving moral
22 turpitude that the employee did not disclose to the agency [~~State~~
23 ~~Board for Educator Certification~~] or the district, school, service
24 center, or shared services arrangement. An employee discharged
25 under this section is considered to have been discharged for
26 misconduct for purposes of Section 207.044, Labor Code.

27 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,

1 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
2 ~~Certification~~], a school district, a public charter district [~~an~~
3 ~~open-enrollment charter school~~], a private school, a regional
4 education service center, a shared services arrangement, or an
5 employee of the agency, board, district, school, service center, or
6 shared services arrangement is not civilly or criminally liable for
7 making a report required under this subchapter.

8 SECTION 2J.06. Section 411.090, Government Code, is amended
9 to read as follows:

10 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
11 AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR~~
12 ~~EDUCATOR CERTIFICATION~~]. (a) The Texas Education Agency [~~State~~
13 ~~Board for Educator Certification~~] is entitled to obtain from the
14 department any criminal history record information maintained by
15 the department about:

16 (1) a person who has applied or expressed to the
17 commissioner an intention to apply [~~board~~] for a certificate or
18 permit or holds a certificate or permit under Subchapter B, Chapter
19 21, Education Code; or

20 (2) a person described by Section 11A.153 or 21.0032,
21 Education Code.

22 (b) Criminal history record information obtained by the
23 agency [~~board~~] under Subsection (a):

24 (1) may be used for any purpose related to the issuance
25 or [~~7~~] denial [~~7~~, ~~suspension, or cancellation~~] of a certificate issued
26 under Subchapter B, Chapter 21, Education Code, or for any purpose
27 authorized by Section 11A.153 or 21.0032, Education Code [~~by the~~

1 board];

2 (2) may be provided to the Educators' Professional
3 Practices Board to be used for any purpose related to the suspension
4 or revocation of a certificate issued under Subchapter B, Chapter
5 21, Education Code;

6 (3) may not be released to any other person except on
7 court order or with the consent of the subject of the criminal
8 history record information [~~applicant for a certificate~~]; and

9 (4) [~~(3)~~] shall be destroyed by the agency [~~board~~]
10 after the information is used for the authorized purposes.

11 (c) The Texas Education Agency may keep on file with the
12 department all fingerprints obtained by the agency under Section
13 21.0401, Education Code. The department shall notify the agency of
14 the arrest of any person who has fingerprints on file with the
15 department pursuant to that section.

16 (d) On receipt of notice from the department of an arrest of
17 a person described by Section 11A.153 or 21.0032, Education Code,
18 the Texas Education Agency shall notify the public charter district
19 affected.

20 PART K. SAFETY OR LAP BELTS IN SCHOOL BUSES

21 SECTION 2K.01. Chapter 34, Education Code, is amended by
22 adding Section 34.012 to read as follows:

23 Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person
24 may offer to donate safety or lap belts or money for the purchase of
25 safety or lap belts for a school district's school buses.

26 (b) The board of trustees of a school district shall
27 consider any offer made by a person under Subsection (a). The board

1 of trustees may accept or decline the offer after adequate
2 consideration.

3 (c) The board of trustees may acknowledge a person who
4 donates safety or lap belts or money for the purchase of safety or
5 lap belts for a school bus under this section by displaying a small,
6 discreet sign on the side or back of the bus recognizing the person
7 who made the donation. The sign may not serve as an advertisement
8 for the person who made the donation.

9 ARTICLE 3. CONFORMING AMENDMENTS

10 SECTION 3.01. Section 7.024(a), Education Code, is amended
11 to read as follows:

12 (a) The investment capital fund consists of money
13 transferred to the fund as provided by Section 42.152(d)(4)
14 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of
15 this fund are to assist eligible public schools to implement
16 practices and procedures consistent with deregulation and school
17 restructuring in order to improve student achievement and to help
18 schools identify and train parents and community leaders who will
19 hold the school and the school district accountable for achieving
20 high academic standards.

21 SECTION 3.02. Section 7.055(b)(34), Education Code, is
22 amended to read as follows:

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

26 SECTION 3.03. Section 11.158(a), Education Code, is amended
27 to read as follows:

1 (a) The board of trustees of an independent school district
2 may require payment of:

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

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

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

12 (4) a fee for personal physical education and athletic
13 equipment and apparel, although any student may provide the
14 student's own equipment or apparel if it meets reasonable
15 requirements and standards relating to health and safety
16 established by the board;

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

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

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

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

26 (9) a fee for items of personal apparel that become the
27 property of the student and that are used in extracurricular

1 activities;

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

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

6 (12) a fee for a course offered for credit that
7 requires the use of facilities not available on the school premises
8 or the employment of an educator who is not part of the school's
9 regular staff, if participation in the course is at the student's
10 option;

11 (13) a fee for a course offered during summer school,
12 except that the board may charge a fee for a course required for
13 graduation only if the course is also offered without a fee during
14 the regular school year;

15 (14) a reasonable fee for transportation of a student
16 who lives within two miles of the school the student attends to and
17 from that school[, ~~except that the board may not charge a fee for~~
18 ~~transportation for which the school district receives funds under~~
19 ~~Section 42.155(d)] ; or~~

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

26 SECTION 3.04. Section 12.013(b), Education Code, is amended
27 to read as follows:

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

2 (1) a provision of this title establishing a criminal
3 offense;

4 (2) a provision of this title relating to limitations
5 on liability; and

6 (3) a prohibition, restriction, or requirement, as
7 applicable, imposed by this title or a rule adopted under this
8 title, relating to:

9 (A) the Public Education Information Management
10 System (PEIMS) to the extent necessary to monitor compliance with
11 this subchapter as determined by the commissioner;

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

14 (C) criminal history records under Subchapter C,
15 Chapter 22;

16 (D) student admissions under Section 25.001;

17 (E) school attendance under Sections 25.085,
18 25.086, and 25.087;

19 (F) inter-district or inter-county transfers of
20 students under Subchapter B, Chapter 25;

21 (G) elementary class size limits under Section
22 25.112, in the case of any campus in the district that is considered
23 academically unacceptable [~~low-performing~~] under Section 39.132;

24 (H) high school graduation under Section 28.025;

25 (I) special education programs under Subchapter
26 A, Chapter 29;

27 (J) bilingual education under Subchapter B,

1 Chapter 29;

2 (K) prekindergarten programs under Subchapter E,
3 Chapter 29;

4 (L) safety provisions relating to the
5 transportation of students under Sections 34.002, 34.003, 34.004,
6 and 34.008;

7 (M) computation and distribution of state aid
8 under Chapters 31, 42, and 43;

9 (N) extracurricular activities under Section
10 33.081;

11 (O) health and safety under Chapter 38;

12 (P) public school accountability under
13 Subchapters B, C, D, and G, Chapter 39;

14 (Q) equalization [~~equalized wealth~~] under
15 Section 42.401 [~~Chapter 41~~];

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

18 (S) purchasing under Chapter 44.

19 SECTION 3.05. Section 13.054(f), Education Code, is amended
20 to read as follows:

21 (f) For five years beginning with the school year in which
22 the annexation occurs, the commissioner shall annually adjust the
23 local share [~~fund assignment~~] of a district to which territory is
24 annexed under this section by multiplying the enlarged district's
25 local share [~~fund assignment~~] computed under Section 42.306
26 [~~42.252~~] by a fraction, the numerator of which is the number of
27 students residing in the district preceding the date of the

1 annexation and the denominator of which is the number of students
2 residing in the district as enlarged on the date of the annexation.

3 SECTION 3.06. Sections 13.282(a) and (b), Education Code,
4 are amended to read as follows:

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

7 (1) the sum of the entitlements computed under Section
8 42.313 [~~42.253~~] that would have been paid to the districts included
9 in the reorganized district if the districts had not been
10 consolidated; and

11 (2) the amount to which the reorganized district is
12 entitled under Section 42.313 [~~42.253~~].

13 (b) If the reorganized district is not eligible for an
14 entitlement under Section 42.313 [~~42.253~~], the amount of the
15 incentive aid payments may not exceed the sum of the entitlements
16 computed under Section 42.313 [~~42.253~~] for which the districts
17 included in the reorganized district were eligible in the school
18 year when they were consolidated.

19 SECTION 3.07. Section 21.410(h), Education Code, is amended
20 to read as follows:

21 (h) A grant a school district receives under this section is
22 in addition to any funding the district receives under Chapter 42.
23 The commissioner shall distribute funds under this section with the
24 Foundation School Program payment to which the district is entitled
25 as soon as practicable after the end of the school year as
26 determined by the commissioner. A district to which Section 42.401
27 [~~Chapter 41~~] applies is entitled to the grants paid under this

1 section. The commissioner shall determine the timing of the
2 distribution of grants to a district that does not receive
3 Foundation School Program payments.

4 SECTION 3.08. Section 21.411(h), Education Code, is amended
5 to read as follows:

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

16 SECTION 3.09. Section 21.412(h), Education Code, is amended
17 to read as follows:

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

1 SECTION 3.10. Section 21.414(h), Education Code, as
2 renumbered by Section 23.001(12), H.B. No. 2018, Acts of the 79th
3 Legislature, Regular Session, 2005, is amended to read as follows:

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

14 SECTION 3.11. Section 21.453(b), Education Code, is amended
15 to read as follows:

16 (b) The commissioner may allocate funds from the account to
17 regional education service centers to provide staff development
18 resources to school districts that:

19 (1) are rated academically unacceptable;

20 (2) have one or more campuses rated academically
21 unacceptable [~~as low-performing~~]; or

22 (3) are otherwise in need of assistance as indicated
23 by the academic performance of students, as determined by the
24 commissioner.

25 SECTION 3.12. Section 22.004(c), Education Code, as amended
26 by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th Legislature,
27 Regular Session, 2005, is amended to read as follows:

1 (c) The cost of the coverage provided under the program
2 described by Subsection (a) shall be paid by the state, the
3 district, and the employees in the manner provided by Subchapter F,
4 Chapter 1579, Insurance Code. The cost of coverage provided under a
5 plan adopted under Subsection (b) shall be shared by the employees
6 and the district using the contributions by the state described by
7 Subchapter F, Chapter 1579, Insurance Code [~~, or Subchapter D~~].

8 SECTION 3.13. Section 29.008(b), Education Code, is amended
9 to read as follows:

10 (b) Except as provided by Subsection (c), costs of an
11 approved contract for residential placement may be paid from a
12 combination of federal, state, and local funds. The local share of
13 the total contract cost for each student is that portion of the
14 local tax effort that exceeds the district's local share [~~fund~~
15 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average
16 daily attendance in the district. If the contract involves a
17 private facility, the state share of the total contract cost is that
18 amount remaining after subtracting the local share. If the
19 contract involves a public facility, the state share is that amount
20 remaining after subtracting the local share from the portion of the
21 contract that involves the costs of instructional and related
22 services. For purposes of this subsection, "local tax effort"
23 means the total amount of money generated by taxes imposed for debt
24 service and maintenance and operation less any amounts paid into a
25 tax increment fund under Chapter 311, Tax Code.

26 SECTION 3.14. Section 29.014(d), Education Code, is amended
27 to read as follows:

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

3 (1) the cost of education adjustment under Section
4 42.301 [~~42.102~~] for the school district in which the district is
5 geographically located; and

6 (2) any other appropriate factor adopted by the
7 commissioner [~~the weight for a homebound student under Section~~
8 ~~42.151(a)~~].

9 SECTION 3.15. Section 29.087(j), Education Code, is amended
10 to read as follows:

11 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
12 46, a student attending a program authorized by this section may be
13 counted in attendance only for the actual number of hours each
14 school day the student attends the program, in accordance with
15 Sections 25.081 and 25.082.

16 SECTION 3.16. Section 29.161(a), Education Code, as added
17 by S.B. No. 23, Acts of the 79th Legislature, Regular Session, 2005,
18 is amended to read as follows:

19 (a) The State Center for Early Childhood Development, in
20 conjunction with the P-16 Council established under Section 61.076
21 [~~61.077~~], shall develop and adopt a school readiness certification
22 system for use in certifying the effectiveness of prekindergarten
23 programs, Head Start and Early Head Start programs,
24 government-subsidized child-care programs provided by nonprofit or
25 for-profit entities, government-subsidized faith-based child-care
26 programs, and other government-subsidized child-care programs in
27 preparing children for kindergarten. The system shall be made

1 available on a voluntary basis to program providers seeking to
2 obtain certification as evidence of the quality of the program
3 provided.

4 SECTION 3.17. Section 29.202(a), Education Code, is amended
5 to read as follows:

6 (a) A student is eligible to receive a public education
7 grant or to attend another public school in the district in which
8 the student resides under this subchapter if the student is
9 assigned to attend a public school campus:

10 (1) at which 50 percent or more of the students did not
11 perform satisfactorily on an assessment instrument administered
12 under Section 39.023(a) or (c) in any two of the preceding three
13 years; or

14 (2) that was, at any time in the preceding three years,
15 considered academically unacceptable [~~low-performing~~] under
16 Section 39.132.

17 SECTION 3.18. Section 29.203(b), Education Code, is amended
18 to read as follows:

19 (b) A school district is entitled to the allotment provided
20 by Section 42.155 [~~42.157~~] for each eligible student using a public
21 education grant. [~~If the district has a wealth per student greater
22 than the guaranteed wealth level but less than the equalized wealth
23 level, a school district is entitled under rules adopted by the
24 commissioner to additional state aid in an amount equal to the
25 difference between the cost to the district of providing services
26 to a student using a public education grant and the sum of the state
27 aid received because of the allotment under Section 42.157 and~~]

1 ~~money from the available school fund attributable to the student.]~~

2 SECTION 3.19. Section 33.002(a), Education Code, is amended
3 to read as follows:

4 (a) This section applies only to a school district that
5 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

6 SECTION 3.20. Section 34.002(c), Education Code, is amended
7 to read as follows:

8 (c) A school district that fails or refuses to meet the
9 safety standards for school buses established under this section is
10 ineligible to share in the transportation allotment under
11 Subchapter D, Chapter 42, [~~Section 42.155~~] until the first
12 anniversary of the date the district begins complying with the
13 safety standards.

14 SECTION 3.21. Section 37.0061, Education Code, is amended
15 to read as follows:

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

1 ~~equal to the difference between the average Foundation School~~
2 ~~Program costs per student of the district providing education~~
3 ~~services and the sum of the state aid and the money from the~~
4 ~~available school fund received by the district that is attributable~~
5 ~~to the student for the portion of the school year for which the~~
6 ~~district provides education services to the student.]~~

7 SECTION 3.22. Section 39.031, Education Code, is amended to
8 read as follows:

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

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

21 (b) After setting aside an appropriate amount in accordance
22 with this section, the commissioner shall reduce each district's
23 tier one allotments proportionately. A reduction in tier one
24 allotments under this subsection does not affect the computation of
25 the guaranteed amount of revenue per student per cent of tax effort
26 under Section 42.252.

27 (c) Any amount set aside under this section must be approved

1 by the Legislative Budget Board and the governor's office of
2 budget, planning, and policy.

3 SECTION 3.23. Section 43.002(b), Education Code, is amended
4 to read as follows:

5 (b) Of the amounts available for transfer from the general
6 revenue fund to the available school fund for the months of January
7 and February of each fiscal year, no more than the amount necessary
8 to enable the comptroller to distribute from the available school
9 fund an amount equal to 9-1/2 percent of the estimated annual
10 available school fund apportionment to category 1 school districts,
11 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the
12 estimated annual available school fund apportionment to category 2
13 school districts, as defined by Section 42.316 [~~42.259~~], may be
14 transferred from the general revenue fund to the available school
15 fund. Any remaining amount that would otherwise be available for
16 transfer for the months of January and February shall be
17 transferred from the general revenue fund to the available school
18 fund in equal amounts in June and in August of the same fiscal year.

19 SECTION 3.24. Section 44.004, Education Code, is amended by
20 amending Subsections (b), (e), and (i) and adding Subsections (b-1)
21 and (b-2) to read as follows:

22 (b) Except as provided by Subsection (b-2), the [~~The~~]
23 president shall provide for the publication of notice of the budget
24 and proposed tax rate meeting in a daily, weekly, or biweekly
25 newspaper published in the district. If no daily, weekly, or
26 biweekly newspaper is published in the district, the president
27 shall provide for the publication of notice in at least one

1 newspaper of general circulation in the county in which the
2 district's central administrative office is located. Notice under
3 this subsection shall be published not earlier than the 30th day or
4 later than the 10th day before the date of the hearing.

5 (b-1) The notice of the public meeting to discuss and adopt
6 the budget and the proposed tax rate may not be smaller than
7 one-quarter page of a standard-size or a tabloid-size newspaper,
8 and the headline on the notice must be in 18-point or larger type.

9 (b-2) Instead of publishing notice in the manner prescribed
10 by Subsection (b), a school district may publish the required
11 notice on its Internet website not earlier than the 30th day or
12 later than the 10th day before the date of the hearing. A school
13 district that publishes notice under this subsection must have a
14 link on its Internet website that is clearly identified as the link
15 to the public notice for the budget and proposed tax rate meeting.

16 (e) A person who owns taxable property in a school district
17 is entitled to an injunction restraining the collection of taxes by
18 the district if the district has not complied with the requirements
19 of Subsections (b), (b-1), and (b-2)~~[(c),]~~ and ~~[(d), and]~~, if
20 applicable, Subsection (i), and the failure to comply was not in
21 good faith. An action to enjoin the collection of taxes must be
22 filed before the date the school district delivers substantially
23 all of its tax bills.

24 (i) A school district that uses a certified estimate, as
25 authorized by Subsection (h), may adopt a budget at the public
26 meeting designated in the notice prepared using the estimate, but
27 the district may not adopt a tax rate before the district receives

1 the certified appraisal roll for the district required by Section
2 26.01(a), Tax Code. After receipt of the certified appraisal roll,
3 the district must publish a revised notice and hold another public
4 meeting before the district may adopt a tax rate that exceeds:

5 (1) the rate proposed in the notice prepared using the
6 estimate; or

7 (2) the district's rollback rate determined under
8 Section 26.08, Tax Code, if applicable, using the certified
9 appraisal roll.

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

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 42.006;

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 each member of the legislature that represents the geographic
15 area to be served by the proposed public charter district, as
16 determined by the commissioner, on receipt by the State Board of
17 Education of an application for a charter for a public charter
18 district under Section 11A.101.

19 Sec. 11A.103. CONTENT. (a) Each charter granted under this
20 chapter must:

21 (1) describe the educational program to be offered,
22 which must include the required curriculum as provided by Section
23 28.002;

24 (2) establish educational goals, which must include
25 acceptable student performance as determined under Chapter 39;

26 (3) specify the grade levels to be offered, which must
27 be sufficient to permit the agency to assign an accountability

1 rating under Chapter 39;

2 (4) describe the facilities to be used;

3 (5) describe the geographical area served by the
4 program, which may not be statewide; and

5 (6) specify any type of enrollment criteria to be
6 used.

7 (b) A charter holder of a public charter district shall
8 consider including in the district's charter a requirement that the
9 district develop and administer personal graduation plans under
10 Section 28.0212.

11 (c) The terms of a charter may not include plans for future
12 increases in student enrollment, grade levels, campuses, or
13 geographical area, except that:

14 (1) the charter may contain a plan for adding grade
15 levels as necessary to comply with Section 11A.253(c) or (d); and

16 (2) the commissioner may approve such an increase in a
17 charter revision request under Section 11A.106.

18 Sec. 11A.104. FORM. A charter for a public charter district
19 shall be in the form of a license issued by the State Board of
20 Education to the charter holder.

21 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN
22 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner
23 shall immediately grant a charter under this chapter to the
24 following entities on or before August 1, 2006:

25 (1) an eligible entity holding a charter granted
26 before September 1, 2002, under Subchapter D, Chapter 12, as that
27 subchapter existed on January 1, 2005, if:

1 (A) for fiscal years 2004 and 2005, the entity
2 had total assets that exceeded total liabilities, as determined by
3 the entity's annual audit report under Section 44.008;

4 (B) at least 25 percent of all students enrolled
5 at the entity's open-enrollment charter school and administered an
6 assessment instrument under Section 39.023(a), (c), or (l)
7 performed satisfactorily on the assessment instrument in
8 mathematics, as determined by the school's assessment instrument
9 results for the 2005-2006 school year; and

10 (C) at least 25 percent of all students enrolled
11 at the entity's open-enrollment charter school and administered an
12 assessment instrument under Section 39.023(a), (c), or (l)
13 performed satisfactorily on the assessment instrument in reading or
14 English language arts, as applicable, as determined by the school's
15 assessment instrument results for the 2005-2006 school year;

16 (2) a governmental entity holding a charter under
17 Subchapter D, Chapter 12, as that subchapter existed on January 1,
18 2005;

19 (3) an eligible entity holding a charter under
20 Subchapter D, Chapter 12, as that subchapter existed on January 1,
21 2005, if at least 85 percent of students enrolled in the school
22 reside in a residential facility; and

23 (4) an eligible entity granted a charter on or after
24 September 1, 2002, under Subchapter D, Chapter 12, as that
25 subchapter existed on January 1, 2005.

26 (b) Assessment instrument results for fewer than five
27 students are not considered for purposes of Subsection (a)(1)(B) or

1 (C).

2 (c) The commissioner shall determine which entities are
3 eligible for a charter under this section as soon as practicable.

4 (d) The content and terms of a charter granted to an
5 eligible entity under this section must be the same as those under
6 which the entity operated under Subchapter D, Chapter 12, as that
7 subchapter existed on January 1, 2005, except that where the terms
8 conflict with this chapter, this chapter prevails.

9 (e) An eligible entity holding multiple charters prior to
10 January 1, 2005, may not combine those charters into one charter for
11 a public charter district but must retain each of those charters
12 which count towards the limit imposed under Section 11A.002(c).

13 (f) Section 11A.157 does not apply to an entity granted a
14 charter under this section.

15 (g) A decision of the commissioner under this section is not
16 subject to a hearing or an appeal to a district court.

17 (h) This section expires January 1, 2008.

18 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

19 (a) For purposes of Section 11A.1041(a), the commissioner shall
20 compute the percentage of students who performed satisfactorily on
21 an assessment instrument in a manner consistent with this section.

22 (b) The commissioner may only consider the performance of a
23 student who was enrolled as of the date for reporting enrollment for
24 the fall semester under the Public Education Information Management
25 System (PEIMS).

26 (c) In computing performance under this section, the
27 commissioner must:

1 (1) add the results for third through 11th grade
2 assessment instruments in English and third through sixth grade
3 assessment instruments in Spanish across grade levels tested at all
4 campuses operated by the charter holder and evaluate those results
5 for all students;

6 (2) combine the results for third through ninth grade
7 assessment instruments in reading and 10th and 11th grade
8 assessment instruments in English language arts and evaluate those
9 results as a single subject; and

10 (3) separately determine student performance for
11 reading and mathematics as a percentage equal to the sum of students
12 who performed satisfactorily on the specific subject area
13 assessment instrument in all grade levels tested at all campuses
14 operated by the charter holder divided by the number of students who
15 took the specific subject area assessment instrument in grade
16 levels tested at all campuses operated by the charter holder.

17 (d) To the extent consistent with this section, the
18 commissioner shall use the methodology used to compute passing
19 rates for reading and mathematics assessment instruments for
20 purposes of determining accountability ratings under Chapter 39 for
21 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

22 (e) This section expires January 1, 2008.

23 Sec. 11A.105. CHARTER GRANTED. Each charter the State
24 Board of Education grants for a public charter district must:

25 (1) satisfy this chapter; and

26 (2) include the information that is required under
27 Section 11A.103 consistent with the information provided in the

1 application and any modification the board requires.

2 Sec. 11A.106. REVISION. (a) A revision of a charter of a
3 public charter district may be made only with the approval of the
4 commissioner.

5 (b) Not more than once each year, a public charter district
6 may request approval to revise the maximum student enrollment
7 described by the district's charter.

8 (c) The commissioner may not approve a charter revision that
9 increases a public charter district's enrollment, increases the
10 grade levels offered, increases the number of campuses, or changes
11 the boundaries of the geographic area served by the program unless
12 the commissioner determines that:

13 (1) the public charter district has operated one or
14 more campuses for at least three school years;

15 (2) each campus operated by the public charter
16 district has been rated at least academically acceptable under
17 Subchapter D, Chapter 39, for each of its most recent three years of
18 operation;

19 (3) each campus operated by the public charter
20 district has achieved performance levels that are at least five
21 percentage points above the applicable accountability standard for
22 academically acceptable performance on statewide assessments under
23 Subchapter D, Chapter 39, as determined by the commissioner, for
24 all tested subjects for each of its most recent two years of
25 operation;

26 (4) the public charter district has been rated
27 superior, above standard, standard, or the equivalent, under the

1 financial accountability system under Subchapter I, Chapter 39;

2 (5) during the three years preceding the proposed
3 charter revision, the public charter district and its campuses have
4 not been subject to an intervention or sanction under Subchapter D,
5 Chapter 39, including an intervention or sanction related to:

6 (A) the quality of data or reports required by
7 state or federal law or court order;

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

10 (C) the effectiveness of programs for special
11 student populations; and

12 (6) the charter revision is in the best interest of
13 students of this state.

14 (d) In making a determination under Subsection (c)(6), the
15 commissioner shall review all available information relating to the
16 charter holder, including the charter holder's:

17 (1) academic and financial performance;

18 (2) history of compliance with applicable laws;

19 (3) staffing, financial, and organizational data; and

20 (4) any other information regarding the charter
21 holder's capacity to successfully implement the requested charter
22 revision.

23 (e) The commissioner may not approve a charter revision that
24 proposes an increase in:

25 (1) a public charter district's enrollment, unless the
26 charter holder adopts a business plan for implementing the
27 enrollment increase that includes components identified by the

1 commissioner; or

2 (2) the grade levels offered by a public charter
3 district, unless the charter holder adopts an educational plan for
4 the additional grade levels that includes components identified by
5 the commissioner.

6 (f) The commissioner may approve a charter revision
7 authorizing a public charter district to serve students in a
8 geographical area that is not contiguous with the existing
9 boundaries of the district, but may not approve a statewide
10 geographical boundary.

11 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON
12 PROBATION, OR REVOCATION. (a) The commissioner may modify, place
13 on probation, or revoke the charter of a public charter district if
14 the commissioner determines under Section 11A.108 that the charter
15 holder:

16 (1) committed a material violation of the charter;

17 (2) failed to satisfy generally accepted accounting
18 standards of fiscal management;

19 (3) failed to protect the health, safety, welfare, or
20 best interests of the students enrolled at the public charter
21 district; or

22 (4) failed to comply with this chapter or another
23 applicable law or rule.

24 (b) The commissioner shall revoke the charter of a public
25 charter district without a hearing if:

26 (1) in two consecutive years, the public charter
27 district:

1 (A) is rated academically unacceptable under
2 Subchapter D, Chapter 39; or

3 (B) is rated financially unacceptable by the
4 commissioner under Subchapter I, Chapter 39; or

5 (2) all campuses operated by the public charter
6 district have been ordered closed under Section 39.131(a) or
7 39.1322(f).

8 (c) A revocation under Subsection (b)(1) is effective on
9 January 1 following the school year in which the public charter
10 district received a second unacceptable rating.

11 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON
12 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a
13 procedure to be used for modifying, placing on probation, or
14 revoking the charter of a public charter district under Section
15 11A.107(a).

16 (b) The procedure adopted under Subsection (a) must provide
17 an opportunity for a hearing to the charter holder.

18 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON
19 PROBATION, OR REVOCATION. A charter holder may appeal a
20 modification, placement on probation, or revocation under this
21 subchapter only in the manner provided by the applicable procedures
22 adopted by the commissioner under Section 11A.108. The charter
23 holder may not otherwise appeal to the commissioner and may not
24 appeal to a district court.

25 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.
26 If the commissioner revokes a charter of a public charter district,
27 if a district is ordered closed under Chapter 39, or if a public

1 charter district surrenders its charter, the district may not:

2 (1) continue to operate under this chapter; or

3 (2) receive state funds under this chapter.

4 [Sections 11A.111-11A.150 reserved for expansion]

5 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF

6 CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND

7 MANAGEMENT COMPANIES

8 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

9 The governing body of a charter holder is responsible for the
10 management, operation, and accountability of the public charter
11 district, regardless of whether the governing body delegates the
12 governing body's powers and duties to another person.

13 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER
14 HOLDER. The governing body of a charter holder must be composed of
15 at least five members.

16 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF
17 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS
18 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a
19 person may not serve as a member of the governing body of a charter
20 holder, as a member of the governing body of a public charter
21 district, or as an officer or employee of a public charter district
22 if the person:

23 (1) has been convicted of a felony or a misdemeanor
24 involving moral turpitude;

25 (2) has been convicted of an offense listed in Section
26 37.007(a);

27 (3) has been convicted of an offense listed in Article

1 62.001(5), Code of Criminal Procedure; or

2 (4) has a substantial interest in a management
3 company.

4 (b) A person who has been convicted of an offense described
5 by Subsection (a)(1), (2), or (3) may serve as a member of the
6 governing body of a charter holder, as a member of the governing
7 body of a public charter district, or as an officer or employee of a
8 public charter district if the commissioner determines that the
9 person is fit to serve in that capacity. In making a determination
10 under this subsection, the commissioner shall consider:

11 (1) the factors described by Section 53.022,
12 Occupations Code, for determining the extent to which a conviction
13 relates to an occupation;

14 (2) the factors described by Section 53.023,
15 Occupations Code, for determining the fitness of a person to
16 perform the duties and discharge the responsibilities of an
17 occupation; and

18 (3) other appropriate factors, as determined by the
19 commissioner.

20 (c) For purposes of Subsection (a)(4), a person has a
21 substantial interest in a management company if the person or a
22 relative within the third degree by consanguinity or affinity, as
23 determined under Chapter 573, Government Code:

24 (1) has a controlling interest in the company;

25 (2) owns more than 10 percent of the voting interest in
26 the company;

27 (3) owns more than \$25,000 of the fair market value of

1 the company;

2 (4) has a direct or indirect participating interest by
3 shares, stock, or otherwise, regardless of whether voting rights
4 are included, in more than 10 percent of the profits, proceeds, or
5 capital gains of the company;

6 (5) is a member of the board of directors or other
7 governing body of the company;

8 (6) serves as an elected officer of the company; or

9 (7) is an employee of the company.

10 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF
11 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit
12 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
13 Statutes), Chapter 22, Business Organizations Code, or other law,
14 on request of the commissioner, the attorney general shall bring
15 suit against a member of the governing body of a charter holder for
16 breach of a fiduciary duty by the member, including misapplication
17 of public funds.

18 (b) The attorney general may bring suit under Subsection (a)
19 for:

20 (1) damages;

21 (2) injunctive relief; or

22 (3) any other equitable remedy determined to be
23 appropriate by the court.

24 (c) This section is cumulative of all other remedies.

25 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF
26 CHARTER HOLDER. (a) The commissioner shall adopt rules
27 prescribing training for members of governing bodies of charter

1 holders.

2 (b) The rules adopted under Subsection (a) may:

3 (1) specify the minimum amount and frequency of the
4 training;

5 (2) require the training to be provided by:

6 (A) the agency and regional education service
7 centers;

8 (B) entities other than the agency and service
9 centers, subject to approval by the commissioner; or

10 (C) both the agency, service centers, and other
11 entities; and

12 (3) require training to be provided concerning:

13 (A) basic school law, including school finance;

14 (B) health and safety issues;

15 (C) accountability requirements related to the
16 use of public funds; and

17 (D) other requirements relating to
18 accountability to the public, such as open meetings requirements
19 under Chapter 551, Government Code, and public information
20 requirements under Chapter 552, Government Code.

21 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder
22 shall file with the commissioner a copy of its articles of
23 incorporation and bylaws, or comparable documents if the charter
24 holder does not have articles of incorporation or bylaws, within
25 the period and in the manner prescribed by the commissioner.

26 (b) Each public charter district shall file annually with
27 the commissioner the following information in a form prescribed by

1 the commissioner:

2 (1) the name, address, and telephone number of each
3 officer and member of the governing body of the charter holder; and

4 (2) the amount of annual compensation the public
5 charter district pays to each officer and member of the governing
6 body.

7 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During
8 a public charter district's first year of operation, the charter
9 holder shall submit quarterly financial reports to the
10 commissioner. The commissioner by rule shall determine the form
11 and content of the financial reports under this section.

12 Sec. 11A.158. PEIMS INFORMATION. The governing body of a
13 public charter district shall comply with Section 42.006.

14 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A
15 management company that provides management services to a public
16 charter district is liable for damages incurred by the state or a
17 school district as a result of the failure of the company to comply
18 with its contractual or other legal obligation to provide services
19 to the district.

20 (b) On request of the commissioner, the attorney general may
21 bring suit on behalf of the state against a management company
22 liable under Subsection (a) for:

23 (1) damages, including any state funding received by
24 the company and any consequential damages suffered by the state;

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 and
2 does not affect:

3 (1) the liability of a management company to the
4 charter holder; or

5 (2) the liability of a charter holder, a member of the
6 governing body of a charter holder, or a member of the governing
7 body of a public charter district to the state.

8 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

9 (a) The charter holder or the governing body of a public charter
10 district may not accept a loan from a management company that has a
11 contract to provide management services to:

12 (1) the district; or

13 (2) another public charter district that operates
14 under a charter granted to the charter holder.

15 (b) A charter holder or the governing body of a public
16 charter district that accepts a loan from a management company may
17 not enter into a contract with that management company to provide
18 management services to the district.

19 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any
20 contract, including a contract renewal, between a public charter
21 district and a management company proposing to provide management
22 services to the district must require the management company to
23 maintain all records related to the management services separately
24 from any other records of the management company.

25 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS
26 PROHIBITED. The commissioner may prohibit, deny renewal of,
27 suspend, or revoke a contract between a public charter district and

1 a management company providing management services to the district
2 if the commissioner determines that the management company has:

3 (1) failed to provide educational or related services
4 in compliance with the company's contractual or other legal
5 obligation to any public charter district in this state or to any
6 other similar entity in another state;

7 (2) failed to protect the health, safety, or welfare
8 of the students enrolled at a public charter district served by the
9 company;

10 (3) violated this chapter or a rule adopted under this
11 chapter; or

12 (4) otherwise failed to comply with any contractual or
13 other legal obligation to provide services to the district.

14 [Sections 11A.163-11A.200 reserved for expansion]

15 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

16 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent
17 with Subsection (c), a charter holder is entitled to receive for the
18 public charter district funding under Chapter 42 as if the public
19 charter district were a school district without a local share for
20 purposes of Section 42.253 and without any local revenue ("LR") for
21 purposes of Section 42.302. In determining funding for a public
22 charter district, adjustments under Sections 42.102, 42.103, and
23 42.105 and the district enrichment tax rate ("DTR") under Section
24 42.302 are based on the average adjustment and average district
25 enrichment tax rate for the state.

26 (a-1) Notwithstanding Subsection (a), an entity granted a
27 charter under Section 11A.1041 is entitled to receive funding for

1 each student in weighted average daily attendance in an amount
2 equal to the greater of the amount determined under Subsection (a)
3 or the amount to which the entity was entitled for the 2003-2004 or
4 2004-2005 school year, as determined by the commissioner. A
5 determination of the commissioner under this subsection is final
6 and not subject to appeal. This subsection expires September 1,
7 2013.

8 (b) To the extent consistent with Subsection (c), a public
9 charter district is entitled to funds that are available to school
10 districts from the agency or the commissioner, including grants and
11 other discretionary funding and any teacher incentive payments
12 under Chapter 42, unless the statute authorizing the funding
13 explicitly provides that a public charter district is not entitled
14 to the funding.

15 (c) A charter holder is entitled to receive for a public
16 charter district funding under this section only if the holder:

17 (1) provides information for the Public Education
18 Information Management System (PEIMS) as required by this chapter;

19 (2) submits to the commissioner appropriate fiscal and
20 financial records as required by this chapter and the commissioner;
21 and

22 (3) receives an annual unqualified opinion in the
23 standard report filed pursuant to Section 11A.210.

24 (d) The commissioner shall suspend the funding of a charter
25 holder that fails to comply with Subsection (c) until the
26 commissioner determines that the charter holder is in compliance or
27 has cured any noncompliance and has adopted adequate procedures to

1 prevent future noncompliance.

2 (e) The commissioner may adopt rules to provide and account
3 for state funding of public charter districts under this section. A
4 rule adopted under this section may be similar to a provision of
5 this code that is not similar to Section 11A.052(b) if the
6 commissioner determines that the rule is related to financing of
7 public charter districts and is necessary or prudent to provide or
8 account for state funds.

9 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF
10 SALARIES. (a) This section applies only to a charter holder that
11 on January 1, 2005:

12 (1) operated an open-enrollment charter school under
13 former Subchapter D, Chapter 12; and

14 (2) participated in the program under Chapter 1579,
15 Insurance Code.

16 (b) In addition to any amounts to which a charter holder is
17 entitled under this chapter, a charter holder is entitled to state
18 aid in an amount, as determined by the commissioner, equal to the
19 product of \$1,000 multiplied by the number of classroom teachers,
20 full-time librarians, and full-time counselors certified under
21 Subchapter B, Chapter 21, and full-time school nurses appropriately
22 licensed under Chapter 301, Occupations Code, who are employed by
23 the charter holder at a public charter district.

24 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In
25 this section, "instructional facility" has the meaning assigned by
26 Section 46.001.

27 (b) A charter holder is initially eligible for

1 instructional facilities allotments in accordance with this
2 section if:

3 (1) any campus of a public charter district for which
4 the charter holder has been granted a license has for two
5 consecutive school years been rated exemplary or recognized under
6 Subchapter D, Chapter 39, or has performed at a comparable level, as
7 determined by the commissioner for purposes of this section; and

8 (2) on the most recent audit of the financial
9 operations of the district conducted pursuant to Section 11A.210,
10 the district has satisfied generally accepted accounting standards
11 of fiscal management as evidenced by an unqualified opinion in the
12 standard report issued and filed pursuant to Section 11A.210.

13 (b-1) Notwithstanding Subsection (b), a charter holder is
14 eligible for instructional facilities allotments for the 2006-2007
15 school year in accordance with this section if any campus of a
16 public charter district for which the charter holder has been
17 granted a license has been rated exemplary or recognized under
18 Subchapter D, Chapter 39, for at least two of the 2003-2004,
19 2004-2005, and 2005-2006 school years.

20 (b-2) Subsection (b-1) and this subsection expire September
21 1, 2007.

22 (c) Once a public charter district satisfies the initial
23 eligibility requirements under Subsection (b) and receives an
24 allotment under this section, the district continues to remain
25 eligible until the district receives an accountability rating of
26 unacceptable under Subchapter D, Chapter 39, at which point the
27 district is again subject to the eligibility requirements of

1 Subsection (b).

2 (d) The commissioner annually shall review the eligibility
3 of a public charter district campus for purposes of this section.

4 (e) Except as otherwise provided by this section, a charter
5 holder is entitled to an annual allotment in an amount determined by
6 the commissioner, not to exceed \$1,000 or a different amount
7 provided by appropriation, for each student in average daily
8 attendance during the preceding year at a campus of a public charter
9 district that is eligible for an allotment under this section.

10 (f) A charter holder who receives funds under this section
11 may use the funds only to:

12 (1) purchase real property on which to construct an
13 instructional facility for a public charter district campus for
14 which the funds were paid under Subsection (e);

15 (2) purchase, lease, construct, expand, or renovate
16 instructional facilities for a public charter district campus for
17 which the funds were paid under Subsection (e);

18 (3) pay debt service in connection with instructional
19 facilities purchased or improved for a campus of the public charter
20 district that meets the requirements under Subsection (b); or

21 (4) maintain and operate public charter district
22 instructional facilities.

23 (g) A decision of the commissioner under Subsection (e) is
24 final and may not be appealed.

25 (h) The commissioner shall by rule establish procedures to
26 ensure that funds a charter holder claims to be using for purposes
27 of Subsection (f)(3) are used only for that purpose.

1 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received
2 under Section 11A.201 or 11A.202 by a charter holder:

3 (1) are considered to be public funds for all purposes
4 under state law;

5 (2) are held in trust by the charter holder for the
6 benefit of this state and the students of the public charter
7 district;

8 (3) may be used only for a purpose for which a school
9 may use local funds under Section 45.105(c) in the case of funds
10 received under Section 11A.201, and may be used only for a purpose
11 specified under Section 11A.202(f) in the case of funds received
12 under Section 11A.202; and

13 (4) pending their use, must be deposited into a bank,
14 as defined by Section 45.201, with which the charter holder has
15 entered into a depository contract under Section 11A.204.

16 (b) Funds deposited under Subsection (a)(4) may be directly
17 deposited into an account controlled by a bond trustee acting for
18 the charter holder pursuant to a bond indenture agreement requiring
19 direct deposit.

20 (c) The commissioner shall adopt rules for identifying
21 public funds in accordance with Subsection (a).

22 (d) The commissioner may bring an action in district court
23 in Travis County for injunctive or other relief to enforce this
24 section. In identifying public funds held by a charter holder, the
25 court shall use the criteria adopted by the commissioner under
26 Subsection (c). Except as otherwise provided by this subsection,
27 the court shall enter any order under this subsection concerning

1 public funds held by the charter holder necessary to best serve the
2 interests of the students of a public charter district. In the case
3 of a public charter district that has ceased to operate, the court
4 shall enter any order under this subsection concerning public funds
5 held by the charter holder necessary to best serve the interests of
6 this state.

7 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank
8 selected as a school depository and the charter holder shall enter
9 into a depository contract, bond, or other necessary instrument
10 setting forth the duties and agreements pertaining to the
11 depository, in a form and with the content prescribed by the State
12 Board of Education.

13 (b) The depository bank shall attach to the contract and
14 file with the charter holder a bond in an initial amount equal to
15 the estimated highest daily balance, determined by the charter
16 holder, of all deposits that the charter holder will have in the
17 depository during the term of the contract, less any applicable
18 Federal Deposit Insurance Corporation insurance. The bond must be
19 payable to the charter holder and must be signed by the depository
20 bank and by a surety company authorized to engage in business in
21 this state. The depository bank shall increase the amount of the
22 bond if the charter holder determines the increase is necessary to
23 adequately protect the funds of the charter holder deposited with
24 the depository bank.

25 (c) The bond shall be conditioned on:

26 (1) the faithful performance of all duties and
27 obligations imposed by law on the depository;

1 (2) the payment on presentation of all checks or
2 drafts on order of the charter holder, in accordance with its orders
3 entered by the charter holder according to law;

4 (3) the payment on demand of any demand deposit in the
5 depository;

6 (4) the payment, after the expiration of the period of
7 notice required, of any time deposit in the depository;

8 (5) the faithful keeping of school funds by the
9 depository and the accounting for the funds according to law; and

10 (6) the faithful paying over to the successor
11 depository all balances remaining in the accounts.

12 (d) The bond and the surety on the bond must be approved by
13 the charter holder. A premium on the depository bond may not be
14 paid out of charter holder funds related to operation of the public
15 charter district.

16 (e) The charter holder shall file a copy of the depository
17 contract and bond with the agency.

18 (f) Instead of the bond required under Subsection (b), the
19 depository bank may deposit or pledge, with the charter holder or
20 with a trustee designated by the charter holder, approved
21 securities, as defined by Section 45.201, in an amount sufficient
22 to adequately protect the funds of the charter holder deposited
23 with the depository bank. A depository bank may give a bond and
24 deposit or pledge approved securities in an aggregate amount
25 sufficient to adequately protect the funds of the charter holder
26 deposited with the depository bank. The charter holder shall
27 periodically designate the amount of approved securities or the

1 aggregate amount of the bond and approved securities necessary to
2 adequately protect the charter holder. The charter holder may not
3 designate an amount less than the balance of charter holder funds on
4 deposit with the depository bank from day to day, less any
5 applicable Federal Deposit Insurance Corporation insurance. The
6 depository bank may substitute approved securities on obtaining the
7 approval of the charter holder. For purposes of this subsection,
8 the approved securities are valued at their market value.

9 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter
10 holder who accepts state funds under Section 11A.201 or 11A.202
11 agrees to be subject to all requirements, prohibitions, and
12 sanctions authorized under this chapter.

13 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE
14 FUNDS. (a) Property purchased or leased with funds received by a
15 charter holder under Section 11A.201 or 11A.202:

16 (1) is considered to be public property for all
17 purposes under state law;

18 (2) is held in trust by the charter holder for the
19 benefit of this state and the students of the public charter
20 district; and

21 (3) may be used only for a purpose for which a school
22 district may use school district property.

23 (b) The commissioner shall:

24 (1) take possession and assume control of the property
25 described by Subsection (a) of a public charter district that
26 ceases to operate; and

27 (2) supervise the disposition of the property in

1 accordance with law.

2 (c) This section does not affect the priority of a security
3 interest in or lien on property established by a creditor in
4 compliance with law if the security interest or lien arose in
5 connection with the sale or lease of the property to the charter
6 holder.

7 (d) The commissioner shall adopt rules for identifying
8 public property in accordance with Subsection (a).

9 (e) The commissioner may bring an action in district court
10 in Travis County for injunctive or other relief to enforce this
11 section. In identifying public property held by a charter holder,
12 the court shall use the criteria adopted by the commissioner under
13 Subsection (d). Except as otherwise provided by this subsection,
14 the court shall enter any order under this subsection concerning
15 public property held by the charter holder necessary to best serve
16 the interests of the students of a public charter district. In the
17 case of a public charter district that has ceased to operate, the
18 court shall enter any order under this subsection concerning public
19 property held by the charter holder necessary to best serve the
20 interests of this state. The court may order title to real or
21 personal public property held by the charter holder transferred to
22 a trust established for the purpose of managing the property or may
23 make other disposition of the property necessary to best serve the
24 interests of this state.

25 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER
26 DISTRICT LAND OR FACILITIES. A municipality to which a charter is
27 granted under this chapter may borrow funds, issue obligations, or

1 otherwise spend its funds to acquire land or acquire, construct,
2 expand, or renovate school buildings or facilities and related
3 improvements for its public charter district within the city limits
4 of the municipality in the same manner the municipality is
5 authorized to borrow funds, issue obligations, or otherwise spend
6 its funds in connection with any other public works project.

7 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND
8 TECHNOLOGY. A public charter district is entitled to funding for
9 instructional materials under Chapter 31 and technology under
10 Subchapter A, Chapter 32, and is subject to those provisions as if
11 the public charter district were a school district.

12 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public
13 charter district shall annually adopt a budget for the district.

14 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public
15 charter district shall conduct an annual audit in a manner that
16 complies with Section 44.008.

17 [Sections 11A.211-11A.250 reserved for expansion]

18 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

19 Sec. 11A.251. ADMISSION POLICY. (a) A public charter
20 district may not discriminate in admission policy on the basis of
21 sex, national origin, ethnicity, religion, disability, or
22 academic, artistic, or athletic ability or the district the child
23 would otherwise attend in accordance with this code.

24 (b) A public charter district admission policy may provide
25 for the exclusion of a student who has a documented history of a
26 criminal offense, a juvenile court adjudication, or discipline
27 problems under Subchapter A, Chapter 37.

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 high school
24 diploma.

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 the following employees employed by the charter
16 holder at a public charter district an amount at least equal to:

17 (1) \$1,000 for:

18 (A) classroom teachers, full-time librarians,
19 and full-time counselors certified under Subchapter B, Chapter 21;
20 and

21 (B) full-time school nurses appropriately
22 licensed under Chapter 301, Occupations Code;

23 (2) \$500 for full-time public charter district
24 employees, other than administrators or employees described by
25 Subdivision (1); and

26 (3) \$250 for part-time public charter district
27 employees.

1 (c) A payment under this section is in addition to wages the
2 charter holder would otherwise pay the employee during the school
3 year.

4 [Sections 11A.307-11A.350 reserved for expansion]

5 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

6 Sec. 11A.351. AUDIT. (a) To the extent consistent with
7 this section, the commissioner may audit the records of:

8 (1) a public charter district or campus;

9 (2) a charter holder; and

10 (3) a management company.

11 (b) An audit under Subsection (a) must be limited to matters
12 directly related to the management or operation of a public charter
13 district, including any financial, student, and administrative
14 records.

15 (c) Unless the commissioner has specific cause to conduct an
16 additional audit, the commissioner may not conduct more than one
17 on-site audit of a public charter district under this section
18 during any fiscal year, including any audit of financial, student,
19 and administrative records. For purposes of this subsection, an
20 audit of a charter holder or management company associated with a
21 public charter district is not considered an audit of the district.

22 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a
23 subpoena to compel the attendance and testimony of a witness or the
24 production of materials relevant to an audit or investigation under
25 this chapter.

26 (b) A subpoena may be issued throughout the state and may be
27 served by any person designated by the commissioner.

1 (c) If a person fails to comply with a subpoena issued under
2 this section, the commissioner, acting through the attorney
3 general, may file suit to enforce the subpoena in a district court
4 in Travis County or in the county in which the audit or
5 investigation is conducted. The court shall order compliance with
6 the subpoena if the court finds that good cause exists to issue the
7 subpoena.

8 (d) This section expires September 1, 2007.

9 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take
10 any of the actions described by Subsection (b) or by Section
11 39.131(a), to the extent the commissioner determines necessary, if
12 a public charter district, as determined by a report issued under
13 Section 39.076(b):

14 (1) commits a material violation of the district's
15 charter;

16 (2) fails to satisfy generally accepted accounting
17 standards of fiscal management; or

18 (3) fails to comply with this chapter or another
19 applicable rule or law.

20 (b) The commissioner may temporarily withhold funding,
21 suspend the authority of a public charter district to operate, or
22 take any other reasonable action the commissioner determines
23 necessary to protect the health, safety, or welfare of students
24 enrolled at a district campus based on evidence that conditions at
25 the district campus present a danger to the health, safety, or
26 welfare of the students.

27 (c) After the commissioner acts under Subsection (b), the

1 public charter district may not receive funding and may not resume
2 operating until a determination is made that:

3 (1) despite initial evidence, the conditions at the
4 district campus do not present a danger of material harm to the
5 health, safety, or welfare of students; or

6 (2) the conditions at the district campus that
7 presented a danger of material harm to the health, safety, or
8 welfare of students have been corrected.

9 (d) Not later than the third business day after the date the
10 commissioner acts under Subsection (b), the commissioner shall
11 provide the charter holder an opportunity for a hearing. This
12 subsection does not apply to an action taken by the commissioner
13 under Chapter 39.

14 (e) Immediately after a hearing under Subsection (d), the
15 commissioner must cease the action under Subsection (b) or initiate
16 action under Section 11A.108.

17 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN
18 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the
19 Foundation School Program, the commissioner shall reduce the total
20 amount of state funds allocated to each district from any source in
21 the same manner described for a reduction in allotments under
22 Section 42.253 and adopt and implement a program for supervising
23 the administration of assessment instruments under Section 39.023
24 during the 2005-2006 school year at an open-enrollment charter
25 school, other than a school operated by an entity described by
26 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent
27 of all students enrolled at the school and administered an

1 assessment instrument under Section 39.023(a), (c), or (l)
2 performed satisfactorily on:

3 (1) the assessment instrument in mathematics, as
4 determined by the school's assessment instrument results for the
5 2004-2005 school year; or

6 (2) the assessment instrument in reading or English
7 language arts, as applicable, as determined by the school's
8 assessment instrument results for the 2004-2005 school year.

9 (b) The program adopted under Subsection (a) must be
10 designed to:

11 (1) ensure that the location at which an assessment
12 instrument is administered is secure and under the supervision of
13 persons who do not have any interest in the results of the
14 assessment instrument; and

15 (2) provide direct supervision of:

16 (A) the transportation of the assessment
17 instrument materials to and from the location at which the
18 instrument is administered; and

19 (B) the administration of the assessment
20 instrument to students.

21 (c) The commissioner may adopt rules necessary to
22 administer this section and may take any action that the
23 commissioner determines necessary to ensure the integrity of the
24 results of an assessment instrument administered at an
25 open-enrollment charter school described by Subsection (a).

26 (d) After deducting the amount withheld under Subsection
27 (a) from the total amount appropriated for the Foundation School

1 Program, the commissioner shall reduce the total amount of state
2 funds allocated to each district from any source in the same manner
3 described for a reduction in allotments under Section 42.253.

4 (e) An open-enrollment charter school's failure to fully
5 cooperate with the commissioner under this section is sufficient
6 grounds for revocation of the district's charter, as determined by
7 the commissioner.

8 (f) This section expires September 1, 2006.

9 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The
10 commissioner shall periodically consult with representatives of
11 charter holders regarding the duties and mission of the agency
12 relating to the operation of public charter districts. The
13 commissioner shall determine the frequency of the consultations.

14 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing
15 in this chapter may be construed to limit the commissioner's
16 authority under Chapter 39.

17 Sec. 11A.356. RULES. The commissioner may adopt rules for
18 the administration of this chapter.

19 [Sections 11A.357-11A.400 reserved for expansion]

20 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

21 Sec. 11A.401. AUTHORIZATION. (a) In this section,
22 "eligible entity" means an organization that is exempt from
23 taxation under Section 501(a), Internal Revenue Code of 1986, as an
24 organization described by Section 501(c)(3) of that code.

25 (b) In accordance with this subchapter, the commissioner
26 may authorize not more than three charter holders to grant a charter
27 to an eligible entity to operate a blue ribbon charter campus if:

1 (1) the charter holder proposes to grant the blue
2 ribbon charter to replicate a distinctive education program;

3 (2) the charter holder has demonstrated the ability to
4 replicate the education program;

5 (3) the education program has been implemented by the
6 charter holder for at least seven school years; and

7 (4) the charter school in which the charter holder has
8 implemented the program has been rated recognized or exemplary
9 under Section 39.072 for at least five school years.

10 (b-1) An eligible entity that assumed operation of an
11 existing charter school program during the seven years preceding
12 the proposed authorization under Subsection (b) may be authorized
13 to grant a blue ribbon charter under Subsection (b) if:

14 (1) the performance level of the program at a campus
15 before and after the entity assumed operation of the program meets
16 the qualifications described by Subsection (b); and

17 (2) the entity has met the qualifications described by
18 Subsection (b) since assuming operation of the program.

19 (c) A charter holder may grant a blue ribbon charter only to
20 an applicant that meets any financial, governing, and operational
21 standards adopted by the commissioner under this subchapter.

22 (d) A charter holder may grant not more than two blue ribbon
23 charters under this subchapter.

24 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue
25 ribbon charter campus is considered a public charter district
26 campus for purposes of state and federal law.

27 (b) A blue ribbon charter granted under this subchapter is

1 not considered for purposes of the limit on the number of public
2 charter districts imposed by Section 11A.002.

3 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE
4 RIBBON CHARTER CAMPUS. (a) The governing body of the public
5 charter district authorizing a blue ribbon charter is responsible
6 for the management and operation of the campus operated under a
7 blue ribbon charter. A blue ribbon charter campus is subject to the
8 rules and policies of the governing body of the charter holder that
9 granted the blue ribbon charter.

10 (b) For purposes of academic and financial accountability
11 and all other purposes under this chapter and Chapter 39, a blue
12 ribbon charter campus is considered a campus of the public charter
13 district operated by the charter holder that granted the blue
14 ribbon charter.

15 (c) A charter holder is entitled to receive funding for a
16 blue ribbon charter campus as if the blue ribbon charter campus were
17 a campus of the public charter district operated by the charter
18 holder.

19 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The
20 commissioner by rule shall adopt an application form and procedures
21 for a charter holder to apply for authorization to grant a blue
22 ribbon charter to an eligible entity under this subchapter.

23 (b) The application must specify:
24 (1) the criteria that will be used to grant blue ribbon
25 charters;
26 (2) procedures for governance and management of
27 campuses operating under a blue ribbon charter; and

1 (3) the performance standard by which continuation of
2 a blue ribbon charter will be determined.

3 (c) A determination by the commissioner regarding an
4 application under this section is final and may not be appealed.

5 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The
6 commissioner may revoke a charter holder's authorization to grant a
7 blue ribbon charter or operate a campus granted a blue ribbon
8 charter if the commissioner determines that the purposes of this
9 subchapter are not being satisfied.

10 (b) On revocation of a charter holder's authority under this
11 section, the charter holder shall:

12 (1) operate a campus granted a blue ribbon charter as a
13 standard campus of the charter holder under this chapter; or

14 (2) close the campus effective at the end of the school
15 year in which the commissioner revokes the authorization.

16 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter
17 granted under this subchapter must:

18 (1) describe the educational program to be offered,
19 which may be a general or specialized education program;

20 (2) provide that continuation of the charter is
21 contingent on satisfactory student performance under Subchapter B,
22 Chapter 39, and on compliance with other applicable accountability
23 provisions under Chapter 39;

24 (3) specify any basis, in addition to a basis
25 specified by this subchapter, on which the charter may be placed on
26 probation or revoked;

27 (4) prohibit discrimination in admission on the basis

1 of national origin, ethnicity, race, religion, or disability;

2 (5) describe the governing structure of the blue
3 ribbon charter campus;

4 (6) specify any procedure or requirement, in addition
5 to those under Chapter 38, that the campus will follow to ensure the
6 health and safety of students and employees; and

7 (7) describe the manner in which the campus and
8 charter holder granting the blue ribbon charter will comply with
9 financial and operational requirements, including requirements
10 related to the Public Education Information Management System
11 (PEIMS) under Section 11A.158 and the audit requirements under
12 Section 11A.210.

13 (b) A charter holder may reserve the right to approve
14 contracts, governance alterations, personnel decisions, and other
15 matters affecting the operation of the blue ribbon charter campus.

16 (c) A blue ribbon charter must specify the basis and
17 procedure to be used by the charter holder for placing the blue
18 ribbon charter campus on probation or revoking the charter, which
19 must include an opportunity for an informal review of the blue
20 ribbon charter campus and governing body of the campus by the
21 charter holder. A charter holder's decision to place on probation
22 or revoke a blue ribbon charter is final and may not be appealed.

23 Sec. 11A.407. FORM. A blue ribbon charter issued under this
24 subchapter must be in the form and substance of a written contract
25 signed by the president or equivalent officer of the governing body
26 of the charter holder granting the blue ribbon charter and the
27 president or equivalent officer of the governing body of the

1 eligible entity to which the blue ribbon charter is granted.

2 Sec. 11A.408. REVISION. A blue ribbon charter granted
3 under this subchapter may be revised with the approval of the
4 charter holder that granted the charter.

5 [Sections 11A.409-11A.450 reserved for expansion]

6 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER
7 SCHOOLS

8 Sec. 11A.451. DEFINITIONS. In this subchapter:

9 (1) "Assets" means:

10 (A) public funds, as determined under Section
11 12.107, as that section existed on January 1, 2005; and

12 (B) public property, as determined under Section
13 12.128, as that section existed on January 1, 2005.

14 (2) "Records" means government records, as determined
15 under Section 12.1052, as that section existed on January 1, 2005.

16 Sec. 11A.452. APPLICABILITY. The commissioner shall
17 appoint a receiver under this subchapter for each open-enrollment
18 charter school that on June 1, 2005, was operating under a charter
19 issued under Subchapter D, Chapter 12, as that subchapter existed
20 on January 1, 2005, and:

21 (1) is not authorized to operate as a public charter
22 district under this chapter; or

23 (2) elects not to operate as a public charter district
24 under this chapter.

25 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)
26 The commissioner shall appoint a receiver to protect the assets and
27 direct the dissolution of open-enrollment charter schools subject

1 to this subchapter.

2 (b) The receiver shall execute a bond in an amount set by the
3 commissioner to ensure the proper performance of the receiver's
4 duties.

5 (c) Until discharged by the commissioner, the receiver
6 shall perform the duties that the commissioner directs to preserve
7 the assets and direct the dissolution of the open-enrollment
8 charter school under this subchapter.

9 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After
10 appointment and execution of bond under Section 11A.453, the
11 receiver shall take possession of:

12 (1) assets and records in the possession of the
13 open-enrollment charter school specified by the commissioner; and

14 (2) any Foundation School Program funds and any other
15 public funds received by the school's charter holder.

16 (b) On request of the receiver, the attorney general shall
17 file a suit for attachment, garnishment, or involuntary bankruptcy
18 and take any other action necessary for the dissolution of an
19 open-enrollment charter school under this subchapter.

20 (c) If the charter holder of an open-enrollment charter
21 school or an officer or employee of such a school refuses to
22 transfer school assets or records to a receiver under this
23 subsection, the receiver may ask the attorney general to petition a
24 court for recovery of the assets or records. If the court grants
25 the petition, the court shall award attorney's fees and court costs
26 to the state.

27 (d) A record described by this section is a public school

1 record for purposes of Section 37.10(c)(2), Penal Code.

2 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall
3 wind up the affairs of an open-enrollment charter school and,
4 except as provided by Subsection (b), reduce its assets to cash for
5 the purpose of discharging all existing liabilities and obligations
6 of the school. In winding up the affairs of a school, the receiver
7 shall cooperate in any bankruptcy proceeding affecting the school.
8 The receiver shall distribute any remaining balance to the
9 commissioner.

10 (b) A receiver shall offer free of charge any equipment and
11 supplies of an open-enrollment charter school dissolved under this
12 subchapter to school districts, giving priority to districts based
13 on the percentage of the charter school's students that reside in
14 the districts.

15 (c) The commissioner shall use money in the foundation
16 school fund and money received under this section to pay the costs
17 described by Section 11A.458 and discharge liabilities and
18 obligations of open-enrollment charter schools under this
19 subchapter. The commissioner shall deposit any remaining balance
20 in the foundation school fund.

21 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of
22 an open-enrollment charter school subject to this subchapter shall
23 be transferred in the manner specified by the commissioner to a
24 custodian designated by the commissioner. The commissioner may
25 designate any appropriate entity to serve as custodian of records,
26 including the agency, a regional education service center, or a
27 school district. In designating a custodian, the commissioner

1 shall ensure that the transferred records, including student and
2 personnel records, are transferred to a custodian capable of:

- 3 (1) maintaining the records;
4 (2) making the records readily accessible to students,
5 parents, former school employees, and other persons entitled to
6 access; and
7 (3) complying with applicable state or federal law
8 restricting access to the records.

9 (b) The commissioner is entitled to access to any records
10 transferred to a custodian under this section as the commissioner
11 determines necessary for auditing, investigative, or monitoring
12 purposes.

13 Sec. 11A.457. LIABILITY. A receiver is not personally
14 liable for actions taken by the receiver under this subchapter.

15 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may
16 authorize reimbursement of reasonable costs related to the
17 receivership, including:

- 18 (1) payment of fees to the receiver for the receiver's
19 services; and
20 (2) payment of fees to attorneys, accountants, or any
21 other person that provides goods or services necessary to the
22 operation of the receivership.

23 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The
24 competitive bidding requirements of this code and the contracting
25 requirements of Chapter 2155, Government Code, do not apply to the
26 appointment of a receiver, attorney, accountant, or other person
27 appointed under this subchapter.

1 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is
2 amended by adding Section 12.1058 to read as follows:

3 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT
4 PROVISIONS. (a) An open-enrollment charter school is subject to
5 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,
6 11A.304, 11A.352, 21.0032, and 21.058.

7 (b) The commissioner may bring an action for injunctive or
8 other relief as provided by Section 11A.203(d) to enforce Section
9 12.107.

10 (c) For purposes of this section, a reference in a law
11 described by this section to a public charter district means an
12 open-enrollment charter school.

13 SECTION 4.04. Sections 12.152 and 12.156, Education Code,
14 are amended to read as follows:

15 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this
16 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of
17 Education may grant a charter on the application of a public senior
18 college or university for a public [~~an open-enrollment~~] charter
19 district [~~school~~] to operate on the campus of the public senior
20 college or university or in the same county in which the campus of
21 the public senior college or university is located.

22 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)
23 Except as otherwise provided by this subchapter, Chapter 11A
24 [~~Subchapter D~~] applies to a college or university charter school as
25 though the college or university charter school were granted a
26 charter under that chapter [~~subchapter~~].

27 (b) A charter granted under this subchapter is not

1 considered for purposes of the limit on the number of public
2 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section
3 11A.002 [~~12.101(b)~~].

4 (c) A college or university charter school is not subject to
5 a prohibition, restriction, or requirement relating to:

6 (1) open meetings and public information under Section
7 11A.053;

8 (2) maintenance of records under Section 11A.054;

9 (3) purchasing and contracting under Section 11A.055;

10 (4) conflict of interest under Section 11A.056;

11 (5) nepotism under Section 11A.057;

12 (6) composition of a governing body under Section
13 11A.152;

14 (7) restrictions on serving as a member of a governing
15 body or as an officer or employee under Section 11A.153;

16 (8) liability of members of a governing body under
17 Section 11A.154;

18 (9) training for members of a governing body under
19 Section 11A.155;

20 (10) bylaws and annual reports under Section 11A.156;

21 (11) quarterly financial reports under Section
22 11A.157; and

23 (12) depository bond and security requirements under
24 Section 11A.204.

25 (d) A college or university charter school and the governing
26 body of the school are subject to regulations and procedures that
27 govern a public senior college or university relating to open

1 meetings, records retention, purchasing, contracting, conflicts of
2 interest, and nepotism.

3 SECTION 4.05. Section 5.001, Education Code, is amended by
4 adding Subdivision (5-a) and amending Subdivision (6) to read as
5 follows:

6 (5-a) "Public charter campus" means a campus operated
7 by a public charter district.

8 (6) "Public charter district [Open-enrollment charter
9 school]" means a public school authorized by [that has been
10 granted] a charter under Chapter 11A [Subchapter D, Chapter 12].

11 SECTION 4.06. Section 7.003, Education Code, is amended to
12 read as follows:

13 Sec. 7.003. LIMITATION ON AUTHORITY. An educational
14 function not specifically delegated to the agency or the board
15 under this code is reserved to and shall be performed by school
16 districts or ~~[open-enrollment]~~ charter schools.

17 SECTION 4.07. Section 7.055(b)(17), Education Code, is
18 amended to read as follows:

19 (17) The commissioner shall distribute funds to public
20 charter districts [open-enrollment charter schools] as required
21 under Chapter 11A [Subchapter D, Chapter 12].

22 SECTION 4.08. Section 7.102(c)(9), Education Code, is
23 amended to read as follows:

24 (9) The board may grant a charter for a public charter
25 district [an open-enrollment charter or approve a charter revision]
26 as provided by Chapter 11A [Subchapter D, Chapter 12].

27 SECTION 4.09. Section 12.002, Education Code, is amended to

1 read as follows:

2 Sec. 12.002. CLASSES OF CHARTER. The classes of charter
3 under this chapter are:

4 (1) a home-rule school district charter as provided by
5 Subchapter B;

6 (2) a campus or campus program charter as provided by
7 Subchapter C; or

8 (3) a college or university [~~an open-enrollment~~]
9 charter as provided by Subchapter E [~~D~~].

10 SECTION 4.10. Subchapter A, Chapter 21, Education Code, is
11 amended by adding Section 21.0032 to read as follows:

12 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER
13 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or
14 serve as a teacher, teacher intern or teacher trainee, librarian,
15 educational aide, administrator, educational diagnostician, or
16 counselor for a public charter district unless the person has been
17 cleared by the agency following a national criminal history record
18 review and investigation under this section.

19 (b) Before or immediately after employing or securing the
20 services of a person described by Subsection (a), a public charter
21 district shall send to the agency the person's fingerprints and
22 social security number. The person may be employed or serve pending
23 action by the agency.

24 (c) The agency shall review and investigate the person's
25 national criminal history record information, educator
26 certification discipline history in any state, and other
27 information in the same manner as a review or investigation

1 conducted regarding an initial application for educator
2 certification. If the agency finds the person would not be eligible
3 for educator certification, the agency shall notify the public
4 charter district in writing that the person may not be employed or
5 serve in a capacity described by Subsection (a).

6 (d) On receipt of written notice under Subsection (c), a
7 public charter district may not employ or permit the person to serve
8 unless the person timely submits a written appeal under this
9 section. The agency shall conduct an appeal under this subsection
10 in the same manner as an appeal regarding the denial of an initial
11 application for educator certification.

12 SECTION 4.11. Sections 21.058(b) and (c), Education Code,
13 are amended to read as follows:

14 (b) Notwithstanding Section 21.041(b)(7), not later than
15 the fifth day after the date the board receives notice under Article
16 42.018, Code of Criminal Procedure, of the conviction of a person
17 described by Section 21.0032 or who holds a certificate under this
18 subchapter, the board shall:

19 (1) revoke the certificate or clearance held by the
20 person; and

21 (2) provide to the person and to any school district or
22 public charter district [~~open-enrollment charter school~~] employing
23 the person at the time of revocation written notice of:

24 (A) the revocation; and

25 (B) the basis for the revocation.

26 (c) A school district or public charter district
27 [~~open-enrollment charter school~~] that receives notice under

1 Subsection (b) of the revocation of a certificate issued under this
2 subchapter shall:

3 (1) immediately remove the person whose certificate
4 has been revoked from campus or from an administrative office, as
5 applicable, to prevent the person from having any contact with a
6 student; and

7 (2) as soon as practicable, terminate the employment
8 of the person in accordance with the person's contract and with this
9 subchapter.

10 SECTION 4.12. Sections 22.083(b) and (c), Education Code,
11 are amended to read as follows:

12 (b) A public charter district may [~~An open-enrollment~~
13 ~~charter school shall~~] obtain from the Department of Public Safety
14 [~~any law enforcement or criminal justice agency~~] all criminal
15 history record information that relates to:

16 (1) a person whom the district [~~school~~] intends to
17 employ in any capacity; or

18 (2) a person who has indicated, in writing, an
19 intention to serve as a volunteer with the district [~~school~~].

20 (c) A school district, public charter district
21 [~~open-enrollment charter school~~], private school, regional
22 education service center, or shared services arrangement may obtain
23 from a federal or state [~~any~~] law enforcement or criminal justice
24 agency all criminal history record information that relates to:

25 (1) a volunteer or employee of the district, school,
26 service center, or shared services arrangement; or

27 (2) an employee of or applicant for employment by a

1 person that contracts with the district, school, service center, or
2 shared services arrangement to provide services, if:

3 (A) the employee or applicant has or will have
4 continuing duties related to the contracted services; and

5 (B) the duties are or will be performed on school
6 property or at another location where students are regularly
7 present.

8 SECTION 4.13. Section 22.084, Education Code, is amended to
9 read as follows:

10 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL
11 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided
12 by Subsections (c) and (d), a school district, public charter
13 district [~~open-enrollment charter school~~], private school,
14 regional education service center, or shared services arrangement
15 that contracts with a person for transportation services shall
16 obtain from the Department of Public Safety [~~any law enforcement or~~
17 ~~criminal justice agency~~] all criminal history record information
18 that relates to:

19 (1) a person employed by the person as a bus driver; or
20 (2) a person the person intends to employ as a bus
21 driver.

22 (b) Except as provided by Subsections (c) and (d), a person
23 that contracts with a school district, public charter district
24 [~~open-enrollment charter school~~], private school, regional
25 education service center, or shared services arrangement to provide
26 transportation services shall submit to the district, school,
27 service center, or shared services arrangement the name and other

1 identification data required to obtain criminal history record
2 information of each person described by Subsection (a). If the
3 district, school, service center, or shared services arrangement
4 obtains information that a person described by Subsection (a) has
5 been convicted of a felony or a misdemeanor involving moral
6 turpitude, the district, school, service center, or shared services
7 arrangement shall inform the chief personnel officer of the person
8 with whom the district, school, service center, or shared services
9 arrangement has contracted, and the person may not employ that
10 person to drive a bus on which students are transported without the
11 permission of the board of trustees of the district or service
12 center, the governing body of the public charter district
13 [~~open-enrollment charter school~~], or the chief executive officer of
14 the private school or shared services arrangement.

15 (c) A commercial transportation company that contracts with
16 a school district, public charter district [~~open-enrollment~~
17 ~~charter school~~], private school, regional education service
18 center, or shared services arrangement to provide transportation
19 services may obtain from a federal or state [~~any~~] law enforcement or
20 criminal justice agency all criminal history record information
21 that relates to:

22 (1) a person employed by the commercial transportation
23 company as a bus driver, bus monitor, or bus aide; or

24 (2) a person the commercial transportation company
25 intends to employ as a bus driver, bus monitor, or bus aide.

26 (d) If the commercial transportation company obtains
27 information that a person employed or to be employed by the company

1 has been convicted of a felony or a misdemeanor involving moral
2 turpitude, the company may not employ that person to drive or to
3 serve as a bus monitor or bus aide on a bus on which students are
4 transported without the permission of the board of trustees of the
5 district or service center, the governing body of the public
6 charter district [~~open-enrollment charter school~~], or the chief
7 executive officer of the private school or shared services
8 arrangement. Subsections (a) and (b) do not apply if information is
9 obtained as provided by Subsection (c).

10 SECTION 4.14. Section 25.087, Education Code, is amended by
11 amending Subsection (b) and adding Subsection (c) to read as
12 follows:

13 (b) A school district shall excuse a student from attending
14 school for:

15 (1) the following purposes, including travel for those
16 purposes:

17 (A) [~~purpose of~~] observing religious holy days;

18 (B) appearing at a governmental office to
19 complete paperwork required in connection with the student's
20 application for United States citizenship or to take part in a
21 naturalization oath ceremony;

22 (C) attending an appointment with the student's
23 probation officer;

24 (D) attending an adoption proceeding involving
25 the student; or

26 (E) attending a required court appearance; or

27 (2) a [~~, including traveling for that purpose.~~ A

1 ~~school district shall excuse a student for~~ temporary absence
2 resulting from health care professionals if that student commences
3 classes or returns to school on the same day of the appointment.

4 (c) A student whose absence is excused under Subsection (b)
5 ~~[this subsection]~~ may not be penalized for that absence and shall be
6 counted as if the student attended school for purposes of
7 calculating the average daily attendance of students in the school
8 district. A student whose absence is excused under Subsection (b)
9 ~~[this subsection]~~ shall be allowed a reasonable time to make up
10 school work missed on those days. If the student satisfactorily
11 completes the school work, the day of absence shall be counted as a
12 day of compulsory attendance.

13 SECTION 4.15. Section 25.088, Education Code, is amended to
14 read as follows:

15 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school
16 attendance officer may be selected by:

- 17 (1) the county school trustees of any county;
18 (2) the board of trustees of any school district or the
19 boards of trustees of two or more school districts jointly; or
20 (3) the governing body of a public charter district
21 ~~[an open-enrollment charter school]~~.

22 SECTION 4.16. Section 25.089(a), Education Code, is amended
23 to read as follows:

24 (a) An attendance officer may be compensated from the funds
25 of the county, independent school district, or public charter
26 district ~~[open-enrollment charter school]~~, as applicable.

27 SECTION 4.17. Section 25.090(b), Education Code, is amended

1 to read as follows:

2 (b) If the governing body of a public charter district [~~an~~
3 ~~open-enrollment charter school~~] has not selected an attendance
4 officer for a district campus, the duties of attendance officer
5 shall be performed by the peace officers of the county in which the
6 campus [~~school~~] is located.

7 SECTION 4.18. Sections 25.093(d) and (e), Education Code,
8 are amended to read as follows:

9 (d) A fine collected under this section shall be deposited
10 as follows:

11 (1) one-half shall be deposited to the credit of the
12 operating fund of, as applicable:

13 (A) the school district in which the child
14 attends school;

15 (B) the public charter district [~~open-enrollment~~
16 ~~charter school~~] the child attends; or

17 (C) the juvenile justice alternative education
18 program that the child has been ordered to attend; and

19 (2) one-half shall be deposited to the credit of:

20 (A) the general fund of the county, if the
21 complaint is filed in the justice court or the constitutional
22 county court; or

23 (B) the general fund of the municipality, if the
24 complaint is filed in municipal court.

25 (e) At the trial of any person charged with violating this
26 section, the attendance records of the child may be presented in
27 court by any authorized employee of the school district or public

1 charter district [~~open-enrollment charter school~~], as applicable.

2 SECTION 4.19. Sections 25.095(a) and (b), Education Code,
3 are amended to read as follows:

4 (a) A school district or public charter district
5 [~~open-enrollment charter school~~] shall notify a student's parent in
6 writing at the beginning of the school year that if the student is
7 absent from school on 10 or more days or parts of days within a
8 six-month period in the same school year or on three or more days or
9 parts of days within a four-week period:

10 (1) the student's parent is subject to prosecution
11 under Section 25.093; and

12 (2) the student is subject to prosecution under
13 Section 25.094 or to referral to a juvenile court in a county with a
14 population of less than 100,000 for conduct that violates that
15 section.

16 (b) A school district or public charter district shall
17 notify a student's parent if the student has been absent from
18 school, without excuse under Section 25.087, on three days or parts
19 of days within a four-week period. The notice must:

20 (1) inform the parent that:

21 (A) it is the parent's duty to monitor the
22 student's school attendance and require the student to attend
23 school; and

24 (B) the parent is subject to prosecution under
25 Section 25.093; and

26 (2) request a conference between school officials and
27 the parent to discuss the absences.

1 SECTION 4.20. Section 25.0951(a), Education Code, as
2 amended by H.B. No. 1575, Acts of the 79th Legislature, Regular
3 Session, 2005, is amended to read as follows:

4 (a) If a student fails to attend school without excuse on 10
5 or more days or parts of days within a six-month period in the same
6 school year, a school district or public charter district shall
7 within seven school days of the student's last absence:

8 (1) file a complaint against the student or the
9 student's parent or both in a county, justice, or municipal court
10 for an offense under Section 25.093 or 25.094, as appropriate, or
11 refer the student to a juvenile court in a county with a population
12 of less than 100,000 for conduct that violates Section 25.094; or

13 (2) refer the student to a juvenile court for conduct
14 indicating a need for supervision under Section 51.03(b)(2), Family
15 Code.

16 SECTION 4.21. Section 25.0951(b), Education Code, is
17 amended to read as follows:

18 (b) If a student fails to attend school without excuse on
19 three or more days or parts of days within a four-week period but
20 does not fail to attend school for the time described by Subsection
21 (a), the school district or public charter district may:

22 (1) file a complaint against the student or the
23 student's parent or both in a county, justice, or municipal court
24 for an offense under Section 25.093 or 25.094, as appropriate, or
25 refer the student to a juvenile court in a county with a population
26 of less than 100,000 for conduct that violates Section 25.094; or

27 (2) refer the student to a juvenile court for conduct

1 indicating a need for supervision under Section 51.03(b)(2), Family
2 Code.

3 SECTION 4.22. Sections 26.0085(a), (c), (d), and (e),
4 Education Code, are amended to read as follows:

5 (a) A school district or public charter district
6 [~~open-enrollment charter school~~] that seeks to withhold
7 information from a parent who has requested public information
8 relating to the parent's child under Chapter 552, Government Code,
9 and that files suit as described by Section 552.324, Government
10 Code, to challenge a decision by the attorney general issued under
11 Subchapter G, Chapter 552, Government Code, must bring the suit not
12 later than the 30th calendar day after the date the school district
13 or public charter district [~~open-enrollment charter school~~]
14 receives the decision of the attorney general being challenged.

15 (c) Notwithstanding any other law, a school district or
16 public charter district [~~open-enrollment charter school~~] may not
17 appeal the decision of a court in a suit filed under Subsection (a).
18 This subsection does not affect the right of a parent to appeal the
19 decision.

20 (d) If the school district or public charter district
21 [~~open-enrollment charter school~~] does not bring suit within the
22 period established by Subsection (a), the school district or public
23 charter district [~~open-enrollment charter school~~] shall comply
24 with the decision of the attorney general.

25 (e) A school district or public charter district
26 [~~open-enrollment charter school~~] that receives a request from a
27 parent for public information relating to the parent's child shall

1 comply with Chapter 552, Government Code. If an earlier deadline
2 for bringing suit is established under Chapter 552, Government
3 Code, Subsection (a) does not apply. This section does not affect
4 the earlier deadline for purposes of Section 552.353(b)(3),
5 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer
6 for public information.

7 SECTION 4.23. Section 28.0211(j), Education Code, is
8 amended to read as follows:

9 (j) A school district [~~or open-enrollment charter school~~]
10 shall provide students required to attend accelerated programs
11 under this section with transportation to those programs if the
12 programs occur outside of regular school hours.

13 SECTION 4.24. Section 29.010(f), Education Code, is amended
14 to read as follows:

15 (f) This section does not create an obligation for or impose
16 a requirement on a school district [~~or open-enrollment charter~~
17 ~~school~~] that is not also created or imposed under another state law
18 or a federal law.

19 SECTION 4.25. Sections 29.012(a) and (c), Education Code,
20 are amended to read as follows:

21 (a) Except as provided by Subsection (b)(2), not later than
22 the third day after the date a person 22 years of age or younger is
23 placed in a residential facility, the residential facility shall:

24 (1) if the person is three years of age or older,
25 notify the school district in which the facility is located, unless
26 the facility is a public charter district [~~an open-enrollment~~
27 ~~charter school~~]; or

1 (2) if the person is younger than three years of age,
2 notify a local early intervention program in the area in which the
3 facility is located.

4 (c) For purposes of enrollment in a school, a person who
5 resides in a residential facility is considered a resident of the
6 school district or geographical area served by the public charter
7 district campus [~~open-enrollment charter school~~] in which the
8 facility is located.

9 SECTION 4.26. Sections 29.062(c)-(e), Education Code, are
10 amended to read as follows:

11 (c) Not later than the 30th day after the date of an on-site
12 monitoring inspection, the agency shall report its findings to the
13 school district [~~or open-enrollment charter school~~] and to the
14 division of accreditation.

15 (d) The agency shall notify a school district [~~or~~
16 ~~open-enrollment charter school~~] found in noncompliance in writing,
17 not later than the 30th day after the date of the on-site
18 monitoring. The district [~~or open-enrollment charter school~~] shall
19 take immediate corrective action.

20 (e) If a school district [~~or open-enrollment charter~~
21 ~~school~~] fails to satisfy appropriate standards adopted by the
22 commissioner for purposes of Subsection (a), the agency shall apply
23 sanctions, which may include the removal of accreditation, loss of
24 foundation school funds, or both.

25 SECTION 4.27. Sections 29.087(a)-(c), (e), (k), and (l),
26 Education Code, are amended to read as follows:

27 (a) The agency shall develop a process by which a school

1 district or public charter district [~~open-enrollment charter~~
2 ~~school~~] may apply to the commissioner for authority to operate a
3 program to prepare eligible students to take a high school
4 equivalency examination.

5 (b) Any school district or public charter district
6 [~~open-enrollment charter school~~] may apply for authorization to
7 operate a program under this section. As part of the application
8 process, the commissioner shall require a school district or public
9 charter district [~~or school~~] to provide information regarding the
10 operation of any similar program during the preceding five years.

11 (b-1) A school district or public charter district
12 [~~open-enrollment charter school~~] authorized by the commissioner on
13 or before August 31, 2003, to operate a program under this section
14 may continue to operate that program in accordance with this
15 section.

16 (c) A school district or public charter district
17 [~~open-enrollment charter school~~] may not increase enrollment of
18 students in a program authorized by this section by more than five
19 percent of the number of students enrolled in the similar program
20 operated by the school district or public charter district [~~or~~
21 ~~school~~] during the 2000-2001 school year.

22 (e) A school district or public charter district
23 [~~open-enrollment charter school~~] shall inform each student who has
24 completed a program authorized by this section of the time and place
25 at which the student may take the high school equivalency
26 examination. Notwithstanding any provision of this section, a
27 student may not take the high school equivalency examination except

1 as authorized by Section 7.111.

2 (k) The board of trustees of a school district or the
3 governing body [~~board~~] of a public charter district [~~an~~
4 ~~open-enrollment charter school~~] shall:

5 (1) hold a public hearing concerning the proposed
6 application of the school district or public charter district [~~or~~
7 ~~school~~] before applying to operate a program authorized by this
8 section; and

9 (2) subsequently hold a public hearing annually to
10 review the performance of the program.

11 (l) The commissioner may revoke a school district's or
12 public charter district's [~~open-enrollment charter school's~~]
13 authorization under this section after consideration of relevant
14 factors, including performance of students participating in the
15 school district's or public charter district's [~~or school's~~]
16 program on assessment instruments required under Chapter 39, the
17 percentage of students participating in the school district's or
18 public charter district's [~~or school's~~] program who complete the
19 program and perform successfully on the high school equivalency
20 examination, and other criteria adopted by the commissioner. A
21 decision by the commissioner under this subsection is final and may
22 not be appealed.

23 SECTION 4.28. Sections 29.155(a)-(d), (i), and (j),
24 Education Code, are amended to read as follows:

25 (a) From amounts appropriated for the purposes of this
26 section, the commissioner may make grants to school districts and
27 public charter districts [~~open-enrollment charter schools~~] to

1 implement or expand kindergarten and prekindergarten programs by:

2 (1) operating an existing half-day kindergarten or
3 prekindergarten program on a full-day basis; or

4 (2) implementing a prekindergarten program at a campus
5 that does not have a prekindergarten program.

6 (b) A school district or public charter district
7 [~~open-enrollment charter school~~] may use funds received under this
8 section to employ teachers and other personnel for a kindergarten
9 or prekindergarten program and acquire curriculum materials or
10 equipment, including computers, for use in kindergarten and
11 prekindergarten programs.

12 (c) To be eligible for a grant under this section, a school
13 district or public charter district [~~open-enrollment charter~~
14 ~~school~~] must apply to the commissioner in the manner and within the
15 time prescribed by the commissioner.

16 (d) In awarding grants under this section, the commissioner
17 shall give priority to districts and public charter districts
18 [~~open-enrollment charter schools~~] in which the level of performance
19 of students on the assessment instruments administered under
20 Section 39.023 to students in grade three is substantially below
21 the average level of performance on those assessment instruments
22 for all school districts in the state.

23 (i) In carrying out the purposes of Subsection (g), a school
24 district or public charter district [~~open-enrollment charter~~
25 ~~school~~] may use funds granted to the school district or public
26 charter district [~~or school~~] under this section [~~subsection~~] in
27 contracting with another entity, including a private entity.

1 (j) If a school district or public charter district
2 [~~open-enrollment charter school~~] returns to the commissioner funds
3 granted under this section, the commissioner may grant those funds
4 to another entity, including a private entity, for the purposes of
5 Subsection (g).

6 SECTION 4.29. Section 29.905(b), Education Code, is amended
7 to read as follows:

8 (b) The agency shall make the program available to a school
9 on the request of the board of trustees of [~~or~~] the school district
10 of which the school is a part, or if the school is a public charter
11 district [~~an open-enrollment charter school~~], on the request of the
12 governing body of the public charter district [~~school~~].

13 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is
14 amended by adding Section 32.1011 to read as follows:

15 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.
16 This subchapter applies to a public charter district as if the
17 public charter district were a school district.

18 SECTION 4.31. Section 32.102, Education Code, is amended to
19 read as follows:

20 Sec. 32.102. AUTHORITY. (a) As provided by this
21 subchapter, a school district [~~or open-enrollment charter school~~]
22 may transfer to a student enrolled in the district [~~or school~~]:

23 (1) any data processing equipment donated to the
24 district [~~or school~~], including equipment donated by:

25 (A) a private donor; or

26 (B) a state eleemosynary institution or a state
27 agency under Section 2175.128, Government Code;

1 (2) any equipment purchased by the district [~~or~~
2 ~~school~~], to the extent consistent with Section 32.105; and

3 (3) any surplus or salvage equipment owned by the
4 district [~~or school~~].

5 (b) A school district [~~or open-enrollment charter school~~]
6 may accept:

7 (1) donations of data processing equipment for
8 transfer under this subchapter; and

9 (2) any gifts, grants, or donations of money or
10 services to purchase, refurbish, or repair data processing
11 equipment under this subchapter.

12 SECTION 4.32. Section 32.103, Education Code, is amended to
13 read as follows:

14 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is
15 eligible to receive data processing equipment under this subchapter
16 only if the student does not otherwise have home access to data
17 processing equipment, as determined by the student's school
18 district [~~or open-enrollment charter school~~].

19 (b) In transferring data processing equipment to students,
20 a school district [~~or open-enrollment charter school~~] shall give
21 preference to educationally disadvantaged students.

22 SECTION 4.33. Section 32.104, Education Code, is amended to
23 read as follows:

24 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before
25 transferring data processing equipment to a student, a school
26 district [~~or open-enrollment charter school~~] must:

27 (1) adopt rules governing transfers under this

1 subchapter, including provisions for technical assistance to the
2 student by the district [~~or school~~];

3 (2) determine that the transfer serves a public
4 purpose and benefits the district [~~or school~~]; and

5 (3) remove from the equipment any offensive,
6 confidential, or proprietary information, as determined by the
7 district [~~or school~~].

8 SECTION 4.34. Section 32.105, Education Code, is amended to
9 read as follows:

10 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school
11 district [~~or open-enrollment charter school~~] may spend public funds
12 to:

13 (1) purchase, refurbish, or repair any data processing
14 equipment transferred to a student under this subchapter; and

15 (2) store, transport, or transfer data processing
16 equipment under this subchapter.

17 SECTION 4.35. Section 32.106, Education Code, is amended to
18 read as follows:

19 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided
20 by Subsection (b), a student who receives data processing equipment
21 from a school district [~~or open-enrollment charter school~~] under
22 this subchapter shall return the equipment to the district [~~or
23 school~~] not later than the earliest of:

24 (1) five years after the date the student receives the
25 equipment;

26 (2) the date the student graduates;

27 (3) the date the student transfers to another school

1 district [~~or open-enrollment charter school~~]; or

2 (4) the date the student withdraws from school.

3 (b) Subsection (a) does not apply if, at the time the
4 student is required to return the data processing equipment under
5 that subsection, the district [~~or school~~] determines that the
6 equipment has no marketable value.

7 SECTION 4.36. Section 33.007, Education Code, is amended to
8 read as follows:

9 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)
10 Each counselor at an elementary, middle, or junior high school,
11 including a public charter district [~~an open-enrollment charter~~
12 ~~school~~] offering those grades, shall advise students and their
13 parents or guardians regarding the importance of higher education,
14 coursework designed to prepare students for higher education, and
15 financial aid availability and requirements.

16 (b) During the first school year a student is enrolled in a
17 high school or at the high school level in a public charter district
18 [~~an open-enrollment charter school~~], and again during a student's
19 senior year, a counselor shall provide information about higher
20 education to the student and the student's parent or guardian. The
21 information must include information regarding:

22 (1) the importance of higher education;

23 (2) the advantages of completing the recommended or
24 advanced high school program adopted under Section 28.025(a);

25 (3) the disadvantages of taking courses to prepare for
26 a high school equivalency examination relative to the benefits of
27 taking courses leading to a high school diploma;

- 1 (4) financial aid eligibility;
- 2 (5) instruction on how to apply for federal financial
3 aid;
- 4 (6) the center for financial aid information
5 established under Section 61.0776;
- 6 (7) the automatic admission of certain students to
7 general academic teaching institutions as provided by Section
8 51.803; and
- 9 (8) the eligibility and academic performance
10 requirements for the TEXAS Grant as provided by Subchapter M,
11 Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature,
12 Regular Session, 1999~~].

13 SECTION 4.37. Section 33.901, Education Code, is amended to
14 read as follows:

15 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of
16 the students enrolled in one or more schools in a school district or
17 enrolled in a public charter district campus [~~an open-enrollment
18 charter school~~] are eligible for free or reduced-price breakfasts
19 under the national school breakfast program provided for by the
20 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing
21 body of the district or the public charter district
22 [~~open-enrollment charter school~~] shall participate in the program
23 and make the benefits of the program available to all eligible
24 students in the schools or campus [~~school~~].

25 SECTION 4.38. Section 37.007(e), Education Code, is amended
26 to read as follows:

27 (e) In accordance with 20 U.S.C. Section 7151, a local

1 educational agency, including a school district, home-rule school
2 district, or public charter district [~~open-enrollment charter~~
3 ~~school~~], shall expel a student who brings a firearm, as defined by
4 18 U.S.C. Section 921, to school. The student must be expelled from
5 the student's regular campus for a period of at least one year,
6 except that:

7 (1) the superintendent or other chief administrative
8 officer of the school district or of the other local educational
9 agency, as defined by 20 U.S.C. Section 7801, may modify the length
10 of the expulsion in the case of an individual student;

11 (2) the district or other local educational agency
12 shall provide educational services to an expelled student in a
13 disciplinary alternative education program as provided by Section
14 37.008 if the student is younger than 10 years of age on the date of
15 expulsion; and

16 (3) the district or other local educational agency may
17 provide educational services to an expelled student who is 10 years
18 of age or older in a disciplinary alternative education program as
19 provided in Section 37.008.

20 SECTION 4.39. Section 37.008(j), Education Code, as amended
21 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
22 2005, is amended to read as follows:

23 (j) If a student placed in a disciplinary alternative
24 education program enrolls in another school district before the
25 expiration of the period of placement, the board of trustees of the
26 district requiring the placement shall provide to the district in
27 which the student enrolls, at the same time other records of the

1 student are provided, a copy of the placement order. The district
2 in which the student enrolls shall inform each educator who will
3 have responsibility for, or will be under the direction and
4 supervision of an educator who will have responsibility for, the
5 instruction of the student of the contents of the placement order.
6 Each educator shall keep the information received under this
7 subsection confidential from any person not entitled to the
8 information under this subsection, except that the educator may
9 share the information with the student's parent or guardian as
10 provided for by state or federal law. The district in which the
11 student enrolls may continue the disciplinary alternative
12 education program placement under the terms of the order or may
13 allow the student to attend regular classes without completing the
14 period of placement. A school district may take any action
15 permitted by this subsection if:

16 (1) the student was placed in a disciplinary
17 alternative education program by a public charter district [~~an~~
18 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and
19 the public charter district [~~school~~] provides to the school
20 district a copy of the placement order; or

21 (2) the student was placed in a disciplinary
22 alternative education program by a school district in another state
23 and:

24 (A) the out-of-state district provides to the
25 school district a copy of the placement order; and

26 (B) the grounds for the placement by the
27 out-of-state district are grounds for placement in the school

1 district in which the student is enrolling.

2 SECTION 4.40. Section 37.022(a)(2), Education Code, as
3 renumbered by Section 23.001(16), H.B. No. 2018, Acts of the 79th
4 Legislature, Regular Session, 2005, is amended to read as follows:

5 (2) "District or school" includes an independent
6 school district, a home-rule school district, a campus or campus
7 program charter holder, or a public charter district [~~an~~
8 ~~open-enrollment charter school~~].

9 SECTION 4.41. Section 44.008(a), Education Code, is amended
10 to read as follows:

11 (a) The board of school trustees of each school district
12 shall have its school district fiscal accounts audited annually at
13 district expense by a certified or public accountant holding a
14 permit from the Texas State Board of Public Accountancy. Except as
15 determined impracticable by the commissioner, the accountant must
16 have completed at least one peer-reviewed audit of a school
17 district, governmental entity, quasi-governmental entity, or
18 nonprofit corporation and received an unqualified opinion from the
19 peer review. The audit must be completed following the close of
20 each fiscal year.

21 SECTION 4.42. Section 46.012, Education Code, is amended to
22 read as follows:

23 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
24 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
25 ~~open-enrollment charter school~~] is not entitled to an allotment
26 under this subchapter.

27 SECTION 4.43. Section 46.036, Education Code, is amended to

1 read as follows:

2 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
3 ~~[OPEN-ENROLLMENT CHARTER SCHOOLS]~~. A public charter district ~~[An~~
4 ~~open-enrollment charter school]~~ is not entitled to an allotment
5 under this subchapter.

6 SECTION 4.44. Section 53.02(13), Education Code, is amended
7 to read as follows:

8 (13) "Authorized charter school" means a public
9 charter district ~~[an open-enrollment charter school]~~ that holds a
10 charter granted under Chapter 11A ~~[Subchapter D, Chapter 12]~~.

11 SECTION 4.45. The heading to Section 53.351, Education
12 Code, is amended to read as follows:

13 Sec. 53.351. BONDS FOR AUTHORIZED ~~[OPEN-ENROLLMENT]~~
14 CHARTER SCHOOL FACILITIES.

15 SECTION 4.46. Sections 53.351(a), (c), (d), (f), and (g),
16 Education Code, are amended to read as follows:

17 (a) The Texas Public Finance Authority shall establish a
18 nonprofit corporation to issue revenue bonds on behalf of
19 authorized ~~[open-enrollment]~~ charter schools for the acquisition,
20 construction, repair, or renovation of educational facilities of
21 those schools.

22 (c) The corporation has all powers granted under the Texas
23 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
24 Texas Civil Statutes) for the purpose of aiding authorized
25 ~~[open-enrollment]~~ charter schools in providing educational
26 facilities. The corporation may make expenditures from the fund
27 described by Subsection (e) and may solicit and accept grants for

1 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,
2 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and
3 govern the corporation and its procedures and bonds.

4 (d) The corporation shall adopt rules governing the
5 issuance of bonds on behalf of an authorized [~~open-enrollment~~]
6 charter school.

7 (f) A revenue bond issued under this section is not a debt of
8 the state or any state agency, political corporation, or political
9 subdivision of the state and is not a pledge of the faith and credit
10 of any of these entities. A revenue bond is payable solely from the
11 revenue of the authorized [~~open-enrollment~~] charter school on whose
12 behalf the bond is issued. A revenue bond issued under this section
13 must contain on its face a statement to the effect that:

14 (1) neither the state nor a state agency, political
15 corporation, or political subdivision of the state is obligated to
16 pay the principal of or interest on the bond; and

17 (2) neither the faith and credit nor the taxing power
18 of the state or any state agency, political corporation, or
19 political subdivision of the state is pledged to the payment of the
20 principal of or interest on the bond.

21 (g) An educational facility financed in whole or in part
22 under this section is exempt from taxation if the facility:

23 (1) is owned by an authorized [~~open-enrollment~~]
24 charter school;

25 (2) is held for the exclusive benefit of the school;
26 and

27 (3) is held for the exclusive use of the students,

1 faculty, and staff members of the school.

2 SECTION 4.47. Section 411.097(c), Government Code, is
3 amended to read as follows:

4 (c) A public charter district [~~An open-enrollment charter~~
5 ~~school~~] is entitled to obtain from the department criminal history
6 record information maintained by the department that relates to a
7 person who:

8 (1) is a member of the governing body of the public
9 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],
10 Education Code; or

11 (2) has agreed to serve as a member of the governing
12 body of the public charter district [~~school~~].

13 SECTION 4.48. Sections 2175.128(a) and (b), Government
14 Code, are amended to read as follows:

15 (a) If a disposition of a state agency's surplus or salvage
16 data processing equipment is not made under Section 2175.125 or
17 2175.184, the state agency shall transfer the equipment to:

18 (1) a school district or public charter district
19 [~~open-enrollment charter school~~] in this state under Subchapter C,
20 Chapter 32, Education Code;

21 (2) an assistance organization specified by the school
22 district or public charter district; or

23 (3) the Texas Department of Criminal Justice.

24 (b) If a disposition of the surplus or salvage data
25 processing equipment of a state eleemosynary institution or an
26 institution or agency of higher education is not made under other
27 law, the institution or agency shall transfer the equipment to:

1 (1) a school district or public charter district
2 [~~open-enrollment charter school~~] in this state under Subchapter C,
3 Chapter 32, Education Code;

4 (2) an assistance organization specified by the school
5 district or public charter district; or

6 (3) the Texas Department of Criminal Justice.

7 SECTION 4.49. Section 2306.630(a), Government Code, is
8 amended to read as follows:

9 (a) Subject to Subsection (b), the following entities may
10 apply to receive a grant for an eligible project under this
11 subchapter:

12 (1) a private, nonprofit, tax-exempt organization
13 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26
14 U.S.C. Section 501(c)(3));

15 (2) a public agency that operates a community-based
16 youth employment training program;

17 (3) a community housing development organization
18 certified by the state;

19 (4) an educational facility approved by the Texas
20 Youth Commission;

21 (5) a corps-based community service organization;

22 (6) a public charter district [~~an open-enrollment~~
23 ~~charter school~~] approved by the State Board of Education [~~Texas~~
24 ~~Education Agency~~]; or

25 (7) another entity authorized by board rule.

26 SECTION 4.50. Section 1575.002(6), Insurance Code, is
27 amended to read as follows:

1 (6) "Public school" means:

2 (A) a school district;

3 (B) another educational district whose employees
4 are members of the Teacher Retirement System of Texas;

5 (C) a regional education service center
6 established under Chapter 8, Education Code; or

7 (D) a public charter district [~~an~~
8 ~~open-enrollment charter school~~] established under Chapter 11A
9 [~~Subchapter D, Chapter 12~~], Education Code.

10 SECTION 4.51. Section 1579.002(3), Insurance Code, is
11 amended to read as follows:

12 (3) "Charter school" means a public charter district
13 [~~an open-enrollment charter school~~] established under Chapter 11A
14 [~~Subchapter D, Chapter 12~~], Education Code.

15 SECTION 4.52. Section 140.005, Local Government Code, is
16 amended to read as follows:

17 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,
18 OR OTHER DISTRICT. The governing body of a school district, public
19 charter district [~~open-enrollment charter school~~], junior college
20 district, or a district or authority organized under Article III,
21 Section 52, or Article XVI, Section 59, of the Texas Constitution,
22 shall prepare an annual financial statement showing for each fund
23 subject to the authority of the governing body during the fiscal
24 year:

25 (1) the total receipts of the fund, itemized by source
26 of revenue, including taxes, assessments, service charges, grants
27 of state money, gifts, or other general sources from which funds are

1 derived;

2 (2) the total disbursements of the fund, itemized by
3 the nature of the expenditure; and

4 (3) the balance in the fund at the close of the fiscal
5 year.

6 SECTION 4.53. Section 140.006(c), Local Government Code, is
7 amended to read as follows:

8 (c) The presiding officer of a school district shall submit
9 a financial statement prepared under Section 140.005 to a daily,
10 weekly, or biweekly newspaper published within the boundaries of
11 the district. If a daily, weekly, or biweekly newspaper is not
12 published within the boundaries of the school district, the
13 financial statement shall be published in the manner provided by
14 Subsections (a) and (b). The financial statement of a public
15 charter district [~~an open-enrollment charter school~~] shall be made
16 available in the manner provided by Chapter 552, Government Code.

17 SECTION 4.54. Section 375.303(2), Local Government Code, is
18 amended to read as follows:

19 (2) "Eligible project" means a program authorized by
20 Section 379A.051 and a project as defined by Sections 2(11) and
21 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,
22 Vernon's Texas Civil Statutes). Notwithstanding this definition,
23 seeking a charter for or operating a public charter district [~~an~~
24 ~~open-enrollment charter school~~] authorized by Chapter 11A
25 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an
26 eligible project.

27 SECTION 4.55. Sections 375.308(b) and (c), Local Government

1 Code, are amended to read as follows:

2 (b) An authority may not:

3 (1) issue bonds or notes without the prior approval of
4 the governing body of the municipality that created the authority;

5 (2) seek a charter for or operate, within the
6 boundaries of the authority, a public charter district [~~an~~
7 ~~open-enrollment charter school~~] authorized by Chapter 11A
8 [~~Subchapter D, Chapter 12~~], Education Code; or

9 (3) levy ad valorem property taxes.

10 (c) A municipality may not seek a charter for or operate a
11 public charter district [~~an open-enrollment charter school~~]
12 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education
13 Code, within the boundaries of the authority.

14 SECTION 4.56. Section 541.201(15), Transportation Code, is
15 amended to read as follows:

16 (15) "School activity bus" means a bus designed to
17 accommodate more than 15 passengers, including the operator, that
18 is owned, operated, rented, or leased by a school district, county
19 school, public charter district [~~open-enrollment charter school~~],
20 regional education service center, or shared services arrangement
21 and that is used to transport public school students on a
22 school-related activity trip, other than on routes to and from
23 school. The term does not include a chartered bus, a bus operated
24 by a mass transit authority, or a school bus.

25 SECTION 4.57. Section 57.042(9), Utilities Code, is amended
26 to read as follows:

27 (9) "Public school" means a public elementary or

1 secondary school, including a public charter district [~~an~~
2 ~~open-enrollment charter school~~], a home-rule school district
3 school, and a school with a campus or campus program charter.

4 SECTION 4.58. Section 4(2), Chapter 22, Acts of the 57th
5 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
6 Texas Civil Statutes), is amended to read as follows:

7 (2) "Educational institution" means a school district
8 or a public charter district [~~an open-enrollment charter school~~].

9 SECTION 4.59. The following laws are repealed:

10 (1) Section 12.106, Education Code; and

11 (2) Section 40, Chapter 1504, Acts of the 77th
12 Legislature, Regular Session, 2001.

13 SECTION 4.60. Notwithstanding the repeal of Sections 12.107
14 and 12.128, Education Code, by this Act, those sections continue to
15 apply to state funds and property received or purchased by an
16 open-enrollment charter school before September 1, 2006.

17 SECTION 4.61. The changes in law made by Sections 4.04-4.60
18 of this article apply beginning August 1, 2006, except that
19 Sections 4.10, 4.11, 4.41, and 4.59 apply beginning September 1,
20 2005.

21 [ARTICLES 5-6 RESERVED]

22 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;

23 TRANSFER OF POWERS AND DUTIES

24 SECTION 7.01. Section 21.0031(a), Education Code, is
25 amended to read as follows:

26 (a) An employee's probationary, continuing, or term
27 contract under this chapter is void if the employee:

1 (1) does not hold a certificate or permit issued under
2 Subchapter B [~~by the State Board for Educator Certification~~]; or

3 (2) fails to fulfill the requirements necessary to
4 extend the employee's temporary or emergency certificate or permit.

5 SECTION 7.02. Sections 21.004(a)-(e), Education Code, are
6 amended to read as follows:

7 (a) To the extent that funds are available, the agency [~~the~~
8 ~~State Board for Educator Certification,~~] and the Texas Higher
9 Education Coordinating Board shall develop and implement programs
10 to identify talented students and recruit those students and
11 persons, including high school and undergraduate students,
12 mid-career and retired professionals, honorably discharged and
13 retired military personnel, and members of underrepresented gender
14 and ethnic groups, into the teaching profession.

15 (b) From available funds, the agency [~~the State Board for~~
16 ~~Educator Certification,~~] and the Texas Higher Education
17 Coordinating Board shall develop and distribute materials that
18 emphasize the importance of the teaching profession and inform
19 individuals about state-funded loan forgiveness and tuition
20 assistance programs.

21 (c) The commissioner, in cooperation with the commissioner
22 of higher education [~~and the executive director of the State Board~~
23 ~~for Educator Certification~~], shall annually identify the need for
24 teachers in specific subject areas and geographic regions and among
25 underrepresented groups. The commissioner shall give priority to
26 developing and implementing recruitment programs to address those
27 needs from the agency's discretionary funds.

1 (d) The agency [~~, the State Board for Educator~~
2 ~~Certification,~~] and the Texas Higher Education Coordinating Board
3 shall encourage the business community to cooperate with local
4 schools to develop recruiting programs designed to attract and
5 retain capable teachers, including programs to provide summer
6 employment opportunities for teachers.

7 (e) The agency [~~, the State Board for Educator~~
8 ~~Certification,~~] and the Texas Higher Education Coordinating Board
9 shall encourage major education associations to cooperate in
10 developing a long-range program promoting teaching as a career and
11 to assist in identifying local activities and resources that may be
12 used to promote the teaching profession.

13 SECTION 7.03. Section 21.006, Education Code, is amended by
14 amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h)
15 to read as follows:

16 (a) In this section:

17 (1) "Abuse" [~~"abuse"~~] has the meaning assigned by
18 Section 261.001, Family Code, and includes any sexual conduct
19 involving an educator and a student or minor.

20 (2) "Board" means the Educators' Professional
21 Practices Board.

22 (b) In addition to the reporting requirement under Section
23 261.101, Family Code, the superintendent or director of a school
24 district, regional education service center, or shared services
25 arrangement shall notify the commissioner [~~State Board for Educator~~
26 ~~Certification~~] if the superintendent or director has reasonable
27 cause to believe that:

1 (1) an educator employed by or seeking employment by
2 the district, service center, or shared services arrangement has a
3 criminal record;

4 (2) an educator's employment at the district, service
5 center, or shared services arrangement was terminated based on a
6 determination that the educator:

7 (A) abused or otherwise committed an unlawful act
8 with a student or minor;

9 (B) possessed, transferred, sold, or distributed
10 a controlled substance, as defined by Chapter 481, Health and
11 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~
12 ~~subsequent amendments~~];

13 (C) illegally transferred, appropriated, or
14 expended funds or other property of the district, service center,
15 or shared services arrangement;

16 (D) attempted by fraudulent or unauthorized
17 means to obtain or alter a professional certificate or license for
18 the purpose of promotion or additional compensation; or

19 (E) committed a criminal offense or any part of a
20 criminal offense on school property or at a school-sponsored event;
21 or

22 (3) the educator resigned and reasonable evidence
23 supports a recommendation by the superintendent or director to
24 terminate the educator based on a determination that the educator
25 engaged in misconduct described by Subdivision (2).

26 (c) The superintendent or director must notify the
27 commissioner [~~State Board for Educator Certification~~] by filing a

1 report with the commissioner [~~board~~] not later than the seventh day
2 after the date the superintendent or director first learns about an
3 alleged incident of misconduct described by Subsection (b). The
4 report must be:

- 5 (1) in writing; and
- 6 (2) in a form prescribed by the board.

7 (e) A superintendent or director who in good faith and while
8 acting in an official capacity files a report with the commissioner
9 [~~State Board for Educator Certification~~] under this section is
10 immune from civil or criminal liability that might otherwise be
11 incurred or imposed.

12 (f) The board, acting on a recommendation of the
13 commissioner, [~~State Board for Educator Certification~~] shall
14 determine whether to impose sanctions against a superintendent or
15 director who fails to file a report in violation of Subsection (c).

16 (g) The commissioner [~~State Board for Educator~~
17 ~~Certification~~] shall adopt [~~propose~~] rules as necessary to
18 implement this section.

19 (h) The commissioner shall forward a report received under
20 this section to the board for use as the commissioner determines
21 appropriate in the execution of the board's duties.

22 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is
23 amended by adding Section 21.007 to read as follows:

24 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner
25 shall determine whether to recommend a sanction against an educator
26 to the Educators' Professional Practices Board under this chapter.
27 The board shall make a final determination regarding the imposition

1 of a sanction under this chapter.

2 SECTION 7.04. Sections 21.031 and 21.032, Education Code,
3 are amended to read as follows:

4 Sec. 21.031. PURPOSE. (a) The Educators' Professional
5 Practices [State] Board [~~for Educator Certification~~] is
6 established in the agency to [~~recognize public school educators as~~
7 ~~professionals and to grant educators the authority to govern the~~
8 ~~standards of their profession. The board shall~~] regulate and
9 oversee [~~all aspects of~~] the [~~certification, continuing education,~~
10 ~~and~~] standards of conduct of public school educators.

11 (b) The commissioner shall adopt rules governing the
12 certification of educators and continuing education for educators.
13 In adopting [~~In proposing~~] rules under this subchapter, the
14 commissioner [~~board~~] shall ensure that all candidates for
15 certification or renewal of certification demonstrate the
16 knowledge and skills necessary to improve the performance of the
17 diverse student population of this state.

18 Sec. 21.032. DEFINITION. In this subchapter, "board" means
19 the Educators' Professional Practices [State] Board [~~for Educator~~
20 ~~Certification~~].

21 SECTION 7.05. The heading to Section 21.033, Education
22 Code, is amended to read as follows:

23 Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [STATE]
24 BOARD [~~FOR EDUCATOR CERTIFICATION~~].

25 SECTION 7.06. Section 21.033, Education Code, is amended by
26 amending Subsection (a) and adding Subsections (a-1), (d), (e), and
27 (f) to read as follows:

1 (a) The board [~~State Board for Educator Certification~~] is
2 composed of 11 [~~14~~] members[~~. The commissioner of education shall~~
3 ~~appoint an employee of the agency to represent the commissioner as a~~
4 ~~nonvoting member. The commissioner of higher education shall~~
5 ~~appoint an employee of the Texas Higher Education Coordinating~~
6 ~~Board to represent the commissioner as a nonvoting member. The~~
7 ~~governor shall appoint a dean of a college of education in this~~
8 ~~state as a nonvoting member. The remaining 11 members are]~~
9 appointed by the commissioner [~~governor with the advice and consent~~
10 ~~of the senate,~~] as follows:

11 (1) six [~~four~~] members must be classroom teachers,
12 appointed as provided by Subsection (a-1) [~~employed in public~~
13 ~~schools~~];

14 (2) not more than two members of the board may [~~must~~]
15 be [~~public~~] school administrators; and

16 (3) a number of other members consistent with this
17 subsection who the commissioner determines are qualified [~~one~~
18 ~~member must be a public school counselor, and~~

19 [~~(4) four members must be citizens, three of whom are~~
20 ~~not and have not, in the five years preceding appointment, been~~
21 ~~employed by a public school district or by an educator preparation~~
22 ~~program in an institution of higher education and one of whom is not~~
23 ~~and has not been employed by a public school district or by an~~
24 ~~educator preparation program in an institution of higher~~
25 ~~education~~].

26 (a-1) In appointing a board member under Subsection (a)(1),
27 the commissioner shall:

1 (1) appoint teachers with at least five years'
2 experience as public school classroom teachers;

3 (2) give preference to teachers who have received
4 state or national awards for teaching excellence; and

5 (3) provide an opportunity for professional educator
6 associations to submit nominations for the appointment.

7 (d) The commissioner shall designate a member of the board
8 as the presiding officer of the board to serve in that capacity at
9 the pleasure of the commissioner.

10 (e) The agency shall provide administrative services for
11 the board as necessary.

12 (f) A reference in law to the State Board for Educator
13 Certification means the Educators' Professional Practices Board.

14 SECTION 7.07. Section 21.034, Education Code, is amended to
15 read as follows:

16 Sec. 21.034. TERMS; VACANCY. (a) The board members
17 [~~appointed by the governor~~] hold office for staggered terms of six
18 years with the terms of one-third, or as near to one-third as
19 possible, of the members expiring on February 1 of each
20 odd-numbered year. [~~A member appointed by the commissioner of~~
21 ~~education or the commissioner of higher education serves at the~~
22 ~~will of the appointing commissioner.~~]

23 (b) In the event of a vacancy during a term of a member
24 [~~appointed by the governor~~], the commissioner [~~governor~~] shall
25 appoint a replacement who meets the qualifications of the vacated
26 office to fill the unexpired portion of the term.

27 (c) A vacancy arises if a member [~~appointed by the governor~~]

1 no longer qualifies for the office to which the member was
2 appointed, as determined by the commissioner.

3 SECTION 7.075. Section 21.035, Education Code, as amended
4 by H.B. No. 1116, Acts of the 79th Legislature, Regular Session,
5 2005, is amended to read as follows:

6 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is
7 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
8 continued in existence as provided by that chapter, the board is
9 abolished and this subchapter expires on the date prescribed by
10 Section 7.004 for abolishment of the agency. [The Texas Education
11 Agency shall provide the board's administrative functions and
12 services.]

13 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is
14 amended by adding Section 21.0391 to read as follows:

15 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner
16 shall appoint an advisory committee composed of holders of each
17 class of educator certificate and stakeholders as required under
18 Chapter 2008, Government Code.

19 (b) The advisory committee shall recommend educator
20 certification standards under Section 21.041(b)(4) and educator
21 preparation program standards under Section 21.044 and propose
22 rules under those sections to the commissioner through negotiated
23 rulemaking under Chapter 2008, Government Code. For purposes of
24 that chapter, the advisory committee is considered to be the
25 negotiated rulemaking committee described by Section 2008.054,
26 Government Code. As provided by Section 2008.058, Government Code,
27 the commissioner may propose and adopt a rule that has not been

1 recommended or proposed by the advisory committee.

2 (c) The commissioner may not finally adopt or amend a rule
3 subject to this section unless the State Board of Education has
4 failed to reject the rule or amendment by an affirmative vote of
5 four-fifths of its members. A vote under this subsection may be
6 conducted by mail ballot, provided that the State Board of
7 Education has at least 30 days' written notice of the proposed final
8 rule adoption.

9 (d) Members of the advisory committee serve at the will of
10 the commissioner.

11 SECTION 7.09. Section 21.041, Education Code, is amended by
12 adding Subsection (a-1) and amending Subsection (b) to read as
13 follows:

14 (a-1) The board shall adopt rules that provide for the
15 adoption and amendment of an educator's code of ethics.

16 (b) The commissioner [~~board~~] shall adopt [~~propose~~] rules
17 that:

18 (1) provide for the issuance and renewal of educator
19 certificates [~~regulation of educators and the general~~
20 ~~administration of this subchapter~~] in a manner consistent with this
21 subchapter;

22 (2) specify the classes of educator certificates to be
23 issued, including emergency certificates;

24 (3) specify the period for which each class of
25 educator certificate is valid;

26 (4) specify the requirements for the issuance and
27 renewal of an educator certificate;

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

4 (6) provide for special or restricted certification of
5 educators, including certification of instructors of American Sign
6 Language;

7 (7) provide for disciplinary proceedings, including:

8 (A) the suspension or revocation of an educator
9 certificate, as provided by Chapter 2001, Government Code; and

10 (B) enforcement of an educator's code of ethics
11 adopted by the board;

12 (8) [~~provide for the adoption, amendment, and~~
13 ~~enforcement of an educator's code of ethics;~~

14 [~~(9)~~] provide for continuing education requirements;
15 [~~and~~]

16 (9) [~~(10)~~] provide for certification of persons
17 performing appraisals under Subchapter H; and

18 (10) provide for the regulation of educators in a
19 manner consistent with this subchapter.

20 SECTION 7.10. Section 21.044, Education Code, is amended to
21 read as follows:

22 Sec. 21.044. EDUCATOR PREPARATION. The commissioner
23 [~~board~~] shall adopt [~~propose~~] rules establishing the training
24 requirements a person must accomplish to obtain a certificate,
25 enter an internship, or enter an induction-year program. The
26 commissioner [~~board~~] shall specify the minimum academic
27 qualifications required for a certificate.

1 SECTION 7.11. Sections 21.045(b)-(d), Education Code, are
2 amended to read as follows:

3 (b) Each educator preparation program shall submit data
4 elements as required by the commissioner [~~board~~] for an annual
5 performance report to ensure access and equity. At a minimum, the
6 annual report must contain the performance data from Subsection (a)
7 and the following information, disaggregated by sex and ethnicity:

- 8 (1) the number of candidates who apply;
9 (2) the number of candidates admitted;
10 (3) the number of candidates retained;
11 (4) the number of candidates completing the program;
12 (5) the number of candidates employed in the
13 profession after completing the program; and
14 (6) the number of candidates retained in the
15 profession.

16 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules
17 establishing performance standards for the Accountability System
18 for Educator Preparation for accrediting educator preparation
19 programs. At a minimum, performance standards must be based on
20 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]
21 rules for the sanction of educator preparation programs and shall
22 annually review the accreditation status of each educator
23 preparation program.

24 (d) The commissioner [~~executive director of the board~~]
25 shall appoint an oversight team of educators to make
26 recommendations and provide assistance to educator preparation
27 programs that do not meet accreditation standards. If, after one

1 year, an educator preparation program has not fulfilled the
2 recommendations of the oversight team, the commissioner [~~executive~~
3 ~~director~~] shall appoint a person to administer and manage the
4 operations of the program. If the program does not improve after
5 two years, the commissioner [~~board~~] shall revoke the approval of
6 the program to prepare educators for state certification.

7 SECTION 7.12. Sections 21.046(c) and (d), Education Code,
8 are amended to read as follows:

9 (c) Because an effective principal is essential to school
10 improvement, the commissioner [~~board~~] shall ensure that:

11 (1) each candidate for certification as a principal is
12 of the highest caliber; and

13 (2) multi-level screening processes, validated
14 comprehensive assessment programs, and flexible internships with
15 successful mentors exist to determine whether a candidate for
16 certification as a principal possesses the essential knowledge,
17 skills, and leadership capabilities necessary for success.

18 (d) In creating the qualifications for certification as a
19 principal, the commissioner [~~board~~] shall consider the knowledge,
20 skills, and proficiencies for principals as developed by relevant
21 national organizations and the State Board of Education.

22 SECTION 7.13. Section 21.048(a), Education Code, is amended
23 to read as follows:

24 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
25 prescribing comprehensive examinations for each class of
26 certificate issued by the board.

27 SECTION 7.14. Sections 21.0481, 21.0482, 21.0483, 21.0484,

1 and 21.049, Education Code, are amended to read as follows:

2 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a)
3 To ensure that there are teachers with special training to work with
4 other teachers and with students in order to improve student
5 reading performance, the commissioner [~~board~~] shall establish a
6 master reading teacher certificate.

7 (b) The board shall issue a master reading teacher
8 certificate to each eligible person.

9 (c) To be eligible for a master reading teacher certificate,
10 a person must:

11 (1) hold a reading specialist certificate issued under
12 this subchapter and satisfactorily complete a course of instruction
13 as prescribed under Subdivision (2)(B); or

14 (2) hold a teaching certificate issued under this
15 subchapter and:

16 (A) have at least three years of teaching
17 experience;

18 (B) satisfactorily complete a knowledge-based
19 and skills-based course of instruction on the science of teaching
20 children to read that includes training in:

21 (i) effective reading instruction
22 techniques, including effective techniques for students whose
23 primary language is a language other than English;

24 (ii) identification of dyslexia and related
25 reading disorders and effective reading instruction techniques for
26 students with those disorders; and

27 (iii) effective professional peer

1 mentoring techniques;

2 (C) perform satisfactorily on the master reading
3 teacher certification examination prescribed by the commissioner
4 [~~board~~]; and

5 (D) satisfy any other requirements prescribed by
6 the commissioner [~~board~~].

7 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

8 (a) To ensure that there are teachers with special training to work
9 with other teachers and with students in order to improve student
10 mathematics performance, the commissioner [~~board~~] shall establish:

11 (1) a master mathematics teacher certificate to teach
12 mathematics at elementary school grade levels;

13 (2) a master mathematics teacher certificate to teach
14 mathematics at middle school grade levels; and

15 (3) a master mathematics teacher certificate to teach
16 mathematics at high school grade levels.

17 (b) The board shall issue the appropriate master
18 mathematics teacher certificate to each eligible person.

19 (c) To be eligible for a master mathematics teacher
20 certificate, a person must:

21 (1) hold a teaching certificate issued under this
22 subchapter;

23 (2) have at least three years of teaching experience;

24 (3) satisfactorily complete a knowledge-based course
25 of instruction on the science of teaching children mathematics that
26 includes training in mathematics instruction and professional peer
27 mentoring techniques that, through scientific testing, have been

1 proven effective;

2 (4) perform satisfactorily on the appropriate master
3 mathematics teacher certification examination prescribed by the
4 commissioner [~~board~~]; and

5 (5) satisfy any other requirements prescribed by the
6 commissioner [~~board~~].

7 (d) The course of instruction prescribed under Subsection
8 (c)(3) shall be developed by the commissioner [~~board~~] in
9 consultation with mathematics and science faculty members at
10 institutions of higher education.

11 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a)
12 To ensure that there are teachers with special training to work with
13 other teachers and with students in order to increase the use of
14 technology in each classroom, the commissioner [~~board~~] shall
15 establish a master technology teacher certificate.

16 (b) The board shall issue a master technology teacher
17 certificate to each eligible person.

18 (c) To be eligible for a master technology teacher
19 certificate, a person must:

20 (1) hold a technology applications or Technology
21 Education certificate issued under this subchapter, satisfactorily
22 complete the course of instruction prescribed under Subdivision
23 (2)(B), and satisfactorily perform on the examination prescribed
24 under Subdivision (2)(C); or

25 (2) hold a teaching certificate issued under this
26 subchapter and:

27 (A) have at least three years of teaching

1 experience;

2 (B) satisfactorily complete a knowledge-based
3 and skills-based course of instruction on interdisciplinary
4 technology applications and the science of teaching technology that
5 includes training in:

6 (i) effective technology instruction
7 techniques, including applications designed to meet the
8 educational needs of students with disabilities;

9 (ii) classroom teaching methodology that
10 engages student learning through the integration of technology;

11 (iii) digital learning competencies,
12 including Internet research, graphics, animation, website
13 mastering, and video technologies;

14 (iv) curriculum models designed to prepare
15 teachers to facilitate an active student learning environment; and

16 (v) effective professional peer mentoring
17 techniques;

18 (C) satisfactorily perform on an examination
19 developed in cooperation with the Telecommunications
20 Infrastructure Fund Board and administered at the conclusion of the
21 course of instruction prescribed under Paragraph (B); and

22 (D) satisfy any other requirements prescribed by
23 the commissioner [~~board~~].

24 (d) The commissioner [~~board~~] may provide technology
25 applications training courses under Subsection (c)(2)(B) in
26 cooperation with:

27 (1) regional education service centers; and

1 (2) other public or private entities, including any
2 state council on technology.

3 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a)
4 To ensure that there are teachers with special training to work with
5 other teachers and with students in order to improve student
6 science performance, the commissioner [~~board~~] shall establish:

7 (1) a master science teacher certificate to teach
8 science at elementary school grade levels;

9 (2) a master science teacher certificate to teach
10 science at middle school grade levels; and

11 (3) a master science teacher certificate to teach
12 science at high school grade levels.

13 (b) The board shall issue the appropriate master science
14 teacher certificate to each eligible person.

15 (c) To be eligible for a master science teacher certificate,
16 a person must:

17 (1) hold a teaching certificate issued under this
18 subchapter;

19 (2) have at least three years of teaching experience;

20 (3) satisfactorily complete a knowledge-based course
21 of instruction on the science of teaching children science that
22 includes training in science instruction and professional peer
23 mentoring techniques that, through scientific testing, have been
24 proven effective;

25 (4) perform satisfactorily on the appropriate master
26 science teacher certification examination prescribed by the
27 commissioner [~~board~~]; and

1 (5) satisfy any other requirements prescribed by the
2 commissioner [~~board~~].

3 (d) The course of instruction prescribed under Subsection
4 (c)(3) shall be developed by the commissioner [~~board~~] in
5 consultation with science faculty members at institutions of higher
6 education.

7 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a
8 continuing additional source of qualified educators, the
9 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for
10 educator certification programs as an alternative to traditional
11 educator preparation programs. The rules may not provide that a
12 person may be certified under this section only if there is a
13 demonstrated shortage of educators in a school district or subject
14 area.

15 (b) The commissioner [~~board~~] may not require a person
16 employed as a teacher in a disciplinary [~~an~~] alternative education
17 program under Section 37.008 or a juvenile justice alternative
18 education program under Section 37.011 for at least three years to
19 complete an alternative educator certification program adopted
20 under this section before taking the appropriate certification
21 examination.

22 SECTION 7.15. Section 21.050(a), Education Code, is amended
23 to read as follows:

24 (a) A person who applies for a teaching certificate for
25 which commissioner [~~board~~] rules require a bachelor's degree must
26 possess a bachelor's degree received with an academic major or
27 interdisciplinary academic major, including reading, other than

1 education, that is related to the curriculum as prescribed under
2 Subchapter A, Chapter 28.

3 SECTION 7.16. Section 21.051, Education Code, is amended to
4 read as follows:

5 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.
6 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing
7 flexible options for persons for any field experience or internship
8 required for certification.

9 SECTION 7.17. Section 21.054(a), Education Code, is amended
10 to read as follows:

11 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
12 establishing a process for identifying continuing education
13 courses and programs that fulfill educators' continuing education
14 requirements.

15 SECTION 7.18. Section 21.056, Education Code, is amended to
16 read as follows:

17 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner
18 [~~board~~] by rule shall provide for a certified educator to qualify
19 for additional certification to teach at a grade level or in a
20 subject area not covered by the educator's certificate upon
21 satisfactory completion of an examination or other assessment of
22 the educator's qualification.

23 SECTION 7.19. Section 21.057(d), Education Code, is amended
24 to read as follows:

25 (d) For purposes of this section, "inappropriately
26 certified or uncertified teacher":

27 (1) includes:

1 (A) an individual serving on an emergency
2 certificate issued under Section 21.041(b)(2); or

3 (B) an individual who does not hold any
4 certificate or permit issued under this chapter and is not employed
5 as specified by Subdivision (2)(E); and

6 (2) does not include an individual:

7 (A) who is a certified teacher assigned to teach
8 a class or classes outside his or her area of certification, as
9 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]
10 in specifying the certificate required for each assignment;

11 (B) serving on a certificate issued due to a
12 hearing impairment under Section 21.048;

13 (C) serving on a certificate issued pursuant to
14 enrollment in an approved alternative certification program under
15 Section 21.049;

16 (D) certified by another state or country and
17 serving on a certificate issued under Section 21.052;

18 (E) serving on a school district teaching permit
19 issued under Section 21.055; or

20 (F) employed under a waiver granted by the
21 commissioner pursuant to Section 7.056.

22 SECTION 7.20. Section 21.058(d), Education Code, is amended
23 to read as follows:

24 (d) A person whose certificate is revoked under Subsection
25 (b) may reapply for a certificate in accordance with commissioner
26 [~~board~~] rules.

27 SECTION 7.21. Section 21.105(c), Education Code, is amended

1 to read as follows:

2 (c) On written complaint by the employing district and
3 recommendation by the commissioner, the Educators' Professional
4 Practices [~~State~~] Board [~~for Educator Certification~~] may impose
5 sanctions against a teacher employed under a probationary contract
6 who:

7 (1) resigns;

8 (2) fails without good cause to comply with Subsection
9 (a) or (b); and

10 (3) fails to perform the contract.

11 SECTION 7.22. Section 21.160(c), Education Code, is amended
12 to read as follows:

13 (c) On written complaint by the employing district and
14 recommendation by the commissioner, the Educators' Professional
15 Practices [~~State~~] Board [~~for Educator Certification~~] may impose
16 sanctions against a teacher who is employed under a continuing
17 contract that obligates the district to employ the person for the
18 following school year and who:

19 (1) resigns;

20 (2) fails without good cause to comply with Subsection
21 (a) or (b); and

22 (3) fails to perform the contract.

23 SECTION 7.23. Section 21.210(c), Education Code, is amended
24 to read as follows:

25 (c) On written complaint by the employing district and
26 recommendation by the commissioner, the Educators' Professional
27 Practices [~~State~~] Board [~~for Educator Certification~~] may impose

1 sanctions against a teacher who is employed under a term contract
2 that obligates the district to employ the person for the following
3 school year and who:

- 4 (1) resigns;
- 5 (2) fails without good cause to comply with Subsection
6 (a) or (b); and
- 7 (3) fails to perform the contract.

8 SECTION 7.24. Section 21.503, Education Code, is amended to
9 read as follows:

10 Sec. 21.503. ELIGIBILITY. A person is eligible for the
11 program if the person:

- 12 (1) has served in the armed forces of the United
13 States;
- 14 (2) is honorably discharged, retired, or released from
15 active duty on or after October 1, 1990, after at least six years of
16 continuous active duty service immediately before the discharge,
17 retirement, or release;
- 18 (3) has received a baccalaureate or advanced degree
19 from a public or private institution of higher education accredited
20 by a regional accrediting agency or group that is recognized by a
21 nationally recognized accreditation board; and
- 22 (4) satisfies any other criteria for selection
23 [~~jointly~~] prescribed by the agency [~~and the State Board for~~
24 ~~Educator Certification~~].

25 SECTION 7.25. Section 21.504(b), Education Code, is amended
26 to read as follows:

- 27 (b) The agency [~~and the State Board for Educator~~

1 ~~Certification]~~ shall distribute the applications and information
2 regarding the program.

3 SECTION 7.26. Section 21.510(c), Education Code, is amended
4 to read as follows:

5 (c) For purposes of this section, a participant in the
6 program is not considered to be in violation of an agreement under
7 Section 21.508 during any period in which the participant:

8 (1) is pursuing a full-time course of study related to
9 the field of teaching at a public or private institution of higher
10 education approved by the agency [~~State Board for Educator~~
11 ~~Certification~~];

12 (2) is serving on active duty as a member of the armed
13 forces of the United States;

14 (3) is temporarily totally disabled for a period not
15 to exceed three years as established by sworn affidavit of a
16 qualified physician;

17 (4) is unable to secure employment for a period not to
18 exceed one year because of care required by a disabled spouse;

19 (5) is seeking and unable to find full-time employment
20 as a teacher in a public elementary or secondary school for a single
21 period not to exceed 27 months; or

22 (6) satisfies the provisions of any additional
23 reimbursement exception adopted by the agency.

24 SECTION 7.27. Sections 21.551, 21.552, and 21.553,
25 Education Code, are amended to read as follows:

26 Sec. 21.551. PURPOSES. The purposes of the alternative
27 certification Teach for Texas Pilot Program are to:

1 (1) attract to the teaching profession persons who
2 have expressed interest in teaching and to support the
3 certification of those persons as teachers;

4 (2) recognize the importance of the certification
5 process governed by the commissioner [~~State Board for Educator~~
6 ~~Certification~~] under Subchapter B, which requires verification of
7 competence in subject area and professional knowledge and skills;

8 (3) encourage the creation and expansion of educator
9 preparation programs that recognize the knowledge and skills gained
10 through previous educational and work-related experiences and that
11 are delivered in a manner that recognizes individual circumstances,
12 including the need to remain employed full-time while enrolled in
13 the Teach for Texas Pilot Program; and

14 (4) provide annual stipends to postbaccalaureate
15 teacher certification candidates.

16 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~
17 ~~Board for Educator Certification~~] by rule shall establish the Teach
18 for Texas Pilot Program consistent with the purposes provided by
19 Section 21.551.

20 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program
21 must offer to participants financial incentives, including tuition
22 assistance and loan forgiveness. In offering a financial
23 incentive, the commissioner [~~State Board for Educator~~
24 ~~Certification~~] shall:

25 (1) require a contract between each participant who
26 accepts a financial incentive and the agency [~~State Board for~~
27 ~~Educator Certification~~] under which the participant is obligated to

1 teach in a public school in this state for a stated period after
2 certification;

3 (2) provide financial incentives in proportion to the
4 length of the period the participant is obligated by contract to
5 teach after certification; and

6 (3) give special financial incentives to a participant
7 who agrees in the contract to teach in an underserved area.

8 (b) Financial incentives may be paid only from funds
9 appropriated specifically for that purpose and from gifts, grants,
10 and donations solicited or accepted by the commissioner [~~State~~
11 ~~Board for Educator Certification~~] for that purpose.

12 (c) The commissioner [~~State Board for Educator~~
13 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria
14 for awarding financial incentives under this section, including
15 criteria for awarding financial incentives if there are more
16 participants than funds available to provide the financial
17 incentives.

18 SECTION 7.28. Section 21.604(b), Education Code, is amended
19 to read as follows:

20 (b) The agency [~~and the State Board for Educator~~
21 ~~Certification~~] shall distribute the applications and information
22 regarding the program.

23 SECTION 7.29. Section 21.609(c), Education Code, is amended
24 to read as follows:

25 (c) For purposes of this section, a participant in the
26 program is not considered to be in violation of an agreement under
27 Section 21.607 during any period in which the participant:

1 (1) is pursuing a full-time course of study related to
2 the field of teaching at an institution of higher education
3 approved by the agency [~~State Board for Educator Certification~~];

4 (2) is serving on active duty as a member of the armed
5 forces of the United States;

6 (3) is temporarily totally disabled for a period not
7 to exceed three years as established by affidavit of a qualified
8 physician;

9 (4) is unable to secure employment for a period not to
10 exceed one year because of care required by a disabled spouse;

11 (5) is seeking and unable to find full-time employment
12 as a teacher in a public elementary or secondary school for a single
13 period not to exceed 27 months; or

14 (6) satisfies the provisions of any additional
15 reimbursement exception adopted by the agency.

16 SECTION 7.30. Section 22.0512(b), Education Code, is
17 amended to read as follows:

18 (b) In this section, "disciplinary proceeding" means:

19 (1) an action brought by the school district employing
20 a professional employee of a school district to discharge or
21 suspend the employee or terminate or not renew the employee's term
22 contract; or

23 (2) an action brought by the Educators' Professional
24 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the
25 educator's code of ethics adopted under Section 21.041(a-1)
26 [~~21.041(b)(8)~~].

27 SECTION 7.31. Sections 29.061(a)-(c) and (e), Education

1 Code, are amended to read as follows:

2 (a) The commissioner [~~State Board for Educator~~
3 ~~Certification~~] shall provide for the issuance of teaching
4 certificates appropriate for bilingual education instruction to
5 teachers who possess a speaking, reading, and writing ability in a
6 language other than English in which bilingual education programs
7 are offered and who meet the general requirements of Chapter 21.
8 The commissioner [~~board~~] shall also provide for the issuance of
9 teaching certificates appropriate for teaching English as a second
10 language. The commissioner [~~board~~] may issue emergency
11 endorsements in bilingual education and in teaching English as a
12 second language.

13 (b) A teacher assigned to a bilingual education program must
14 be appropriately certified under Subchapter B, Chapter 21, for
15 bilingual education [~~by the board~~].

16 (c) A teacher assigned to an English as a second language or
17 other special language program must be appropriately certified
18 under Subchapter B, Chapter 21, for English as a second language [~~by~~
19 ~~the board~~].

20 (e) The agency [~~State Board for Educator Certification~~] and
21 the Texas Higher Education Coordinating Board shall develop a
22 comprehensive plan for meeting the teacher supply needs created by
23 the programs outlined in this subchapter.

24 SECTION 7.32. Sections 33.002(b) and (c), Education Code,
25 are amended to read as follows:

26 (b) A school district with 500 or more students enrolled in
27 elementary school grades shall employ a counselor certified under

1 the rules of the commissioner [~~State Board for Educator~~
2 ~~Certification~~] for each elementary school in the district. A
3 school district shall employ at least one counselor for every 500
4 elementary school students in the district.

5 (c) A school district with fewer than 500 students enrolled
6 in elementary school grades shall provide guidance and counseling
7 services to elementary school students by:

8 (1) employing a part-time counselor certified under
9 the rules of the commissioner [~~State Board for Educator~~
10 ~~Certification~~];

11 (2) employing a part-time teacher certified as a
12 counselor under the rules of the commissioner [~~State Board for~~
13 ~~Educator Certification~~]; or

14 (3) entering into a shared services arrangement
15 agreement with one or more school districts to share a counselor
16 certified under the rules of the commissioner [~~State Board for~~
17 ~~Educator Certification~~].

18 SECTION 7.33. Section 37.007(g), Education Code, as amended
19 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
20 2005, is amended to read as follows:

21 (g) In addition to any notice required under Article 15.27,
22 Code of Criminal Procedure, a school district shall inform each
23 educator who has responsibility for, or is under the direction and
24 supervision of an educator who has responsibility for, the
25 instruction of a student who has engaged in any violation listed in
26 this section of the student's misconduct. Each educator shall keep
27 the information received under this subsection confidential from

1 any person not entitled to the information under this subsection,
2 except that the educator may share the information with the
3 student's parent or guardian as provided for by state or federal
4 law. The Educators' Professional Practices [~~State~~] Board on
5 recommendation of the commissioner [~~for Educator Certification~~]
6 may revoke or suspend the certification of an educator who
7 intentionally violates this subsection.

8 SECTION 7.34. Section 61.0514, Education Code, is amended
9 to read as follows:

10 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the
11 cooperation and advice of the commissioner of education [~~State~~
12 ~~Board for Educator Certification~~], shall adopt educator
13 preparation coursework guidelines that promote, to the greatest
14 extent practicable, the integration of subject matter knowledge
15 with classroom teaching strategies and techniques in order to
16 maximize the effectiveness and efficiency of coursework required
17 for certification under Subchapter B, Chapter 21.

18 SECTION 7.35. Section 61.076, Education Code, as amended by
19 H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005,
20 is amended by amending Subsection (b) and adding Subsection (j) to
21 read as follows:

22 (b) The P-16 Council is composed of the commissioner of
23 education, the commissioner of higher education, the executive
24 director of the Texas Workforce Commission, [~~the executive director~~
25 ~~of the State Board for Educator Certification~~], and the
26 commissioner of assistive and rehabilitative services. The
27 commissioner of higher education and the commissioner of education

1 shall serve as co-chairs of the council.

2 (j) The P-16 Council, in conjunction with the State Center
3 for Early Childhood Development, shall develop and adopt a school
4 readiness certification system as required by Section 29.161.

5 SECTION 7.36. Section 1001.254(a), Education Code, is
6 amended to read as follows:

7 (a) A temporary driver education instructor license may be
8 issued authorizing a person to teach or provide classroom driver
9 education training if the person:

10 (1) has completed the educational requirements
11 prescribed by Section 1001.253(d)(1);

12 (2) holds a Texas teaching certificate with an
13 effective date before February 1, 1986;

14 (3) meets all license requirements, other than
15 successful completion of the examination required under rules
16 adopted by the commissioner [~~State Board for Educator~~
17 ~~Certification~~] to revalidate the teaching certificate; and

18 (4) demonstrates, in a manner prescribed by the
19 commissioner, the intention to comply with the examination
20 requirement at the first available opportunity.

21 SECTION 7.37. Article 15.27(a), Code of Criminal Procedure,
22 is amended to read as follows:

23 (a) A law enforcement agency that arrests any person or
24 refers a child to the office or official designated by the juvenile
25 board who the agency believes is enrolled as a student in a public
26 primary or secondary school, for an offense listed in Subsection
27 (h), shall attempt to ascertain whether the person is so enrolled.

1 If the law enforcement agency ascertains that the individual is
2 enrolled as a student in a public primary or secondary school, the
3 agency shall orally notify the superintendent or a person
4 designated by the superintendent in the school district in which
5 the student is enrolled of that arrest or referral within 24 hours
6 after the arrest or referral is made, or on the next school day. If
7 the law enforcement agency cannot ascertain whether the individual
8 is enrolled as a student, the agency shall orally notify the
9 superintendent or a person designated by the superintendent in the
10 school district in which the student is believed to be enrolled of
11 that arrest or detention within 24 hours after the arrest or
12 detention, or on the next school day. If the individual is a
13 student, the superintendent shall promptly notify all
14 instructional and support personnel who have responsibility for
15 supervision of the student. All personnel shall keep the
16 information received in this subsection confidential. The
17 Educators' Professional Practices [State] Board [~~for Educator~~
18 ~~Certification~~] may revoke or suspend the certification of personnel
19 who intentionally violate this subsection. Within seven days after
20 the date the oral notice is given, the law enforcement agency shall
21 mail written notification, marked "PERSONAL and CONFIDENTIAL" on
22 the mailing envelope, to the superintendent or the person
23 designated by the superintendent. Both the oral and written notice
24 shall contain sufficient details of the arrest or referral and the
25 acts allegedly committed by the student to enable the
26 superintendent or the superintendent's designee to determine
27 whether there is a reasonable belief that the student has engaged in

1 conduct defined as a felony offense by the Penal Code. The
2 information contained in the notice may be considered by the
3 superintendent or the superintendent's designee in making such a
4 determination.

5 SECTION 7.38. Article 42.018(b), Code of Criminal
6 Procedure, is amended to read as follows:

7 (b) Not later than the fifth day after the date a person who
8 holds a certificate issued under Subchapter B, Chapter 21,
9 Education Code, is convicted or granted deferred adjudication on
10 the basis of an offense, the clerk of the court in which the
11 conviction or deferred adjudication is entered shall provide to the
12 Texas Education Agency and the Educators' Professional Practices
13 ~~[State] Board [for Educator Certification]~~ written notice of the
14 person's conviction or deferred adjudication, including the
15 offense on which the conviction or deferred adjudication was based.

16 SECTION 7.39. Section 654.011(a), Government Code, is
17 amended to read as follows:

18 (a) The position classification plan and the salary rates
19 and provisions in the General Appropriations Act apply to all
20 hourly, part-time, temporary, and regular, full-time salaried
21 employments in the state departments, agencies, or judicial
22 entities specified in the articles of the General Appropriations
23 Act that appropriate money to:

- 24 (1) general government agencies;
25 (2) health and human services agencies;
26 (3) the judiciary, except for judges, district
27 attorneys, and assistant district attorneys;

- 1 (4) public safety and criminal justice agencies;
2 (5) natural resources agencies;
3 (6) business and economic development agencies;
4 (7) regulatory agencies; and
5 (8) agencies of public education, but only the Texas
6 Education Agency, the Texas School for the Blind and Visually
7 Impaired, [~~the State Board for Educator Certification,~~] the
8 Telecommunications Infrastructure Fund, and the Texas School for
9 the Deaf.

10 SECTION 7.40. Section 821.001(7), Government Code, is
11 amended to read as follows:

12 (7) "Employer" means any agents or agencies in the
13 state responsible for public education, including the governing
14 board of any school district created under the laws of this state,
15 any county school board, the board of trustees, the board of regents
16 of any college or university, or any other legally constituted
17 board or agency of any public school, but excluding the State Board
18 of Education and[~~]~~ the Texas Education Agency[~~, and the State~~
19 ~~Board for Educator Certification~~].

20 SECTION 7.41. Section 821.103, Government Code, is amended
21 to read as follows:

22 Sec. 821.103. REVOCAATION [~~CANCELLATION~~] OF TEACHER
23 CERTIFICATE. (a) After receiving notice from the board of
24 trustees of an offense under Section 821.101 and after complying
25 with Chapter 2001 and rules adopted by the Educators' Professional
26 Practices [~~State~~] Board [~~for Educator Certification~~], the board
27 [~~State Board for Educator Certification~~] may revoke [~~cancel~~] the

1 teacher certificate of a person if the board [~~State Board for~~
2 ~~Educator Certification~~] determines that the person committed the
3 offense.

4 (b) The Educators' Professional Practices [~~executive~~
5 ~~director of the State~~] Board [~~for Educator Certification~~] may enter
6 into an agreed sanction.

7 (c) A criminal prosecution of an offender under Section
8 821.101 is not a prerequisite to action by the Educators'
9 Professional Practices [~~State~~] Board [~~for Educator Certification~~
10 ~~or its executive director~~].

11 SECTION 7.42. Section 2054.352(a), Government Code, as
12 amended by S.B. No. 411, Acts of the 79th Legislature, Regular
13 Session, 2005, is amended to read as follows:

14 (a) The following licensing entities shall participate in
15 the system established under Section 2054.353:

- 16 (1) Texas Board of Chiropractic Examiners;
- 17 (2) Court Reporters Certification Board;
- 18 (3) State Board of Dental Examiners;
- 19 (4) Texas Funeral Service Commission;
- 20 (5) Texas Board of Professional Land Surveying;
- 21 (6) Texas State Board of Medical Examiners;
- 22 (7) Board of Nurse Examiners;
- 23 (8) Texas Optometry Board;
- 24 (9) Texas Structural Pest Control Board;
- 25 (10) Texas State Board of Pharmacy;
- 26 (11) Executive Council of Physical Therapy and
27 Occupational Therapy Examiners;

- 1 (12) Texas State Board of Plumbing Examiners;
2 (13) Texas State Board of Podiatric Medical Examiners;
3 (14) Board of Tax Professional Examiners;
4 (15) Polygraph Examiners Board;
5 (16) Texas State Board of Examiners of Psychologists;
6 (17) State Board of Veterinary Medical Examiners;
7 (18) Texas Real Estate Commission;
8 (19) Texas Appraiser Licensing and Certification
9 Board;
10 (20) Texas Department of Licensing and Regulation;
11 (21) Texas State Board of Public Accountancy;
12 (22) Educators' Professional Practices [~~State~~] Board
13 [~~for Educator Certification~~];
14 (23) Texas Board of Professional Engineers;
15 (24) Department of State Health Services;
16 (25) Texas Board of Architectural Examiners;
17 (26) Texas Racing Commission;
18 (27) Commission on Law Enforcement Officer Standards
19 and Education; [~~and~~]
20 (28) Texas Private Security Board; and
21 (29) Texas Education Agency.

22 SECTION 7.43. Section 504.002(b), Occupations Code, is
23 amended to read as follows:

24 (b) This chapter does not apply to an activity or service of
25 a person who:

26 (1) is employed as a counselor by a federal
27 institution and is providing chemical dependency counseling within

1 the scope of the person's employment;

2 (2) except as provided by Section 504.057, is a
3 student, intern, or trainee pursuing a supervised course of study
4 in counseling at a regionally accredited institution of higher
5 education or training institution, if the person:

6 (A) is designated as a "counselor intern"; and

7 (B) is engaging in the activity or providing the
8 service as part of the course of study;

9 (3) is not a resident of this state, if the person:

10 (A) engages in the activity or provides the
11 service in this state for not more than 30 days during any year; and

12 (B) is authorized to engage in the activity or
13 provide the service under the law of the state of the person's
14 residence;

15 (4) is a licensed physician, psychologist,
16 professional counselor, or social worker;

17 (5) is a religious leader of a congregation providing
18 pastoral chemical dependency counseling within the scope of the
19 person's duties;

20 (6) is working for or providing counseling with a
21 program exempt under Subchapter C, Chapter 464, Health and Safety
22 Code; or

23 (7) is a school counselor certified under Subchapter
24 B, Chapter 21, Education Code [~~by the State Board for Educator~~
25 ~~Certification~~].

26 SECTION 7.44. Sections 21.036, 21.040, 21.042, and 21.047,
27 Education Code, are repealed.

1 SECTION 7.45. (a) The State Board for Educator
2 Certification is abolished, and all powers, duties, personnel,
3 property, assets, and obligations of the board are transferred to
4 the Educators' Professional Practices Board and the Texas Education
5 Agency, as determined appropriate by the commissioner of education.
6 The validity of a prior action of the State Board for Educator
7 Certification is not affected by the abolishment, and any pending
8 activities of the State Board for Educator Certification shall be
9 deemed to have continued without interruption or material change.

10 (b) The powers and duties of the Educators' Professional
11 Practices Board, as created by this Act, shall continue to be
12 exercised by the State Board for Educator Certification until the
13 initial appointees of the Educators' Professional Practices Board
14 assume their offices, which may not be later than January 1, 2006.

15 (c) All rules of the State Board for Educator Certification
16 relating to a transferred power or duty remain in effect as rules of
17 the Educators' Professional Practices Board or commissioner of
18 education, as appropriate, until amended or repealed by the board
19 or commissioner.

20 (d) A contested case, rulemaking procedure, program, test,
21 fee, contract, review, evaluation, sanction, act, or decision of
22 the State Board for Educator Certification that is pending,
23 completed, or in effect on the effective date of this Act shall be
24 deemed that of the commissioner of education or the Educators'
25 Professional Practices Board to the extent authorized by Subchapter
26 B, Chapter 21, Education Code, as amended by this article, or other
27 law, until and unless a change is expressly made by the commissioner

1 or the board, as appropriate.

2 (e) As soon as practicable after the effective date of this
3 article and not later than November 1, 2005, the commissioner shall
4 make initial appointments to the Educators' Professional Practices
5 Board. In making the initial appointments, the commissioner shall
6 designate four members to serve terms expiring February 1, 2007,
7 four members to serve terms expiring February 1, 2009, and three
8 members to serve terms expiring February 1, 2011.

9 (f) A person who holds a certificate issued under Subchapter
10 B, Chapter 21, Education Code, as it existed on January 1, 2005, may
11 continue to practice under that certificate until the certificate
12 is renewed or replaced under Subchapter B, Chapter 21, Education
13 Code, as amended by this article.

14 (g) The code of ethics adopted under Subchapter B, Chapter
15 21, Education Code, by the State Board for Educator Certification
16 and in effect on the effective date of this article remains in
17 effect until superseded by rules of the Educators' Professional
18 Practices Board.

19 ARTICLE 8. REPEALER; APPLICABILITY; EFFECTIVE DATE

20 SECTION 8.01. (a) Sections 1-3, Chapter 201, Acts of the
21 78th Legislature, Regular Session, 2003, are repealed.

22 (b) Sections 2 and 4, S.B. No. 151, Acts of the 79th
23 Legislature, Regular Session, 2005, are repealed.

24 (c) Sections 2 and 10(b), H.B. No. 2753, Acts of the 79th
25 Legislature, Regular Session, 2005, are repealed.

26 (d) Section 23.001(17), H.B. No. 2018, Acts of the 79th
27 Legislature, Regular Session, 2005, is repealed.

1 (e) Section 4, S.B. No. 23, Acts of the 79th Legislature,
2 Regular Session, 2005, is repealed.

3 (f) The following provisions of the Education Code are
4 repealed:

5 (1) Subchapter D, Chapter 22;

6 (2) Subchapters B, C, E, F, and G, Chapter 41;

7 (3) Chapter 42, as it existed on January 1, 2005; and

8 (4) Sections 21.357, 21.402(b) and (e), 25.0811(b) and
9 (c), 29.056(h), 29.203(c) and (g), 39.023(j), 39.024(e), 39.073,
10 39.074, 39.112, 41.001, 41.002, 41.003, 41.0031, 41.007,
11 41.009(b), 41.011, 41.092, 41.099, 41.252(b), 44.004(c) and (d),
12 and 105.301(f).

13 (g) Section 403.302(j), Government Code, is repealed.

14 (h) The following provisions of the Insurance Code are
15 repealed:

16 (1) Section 1579.253(b);

17 (2) Section 1581.053(b); and

18 (3) Subchapter C, Chapter 1581.

19 (i) Sections 21.02(b) and 26.08(k), (l), and (m), Tax Code,
20 are repealed.

21 SECTION 8.02. Except as otherwise provided by this Act,
22 this Act applies beginning with the 2005-2006 school year.

23 SECTION 8.03. (a) Except as otherwise provided by this Act,
24 this Act takes effect September 1, 2005, if it receives a vote of
25 two-thirds of all the members elected to each house, as provided by
26 Section 39, Article III, Texas Constitution. If this Act does not
27 receive the vote necessary for effect on that date:

1 (1) this Act takes effect on the 91st day after the
2 last day of the legislative session; and

3 (2) a provision of this Act that states that the
4 provision takes effect September 1, 2005, takes effect on the
5 effective date as provided by Subdivision (1) of this subsection.

6 (b) This Act takes effect only if H.B. No. __, Acts of the
7 79th Legislature, 1st Called Session, 2005, becomes law. If that
8 bill does not become law, this Act has no effect.