

By: Grusendorf

H.B. No. 2

Substitute the following for H.B. No. 2:

By: Delisi

C.S.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 FOR THE 2005-2006 SCHOOL YEAR

SECTION 1A.01. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2518, 42.2519, and 42.2520 to read as follows:

Sec. 42.2518. ADDITIONAL STATE AID OR CREDIT FOR DISTRICTS THAT REDUCE PROPERTY TAX RATES. (a) A school district that adopts a tax for the maintenance and operations of the district for the 2005 tax year that does not exceed the lesser of the district's rollback tax rate under Section 26.08, Tax Code, or the rate that is 25 cents less than the rate adopted by the district for maintenance and operations for the 2004 tax year, is entitled to receive for the 2005-2006 school year additional state aid in the sum of:

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

(2) the amount necessary, as determined by the commissioner, to ensure that the district's total amount of state

1 and local revenue per student in average daily attendance for
2 maintenance and operations, other than the amount to which the
3 district is entitled under Subdivision (1), is not less than the
4 total amount of state and local revenue per student in average daily
5 attendance the district would have received during the 2005-2006
6 school year, under the law in effect January 1, 2005, using the
7 greater of the district's adopted maintenance and operations tax
8 rate for the 2004 tax year, the district's adopted maintenance and
9 operations tax rate for the 2005 tax year, or the maximum rate under
10 Section 42.253(e) for which the district could receive state aid
11 for the 2005-2006 school year, but not to exceed the rate of \$1.50
12 for each \$100 valuation of taxable property.

13 (b) A school district that is required to take action under
14 Chapter 41 to reduce its wealth per student to the equalized wealth
15 level that adopts a tax rate that complies with the limitation
16 described by Subsection (a) is entitled to an adjustment against
17 the total amount of attendance credits required to be purchased
18 under Subchapter D, Chapter 41, or the total number of nonresident
19 students required to be educated under Subchapter E, Chapter 41, as
20 determined by the commissioner, in the amount equal to the sum of
21 the amounts described by Subsections (a)(1) and (a)(2).

22 (c) This subsection applies to a district with a wealth per
23 student, as defined by Section 41.001, greater than the product of
24 the dollar amount guaranteed level of state and local funds per
25 weighted student per cent of tax effort, as provided by Section
26 42.302, multiplied by 10,000, but less than the equalized wealth
27 level under Section 41.002. A district to which this subsection

1 applies that adopts a tax rate that complies with the limitation
2 described by Subsection (a) is entitled to state aid in the amount
3 equal to the sum of the amounts described by Subsections (a)(1) and
4 (a)(2).

5 (d) The commissioner may adjust the tax rate used for
6 purposes of this section to account for special circumstances, as
7 determined by the commissioner. A determination by the
8 commissioner under this section is final and may not be appealed.

9 (e) This section expires September 1, 2006.

10 Sec. 42.2519. ADJUSTMENT FOR DISTRICTS THAT FAIL TO REDUCE
11 PROPERTY TAX RATES. (a) Notwithstanding Section 42.253 or any
12 other provision of this chapter, the commissioner shall reduce the
13 amount to which a district is entitled under this chapter or Chapter
14 41 by 15 percent if the district adopts and assesses a tax for the
15 maintenance and operations of the district for the 2005 tax year
16 that exceeds the limitation described by Section 42.2518(a).

17 (b) A determination by the commissioner under this section
18 is final and may not be appealed.

19 (c) This section expires September 1, 2006.

20 Sec. 42.2520. PROFESSIONAL STAFF COMPENSATION. (a) For
21 the 2005-2006 school year, a school district shall provide
22 classroom teachers, full-time librarians, full-time counselors
23 certified under Subchapter B, Chapter 21, and full-time school
24 nurses with, in addition to the amounts required under Section
25 21.402, compensation in the form of annual salaries, incentives, or
26 other compensation determined appropriate by the district that
27 results in an average compensation increase for the employees of

1 \$500 over what the employees would have received in the 2005-2006
2 school year under the district's salary schedule for the 2004-2005
3 school year, including any local supplement and any money
4 representing a career ladder supplement the employee would have
5 received in the 2005-2006 school year.

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

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

17 (d) The commissioner may adopt rules to implement this
18 section.

19 (e) This section expires September 1, 2006.

20 SECTION 1A.02. This part takes effect on the 91st day after
21 the last day of the legislative session.

22 PART B. EDUCATION FUNDING

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

25 CHAPTER 42. FOUNDATION SCHOOL PROGRAM

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 42.001. STATE POLICY. (a) It is the policy of this

1 state that the provision of public education is a state
2 responsibility and that a thorough and efficient system be provided
3 and substantially financed through state revenue sources so that
4 each student enrolled in the public school system shall have access
5 to programs and services that are appropriate to the student's
6 educational needs and that are substantially equal to those
7 available to any similar student, notwithstanding varying local
8 economic factors.

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

15 Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a)
16 The purposes of the Foundation School Program set forth in this
17 chapter are to guarantee that each school district in the state has:

18 (1) adequate resources to provide each eligible
19 student an accredited instructional program and facilities
20 suitable to the student's educational needs; and

21 (2) access to substantially equalized financing for an
22 enriched program.

23 (b) The Foundation School Program consists of:

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

25 (A) sufficient financing for all school
26 districts to provide an accredited program of education that is
27 rated academically acceptable or higher under Section 39.072 and

1 meets other applicable legal standards; and

2 (B) substantially equal access to funds to
3 provide an enriched program; and

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

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

10 (b) A student to whom Subsection (a) does not apply is
11 entitled to the benefits of the Foundation School Program if the
12 student is enrolled in a prekindergarten class under Section
13 29.153.

14 (c) A child may be enrolled in the first grade if the child
15 is at least six years of age at the beginning of the school year of
16 the district or has been enrolled in the first grade or has
17 completed kindergarten in the public schools in another state
18 before transferring to a public school in this state.

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

22 (1) the student performs satisfactorily on the
23 assessment instrument administered under Section 39.023(a) to
24 students in the third grade; and

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

27 Sec. 42.004. ADMINISTRATION OF PROGRAM. (a) The

1 commissioner shall take such action and require such reports
2 consistent with this chapter as may be necessary to implement and
3 administer the Foundation School Program.

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

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

8 (1) the quotient of the sum of attendance for each day
9 of the minimum number of days of instruction as described under
10 Section 25.081(a) divided by the minimum number of days of
11 instruction;

12 (2) for a district that operates under a flexible year
13 program under Section 29.0821, the quotient of the sum of
14 attendance for each actual day of instruction as permitted by
15 Section 29.0821(b)(1) divided by the number of actual days of
16 instruction as permitted by Section 29.0821(b)(1); or

17 (3) for a district that operates under a flexible
18 school day program under Section 29.0822, the average daily
19 attendance as calculated by the commissioner in accordance with
20 Section 29.0822(d).

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

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

27 (2) an average daily attendance equal to 98 percent of

1 the actual average daily attendance of the preceding school year,
2 if the decline is not the result of the closing or reduction in
3 personnel of a military base.

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

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

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

14 (f) If a student may receive course credit toward the
15 student's high school academic requirements and toward the
16 student's higher education academic requirements for a single
17 course, the time during which the student attends the course shall
18 be counted as part of the minimum number of instructional hours
19 required for a student to be considered a full-time student in
20 average daily attendance for purposes of this section.

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

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

1 board shall, as determined by the board, report the equalized
2 funding elements to the commissioner and the legislature.

3 (c) The funding elements must include:

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

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

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

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

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

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

21 (d) The board shall conduct a study of the funding elements
22 each biennium, as appropriate. The study must include a
23 determination of the projected cost to the state in the next state
24 fiscal biennium of ensuring the ability of each school district to
25 comply with all legal mandates and regulations without increasing
26 district tax rates.

27 (e) Notwithstanding Subsection (d), the board shall

1 contract for a comprehensive study of the funding elements. The
2 scope of the study shall include an investigation of uncontrollable
3 variations in the costs of education due to diseconomies of scale or
4 geographic variations in the costs of hiring highly qualified
5 teachers. To the extent practicable, the study shall examine
6 uncontrollable variations in the costs of providing the recommended
7 high school program in small, mid-sized, and urban school
8 districts. The board shall report the results of the study to the
9 commissioner and the legislature not later than December 1, 2008.
10 This subsection expires January 1, 2009.

11 (f) The study required by Subsection (e) must include a
12 component on funding elements relating to special education
13 programs and services. The special education component must
14 include a review of the current funding elements relating to
15 special education programs and services, an analysis of funding
16 mechanisms used by other states, the solicitation and consideration
17 of recommendations from persons with expertise in the area of
18 special education, a review of best practices in the area of special
19 education, and the development of recommendations for a funding
20 system that supports success for students with disabilities and
21 that appropriately recognizes the variance in needs for specialized
22 services, including related services, without providing fiscal
23 incentives to improperly identify or fail to identify students who
24 need special education services. Regardless of the date on which
25 the report under Subsection (e) is required to be submitted, the
26 board shall submit a report on the results of the special education
27 component required by this subsection to the commissioner and the

1 legislature not later than December 1, 2006. This subsection
2 expires January 1, 2007.

3 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A
4 reference in law to the foundation school fund means the Texas
5 education fund.

6 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each
7 regular session of the legislature, the Legislative Budget Board
8 shall submit to the commissioner and the legislature a report that
9 includes:

10 (1) a description of the amount of all spending on
11 primary and secondary education in this state, disaggregated by
12 federal, state, and local spending and spending by private
13 entities; and

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

15 [Sections 42.009-42.100 reserved for expansion]

16 SUBCHAPTER B. BASIC PROGRAM

17 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
18 ALLOTMENTS. (a) For each student in average daily attendance, a
19 school district is entitled to an accreditation allotment of
20 \$4,600.

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

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

26 [Sections 42.102-42.150 reserved for expansion]

1 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

2 Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) In this
3 section:

4 (1) "Full-time equivalent student" means 30 hours of
5 contact a week between a student and special education program
6 personnel.

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

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

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

18 (1) \$17,370, for a student in a homebound
19 instructional arrangement;

20 (2) \$8,602, for a student in a hospital class
21 instructional arrangement;

22 (3) \$17,370, for a student in a speech therapy
23 instructional arrangement;

24 (4) \$8,602, for a student in a resource room
25 instructional arrangement;

26 (5) \$8,602, for a student in a self-contained, mild
27 and moderate, regular campus instructional arrangement;

1 (6) \$8,602, for a student in a self-contained, severe,
2 regular campus instructional arrangement;

3 (7) \$7,287, for a student in an off-home-campus
4 instructional arrangement;

5 (8) \$2,903, for a student in a nonpublic day school;

6 (9) \$5,533, for a student in a vocational adjustment
7 class;

8 (10) \$12,986, for a student who resides in a
9 residential care and treatment facility, other than a state school,
10 whose parent or guardian does not reside in the district, and who
11 receives educational services from a local school district; and

12 (11) \$7,726, for a student who resides in a state
13 school.

14 (d) For funding purposes, the number of contact hours
15 credited per day for each special education student in the
16 off-home-campus instructional arrangement may not exceed the
17 contact hours credited per day for the multidistrict class
18 instructional arrangement in the 1992-1993 school year.

19 (e) For funding purposes, the contact hours credited per day
20 for each special education student in the resource room;
21 self-contained, mild and moderate, regular campus; and
22 self-contained, severe, regular campus instructional arrangements
23 may not exceed the average of the statewide total contact hours
24 credited per day for those three instructional arrangements in the
25 1992-1993 school year.

26 (f) The commissioner by rule shall prescribe the
27 qualifications a special education instructional arrangement must

1 meet in order to be funded as a particular instructional
2 arrangement under this chapter. In prescribing the qualifications
3 that a mainstream instructional arrangement must meet, the
4 commissioner shall require that students with disabilities and
5 their teachers receive the direct, indirect, and support services
6 that are necessary to enrich the regular classroom and enable
7 student success.

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

12 (h) Funds allocated under this section, other than an
13 indirect cost allotment established under commissioner rule, must
14 be used in the special education program under Subchapter A,
15 Chapter 29.

16 (i) The agency shall encourage the placement of students in
17 special education programs, including students in residential
18 instructional arrangements, in the least restrictive environment
19 appropriate for students' educational needs.

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

27 (k) A school district that provides an extended year program

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

12 (l) From the total amount of funds appropriated for special
13 education under this chapter, the commissioner shall withhold an
14 amount specified in the General Appropriations Act and distribute
15 that amount to school districts for programs under Section 29.014.
16 The program established under that section is required only in
17 school districts in which the program is financed by funds
18 distributed under this subsection and any other funds available for
19 the program. After deducting the amount withheld under this
20 subsection from the total amount appropriated for special
21 education, the commissioner shall reduce each district's
22 allocation proportionately.

23 (m) From the total amount appropriated for purposes of this
24 section, the commissioner shall set aside an amount necessary to
25 pay the cost of the study of the funding elements for special
26 education required by Section 42.006(f). After setting aside funds
27 under this subsection, the commissioner shall reduce each

1 district's allotment in the manner provided by Section 42.313(f).
2 This subsection expires September 1, 2007.

3 Sec. 42.152. ACCELERATED PROGRAMS ALLOTMENT. (a) A school
4 district is entitled to an annual allotment for the costs of
5 providing accelerated programs in an amount determined by the
6 formula:

$$7 \quad \quad \quad \text{APA} = F \times \text{ADA} \times \text{PR}$$

8 where:

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

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

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

15 "PR" is the percentage of the district's total number of
16 students enrolled in prekindergarten through grade level eight who
17 participate in the national free or reduced-price lunch program as
18 reported through the Public Education Information Management
19 System (PEIMS) for the current school year or the percentage
20 determined in accordance with commissioner rule if the district is
21 not required to report participation in the national free or
22 reduced-price lunch program or if no campus in the district with
23 students enrolled in prekindergarten through grade level eight
24 participates in the national free or reduced-price lunch program.

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

27 (c) From the total amount of funds appropriated for

1 allotments under this section, the commissioner may, each fiscal
2 year:

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

5 (2) withhold an amount not exceeding \$1 million each
6 fiscal year and distribute the funds to school districts that incur
7 unanticipated expenditures resulting from a significant increase
8 in the enrollment of students who do not have disabilities and who
9 reside in residential placement facilities; and

10 (3) withhold an amount determined by the commissioner
11 as appropriate to finance the agency's administrative expenses in
12 conducting activities under Section 39.1321.

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

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

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

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

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

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

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

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

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

23 (1) if the student is enrolled below the ninth grade
24 level, \$500, but not less than the amount equal to 10 percent of the
25 accreditation allotment under Section 42.101; or

26 (2) if the student is enrolled at or above the ninth
27 grade level, \$1,000, but not less than the amount equal to 21

1 percent of the accreditation allotment under Section 42.101.

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

4 (c) A district is not entitled to an allotment under this
5 section for a student who meets the criteria for transferring out of
6 the district's bilingual education or special language program
7 unless the student is reenrolled in the program under Section
8 29.0561.

9 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

10 (a) For each student in average daily attendance in an approved
11 career and technology education program in grades eight through 12,
12 a district is entitled to an annual allotment of \$178 for each
13 annual credit hour the student is enrolled in the program, or a
14 greater amount for any school year provided by appropriation. This
15 subsection expires September 1, 2007.

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

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

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

26 (3) courses designed for special education students.

27 (c) The commissioner shall establish a pilot program under

1 which participating districts receive the allotment described by
2 Subsection (a) or (b), as applicable, for students in grade seven.
3 The commissioner shall establish the pilot program in each county
4 that borders the Intracoastal Waterway and:

5 (1) has a population of at least 313,000 and contains a
6 municipality with a population of at least 277,000;

7 (2) has a population of at least 67,000 and adjoins a
8 county described by Subdivision (1);

9 (3) has a population of at least 22,000 and adjoins a
10 county described by Subdivision (2); or

11 (4) has a population of at least 20,000 and adjoins a
12 county described by Subdivision (3).

13 (d) The commissioner shall establish a committee to study
14 the effectiveness of career and technology education programs and
15 the manner in which the programs have affected graduation rates.
16 Not later than January 1, 2012, the committee shall submit a report
17 to the legislature that contains the study's findings and
18 recommendations regarding statewide funding of career and
19 technology education programs in grade seven.

20 (e) Subsections (c) and (d) and this subsection expire
21 September 1, 2012.

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

1 a greater amount for any school year provided by appropriation.

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

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

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

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

26 [Sections 42.157-42.170 reserved for expansion]

27 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS. (a) Unless

1 specifically provided otherwise by this code, but subject to
2 Section 42.172, a school district is not required to use amounts
3 allotted under this subchapter for the program for which the
4 amounts were allotted.

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

9 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding
10 any other provision of this code, but subject to Subsection (b), a
11 school district may not spend in any school year for a program or
12 service listed below an amount per student in average daily
13 attendance that is less than the amount the district spent for that
14 program or service per student in average daily attendance during
15 the 2005-2006 school year:

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

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

24 (3) remedial and support programs under Section 29.081
25 for students who are pregnant;

26 (4) programs for students who do not have a disability
27 and reside in residential placement facilities in districts in

1 which the student's parents or legal guardians do not reside;

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

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

8 (7) a gifted and talented program under Subchapter D,
9 Chapter 29.

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

15 [Sections 42.173-42.200 reserved for expansion]

16 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

21 (b) In adopting rules for the administration of the
22 allotment under this section, the commissioner shall provide that
23 within two miles of a school, only mileage that represents the most
24 direct route to the school shall be eligible for reimbursement.

25 (c) If the amount of an allotment under this section that a
26 school district or county receives exceeds the district's or
27 county's cost of operating the transportation system, the district

1 or county may use the excess funds for any legal purpose.

2 Sec. 42.202. HAZARDOUS CONDITIONS. A district or county
3 may apply for and on approval of the commissioner receive an
4 additional amount of up to 10 percent of its regular transportation
5 allotment to be used for the transportation of children living
6 within two miles of the school they attend who would be subject to
7 hazardous traffic conditions if they walked to school. Each board
8 of trustees shall provide to the commissioner the definition of
9 hazardous conditions applicable to that district and shall identify
10 the specific hazardous areas for which the allocation is requested.
11 A hazardous condition exists where no walkway is provided and
12 children must walk along or cross a freeway or expressway, an
13 underpass, an overpass or a bridge, an uncontrolled major traffic
14 artery, an industrial or commercial area, or another comparable
15 condition.

16 Sec. 42.203. PRIVATE OR COMMERCIAL TRANSPORTATION. The
17 commissioner may grant an amount set by appropriation for private
18 or commercial transportation for students from isolated areas. The
19 need for this type of transportation grant shall be determined on an
20 individual basis and the amount granted shall not exceed the actual
21 cost. The grants may be made only in extreme hardship cases. A
22 grant may not be made if the students live within two miles of an
23 approved school bus route.

24 Sec. 42.204. TRANSPORTATION OF SPECIAL EDUCATION STUDENTS.
25 Districts may use a portion of their allotment under Section 42.151
26 to pay transportation costs for special education students, if
27 necessary. The commissioner may grant an amount set by

1 appropriation for private transportation to reimburse parents or
2 their agents for transporting special education students. The
3 mileage allowed shall be computed along the shortest public road
4 from the student's home to school and back, morning and afternoon.
5 The need for this type of transportation shall be determined on an
6 individual basis and shall be approved only in extreme hardship
7 cases.

8 Sec. 42.205. TEXAS SCHOOL FOR THE DEAF. The Texas School
9 for the Deaf is entitled to an allotment under this subchapter. The
10 commissioner shall determine the appropriate allotment.

11 [Sections 42.206-42.220 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. DEFINITIONS. In this subchapter:

18 (1) "Fast growth school district" means a school
19 district that during the five school years preceding the opening of
20 a new instructional facility has experienced an increase in
21 enrollment of:

22 (A) greater than 10 percent; or

23 (B) more than 3,500 students.

24 (2) "Instructional facility" has the meaning assigned
25 by Section 46.001.

26 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. (a)
27 For the first school year in which students attend a new

1 instructional facility, a school district other than a fast growth
2 school district is entitled to an allotment of \$250 for each student
3 in average daily attendance at the facility or a greater amount
4 provided by appropriation.

5 (b) For the first school year in which students attend a new
6 instructional facility, a fast growth school district is entitled
7 to an allotment of \$375 for each student in average daily attendance
8 at the facility or a greater amount provided by appropriation.

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

15 (b) For the second and third school years in which students
16 attend a new instructional facility, a fast growth school district
17 is entitled to an allotment of \$375 for each additional student in
18 average daily attendance at the facility or a greater amount
19 provided by appropriation.

20 (c) For purposes of this section, the number of additional
21 students in average daily attendance at a facility is the
22 difference between the number of students in average daily
23 attendance in the current year at that facility and the number of
24 students in average daily attendance at that facility in the
25 preceding year.

26 Sec. 42.225. LIMIT ON APPROPRIATIONS; PRORATION OF
27 ALLOTMENTS. (a) The amount appropriated for allotments under this

1 subchapter may not exceed \$35 million in a school year.

2 (b) If the total amount of allotments to which school
3 districts are entitled under this subchapter for a school year
4 exceeds the amount appropriated for allotments under this
5 subchapter, the commissioner shall reduce each district's
6 allotment under this subchapter in the manner provided by Section
7 42.313(f).

8 [Sections 42.226-42.250 reserved for expansion]

9 [Subchapter F reserved]

10 SUBCHAPTER G. ENRICHMENT PROGRAM

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

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

23
$$\underline{GYA = (GL \times AF \times DETR \times 100) - LR}$$

24 where:

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

27 "GL" is the dollar amount guaranteed level, which is the

1 amount of district enrichment tax revenue per cent of tax effort
2 available to a school district at the target percentile, which is
3 the 96th percentile in wealth per student, provided that a greater
4 amount for any school year may be provided by appropriation;

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

10 "DETR" is the district enrichment tax rate of the school
11 district, which is the district's adopted maintenance and
12 operations tax rate minus the maximum rate specified under Section
13 42.306 or otherwise provided by appropriation for purposes of that
14 section, or, if applicable, the rate applicable to the district
15 under Section 41.101; and

16 "LR" is the local revenue, which is determined by multiplying
17 "DETR" by the quotient of the district's taxable value of property
18 as determined under Subchapter M, Chapter 403, Government Code,
19 divided by 100.

20 (b) The target percentile described by Subsection (a) for
21 purposes of determining the dollar amount guaranteed level ("GL")
22 applies beginning with the 2010-2011 school year. For the
23 2006-2007 through 2009-2010 school years, GL is determined as
24 provided by this subsection, except that a different amount may be
25 provided by appropriation:

26 (1) for the 2006-2007 school year, GL is determined
27 using a target percentile that is equivalent to an amount of \$39.20;

1 (2) for the 2007-2008 school year, GL is determined
2 using a target percentile that is equivalent to an amount of \$40;

3 (3) for the 2008-2009 school year, GL is determined
4 using a target percentile that is equivalent to an amount of \$40.70;
5 and

6 (4) for the 2009-2010 school year, GL is determined
7 using a target percentile of the 94th percentile in wealth per
8 student.

9 (c) This subsection and Subsection (b) expire September 1,
10 2011.

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

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

15 (1) for the 2006 tax year, the rate of \$0.05 per \$100
16 of valuation; and

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

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

22 (c) Subsection (a-1) and this subsection expire January 1,
23 2009.

24 Sec. 42.254. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON
25 MILITARY INSTALLATION OR AT STATE SCHOOL. State enrichment
26 assistance under this subchapter for a school district located on a
27 federal military installation or at Moody State School is computed

1 using the average district enrichment tax rate and property value
2 per student of school districts in the county, as determined by the
3 commissioner.

4 [Sections 42.255-42.300 reserved for expansion]

5 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

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

23 (b-1) In this subsection, "teacher fixed effects index"
24 means the teacher fixed effects index in the 2004 report
25 commissioned by the Joint Select Committee on Public School Finance
26 of the 78th Legislature, as adjusted so that there is not a greater
27 difference between the highest index value and the lowest index

1 value in the regional boundaries of a regional education service
2 center than the difference that existed between the highest index
3 value and lowest index value within the regional boundaries of that
4 regional education service center under 19 T.A.C. Chapter 203, as
5 that chapter existed on January 1, 2005. The commissioner shall
6 increase the amount of the lowest adjustment in the regional
7 boundaries of each regional education service center to satisfy
8 the requirements of this subsection. Notwithstanding Subsection
9 (a), the cost of education index for purposes of that subsection for
10 the following school years is determined using the teacher fixed
11 effects index in the following manner:

12 (1) for the 2006-2007 school year, the index shall be
13 computed giving a weight of 25 percent to the teacher fixed effects
14 index and a weight of 75 percent to the index used to determine a
15 school district's adjustment for the 2005-2006 school year;

16 (2) for the 2007-2008 school year, the index shall be
17 computed giving a weight of 50 percent to the teacher fixed effects
18 index and a weight of 50 percent to the index used to determine a
19 school district's adjustment for the 2005-2006 school year;

20 (3) for the 2008-2009 school year, the index shall be
21 computed giving a weight of 75 percent to the teacher fixed effects
22 index and a weight of 25 percent to the index used to determine a
23 school district's adjustment for the 2005-2006 school year; and

24 (4) for the 2009-2010 and 2010-2011 school years, the
25 cost of education index for purposes of Subsection (a) is the
26 teacher fixed effects index.

27 (b-2) All information relating to the computation and

1 adoption of the cost of education index under this section,
2 including underlying data, assumptions, and computations used in
3 the development of the index, is public information.

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

8 (c-1) The Legislative Budget Board shall submit the initial
9 update required by Subsection (c) not later than December 1, 2010.

10 (c-2) Subsections (b-1) and (c-1) and this subsection
11 expire September 1, 2011.

12 (d) If the index value provided by this section for a school
13 district is less than the index value used to calculate the cost of
14 education adjustment for that school district during the previous
15 school year, the district's adjustment shall be computed using the
16 index applied during the previous school year.

17 (e) A school district may apply to the agency for a
18 correction of the computation of the adjustment for the district
19 under this section. A review by the agency under this subsection
20 must be limited to the computation and application of data under
21 this section and may not include an appeal of the methodology used
22 to compute the cost of education index.

23 Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a)
24 The amounts of the accreditation allotments under Subchapter B and
25 each special student allotment under Subchapter C of certain small
26 and mid-sized school districts are adjusted in accordance with this
27 section to reflect district costs related to the district's size.

1 In this section:

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

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

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

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

15
$$A = ((1,600 - ADA) \times 0.000447) \times SA$$

16 (b-1) Subsection (b) applies beginning with the 2008-2009
17 school year. For the 2006-2007 and 2007-2008 school years, a school
18 district described by Subsection (b) is entitled to an adjustment
19 determined by applying the following formulas:

20 (1) for the 2006-2007 school year:

21
$$A = ((1,600 - ADA) \times 0.000431) \times SA; \text{ and}$$

22 (2) for the 2007-2008 school year:

23
$$A = ((1,600 - ADA) \times 0.000432) \times SA$$

24 (c) The sum of total accreditation allotments and any
25 special student allotments under Subchapter C of a school district
26 that contains less than 300 square miles and has not more than 1,600
27 students in average daily attendance is adjusted by applying the

1 formula:

2
$$\underline{A = ((1,600 - ADA) \times 0.0002794) \times SA}$$

3 (c-1) Subsection (c) applies beginning with the 2008-2009
 4 school year. For the 2006-2007 and 2007-2008 school years, a school
 5 district described by Subsection (c) is entitled to an adjustment
 6 determined by applying the following formulas:

7 (1) for the 2006-2007 school year:

8
$$\underline{A = ((1,600 - ADA) \times 0.0002694) \times SA; \text{ and}}$$

9 (2) for the 2007-2008 school year:

10
$$\underline{A = ((1,600 - ADA) \times 0.0002700) \times SA}$$

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

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

19
$$\underline{(2) A = ((5,000 - ADA) \times 0.00002794) \times SA}$$

20 (d-1) Subsection (d) applies beginning with the 2008-2009
 21 school year. For the 2006-2007 and 2007-2008 school years, a school
 22 district described by Subsection (d) is entitled to an adjustment
 23 determined by applying the following formulas that result in the
 24 greatest adjusted allotment:

25 (1) for the 2006-2007 school year:

26 (A) the formula in Subsection (b-1)(1) or
 27 (c-1)(1) for which the district is eligible; or

1 (B) $A = ((5,000 - ADA) \times 0.00002694) \times SA$; and

2 (2) for the 2007-2008 school year:

3 (A) the formula in Subsection (b-1)(2) or
4 (c-1)(2) for which the district is eligible; or

5 (B) $A = ((5,000 - ADA) \times .00002700) \times SA$

6 (e) In addition to the adjustment otherwise provided by this
7 section, the commissioner shall, in accordance with rules adopted
8 by the commissioner, provide an additional adjustment for each
9 school district that is located in a county with a population of
10 less than 5,000 and that contains a majority of the territory in the
11 county. The total amount distributed under this section may not
12 exceed \$3 million in any fiscal year.

13 (f) Subsections (b-1), (c-1), and (d-1) and this subsection
14 expire September 1, 2009.

15 Sec. 42.303. SPARSITY ADJUSTMENT. Notwithstanding
16 Sections 42.101 and 42.302:

17 (1) a school district that has fewer than 130 students
18 in average daily attendance is entitled to an adjusted
19 accreditation allotment on the basis of 130 students in average
20 daily attendance if the district offers a kindergarten through
21 grade 12 program and has preceding or current year's average daily
22 attendance of at least 90 students or is 30 miles or more by bus
23 route from the nearest high school district;

24 (2) a school district that offers a kindergarten
25 through grade eight program and whose preceding or current year's
26 average daily attendance was or is at least 50 students or that is
27 30 miles or more by bus route from the nearest high school district

1 is entitled to an adjusted accreditation allotment on the basis of
2 75 students in average daily attendance; and

3 (3) a school district that offers a kindergarten
4 through grade six program and whose preceding or current year's
5 average daily attendance was or is at least 40 students or that is
6 30 miles or more by bus route from the nearest high school district
7 is entitled to an adjusted accreditation allotment on the basis of
8 60 students in average daily attendance.

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

16 (b) The program shall be financed by:

17 (1) state funds appropriated for the purposes of
18 public school education;

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

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

24 (4) state available school funds distributed in
25 accordance with law.

26 Sec. 42.305. ADDITIONAL STATE AID FOR AD VALOREM TAX
27 CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. For each school

1 year, a school district, including a school district that is
2 otherwise ineligible for state aid under this chapter, is entitled
3 to state aid in an amount equal to the amount of all tax credits
4 credited against ad valorem taxes of the district in that year under
5 Subchapter D, Chapter 313, Tax Code.

6 Sec. 42.3051. PROFESSIONAL STAFF SALARIES AND ADDITIONAL
7 STATE AID. (a) For the 2006-2007 school year, a school district
8 shall provide classroom teachers, full-time librarians, full-time
9 counselors certified under Subchapter B, Chapter 21, and full-time
10 school nurses with, in addition to the amounts required under
11 Section 21.402, compensation in the form of annual salaries,
12 incentives, or other compensation determined appropriate by the
13 district that results in an average compensation increase for the
14 employees of \$500 over the average annual salaries for the
15 2005-2006 school year.

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

20 (1) an amount equal to the product of \$2,500
21 multiplied by the number of classroom teachers, full-time
22 librarians, full-time counselors certified under Subchapter B,
23 Chapter 21, and full-time school nurses employed by the district
24 and entitled to a minimum salary under Section 21.402; and

25 (2) the amount of additional funds to which the
26 district is entitled as a result of H.B. No. 2, Acts of the 79th
27 Legislature, 2nd Called Session, 2005.

1 (c) Section 42.311(b) applies to any determinations made
2 under Subsection (b).

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

5 (e) The commissioner may adopt rules to implement this
6 section.

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

15 (b) Before setting aside funds under this section, the
16 commissioner shall notify the Legislative Budget Board and the
17 governor.

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

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

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

24 where:

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

26 "TR" is a tax rate that for each \$100 of valuation is an
27

1 adopted tax rate of \$1.20, or a lesser rate for any school year
2 provided by appropriation; and

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

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

13 (c) A school district with a tax rate ("TR") of \$1.20 or the
14 rate otherwise provided by appropriation for purposes of Subsection
15 (a) is eligible to receive the full amount of the tier one allotment
16 to which the district is entitled under this chapter.

17 (d) If a school district's tax rate ("TR") is less than
18 \$1.20 or the rate otherwise provided by appropriation for purposes
19 of Subsection (a), the district's tier one allotment is adjusted by
20 a percentage determined by dividing the district's tax rate ("TR")
21 by \$1.20 or the rate otherwise provided by appropriation for
22 purposes of Subsection (a) and multiplying the resulting quotient
23 by 100. The commissioner shall determine the amount of the tier one
24 allotment to which a district is entitled under this subsection.
25 The commissioner's determination is final and may not be appealed.

26 (e) In implementing any provision of this title that refers
27 to a school district's tier one allotment, the tier one allotment of

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

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

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

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

18 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

23 (1) funds are specifically appropriated for purposes
24 of this section; or

25 (2) the commissioner determines that the total amount
26 of state funds appropriated for purposes of the Foundation School
27 Program for the school year exceeds the amount of state funds

1 distributed to school districts in accordance with Section 42.313
2 based on the taxable values of property in school districts
3 computed in accordance with Section 403.302(d), Government Code,
4 without any deduction for residence homestead exemptions granted
5 under Section 11.13(n), Tax Code.

6 (b) In making a determination under Subsection (a)(2), the
7 commissioner shall:

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

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

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

22 (d) If the commissioner determines that the amount of funds
23 available under Subsection (a)(1) or (2) does not at least equal the
24 total amount of state funding to which districts would be entitled
25 if state funding under this chapter were based on the taxable values
26 of property in school districts computed in accordance with Section
27 403.302(d)(2), Government Code, the commissioner may, to the extent

1 necessary, provide state funding based on a uniform lesser fraction
2 of the deduction under Section 403.302(d)(2), Government Code.

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

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

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

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

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

26 Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT
27 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the

1 taxable value of property of a school district that contracts for
2 students residing in the district to be educated in another
3 district under Section 25.039(a) is adjusted by applying the
4 formula:

$$5 \qquad \qquad \qquad \text{ADPV} = \text{DPV} - (\text{TN}/\text{MTR})$$

6 where:

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

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

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

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

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

27 (b) If the district would have received a greater amount

1 from the Texas education fund for the applicable school year using
2 the adjusted value, the commissioner shall add the difference to
3 subsequent distributions to the district from the Texas education
4 fund. An adjustment does not affect the local share of any other
5 district.

6 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)

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

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

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

25 (B) the portion of any profit the district
26 received during the 2005-2006 school year as a result of an
27 agreement under Subchapter E, Chapter 41, that exceeds the amount

1 of state and local revenue that would have been available to the
2 district during that school year if the district imposed a
3 maintenance and operations tax of \$1.50 per \$100 of valuation
4 during that school year;

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

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

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

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

15 (c) The commissioner shall determine the minimum tax rate
16 for a school district under Subsection (a) on the basis of the tax
17 rate adopted by the district for maintenance and operations for the
18 2005-2006 school year. The commissioner shall compute the amount
19 of state and local revenue in Subsection (a)(1) using a maintenance
20 and operations tax rate that does not exceed \$1.50 for each \$100
21 valuation of taxable property for both entitlement to state aid and
22 collection of local taxes.

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

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

1 district is entitled under this section.

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

7 (b) In implementing any provision of this chapter that
8 entitles a school district to maintain the amount of state and local
9 revenue per student in average daily attendance that would have
10 been available to the district using the funding elements under
11 Chapters 41 and 42 in effect during the 2005-2006 school year, the
12 commissioner shall consider the tax rate of each district receiving
13 revenue from a countywide equalization tax to be the sum of the
14 equalization tax rate and the rate imposed by the district.

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

- 22 (1) 108 percent for the 2006-2007 school year;
23 (2) 116 percent for the 2007-2008 school year; and
24 (3) 124 percent for the 2008-2009 school year.

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

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

4 (d) Section 42.311(b) applies to any determinations made
5 under this section.

6 (e) This section expires September 1, 2009.

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

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

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

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

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

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

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

1 entitlement of each district that has a final taxable value of
2 property for the second year of a state fiscal biennium that is
3 higher than the estimate under Section 42.314 or the General
4 Appropriations Act, as applicable. A reduction under this
5 subsection may not reduce the district's entitlement below the
6 amount to which it is entitled at its actual taxable value of
7 property.

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

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

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

1 for that year.

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

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

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

1 lower, as applicable, than the estimate of student enrollment
2 otherwise used to determine the district's entitlement. To the
3 extent that money is available in the second year of a state fiscal
4 biennium for adjustments under Subsection (g) and this subsection,
5 the commissioner shall give priority to adjustments under this
6 subsection.

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

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

15 (j) Notwithstanding any other provision of this chapter,
16 the commissioner may adjust the amount of funds allocated to a
17 school district under this chapter for a school year if the district
18 collects less than 96 percent of the maintenance and operations
19 taxes levied by the district during that school year. In making the
20 determination regarding a district's collection rate for a school
21 year for purposes of this subsection, the commissioner shall
22 include any delinquent taxes collected during that year.

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

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

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

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

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

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

27 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In

1 this section:

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

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

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

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

16 (b) Payments from the Texas education fund to each category
17 1 school district shall be made as follows:

18 (1) 15 percent of the yearly entitlement of the
19 district shall be paid in an installment to be made on or before the
20 25th day of September of a fiscal year;

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

25 (3) five percent of the yearly entitlement of the
26 district shall be paid in an installment to be made on or before the
27 25th day of February.

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

3 (1) 22 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) 18 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;

9 (3) 9.5 percent of the yearly entitlement of the
10 district shall be paid in an installment to be made on or before the
11 25th day of November;

12 (4) 7.5 percent of the yearly entitlement of the
13 district shall be paid in an installment to be made on or before the
14 25th day of April;

15 (5) five percent of the yearly entitlement of the
16 district shall be paid in an installment to be made on or before the
17 25th day of May;

18 (6) 10 percent of the yearly entitlement of the
19 district shall be paid in an installment to be made on or before the
20 25th day of June;

21 (7) 13 percent of the yearly entitlement of the
22 district shall be paid in an installment to be made on or before the
23 25th day of July; and

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

1 Subdivision (1).

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

4 (1) 45 percent of the yearly entitlement of the
5 district shall be paid in an installment to be made on or before the
6 25th day of September of a fiscal year;

7 (2) 35 percent of the yearly entitlement of the
8 district shall be paid in an installment to be made on or before the
9 25th day of October; and

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

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

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

26 Sec. 42.317. RECOVERY OF OVERALLOCATED FUNDS. (a) If a
27 school district has received an overallocation of state funds, the

1 agency shall, by withholding from subsequent allocations of state
2 funds or by requesting and obtaining a refund, recover from the
3 district an amount equal to the overallocation.

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

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

13 [Sections 42.318-42.400 reserved for expansion]

14 SUBCHAPTER I. ADDITIONAL EQUALIZATION

15 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

24 Sec. 42.402. LIMITATIONS ON AID FOR CERTAIN DISTRICTS. (a)
25 In this section, "capped district" has the meaning assigned by
26 Section 41.0011.

27 (b) Notwithstanding any other provision of this subtitle,

1 but subject to this section, the commissioner shall withhold from a
2 district subject to Section 42.401 an amount of state funds
3 necessary, or adjust the amount of attendance credits the district
4 must purchase under Section 41.091 in the amount necessary, to
5 ensure that the district does not receive an amount of state and
6 local revenue per student in average daily attendance that is
7 greater than the following percent of the amount described by
8 Section 42.311(a)(1):

9 (1) for the 2006-2007 school year, 108 percent;

10 (2) for the 2007-2008 school year, 116 percent; and

11 (3) for the 2008-2009 school year, 124 percent.

12 (c) Notwithstanding Subsection (b) or any other provision
13 of this subtitle, for the 2006-2007 and 2007-2008 school years, the
14 commissioner shall withhold from a capped district an amount of
15 state funds necessary, or adjust the amount of attendance credits
16 the district must purchase under Section 41.091 in the amount
17 necessary, to ensure that the district does not receive an amount of
18 state and local revenue per student in average daily attendance
19 that is greater than 108 percent of the amount described by Section
20 42.311(a)(1). For the 2008-2009 and each following school year, a
21 capped district is subject to Section 41.101.

22 (d) The commissioner shall determine the amount of state
23 funds required to be withheld, or the amount of attendance credits
24 purchased, under this section. The commissioner's determination is
25 final and may not be appealed.

26 (e) 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 SECTION 1B.02. Section 30.003, Education Code, is amended
3 by adding Subsection (f-1) to read as follows:

4 (f-1) The commissioner shall determine the total amount
5 that the Texas School for the Blind and Visually Impaired and the
6 Texas School for the Deaf would have received from school districts
7 pursuant to this section if H.B. No. 2 and H.B. No. 3, Acts of the
8 79th Legislature, 2nd Called Session, 2005, had not reduced the
9 districts' share of the cost of providing education services. That
10 amount, minus any amount the schools do receive from school
11 districts, shall be set aside as a separate account in the Texas
12 education fund and appropriated to those schools for educational
13 purposes.

14 SECTION 1B.03. The heading to Chapter 41, Education Code,
15 is amended to read as follows:

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

17 SECTION 1B.035. Subchapter A, Chapter 41, Education Code,
18 is amended by adding Sections 41.0011 and 41.0012 to read as
19 follows:

20 Sec. 41.0011. DEFINITION. In this chapter, "capped
21 district" means a school district that purchases attendance credits
22 in the amount specified by Section 41.091(a)(1).

23 Sec. 41.0012. RECOGNITION OF OPTIONAL HOMESTEAD EXEMPTION.

24 (a) As provided by this section, a district subject to commissioner
25 action under Section 42.401, other than a district that elects to
26 purchase attendance credits in the amount specified by Section
27 41.091(a)(3), is entitled to state and local funds under this

1 chapter and Chapter 42 based on the district's taxable value of
2 property computed in accordance with Section 403.302(d)(14),
3 Government Code.

4 (b) The commissioner shall make a determination as to
5 whether a district is subject to commissioner action under Section
6 42.401 without recognizing the district's taxable value of property
7 computed in accordance with Section 403.302(d)(14), Government
8 Code.

9 (c) Recognition of a district's taxable value of property
10 computed in accordance with Section 403.302(d)(14), Government
11 Code, does not entitle the district to state aid under Chapter 42
12 that the district would not be entitled to receive in the absence of
13 that recognition.

14 SECTION 1B.04. Section 41.004, Education Code, is amended
15 to read as follows:

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

22 (1) each district subject to commissioner action under
23 Section 42.401 [~~with wealth per student exceeding the equalized~~
24 ~~wealth level~~];

25 (2) each district that [~~to which~~] the commissioner has
26 determined is eligible to be a capped district for the following
27 school year [~~proposes to annex property detached from a district~~

1 ~~notified under Subdivision (1), if necessary, under Subchapter G];~~

2 and

3 (3) each district to which the commissioner proposes
4 to consolidate a district notified under Subdivision (1), if
5 necessary, under Subchapter H.

6 (b) If, before the dates provided by this subsection, a
7 district notified under Subsection (a)(1) has not purchased average
8 daily attendance credit as provided by Subchapter D [~~successfully~~
9 ~~exercised one or more options under Section 41.003 that reduce the~~
10 ~~district's wealth per student to a level equal to or less than the~~
11 ~~equalized wealth level], the commissioner [~~shall order the~~
12 ~~detachment of property from that district as provided by Subchapter~~
13 ~~G. If that detachment will not reduce the district's wealth per~~
14 ~~student to a level equal to or less than the equalized wealth level,~~
15 ~~the commissioner may not detach property under Subchapter G but]~~
16 shall order the consolidation of the district with one or more other
17 districts as provided by Subchapter H. [~~An agreement under Section~~
18 ~~41.003(1) or (2) must be executed not later than September 1~~
19 ~~immediately following the notice under Subsection (a).]~~ An
20 election to authorize the purchase of average daily attendance
21 credit as provided by Subchapter D [~~for an option under Section~~
22 ~~41.003(3), (4), or (5)] must be ordered before September 1
23 immediately following the notice under Subsection (a).~~~~

24 (c) A district notified under Subsection (a) may not adopt a
25 tax rate for the tax year in which the district receives the notice
26 until the commissioner certifies that the district has entered into
27 an agreement under Subchapter D to purchase average daily

1 attendance credit [~~achieved the equalized wealth level~~].

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

4 (1) is effective for Foundation School Program funding
5 purposes for the school year that begins in the calendar year in
6 which the [~~detachment and annexation or~~] consolidation is [~~agreed~~
7 ~~to or~~] ordered; and

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

11 SECTION 1B.05. Section 41.006(a), Education Code, is
12 amended to read as follows:

13 (a) The commissioner may adopt rules necessary for the
14 implementation of this chapter. The rules may provide for the
15 commissioner to make necessary adjustments to the provisions of
16 Chapter 42, including providing for the commissioner to make an
17 adjustment in the funding element established by Section 42.252
18 [~~42.302~~], at the earliest date practicable, to the amount the
19 commissioner believes, taking into consideration options exercised
20 by school districts under Section 42.401 [~~this chapter~~] and
21 estimates of student enrollments, will match appropriation levels.

22 SECTION 1B.06. Section 41.008(a), Education Code, is
23 amended to read as follows:

24 (a) The governing board of a school district that results
25 from consolidation under this chapter [~~, including a consolidated~~
26 ~~taxing district under Subchapter F,~~] for the tax year in which the
27 consolidation occurs may determine whether to adopt a homestead

1 exemption provided by Section 11.13, Tax Code, and may set the
2 amount of the exemption, if adopted, at any time before the school
3 district adopts a tax rate for that tax year. This section applies
4 only to an exemption that the governing board of a school district
5 is authorized to adopt or change in amount under Section 11.13, Tax
6 Code.

7 SECTION 1B.07. Section 41.009(a), Education Code, is
8 amended to read as follows:

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

14 SECTION 1B.08. Section 41.010, Education Code, is amended
15 to read as follows:

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

25 SECTION 1B.09. Section 41.013(a), Education Code, is
26 amended to read as follows:

27 (a) A [~~Except as provided by Subchapter C, a~~] decision of

1 the commissioner under this chapter is appealable under Section
2 7.057.

3 SECTION 1B.10. Section 41.091, Education Code, is amended
4 to read as follows:

5 Sec. 41.091. AGREEMENT. (a) A school district subject to
6 Section 42.401 [~~with a wealth per student that exceeds the~~
7 ~~equalized wealth level~~] may execute an agreement with the
8 commissioner to purchase attendance credits in an amount equal to
9 the lesser of:

10 (1) the amount equal to 38 percent of the maintenance
11 and operations tax revenue used in determining the district's local
12 share under Section 42.306;

13 (2) if the district elects to have the district's
14 taxable value of property computed in accordance with Section
15 403.302(d)(14), Government Code, the difference between the
16 district's local share under Section 42.306 and the sum of:

17 (A) the district's tier one allotment under
18 Section 42.304; and

19 (B) other revenue to which the district is
20 entitled under Sections 42.3051 and 42.311; and

21 (3) if the district elects not to have the district's
22 taxable value of property computed in accordance with Section
23 403.302(d)(14), Government Code, the difference between the
24 district's local share under Section 42.306 and 104 percent of the
25 sum of:

26 (A) the district's tier one allotment under
27 Section 42.304; and

1 (B) other revenue to which the district is
2 entitled under Sections 42.3051 and 42.311.

3 (b) Subsection (a)(1) applies only to a school district that
4 levies a maintenance and operations tax at a rate at least equal to
5 75 percent of the maximum tax rate specified by Section 42.306.

6 (c) If the dollar amount guaranteed level ("GL") under
7 Section 42.252 for a school year is greater than the amount of
8 enrichment tax revenue available to a school district at the
9 applicable target percentile under that section for that year, the
10 applicable amount of state and local revenue per student in average
11 daily attendance required to be used to purchase attendance credits
12 as provided by Subsection (a)(1) is increased by an amount equal to
13 the amount by which the dollar amount guaranteed level ("GL") under
14 Section 42.252 exceeds the dollar amount of state and local revenue
15 available per student in average daily attendance at the applicable
16 target percentile under that section.

17 (d) If the dollar amount guaranteed level ("GL") under
18 Section 42.252 for a school year is less than the amount of
19 enrichment tax revenue available to a school district at the
20 applicable target percentile under that section, the applicable
21 amount of state and local revenue per student in average daily
22 attendance required to be used to purchase attendance credits as
23 provided by Subsection (a)(1) is decreased by an amount equal to the
24 amount by which the dollar amount guaranteed level ("GL") under
25 Section 42.252 exceeds the dollar amount of state and local revenue
26 available per student in average daily attendance at the applicable
27 target percentile under that section.

1 (e) Subsections (c) and (d) apply only to a capped district.
2 [~~sufficient, in combination with any other actions taken under this~~
3 ~~chapter, to reduce the district's wealth per student to a level that~~
4 ~~is equal to or less than the equalized wealth level.]~~

5 SECTION 1B.11. Section 41.093(a), Education Code, is
6 amended to read as follows:

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

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

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

17 SECTION 1B.115. Subchapter D, Chapter 41, Education Code, is
18 amended by adding Section 41.101 to read as follows:

19 Sec. 41.101. MINIMUM TAX RATES OF CAPPED DISTRICTS. (a)
20 Notwithstanding the percent described by Section 41.091(a)(1),
21 revenue raised for a school year by a capped district in excess of
22 the revenue that the capped district is permitted to raise at the
23 minimum tax rate described by Section 41.091(b) is included in
24 determining the district's local share for purposes of Section
25 42.401. For purposes of this subsection, a capped district is
26 permitted each school year to raise the sum of:

27 (1) 108 percent of the amount described by Section

1 42.311(a)(1); and

2 (2) an amount equal to the average increase per
3 student in spending by all school districts in this state, other
4 than districts subject to Section 42.401, for the preceding school
5 year.

6 (a-1) This section applies beginning with the 2008-2009
7 school year. This subsection expires September 1, 2009.

8 (b) The commissioner by rule shall prescribe the manner by
9 which the average increase in school district spending is computed
10 under Subsection (a). The rules must include the identification of
11 areas of spending that are appropriate for inclusion in that
12 computation.

13 (c) Not later than December 1, 2006, the agency shall
14 prepare and deliver a report describing the commissioner's
15 determinations under Subsection (b) to the governor, the lieutenant
16 governor, the speaker of the house of representatives, and the
17 presiding officer of the committee in each house of the legislature
18 with primary jurisdiction over public education. This subsection
19 expires January 1, 2007.

20 (d) Any amount to which a school district is entitled under
21 Subchapter G, Chapter 42, is not included in determining the
22 district's local share for purposes of Section 42.401.

23 SECTION 1B.12. Section 41.251, Education Code, is amended
24 to read as follows:

25 Sec. 41.251. COMMISSIONER ORDER. If the commissioner is
26 required under Section 42.401 [~~41.004~~] to order the consolidation
27 of districts, the consolidation is governed by this subchapter.

1 The commissioner's order shall be effective on a date determined by
2 the commissioner, but not later than the earliest practicable date
3 after November 8.

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

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

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

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

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

26 (4) fourth, to include as few districts as possible
27 that are not subject to Section 42.401 and [~~fall below the equalized~~

1 ~~wealth level within the consolidation order that~~] have not
2 requested the commissioner to be included in a consolidation plan;

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

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

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

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

20 SECTION 1B.14. Section 41.257, Education Code, is amended
21 to read as follows:

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

1 still qualifies as a small or sparse district.

2 SECTION 1B.15. Section 44.004, Education Code, is amended
3 by adding Subsection (c-1) to read as follows:

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

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

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

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

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

18 (f) Notwithstanding any other provision of this section, a
19 district may not adopt a tax rate for the maintenance and operations
20 of the district that exceeds the sum of the maximum rate for
21 purposes of Section 42.253 and the rate specified in Section 42.306
22 or otherwise provided for that section by appropriation unless that
23 tax rate is approved by two-thirds of the qualified voters voting in
24 an election held for that purpose. A district's adoption of a rate
25 authorized by this subsection does not affect the limitation on a
26 district's entitlement to enrichment revenue provided by Section
27 42.253. This subsection does not authorize the adoption of a tax

1 rate for the maintenance and operations of the district that
2 exceeds the maximum rate prescribed by Subsection (d).

3 SECTION 1B.17. The heading to Section 26.08, Tax Code, is
4 amended to read as follows:

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

7 SECTION 1B.18. Section 26.08, Tax Code, is amended by
8 amending Subsections (a), (b), (c), (e), (h), (i), and (j) and
9 adding Subsections (a-1)-(a-5) and (b-1) to read as follows:

10 (a) Except as provided by Subsection (b), a school district
11 must obtain voter authorization in an election each time the
12 district adopts a tax rate for the maintenance and operations of the
13 district that exceeds the rate levied by the district in the
14 preceding tax year.

15 (a-1) Notwithstanding Section 45.003, Education Code, and
16 except as provided by Subsection (a-2), (a-3), or (a-4), for the
17 2006 tax year, a school district may not impose a tax for the
18 maintenance and operations of the district that exceeds the greater
19 of:

20 (1) the rate equal to the sum of 80 percent of the rate
21 adopted by the district for maintenance and operations for the 2004
22 tax year; or

23 (2) the rate necessary to ensure that the district
24 receives the amount of revenue to which the district is entitled
25 under Section 42.311, Education Code, provided that the rate may
26 not exceed the sum of \$1.20 on the \$100 valuation of taxable
27 property.

1 (a-2) For the 2006 tax year, a school district may, without
2 holding an additional election, impose a tax for the maintenance
3 and operations of the district at a rate that does not exceed the
4 lesser of the rate of \$1.20 or the sum of the rate authorized by
5 Subsection (a-1) and the rate of \$0.04 per \$100 valuation of taxable
6 value, provided that the rate imposed was previously authorized by
7 voters in an election held for that purpose. A school district may
8 impose a greater rate if the greater rate is approved by the voters
9 in an election held after the effective date of H.B. No. 2, Acts of
10 the 79th Legislature, 2nd Called Session, 2005.

11 (a-3) For the 2006 tax year, a school district permitted by
12 Subsection (a-1) to impose a tax for the maintenance and operations
13 of the district at the rate of \$1.20 on the \$100 valuation of
14 taxable property may impose a tax for the maintenance and
15 operations of the district at a higher rate if approved by the
16 voters in an election held after the effective date of H.B. No. 2,
17 Acts of the 79th Legislature, 2nd Called Session, 2005.

18 (a-4) Notwithstanding any other provision of law, a school
19 district permitted by special law on January 1, 2006, to impose an
20 ad valorem tax for maintenance and operations at a rate greater than
21 \$1.50 on the \$100 valuation of taxable property in the district may,
22 for the 2006 tax year:

23 (1) impose a tax for the maintenance and operations of
24 the district at a rate not to exceed the rate that is \$0.30 less than
25 the rate adopted by the district for maintenance and operations for
26 the 2004 tax year, provided that, notwithstanding any other
27 provision of law, the tax authorized by this subdivision may not be

1 considered an enrichment tax rate for purposes of Subchapter G,
2 Chapter 42, Education Code; and

3 (2) seek voter authorization to impose a tax for
4 maintenance and operations for purposes of Subchapter G, Chapter
5 42, Education Code, at a rate greater than the rate authorized by
6 Subdivision (1), provided that the rate authorized by this
7 subdivision may not exceed the maximum tax permitted under
8 Subchapter G, Chapter 42, Education Code.

9 (a-5) Subsections (a-1), (a-2), (a-3), and (a-4) and this
10 subsection expire January 1, 2008.

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

25 (b-1) [~~(b)~~] The governing body shall order that the
26 election required by Subsection (b) be held in the school district
27 on a date not less than 30 or more than 90 days after the day on

1 which it adopted the tax rate. Section 41.001, Election Code, does
2 not apply to the election unless a date specified by that section
3 falls within the time permitted by this section. At the election,
4 the ballots shall be prepared to permit voting for or against the
5 proposition: "Approving the ad valorem tax rate of \$_____ per \$100
6 valuation in (name of school district) for the current year, a rate
7 that is \$_____ higher per \$100 valuation than the school district
8 rollback tax rate." The ballot proposition must include the
9 adopted tax rate and the difference between that rate and the
10 rollback tax rate in the appropriate places.

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

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

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

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

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

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

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

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

20 SECTION 1B.19. Section 31.01, Tax Code, is amended by
21 adding Subsection (b-1) to read as follows:

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

26 (1) the rate for the maintenance and operations tax
27 described by Section 45.003, Education Code, and the amount of tax

1 due under that tax rate, under the heading "Maintenance and
2 Operations Tax";

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

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

11 SECTION 1B.20. Effective on the 91st day after the last day
12 of the legislative session, Section 311.013, Tax Code, as amended
13 by S.B. No. 771, Acts of the 79th Legislature, Regular Session,
14 2005, is amended by adding Subsection (n) to read as follows:

15 (n) This subsection applies only to a school district whose
16 taxable value computed under Section 403.302(d), Government Code,
17 is reduced in accordance with Subdivision (5) of that subsection.
18 In addition to the amount otherwise required to be paid into the tax
19 increment fund, the district shall pay into the fund an amount equal
20 to the amount by which the amount of taxes the district would have
21 been required to pay into the fund in the current year if the
22 district levied taxes at the rate the district levied in 2004
23 exceeds the amount the district is otherwise required to pay into
24 the fund in the year of the reduction, not to exceed the amount the
25 school district realizes from the reduction in the school
26 district's taxable value under Section 403.302(d)(5), Government
27 Code. This subsection ceases to apply to the school district on the

1 earlier of the dates specified by Sections 311.017(a)(1) and (2)
2 for the reinvestment zone.

3 SECTION 1B.21. Effective on the 91st day after the last day
4 of the legislative session, Section 403.302, Government Code, is
5 amended by amending Subsections (d) and (i) and adding Subsections
6 (c-1), (c-2), and (d-1) to read as follows:

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

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

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

27 (3) the value estimates established under Subdivision

1 (2), together with the local tax roll value for any categories not
2 sampled and tested by the comptroller, less total deductions
3 determined by the comptroller, determines the taxable value for the
4 school district.

5 (c-2) Subsection (c-1) and this subsection expire September
6 1, 2007.

7 (d) For the purposes of this section, "taxable value" means
8 the market value of all taxable property less:

9 (1) the total dollar amount of any residence homestead
10 exemptions lawfully granted under Section 11.13(b) or (c), Tax
11 Code, in the year that is the subject of the study for each school
12 district;

13 (2) one-half of the total dollar amount of any
14 residence homestead exemptions granted under Section 11.13(n), Tax
15 Code, in the year that is the subject of the study for each school
16 district;

17 (3) the total dollar amount of any exemptions granted
18 before May 31, 1993, within a reinvestment zone under agreements
19 authorized by Chapter 312, Tax Code;

20 (4) subject to Subsection (e), the total dollar amount
21 of any captured appraised value of property that:

22 (A) is within a reinvestment zone created on or
23 before May 31, 1999, or is proposed to be included within the
24 boundaries of a reinvestment zone as the boundaries of the zone and
25 the proposed portion of tax increment paid into the tax increment
26 fund by a school district are described in a written notification
27 provided by the municipality or the board of directors of the zone

1 to the governing bodies of the other taxing units in the manner
2 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
3 within the boundaries of the zone as those boundaries existed on
4 September 1, 1999, including subsequent improvements to the
5 property regardless of when made;

6 (B) generates taxes paid into a tax increment
7 fund created under Chapter 311, Tax Code, under a reinvestment zone
8 financing plan approved under Section 311.011(d), Tax Code, on or
9 before September 1, 1999; and

10 (C) is eligible for tax increment financing under
11 Chapter 311, Tax Code;

12 (5) for a school district for which a deduction from
13 taxable value is made under Subdivision (4), an amount equal to the
14 taxable value required to generate revenue when taxed at the school
15 district's current tax rate in an amount that, when added to the
16 taxes of the district paid into a tax increment fund as described by
17 Subdivision (4)(B), is equal to the total amount of taxes the
18 district would have paid into the tax increment fund if the district
19 levied taxes at the rate the district levied in 2004;

20 (6) the total dollar amount of any exemptions granted
21 under Section 11.251, Tax Code;

22 (7) [~~(6)~~] the difference between the comptroller's
23 estimate of the market value and the productivity value of land that
24 qualifies for appraisal on the basis of its productive capacity,
25 except that the productivity value estimated by the comptroller may
26 not exceed the fair market value of the land;

27 (8) [~~(7)~~] the portion of the appraised value of

1 residence homesteads of individuals who receive a tax limitation
2 under Section 11.26, Tax Code, on which school district taxes are
3 not imposed in the year that is the subject of the study, calculated
4 as if the residence homesteads were appraised at the full value
5 required by law;

6 (9) [~~(8)~~] a portion of the market value of property
7 not otherwise fully taxable by the district at market value because
8 of:

9 (A) action required by statute or the
10 constitution of this state that, if the tax rate adopted by the
11 district is applied to it, produces an amount equal to the
12 difference between the tax that the district would have imposed on
13 the property if the property were fully taxable at market value and
14 the tax that the district is actually authorized to impose on the
15 property, if this subsection does not otherwise require that
16 portion to be deducted; or

17 (B) action taken by the district under Subchapter
18 B or C, Chapter 313, Tax Code;

19 (10) [~~(9)~~] the market value of all tangible personal
20 property, other than manufactured homes, owned by a family or
21 individual and not held or used for the production of income;

22 (11) [~~(10)~~] the appraised value of property the
23 collection of delinquent taxes on which is deferred under Section
24 33.06, Tax Code;

25 (12) [~~(11)~~] the portion of the appraised value of
26 property the collection of delinquent taxes on which is deferred
27 under Section 33.065, Tax Code; [~~and~~]

1 (13) [~~(12)~~] the amount by which the market value of a
2 residence homestead to which Section 23.23, Tax Code, applies
3 exceeds the appraised value of that property as calculated under
4 that section; and

5 (14) for a district to which Section 41.0012,
6 Education Code, applies, the total dollar amount of any residence
7 homestead exemptions granted under Section 11.13(n), Tax Code, in
8 the year that is the subject of the study for each school district.

9 (d-1) For a school district for which in the 2004 tax year a
10 deduction from taxable value is made under Subsection (d)(5), the
11 comptroller shall certify to the commissioner of education a final
12 taxable value for the 2004 tax year, calculated as if the reduction
13 in the school district's ad valorem tax rate and the method of
14 calculating the amount of the deduction from taxable value under
15 Subsection (d)(5) required by H.B. No. 2, Acts of the 79th
16 Legislature, 2nd Called Session, 2005, took effect January 1, 2004.
17 This subsection expires September 1, 2006.

18 (i) If the comptroller determines in the annual study that
19 the market value of property in a school district as determined by
20 the appraisal district that appraises property for the school
21 district, less the total of the amounts and values listed in
22 Subsection (d) as determined by that appraisal district, is valid,
23 the comptroller, in determining the taxable value of property in
24 the school district under Subsection (d), shall for purposes of
25 Subsection (d)(13) [~~(d)(12)~~] subtract from the market value as
26 determined by the appraisal district of residence homesteads to
27 which Section 23.23, Tax Code, applies the amount by which that

1 amount exceeds the appraised value of those properties as
2 calculated by the appraisal district under Section 23.23, Tax Code.
3 If the comptroller determines in the annual study that the market
4 value of property in a school district as determined by the
5 appraisal district that appraises property for the school district,
6 less the total of the amounts and values listed in Subsection (d) as
7 determined by that appraisal district, is not valid, the
8 comptroller, in determining the taxable value of property in the
9 school district under Subsection (d), shall for purposes of
10 Subsection (d)(13) [~~(d)(12)~~] subtract from the market value as
11 estimated by the comptroller of residence homesteads to which
12 Section 23.23, Tax Code, applies the amount by which that amount
13 exceeds the appraised value of those properties as calculated by
14 the appraisal district under Section 23.23, Tax Code.

15 SECTION 1B.22. Except as otherwise provided by this Act,
16 this part takes effect September 1, 2006.

17 PART C. SCHOOL FACILITIES

18 SECTION 1C.01. Section 46.008, Education Code, is amended
19 to read as follows:

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

26 (b) To be eligible to be financed with state or local tax
27 funds, any portable, modular building capable of being relocated

1 that is purchased or leased after December 1, 2005, for use as a
2 school facility, regardless of whether the building is an
3 industrialized building as defined by Section 1202.003,
4 Occupations Code, must be inspected as provided by Subchapter E,
5 Chapter 1202, Occupations Code, to ensure compliance with the
6 mandatory building codes or approved designs, plans, and
7 specifications.

8 SECTION 1C.02. Subchapter A, Chapter 46, Education Code, is
9 amended by adding Section 46.014 to read as follows:

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

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

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

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

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

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

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

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

6 (4) a determination of the extent to which
7 instructional facilities in this state are energy and water use
8 efficient; and

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

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

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

19 SECTION 1C.03. This part takes effect on the 91st day after
20 the last day of the legislative session.

21 PART D. SOCIAL SECURITY CONTRIBUTIONS

22 SECTION 1D.01. Subchapter B, Chapter 606, Government Code,
23 is amended by adding Section 606.0261 to read as follows:

24 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

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

1 employees.

2 (a-1) Subsection (a) applies beginning with the 2008-2009
3 school year. For the 2006-2007 school year, the state shall pay 16
4 percent of the total costs described by Subsection (a). For the
5 2007-2008 school year, the state shall pay 33 percent of the total
6 costs described by Subsection (a). This subsection expires
7 September 1, 2009.

8 (b) Payment of state assistance under this section is
9 limited to:

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

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

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

19 SECTION 1D.02. This part takes effect September 1, 2006.

20 ARTICLE 2. EDUCATION EXCELLENCE

21 PART A. EDUCATION EMPLOYEES

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

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

1 (1) communication during:

2 (A) the employee's regular working hours at the
3 district; or

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

5 (2) ex parte communication relating to:

6 (A) a hearing under Subchapter E or F, Chapter
7 21; and

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

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

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

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

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

25 (d) A principal of a campus rated academically
26 unacceptable, as well as any person employed to replace that
27 principal, shall participate in the program and complete the

1 program requirements not later than a date determined by the
2 commissioner.

3 (e) To pay the costs of administering the program, the
4 commissioner shall retain a portion of the total amount of funds
5 allotted under the Foundation School Program that the commissioner
6 considers appropriate to finance activities under this section and
7 shall reduce the total amount of state funds allocated to each
8 district from any source in the same manner described for a
9 reduction in allotments under Section 42.313.

10 (e-1) For the state fiscal biennium beginning September 1,
11 2005, the amount set aside under Subsection (e) may not exceed \$3.6
12 million. This subsection expires August 31, 2007.

13 (f) To implement and administer the program, the
14 commissioner may accept grants, gifts, and donations from public
15 and private entities.

16 (g) The commissioner may adopt rules necessary to
17 administer this section.

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

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

2 SECTION 2A.03. Section 21.003(a), Education Code, is
3 amended to read as follows:

4 (a) A person may not be employed as a teacher, teacher
5 intern or teacher trainee, librarian, educational aide,
6 administrator, educational diagnostician, or counselor by a school
7 district unless the person holds an appropriate certificate or
8 permit issued as provided by Subchapter B.

9 SECTION 2A.04. Sections 21.045(a) and (b), Education Code,
10 are amended to read as follows:

11 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
12 establishing standards to govern the approval and continuing
13 accountability of all educator preparation programs based on
14 information that is disaggregated with respect to sex and ethnicity
15 and that includes:

16 (1) results of the certification examinations
17 prescribed under Section 21.048(a); [~~and~~]

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

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

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

26 (b) Each educator preparation program shall submit data
27 elements as required by the commissioner [~~board~~] for an annual

1 performance report to ensure access and equity. At a minimum, the
2 annual report must contain the performance data from Subsection
3 (a), other than the data required for purposes of Subsection
4 (a)(3), and the following information, disaggregated by sex and
5 ethnicity:

- 6 (1) the number of candidates who apply;
- 7 (2) the number of candidates admitted;
- 8 (3) the number of candidates retained;
- 9 (4) the number of candidates completing the program;
- 10 (5) the number of candidates employed in the
11 profession after completing the program; and
- 12 (6) the number of candidates retained in the
13 profession.

14 SECTION 2A.05. Section 21.104(a), Education Code, is
15 amended to read as follows:

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

18 (1) good cause as determined by the board of trustees;
19 or

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

24 SECTION 2A.06. Subchapter C, Chapter 21, Education Code, is
25 amended by adding Section 21.1041 to read as follows:

26 Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER
27 PROBATIONARY CONTRACT. (a) If the board of trustees proposes to

1 discharge a teacher under Section 21.104(a)(2), the board shall
2 give written 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 a hearing held under Subsection (b), the board of
20 trustees shall:

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

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

26 (d) If the teacher does not request a hearing under
27 Subsection (b), the board of trustees shall take the appropriate

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

5 SECTION 2A.07. Subchapter E, Chapter 21, Education Code, is
6 amended by adding Section 21.2111 to read as follows:

7 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM
8 CONTRACT. (a) If the board of trustees proposes to discharge a
9 teacher under Section 21.211(a)(2), the board shall give written
10 notice of the proposed action to the teacher.

11 (b) If the teacher desires a hearing after receiving notice
12 of the proposed discharge, the teacher shall notify the board of
13 trustees in writing, not later than the 15th day after the date the
14 teacher receives the notice of the proposed action. The board shall
15 provide for a hearing to be held not later than the 15th day after
16 the date the board receives the request for a hearing unless the
17 parties agree in writing to a different date. The hearing must be
18 closed unless the teacher requests an open hearing. The hearing
19 must be conducted in accordance with rules adopted by the board. At
20 the hearing, the teacher may:

21 (1) be represented by a representative of the
22 teacher's choice;

23 (2) hear the evidence supporting the reason for the
24 discharge;

25 (3) cross-examine adverse witnesses; and

26 (4) present evidence.

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

1 (1) take the appropriate action to discharge the
2 teacher or allow the teacher to complete the current contract term;
3 and

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

6 (d) If the teacher does not request a hearing under
7 Subsection (b), the board of trustees shall take the appropriate
8 action to discharge the teacher and shall notify the teacher in
9 writing of that action not later than the 30th day after the date
10 the notice of proposed discharge for a financial exigency that
11 requires a reduction in personnel was sent to the teacher.

12 SECTION 2A.08. Section 21.251, Education Code, is amended
13 to read as follows:

14 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
15 if a teacher requests a hearing after receiving notice of the
16 proposed decision to:

17 (1) terminate the teacher's continuing contract at any
18 time;

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

22 (3) suspend the teacher without pay.

23 (b) This subchapter does not apply to:

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

26 (2) a decision not to renew a teacher's term contract,
27 unless the board of trustees of the employing district has decided

1 to use the process prescribed by this subchapter for that purpose;
2 or

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

6 SECTION 2A.09. Section 21.301(a), Education Code, is
7 amended to read as follows:

8 (a) Not later than the 20th day after the date the board of
9 trustees or board subcommittee announces its decision under Section
10 21.259, ~~[or]~~ the board advises the teacher of its decision not to
11 renew the teacher's contract under Section 21.208, or the board
12 advises the teacher of its decision to terminate the teacher's
13 probationary contract under Section 21.1041(c) or (d) or term
14 contract under Section 21.2111(c) or (d), the teacher may appeal
15 the decision by filing a petition for review with the commissioner.

16 SECTION 2A.10. Section 21.303(a), Education Code, is
17 amended to read as follows:

18 (a) If the board of trustees decided not to renew a
19 teacher's term contract or decided to terminate a teacher's
20 probationary contract under Section 21.1041(c) or (d) or term
21 contract under Section 21.2111(c) or (d), the commissioner may not
22 substitute the commissioner's judgment for that of the board of
23 trustees unless the decision was arbitrary, capricious, or unlawful
24 or is not supported by substantial evidence.

25 SECTION 2A.11. Section 21.402, Education Code, is amended
26 by amending Subsections (a), (c), and (d) and adding Subsections
27 (a-1), (a-2), (c-1), and (c-2) to read as follows:

1 (a) Except as provided by Subsection (a-1), (a-2), (d),
2 ~~[(e),]~~ or (f), a school district must pay each classroom teacher,
3 full-time librarian, full-time counselor certified under
4 Subchapter B, or full-time school nurse not less than the minimum
5 monthly salary, based on the employee's level of experience,
6 prescribed by Subsection (c) ~~[determined by the following formula:~~

7
$$[\text{MS} = \text{SF} \times \text{FS}]$$

8 ~~[where:~~

9 ~~["MS" is the minimum monthly salary;~~

10 ~~["SF" is the applicable salary factor specified by Subsection~~
11 ~~(c); and~~

12 ~~["FS" is the amount, as determined by the commissioner under~~
13 ~~Subsection (b), of state and local funds per weighted student~~
14 ~~available to a district eligible to receive state assistance under~~
15 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~
16 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~
17 ~~except that the amount of state and local funds per weighted student~~
18 ~~does not include the amount attributable to the increase in the~~
19 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~
20 ~~Legislature, Regular Session, 2001].~~

21 (a-1) A school district is not required to pay the minimum
22 salary determined under Subsection (a) to an educator who receives
23 a service retirement annuity under Chapter 824, Government Code.

24 (a-2) A school district is not required to pay the minimum
25 salary determined under Subsection (a) to an educator who does not
26 hold a lifetime or standard certificate and who holds a
27 probationary, temporary, or emergency educator certificate.

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

3	Years	0	1	2
4	Experience			
5	<u>Monthly Salary</u>	<u>\$2,574</u> [-.5656]	<u>\$2,631</u> [-.5790]	<u>\$2,689</u> [-.5924]
6	[Factor]			
7	Years	3	4	5
8	Experience			
9	<u>Monthly Salary</u>	<u>\$2,746</u> [-.6058]	<u>\$2,867</u> [-.6340]	<u>\$2,988</u> [-.6623]
10	[Factor]			
11	Years	6	7	8
12	Experience			
13	<u>Monthly Salary</u>	<u>\$3,109</u> [-.6906]	<u>\$3,222</u> [-.7168]	<u>\$3,328</u> [-.7416]
14	[Factor]			
15	Years	9	10	11
16	Experience			
17	<u>Monthly Salary</u>	<u>\$3,429</u> [-.7651]	<u>\$3,523</u> [-.7872]	<u>\$3,614</u> [-.8082]
18	[Factor]			
19	Years	12	13	14
20	Experience			
21	<u>Monthly Salary</u>	<u>\$3,699</u> [-.8281]	<u>\$3,778</u> [-.8467]	<u>\$3,855</u> [-.8645]
22	[Factor]			
23	Years	15	16	17
24	Experience			
25	<u>Monthly Salary</u>	<u>\$3,926</u> [-.8811]	<u>\$3,994</u> [-.8970]	<u>\$4,058</u> [-.9119]
26	[Factor]			

1	Years	18	19	20 and over
2	Experience			
3	<u>Monthly Salary</u>	<u>\$4,118</u> [-.9260]	<u>\$4,176</u> [-.9394]	<u>\$4,230</u> [-.9520]
4	[Factor]			

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

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

15 (2) \$150.

16 (c-2) Subsection (c-1) and this subsection expire September
17 1, 2006.

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

24 SECTION 2A.12. Subchapter I, Chapter 21, Education Code, is
25 amended by adding Section 21.4021 to read as follows:

26 Sec. 21.4021. STATE POLICY REGARDING TEACHER COMPENSATION
27 ABOVE MINIMUM SALARY SCHEDULE. (a) It is the policy of this state

1 that each school district may compensate and have the ability to
2 compensate any teacher in an amount greater than the amounts
3 required by Sections 21.402 and 21.403 based on the teacher's
4 ability to improve the academic achievement of students.

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

7 (1) the teacher's ability to improve the academic
8 achievement of the teacher's students;

9 (2) the grade level or subject the teacher is assigned
10 to teach;

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

12 (4) the assignment of the teacher, including whether
13 the teacher is assigned to a subject or school that is difficult to
14 staff.

15 (c) A school district can and should provide additional
16 compensation to a teacher who substantially contributes to
17 improvement in student achievement.

18 SECTION 2A.13. Effective September 1, 2006, Subchapter I,
19 Chapter 21, Education Code, is amended by adding Section 21.4031 to
20 read as follows:

21 Sec. 21.4031. SALARY SUPPLEMENT FOR CERTAIN
22 RETIREMENT-ELIGIBLE CLASSROOM TEACHERS. (a) The amounts specified
23 by this section are in addition to amounts to which a classroom
24 teacher is entitled under Section 21.402.

25 (b) A classroom teacher, other than an employed retiree, is
26 entitled to an annual salary supplement equal to:

27 (1) \$1,000 for a year in which the sum of the teacher's

1 age and years of service credit in the Teacher Retirement System of
2 Texas equals at least 80 but less than 85;

3 (2) \$2,000 for a year in which the sum of the teacher's
4 age and years of service credit in the Teacher Retirement System of
5 Texas equals at least 85 but less than 90;

6 (3) \$3,000 for a year in which the sum of the teacher's
7 age and years of service credit in the Teacher Retirement System of
8 Texas equals at least 90 but less than 95; and

9 (4) \$4,000 for a year in which the sum of the teacher's
10 age and years of service credit in the Teacher Retirement System of
11 Texas equals at least 95.

12 (c) If a person is entitled to a salary supplement under a
13 provision of Subsection (b) for only part of a year, the amount of
14 the salary supplement shall be prorated accordingly.

15 (d) The Teacher Retirement System of Texas, at the request
16 of the agency, may release information to the agency about a member
17 of the retirement system or a retiree that the executive director of
18 the retirement system finds is necessary to determine a person's
19 eligibility for a salary supplement under this section. The
20 information remains confidential after the information is released
21 to the agency as authorized by this section. The agency may
22 disclose whether an employee is entitled to a supplement and the
23 amount of the supplement to which the employee is entitled but may
24 not release other information provided by the retirement system.

25 (e) A school district is entitled to state funds in an
26 amount equal to the sum of the salary supplements to which classroom
27 teachers employed by the district are entitled under this section.

1 Funding a school district receives under this section is in
2 addition to any funding the district receives under Chapter 42. The
3 commissioner shall distribute funds under this section with the
4 Foundation School Program payment to which the district is entitled
5 as soon as practicable after the end of the school year as
6 determined by the commissioner. A district to which Chapter 41
7 applies is entitled to funding under this section. The
8 commissioner shall determine the timing of the distribution of
9 funds to a district that does not receive Foundation School Program
10 payments.

11 SECTION 2A.14. Subchapter J, Chapter 21, Education Code, is
12 amended by adding Section 21.458 to read as follows:

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

16 (1) teach in the same school;

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

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

21 (b) The commissioner shall adopt rules necessary to
22 administer this section, including rules concerning the duties and
23 qualifications of a teacher who serves as a mentor. The rules
24 concerning qualifications must require that to serve as a mentor a
25 teacher must:

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

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

3 (3) have at least three complete years of teaching
4 experience with a superior record of assisting students, as a
5 whole, in achieving growth in student performance.

6 (c) From the funds appropriated to the agency for purposes
7 of this section, the commissioner shall adopt rules and provide
8 funding to school districts that assign mentor teachers under this
9 section. Funding provided to districts under this section may be
10 used only for providing:

11 (1) mentor teacher stipends;

12 (2) scheduled time for mentor teachers to provide
13 mentoring to assigned classroom teachers; and

14 (3) mentoring support through providers of mentor
15 training.

16 (d) In adopting rules under Subsection (c), the
17 commissioner shall rely on research-based mentoring programs that,
18 through external evaluation, have demonstrated success.

19 SECTION 2A.15. Chapter 21, Education Code, is amended by
20 adding Subchapter N to read as follows:

21 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

22 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)
23 The commissioner shall establish an educator excellence incentive
24 program under which school districts, in accordance with locally
25 developed plans approved by the commissioner, provide incentive
26 payments to employees who demonstrate superior success in growth in
27 student achievement.

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

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

6 (1) encourage classroom teachers to:

7 (A) teach at campuses with high percentages of
8 educationally disadvantaged students;

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

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

14 (2) further the goals of any other locally designed
15 performance incentive program intended to improve student
16 achievement.

17 (d) The commissioner shall adopt rules necessary to
18 implement this subchapter. In adopting rules, the commissioner
19 shall:

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

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

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

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

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

4 (c) A local incentive plan must provide for incentive
5 payments to classroom teachers and may provide for incentive
6 payments to other employees.

7 (d) The primary criteria for making incentive payments to
8 employees under a local incentive plan must be based on objective
9 measures of student achievement, including a measure of incremental
10 growth in student achievement under Section 39.034, and the plan
11 must provide for incentive payments to be awarded on the basis of
12 high achievement, incremental growth in achievement, or both. A
13 local incentive plan may also consider other indicators of employee
14 performance, such as teacher evaluations conducted by principals or
15 parents.

16 (e) A local incentive plan must:

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

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

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

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

27 (b) The district shall indicate that any incentive payment

1 distributed is considered a payment for performance and not an
2 entitlement as part of an employee's salary.

3 Sec. 21.654. DECISION BY COMMISSIONER OR COMMITTEE. A
4 decision by the commissioner or the district-level planning and
5 decision-making committee in approving a local incentive plan under
6 this subchapter or by a campus-level planning and decision-making
7 committee in providing an incentive payment under a local incentive
8 plan approved under this subchapter is final and may not be
9 appealed.

10 SECTION 2A.16. Subchapter D, Chapter 22, Education Code, as
11 added by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th
12 Legislature, Regular Session, 2005, is reenacted and amended to
13 read as follows:

14 SUBCHAPTER D. HEALTH CARE [~~COMPENSATION~~] SUPPLEMENTATION

15 Sec. 22.101. DEFINITIONS. In this subchapter:

16 (1) "Cafeteria plan" means a plan as defined and
17 authorized by Section 125, Internal Revenue Code of 1986.

18 (2) "Employee" means an active, contributing member of
19 the Teacher Retirement System of Texas who:

20 (A) is employed by a district, other educational
21 district whose employees are members of the Teacher Retirement
22 System of Texas, participating charter school, or regional
23 education service center;

24 (B) is not a retiree eligible for coverage under
25 the program established under Chapter 1575, Insurance Code;

26 (C) is not eligible for coverage by a group
27 insurance program under Chapter 1551 or 1601, Insurance Code; and

1 (D) is not an individual performing personal
2 services for a district, other educational district that is a
3 member of the Teacher Retirement System of Texas, participating
4 charter school, or regional education service center as an
5 independent contractor.

6 (3) "Participating charter school" means a public
7 charter district [~~an open-enrollment charter school~~] established
8 under [~~Subchapter D,~~] Chapter 11A [~~12,~~] that participates in the
9 program established under Chapter 1579, Insurance Code.

10 (4) "Regional education service center" means a
11 regional education service center established under Chapter 8.

12 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

13 (a) The agency may adopt rules to implement this subchapter.

14 (b) The agency may enter into interagency contracts with any
15 other agency of this state for the purpose of assistance in
16 implementing this subchapter.

17 Sec. 22.103. DESIGNATION OF COMPENSATION AS HEALTH CARE
18 SUPPLEMENTATION. (a) An employee of a school [~~ELIGIBILITY,~~
19 ~~WAITING PERIOD.~~ ~~A person is not eligible for a monthly distribution~~
20 ~~under this subchapter before the 91st day after the first day the~~
21 ~~person becomes an employee.~~

22 [~~Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the~~
23 ~~availability of funds, each month the agency shall deliver to each~~
24 ~~district, [including a district that is ineligible for state aid~~
25 ~~under Chapter 42, each] other educational district that is a member~~
26 of the Teacher Retirement System of Texas, [~~each~~] participating
27 charter school, or [~~and each~~] regional education service center may

1 elect to designate a portion of the employee's compensation to be
2 used as health care supplementation under this subchapter.

3 (b) The amount designated under this section may not exceed
4 the amount permitted under applicable federal law.

5 (c) This section does not apply to:

6 (1) an employee who is not covered by a cafeteria plan
7 or who is not eligible to pay health care premiums through a premium
8 conversion plan; or

9 (2) an administrator, as defined by the trustee,
10 employed by a school district, another educational district, a
11 participating charter school, or a regional education service
12 center [~~state funds in an amount, as determined by the agency, equal~~
13 ~~to the product of the number of eligible employees employed by the~~
14 ~~district, school, or service center multiplied by the amount~~
15 ~~specified in the General Appropriations Act for purposes of this~~
16 ~~subchapter and divided by 12. The agency shall distribute funding~~
17 ~~to only one entity for employees who are employed by more than one~~
18 ~~entity listed in this section].~~

19 Sec. 22.104 [~~22.105~~]. FUNDS HELD IN TRUST. All funds
20 received by a district, other educational district, participating
21 charter school, or regional education service center under this
22 subchapter are held in trust for the benefit of the employees on
23 whose behalf the district, school, or service center received the
24 funds.

25 Sec. 22.105. WRITTEN ELECTION REQUIRED. Each school year,
26 an active employee must elect in writing whether to designate a
27 portion of the employee's compensation to be used as health care

1 supplementation under this subchapter.

2 Sec. 22.106. [~~RECOVERY OF DISTRIBUTIONS. The agency is~~
3 ~~entitled to recover from a district, other educational district,~~
4 ~~participating charter school, or regional education service center~~
5 ~~any amount distributed under this subchapter to which the district,~~
6 ~~school, or service center was not entitled.~~

7 [~~Sec. 22.107. DETERMINATION BY AGENCY FINAL. A~~
8 ~~determination by the agency under this subchapter is final and may~~
9 ~~not be appealed.~~

10 [~~Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each~~
11 ~~district, other educational district that is a member of the~~
12 ~~Teacher Retirement System of Texas, participating charter school,~~
13 ~~and regional education service center must distribute to its~~
14 ~~eligible employees the funding received under this subchapter. To~~
15 ~~receive the monthly distribution, an individual must meet the~~
16 ~~definition of an employee under Section 22.101 for that month.~~

17 [~~Sec. 22.109.~~] USE OF DESIGNATED [~~SUPPLEMENTAL~~
18 COMPENSATION. An employee may use compensation designated for
19 health care supplementation [~~a monthly distribution received~~
20 under this subchapter for any employee benefit, including
21 depositing the amount of the distribution into a cafeteria plan, if
22 the employee is enrolled in a cafeteria plan, or using the
23 designated amount [~~of the distribution~~] for health care premiums
24 through a premium conversion plan. [~~The employee may take the~~
25 ~~amount of the distribution as supplemental compensation.~~

26 [~~Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount~~
27 ~~distributed to an employee under this subchapter must be in~~

1 ~~addition to the rate of compensation that:~~

2 ~~[(1) the district, other educational district,~~
3 ~~participating charter school, or regional education service center~~
4 ~~paid the employee in the preceding school year; or~~

5 ~~[(2) the district, school, or service center would~~
6 ~~have paid the employee in the preceding school year if the employee~~
7 ~~had been employed by the district, school, or service center in the~~
8 ~~same capacity in the preceding school year.]~~

9 SECTION 2A.17. Subchapter A, Chapter 29, Education Code, is
10 amended by adding Section 29.019 to read as follows:

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

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

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

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

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

27 (1) if the purpose of the committee meeting is to

1 develop a student's initial individualized education program under
2 Section 29.005; or

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

7 (d) This section:

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

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

13 SECTION 2A.18. (a) Not later than January 1, 2006, the
14 commissioner of education shall review the rules adopted under
15 Section 21.044, Education Code, relating to educator training
16 requirements and revise those rules as necessary to ensure that the
17 training requirements are sufficient to produce educators capable
18 of:

19 (1) satisfying the increased standards for highly
20 qualified educators prescribed by the No Child Left Behind Act of
21 2001 (Pub. L. No. 107-110);

22 (2) complying with certification standards in this
23 state; and

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

26 (b) In conducting the review required by Subsection (a) of
27 this section, the commissioner of education shall give specific

1 attention to the degree to which educator training requirements
2 prepare educators to serve students of limited English proficiency
3 and students with learning disabilities.

4 SECTION 2A.19. Sections 21.104, 21.251, 21.301, and 21.303,
5 Education Code, as amended by this Act, and Sections 21.1041 and
6 21.2111, Education Code, as added by this Act, apply only to a
7 discharge under a probationary or term contract for which written
8 notice of the proposed discharge is given to a teacher on or after
9 the effective date of this Act. A discharge under a probationary or
10 term contract for which written notice of the proposed discharge is
11 given to a teacher before the effective date of this Act is governed
12 by the law in effect when the notice is given, and the former law is
13 continued in effect for that purpose.

14 SECTION 2A.20. Section 21.402(a-1), Education Code, as
15 added by this Act, does not apply to the salary of an educator
16 employed under a contract entered into before the effective date of
17 this Act.

18 SECTION 2A.21. Section 21.402(a-2), Education Code, as
19 added by this Act, does not apply to the salary of an educator
20 employed under a contract entered into before the effective date of
21 this Act.

22 SECTION 2A.22. Subchapter N, Chapter 21, Education Code, as
23 added by this Act, applies beginning with the 2006-2007 school
24 year.

25 PART B. STATE AND REGIONAL GOVERNANCE

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

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

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

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

- 9 (1) the Texas Education Agency;
10 (2) the Texas Higher Education Coordinating Board; or
11 (3) a public junior college, public senior college or
12 university, or public state college, as those terms are defined by
13 Section 61.003.

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

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

1 bilingual education programs, special language programs, and
2 business practices.

3 (f) The commissioner of education and the commissioner of
4 higher education:

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

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

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

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

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

1 unauthorized manner.

2 (h) The commissioner of education and the commissioner of
3 higher education may:

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

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

8 (i) This section does not authorize the disclosure of
9 student information that may not be disclosed under the Family
10 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
11 1232g).

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

15 (k) In implementing this section, the commissioner of
16 education may use funds appropriated to the agency and available
17 for that purpose, including foundation school program funds.

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

21 Sec. 7.004. SUNSET PROVISION. (a) The Texas Education
22 Agency is subject to Chapter 325, Government Code (Texas Sunset
23 Act). Unless continued in existence as provided by that chapter,
24 the agency is abolished September 1, 2017 [~~2007. In the review of~~
25 ~~the agency by the Sunset Advisory Commission, as required by this~~
26 ~~section, the sunset commission shall limit its review to the~~
27 ~~appropriateness of recommendations made by the sunset commission to~~

1 ~~the 79th Legislature. In the Sunset Advisory Commission's report~~
2 ~~to the 80th Legislature, the sunset commission may include any~~
3 ~~recommendations it considers appropriate].~~

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

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

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

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

17 (c) Annually, the commissioner shall review the Public
18 Education Information Management System and shall repeal or amend
19 rules that require school districts to provide information through
20 the system that is not necessary. In reviewing and revising the
21 system, the commissioner shall develop rules to ensure that the
22 system:

23 (1) provides useful, accurate, and timely information
24 on student demographics and academic performance, personnel, and
25 school district finances;

26 (2) contains only the data necessary for the
27 legislature and the agency to perform their legally authorized

1 functions in overseeing the public education system; and

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

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

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

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

13 (b) Each school district, public charter district, and
14 institution of higher education shall participate in an electronic
15 student records system that satisfies standards approved by the
16 commissioner of education and the commissioner of higher education.

17 (c) The electronic student records system must permit an
18 authorized state or district official or an authorized
19 representative of an institution of higher education to
20 electronically transfer to and from an educational institution in
21 which the student is enrolled and retrieve student transcripts,
22 including information concerning a student's:

23 (1) course or grade completion;

24 (2) teachers of record;

25 (3) assessment instrument results; and

26 (4) receipt of special education services, including
27 placement in a special education program and the individualized

1 education program developed.

2 (d) The commissioner of education or the commissioner of
3 higher education may solicit and accept grant funds to maintain the
4 electronic student records system and to make the system available
5 to school districts, public charter districts, and institutions of
6 higher education.

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

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

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

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

25 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may
26 receive gifts, grants, or donations from any public or private
27 source to perform any educational function the agency is authorized

1 to perform by law.

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

5 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING. (a)
6 Except as provided by Section 29.001(5), 29.010(a), [~~39.074~~] or
7 39.075, the agency may monitor compliance with requirements
8 applicable to a process or program provided by a school district,
9 campus, program, or school granted charters under Chapter 11A or
10 12, including the process described by Subchapter F, Chapter 11, or
11 a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,
12 Subchapter A, Chapter 37, or Section 38.003, and the use of funds
13 provided for such a program under Subchapter C, Chapter 42, only as
14 necessary to ensure:

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

22 (b) The board of trustees of a school district or the
23 governing body of a public charter district [~~an open-enrollment~~
24 ~~charter school~~] has primary responsibility for ensuring that the
25 district or school complies with all applicable requirements of
26 state educational programs.

27 SECTION 2B.07. Subchapter B, Chapter 7, Education Code, is

1 amended by adding Section 7.033 to read as follows:

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

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

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

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

- 22 (1) the school laws of this state; or
- 23 (2) actions or decisions of any school district board
24 of trustees that violate:

- 25 (A) the school laws of this state; or
- 26 (B) a provision of a written employment contract
27 between the school district and a school district employee, if a

1 violation causes or would cause monetary harm to the employee.

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

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

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

18 (b) The commissioner may limit a review under this section
19 to a written submission of any issue identified by the
20 commissioner.

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

23 SECTION 2B.095. Subchapter C, Chapter 7, Education Code, is
24 amended by adding Section 7.061 to read as follows:

25 Sec. 7.061. SUBPOENA. (a) The commissioner may issue a
26 subpoena to compel the attendance and testimony of a witness or the
27 production of materials relevant to an audit or investigation under

1 this title.

2 (b) A subpoena may be issued throughout the state and may be
3 served by any person designated by the commissioner.

4 (c) If a person fails to comply with a subpoena issued under
5 this section, the commissioner, acting through the attorney
6 general, may file suit to enforce the subpoena in a district court
7 in Travis County or in the county in which the audit or
8 investigation is conducted. The court shall order compliance with
9 the subpoena if the court finds that good cause exists to issue the
10 subpoena.

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

13 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

18 (b) The grant system must:

19 (1) connect grant activities and funding to student
20 academic performance; and

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

23 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall
24 ensure that:

25 (1) the mission, purpose, and objectives of each
26 agency grant program support student academic performance or
27 another public education mission, objective, or goal specified

1 under Sections 4.001 and 4.002;

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

4 (3) grant programs with similar objectives have common
5 performance measures; and

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

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

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

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

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

1 the service center's region.

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

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

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

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

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

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

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

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

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

23 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL
24 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the
25 agency shall provide the legislature with a status report
26 concerning the agency's development of the grant system. The
27 report may suggest any statutory changes needed to facilitate a

1 full transition to a performance-based grant system.

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

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

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

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

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

12 (1) an overview of this code and any rules adopted
13 under this code;

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

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

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

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

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

24 (b) Each regional education service center shall annually
25 develop and submit to the commissioner for approval a plan for
26 improvement. Each plan must include the purposes and description
27 of the services the center will provide to:

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

- 4 (2) the lowest-performing campuses in the region; and
5 (3) other campuses.

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

9 (1) best practices information as provided by Section
10 7.010; and

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

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

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

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

23 (3) assistance specifically designed for a school
24 district or campus rated academically unacceptable under Section
25 39.072 [~~39.072(a) or a campus whose performance is considered~~
26 ~~unacceptable based on the indicators adopted under Section 39.051~~];

27 (4) training and assistance to teachers,

1 administrators, members of district boards of trustees, and members
2 of site-based decision-making committees;

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

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

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

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

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

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

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

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

27 Sec. 8.103. ANNUAL EVALUATION. (a) The commissioner shall

1 conduct an annual evaluation of each executive director and
2 regional education service center. Each evaluation must include:

- 3 (1) an audit of the center's finances;
4 (2) a review of the center's performance on the
5 indicators adopted under Section 8.101;
6 (3) a review of client satisfaction with services
7 provided under Subchapter B; and
8 (4) a review of any other factor the commissioner
9 determines to be appropriate.

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

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

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

22 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later
23 than December 1, 2005, the commissioner shall evaluate the
24 feasibility of including a uniform indicator under Section
25 39.202(b) that measures effective administrative management
26 through the use of cooperative shared service arrangements. If the
27 commissioner determines that the adoption of a uniform indicator

1 described by this subsection is feasible, the commissioner by rule
2 shall include the indicator in the financial accountability rating
3 system under Subchapter I, Chapter 39, for school districts
4 beginning with the 2006-2007 school year. This subsection expires
5 September 1, 2007.

6 (b) Each regional education service center shall:

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

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

15 (c) Each regional education service center shall assist a
16 school district board of trustees in entering into an agreement
17 with another district or political subdivision, a regional
18 education service center, or an institution of higher education as
19 defined by Section 61.003, for a cooperative shared service
20 arrangement regarding administrative services, including
21 transportation, food service, purchasing, and payroll functions.

22 (d) The commissioner may:

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

26 (2) require a district or a public charter district to
27 enter into an agreement for a cooperative shared service

1 arrangement if the commissioner determines that the financial
2 management performance of the district is unsatisfactory.

3 SECTION 2B.16. Subchapter A, Chapter 28, Education Code, is
4 amended by adding Section 28.0022 to read as follows:

5 Sec. 28.0022. CURRICULUM REVIEW; ALIGNMENT WITH
6 INSTRUCTIONAL MATERIALS AND ASSESSMENT PROGRAM. (a) The State
7 Board of Education shall adopt a five-year cycle for reviewing the
8 essential knowledge and skills of each subject of the required
9 curriculum under Section 28.002.

10 (b) The State Board of Education may not modify the
11 curriculum in a manner intended to benefit:

12 (1) a specific publisher of instructional materials,
13 as those terms are defined by Section 31.002; or

14 (2) another vendor of educational products or
15 technology.

16 (c) It is the intent of the legislature that the State Board
17 of Education continue to align instructional materials approved
18 under Chapter 31 with the required curriculum. The agency shall
19 develop the state assessment program under Subchapter B, Chapter
20 39, in alignment with the required curriculum.

21 SECTION 2B.17. Subchapter A, Chapter 29, Education Code, is
22 amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as
23 follows:

24 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
25 PROCESS HEARINGS. (a) The agency shall make available to a parent,
26 student, school district, attorney, or other interested person, and
27 shall place on the agency's Internet website, comprehensive, easily

1 understood information concerning the special education due
2 process hearing process.

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

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

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

9 (3) a description of any notice requirements;

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

12 (5) an explanation of a resolution session;

13 (6) answers to frequently asked questions; and

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

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

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

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

26 (b) The agency shall use the information described by
27 Subsection (a) in determining whether to renew a contract with a

1 special education hearing officer.

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

7 SECTION 2B.18. Section 37.008, Education Code, is amended
8 by adding Subsection (o) to read as follows:

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

14 PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

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

17 Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM
18 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at
19 risk of dropping out of school" has the meaning described by Section
20 29.081.

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

25 (c) The funds management information system must produce
26 complete, accurate, and timely reports for agency officials and
27 policy makers. The reports must provide information on funding for

1 services for students at risk of dropping out of school, statewide
2 and aggregated by school district, including the following
3 information:

4 (1) the amount of an award;

5 (2) the beginning and ending period of a grant or
6 award;

7 (3) expenditures related to an award; and

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

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

14 (1) the funds management information system includes:

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

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

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

27 (3) aggregate funding information is readily

1 available to agency personnel and policy makers, including
2 aggregate funding information relating to a compensatory,
3 intensive, or accelerated instruction program under Section
4 29.081, a disciplinary alternative education program established
5 under Section 37.008, or a program eligible under Title I of the
6 Elementary and Secondary Education Act of 1965, as provided by Pub.
7 L. No. 103-382.

8 SECTION 2C.02. Effective August 1, 2006, Section 7.056(e),
9 Education Code, as amended by S.B. No. 658, Acts of the 79th
10 Legislature, Regular Session, 2005, is amended to read as follows:

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

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

16 (2) a requirement imposed by federal law or rule,
17 including a requirement for special education or bilingual
18 education programs; or

19 (3) a requirement, restriction, or prohibition
20 relating to:

21 (A) essential knowledge or skills under Section
22 28.002 or minimum graduation requirements under Section 28.025;

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

25 (C) extracurricular activities under Section
26 33.081 or participation in a University Interscholastic League
27 area, regional, or state competition under Section 33.0812;

- 1 (D) health and safety under Chapter 38;
- 2 (E) purchasing under Subchapter B, Chapter 44;
- 3 (F) elementary school class size limits, except
- 4 as provided by Section 25.112;
- 5 (G) removal of a disruptive student from the
- 6 classroom under Subchapter A, Chapter 37;
- 7 (H) at-risk programs under Subchapter C, Chapter
- 8 29;
- 9 (I) prekindergarten programs under Subchapter E,
- 10 Chapter 29;
- 11 (J) educator rights and benefits under
- 12 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
- 13 A, Chapter 22;
- 14 (K) special education programs under Subchapter
- 15 A, Chapter 29; ~~or~~
- 16 (L) bilingual education programs under
- 17 Subchapter B, Chapter 29; or
- 18 (M) the requirements for the first and last day
- 19 of instruction under Section 25.0811, except as provided by that
- 20 section.

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

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

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

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

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

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

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

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

16 (b) If the superintendent of the school district has
17 knowledge that a ground for removal under this section exists, the
18 superintendent shall notify the board of trustees. On a
19 determination that a potential ground for removal exists, the board
20 shall notify the appropriate county or district attorney or the
21 attorney general.

22 SECTION 2C.05. Subchapter E, Chapter 11, Education Code, is
23 amended by adding Section 11.2011 to read as follows:

24 Sec. 11.2011. SUPERINTENDENTS: CONFLICT OF INTEREST

25 PROVISIONS. (a) Except as provided by Subsection (b), a
26 superintendent may not receive any financial benefit for personal
27 services performed by the superintendent for any business entity

1 that conducts business with or solicits business from the school
2 district. Any financial benefit received by the superintendent for
3 performing personal services for any other entity must be approved
4 by the board of trustees on a case-by-case basis in an open meeting.

5 (b) Subsection (a) does not apply to personal services
6 performed by a superintendent for an institution of higher
7 education, as defined by Section 61.003, regional education service
8 center, or professional association or organization if the
9 superintendent provides notice to the board of trustees of the
10 school district disclosing the agreement to perform the services.

11 SECTION 2C.06. Section 25.031, Education Code, is amended
12 to read as follows:

13 Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF
14 GOVERNING BOARD. (a) In conformity with this subchapter, the board
15 of trustees of a school district or the board of county school
16 trustees or a school employee designated by the board may assign and
17 transfer any student from one school facility or classroom to
18 another within its jurisdiction.

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

26 SECTION 2C.07. Effective August 1, 2006, the heading to
27 Section 25.0811, Education Code, is amended to read as follows:

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

2 SECTION 2C.08. Effective August 1, 2006, Section
3 25.0811(a), Education Code, is amended to read as follows:

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

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

9 (2) the commissioner grants a waiver to extend the
10 school year at a campus as the result of a disaster, flood, extreme
11 weather condition, fuel curtailment, or other calamity that caused
12 a closure of the campus for a significant period ~~[before the week in~~
13 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
14 ~~considered the first day of the week].~~

15 SECTION 2C.09. Subchapter C, Chapter 29, Education Code, is
16 amended by adding Sections 29.092, 29.093, and 29.0931 to read as
17 follows:

18 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES
19 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this
20 section, "student at risk of dropping out of school" has the meaning
21 described by Section 29.081.

22 (b) To enable school districts and public charter districts
23 to provide supplemental programs and services for the benefit of
24 students at risk of dropping out of school, the commissioner each
25 school year shall award funds to a school district or public charter
26 district in accordance with a streamlined and simplified grant
27 process developed by the commissioner. To the extent practicable,

1 the grant process developed by the commissioner under this
2 subsection must comply with Subchapter E, Chapter 7.

3 (c) The commissioner shall consolidate funding from the
4 following currently funded programs and types of services,
5 excluding early childhood care and education programs and
6 accelerated reading or mathematics initiatives under Section
7 28.006, 28.007, or 28.0211:

8 (1) an optional extended year program under Section
9 29.082;

10 (2) a basic skills program for high school students
11 under Section 29.086;

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

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

16 (d) The commissioner may include grants under Section 7.024
17 as part of one or more consolidated grant application processes
18 developed under this section. The commissioner shall ensure that a
19 grant applied for under a consolidated application process under
20 this section and awarded under Section 7.024 is used only for the
21 purposes of Section 7.024.

22 (e) The commissioner may redistribute the funding of
23 programs described under Subsection (c) as necessary to accomplish
24 the purpose of improving the achievement of students at risk of
25 dropping out of school.

26 (f) A school district or public charter district that
27 receives an award of funds under this section may use the funds to

1 provide academic and support services to students at risk of
2 dropping out of school, including:

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

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

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

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

11 (5) any academic or support services for pregnant or
12 parenting students, including basic instruction and health and life
13 skills training and support for pregnant or parenting students;

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

16 (7) programs or services designed to promote the
17 involvement of parents of students at risk of dropping out of
18 school; and

19 (8) services or programs promoting school and
20 community collaboration to restructure schools for the successful
21 achievement of all students, especially students at risk of
22 dropping out of school.

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

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

12 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and the
13 Legislative Budget Board shall jointly develop a request for
14 proposals for a qualified third party to conduct a comprehensive
15 cost-outcome analysis of federal and state funding for programs
16 targeting students at risk of dropping out of school, as described
17 by Section 29.081, and the impact of those programs on student
18 achievement outcomes. In order to be qualified under this section,
19 a party must at a minimum have experience in educational program
20 evaluation and statistical analysis of public education data.

21 (b) The cost-outcome methodology developed by the
22 contractor under this section is subject to joint review and
23 approval by the agency and the Legislative Budget Board. The
24 cost-outcome analysis at a minimum must consist of the following
25 components:

26 (1) a methodology for assessing the
27 cost-effectiveness of individual school districts and public

1 charter districts in providing services to students at risk of
2 dropping out of school;

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

7 (3) a methodology for evaluating best practices in
8 providing effective services for students at risk of dropping out
9 of school;

10 (4) a statistical methodology for:

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

14 (B) disaggregating data by peer groups;

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

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

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

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

21 (A) report findings from the cost-outcome
22 analysis to the lieutenant governor, the speaker of the house of
23 representatives, and the presiding officer of the standing
24 committee of each house of the legislature with primary
25 jurisdiction over public education, including data related to the
26 feasibility of constructing a cost-effectiveness measure for
27 school districts and public charter districts;

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

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

6 (2) during the 2006-2007 school year, develop a plan
7 to implement the cost-outcome methodology to assess the
8 effectiveness of school districts and public charter districts in
9 providing services during the 2007-2008 school year to students at
10 risk of dropping out of school.

11 (d) During the state fiscal biennium beginning September 1,
12 2005, the commissioner shall retain an amount not to exceed
13 \$500,000 from the total amount of funds allotted under the
14 Foundation School Program to finance the comprehensive
15 cost-outcome analysis and shall reduce the total amount of state
16 funds allocated to each district from any source in the same manner
17 described for a reduction in allotments under Section 42.313.

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

19 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S
20 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a
21 cost-outcome analysis methodology for use in assessing the
22 effectiveness of school districts and public charter districts in
23 providing services for students at risk of dropping out of school,
24 as described by Section 29.081. The commissioner shall use the
25 adopted methodology until the commissioner determines that an
26 alternate methodology approved by the agency and the Legislative
27 Budget Board under Section 29.093(b) more accurately portrays the

1 cost-effectiveness of the analyzed services.

2 (b) The methodology adopted by the commissioner must
3 include the following components:

4 (1) a composite performance measure that combines key
5 indicators of student performance, disaggregated for students at
6 risk of dropping out of school;

7 (2) a format for reporting all state, federal, local,
8 and private sources of funding and total expenditures for
9 supplemental services for students at risk of dropping out of
10 school, reported by school district, public charter district, and
11 statewide; and

12 (3) a system for scoring and ranking school districts
13 and public charter districts, including criteria for establishing
14 school district and public charter district peer groups for
15 comparison purposes.

16 (c) Based on the cost-outcome analysis methodology, the
17 commissioner shall use the ranking system under Subsection (b)(3)
18 to determine annually the level at which school districts and
19 public charter districts are cost-effective in serving students at
20 risk of dropping out of school.

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

23 (1) report the methodology and the results of the
24 cost-outcome analysis to the lieutenant governor, the speaker of
25 the house of representatives, and the presiding officer of the
26 standing committee of each house of the legislature with primary
27 jurisdiction over public education; and

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

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

6 SECTION 2C.10. Subchapter D, Chapter 33, Education Code, is
7 amended by adding Section 33.088 to read as follows:

8 Sec. 33.088. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT
9 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
10 eligible to participate in an extracurricular activity or a
11 University Interscholastic League competition is not ineligible
12 because the student is enrolled in a course offered for joint high
13 school and college credit or in a course offered under a concurrent
14 enrollment program, regardless of the location at which the course
15 is provided.

16 SECTION 2C.11. Subchapter A, Chapter 44, Education Code, is
17 amended by adding Section 44.011 to read as follows:

18 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL
19 ACTIVITIES. (a) A school district shall allocate at least 65
20 percent of the district's total available revenue to fund direct
21 instructional activities in the district. The commissioner by rule
22 shall determine the manner in which a district's total available
23 revenue for purposes of this section is computed.

24 (a-1) Subsection (a) applies beginning with the 2009-2010
25 school year. For the 2006-2007, 2007-2008, and 2008-2009 school
26 years, a school district shall allocate the following percentages
27 of the district's total available revenue to fund direct

1 instructional activities in the district:

2 (1) for the 2006-2007 school year, at least 50
3 percent;

4 (2) for the 2007-2008 school year, at least 55
5 percent; and

6 (3) for the 2008-2009 school year, at least 60
7 percent.

8 (a-2) Subsection (a-1) and this subsection expire August 1,
9 2009.

10 (b) For purposes of this section, whether an expenditure is
11 an expenditure for direct instructional activities shall be
12 determined in accordance with standards and definitions adopted by
13 the National Center for Education Statistics of the United States
14 Department of Education.

15 (c) The commissioner may adopt rules for purposes of this
16 section in a manner consistent with Subsection (b) and Section
17 44.0071.

18 SECTION 2C.12. Section 44.0071, Education Code, is amended
19 by amending Subsection (a) and adding Subsection (a-1) to read as
20 follows:

21 (a) Each fiscal year, a school district shall compute and
22 report to the commissioner:

23 (1) the percentage of the district's total available
24 revenue [~~expenditures~~] for the preceding fiscal year that was
25 [~~were~~] used to fund direct instructional activities; [~~and~~]

26 (2) the percentage of the district's total available
27 revenue for the preceding fiscal year that was used to fund direct

1 instructional activities related to courses that are subject to
2 assessment under Subchapter B, Chapter 39; and

3 (3) the percentage of the district's full-time
4 equivalent employees during the preceding fiscal year whose job
5 function was to directly provide classroom instruction to students,
6 determined by dividing the number of hours spent by employees in
7 providing direct classroom instruction by the total number of hours
8 worked by all district employees.

9 (a-1) The commissioner by rule shall determine the manner in
10 which a district's total available revenue for purposes of this
11 section is computed.

12 SECTION 2C.13. Section 42.002(a), Election Code, as amended
13 by H.B. No. 1209, Acts of the 79th Legislature, Regular Session,
14 2005, is amended to read as follows:

15 (a) The county election precincts are the election
16 precincts for the following elections:

17 (1) the general election for state and county
18 officers;

19 (2) a special election ordered by the governor;

20 (3) a primary election;

21 (4) a countywide election ordered by the commissioners
22 court, county judge, or other county authority, except an election
23 subject to Section 42.062(2); ~~and~~

24 (5) any other election of a political subdivision not
25 located in a county with a population of more than 3.3 million or a
26 county adjacent to a county with a population of more than 3.3
27 million held on the November uniform election date, as provided by

1 Section 42.0621; and

2 (6) an election held by a school district on the
3 November uniform election date, as provided by Section 42.0622.

4 SECTION 2C.14. Subchapter C, Chapter 42, Election Code, is
5 amended by adding Section 42.0622 to read as follows:

6 Sec. 42.0622. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT
7 ELECTION. (a) A school district that holds an election on the
8 November uniform election date shall use the regular county
9 election precincts.

10 (b) If an election precinct contains territory from more
11 than one school district or more than one district used to elect a
12 member of the governing body of a school district, election
13 officials shall take reasonable measures to ensure that a voter
14 voting at that precinct may not vote in an election in which the
15 voter is not entitled to vote.

16 (c) This section does not require a school district to
17 contract with a county under Section 31.092 or hold a joint election
18 with a county under Chapter 271.

19 (d) The secretary of state shall prescribe procedures to
20 implement this section.

21 SECTION 2C.15. Section 43.004, Election Code, is amended by
22 adding Subsection (c) to read as follows:

23 (c) If a school district holds an election on the November
24 uniform election date, the school district shall designate as the
25 polling places for the election the regular county polling places
26 in the county election precincts that contain territory from the
27 school district.

1 SECTION 2C.16. (a) Section 11.059, Education Code, as
2 amended by this Act, applies to a school district trustee election
3 scheduled to be held on or after November 8, 2005.

4 (b) Except as provided by Subsection (c) of this section, a
5 school district trustee election that on the effective date of this
6 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
7 be held on November 7, 2006.

8 (c) If, under Subsection (b) of this section, the positions
9 of more than one-half of the trustees or as near to one-half as
10 possible would be scheduled for election on November 7, 2006, the
11 trustees holding those positions shall draw lots to determine, as
12 appropriate, which positions are subject to election in 2006 and
13 which are subject to election in 2008.

14 (d) To implement the changes made to Section 11.059,
15 Education Code, as amended by this Act, a person may serve a term as
16 school district trustee that is longer than the term for which the
17 person was elected.

18 SECTION 2C.17. Section 11.066, Education Code, as added by
19 this Act, applies only to trustee attendance at a board of trustees
20 meeting held on or after the effective date of this Act. Trustee
21 attendance at a board of trustees meeting held before the effective
22 date of this Act is governed by the law in effect when the meeting
23 was held, and the former law is continued in effect for that
24 purpose.

25 SECTION 2C.18. Section 11.2011, Education Code, as added by
26 this Act, applies only to a contract between a superintendent of a
27 school district and a business entity that is entered into,

1 amended, or extended on or after September 1, 2006. A contract
2 between a superintendent of a school district and a business entity
3 that is entered into, amended, or extended before September 1,
4 2006, is governed by the law in effect on the date the contract is
5 entered into, and the former law is continued in effect for that
6 purpose.

7 SECTION 2C.19. Not later than January 1, 2007, the Texas
8 Education Agency shall adopt a five-year plan to renovate the
9 Public Education Information Management System (PEIMS) to provide
10 for efficient and effective information storage and retrieval for
11 the purposes of allocating scarce school resources. The renovation
12 must include a redesign of the records layout.

13 SECTION 2C.20. A waiver under Section 7.056(e), Education
14 Code, from the requirements for the first and last day of
15 instruction under Section 25.0811, Education Code, as amended by
16 this Act, for the 2006-2007 or a subsequent school year may be
17 granted only as provided by Section 25.0811, Education Code, as
18 amended by this Act, and a waiver of those requirements for the
19 2006-2007 or a subsequent school year that is granted before August
20 1, 2006, and that does not comply with Section 25.0811, Education
21 Code, as amended by this Act, is void.

22 PART D. ACCOUNTABILITY

23 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is
24 amended by adding Section 7.0071 to read as follows:

25 Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The
26 commissioner by rule shall adopt procedures to make available,
27 through the agency Internet website, all financial information

1 provided by school districts and campuses through the Public
2 Education Information Management System (PEIMS), including
3 campus-level expenditure information.

4 (b) In adopting rules under this section, the commissioner
5 shall provide a summarized format for reporting financial
6 information on the agency Internet website.

7 SECTION 2D.02. Section 28.006(j), Education Code, is
8 amended to read as follows:

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

18 SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is
19 amended by adding Section 7.010 to read as follows:

20 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In
21 coordination with the Legislative Budget Board and with the
22 assistance of the centers of education research established under
23 Section 1.005, the agency shall establish an online clearinghouse
24 of information relating to best practices of campuses and school
25 districts regarding instruction, resource allocation, and business
26 practices. To the extent practicable, the agency shall ensure that
27 information provided through the online clearinghouse is specific,

1 actionable information relating to the best practices of
2 high-performing and highly efficient campuses and school districts
3 rather than general guidelines relating to campus and school
4 district operation. The information must be accessible by campuses,
5 school districts, and interested members of the public.

6 (b) The agency shall solicit and collect from the
7 Legislative Budget Board, centers of education research
8 established under Section 1.005, and exemplary or recognized school
9 districts and public charter districts, as rated under Section
10 39.072, examples of best practices relating to instruction,
11 resource allocation, and business practices, including best
12 practices relating to curriculum, scope and sequence, compensation
13 and incentive systems, bilingual education and special language
14 programs, and the effective use of instructional technology,
15 including online courses.

16 (c) The agency may contract for the services of one or more
17 third-party contractors to develop and implement a system of
18 collecting and evaluating the best practices of campuses and school
19 districts as provided by this section. In addition to any other
20 considerations required by law, the agency must consider an
21 applicant's demonstrated competence and qualifications in
22 analyzing campus and school district practices in awarding a
23 contract under this subsection.

24 SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is
25 amended by adding Section 11.004 to read as follows:

26 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
27 AND CAMPUSES. (a) Except as provided by Subsection (b), a school

1 district or campus rated exemplary under Section 39.072 is subject
2 only to the prohibitions, restrictions, and requirements of this
3 title that apply to a public charter district under Section
4 11A.052(b) as approved by the commissioner.

5 (b) A school district or campus described by Subsection (a)
6 is subject to the prohibitions, restrictions, and requirements of
7 Chapter 37, as applicable.

8 SECTION 2D.05. Sections 29.053(b) and (d), Education Code,
9 are amended to read as follows:

10 (b) Within the first five [~~four~~] weeks following the first
11 day of school, the language proficiency assessment committee
12 established under Section 29.063 shall determine and report to the
13 board of trustees of the district the number of students of limited
14 English proficiency on each campus and shall classify each student
15 according to the language in which the student possesses primary
16 proficiency. The board shall report that information to the agency
17 before November 1 each year.

18 (d) Each district that is required to offer bilingual
19 education and special language programs under this section shall
20 offer the following for students of limited English proficiency:

21 (1) bilingual education in prekindergarten at
22 campuses that offer prekindergarten classes;

23 (2) bilingual education in kindergarten through the
24 elementary grades;

25 (3) [~~(2)~~] bilingual education, instruction in English
26 as a second language, or other transitional language instruction
27 approved by the agency in post-elementary grades through grade 8;

1 and

2 (4) [~~(3)~~] instruction in English as a second language
3 in grades 9 through 12.

4 SECTION 2D.06. Subchapter C, Chapter 29, Education Code, is
5 amended by adding Section 29.0822 to read as follows:

6 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)
7 Notwithstanding Section 25.081 or 25.082, a school district may
8 provide a flexible school day program for students in grades nine
9 through 12 who have dropped out of school or who are at risk of
10 dropping out of school as defined by Section 29.081.

11 (b) To enable a school district to provide a program under
12 this section that meets the needs of students described by
13 Subsection (a), a school district may:

14 (1) provide flexibility in the number of hours each
15 day a student attends;

16 (2) provide flexibility in the number of days each
17 week a student attends; or

18 (3) allow a student to enroll in less or more than a
19 full course load.

20 (c) A course offered in a program under this section must
21 provide for at least the same number of instructional hours as
22 required for a course offered in a program that meets the required
23 minimum number of instructional days under Section 25.081 and the
24 required length of school day under Section 25.082.

25 (d) The commissioner may adopt rules for the administration
26 of this section. The commissioner shall calculate average daily
27 attendance for students served under this section. The

1 commissioner shall allow accumulations of hours of instruction for
2 students whose schedule would not otherwise allow full state
3 funding. Funding under this subsection shall be determined based
4 on the number of instructional days in the district calendar and a
5 seven-hour school day, but attendance may be cumulated over a
6 school year, inclusive of any summer or vacation sessions. The
7 attendance of students who accumulate less than the number of
8 attendance hours required under this subsection shall be
9 proportionately reduced for funding purposes. The commissioner may
10 set maximum funding amounts for an individual course under this
11 section.

12 SECTION 2D.07. Section 29.202, Education Code, is amended
13 to read as follows:

14 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate
15 yearly progress standard" means a standard:

16 (1) determined by the commissioner and approved by the
17 United States Department of Education as provided by the No Child
18 Left Behind Act of 2001 (Pub. L. No. 107-110); and

19 (2) used to measure various indicators of educational
20 success to determine the progress of a campus towards academic
21 achievement.

22 (b) A student is eligible to receive a public education
23 grant or to attend another public school in the district in which
24 the student resides under this subchapter if the student is
25 assigned to attend a public school campus:

26 (1) at which 50 percent or more of the students did not
27 perform satisfactorily on an assessment instrument administered

1 under Section 39.023(a) or (c) in any two of the preceding three
2 years; ~~[or]~~

3 (2) that was, at any time in the preceding three years,
4 considered academically unacceptable ~~[low-performing]~~ under
5 Section 39.132; or

6 (3) that has not met the adequate yearly progress
7 standard for the same indicator of educational success for the
8 preceding two years.

9 (c) ~~[(b)]~~ After a student has used a public education grant
10 to attend a school in a district other than the district in which
11 the student resides, +

12 ~~[(1)]~~ the student does not become ineligible for the
13 grant if the school on which the student's initial eligibility is
14 based no longer meets the criteria under Subsection (b) ~~[(a); and~~

15 ~~[(2) the student becomes ineligible for the grant if~~
16 ~~the student is assigned to attend a school that does not meet the~~
17 ~~criteria under Subsection (a)].~~

18 SECTION 2D.08. Subchapter G, Chapter 29, Education Code, is
19 amended by adding Section 29.2021 to read as follows:

20 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
21 between this subchapter and a provision of Section 1116, No Child
22 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
23 Behind Act of 2001 prevails.

24 SECTION 2D.09. Section 29.203(f), Education Code, is
25 amended to read as follows:

26 (f) The school district in which a student resides shall
27 provide each student attending a school in another district under

1 this subchapter transportation free of charge to and from the
2 school the student would otherwise attend, except as provided by
3 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
4 6316).

5 SECTION 2D.10. Subchapter Z, Chapter 29, Education Code, is
6 amended by adding Section 29.913 to read as follows:

7 Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate
8 middle school, junior high school, and high school students about
9 the importance of higher education, each school district and each
10 open-enrollment charter school offering those grades shall
11 designate one week during the school year as "Education. Go Get It"
12 Week.

13 (b) During the designated week, each middle school, junior
14 high school, and high school shall provide students with
15 comprehensive grade-appropriate information regarding the pursuit
16 of higher education. The information provided must include
17 information regarding:

18 (1) higher education options available to students;
19 (2) standard admission requirements for institutions
20 of higher education, including:

21 (A) overall high school grade point average;
22 (B) required curriculum; and
23 (C) scores necessary on generally recognized
24 tests or assessments used in admissions determinations, including
25 the Scholastic Assessment Test and the American College Test;

26 (3) automatic admission of certain students to general
27 academic teaching institutions as provided by Section 51.803; and

1 (4) financial aid availability and requirements,
2 including the financial aid information provided by counselors
3 under Section 33.007(b).

4 (c) In addition to the information provided under
5 Subsection (b), each middle school, junior high school, and high
6 school shall provide to the students during the designated week at
7 least one public speaker to promote the importance of higher
8 education.

9 SECTION 2D.11. Section 39.022, Education Code, is amended
10 to read as follows:

11 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of
12 Education by rule shall create and implement a statewide assessment
13 program that is knowledge- and skills-based to ensure school
14 accountability for student achievement that achieves the goals
15 provided under Section 4.002. After adopting rules under this
16 section, the State Board of Education shall consider the importance
17 of maintaining stability in the statewide assessment program when
18 adopting any subsequent modification of the rules.

19 (b) The commissioner by rule shall provide for the
20 administration of assessment instruments under this subchapter.

21 SECTION 2D.12. Section 39.023, Education Code, is amended
22 by amending Subsections (a)-(e), (i), (j), and (l)-(n) and adding
23 Subsections (a-1) and (b-1) to read as follows:

24 (a) The agency shall adopt or develop appropriate
25 criterion-referenced assessment instruments designed to assess
26 essential knowledge and skills in reading, writing, mathematics,
27 social studies, and science. Except as otherwise provided by this

1 subchapter, all [~~All~~] students [~~, except students assessed under~~
2 ~~Subsection (b) or (1) or exempted under Section 39.027,~~] shall be
3 assessed in:

4 (1) mathematics, annually in grades three through
5 [~~seven without the aid of technology and in grades eight through~~] 11
6 [~~with the aid of technology on any assessment instruments that~~
7 ~~include algebra~~];

8 (2) reading, annually in grades three through nine;

9 (3) writing, including spelling and grammar, in grades
10 four and seven;

11 (4) English language arts, in grades [~~grade~~] 10 and
12 11;

13 (5) social studies, in grades eight, [~~and~~] 10, and 11;

14 (6) science, in grades five, eight, [~~and~~] 10, and 11;

15 and

16 (7) any other subject and grade required by federal
17 law.

18 (a-1) An assessment instrument under this section may
19 include questions that test a broader range of knowledge and skills
20 or that are at a higher difficulty level for the purpose of
21 differentiating student achievement. A student may not be required
22 to answer a question described by this subsection correctly to
23 perform satisfactorily on the assessment instrument or to be
24 promoted to the next grade level. To ensure a valid bank of
25 questions for use each year, the agency is not required to release a
26 question that is being field-tested until after the fifth school
27 year the question is used on an assessment instrument administered

1 under this section.

2 (b) The agency shall develop or adopt appropriate
3 criterion-referenced assessment instruments to be administered to
4 each student in a special education program under Subchapter A,
5 Chapter 29, who receives modified instruction in the essential
6 knowledge and skills identified under Section 28.002 for the
7 assessed subject but for whom an assessment instrument adopted
8 under Subsection (a), even with allowable accommodations
9 [~~modifications~~], would not provide an appropriate measure of
10 student achievement, as determined by the student's admission,
11 review, and dismissal committee. The assessment instruments
12 required under this subsection must assess essential knowledge and
13 skills [~~and growth~~] in the subjects of reading, mathematics, and
14 writing and any other subject required by federal law. A student's
15 admission, review, and dismissal committee shall determine whether
16 any allowable accommodation [~~modification~~] is necessary in
17 administering to the student an assessment instrument required
18 under this subsection or whether an alternate assessment instrument
19 must be used to measure alternate academic achievement standards.
20 A student's admission, review, and dismissal committee shall
21 determine the high school graduation assessment requirements for a
22 student in a special education program under Subchapter A, Chapter
23 29, and may use local alternative assessment instruments if
24 multiple testing opportunities are not available for a student. To
25 the extent practicable, the [~~The~~] assessment instruments required
26 under this subsection shall be administered on the same schedule as
27 the assessment instruments administered under Subsection (a). The

1 commissioner shall adopt rules to implement this subsection.

2 (b-1) The agency shall adopt or develop appropriate
3 criterion-referenced instruments as required by federal law
4 designed to measure alternate academic achievement standards for
5 students in a special education program under Subchapter A, Chapter
6 29, with the most significant cognitive disabilities.

7 (c) The [~~agency shall also adopt~~] secondary exit-level
8 assessment instruments designed to be administered to students in
9 grade 11 under Subsection (a) must [~~to~~] assess essential knowledge
10 and skills in mathematics, English language arts, social studies,
11 and science. The mathematics section must include at least Algebra
12 I and geometry [~~with the aid of technology~~]. The English language
13 arts section must include at least English III and must include the
14 assessment of essential knowledge and skills in writing. The social
15 studies section must include early American and United States
16 history. The science section must include at least biology and
17 integrated chemistry and physics. The assessment instruments must
18 be designed to assess a student's mastery of minimum skills
19 necessary for high school graduation and readiness to enroll in an
20 institution of higher education. [~~If a student is in a special~~
21 ~~education program under Subchapter A, Chapter 29, the student's~~
22 ~~admission, review, and dismissal committee shall determine whether~~
23 ~~any allowable modification is necessary in administering to the~~
24 ~~student an assessment instrument required under this subsection or~~
25 ~~whether the student should be exempted under Section 39.027(a)(2).~~
26 ~~The State Board of Education shall administer the assessment~~
27 ~~instruments. The State Board of Education shall adopt a schedule~~

1 ~~for the administration of secondary exit-level assessment~~
2 ~~instruments.]~~ Each student who did not perform satisfactorily on
3 any secondary exit-level assessment instrument when initially
4 tested shall be given multiple opportunities to retake that
5 assessment instrument. A student who performs at or above a level
6 established by the Texas Higher Education Coordinating Board on the
7 secondary exit-level assessment instruments is exempt from the
8 requirements of Section 51.3062 [~~51.306~~]. The performance level
9 established by the Texas Higher Education Coordinating Board under
10 this subsection represents the level of academic achievement
11 indicating a student is prepared for college course work. The
12 performance level may be used as an indicator to measure progress
13 toward college preparedness of public school students in the state.

14 (d) The commissioner may participate in multistate efforts
15 to develop voluntary standardized end-of-course assessment
16 instruments. The commissioner by rule may require a school
17 district to administer an end-of-course assessment instrument
18 developed through the multistate efforts. The admission, review,
19 and dismissal committee of a student in a special education program
20 under Subchapter A, Chapter 29, shall determine whether any
21 allowable accommodation [~~modification~~] is necessary in
22 administering to the student an end-of-course assessment
23 instrument or whether the student should be exempted [~~under Section~~
24 ~~39.027(a)(2)~~].

25 (e) Under rules adopted by the State Board of Education,
26 [~~every other year,~~] the agency shall release the questions and
27 answer keys to each assessment instrument administered under

1 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after
2 August 1 after the second anniversary of the date [~~after the last~~
3 ~~time~~] the instrument was [~~is~~] administered [~~for that school year~~].
4 To ensure a valid bank of questions for use each year, the agency is
5 not required to release a question that is being field-tested and
6 was not used to compute the student's score on the instrument. The
7 agency shall also release, under board rule, each question that is
8 no longer being field-tested and that was not used to compute a
9 student's score.

10 (i) The provisions of this section, except Subsection (d),
11 are subject to modification by rules adopted under Section 39.022.
12 Each assessment instrument adopted or developed under this section
13 [~~those rules and each assessment instrument required under~~
14 ~~Subsection (d)~~] must be reliable and valid and must meet any
15 applicable federal requirements for measurement of student
16 progress.

17 (j) The commissioner shall develop a standardized
18 end-of-course assessment instrument for Algebra I. The
19 commissioner by rule shall [~~may~~] require a school district to
20 administer the [~~an~~] end-of-course assessment instrument developed
21 under this subsection [~~in Algebra I~~]. The admission, review, and
22 dismissal committee of a student in a special education program
23 under Subchapter A, Chapter 29, shall determine whether any
24 allowable accommodation [~~modification~~] is necessary in
25 administering to the student an end-of-course assessment
26 instrument [~~or whether the student should be exempted under Section~~
27 ~~39.027(a)(2)~~].

1 (1) The agency [~~State Board of Education~~] shall adopt or
2 develop a Spanish version [~~rules for the administration~~] of the
3 assessment instruments adopted under Subsection (a) for [~~in Spanish~~
4 ~~to~~] students in grades three through six who are of limited English
5 proficiency, as defined by Section 29.052, whose primary language
6 is Spanish, and who are not otherwise exempt from the
7 administration of an assessment instrument under Section 39.027
8 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency
9 whose primary language is Spanish, other than a student to whom
10 Subsection (b) or (b-1) applies, may be assessed using assessment
11 instruments in Spanish under this subsection for up to three years
12 or assessment instruments in English under Subsection (a). The
13 language proficiency assessment committee established under
14 Section 29.063 shall determine which students are administered
15 assessment instruments in Spanish under this subsection.

16 (m) The commissioner by rule shall develop procedures under
17 which the language proficiency assessment committee established
18 under Section 29.063 shall determine which students in grades three
19 through 10 are exempt from the administration of the assessment
20 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules
21 adopted under this subsection shall ensure that the language
22 proficiency assessment committee provides that the exempted
23 students are administered the assessment instruments under
24 Subsections (a) and (c) at the earliest practical date. As
25 necessary to comply with federal requirements, the commissioner by
26 rule shall develop procedures under which a student who is exempt
27 from the administration of an assessment instrument under Section

1 39.027 is administered a linguistically accommodated assessment
2 instrument.

3 (n) This subsection applies only to a student who is
4 determined to have dyslexia or a related disorder and who is an
5 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~
6 ~~its subsequent amendments~~]. The agency shall adopt or develop
7 appropriate [~~critterion-referenced~~] assessment administration
8 procedures, including accommodations for a [~~instruments designed~~
9 ~~to assess the ability of and to be administered to each~~] student to
10 whom this subsection applies. The [~~for whom the assessment~~
11 ~~instruments adopted under Subsection (a), even with allowable~~
12 ~~modifications, would not provide an appropriate measure of student~~
13 ~~achievement, as determined by the~~] committee established by the
14 board of trustees of the district to determine the placement of
15 students with dyslexia or related disorders [~~. The committee~~] shall
16 determine whether the [~~any~~] allowable accommodations are
17 [~~modification is~~] necessary in administering to a student an
18 assessment instrument required under this section [~~subsection. The~~
19 ~~assessment instruments required under this subsection shall be~~
20 ~~administered on the same schedule as the assessment instruments~~
21 ~~administered under Subsection (a)]].~~

22 SECTION 2D.13. Subchapter B, Chapter 39, Education Code, is
23 amended by adding Section 39.0233 to read as follows:

24 Sec. 39.0233. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a)
25 Subject to the discretion of the commissioner regarding subjects
26 and grade levels, the agency shall develop or acquire ongoing,
27 computer-adaptive, interactive assessment tools for each subject

1 and grade level for which an assessment instrument is adopted under
2 Section 39.023.

3 (b) The commissioner shall set aside an appropriate amount,
4 not to exceed \$11.5 million each fiscal year, from the Foundation
5 School Program to pay the cost of developing or acquiring
6 assessment tools under this section. After setting aside an
7 appropriate amount in accordance with this section, the
8 commissioner shall reduce each district's tier one allotments
9 proportionately. A reduction in tier one allotments under this
10 subsection does not affect the computation of the guaranteed amount
11 of revenue per student per cent of tax effort under Section 42.252.

12 (b-1) Subsection (b) applies beginning with the fiscal year
13 beginning September 1, 2006. This subsection expires September 1,
14 2007.

15 (c) Any amount set aside under this section must be approved
16 by the Legislative Budget Board and the governor's office of
17 budget, planning, and policy.

18 (d) The agency shall make assessment tools developed or
19 acquired under this section available to public schools at no cost.

20 SECTION 2D.14. Sections 39.024(a) and (c), Education Code,
21 are amended to read as follows:

22 (a) Except as otherwise provided by this subsection, the
23 State Board of Education shall determine the level of performance
24 considered to be satisfactory on the assessment instruments
25 administered under Section 39.023. The commissioner by rule
26 ~~[admission, review, and dismissal committee of a student being~~
27 ~~assessed under Section 39.023(b)]~~ shall determine the level of

1 performance considered to be satisfactory on the assessment
 2 instruments administered under Section 39.023(b) or (b-1) [~~to that~~
 3 ~~student~~] in accordance with applicable federal requirements
 4 [~~criteria established by agency rule~~].

5 (c) The agency shall develop study guides for the assessment
 6 instruments administered under Sections 39.023(a) and (1) [~~(c)~~].
 7 To assist parents in providing assistance during the period that
 8 school is recessed for summer, each school district shall
 9 distribute the study guides to parents of students who do not
 10 perform satisfactorily on one or more parts of the [~~an~~] assessment
 11 instrument [~~administered under this subchapter~~].

12 SECTION 2D.15. Subchapter B, Chapter 39, Education Code,
 13 is amended by adding Sections 39.0241, 39.0242, and 39.0243 to read
 14 as follows:

15 Sec. 39.0241. END-OF-COURSE ASSESSMENT INSTRUMENTS. (a)
 16 The commissioner shall develop, in addition to the Algebra I
 17 end-of-course assessment instrument, described by Section
 18 39.023(j), end-of-course assessment instruments for other subjects
 19 described by Section 39.023(c).

20 (b) The commissioner by rule may require a school district
 21 to administer an end-of-course assessment instrument developed
 22 under this section. The admission, review, and dismissal committee
 23 of a student in a special education program under Subchapter A,
 24 Chapter 29, shall determine whether any allowable accommodation is
 25 necessary in administering to the student an end-of-course
 26 assessment instrument.

27 (c) The agency shall ensure that each end-of-course

1 assessment instrument administered under this section or Section
2 39.023(j) complies with the requirements of this chapter and the No
3 Child Left Behind Act of 2001 (Pub. L. No. 107-110).

4 Sec. 39.0242. END-OF-COURSE ASSESSMENT INSTRUMENT:
5 SATISFACTORY PERFORMANCE. (a) The State Board of Education shall
6 determine the level of performance considered to be satisfactory on
7 end-of-course assessment instruments developed under Section
8 39.0241.

9 (b) The commissioner by rule may exempt a student from the
10 requirements of Section 39.025 as to a subject if the student has
11 performed satisfactorily on the comparable end-of-course
12 assessment instrument for that subject.

13 (c) For purposes of Section 28.0211, the commissioner by
14 rule may provide that a student who has performed satisfactorily on
15 the Algebra I end-of-course assessment instrument is exempt from
16 the requirement relating to passage of the assessment instrument
17 administered under Section 39.023(a)(1) in grade eight.

18 Sec. 39.0243. JOINT LEGISLATIVE OVERSIGHT COMMITTEE:
19 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) In this section,
20 "committee" means the legislative oversight committee on
21 end-of-course assessment instruments.

22 (b) The legislative oversight committee on end-of-course
23 assessment instruments is composed of eight members as follows:

24 (1) four members of the senate who serve on the senate
25 standing committee with primary jurisdiction over public
26 education, appointed by the lieutenant governor; and

27 (2) four members of the house of representatives who

1 serve on the house standing committee with primary jurisdiction
2 over public education, appointed by the speaker of the house of
3 representatives.

4 (c) The lieutenant governor shall designate one of the
5 committee members appointed by the lieutenant governor as committee
6 co-chair and the speaker shall designate one of the committee
7 members appointed by the speaker as committee co-chair.

8 (d) An appointed member of the committee serves at the
9 pleasure of the appointing official.

10 (e) The committee:

11 (1) shall receive information regarding rules
12 relating to end-of-course assessment instruments that have been
13 adopted by the commissioner under Section 39.0241; and

14 (2) may request reports and other information from the
15 commissioner relating to the development and administration of
16 end-of-course assessment instruments.

17 (f) The committee shall monitor the development and
18 administration of end-of-course assessment instruments.

19 (g) Not later than December 31 of each even-numbered year,
20 the committee shall file a report with the governor, the lieutenant
21 governor, the speaker of the house of representatives, and the
22 presiding officer of the standing committee of each house with
23 primary jurisdiction over public education.

24 (h) The report shall include an explanation relating to the
25 progress of the development and administration of end-of-course
26 assessment instruments and any recommendations for the
27 commissioner or for legislative action.

1 SECTION 2D.16. Section 39.025(a), Education Code, is
2 amended to read as follows:

3 (a) A student may not receive a high school diploma until
4 the student has performed satisfactorily on the secondary
5 exit-level assessment instruments for English language arts,
6 mathematics, social studies, and science administered under
7 Section 39.023(a) [~~39.023(e)~~]. This subsection does not require a
8 student to demonstrate readiness to enroll in an institution of
9 higher education.

10 SECTION 2D.17. Effective August 1, 2006, Subchapter B,
11 Chapter 39, Education Code, is amended by adding Section 39.0261 to
12 read as follows:

13 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
14 addition to the assessment instruments otherwise authorized or
15 required by this subchapter:

16 (1) each school year and at state cost, a school
17 district shall administer to students in any two grade levels other
18 than the 11th or 12th grade an established, valid, reliable, and
19 nationally norm-referenced preliminary college preparation
20 assessment instrument; and

21 (2) high school students in the spring of the 11th
22 grade or during the 12th grade may select and take once, at state
23 cost, one of the valid, reliable, and nationally norm-referenced
24 assessment instruments used by colleges and universities as part of
25 their undergraduate admissions processes.

26 (b) The agency shall:

27 (1) select and approve vendors of the specific

1 assessment instruments administered under this section; and

2 (2) pay all fees associated with the administration of
3 the assessment instrument from funds allotted under the Foundation
4 School Program, and the commissioner shall reduce the total amount
5 of state funds allocated to each district from any source in the
6 same manner described for a reduction in allotments under Section
7 42.313.

8 (c) The agency shall ensure that vendors are not paid under
9 Subsection (b) for the administration of an assessment instrument
10 to a student to whom the assessment instrument is not actually
11 administered. The agency may comply with this subsection by any
12 reasonable means, including by creating a refund system under which
13 a vendor returns any payment made for a student who registered for
14 the administration of an assessment instrument but did not appear
15 for the administration.

16 (d) A vendor that administers an assessment instrument for a
17 district under this section shall report the results of the
18 assessment instrument to the agency.

19 (e) Subsection (a)(2) does not prohibit a high school
20 student in the spring of the 11th grade or during the 12th grade
21 from selecting and taking, at the student's own expense, one of the
22 valid, reliable, and nationally norm-referenced assessment
23 instruments used by colleges and universities as part of their
24 undergraduate admissions processes more than once.

25 SECTION 2D.18. Sections 39.027(a), (e), and (g), Education
26 Code, are amended to read as follows:

27 (a) A student in grades three through 10 may be exempted

1 from the administration of an assessment instrument under:

2 (1) [~~Section 39.023(a) or (b) if the student is~~
3 ~~eligible for a special education program under Section 29.003 and~~
4 ~~the student's individualized education program does not include~~
5 ~~instruction in the essential knowledge and skills under Section~~
6 ~~28.002 at any grade level;~~

7 [~~(2) Section 39.023(c) or (d) if the student is~~
8 ~~eligible for a special education program under Section 29.003 and:~~

9 [~~(A) the student's individualized education~~
10 ~~program does not include instruction in the essential knowledge and~~
11 ~~skills under Section 28.002 at any grade level; or~~

12 [~~(B) the assessment instrument, even with~~
13 ~~allowable modifications, would not provide an appropriate measure~~
14 ~~of the student's achievement as determined by the student's~~
15 ~~admission, review, and dismissal committee;~~

16 [~~(3)] Section 39.023(a), (b), (b-1), or (1) for a~~

17 period of up to one year after initial enrollment in a school in the

18 United States if the student is of limited English proficiency, as

19 defined by Section 29.052, and has not demonstrated proficiency in

20 English as determined by the assessment system under Subsection

21 (e); or

22 (2) [~~(4)] Section 39.023(a), (b), (b-1), or (1) for a~~

23 period of up to two years in addition to the exemption period

24 authorized by Subdivision (1) [~~(3)] if the student has received an~~

25 exemption under Subdivision (1) [~~(3)] and:~~

26 (A) is a recent unschooled immigrant; or

27 (B) is in a grade for which no assessment

1 instrument in the primary language of the student is available.

2 (e) As provided by applicable federal requirements, the
3 ~~[The]~~ commissioner shall develop an assessment system that shall be
4 used for evaluating the academic progress toward attaining academic
5 language proficiency in English, including reading proficiency in
6 English, of all students of limited English proficiency, as defined
7 by Section 29.052. A student who has demonstrated the designated
8 level of ~~[is exempt from the administration of an assessment~~
9 ~~instrument under Subsection (a)(3) or (4) who achieves]~~ reading
10 proficiency in English as determined by the assessment system
11 developed under this subsection is not eligible for an exemption
12 under Subsection (a)(1) or (2). ~~[shall be administered the~~
13 ~~assessment instruments described by Sections 39.023(a) and (c).~~
14 ~~The performance under the assessment system developed under this~~
15 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~
16 ~~shall be included in the academic excellence indicator system under~~
17 ~~Section 39.051, the performance report under Section 39.053, and~~
18 ~~the comprehensive annual report under Section 39.182.]~~

19 (g) For purposes of this section, "recent unschooled
20 immigrant" means an immigrant who initially enrolled in a school in
21 the United States not more than 12 months before the date of the
22 administration of an assessment instrument under Section 39.023
23 ~~[39.023(a) or (1)]~~ and who, as a result of inadequate schooling
24 outside of the United States, lacks the necessary foundation in the
25 essential knowledge and skills of the curriculum prescribed under
26 Section 28.002 as determined by the language proficiency assessment
27 committee established under Section 29.063. For purposes of this

1 subsection and to the extent authorized by federal law, a child's
2 prior enrollment in a school in the United States shall be
3 determined on the basis of documents and records required under
4 Section 25.002(a).

5 SECTION 2D.19. Subchapter B, Chapter 39, Education Code, is
6 amended by adding Section 39.034 to read as follows:

7 Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT
8 ACHIEVEMENT. (a) The commissioner shall determine a method by
9 which the agency may measure incremental growth in student
10 achievement from one school year to the next on an assessment
11 instrument required under this subchapter.

12 (b) The agency shall report to each school district the
13 comparisons made under Subsection (a). Each school district shall
14 provide the comparisons to each teacher for all students who were:

15 (1) assessed on an assessment instrument; and

16 (2) taught by that teacher in the subject for which the
17 assessment instrument was administered.

18 (c) The school a student attends shall provide a record of
19 the comparison made under this section and provided to the school
20 under Subsection (b) in a written notice to the student's parents.

21 (d) To the extent practicable, the agency shall combine the
22 report of the comparisons required under this section with the
23 report of the student's performance on assessment instruments
24 administered under Section 39.023.

25 (e) The commissioner shall implement this section not later
26 than September 1, 2006. This subsection expires January 1, 2008.

27 SECTION 2D.20. Subchapter B, Chapter 39, Education Code, is

1 amended by adding Section 39.035 to read as follows:

2 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF
3 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other
4 employee, contractor, or volunteer of a school district or public
5 charter district commits an offense if, for the primary purpose of
6 influencing the results of an assessment instrument administered
7 under this subchapter, the person intentionally:

8 (1) discriminates in school admissions based on a
9 student's academic ability in a manner that is not otherwise
10 permitted by law;

11 (2) refers a student to a special education program
12 under Subchapter A, Chapter 29, or a bilingual or special language
13 program under Subchapter B, Chapter 29, for the purpose of gaining
14 an exemption for the student from the administration of the
15 assessment instrument;

16 (3) requires or encourages a student to be absent from
17 a school campus during the day on which the assessment instrument is
18 administered at the campus;

19 (4) tampers with the assessment instrument or related
20 materials to alter the results of the assessment instrument; or

21 (5) engages in any other action designed to alter the
22 accuracy of the results of the assessment instrument.

23 (b) An offense under this section is a Class A misdemeanor.

24 (c) An offense under Subsection (a)(4) is in addition to any
25 offense under Section 37.10(c)(2), Penal Code, arising from the
26 same action.

27 SECTION 2D.21. Section 39.051(b), Education Code, as

1 amended by Chapters 433 and 805, Acts of the 78th Legislature,
2 Regular Session, 2003, is reenacted and amended to read as follows:

3 (b) Performance on the indicators adopted under this
4 section shall be compared to state-established standards. The
5 degree of change from one school year to the next in performance on
6 each indicator adopted under this section shall also be considered.
7 The indicators must be based on information that is disaggregated
8 by race, ethnicity, gender, and socioeconomic status and must
9 include:

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

13 (2) dropout rates, including dropout rates and
14 district completion rates for grade levels 7 [~~9~~] through 12,
15 computed:

16 (A) as a longitudinal rate and an annual
17 completion rate by grade; and

18 (B) in accordance with standards and definitions
19 adopted by the National Center for Education Statistics of the
20 United States Department of Education;

21 (3) high school graduation rates, computed in
22 accordance with standards and definitions adopted in compliance
23 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.
24 107-110);

25 (4) student attendance rates;

26 (5) the percentage of graduating students who attain
27 scores on the secondary exit-level assessment instruments required

1 under Subchapter B that are equivalent to a passing score on the
2 assessment [~~test~~] instrument required under Section 51.3062
3 [~~51.306~~];

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

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

11 (8) incremental growth in student achievement, as
12 measured under Section 39.034, aggregated by grade level and
13 subject area;

14 (9) the number and percentage of students at risk of
15 dropping out of school, the number and percentage of those students
16 who are administered each assessment instrument required under
17 Section 39.023, the number and percentage of those students who
18 perform satisfactorily on the assessment instruments, and the
19 results of those students, grouped by number and percentage, on the
20 assessment instruments, disaggregated by subject area and grade
21 level;

22 (10) the number and percentage of students, aggregated
23 by grade level, provided accelerated instruction under Section
24 28.0211(c), the results of assessments administered under that
25 section, the percentage of students promoted through the grade
26 placement committee process under Section 28.0211, the subject of
27 the assessment instrument on which each student failed to perform

1 satisfactorily, and the performance of those students in the school
2 year following that promotion on the assessment instruments
3 required under Section 39.023;

4 (11) [~~(9)~~] for students who have failed to perform
5 satisfactorily on an assessment instrument required under Section
6 39.023(a) or (c), the numerical progress of those students grouped
7 by number and percentage on subsequent assessment instruments
8 required under those sections, aggregated by grade level and
9 subject area;

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

13 (13) [~~(11)~~] the percentage of students of limited
14 English proficiency exempted from the administration of an
15 assessment instrument under Sections 39.027(a)(1) and (2);

16 (14) [~~39.027(a)(3) and (4)~~] the percentage of students
17 in a special education program under Subchapter A, Chapter 29,
18 assessed through assessment instruments developed or adopted under
19 Section 39.023(b);

20 (15) for students of limited English proficiency, as
21 defined by Section 29.052, a measure of progress toward English
22 language proficiency, as determined by the commissioner, including
23 the student's performance after transferring out of a bilingual
24 education program or instruction in English as a second language;
25 and

26 (16) the performance of students who are not
27 educationally disadvantaged on an assessment instrument under

1 Sections 39.023(a), (b), (c), and (l) and dropout rates and
2 district completion rates for grades 9 through 12 for those
3 students.

4 SECTION 2D.22. Section 39.052(b), Education Code, is
5 amended to read as follows:

6 (b) The report card shall include the following
7 information:

8 (1) where applicable, the academic excellence
9 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];

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

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

13 (4) the district's instructional expenditures ratio
14 and instructional employees ratio computed under Section 44.0071,
15 and the statewide average of those ratios, as determined by the
16 commissioner.

17 SECTION 2D.23. Section 39.055, Education Code, is amended
18 to read as follows:

19 Sec. 39.055. [~~ANNUAL~~] AUDIT OF DROPOUT RECORDS; REPORT.

20 (a) The commissioner shall develop a process for auditing school
21 district dropout records electronically. The commissioner shall
22 also develop a system and standards for review of the audit or use
23 systems already available at the agency. The system must be
24 designed to identify districts that are at high risk of having
25 inaccurate dropout records and that, as a result, may be subject to

26 a special accreditation investigation under Section 39.075

27 [~~require on-site monitoring of dropout records. If the electronic~~

1 ~~audit of a district's dropout records indicates that a district is~~
2 ~~not at high risk of having inaccurate dropout records, the district~~
3 ~~may not be subject to on-site monitoring under this subsection. If~~
4 ~~the risk-based system indicates that a district is at high risk of~~
5 ~~having inaccurate dropout records, the district is entitled to an~~
6 ~~opportunity to respond to the commissioner's determination before~~
7 ~~on-site monitoring may be conducted. The district must respond not~~
8 ~~later than the 30th day after the date the commissioner notifies the~~
9 ~~district of the commissioner's determination. If the district's~~
10 ~~response does not change the commissioner's determination that the~~
11 ~~district is at high risk of having inaccurate dropout records or if~~
12 ~~the district does not respond in a timely manner, the commissioner~~
13 ~~shall order agency staff to conduct on-site monitoring of the~~
14 ~~district's dropout records].~~

15 **(b)** ~~[(c)]~~ The commissioner shall notify the superintendent
16 ~~[board of trustees]~~ of a school district of any objection the
17 commissioner has to the district's dropout data, any violation of
18 sound accounting practices or of a law or rule revealed by the data,
19 or any recommendation by the commissioner concerning the data. If
20 the data reflect that a penal law has been violated, the
21 commissioner shall notify the county attorney, district attorney,
22 or criminal district attorney, as appropriate, and the attorney
23 general. The commissioner is entitled to access to all district
24 records the commissioner considers necessary or appropriate for the
25 review, analysis, or approval of district dropout data.

26 SECTION 2D.24. Sections 39.071 and 39.072, Education Code,
27 are amended to read as follows:

1 Sec. 39.071. ACCREDITATION. (a) Accreditation of a school
2 district is determined in accordance with this section
3 ~~[subchapter]~~.

4 (b) Each year, the commissioner shall determine the
5 accreditation status of each school district. In determining
6 accreditation status, the commissioner:

7 (1) shall evaluate and consider the performance of the
8 district under:

9 (A) the academic accountability system under
10 Section 39.072; and

11 (B) the financial accountability system under
12 Subchapter I;

13 (2) shall evaluate and consider:

14 (A) the results of any special accreditation
15 investigation under Section 39.075; and

16 (B) the district's current special education
17 monitoring or compliance status with the agency; and

18 (3) may consider:

19 (A) the district's compliance with statutory
20 requirements and requirements imposed by rule of the commissioner
21 or State Board of Education under specific statutory authority that
22 relate to:

23 (i) reporting data through the Public
24 Education Information Management System (PEIMS) or other reports
25 required by state or federal law or court order;

26 (ii) the high school graduation
27 requirements under Section 28.025; or

1 (iii) an item listed under Sections
2 7.056(e)(3)(C)-(I) that applies to the district;

3 (B) the effectiveness of the district's programs
4 for special populations; and

5 (C) the effectiveness of the district's career
6 and technology program.

7 (c) Based on a school district's performance under
8 Subsection (b), the commissioner shall:

9 (1) assign a district an accreditation status of:

10 (A) accredited;

11 (B) accredited-warned; or

12 (C) accredited-probation; or

13 (2) revoke the accreditation of the district and order
14 closure of the district under this subchapter.

15 (d) The commissioner shall notify a school district that
16 receives an accreditation status of accredited-warned or
17 accredited-probation that the performance of the district is below
18 a standard required under this section. The commissioner shall
19 require the district to notify the parents of students enrolled in
20 the district and property owners in the district of the district's
21 accreditation status and the implications of that accreditation
22 status.

23 (e) A school district that is not accredited may not
24 receive funds from the agency or hold itself out as operating a
25 public school of this state.

26 (f) This chapter may not be construed to invalidate a
27 diploma awarded, course credit earned, or grade promotion granted

1 by a school district before the commissioner revoked the district's
2 accreditation.

3 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
4 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
5 adopt rules for assigning [~~to evaluate the performance of school~~
6 ~~districts and to assign~~] to each school district and campus a
7 performance rating as follows:

8 (1) exemplary (meets or exceeds state exemplary
9 standards);

10 (2) recognized (meets or exceeds required improvement
11 or [~~and~~] within 10 percent of state exemplary standards);

12 (3) academically acceptable (below the exemplary and
13 recognized standards but exceeds the academically unacceptable
14 standards); or

15 (4) academically unacceptable (below the state
16 clearly unacceptable performance standard and does not meet
17 required improvement).

18 (b) The academic excellence indicators adopted under
19 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~
20 ~~district's current special education compliance status with the~~
21 ~~agency~~] shall be the main considerations of the agency in the rating
22 of a school [~~the~~] district or campus under this section.
23 [~~Additional criteria in the rules may include consideration of:~~

24 [~~(1) compliance with statutory requirements and~~
25 ~~requirements imposed by rule of the State Board of Education under~~
26 ~~specific statutory authority that relate to:~~

27 [~~(A) reporting data through the Public Education~~

1 ~~Information Management System (PEIMS),~~

2 ~~[(B) the high school graduation requirements~~
3 ~~under Section 28.025, or~~

4 ~~[(C) an item listed in Sections~~
5 ~~7.056(e)(3)(C)-(I) that applies to the district,~~

6 ~~[(2) the effectiveness of the district's programs for~~
7 ~~special populations, and~~

8 ~~[(3) the effectiveness of the district's career and~~
9 ~~technology programs.]~~

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

20 (d) The agency shall annually review the performance of each
21 school district and campus and determine if a change in the academic
22 performance rating of the district or campus is warranted.
23 Notwithstanding any other provision of this code, the commissioner
24 shall determine how the indicators adopted under Section 39.051(b)
25 may be used to determine academic performance ratings and to select
26 districts and campuses for acknowledgment.

27 (e) Each annual review shall include an analysis of the

1 indicators under Section 39.051(b) to determine district and campus
2 performance in relation to:

- 3 (1) state standards established for each indicator;
4 (2) required improvement as defined under Section
5 39.051(c); and
6 (3) comparable improvement as determined under
7 Section 39.051(c).

8 (f) The academic performance rating of a school district may
9 be raised or lowered based on the district's performance or may be
10 lowered based on the unacceptable performance of one or more
11 campuses in the district. The academic performance rating of a
12 school district may also be lowered based on a determination that
13 data provided to the agency by the district that is necessary for
14 conducting an annual review under this section is unreliable.

15 (g) The commissioner shall notify a school district if the
16 performance of the district or a campus in the district is below a
17 standard required under this section. The commissioner shall
18 require the school district to notify the parents of students who
19 are enrolled in the district and property owners in the district of
20 the academic performance rating and the implications of that
21 rating.

22 (h) Notwithstanding any other provision of this code, for
23 purposes of determining the performance of a school district or
24 public charter district under this chapter, including the academic
25 performance rating [accreditation status] of the district or
26 school, a student attending a campus that is a [confined by court
27 order in a residential program or] facility operated by or under

1 contract with the Texas Youth Commission, a pre-adjudication secure
2 detention facility or a post-adjudication secure correctional
3 facility that is registered with the Texas Juvenile Probation
4 Commission, or a residential facility is not considered to be a
5 student of the school district or public charter district school
6 serving the student [~~in which the program or facility is physically~~
7 ~~located~~]. For purposes of this section, an involuntary residential
8 facility, including a detention center, residential treatment
9 center, or psychiatric hospital, is not considered a campus in
10 determining accreditation status. [~~The performance of such a~~
11 ~~student on an assessment instrument or other academic excellence~~
12 ~~indicator adopted under Section 39.051 shall be determined,~~
13 ~~reported, and considered separately from the performance of~~
14 ~~students attending a school of the district in which the program or~~
15 ~~facility is physically located.~~]

16 SECTION 2D.25. Subchapter D, Chapter 39, Education Code, is
17 amended by adding Section 39.0722 to read as follows:

18 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)
19 In addition to school district performance ratings under Section
20 39.072, the commissioner shall annually rate districts according to
21 the degree to which the districts prepare students for
22 postsecondary success, including student performance on assessment
23 instruments administered under Section 39.0261 and on the
24 applicable indicators under Sections 39.051(b) and 39.0721. The
25 commissioner shall consult with the P-16 Council established under
26 Section 61.076 when adopting criteria under this section.

27 (b) The commissioner may adopt rules as necessary to

1 administer this section.

2 SECTION 2D.26. Section 39.075(a), Education Code, is
3 amended to read as follows:

4 (a) The commissioner may [~~shall~~] authorize special
5 accreditation investigations to be conducted:

6 (1) when excessive numbers of absences of students
7 eligible to be tested on state assessment instruments are
8 determined;

9 (2) when excessive numbers of allowable exemptions
10 from the required state assessment instrument are determined;

11 (3) in response to complaints submitted to the agency
12 with respect to alleged violations of civil rights or other
13 requirements imposed on the state by federal law or court order;

14 (4) in response to established monitoring or
15 compliance reviews of the district's financial accounting
16 practices and state and federal program requirements;

17 (5) when extraordinary numbers of student placements
18 in alternative education programs, other than placements under
19 Sections 37.006 and 37.007, are determined;

20 (6) in response to an allegation involving a conflict
21 between members of the board of trustees or between the board and
22 the district administration if it appears that the conflict
23 involves a violation of a role or duty of the board members or the
24 administration clearly defined by this code;

25 (7) when excessive numbers of students in special
26 education programs under Subchapter A, Chapter 29, are assessed
27 through assessment instruments developed or adopted under Section

1 39.023(b); [~~or~~]

2 (8) in response to questions concerning a program,
3 including special education, that is required by federal law or for
4 which the district receives federal funds;

5 (9) when an annual review indicates the academically
6 unacceptable performance under Section 39.072 of one or more
7 campuses in a district, except that the resulting investigation is
8 limited to those campuses;

9 (10) in response to concerns regarding the integrity
10 of data submitted to the agency;

11 (11) in response to allegations of a violation of
12 student assessment procedures for assessment instruments adopted
13 under Section 39.023; or

14 (12) as the commissioner otherwise determines
15 necessary.

16 SECTION 2D.27. Section 39.075(c), Education Code, as
17 amended by Chapters 396 and 931, Acts of the 76th Legislature,
18 Regular Session, 1999, is reenacted and amended to read as follows:

19 (c) Based on the results of a special accreditation
20 investigation, the commissioner may:

21 (1) take appropriate action under Subchapter G;

22 (2) raise or lower the district's accreditation status
23 [rating]; or

24 (3) take action under both Subdivisions (1) and (2).

25 SECTION 2D.28. Section 39.076, Education Code, is amended
26 by amending Subsection (a) and adding Subsections (a-1), (a-2),
27 (a-3), and (c) to read as follows:

1 (a) The agency shall adopt written procedures for
2 conducting [~~on-site~~] investigations under this subchapter. The
3 agency shall make the procedures available to the complainant, the
4 alleged violator, and the public. Agency staff must be trained in
5 the procedures and must follow the procedures in conducting the
6 investigation.

7 (a-1) An investigation conducted under this subchapter may
8 be an on-site, desk, or data-based investigation as determined by
9 the commissioner.

10 (a-2) If conducting an on-site investigation, the
11 investigators may obtain information from administrators,
12 teachers, or parents of students enrolled in the school district.
13 The commissioner shall adopt rules for:

14 (1) obtaining information from parents and using that
15 information in the investigator's report; and

16 (2) obtaining information from teachers in a manner
17 that prevents a campus or district from screening the information.

18 (a-3) The agency may give written notice of any impending
19 on-site investigation to the superintendent and the board of
20 trustees of a school district.

21 (c) The investigators conducting an on-site investigation
22 shall report the results of the investigation orally and in writing
23 to the board of trustees of the district and, as appropriate, to
24 campus administrators, and shall make recommendations concerning
25 any necessary improvements or sources of aid, such as regional
26 education service centers.

27 SECTION 2D.29. Subchapter D, Chapter 39, Education Code, is

1 amended by adding Sections 39.077 and 39.078 to read as follows:

2 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
3 school district or public charter district that wishes to challenge
4 a decision to assign or lower an accreditation status, an academic
5 performance rating, or a financial accountability rating must
6 petition for an informal review as provided by Section 7.0571.

7 (b) A final decision by the commissioner to assign or lower
8 an accreditation status, an academic performance rating, or a
9 financial accountability rating following a review under Section
10 7.0571 is final and may not be appealed.

11 Sec. 39.078. RULES. (a) The commissioner may adopt rules
12 as necessary to administer this subchapter.

13 (b) Unless a provision of this code clearly specifies
14 otherwise, any rule adopted under Subsection (a) must apply
15 accreditation requirements and academic performance ratings under
16 this subchapter to:

17 (1) a public charter district in the same manner as the
18 requirements and ratings are applied to a school district; and

19 (2) a campus operated by a public charter district in
20 the same manner as the requirements and ratings are applied to a
21 campus operated by a school district.

22 SECTION 2D.30. Effective August 1, 2006, Subchapter F,
23 Chapter 39, Education Code, is amended by adding Section 39.113 to
24 read as follows:

25 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
26 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
27 rules to create an incentive award system for annual growth in

1 student achievement. A school that achieves incremental growth in
2 student achievement, as described in Subsection (b), is eligible
3 for an award if the school:

4 (1) has a student population of at least 50 percent
5 educationally disadvantaged students;

6 (2) achieves an accreditation performance rating of
7 academically acceptable or better; and

8 (3) demonstrates superior growth in the academic
9 performance of educationally disadvantaged students.

10 (b) The commissioner by rule shall adopt performance
11 criteria to measure annual growth in student academic performance.
12 The commissioner shall consider the following criteria, as
13 applicable:

14 (1) annual growth in student achievement that
15 contributes to closing performance gaps among various populations
16 of students;

17 (2) improvements in student scores on the assessment
18 instruments required under Section 39.023;

19 (3) growth in high school completion rates;

20 (4) improvement in student scores on college advanced
21 placement tests; and

22 (5) any other factor that contributes to student
23 achievement.

24 (c) From funds appropriated for the purposes of this
25 section, the commissioner shall award grants to campuses that meet
26 performance criteria adopted under Subsection (b). The
27 commissioner shall allocate awards to campuses not later than

1 December 1 of each year, based on growth in student achievement as
2 measured for the preceding two school years.

3 (c-1) The commissioner shall award grants under this
4 section beginning September 1, 2006. This subsection expires
5 January 1, 2007.

6 (d) At least 75 percent of an award under this section must
7 be used for additional teacher compensation at the campus level.
8 The commissioner by rule shall provide for allocating awards under
9 this subsection, including providing individual awards of at least
10 \$3,000 for each teacher at a campus receiving an award under this
11 subsection.

12 (e) Grants from funds appropriated for the award program may
13 be awarded beginning the 2006-2007 school year and may not exceed
14 \$100 million in the 2006-2007 school year except as expressly
15 authorized by the General Appropriations Act or other law.

16 (f) A determination of the commissioner under this section
17 is final and may not be appealed.

18 (g) The commissioner shall annually evaluate the
19 effectiveness of the state incentive program for improving student
20 performance on at-risk campuses established under this section.
21 The evaluation must consider:

22 (1) the performance of students in districts under
23 this section on assessment instruments administered under Section
24 39.023;

25 (2) the districts' high school graduation and
26 completion rates; and

27 (3) the districts' teacher attrition rates.

1 SECTION 2D.31. Section 39.131, Education Code, is amended
2 to read as follows:

3 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
4 district does not satisfy the accreditation criteria under Section
5 39.071, the academic performance standards under Section 39.072, or
6 any financial accountability standard as determined by
7 commissioner rule, the commissioner shall take any of the following
8 actions[~~, listed in order of severity,~~] to the extent the
9 commissioner determines necessary:

10 (1) issue public notice of the deficiency to the board
11 of trustees;

12 (2) order a hearing conducted by the board of trustees
13 of the district for the purpose of notifying the public of the
14 unacceptable performance, the improvements in performance expected
15 by the agency, and the sanctions that may be imposed under this
16 section if the performance does not improve;

17 (3) order the preparation of a student achievement
18 improvement plan that addresses each academic excellence indicator
19 for which the district's performance is unacceptable, the
20 submission of the plan to the commissioner for approval, and
21 implementation of the plan;

22 (4) order a hearing to be held before the commissioner
23 or the commissioner's designee at which the president of the board
24 of trustees of the district and the superintendent shall appear and
25 explain the district's low performance, lack of improvement, and
26 plans for improvement;

27 (5) arrange an on-site investigation of the district;

1 (6) appoint an agency monitor to participate in and
2 report to the agency on the activities of the board of trustees or
3 the superintendent;

4 (7) appoint a conservator to oversee the operations of
5 the district;

6 (8) appoint a management team to direct the operations
7 of the district in areas of unacceptable performance or require the
8 district to obtain certain services under a contract with another
9 person;

10 (9) if a district has a current accreditation status
11 of accredited-warned or accredited-probation, is ~~[been]~~ rated ~~[as]~~
12 academically unacceptable, or fails to satisfy financial
13 accountability standards as determined by commissioner rule ~~[for a~~
14 ~~period of one year or more]~~, appoint a board of managers to exercise
15 the powers and duties of the board of trustees;

16 (10) if for two consecutive school years, including
17 the current school year, a district has received an accreditation
18 status of accredited-warned or accredited-probation, has been
19 rated academically unacceptable, or has failed to satisfy financial
20 accountability standards as determined by commissioner rule,
21 revoke the district's accreditation and ~~[been rated as academically~~
22 ~~unacceptable for a period of two years or more]~~;

23 (A) order closure of the district and annex the
24 district to one or more adjoining districts under Section 13.054;
25 or

26 (B) in the case of a home-rule school district or
27 public charter district ~~[open-enrollment charter school]~~, order

1 closure of all programs operated under the district's or school's
2 charter; or

3 (11) if a district has been rated [~~as~~] academically
4 unacceptable for [~~a period of~~] two consecutive school years,
5 including the current school year, [~~or more~~] due to the district's
6 dropout rates, impose sanctions designed to improve high school
7 completion rates, including:

8 (A) ordering the development of a dropout
9 prevention plan for approval by the commissioner;

10 (B) restructuring the district or appropriate
11 school campuses to improve identification of and service to
12 students who are at risk of dropping out of school, as defined by
13 Section 29.081;

14 (C) ordering lower student-to-counselor ratios
15 on school campuses with high dropout rates; and

16 (D) ordering the use of any other intervention
17 strategy effective in reducing dropout rates, including mentor
18 programs and flexible class scheduling.

19 (b) This subsection applies regardless of whether a
20 district has satisfied the accreditation criteria. If for two
21 consecutive school years, including the current school year, [~~a~~
22 ~~period of one year or more~~] a district has had a conservator or
23 management team assigned, the commissioner may appoint a board of
24 managers, a majority of whom must be residents of the district, to
25 exercise the powers and duties of the board of trustees.

26 SECTION 2D.32. Section 39.132, Education Code, is amended
27 to read as follows:

1 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND
2 CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any
3 standard under Section 39.072 [~~39.073(b)~~], the campus is considered
4 an academically unacceptable [~~a low-performing~~] campus. The
5 commissioner may permit the campus to participate in an innovative
6 redesign of the campus to improve campus performance or shall [~~may~~]
7 take any of the other following actions[~~, listed in order of~~
8 ~~severity~~], to the extent the commissioner determines necessary:

9 (1) issue public notice of the deficiency to the board
10 of trustees;

11 (2) order a hearing conducted by the board of trustees
12 at the campus for the purpose of:

13 (A) notifying the public of the unacceptable
14 performance, the improvements in performance expected by the
15 agency, and the sanctions that may be imposed under this section if
16 the performance does not improve within a designated period of
17 time; and

18 (B) soliciting public comment on the initial
19 steps being taken to improve performance;

20 (3) [~~order the preparation of a report regarding the~~
21 ~~parental involvement program at the campus and a plan describing~~
22 ~~strategies for improving parental involvement at the campus,~~

23 [~~(4) order the preparation of a report regarding the~~
24 ~~effectiveness of the district- and campus-level planning and~~
25 ~~decision-making committees established under Subchapter F, Chapter~~
26 ~~11, and a plan describing strategies for improving the~~
27 ~~effectiveness of those committees,~~

1 ~~[(5)]~~ order the preparation of a student [~~achievement~~]
2 improvement plan that addresses each academic excellence indicator
3 for which the campus's performance is unacceptable, the submission
4 of the plan to the commissioner for approval, and implementation of
5 the plan;

6 (4) ~~[(6)]~~ order a hearing to be held before the
7 commissioner or the commissioner's designee at which the president
8 of the board of trustees, the superintendent, and the campus
9 principal shall appear and explain the campus's low performance,
10 lack of improvement, and plans for improvement;

11 (5) appoint a technical assistance team under Section
12 39.1321; or

13 (6) appoint a campus intervention team under Section
14 39.1321.

15 ~~[(7) appoint a special campus intervention team to:~~

16 ~~[(A) conduct a comprehensive on-site evaluation~~
17 ~~of the campus to determine the cause for the campus's low~~
18 ~~performance and lack of progress;~~

19 ~~[(B) recommend actions, including reallocation~~
20 ~~of resources and technical assistance, changes in school procedures~~
21 ~~or operations, staff development for instructional and~~
22 ~~administrative staff, intervention for individual administrators~~
23 ~~or teachers, waivers from state statute or rule, or other actions~~
24 ~~the team considers appropriate;~~

25 ~~[(C) assist in the development of a campus plan~~
26 ~~for student achievement; and~~

27 ~~[(D) assist the commissioner in monitoring the~~

1 ~~progress of the campus in implementing the campus plan for~~
2 ~~improvement of student achievement, or~~

3 ~~[(8) if a campus has been a low-performing campus for a~~
4 ~~period of one year or more, appoint a board of managers composed of~~
5 ~~residents of the district to exercise the powers and duties of the~~
6 ~~board of trustees of the district in relation to the campus.]~~

7 ~~[(b) If a campus has been a low-performing campus for a~~
8 ~~period of two consecutive years or more, the commissioner shall~~
9 ~~order the closure of the district or charter program on the campus~~
10 ~~or reconstitute the campus. In reconstituting the campus, a~~
11 ~~special campus intervention team shall be assembled for the purpose~~
12 ~~of deciding which educators may be retained at that campus. If an~~
13 ~~educator is not retained, the educator may be assigned to another~~
14 ~~position in the district.]~~

15 SECTION 2D.33. Subchapter G, Chapter 39, Education Code, is
16 amended by adding Sections 39.1321-39.1323 and 39.1325-39.1327 to
17 read as follows:

18 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION
19 TEAMS. (a) If a campus is rated academically acceptable for the
20 current school year but would be rated as academically unacceptable
21 if performance standards to be used for the following school year
22 were applied to the current school year, the commissioner shall
23 select and assign a technical assistance team to assist the campus
24 in executing a school improvement plan and any other school
25 improvement strategies the commissioner determines appropriate.

26 (b) If a campus has been identified as academically
27 unacceptable under Section 39.132, the commissioner shall appoint a

1 campus intervention team.

2 (c) To the extent practicable, the commissioner shall
3 select and assign the technical assistance team under Subsection
4 (a) or the campus intervention team under Subsection (b) before the
5 first day of instruction for the school year.

6 (d) The commissioner may determine when the services of a
7 technical assistance team or campus intervention team are no longer
8 needed at a campus under this section.

9 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A
10 campus intervention team shall:

11 (1) conduct a comprehensive on-site evaluation of the
12 campus to determine the cause for the campus's low performance and
13 lack of progress;

14 (2) recommend actions, including reallocation of
15 resources and technical assistance, changes in school procedures or
16 operations, staff development for instructional and administrative
17 staff, intervention for individual administrators or teachers,
18 waivers from state statute or rule, or other actions the team
19 considers appropriate;

20 (3) assist in the development of a school improvement
21 plan for student achievement; and

22 (4) assist the commissioner in monitoring the progress
23 of the campus in implementing the school improvement plan for
24 improvement of student achievement.

25 (b) A campus intervention team assigned under Section
26 39.1321 to a campus shall conduct a comprehensive on-site
27 evaluation of the campus to determine the cause for the campus's low

1 performance and lack of progress. The team shall have wide latitude
2 to determine what factors to assess and how to conduct the
3 assessment. Some factors to be considered are:

4 (1) an assessment of the staff to determine the
5 percentage of certified teachers who are teaching in their field,
6 the number of teachers with less than three years of experience, and
7 teacher turnover rates;

8 (2) compliance with the appropriate class-size rules
9 and number of class-size waivers received;

10 (3) an assessment of the quality, quantity, and
11 appropriateness of instructional materials, including the
12 availability of technology-based instructional materials;

13 (4) a report on the parental involvement strategies
14 and the effectiveness of the strategies;

15 (5) an assessment of the extent and quality of the
16 mentoring program provided for new teachers on the campus;

17 (6) an assessment of the type and quality of the
18 professional development provided to the staff;

19 (7) a demographic analysis of the student population,
20 including student demographics, at-risk populations, and special
21 education percentages;

22 (8) a report of disciplinary incidents and school
23 safety information;

24 (9) financial and accounting practices; and

25 (10) an assessment of the appropriateness of the
26 curriculum and teaching strategies.

27 (c) On completing the evaluation under this section, the

1 campus intervention team shall recommend actions, including:

2 (1) reallocation of resources;

3 (2) distribution of additional funds to the campus
4 from funds set aside by the agency for purposes of assisting
5 campuses in meeting standards specified in the intervention plan;

6 (3) technical assistance;

7 (4) changes in school procedures or operations;

8 (5) staff development for instructional and
9 administrative staff;

10 (6) intervention for individual administrators or
11 teachers;

12 (7) waivers from state statutes or rules; or

13 (8) other actions the campus intervention team
14 considers appropriate.

15 (d) In executing a school improvement plan developed under
16 Subsection (a)(3), the campus intervention team shall:

17 (1) assist the campus in implementing research-based
18 practices for curriculum development and classroom instruction,
19 including bilingual education and special education programs, if
20 appropriate, and financial management;

21 (2) provide research-based technical assistance,
22 including data analysis, academic deficiency identification,
23 intervention implementation, and budget analysis, to strengthen
24 and improve the instructional programs at the campus; and

25 (3) submit the school improvement plan to the
26 commissioner for approval.

27 (e) A campus intervention team appointed under Section

1 39.1321(b):

2 (1) shall continue to work with a campus until:

3 (A) the campus is rated academically acceptable
4 for a two-year period; or

5 (B) the campus is rated academically acceptable
6 for a one-year period and the commissioner determines that the
7 campus is operating and will continue to operate in a manner that
8 improves student achievement; and

9 (2) may continually update the school improvement
10 plan, with approval from the commissioner, to meet the needs of the
11 campus.

12 (f) Notwithstanding any other provision of this subchapter,
13 if the commissioner determines that a campus for which an
14 intervention is ordered under Section 39.1321(b) is not fully
15 implementing the campus intervention team's recommendations or
16 school improvement plan, the commissioner may order the
17 reconstitution of the campus, pursue alternative management of the
18 campus as provided by Section 39.1326, or order closure of the
19 campus.

20 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has
21 been identified as academically unacceptable for a period of two
22 consecutive school years, including the current school year, the
23 commissioner shall order the reconstitution of the campus and
24 assign a campus intervention team. In determining whether a campus
25 is rated academically unacceptable for a second year under this
26 subsection, dropout rates and completion rates may not be
27 considered. In reconstituting the campus, a campus intervention

1 team shall assist the campus in:

2 (1) developing a school improvement plan;

3 (2) obtaining approval of the plan from the
4 commissioner; and

5 (3) executing the plan on approval by the
6 commissioner.

7 (b) The campus intervention team shall decide which
8 educators may be retained at that campus. A principal who has been
9 employed by the campus in that capacity during the two-year period
10 described by Subsection (a) may not be retained at that campus. A
11 teacher of a subject assessed by an assessment instrument under
12 Section 39.023 may be retained only if the campus intervention team
13 determines that a pattern exists of significant academic growth by
14 students taught by the teacher. If an educator is not retained, the
15 educator may be assigned to another position in the district.

16 (c) A campus subject to Subsection (a) shall implement the
17 school improvement plan as approved by the commissioner. The
18 commissioner may appoint a monitor, conservator, management team,
19 or a board of managers to the district to ensure and oversee the
20 implementation of the school improvement plan.

21 (d) Notwithstanding any other provision of this subchapter,
22 if the commissioner determines that a campus subject to Subsection
23 (a) is not fully implementing the school improvement plan, the
24 commissioner may pursue alternative management of the campus as
25 provided by Section 39.1326, or may order closure of the campus.

26 (e) If a campus is considered an academically unacceptable
27 campus for more than two consecutive school years, the commissioner

1 may order reconstitution or closure of the campus or pursue
2 alternative management under Section 39.1326.

3 (f) If a campus is considered an academically unacceptable
4 campus for the subsequent school year after the campus is
5 reconstituted under this section, the commissioner shall pursue
6 alternative management under Section 39.1326.

7 Sec. 39.1325. TRANSITIONAL SANCTIONS PROVISIONS. For the
8 2005-2006 school year, the commissioner shall assign a campus
9 intervention team or a technical assistance team to a campus under
10 Section 39.1321 on the basis of academic performance ratings for
11 the 2004-2005 school year. The commissioner may impose a sanction
12 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the
13 basis of academic performance ratings for the 2004-2005 school year
14 and the 2005-2006 school year. A sanction ordered by the
15 commissioner before July 1, 2005, shall remain in effect for the
16 2005-2006 school year. The commissioner may allow a principal
17 subject to Section 39.1323(b) to remain at a campus for the
18 2005-2006 school year. This section expires September 1, 2007.

19 Sec. 39.1326. MANAGEMENT OF CERTAIN ACADEMICALLY
20 UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section
21 if the campus has been identified as academically unacceptable
22 under Section 39.132 and the commissioner orders alternative
23 management under Section 39.1323(e) or (f).

24 (b) The commissioner shall solicit proposals from qualified
25 entities to assume management of a campus subject to this section.

26 (c) If the commissioner determines that the basis for
27 identifying a campus as academically unacceptable is limited to a

1 specific condition that may be remedied with targeted technical
2 assistance, the commissioner may:

3 (1) provide the campus a one-year waiver under this
4 section; and

5 (2) require the district to contract for the
6 appropriate technical assistance.

7 (d) The commissioner may annually solicit proposals under
8 this section for the management of a campus subject to this section.
9 The commissioner shall notify a qualified entity that has been
10 approved as a provider under this section. The district must
11 execute a contract with an approved provider and relinquish control
12 of the campus before January 1 of the school year.

13 (e) To qualify for consideration as a managing entity under
14 this section, the entity must submit a proposal that provides
15 information relating to the entity's management and leadership team
16 that will participate in management of the campus under
17 consideration, including information relating to individuals that
18 have:

19 (1) documented success in whole school interventions
20 that increased the educational and performance levels of students
21 in academically unacceptable campuses;

22 (2) a proven record of effectiveness with programs
23 assisting low-performing students;

24 (3) a proven ability to apply research-based school
25 intervention strategies;

26 (4) a proven record of financial ability to perform
27 under the management contract; and

1 (5) any other experience or qualifications the
2 commissioner determines necessary.

3 (f) In selecting a managing entity under this section, the
4 commissioner shall give preference to an entity that:

5 (1) meets any qualifications under this section; and

6 (2) has documented success in educating students from
7 similar demographic groups and with similar educational needs as
8 the students who attend the campus that is to be operated by a
9 managing entity under this section.

10 (g) The school district may negotiate the term of a
11 management contract for not more than five years with an option to
12 renew the contract. The management contract must include a
13 provision describing the district's responsibilities in supporting
14 the operation of the campus. The commissioner shall approve the
15 contract before the contract is executed and, as appropriate, may
16 require the district, as a term of the contract, to support the
17 campus in the same manner as the district was required to support
18 the campus before the execution of the management contract.

19 (h) A management contract under this section shall include
20 provisions approved by the commissioner that require the managing
21 entity to demonstrate improvement in campus performance, including
22 negotiated performance measures. The performance measures must be
23 consistent with the priorities of this chapter. The commissioner
24 shall evaluate a managing entity's performance on the first and
25 second anniversaries of the date of the management contract. If the
26 evaluation fails to demonstrate improvement as negotiated under the
27 contract by the first anniversary of the date of the management

1 contract, the district may terminate the management contract, with
2 the commissioner's consent, for nonperformance or breach of
3 contract and select another provider from an approved list provided
4 by the commissioner. If the evaluation fails to demonstrate
5 significant improvement, as determined by the commissioner, by the
6 second anniversary of the date of the management contract, the
7 district shall terminate the management contract and select another
8 provider from an approved list provided by the commissioner or
9 resume operation of the campus if approved by the commissioner. If
10 the commissioner approves the district's operation of the campus,
11 the commissioner shall assign a technical assistance team to assist
12 the campus.

13 (i) Notwithstanding any other provision of this code, the
14 funding for a campus operated by a managing entity must be
15 equivalent to the funding of the other campuses in the district on a
16 per student basis so that the managing entity receives the same
17 funding the campus would otherwise have received.

18 (j) Each campus operated by a managing entity under this
19 section is subject to this chapter in the same manner as any other
20 campus in the district.

21 (k) The commissioner may adopt rules necessary to implement
22 this section.

23 (l) With respect to the management of a campus under this
24 section:

25 (1) a managing entity is considered to be a
26 governmental body for purposes of Chapters 551 and 552, Government
27 Code; and

1 (2) any requirement in Chapter 551 or 552, Government
2 Code, that applies to a school district or the board of trustees of
3 a school district applies to a managing entity.

4 Sec. 39.1327. REVIEW OF SANCTIONS FOR CAMPUSES SERVING
5 RESIDENTIAL FACILITIES. (a) A school district or public charter
6 district may petition the commissioner to review an academically
7 unacceptable rating assigned to a campus if the campus
8 predominantly served students residing in a residential facility
9 during the rating period.

10 (b) If the commissioner determines that the basis for
11 identifying the campus as academically unacceptable was limited to
12 a condition that was not related to the educational purpose of the
13 residential facility, the commissioner may take any of the
14 following actions as the commissioner determines appropriate:

15 (1) change, modify, or suspend the academically
16 unacceptable rating; or

17 (2) impose any sanction otherwise authorized under
18 Section 39.131 or 39.132.

19 (c) The commissioner may consider a factor other than a
20 factor used to assign a rating in evaluating a campus under this
21 section. The commissioner may assign a campus intervention team
22 under Section 39.1321 at the expense of the school district or
23 public charter district as provided by Section 39.134 to develop a
24 long-term intervention plan to improve services for students.

25 (d) On a determination that a campus subject to this section
26 is appropriately meeting the educational needs of its students, the
27 commissioner may waive revocation of a public charter district for

1 a period not to exceed two years. A waiver under this subsection
2 may be extended for additional two-year periods based on subsequent
3 evaluations of the campus.

4 (e) This section does not limit the commissioner's ability
5 to sanction a public charter district for the performance of a
6 campus subject to this section or any other law.

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

9 SECTION 2D.34. Section 39.133, Education Code, is amended
10 to read as follows:

11 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
12 review annually the performance of a district or campus subject to a
13 sanction under this subchapter to determine the appropriate actions
14 to be implemented under this subchapter. The determination shall
15 take into account the number, severity, and duration of the
16 problems identified. [~~The commissioner must review at least~~
17 ~~annually the performance of a district for which the accreditation~~
18 ~~rating has been lowered due to unacceptable student performance and~~
19 ~~may not raise the rating until the district has demonstrated~~
20 ~~improved student performance.~~] If the review reveals a lack of
21 improvement, the commissioner shall increase the level of state
22 intervention and sanction unless the commissioner finds good cause
23 for maintaining the current status.

24 (b) The commissioner shall review at least annually the
25 performance of a school district for which the academic performance
26 rating has been lowered due to unacceptable student performance and
27 may not raise the rating until the district has demonstrated

1 improved student performance.

2 SECTION 2D.35. Subchapter G, Chapter 39, Education Code, is
3 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as
4 follows:

5 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In
6 addition to other sanctions authorized under Sections 39.131 and
7 39.132, the commissioner may order a school district or campus to
8 acquire professional services at the expense of the district or
9 campus to address the applicable financial, assessment, data
10 quality, program, or governance deficiency. The commissioner's
11 order may require the district or campus to:

12 (1) select an external auditor, data quality expert,
13 professional authorized to monitor district assessment instrument
14 administration, or curriculum or program expert; or

15 (2) provide for the appropriate training of district
16 staff or board of trustees members in the case of a district, or
17 campus staff, in the case of a campus.

18 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a)
19 The commissioner may revoke the accreditation of a school district
20 and order the closure of the district or a campus, as appropriate,
21 under the following circumstances:

22 (1) the commissioner is authorized to close the
23 district or campus under Section 39.131(a)(10) or 39.1322(f);

24 (2) the commissioner determines that the district is
25 insolvent and unable to complete the school year; or

26 (3) the commissioner determines that the district has
27 ceased operations for 11 or more instructional days during the

1 current or most recent scheduled school year without the
2 commissioner's authorization.

3 (b) The commissioner shall issue an order of closure under
4 this section that includes provisions necessary for the
5 continuation of the education of students enrolled in the district
6 or campus, including annexation to one or more adjoining districts
7 as provided by Section 13.054. An order of closure may:

8 (1) establish an effective date for accreditation
9 revocation and closure that is not later than the first anniversary
10 of the date of the order;

11 (2) provide for an interim board of managers to
12 exercise the duties of the board of trustees of the district as
13 designated by the commissioner;

14 (3) require enrollment or student services to be
15 provided by another district as necessary to allow students
16 enrolled in the closed district to complete a school year, and make
17 adjustments in the state and federal funding to which the district
18 would otherwise be entitled as determined by the commissioner; and

19 (4) require the preservation, transfer, or surrender
20 of all student records and other records required for an audit of
21 any state and federal funding provided to the district.

22 (c) A person who intentionally destroys, conceals, or
23 tampers with a record that is required to be preserved,
24 transferred, or surrendered under Subsection (b)(4) commits an
25 offense punishable under Section 37.10(c)(2), Penal Code.

26 (d) A board of managers exercising authority under
27 Subsection (b)(2) may exercise the authority of the board of

1 trustees with regard to financial management of the district and
2 personnel actions. The board of managers is not required to be
3 composed of residents of the district.

4 (e) An open-enrollment charter school ordered closed under
5 this section is not entitled to a separate hearing concerning the
6 revocation or nonrenewal of the charter under Section 11A.108.

7 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A
8 school district or open-enrollment charter school that wishes to
9 challenge a decision to impose a sanction under this subchapter,
10 including a decision to close a district, school, or campus under
11 Section 39.1332, must petition for an informal review as provided
12 by Section 7.0571.

13 (b) A final decision by the commissioner to impose a
14 sanction under this subchapter, including a decision to close a
15 school district or a campus under Section 39.1332, following a
16 review under Section 7.0571 is final and may not be appealed.

17 (c) A school district may not collaterally contest an
18 academic performance rating or other accreditation standard as part
19 of the review of a sanction under this subchapter if a review
20 opportunity has already been provided for the academic performance
21 rating.

22 SECTION 2D.36. Section 39.134, Education Code, is amended
23 to read as follows:

24 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
25 a monitor, conservator, management team, [~~or special~~] campus
26 intervention team, technical assistance team, managing entity
27 under Section 39.1326, or service provider under Section 39.1331

1 shall be paid by the district. If the district fails or refuses to
2 pay the costs in a timely manner, the commissioner may:

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

5 (2) recover the amount of the costs in the manner
6 provided for recovery of an overallocation of state funds under
7 Section 42.317 [~~42.258~~].

8 SECTION 2D.37. Subchapter G, Chapter 39, Education Code, is
9 amended by adding Section 39.1371 to read as follows:

10 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
11 responsible for managing an intervention of a campus subject to
12 sanctions under this subchapter.

13 (b) The agency shall:

14 (1) monitor the progress of technical assistance teams
15 and campus intervention teams appointed by the commissioner under
16 this subchapter; and

17 (2) supervise the activities of the managing entities
18 under Section 39.1326.

19 (c) The agency shall:

20 (1) establish by rule and publish school improvement
21 objectives;

22 (2) advocate for the increased use of research-based
23 effective practices; and

24 (3) coordinate campus improvement activities of the
25 agency and regional education service centers.

26 (d) The commissioner may contract for services under this
27 section.

1 SECTION 2D.38. Section 39.182(a), Education Code, as
2 amended by S.B. No. 42, Acts of the 79th Legislature, Regular
3 Session, 2005, is amended to read as follows:

4 (a) Not later than December 1 of each year, the agency shall
5 prepare and deliver to the governor, the lieutenant governor, the
6 speaker of the house of representatives, each member of the
7 legislature, the Legislative Budget Board, and the clerks of the
8 standing committees of the senate and house of representatives with
9 primary jurisdiction over the public school system a comprehensive
10 report covering the preceding school year and containing:

11 (1) an evaluation of the achievements of the state
12 educational program in relation to the statutory goals for the
13 public education system under Section 4.002;

14 (2) an evaluation of the status of education in the
15 state as reflected by the academic excellence indicators adopted
16 under Section 39.051;

17 (3) a summary compilation of the percentage of
18 graduating students who attain scores on the secondary exit-level
19 assessment instruments required under Section 39.023(c) that are
20 equivalent to a passing score on the assessment instrument required
21 under Section 51.3062;

22 (4) a summary compilation of overall student
23 performance on academic skills assessment instruments required by
24 Section 39.023 with the number and percentage of students exempted
25 from the administration of those instruments and the basis of the
26 exemptions, aggregated by grade level, subject area, campus, and
27 district, with appropriate interpretations and analysis, and

1 disaggregated by race, ethnicity, gender, and socioeconomic
2 status;

3 (5) [~~(4)~~] a summary compilation of overall
4 performance of students placed in a disciplinary alternative
5 education program established under Section 37.008 on academic
6 skills assessment instruments required by Section 39.023 with the
7 number of those students exempted from the administration of those
8 instruments and the basis of the exemptions, aggregated by
9 district, grade level, and subject area, with appropriate
10 interpretations and analysis, and disaggregated by race,
11 ethnicity, gender, and socioeconomic status;

12 (6) [~~(5)~~] a summary compilation of the progress
13 [~~overall performance~~] of students at risk of dropping out of
14 school, as defined by Section 29.081(d), including information
15 described by the academic excellence indicators under Sections
16 39.051(b)(7), (8), (10), and (11), provided statewide and
17 aggregated by district, on academic skills assessment instruments
18 required by Section 39.023 and any other assessment instrument
19 required by the commissioner [~~with the number of those students~~
20 ~~exempted from the administration of those instruments and the basis~~
21 ~~of the exemptions, aggregated by district, grade level, and subject~~
22 ~~area~~], with appropriate interpretations and analysis, and
23 disaggregated by race, ethnicity, gender, and socioeconomic
24 status;

25 (7) [~~(6)~~] an evaluation of the correlation between
26 student grades and student performance on academic skills
27 assessment instruments required by Section 39.023;

1 (8) [~~(7)~~] a statement of the dropout rate of students
2 in grade levels 7 through 12, expressed in the aggregate and by
3 grade level, and a statement of the completion rates of students for
4 grade levels 9 through 12;

5 (9) [~~(8)~~] a statement of:

6 (A) the completion rate of students who enter
7 grade level 9 and graduate not more than four years later;

8 (B) the completion rate of students who enter
9 grade level 9 and graduate, including students who require more
10 than four years to graduate;

11 (C) the completion rate of students who enter
12 grade level 9 and not more than four years later receive a high
13 school equivalency certificate;

14 (D) the completion rate of students who enter
15 grade level 9 and receive a high school equivalency certificate,
16 including students who require more than four years to receive a
17 certificate; and

18 (E) the number and percentage of all students who
19 have not been accounted for under Paragraph (A), (B), (C), or (D);

20 (10) [~~(9)~~] a statement of the projected
21 cross-sectional and longitudinal dropout rates for grade levels 9
22 through 12 for the next five years, assuming no state action is
23 taken to reduce the dropout rate;

24 (11) [~~(10)~~] a description of a systematic, measurable
25 plan for reducing the projected cross-sectional and longitudinal
26 dropout rates to five percent or less for the 1997-1998 school year;

27 (12) [~~(11)~~] a summary of the information required by

1 Section 29.083 regarding grade level retention of students and
2 information concerning:

3 (A) the number and percentage of students
4 retained; and

5 (B) the performance of retained students on
6 assessment instruments required under Section 39.023(a);

7 (13) [~~(12)~~] information, aggregated by district type
8 and disaggregated by race, ethnicity, gender, and socioeconomic
9 status, on:

10 (A) the number of students placed in a
11 disciplinary alternative education program established under
12 Section 37.008;

13 (B) the average length of a student's placement
14 in a disciplinary alternative education program established under
15 Section 37.008;

16 (C) the academic performance of students on
17 assessment instruments required under Section 39.023(a) during the
18 year preceding and during the year following placement in a
19 disciplinary alternative education program; and

20 (D) the dropout rates of students who have been
21 placed in a disciplinary alternative education program established
22 under Section 37.008;

23 (14) [~~(13)~~] a list of each school district or campus
24 that does not satisfy performance standards, with an explanation of
25 the actions taken by the commissioner to improve student
26 performance in the district or campus and an evaluation of the
27 results of those actions;

1 (15) [~~(14)~~] an evaluation of the status of the
2 curriculum taught in public schools, with recommendations for
3 legislative changes necessary to improve or modify the curriculum
4 required by Section 28.002;

5 (16) [~~(15)~~] a description of all funds received by and
6 each activity and expenditure of the agency;

7 (17) [~~(16)~~] a summary and analysis of the
8 instructional expenditures ratios and instructional employees
9 ratios of school districts computed under Section 44.0071;

10 (18) [~~(17)~~] a summary of the effect of deregulation,
11 including exemptions and waivers granted under Section 7.056 [~~or~~
12 ~~39.112~~];

13 (19) [~~(18)~~] a statement of the total number and length
14 of reports that school districts and school district employees must
15 submit to the agency, identifying which reports are required by
16 federal statute or rule, state statute, or agency rule, and a
17 summary of the agency's efforts to reduce overall reporting
18 requirements;

19 (20) [~~(19)~~] a list of each school district that is not
20 in compliance with state special education requirements,
21 including:

22 (A) the period for which the district has not
23 been in compliance;

24 (B) the manner in which the agency considered the
25 district's failure to comply in determining the district's
26 accreditation status; and

27 (C) an explanation of the actions taken by the

1 commissioner to ensure compliance and an evaluation of the results
2 of those actions;

3 (21) an evaluation of public charter districts,
4 including:

5 (A) the academic performance of students
6 enrolled in public charter districts, disaggregated by race,
7 ethnicity, gender, and socioeconomic status;

8 (B) the costs of instruction, administration,
9 and transportation incurred by public charter districts; and

10 (C) other issues, as determined by the
11 commissioner [~~(20) a comparison of the performance of~~
12 ~~open-enrollment charter schools and school districts on the~~
13 ~~academic excellence indicators specified in Section 39.051(b) and~~
14 ~~accountability measures adopted under Section 39.051(g), with a~~
15 ~~separately aggregated comparison of the performance of~~
16 ~~open-enrollment charter schools predominantly serving students at~~
17 ~~risk of dropping out of school, as defined by Section 29.081(d),~~
18 ~~with the performance of school districts];~~

19 (22) [(21)] a summary of the information required by
20 Section 38.0141 regarding student health and physical activity from
21 each school district;

22 (23) a statement of the percentage of students scoring
23 at the proficient and advanced levels on the National Assessment of
24 Educational Progress; and

25 (24) [(22)] any additional information considered
26 important by the commissioner or the State Board of Education.

27 SECTION 2D.39. Section 39.182(b), Education Code, is

1 amended to read as follows:

2 (b) In reporting the information required by Subsection
3 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate
4 the performance data of students enrolled in a special education
5 program under Subchapter A, Chapter 29, or a bilingual education or
6 special language program under Subchapter B, Chapter 29.

7 SECTION 2D.40. Section 39.182, Education Code, is amended
8 by adding Subsections (b-1) and (b-2) to read as follows:

9 (b-1) The report must include an assessment of the impact of
10 the performance-based grant system developed under Subchapter E,
11 Chapter 7, on student academic performance, including:

12 (1) an analysis of performance and spending
13 information relating to grants administered by the agency; and

14 (2) recommendations on any statutory changes needed
15 for the agency to more effectively administer grant programs,
16 including recommendations on whether to eliminate or modify
17 inefficient grant programs, expand effective grant programs, or
18 consolidate similar grant programs to maximize the effectiveness
19 and efficiencies of those programs.

20 (b-2) Subsection (b-1) applies beginning January 1, 2009.
21 This subsection expires February 1, 2009.

22 SECTION 2D.41. Section 39.183, Education Code, is amended
23 to read as follows:

24 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The
25 agency shall prepare and deliver to the governor, the lieutenant
26 governor, the speaker of the house of representatives, each member
27 of the legislature, the Legislative Budget Board, and the clerks of

1 the standing committees of the senate and house of representatives
2 with primary jurisdiction over the public school system a regional
3 and district level report covering the preceding two school years
4 and containing:

5 (1) a summary of school district compliance with the
6 student/teacher ratios and class-size limitations prescribed by
7 Sections 25.111 and 25.112, including:

8 (A) the number of campuses and classes at each
9 campus granted an exception from Section 25.112; and

10 (B) the performance rating under Subchapter D of
11 each campus granted an exception from Section 25.112;

12 (2) a summary of the exemptions and waivers granted to
13 school districts under Section 7.056 [~~or 39.112~~] and a review of the
14 effectiveness of each campus or district following deregulation;

15 (3) an evaluation of the performance of the system of
16 regional education service centers based on the indicators adopted
17 under Section 8.101 and client satisfaction with services provided
18 under Subchapter B, Chapter 8;

19 (4) an evaluation of accelerated instruction programs
20 offered under Section 28.006, including an assessment of the
21 quality of such programs and the performance of students enrolled
22 in such programs; and

23 (5) the number of classes at each campus that are
24 currently being taught by individuals who are not certified in the
25 content areas of their respective classes.

26 SECTION 2D.42. Section 39.202(a), Education Code, is
27 amended to read as follows:

1 (a) The commissioner shall, in consultation with the
2 comptroller, develop and implement a financial accountability
3 rating system for school districts in this state that distinguishes
4 among districts' varying levels of financial performance and
5 includes procedures for:

6 (1) providing additional transparency to public
7 education finance; and

8 (2) enabling the commissioner and district
9 administrators to provide meaningful financial oversight and
10 improvement.

11 SECTION 2D.43. Section 39.203(b), Education Code, is
12 amended to read as follows:

13 (b) The annual financial management report must include:

14 (1) a description of the district's financial
15 management performance based on a comparison, provided by the
16 agency, of the district's performance on the standards [~~indicators~~]
17 adopted under Section 39.202 [~~39.202(b)~~] to:

18 (A) state-established standards; and

19 (B) the district's previous performance on the
20 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

21 (2) a description of the district's actual
22 expenditures for each campus and any difference between those
23 campus expenditures and the foundation school program allotments
24 received for the campus; and

25 (3) any descriptive information required by the
26 commissioner.

27 SECTION 2D.44. Subchapter I, Chapter 39, Education Code, is

1 amended by adding Section 39.205 to read as follows:

2 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than
3 September 1, 2006, the agency shall submit a report to the
4 legislature on the status of the financial accountability system
5 that recommends to the legislature methods for linking school
6 district financial management performance and academic
7 performance.

8 (b) This section expires September 2, 2006.

9 SECTION 2D.45. (a) Not later than the 2007-2008 school
10 year, the Texas Education Agency shall collect information
11 concerning:

12 (1) incremental growth in student achievement for
13 purposes of Section 39.051(b)(8), Education Code, as amended by
14 this Act; and

15 (2) the measure of progress toward English language
16 proficiency for purposes of Section 39.051(b)(15), Education Code,
17 as added by this Act.

18 (b) Not later than the 2008-2009 school year, the Texas
19 Education Agency shall include, in evaluating the performance of
20 school districts, campuses, and public charter districts under
21 Subchapter D, Chapter 39, Education Code:

22 (1) incremental growth in student achievement under
23 Section 39.051(b)(8), Education Code, as amended by this Act; and

24 (2) the measure of progress toward English language
25 proficiency under Section 39.051(b)(15), Education Code, as added
26 by this Act.

27 SECTION 2D.46. The commissioner of education shall develop

1 and implement the reporting procedures for:

2 (1) districts to prepare and distribute annual
3 financial management reports under Section 39.203, Education Code,
4 as amended by this Act, beginning with the 2007-2008 school year;
5 and

6 (2) campuses to provide financial information under
7 Section 39.202, Education Code, as amended by this Act, beginning
8 with the 2008-2009 school year.

9 PART E. INSTRUCTIONAL MATERIALS

10 SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is
11 amended by adding Section 7.030 to read as follows:

12 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED
13 GRANT PROGRAMS. (a) The agency shall conduct a review of
14 state-funded and federally funded grant programs and incentives
15 designed to improve student academic performance and shall actively
16 determine the full extent to which funds awarded under those
17 programs may be used to enhance or expand the use of technology in
18 public schools. For purposes of removing barriers to and
19 encouraging the use of technology in public schools, the
20 commissioner may, as appropriate, issue a waiver to one or more
21 schools.

22 (b) Not later than December 1, 2006, the agency shall submit
23 a report regarding the findings of the review conducted under this
24 section to the legislature. The report must include a summary of
25 promising practices for current grant programs that leverage
26 technology. This section expires January 15, 2007.

27 SECTION 2E.02. Section 7.055(b)(28), Education Code, is

1 amended to read as follows:

2 (28) The commissioner shall perform duties relating to
3 the funding, adoption, and purchase of instructional materials
4 [~~textbooks~~] under Chapter 31.

5 SECTION 2E.03. Section 7.056(f), Education Code, is amended
6 to read as follows:

7 (f) A school district or campus that is required to develop
8 and implement a student achievement improvement plan under Section
9 39.131 or 39.132 may receive an exemption or waiver under this
10 section from any law or rule other than:

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

13 (2) a requirement imposed by federal law or rule;

14 (3) a requirement, restriction, or prohibition
15 imposed by state law or rule relating to:

16 (A) public school accountability as provided by
17 Subchapters B, C, D, and G, Chapter 39; or

18 (B) educator rights and benefits under
19 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
20 A, Chapter 22; or

21 (4) [~~textbook~~] selection of instructional materials
22 under Chapter 31.

23 SECTION 2E.04. Section 7.102(c)(23), Education Code, is
24 amended to read as follows:

25 (23) The board shall approve [~~adopt~~] and purchase or
26 license instructional materials [~~textbooks~~] as provided by Chapter
27 31 and adopt rules required by that chapter.

1 SECTION 2E.05. Sections 7.108(a) and (c), Education Code,
2 are amended to read as follows:

3 (a) A person interested in selling bonds of any type or a
4 person engaged in manufacturing, shipping, selling, or advertising
5 instructional materials [~~textbooks~~] or otherwise connected with
6 the instructional material [~~textbook~~] business commits an offense
7 if the person makes or authorizes a political contribution to or
8 takes part in, directly or indirectly, the campaign of any person
9 seeking election to or serving on the board.

10 (c) In this section:

11 (1) "Instructional material" has the meaning assigned
12 by Section 31.002.

13 (2) "Political contribution" has the meaning assigned
14 by Section 251.001, Election Code.

15 [~~(2) "Textbook" has the meaning assigned by Section~~
16 ~~31.002.]~~

17 SECTION 2E.06. The heading to Section 7.112, Education
18 Code, is amended to read as follows:

19 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
20 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

21 SECTION 2E.07. Section 7.112(a), Education Code, is amended
22 to read as follows:

23 (a) A former member of the State Board of Education who is
24 employed by or otherwise receives compensation from a [~~textbook~~]
25 publisher of instructional materials may not, before the second
26 anniversary of the date on which the person last served as a member
27 of the State Board of Education:

1 (1) confer with a member of the board of trustees of a
2 school district concerning instructional materials [~~a textbook~~]
3 published by that [~~textbook~~] publisher; or

4 (2) appear at a meeting of the board of trustees on
5 behalf of the [~~textbook~~] publisher.

6 SECTION 2E.08. Section 7.112(c)(2), Education Code, is
7 amended to read as follows:

8 (2) "Instructional material" and "publisher"
9 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
10 31.002.

11 SECTION 2E.09. Section 11.158(b), Education Code, is
12 amended to read as follows:

13 (b) The board may not charge fees for:

14 (1) instructional materials [~~textbooks~~], workbooks,
15 laboratory supplies, or other supplies necessary for participation
16 in any instructional course except as authorized under this code;

17 (2) field trips required as a part of a basic education
18 program or course;

19 (3) any specific form of dress necessary for any
20 required educational program or diplomas;

21 (4) the payment of instructional costs for necessary
22 school personnel employed in any course or educational program
23 required for graduation;

24 (5) library materials [~~books~~] required to be used for
25 any educational course or program, other than fines for lost,
26 damaged, or overdue materials [~~books~~];

27 (6) admission to any activity the student is required

1 to attend as a prerequisite to graduation;

2 (7) admission to or examination in any required
3 educational course or program; or

4 (8) lockers.

5 SECTION 2E.10. Section 11.164(a), Education Code, is
6 amended to read as follows:

7 (a) The board of trustees of each school district shall
8 limit redundant requests for information and the number and length
9 of written reports that a classroom teacher is required to prepare.
10 A classroom teacher may not be required to prepare any written
11 information other than:

12 (1) any report concerning the health, safety, or
13 welfare of a student;

14 (2) a report of a student's grade on an assignment or
15 examination;

16 (3) a report of a student's academic progress in a
17 class or course;

18 (4) a report of a student's grades at the end of each
19 grade reporting period;

20 (5) a [~~textbook~~] report on instructional materials;

21 (6) a unit or weekly lesson plan that outlines, in a
22 brief and general manner, the information to be presented during
23 each period at the secondary level or in each subject or topic at
24 the elementary level;

25 (7) an attendance report;

26 (8) any report required for accreditation review;

27 (9) any information required by a school district that

1 relates to a complaint, grievance, or actual or potential
2 litigation and that requires the classroom teacher's involvement;
3 or

4 (10) any information specifically required by law,
5 rule, or regulation.

6 SECTION 2E.11. Section 19.007(e), Education Code, is
7 amended to read as follows:

8 (e) The district may participate in the instructional
9 materials [~~textbook~~] program under Chapter 31.

10 SECTION 2E.12. Sections 26.006(a) and (c), Education Code,
11 are amended to read as follows:

12 (a) A parent is entitled to:

13 (1) review all teaching materials, instructional
14 materials [~~textbooks~~], and other teaching aids used in the
15 classroom of the parent's child; and

16 (2) review each test administered to the parent's
17 child after the test is administered.

18 (c) A student's parent is entitled to request that the
19 public school [~~district or open-enrollment charter school~~] the
20 student attends allow the student to take home any instructional
21 materials [~~textbook~~] used by the student. Subject to the
22 availability of the instructional materials [~~a textbook~~], the
23 [~~district or~~] school shall honor the request. A student who takes
24 home instructional materials [~~a textbook~~] must return the
25 instructional materials [~~textbook~~] to school at the beginning of
26 the next school day if requested to do so by the student's teacher.
27 In this subsection, "instructional material" [~~"textbook"~~] has the

1 meaning assigned by Section 31.002.

2 SECTION 2E.13. Sections 28.002(c) and (h), Education Code,
3 are amended to read as follows:

4 (c) The State Board of Education, with the direct
5 participation of educators, parents, business and industry
6 representatives, and employers shall by rule identify the essential
7 knowledge and skills of each subject of the required curriculum
8 that all students should be able to demonstrate and that will be
9 used in evaluating instructional materials [~~textbooks~~] under
10 Chapter 31 and addressed on the assessment instruments required
11 under Subchapter B, Chapter 39. As a condition of accreditation,
12 the board shall require each district to provide instruction in the
13 essential knowledge and skills at appropriate grade levels.

14 (h) The State Board of Education and each school district
15 shall foster the continuation of the tradition of teaching United
16 States and Texas history and the free enterprise system in regular
17 subject matter and in reading courses and in the adoption of
18 instructional materials [~~textbooks~~]. A primary purpose of the
19 public school curriculum is to prepare thoughtful, active citizens
20 who understand the importance of patriotism and can function
21 productively in a free enterprise society with appreciation for the
22 basic democratic values of our state and national heritage.

23 SECTION 2E.14. The heading to Chapter 31, Education Code,
24 is amended to read as follows:

25 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

26 SECTION 2E.15. Section 31.001, Education Code, is amended
27 to read as follows:

1 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
2 Instructional materials [~~Textbooks~~] selected for use in the public
3 schools shall be furnished without cost to the students attending
4 those schools in accordance with Section 3(b), Article VII, Texas
5 Constitution.

6 SECTION 2E.16. Sections 31.002(1), (2), and (4), Education
7 Code, are amended to read as follows:

8 (1) "Instructional material" [~~"Electronic textbook"~~]
9 means a medium or a combination of media for conveying information
10 to a student. The term includes a book, supplementary materials, a
11 combination of a book, workbook, supplementary materials, computer
12 software, [~~interactive videodisc,~~ magnetic media, DVD, CD-ROM,
13 computer courseware, on-line services, or an electronic medium, or
14 other means of conveying information to the student or otherwise
15 contributing to the learning process through electronic means.

16 (2) "Publisher" means a person who prepares
17 instructional materials for sale or distribution to educational
18 institutions. The term includes an on-line service or a developer
19 or distributor of [~~an~~ electronic instructional materials
20 [~~textbook~~].

21 (4) "Technological equipment" means hardware, a
22 device, or equipment necessary for:

23 (A) instructional use in the classroom,
24 including to gain access to or enhance the use of [~~an~~] electronic
25 instructional materials [~~textbook~~]; or

26 (B) professional use by a classroom teacher.

27 SECTION 2E.17. Section 31.003, Education Code, is amended

1 to read as follows:

2 Sec. 31.003. RULES. The State Board of Education shall
3 ~~[may]~~ adopt rules, consistent with this chapter, for the approval
4 ~~[adoption]~~, requisition, distribution, care, use, and disposal of
5 instructional materials ~~[textbooks]~~.

6 SECTION 2E.18. The heading to Subchapter B, Chapter 31,
7 Education Code, is amended to read as follows:

8 SUBCHAPTER B. STATE APPROVAL
9 ~~[FUNDING, ADOPTION, AND PURCHASE]~~

10 SECTION 2E.19. Section 31.021, Education Code, as amended
11 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
12 2005, is amended to read as follows:

13 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS ~~[TEXTBOOK]~~
14 FUND. (a) The state instructional materials ~~[textbook]~~ fund
15 consists of:

16 (1) an amount set aside by the State Board of Education
17 from the available school fund, computed in accordance with this
18 section; and

19 (2) ~~[all funds accruing from the state's sale of~~
20 ~~disused textbooks; and~~

21 ~~[(3)]~~ all amounts lawfully paid into the fund from any
22 other source.

23 (b) The State Board of Education shall annually set aside
24 out of the available school fund of the state an amount sufficient
25 for the instructional materials allotment to provide public ~~[board,~~
26 ~~school districts, and open-enrollment charter]~~ schools with the
27 funds required to purchase and distribute the necessary

1 instructional materials [~~textbooks~~] for the use of the students of
2 this state for the following school year. The board shall determine
3 the amount of the available school fund to set aside for the state
4 instructional materials [~~textbook~~] fund based on the amount of the
5 instructional materials and technology allotment under Section
6 32.005(a). [+

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

10 [~~(2) the commissioner's estimate, based on textbooks~~
11 ~~selected under Section 31.101 and on attendance reports submitted~~
12 ~~under Section 31.103 by school districts and open-enrollment~~
13 ~~charter schools, of the amount of funds, in addition to funds~~
14 ~~reported under Subdivision (1), that will be necessary for purchase~~
15 ~~and distribution of textbooks for the following school year; and~~

16 [~~(3) any amount the board determines should be set~~
17 ~~aside for emergency purposes caused by unexpected increases in~~
18 ~~attendance.]~~

19 (c) This subsection applies only if the pilot project
20 established under Section 54.2161 is implemented[, and expires
21 August 15, 2009]. In addition to the amount set aside under
22 Subsection (b), the State Board of Education shall annually set
23 aside out of the available school fund an amount sufficient for each
24 school district with one or more students entitled to free
25 textbooks under the pilot project established under Section 54.2161
26 to pay the costs of those textbooks as required by Section 31.031
27 for the following school year. The board shall determine the amount

1 of the available school fund to set aside for the state
2 instructional materials [~~textbook~~] fund for purposes of this
3 subsection based on the commissioner's estimate of the amount that
4 will be necessary to pay the costs of textbooks as required under
5 Section 31.031. This subsection expires August 31, 2006.

6 (d) Money transferred to the state instructional materials
7 [~~textbook~~] fund remains in the fund until spent and does not lapse
8 to the state at the end of the fiscal year.

9 [~~(e) All necessary expenses incurred under this chapter
10 shall be paid from the state textbook fund on invoices approved by
11 the commissioner.~~]

12 SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is
13 amended by adding Sections 31.0251, 31.0252, and 31.0253 to read as
14 follows:

15 Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS;
16 REVIEW. (a) A publisher may at any time submit an instructional
17 material to the State Board of Education for approval. As part of a
18 submission, a publisher must include a statement that identifies in
19 writing the essential knowledge and skills for a subject and grade
20 level as determined by the board under Section 28.002 that the
21 instructional material covers.

22 (b) The board shall:

23 (1) review each instructional material submitted for
24 approval as provided by Section 31.0253;

25 (2) determine whether the instructional material
26 covers the essential knowledge and skills identified in the
27 submission; and

1 (3) identify the degree to which the instructional
2 material complies with the essential knowledge and skills.

3 Sec. 31.0252. CORRECTION OF FACTUAL ERRORS. (a) The State
4 Board of Education shall adopt rules authorizing the imposition of
5 an administrative penalty in the manner provided by Section 31.151
6 against a publisher who knowingly fails to promptly correct any
7 factual errors discovered by the board in the instructional
8 materials submitted by the publisher.

9 (b) In setting the amount of any penalty to be imposed under
10 this section, the board shall consider the stage of the
11 instructional materials review and approval process at which the
12 failure occurs and set progressively higher penalties for failures
13 that occur later in the process.

14 Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION. (a)
15 The State Board of Education shall meet biannually to approve
16 instructional materials submitted under Section 31.0251. The board
17 must approve or reject each submitted instructional material not
18 later than the second biannual meeting held for the purpose of
19 approving instructional materials under this section after the date
20 the instructional material was submitted.

21 (b) By majority vote, the board shall approve an
22 instructional material submitted under Section 31.0251 unless the
23 board determines, based on the board's own review, that the
24 instructional material does not contain the essential knowledge and
25 skills identified by the publisher in the submission. The board
26 shall identify the essential knowledge and skills for a subject and
27 grade level that an approved instructional material covers.

1 (c) Each approved instructional material must be free from
2 factual errors.

3 (d) For each subject and grade level, the board shall list
4 the approved instructional materials. The board shall
5 periodically:

6 (1) review each list of approved instructional
7 materials; and

8 (2) by majority vote, remove approved instructional
9 materials that the board determines no longer cover the essential
10 knowledge and skills.

11 SECTION 2E.21. Sections 31.026-31.030, Education Code, are
12 amended to read as follows:

13 Sec. 31.026. CONTRACT; PRICE. (a) The Department of
14 Information Resources may [~~State Board of Education shall~~] execute
15 a contract[~~;~~

16 [~~(1)~~] for the purchase or licensing of each approved
17 instructional material. The commissioner, with the assistance of
18 the Department of Information Resources, the State Board of
19 Education, and the office of the attorney general, shall develop
20 model contracts that may be used by public schools for the purchase
21 or licensing of instructional materials under this chapter [~~adopted~~
22 ~~textbook other than an electronic textbook; and~~

23 [~~(2) for the purchase or licensing of each adopted~~
24 ~~electronic textbook~~].

25 (b) A contract for the purchase or licensing of
26 instructional materials must require the publisher to provide all
27 of the approved instructional materials [~~the number of textbooks~~]

1 required by public schools [~~school districts~~] in this state for the
2 term of the contract [~~, which must coincide with the board's~~
3 ~~adoption cycle~~].

4 (c) As applicable, a contract must provide for the purchase
5 or licensing of instructional materials [~~a textbook~~] at a
6 [~~specific~~] price determined through negotiation between the
7 publisher and the Department of Information Resources or the public
8 school, as applicable, that does [~~, which may~~] not exceed the lowest
9 price paid by any other state or any school or school district. The
10 price must be fixed for the term of the contract.

11 (d) The Department of Information Resources shall execute a
12 blanket purchase order with the publisher of an approved
13 instructional material. A school district may requisition
14 instructional materials under the purchase order.

15 (e) The agency and the Department of Information Resources
16 shall enter into an interagency contract specifying each agency's
17 duties regarding the purchasing and licensing of instructional
18 materials.

19 (f) The contract may allow the publisher of an approved
20 instructional material to update the material as provided by
21 Section 31.033.

22 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~
23 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each
24 public school [~~district and open-enrollment charter school~~] with
25 information that fully describes each of the publisher's approved
26 instructional materials. [~~adopted textbooks. On request of a~~
27 ~~school district, a publisher shall provide a sample copy of an~~

1 ~~adopted textbook.]~~

2 (b) A publisher shall provide at least two sample copies of
3 each approved instructional material [~~adopted textbook~~] to be
4 maintained at each regional education service center.

5 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

6 (a) The State Board of Education may provide for [~~purchase~~] special
7 instructional materials [~~textbooks~~] for the education of blind and
8 visually impaired students in public schools. In addition, for a
9 teacher who is blind or visually impaired, the board shall provide a
10 teacher's edition in Braille or large type, as requested by the
11 teacher, for each printed instructional material [~~textbook~~] the
12 teacher uses in the instruction of students. The printed teacher
13 edition must be available at the same time the printed student
14 instructional materials [~~textbooks~~] become available.

15 (b) The publisher of an approved printed instructional
16 material [~~adopted textbook~~] shall provide the agency with
17 computerized [~~textbook~~] files for the production of Braille
18 instructional materials [~~textbooks~~] or other versions of
19 instructional materials [~~textbooks~~] to be used by students with
20 disabilities, on request of the State Board of Education. A
21 publisher shall arrange the computerized [~~textbook~~] files in one of
22 several optional formats specified by the State Board of Education.

23 (c) The board shall require electronic instructional
24 materials submitted for approval under Section 31.0251 to comply
25 with the standards established under Section 508, Rehabilitation
26 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~
27 ~~providing for the acceptance, requisition, and distribution of~~

1 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~
2 ~~Section 101 et seq.]~~ for use by students enrolled in:

- 3 (1) public schools; or
4 (2) private nonprofit schools, if state funds, other
5 than for administrative costs, are not involved.

6 (d) In this section:

7 (1) "Blind or visually impaired student" includes any
8 student whose visual acuity is impaired to the extent that the
9 student is unable to read the text [~~print~~] in [~~a~~] regularly approved
10 instructional materials [~~adopted textbook~~] used in the student's
11 class.

12 (2) "Special instructional materials" [~~textbook~~]
13 means instructional materials [~~a textbook~~] in Braille, large type
14 or any other medium or any apparatus that conveys information to a
15 student or otherwise contributes to the learning process.

16 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
17 [~~TEXTBOOKS~~]. The board shall approve instructional materials
18 [~~purchase or otherwise acquire textbooks~~] for use in bilingual
19 education classes.

20 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
21 State Board of Education shall adopt rules to ensure that used
22 instructional materials [~~textbooks~~] sold to public schools [~~school~~
23 ~~districts and open-enrollment charter schools~~] are not sample
24 copies that contain factual errors. The rules may provide for the
25 imposition of an administrative penalty in accordance with Section
26 31.151 against a seller of used instructional materials [~~textbooks~~]
27 who knowingly violates this section.

1 SECTION 2E.22. Section 31.031(b), Education Code, as added
2 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
3 2005, is amended to read as follows:

4 (b) From the amount set aside by the State Board of
5 Education under Section 31.021(c) or allocated to a school district
6 under Section 32.005(c), the school district that a student
7 entitled to free textbooks under the pilot project established by
8 Section 54.2161 attends shall pay the costs of each textbook the
9 student requires for a course described by Section 54.2161(b)(2).

10 SECTION 2E.23. Subchapter B, Chapter 31, Education Code, is
11 amended by adding Sections 31.032 and 31.033 to read as follows:

12 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL
13 MATERIALS. The publisher of an approved electronic instructional
14 material may offer the material to public schools on an annual
15 subscription basis.

16 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The
17 publisher of an approved instructional material may, under the
18 terms of a contract under Section 31.026, update the instructional
19 material. The State Board of Education by rule shall provide for an
20 expedited review process to determine the extent to which an
21 updated instructional material:

22 (1) is aligned with the essential knowledge and skills
23 for the subject and grade level; and

24 (2) does not contain factual errors.

25 SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is
26 amended by adding Sections 31.1012 and 31.1013 to read as follows:

27 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. (a) A school

1 district shall:

2 (1) select the instructional materials to be used by
3 the district; and

4 (2) using funds allotted under Section 32.005 or other
5 funds that may be used for the purpose, purchase those materials:

6 (A) directly from the publisher of the materials;

7 or

8 (B) through the Department of Information
9 Resources, if the materials have been approved by the State Board of
10 Education.

11 (b) A school district is not required to select
12 instructional materials that have been approved by the State Board
13 of Education under this chapter.

14 Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL
15 MATERIALS. Each school district shall annually certify to the
16 agency that, for each subject in the required curriculum and each
17 grade level, the district provides each student with instructional
18 materials that are aligned with the essential knowledge and skills
19 adopted by the State Board of Education for that subject and grade
20 level.

21 SECTION 2E.25. Section 31.102, Education Code, is amended
22 to read as follows:

23 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional
24 material [~~textbook~~] purchased as provided by this chapter is the
25 property of this state.

26 (b) Subsection (a) applies to an electronic instructional
27 material [~~textbook~~] only to the extent of any applicable licensing

1 agreement.

2 (c) The board of trustees of a school district [~~or the~~
3 ~~governing body of an open-enrollment charter school~~] is the legal
4 custodian of instructional materials [~~textbooks~~] purchased as
5 provided by this chapter for the district [~~or school~~]. The board of
6 trustees shall distribute instructional materials [~~textbooks~~] to
7 students in the manner that the board [~~or governing body~~]
8 determines is most effective and economical.

9 SECTION 2E.26. Sections 31.104-31.106, Education Code, are
10 amended to read as follows:

11 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of
12 trustees of a school district [~~or the governing body of an~~
13 ~~open-enrollment charter school~~] may delegate to an employee the
14 authority to requisition, distribute, and manage the inventory of
15 instructional materials [~~textbooks~~] in a manner consistent with
16 this chapter and rules adopted under this chapter.

17 (b) A school district [~~or open-enrollment charter school~~]
18 may order replacements for instructional materials [~~textbooks~~]
19 that have been lost or damaged directly from[+]

20 [~~(1) the textbook depository, or~~

21 [~~(2)~~] the [~~textbook~~] publisher of the instructional
22 materials [~~or manufacturer if the textbook publisher or~~
23 ~~manufacturer does not have a designated textbook depository in this~~
24 ~~state under Section 31.151(a)(6)(B)]].~~

25 (c) Each instructional material [~~textbook~~] must state that
26 the instructional material [~~textbook~~] is the property of or is
27 licensed to this state, as appropriate. The board may require the

1 publisher of a textbook that must be returned by a student under
2 Subsection (d) to place a bar code with a unique identifying number
3 on the textbook. Each instructional material [~~textbook~~], other
4 than an electronic instructional material [~~textbook~~], must be
5 covered by the student under the direction of the teacher. A student
6 must return all instructional materials [~~textbooks~~] to the teacher
7 at the end of the school year or when the student withdraws from
8 school.

9 (d) Each student, or the student's parent or guardian, is
10 responsible for each instructional material [~~textbook~~] not
11 returned by the student. A student who fails to return all
12 instructional materials [~~textbooks~~] forfeits the right to free
13 instructional materials [~~textbooks~~] until each instructional
14 material [~~textbook~~] previously issued but not returned is paid for
15 by the student, parent, or guardian. As provided by policy of the
16 board of trustees [~~or governing body~~], a school district [~~or~~
17 ~~open-enrollment charter school~~] may waive or reduce the payment
18 requirement if the student is from a low-income family. The
19 district [~~or school~~] shall allow the student to use instructional
20 materials [~~textbooks~~] at school during each school day. If an
21 instructional material [~~a textbook~~] is not returned or paid for,
22 the district [~~or school~~] may withhold the student's records. A
23 district [~~or school~~] may not, under this subsection, prevent a
24 student from graduating, participating in a graduation ceremony, or
25 receiving a diploma.

26 (e) The board of trustees of a school district may not
27 require an employee of the district to pay for an instructional

1 material [~~a textbook~~] or instructional technology that is stolen,
2 misplaced, or not returned by a student.

3 Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL
4 MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school
5 district [~~or governing body of an open-enrollment charter school~~]
6 may sell instructional materials [~~textbooks~~], other than
7 electronic instructional materials [~~textbooks~~], to a student or
8 another school at a [~~the state contract~~] price determined by board
9 rule. Money [~~The district shall send money~~] from the sale of
10 instructional materials may be used only to purchase items that may
11 be purchased lawfully using the allotment provided by Section
12 32.005.

13 (b) Subject to any applicable licensing agreement, the
14 board of trustees of a school district may:

15 (1) exchange instructional materials with another
16 school district; or

17 (2) loan instructional materials to another school
18 district [~~textbooks to the commissioner as required by the~~
19 ~~commissioner. The commissioner shall deposit the money in the~~
20 ~~state textbook fund~~].

21 Sec. 31.106. USE OF LOCAL FUNDS. A [~~In addition to any~~
22 ~~textbook selected under this chapter, a~~] school district [~~or~~
23 ~~open-enrollment charter school~~] may use local funds to purchase any
24 instructional materials [~~textbooks~~].

25 SECTION 2E.27. The heading to Section 31.151, Education
26 Code, is amended to read as follows:

27 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

1 SECTION 2E.28. Sections 31.151(a), (b), and (d), Education
2 Code, are amended to read as follows:

3 (a) A publisher [~~or manufacturer~~] of instructional
4 materials [~~textbooks~~]:

5 (1) shall furnish any instructional material
6 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[7]
7 at a price that does not exceed the lowest price at which the
8 publisher offers that instructional material [~~textbook~~] for
9 adoption or sale to any state, public school, or school district in
10 the United States;

11 (2) shall automatically reduce the price of an
12 instructional material [~~a textbook~~] sold for use in a public school
13 [~~district or open-enrollment charter school~~] to the extent that the
14 price is reduced elsewhere in the United States;

15 (3) shall provide any instructional material
16 [~~textbook~~] or ancillary item free of charge in this state to the
17 same extent that the publisher [~~or manufacturer~~] provides the
18 instructional material [~~textbook~~] or ancillary item free of charge
19 to any state, public school, or school district in the United
20 States;

21 (4) shall guarantee that each copy of an instructional
22 material [~~a textbook~~] sold in this state is at least equal in
23 quality to copies of that instructional material [~~textbook~~] sold
24 elsewhere in the United States and is free from factual error;

25 (5) may not become associated or connected with,
26 directly or indirectly, any combination in restraint of trade in
27 instructional materials [~~textbooks~~] or enter into any

1 understanding or combination to control prices or restrict
2 competition in the sale of instructional materials [~~textbooks~~] for
3 use in this state;

4 (6) shall~~+~~

5 [~~(A) maintain a depository in this state or~~
6 ~~arrange with a depository in this state to receive and fill orders~~
7 ~~for textbooks, other than on-line textbooks or on-line textbook~~
8 ~~components, consistent with State Board of Education rules; or~~

9 [~~(B)~~] deliver instructional materials
10 [~~textbooks~~] to a public school [~~district or open-enrollment charter~~
11 ~~school~~] without a delivery charge to the school [~~district,~~
12 ~~open-enrollment charter school,~~] or state~~[, if:~~

13 [~~(i) the publisher or manufacturer does not~~
14 ~~maintain or arrange with a depository in this state under Paragraph~~
15 ~~(A) and the publisher's or manufacturer's textbooks and related~~
16 ~~products are warehoused or otherwise stored less than 300 miles~~
17 ~~from a border of this state; or~~

18 [~~(ii) the textbooks are on-line textbooks~~
19 ~~or on-line textbook components~~];

20 (7) shall, at the time an order for instructional
21 materials [~~textbooks~~] is acknowledged, provide to public [~~school~~
22 ~~districts or open-enrollment charter~~] schools an accurate shipping
23 date for instructional materials [~~textbooks~~] that are
24 back-ordered;

25 (8) shall guarantee delivery of instructional
26 materials [~~textbooks~~] at least 10 business days before the opening
27 day of school of the year for which the instructional materials

1 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
2 are ordered by a date specified in the sales contract; and

3 (9) shall submit to the State Board of Education an
4 affidavit certifying any instructional material [~~textbook~~] the
5 publisher [~~or manufacturer~~] offers in this state to be free of
6 factual errors at the time the publisher executes the contract
7 required by Section 31.026.

8 (b) The State Board of Education may impose a reasonable
9 administrative penalty against a publisher [~~or manufacturer~~] who
10 knowingly violates Subsection (a). The board shall provide for a
11 hearing to be held to determine whether a penalty is to be imposed
12 and, if so, the amount of the penalty. The board shall base the
13 amount of the penalty on:

- 14 (1) the seriousness of the violation;
15 (2) any history of a previous violation;
16 (3) the amount necessary to deter a future violation;
17 (4) any effort to correct the violation; and
18 (5) any other matter justice requires.

19 (d) A penalty collected under this section shall be
20 deposited to the credit of the state instructional materials
21 [~~textbook~~] fund.

22 SECTION 2E.29. The heading to Section 31.152, Education
23 Code, is amended to read as follows:

24 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS
25 [~~TEXTBOOKS~~].

26 SECTION 2E.30. Sections 31.152(a), (b), and (d), Education
27 Code, are amended to read as follows:

1 (a) A school trustee, administrator, or teacher commits an
2 offense if that person receives any commission or rebate on any
3 instructional materials [~~textbooks~~] used in the schools with which
4 the person is associated as a trustee, administrator, or teacher.

5 (b) A school trustee, administrator, or teacher commits an
6 offense if the person accepts a gift, favor, or service that:

7 (1) is given to the person or the person's school;

8 (2) might reasonably tend to influence a trustee,
9 administrator, or teacher in the selection of instructional
10 materials [~~a textbook~~]; and

11 (3) could not be lawfully purchased with state
12 instructional materials funds [~~from the state textbook fund~~].

13 (d) In this section, "gift, favor, or service" does not
14 include:

15 (1) staff development, in-service, or teacher
16 training; or

17 (2) ancillary [~~instructional~~] materials, such as maps
18 or worksheets, that convey information to the student or otherwise
19 contribute to the learning process.

20 SECTION 2E.31. The heading to Section 31.153, Education
21 Code, is amended to read as follows:

22 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
23 [~~TEXTBOOK~~] LAW.

24 SECTION 2E.32. Section 31.153(a), Education Code, is
25 amended to read as follows:

26 (a) A person commits an offense if the person knowingly
27 violates any law providing for the purchase or distribution of free

1 instructional materials [~~textbooks~~] for the public schools.

2 SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is
3 amended to read as follows:

4 SUBCHAPTER E. DISPOSITION OF
5 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

6 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS
7 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State
8 Board of Education, may provide for the disposition of:

9 (1) instructional materials [~~textbooks~~], other than
10 electronic instructional materials [~~textbooks~~], that are no longer
11 in acceptable condition to be used for instructional purposes; or

12 (2) discontinued instructional materials [~~textbooks~~],
13 other than electronic instructional materials [~~textbooks~~].

14 (b) The commissioner, as provided by rules adopted by the
15 State Board of Education, shall make available on request copies of
16 discontinued instructional materials [~~textbooks~~], other than
17 electronic instructional materials [~~textbooks~~], for use in
18 libraries maintained in municipal and county jails and facilities
19 of the institutional division of the Texas Department of Criminal
20 Justice and other state agencies.

21 (c) The State Board of Education shall adopt rules under
22 which a public school [~~district or open-enrollment charter school~~]
23 may donate discontinued instructional materials [~~textbooks~~], other
24 than electronic instructional materials [~~textbooks~~], to a student,
25 to an adult education program, or to a nonprofit organization.

26 SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is
27 amended by adding Section 32.0011 to read as follows:

1 Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND
2 IMPLEMENTATION. (a) An advisory committee for technology and
3 implementation is created to assist the agency and permit the
4 agency to monitor changing technology in business, industry, and
5 education.

6 (b) Members of the advisory committee are appointed as
7 follows:

8 (1) the commissioner, in consultation with the
9 lieutenant governor, the speaker of the house of representatives,
10 and the presiding officers of the standing committees of the senate
11 and the house of representatives with jurisdiction over the agency,
12 shall appoint members from the business and education communities
13 and public members; and

14 (2) the State Board of Education may appoint one
15 member.

16 (c) The advisory committee is subject to Chapters 551 and
17 552, Government Code.

18 SECTION 2E.35. Sections 32.002 and 32.003, Education Code,
19 are amended to read as follows:

20 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A
21 public school [~~district~~] is not required by this subchapter to
22 acquire or use technology that has been approved, selected, or
23 contracted for by the State Board of Education or the commissioner.

24 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The
25 commissioner may contract with developers of technology to supply
26 technology for use by public schools [~~school districts~~] throughout
27 this state.

1 SECTION 2E.36. Effective September 1, 2006, Section 32.005,
2 Education Code, is amended to read as follows:

3 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
4 ALLOTMENT. (a) Each school district is entitled to an allotment of
5 \$100 [~~\$30~~] for each student in average daily attendance or a
6 different amount for any year provided by appropriation.

7 (a-1) From the funds a school district receives under
8 Subsection (a), the district shall use an amount equal to \$50 for
9 each student in average daily attendance to fund targeted
10 technology programs under Section 32.006. A school district shall
11 use funds for targeted technology programs in a manner that allows
12 each student and teacher assigned to a targeted campus, grade level
13 on a campus, or specific educational program to benefit from a
14 targeted technology program. The commissioner shall adopt rules
15 concerning the use of funds under this subsection. This subsection
16 expires August 31, 2007.

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

18 (1) provide for the purchase by school districts of
19 instructional materials [~~electronic textbooks~~] or technological
20 equipment that contributes to student learning; and

21 (2) pay for training educational personnel directly
22 involved in student learning in the appropriate use of electronic
23 instructional materials [~~textbooks~~] and for providing for access to
24 technological equipment for instructional use.

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

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

1 (2) the available school fund; [~~or~~]

2 (3) the state instructional materials fund under
3 Section 31.021; or

4 (4) any other fund that may be used for that purpose
5 and that is identified in the General Appropriations Act as the
6 source of payment of the allotment.

7 (d) This subsection applies only if the pilot project
8 established under Section 54.2161 is implemented. In addition to
9 amounts to which the district is entitled under Subsection (a), a
10 school district is entitled to an amount sufficient for the
11 district to pay the costs of textbooks for students participating
12 in the pilot project established under Section 54.2161. This
13 subsection expires August 15, 2009.

14 SECTION 2E.37. Effective September 1, 2007, Section 32.005,
15 Education Code, is amended by amending Subsection (a) and adding
16 Subsection (a-1) to read as follows:

17 (a) Each school district is entitled to an allotment of \$150
18 [~~\$30~~] for each student in average daily attendance or a different
19 amount for any year provided by appropriation.

20 (a-1) From the funds a school district receives under
21 Subsection (a), the district shall use an amount equal to \$60 for
22 each student in average daily attendance to fund targeted
23 technology programs under Section 32.006. A school district shall
24 use funds for targeted technology programs in a manner that allows
25 each student and teacher assigned to a targeted campus, grade level
26 on a campus, or specific educational program to benefit from a
27 targeted technology program. The commissioner shall adopt rules

1 concerning the use of funds under this subsection.

2 SECTION 2E.38. Subchapter A, Chapter 32, Education Code, is
3 amended by adding Section 32.006 to read as follows:

4 Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each
5 school district shall use funds designated for targeted technology
6 programs under Section 32.005(a-1) in accordance with this section
7 and in a manner consistent with the long-range plan developed by the
8 State Board of Education under Section 32.001 and the district's
9 own technology plan. A school district may use funds from other
10 sources, including grants, donations, and state and federal funds,
11 to provide targeted technology programs.

12 (b) A targeted technology program must provide for each
13 student and teacher at a targeted campus or grade level on a
14 targeted campus:

15 (1) the provision of:

16 (A) wireless electronic mobile computing devices
17 or other technology devices that convey instruction;

18 (B) productivity software and hardware,
19 including writing, computation, presentation, printing, and
20 communication tools;

21 (C) electronic learning software aligned with
22 the essential knowledge and skills adopted by the State Board of
23 Education under Section 28.002;

24 (D) library and other research tools;

25 (E) electronic assessment tools;

26 (F) electronic learning tools to improve
27 communications among students, teachers, school administrators,

1 parents, and the community; and

2 (G) classroom management systems;

3 (2) professional development for teachers to
4 integrate the tools and solutions described by Subdivision (1); or

5 (3) the provision of other infrastructure,
6 components, and technologies to support and enhance student
7 performance through individual instruction programs.

8 (c) The Legislative Budget Board shall:

9 (1) conduct a biennial study of the cost of school
10 district targeted technology programs, including the cost of
11 implementing those programs on a statewide basis; and

12 (2) based on the results of the study required by
13 Subdivision (1), make recommendations to the legislature before the
14 beginning of each regular session of the legislature concerning
15 statewide implementation of targeted technology programs.

16 (d) Each biennium, the Legislative Budget Board and the
17 commissioner shall jointly conduct a performance evaluation of
18 school district targeted technology programs.

19 SECTION 2E.39. Subchapter A, Chapter 32, Education Code, is
20 amended by adding Section 32.007 to read as follows:

21 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

22 (a) The commissioner may enter into an agreement with a public
23 broadcasting station, or a consortium of public broadcasting
24 stations, under which the station or consortium will provide online
25 instructional content and educational materials.

26 (b) From funds appropriated to the agency, the commissioner
27 may, under an agreement entered into under Subsection (a), make

1 instructional materials available through public broadcasting
2 stations for purposes of instruction and professional development
3 and for use in providing adult-based education.

4 (c) An agreement entered into under Subsection (a) must, to
5 the extent practicable, provide access to instructional materials
6 and online content to persons located in all parts of this state.

7 (d) For purposes of providing high-quality online
8 instructional materials under this section, the commissioner may:

9 (1) use federal funds that may be used for those
10 purposes; or

11 (2) use unexpended balances of funds appropriated to
12 the agency for educational purposes, including adult education.

13 SECTION 2E.391. Subchapter A, Chapter 32, Education Code,
14 is amended by adding Section 32.008 to read as follows:

15 Sec. 32.008. TECHNOLOGY GRANTS. (a) From amounts
16 appropriated for the purpose, the commissioner shall make grants as
17 provided by this section to school districts on behalf of eligible
18 campuses and to eligible open-enrollment charter schools. A grant
19 under this section must be in the amount of \$300 for each student
20 enrolled at an eligible campus or eligible open-enrollment charter
21 school.

22 (b) To be eligible for a grant under this section, a public
23 school must:

24 (1) be identified by the agency as meeting the goals of
25 the long-range plan for technology under Section 32.001; and

26 (2) certify to the commissioner that the school will
27 commit to using, for a purpose specified by Subsection (c), other

1 funds available to the school in an amount equal to \$50 for each
2 student enrolled at the school.

3 (c) A grant under this section may be used only to:

4 (1) provide for the purchase by public schools of:

5 (A) wireless electronic mobile computing devices
6 or other technology devices that convey instruction;

7 (B) productivity software and hardware,
8 including writing, computation, presentation, printing, and
9 communication tools;

10 (C) electronic learning software aligned with
11 the essential knowledge and skills adopted by the State Board of
12 Education under Section 28.002;

13 (D) library and other research tools;

14 (E) electronic assessment tools;

15 (F) electronic learning tools to improve
16 communications among students, teachers, school administrators,
17 parents, and the community; and

18 (G) classroom and school management systems;

19 (2) provide professional development for teachers to
20 integrate the tools and solutions described by Subdivision (1); and

21 (3) acquire other infrastructure, components, and
22 technologies necessary to support and enhance student performance.

23 (d) To receive a grant under this section, a school district
24 or open-enrollment charter school must apply in the time and manner
25 specified by commissioner rule. A grant under this section is for a
26 period of two school years and may be renewed as provided by
27 commissioner rule. The commissioner shall ensure that public

1 schools that are awarded grants under this section reflect the
2 demographic and geographic diversity of this state.

3 SECTION 2E.40. 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.41. Section 32.154, Education Code, as added by
8 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,
9 is amended by adding Subsection (a-1) and amending Subsection (b)
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~~]
18 school in accordance with Section 32.155(e).

19 SECTION 2E.42. 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.43. 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.44. 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.45. 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.46. Sections 31.002(3), 31.022, 31.023, 31.024,
9 31.025, 31.101, 31.103, and 31.1031, Education Code, and Sections
10 32.154(a) and (c), Education Code, as added by Chapter 834, Acts of
11 the 78th Legislature, Regular Session, 2003, are repealed.

12 PART F. BILINGUAL EDUCATION AND SPECIAL
13 LANGUAGE PROGRAMS

14 SECTION 2F.01. Effective August 1, 2006, Subchapter B,
15 Chapter 21, Education Code, is amended by adding Sections 21.0485
16 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 commissioner;
4 and

5 (5) satisfy any other requirements prescribed by the
6 commissioner.

7 SECTION 2F.02. Section 21.050(b), Education Code, is
8 amended to read as follows:

9 (b) The commissioner [~~board~~] may not require more than 18
10 semester credit hours of education courses at the baccalaureate
11 level for the granting of a teaching certificate. The commissioner
12 [~~board~~] shall provide for a minimum number of semester credit hours
13 of internship to be included in the hours needed for certification.
14 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring
15 additional credit hours for certification in bilingual education,
16 dual language instruction, English as a second language, early
17 childhood education, or special education.

18 SECTION 2F.03. Section 21.054, Education Code, is amended
19 by adding Subsection (c) to read as follows:

20 (c) Rules adopted under Subsection (a) must permit an
21 educator to fulfill continuing education requirements by acquiring
22 conversational skills in one or more languages other than English
23 and academic language development in the subject area for which the
24 educator provides instruction. The rules must permit educators to
25 obtain language instruction through a variety of methods, including
26 attendance at workshops offered by qualified entities and
27 enrollment on a noncredit basis in courses offered by public or

1 private colleges and universities.

2 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is
3 amended by adding Section 21.060 to read as follows:

4 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.

5 On issuing an educator certificate to an educational aide or
6 renewing such a certificate, the commissioner shall notify the
7 person to whom the certificate is issued of the existence of the
8 educational aide exemption under Section 54.214.

9 SECTION 2F.05. Section 28.0051, Education Code, is amended
10 by adding Subsection (d) to read as follows:

11 (d) The commissioner shall provide for the issuance of
12 teaching certificates appropriate for dual language instruction to
13 teachers who:

14 (1) possess a speaking, reading, and writing language
15 ability in a language other than English in which a dual language
16 immersion program is offered; and

17 (2) meet the general requirements of Subchapter B,
18 Chapter 21.

19 SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is
20 amended by adding Section 28.0052 to read as follows:

21 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)

22 The commissioner shall establish a pilot project in school
23 districts selected by the commissioner under which the agency
24 examines dual language education programs and the effect of those
25 programs on a student's ability to graduate from high school.

26 (b) In selecting school districts under Subsection (a), the
27 commissioner shall:

1 (1) select districts that:

2 (A) will commit to at least a three-year dual
3 language education program; and

4 (B) demonstrate a substantially equal enrollment
5 of students with limited English proficiency and students whose
6 primary language is English or, if a district does not have a
7 sufficient number of limited English proficiency students to meet
8 the equal enrollment standard, include the enrollment of students
9 with limited English proficiency, students whose primary language
10 is English, and bilingual students; and

11 (2) give preference to a district that:

12 (A) demonstrates the potential for expanding the
13 program through middle school; and

14 (B) will implement the program at the
15 kindergarten level.

16 (c) The commissioner by rule shall require a district to
17 limit activities of the dual language education program during the
18 first year of the program to planning activities, including:

19 (1) hiring and training teachers and ensuring teacher
20 certification;

21 (2) establishing parental and community support for
22 the program; and

23 (3) acquiring adequate learning materials in both
24 program languages.

25 (d) From amounts appropriated to the agency, including
26 foundation school program funds, the commissioner shall award
27 grants to school districts that participate in the program. A grant

1 under this section must be in an amount sufficient to pay the costs
2 to the district of participating in the program, as determined by
3 the commissioner. A determination of the commissioner under this
4 subsection is final and may not be appealed.

5 (e) A school district that applies for the expansion of an
6 existing dual language education program is eligible for a grant
7 under Subsection (d).

8 (f) A school district may use a grant awarded under
9 Subsection (d) for:

10 (1) classroom materials;

11 (2) tuition and textbook expenses for students seeking
12 teacher certification under Section 21.0485; and

13 (3) other necessary costs of operating the program, as
14 approved by the commissioner.

15 (f-1) During the 2006-2007 school year, the commissioner
16 may award grants to school districts under this section only for the
17 purpose of planning activities described by Subsection (c) in an
18 amount not to exceed two percent of the total amount required to
19 fully implement the pilot program for the 2007-2008 school year.
20 This subsection expires September 1, 2008.

21 (g) Grants under this section may not exceed \$13 million for
22 each biennium.

23 (h) The agency shall report to the legislature describing
24 the agency's activities under the pilot project, the effect of the
25 project on grade-level completion, and the recommendations arising
26 from the project. The agency shall submit an interim report under
27 this subsection not later than January 1, 2009, and a final report

1 not later than January 1, 2011.

2 (i) This section expires August 1, 2011.

3 SECTION 2F.07. Section 29.056, Education Code, is amended
4 by amending Subsections (a), (d), and (g) and adding Subsections
5 (g-1) and (i) to read as follows:

6 (a) The agency shall establish standardized criteria for
7 the identification, assessment, and classification of students of
8 limited English proficiency eligible for entry into the program or
9 exit from the program. Except as provided by this subsection, the
10 [The] student's parent must approve a student's entry into the
11 program, exit from the program, or placement in the program. A
12 school district shall provide notice to the student's parent that
13 the district intends to transfer the student from the program. If
14 the student's parent fails to respond to the notice on or before the
15 30th day after the date the notice is provided, the district may
16 transfer the student from the program without the student's
17 parent's approval. The district must inform the student's parent of
18 the student's transfer from the program. The school district or
19 parent may appeal the decision under Section 29.064. The criteria
20 for identification, assessment, and classification may include:

21 (1) results of a home language survey conducted within
22 four weeks of each student's enrollment to determine the language
23 normally used in the home and the language normally used by the
24 student, conducted in English and the home language, signed by the
25 student's parents if the student is in kindergarten through grade 8
26 or by the student if the student is in grades 9 through 12, and kept
27 in the student's permanent folder by the language proficiency

1 assessment committee;

2 (2) the results of an agency-approved English language
3 proficiency test administered to all students identified through
4 the home survey as normally speaking a language other than English
5 to determine the level of English language proficiency, with
6 students in kindergarten or grade 1 being administered an oral
7 English proficiency test and students in grades 2 through 12 being
8 administered an oral English proficiency test and, if the oral
9 English proficiency test demonstrates proficiency, a written
10 English proficiency test; and

11 (3) the results of an agency-approved proficiency test
12 in the primary language administered to all students identified
13 under Subdivision (2) as being of limited English proficiency to
14 determine the level of primary language proficiency, with students
15 in kindergarten or grade 1 being administered an oral primary
16 language proficiency test and students in grades 2 through 12 being
17 administered an oral and written primary language proficiency test.

18 (d) Not later than the 20th [~~10th~~] day after the date of the
19 student's classification as a student of limited English
20 proficiency, the language proficiency assessment committee shall
21 give written notice of the classification to the student's parent.
22 The notice must be in English and the parent's primary language.
23 The parents of students eligible to participate in the required
24 bilingual education program shall be informed of the benefits of
25 the bilingual education or special language program and that it is
26 an integral part of the school program.

27 (g) A district may transfer a student of limited English

1 proficiency out of a bilingual education or special language
2 program for the first time or a subsequent time if the student is
3 able to participate equally in a regular all-English instructional
4 program as determined by:

5 (1) agency-approved tests administered at the end of
6 each school year to determine the extent to which the student has
7 developed oral and written language proficiency and specific
8 language skills in [~~both the student's primary language and~~
9 English;

10 (2) satisfactory performance on the reading
11 assessment instrument under Section 39.023(a)(2) or the English
12 language arts assessment instrument under Section 39.023(a)(4), as
13 applicable, with the assessment instrument administered in
14 English, or, if the student is enrolled in the first or second
15 grade, an achievement score at or above the 40th percentile in the
16 reading and language arts sections of an English standardized test
17 approved by the agency; and

18 (3) agency-approved [~~other indications of a student's~~
19 ~~overall progress, including~~] criterion-referenced tests and the
20 results of a [~~test scores,~~] subjective teacher evaluation[~~, and~~
21 ~~parental evaluation~~].

22 (g-1) A school district may transfer a student of limited
23 English proficiency who is eligible for special education services
24 under Subchapter A out of a bilingual education or special language
25 program and into a special education program if the language
26 proficiency assessment committee and the student's admission,
27 review, and dismissal committee agree that the student has a

1 learning disability and would be better served in a special
2 education program. The student's admission, review, and dismissal
3 committee must document that the student has a learning disability
4 that cannot be addressed effectively in a bilingual education or
5 special language program and that the student's learning disability
6 is not due to the student's limited English proficiency. The
7 commissioner by rule shall adopt criteria for a school district to
8 use in transferring a student under this subsection.

9 (i) On approval of the student's parent, a school district
10 may allow a student of limited English proficiency who meets the
11 criteria for being transferred out of a bilingual education or
12 special language program to continue participating in the program.

13 SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is
14 amended by adding Section 29.0561 to read as follows:

15 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;
16 REENROLLMENT. (a) The language proficiency assessment committee
17 shall reevaluate a student who is transferred out of a bilingual
18 education or special language program under Section 29.056(g) if
19 the student earns a failing grade in a subject in the foundation
20 curriculum under Section 28.002(a)(1) during any grading period in
21 the first two school years after the student is transferred to
22 determine whether the student should be reenrolled in a bilingual
23 education or special language program.

24 (b) During the first two school years after a student is
25 transferred out of a bilingual education or special language
26 program under Section 29.056(g), the language proficiency
27 assessment committee shall review the student's performance and

1 consider:

2 (1) the total amount of time the student was enrolled
3 in a bilingual education or special language program;

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

6 (3) the student's performance on each assessment
7 instrument administered under Section 39.023(a) or (c);

8 (4) the number of credits the student has earned
9 toward high school graduation, if applicable; and

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

12 (c) After an evaluation under this section, the language
13 proficiency assessment committee may require intensive instruction
14 for the student or reenroll the student in a bilingual education or
15 special language program.

16 SECTION 2F.09. Effective August 1, 2006, Subchapter B,
17 Chapter 29, Education Code, is amended by adding Section 29.065 to
18 read as follows:

19 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
20 PROFICIENCY. The commissioner by rule shall develop a longitudinal
21 measure of progress toward English language proficiency under which
22 a student of limited English proficiency is evaluated from the time
23 the student enters public school until, for two consecutive school
24 years, the student scores at a specific level determined by the
25 commissioner on the reading assessment instrument under Section
26 39.023(a)(2) or the English language arts assessment instrument
27 under Section 39.023(a)(4), as applicable. The commissioner shall:

1 (1) as part of the measure of progress, include
2 student advancement from one proficiency level to a higher level
3 under the reading proficiency in English assessment system
4 developed under Section 39.027(e) and from the highest level under
5 that assessment system to the level determined by the commissioner
6 under this section on the reading assessment instrument under
7 Section 39.023(a)(2) or the English language arts assessment
8 instrument under Section 39.023(a)(4), as applicable; and

9 (2) to the extent practicable in developing the
10 measure of progress, use applicable research and analysis done in
11 developing an annual measurable achievement objective as required
12 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
13 6842).

14 SECTION 2F.10. Not later than January 1, 2006, the
15 commissioner of education shall adopt rules permitting an educator
16 to fulfill continuing education requirements by requiring
17 conversational skill in a language other than English, as required
18 by Section 21.054(c), Education Code, as added by this Act.

19 SECTION 2F.11. Not later than January 1, 2007, the
20 commissioner shall adopt rules:

21 (1) establishing requirements and prescribing an
22 examination for master language teacher certification as required
23 by Section 21.0486, Education Code, as added by this Act; and

24 (2) establishing requirements and prescribing an
25 examination for dual language instruction teacher certification as
26 required by Section 21.050(b), Education Code, as amended by this
27 Act, and Section 28.0051(d), Education Code, as added by this Act.

PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is amended by adding Section 29.124 to read as follows:

Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this section, "public senior college or university" has the meaning assigned by Section 61.003.

(b) A Texas governor's school is a summer residential program for high-achieving high school students. A governor's school program may include any or all of the following educational curricula:

- (1) mathematics and science;
- (2) humanities; or
- (3) leadership and public policy.

(c) A public senior college or university may apply to the commissioner to administer a Texas governor's school program under this section. The commissioner shall give preference to a public senior college or university that applies in cooperation with a nonprofit association. The commissioner shall give additional preference if the nonprofit association receives private foundation funds that may be used to finance the program.

(d) The commissioner may approve an application under this section only if the applicant:

(1) applies within the period and in the manner required by rule adopted by the commissioner;

(2) submits a program proposal that includes:

(A) a curriculum consistent with Subsection (b);

(B) criteria for selecting students to

1 participate in the program;

2 (C) a statement of the length of the program,
3 which must be at least three weeks; and

4 (D) a statement of the location of the program;

5 (3) agrees to use a grant under this section only for
6 the purpose of administering a program; and

7 (4) satisfies any other requirements established by
8 rule adopted by the commissioner.

9 (e) From funds appropriated to the agency, the commissioner
10 may make a grant in an amount not to exceed \$750,000 each year to
11 public senior colleges or universities whose applications are
12 approved under this section to pay the costs of administering a
13 Texas governor's school program.

14 (f) The commissioner may adopt other rules necessary to
15 implement this section.

16 SECTION 2G.02. Section 39.051, Education Code, is amended
17 by adding Subsection (b-1) to read as follows:

18 (b-1) In addition to the indicators adopted under
19 Subsection (b), the commissioner shall consider adopting and may
20 adopt the following indicators relating to high academic
21 achievement in assigning a district an exemplary performance rating
22 under Section 39.072:

23 (1) the percentage of students, disaggregated by race,
24 ethnicity, gender, and socioeconomic status, who are enrolled in an
25 educational program for gifted and talented students;

26 (2) student results on advanced placement and
27 international baccalaureate examinations, including the percentage

1 of students scoring three or higher on the advanced placement
2 examinations and the percentage of students scoring four or higher
3 on the international baccalaureate examinations;

4 (3) student results on the Scholastic Assessment Test
5 (SAT) and the American College Test (ACT);

6 (4) the percentage of students scoring in the top five
7 percent on nationally recognized norm-referenced assessment
8 instruments;

9 (5) the percentage of high school students enrolled in
10 an advanced course;

11 (6) the percentage of students achieving commended
12 performance, as determined by the State Board of Education, on an
13 assessment instrument required under Section 39.023(a), (c), or
14 (1);

15 (7) the percentage of students completing the
16 recommended or advanced high school program established under
17 Section 28.025; and

18 (8) the percentage of the district's graduating
19 students who enroll in an institution of higher education for the
20 academic year following graduation.

21 SECTION 2G.03. Section 39.053(a), Education Code, is
22 amended to read as follows:

23 (a) Each board of trustees shall publish an annual report
24 describing the educational performance of the district and of each
25 campus in the district that includes uniform student performance
26 and descriptive information as determined under rules adopted by
27 the commissioner. The annual report must also include:

1 (1) campus performance objectives established under
2 Section 11.253 and the progress of each campus toward those
3 objectives, which shall be available to the public;

4 (2) the academic performance rating for the district
5 [~~as provided under Section 39.072(a)~~] and [~~the performance rating~~
6 ~~of~~] each campus in the district [~~as provided~~] under Section 39.072
7 [~~39.072(c)~~];

8 (3) the district's current special education
9 compliance status with the agency;

10 (4) a statement of the number, rate, and type of
11 violent or criminal incidents that occurred on each district
12 campus, to the extent permitted under the Family Educational Rights
13 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

14 (5) information concerning school violence prevention
15 and violence intervention policies and procedures that the district
16 is using to protect students; [~~and~~]

17 (6) the findings that result from evaluations
18 conducted under the Safe and Drug-Free Schools and Communities Act
19 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
20 amendments; [~~and~~]

21 (7) information received under Section 51.403(e) for
22 each high school campus in the district, presented in a form
23 determined by the commissioner; and

24 (8) information relating to high academic achievement
25 in the district, as determined by the district's performance on the
26 indicators under Section 39.051(b-1).

27 SECTION 2G.04. (a) Not later than the 2006-2007 school

1 year, the Texas Education Agency shall collect information
2 concerning high academic achievement for purposes of Section
3 39.051(b-1), Education Code, as added by this Act.

4 (b) Not later than the 2007-2008 school year, the Texas
5 Education Agency shall include information concerning high
6 academic achievement for purposes of Section 39.051(b-1),
7 Education Code, as added by this Act, in evaluating the performance
8 of school districts, campuses, and public charter districts under
9 Subchapter D, Chapter 39, Education Code.

10 (c) Not later than the 2007-2008 school year, the Texas
11 Education Agency shall include the information required by Section
12 39.182(a)(23), Education Code, as added by this Act, in the
13 agency's comprehensive annual report under Section 39.182,
14 Education Code.

15 PART H. PREKINDERGARTEN PROGRAMS

16 SECTION 2H.01. Section 29.1532, Education Code, is amended
17 by adding Subsections (d), (e), and (f) to read as follows:

18 (d) Before a school district may implement a
19 prekindergarten program, the district shall:

20 (1) investigate the possibility of sharing program
21 sites with existing child-care programs licensed by the Department
22 of Family and Protective Services and existing federal Head Start
23 programs; and

24 (2) coordinate use of any sites to the greatest extent
25 possible.

26 (e) A school district shall implement to the greatest extent
27 possible coordinated use of licensed child-care and Head Start

1 sites with existing prekindergarten programs.

2 (f) The commissioner may adopt rules relating to the
3 operation of prekindergarten and early childhood care and education
4 programs that receive state funds to foster school readiness in
5 children enrolled in those programs.

6 PART I. SCHOOL DISCIPLINE

7 SECTION 2I.01. Chapter 26, Education Code, is amended by
8 adding Section 26.0083 to read as follows:

9 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY
10 ACTION. (a) A parent is entitled to notice from a school district
11 or public charter district as provided by this section if the
12 parent's child is removed from class under Section 37.006 for
13 placement in a disciplinary alternative education program or under
14 Section 37.007 for expulsion or placement in a juvenile justice
15 alternative education program. A school district or public charter
16 district shall make a good faith effort to provide the notice
17 required by this subsection on the same day the parent's child is
18 removed from class. If the district fails to provide the notice on
19 that day, the district shall provide or mail the notice not later
20 than 5 p.m. on the first business day after the day the student is
21 removed from class.

22 (b) A noncustodial parent who has requested notice of
23 disciplinary actions as provided by Section 37.0091 is entitled to
24 notice under Subsection (a).

25 SECTION 2I.02. Section 37.004, Education Code, is amended
26 by adding Subsections (e) and (f) to read as follows:

27 (e) Notwithstanding any other provision of this subchapter,

1 in a county with a juvenile justice alternative education program
2 established under Section 37.011, the expulsion under a provision
3 of Section 37.007 described by this subsection of a student with a
4 disability who receives special education services must occur in
5 accordance with this subsection and Subsection (f). The school
6 district from which the student was expelled shall, in accordance
7 with applicable federal law, provide the administrator of the
8 juvenile justice alternative education program or the
9 administrator's designee with reasonable notice of the meeting of
10 the student's admission, review, and dismissal committee to discuss
11 the student's expulsion. A representative of the juvenile justice
12 alternative education program may participate in the meeting to the
13 extent that the meeting relates to the student's placement in the
14 program. This subsection applies only to an expulsion under:

15 (1) Section 37.007(b), (c), or (f); or

16 (2) Section 37.007(d) as a result of conduct that
17 contains the elements of any offense listed in Section
18 37.007(b)(2)(C) against any employee or volunteer in retaliation
19 for or as a result of the person's employment or association with a
20 school district.

21 (f) If, after placement of a student in a juvenile justice
22 alternative education program under Subsection (e), the
23 administrator of the program or the administrator's designee has
24 concerns that the student's educational or behavioral needs cannot
25 be met in the program, the administrator or designee shall
26 immediately provide written notice of those concerns to the school
27 district from which the student was expelled. The student's

1 admission, review, and dismissal committee shall meet to reconsider
2 the placement of the student in the program. The district shall, in
3 accordance with applicable federal law, provide the administrator
4 or designee with reasonable notice of the meeting, and a
5 representative of the program may participate in the meeting to the
6 extent that the meeting relates to the student's continued
7 placement in the program.

8 SECTION 2I.03. Section 37.008, Education Code, is amended
9 by amending Subsections (m) and (m-1) and adding Subsection (n) to
10 read as follows:

11 (m) Notwithstanding Section 7.028, the ~~[The]~~ commissioner
12 shall adopt rules necessary to evaluate through an annual
13 monitoring process ~~[annually]~~ the performance of each district's
14 disciplinary alternative education program established under this
15 subchapter. The monitoring process ~~[evaluation]~~ required by this
16 section may be electronic and shall be based on indicators defined
17 by the commissioner, but must include student performance on
18 assessment instruments required under Section ~~[Sections]~~ 39.023(a)
19 and at least one indicator that measures student academic progress
20 ~~[and (c)]~~. Academically, the mission of disciplinary alternative
21 education programs shall be to enable students to perform at grade
22 level.

23 (m-1) The agency shall integrate the monitoring process
24 developed under Subsection (m) with the monitoring the agency is
25 authorized to conduct under Section 7.028(a). The commissioner may
26 require ~~[shall develop a process for evaluating]~~ a school district
27 to contract at the district's expense in the manner provided by

1 Section 39.134 with a public or private service provider for
2 services determined by the commissioner to be necessary to:

3 (1) improve student performance;

4 (2) improve disciplinary alternative education
5 program effectiveness; and

6 (3) [electronically. The commissioner shall also
7 develop a system and standards for review of the evaluation or use
8 systems already available at the agency. The system must be
9 designed to identify districts that are at high risk of having
10 inaccurate disciplinary alternative education program data or of
11 failing to] comply with disciplinary alternative education program
12 state and federal requirements.

13 (n) [The commissioner shall notify the board of trustees of
14 a district of any objection the commissioner has to the district's
15 disciplinary alternative education program data or of a violation
16 of a law or rule revealed by the data, including any violation of
17 disciplinary alternative education program requirements, or of any
18 recommendation by the commissioner concerning the data. If the
19 data reflect that a penal law has been violated, the commissioner
20 shall notify the county attorney, district attorney, or criminal
21 district attorney, as appropriate, and the attorney general.] The
22 commissioner is entitled to access to all district records the
23 commissioner considers necessary or appropriate for the review,
24 analysis, or approval of disciplinary alternative education
25 program data.

26 SECTION 2I.04. Sections 37.020(b) and (c), Education Code,
27 are amended to read as follows:

1 (b) For each placement in a disciplinary alternative
2 education program established under Section 37.008, the district
3 shall report:

4 (1) information identifying the student, including
5 the student's race, sex, and date of birth, that will enable the
6 agency to compare placement data with information collected through
7 other reports;

8 (2) information indicating whether the student was
9 enrolled in a special education program under Subchapter A, Chapter
10 29, at the time of the placement;

11 (3) information indicating whether the placement was
12 based on:

13 (A) conduct violating the student code of conduct
14 adopted under Section 37.001;

15 (B) conduct for which a student may be removed
16 from class under Section 37.002(b);

17 (C) conduct for which placement in a disciplinary
18 alternative education program is required by Section 37.006; or

19 (D) conduct occurring while a student was
20 enrolled in another district and for which placement in a
21 disciplinary alternative education program is permitted by Section
22 37.008(j);

23 (4) [~~3~~] the number of full or partial days the
24 student was assigned to the program and the number of full or
25 partial days the student attended the program; and

26 (5) [~~4~~] the number of placements that were
27 inconsistent with the guidelines included in the student code of

1 conduct under Section 37.001(a)(5).

2 (c) For each expulsion under Section 37.007, the district
3 shall report:

4 (1) information identifying the student, including
5 the student's race, sex, and date of birth, that will enable the
6 agency to compare placement data with information collected through
7 other reports;

8 (2) information indicating whether the student was
9 enrolled in a special education program under Subchapter A, Chapter
10 29, at the time of the expulsion;

11 (3) information indicating whether the expulsion was
12 based on:

13 (A) conduct for which expulsion is required under
14 Section 37.007, including information specifically indicating
15 whether a student was expelled on the basis of Section 37.007(e); or

16 (B) conduct for which expulsion is permitted
17 under Section 37.007;

18 (4) [~~3~~] the number of full or partial days the
19 student was expelled;

20 (5) [~~4~~] information indicating whether:

21 (A) the student was placed in a juvenile justice
22 alternative education program under Section 37.011;

23 (B) the student was placed in a disciplinary
24 alternative education program; or

25 (C) the student was not placed in a juvenile
26 justice or other disciplinary alternative education program; and

27 (6) [~~5~~] the number of expulsions that were

1 inconsistent with the guidelines included in the student code of
2 conduct under Section 37.001(a)(5).

3 PART J. CRIMINAL HISTORY RECORDS INFORMATION

4 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is
5 amended by adding Section 21.0401 to read as follows:

6 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
7 commissioner shall obtain a complete set of fingerprints from:

8 (1) each applicant for a certificate issued under this
9 subchapter;

10 (2) each applicant for or holder of a teaching permit
11 issued under this subchapter; and

12 (3) each person described by Section 11A.153 or
13 Section 21.0032 for whom the commissioner has received information
14 from a public charter district.

15 SECTION 2J.02. Section 21.041(c), Education Code, is
16 amended to read as follows:

17 (c) The commissioner by rule [~~board~~] shall set fees [~~propose~~
18 ~~a rule adopting a fee~~] for:

19 (1) the issuance and maintenance of each [~~an~~] educator
20 certificate that is adequate to cover the cost of administration of
21 this subchapter, including costs related to the operation of the
22 board and any amount necessary to cover the cost of obtaining
23 fingerprints under Section 21.0401 or conducting a national
24 criminal background review and investigation under Sections
25 21.0032 and 22.082; and

26 (2) the cost of obtaining fingerprints from or
27 conducting a national criminal background review of a holder of a

1 teaching permit issued under this subchapter.

2 SECTION 2J.03. Section 22.082, Education Code, is amended
3 to read as follows:

4 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
5 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The
6 agency [~~State Board for Educator Certification~~] shall obtain from
7 the Department of Public Safety [~~any law enforcement or criminal~~
8 ~~justice agency~~] all state and national criminal history record
9 information that relates to:

10 (1) an applicant for or holder of a certificate or
11 permit issued under Subchapter B, Chapter 21; or

12 (2) a person described by Section 11A.153 or 21.0032.

13 (b) The Educators' Professional Practices Board may obtain
14 from the Department of Public Safety all criminal history record
15 information that relates to a holder of a certificate issued under
16 Subchapter B, Chapter 21.

17 (c) The agency shall require each applicant, holder, and
18 person described by Subsection (a)(2) to pay any costs to the agency
19 related to obtaining criminal history record information related to
20 the person under this section.

21 SECTION 2J.04. Section 22.083(d), Education Code, is
22 amended to read as follows:

23 (d) The superintendent of a district or the director of a
24 public charter district [~~an open-enrollment charter school~~],
25 private school, regional education service center, or shared
26 services arrangement shall promptly notify the Educators'
27 Professional Practices [~~State~~] Board [~~for Educator Certification~~]

1 in writing if the person obtains or has knowledge of information
2 showing that an applicant for or holder of a certificate issued
3 under Subchapter B, Chapter 21, has a reported criminal history.
4 The board shall notify the commissioner of the reported criminal
5 history.

6 SECTION 2J.05. Sections 22.085 and 22.086, Education Code,
7 are amended to read as follows:

8 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.
9 A school district, public charter district [~~open-enrollment~~
10 ~~charter school~~], private school, regional education service
11 center, or shared services arrangement may discharge an employee if
12 the district or school obtains information of the employee's
13 conviction of a felony or of a misdemeanor involving moral
14 turpitude that the employee did not disclose to the agency [~~State~~
15 ~~Board for Educator Certification~~] or the district, school, service
16 center, or shared services arrangement. An employee discharged
17 under this section is considered to have been discharged for
18 misconduct for purposes of Section 207.044, Labor Code.

19 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,
20 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
21 ~~Certification~~], a school district, a public charter district [~~an~~
22 ~~open-enrollment charter school~~], a private school, a regional
23 education service center, a shared services arrangement, or an
24 employee of the agency, board, district, school, service center, or
25 shared services arrangement is not civilly or criminally liable for
26 making a report required under this subchapter.

27 SECTION 2J.06. Section 411.090, Government Code, is amended

1 to read as follows:

2 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
3 AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR~~
4 ~~EDUCATOR CERTIFICATION~~]. (a) The Texas Education Agency [~~State~~
5 ~~Board for Educator Certification~~] is entitled to obtain from the
6 department any criminal history record information maintained by
7 the department about:

8 (1) a person who has applied or expressed to the
9 commissioner an intention to apply [~~board~~] for a certificate or
10 permit or holds a certificate or permit under Subchapter B, Chapter
11 21, Education Code; or

12 (2) a person described by Section 11A.153 or 21.0032,
13 Education Code.

14 (b) Criminal history record information obtained by the
15 agency [~~board~~] under Subsection (a):

16 (1) may be used for any purpose related to the issuance
17 or [~~7~~] denial [~~7~~, ~~suspension, or cancellation~~] of a certificate issued
18 under Subchapter B, Chapter 21, Education Code, or for any purpose
19 authorized by Section 11A.153 or 21.0032, Education Code [~~by the~~
20 ~~board~~];

21 (2) may be provided to the Educators' Professional
22 Practices Board to be used for any purpose related to the suspension
23 or revocation of a certificate issued under Subchapter B, Chapter
24 21, Education Code;

25 (3) may not be released to any other person except on
26 court order or with the consent of the subject of the criminal
27 history record information [~~applicant for a certificate~~]; and

1 extracurricular athletic activity;

2 (2) except as provided by Subsection (f), a physician
3 who is employed by a school or school district or who volunteers to
4 assist with an extracurricular athletic activity; and

5 (3) a director responsible for a school marching band.

6 (c) The safety training program must include:

7 (1) certification of participants by the American Red
8 Cross, the American Heart Association, or a similar organization or
9 the University Interscholastic League, as determined by the
10 commissioner;

11 (2) annual training in:

12 (A) emergency action planning;

13 (B) cardiopulmonary resuscitation if the person
14 is not required to obtain certification under Section 33.086;

15 (C) communicating effectively with 9-1-1
16 emergency service operators and other emergency personnel; and

17 (D) recognizing symptoms of potentially
18 catastrophic injuries, including head and neck injuries,
19 concussions, injuries related to second impact syndrome, asthma
20 attacks, heatstroke, cardiac arrest, and injuries requiring use of
21 a defibrillator; and

22 (3) at least once each school year, a safety drill that
23 incorporates the training described by Subdivision (2) and
24 simulates various injuries described by Subdivision (2)(D).

25 (d) A student participating in an extracurricular athletic
26 activity must receive training related to:

27 (1) recognizing the symptoms of injuries described by

1 Subsection (c)(2)(D); and

2 (2) the risks of using supplements designed or
3 marketed to enhance athletic performance.

4 (e) The safety training program and the training under
5 Subsection (d) may each be conducted by a school or school district
6 or by an organization described by Subsection (c)(1).

7 (f) A physician who is employed by a school or school
8 district or who volunteers to assist with an extracurricular
9 athletic activity is exempt from the requirements of Subsection (b)
10 if the physician attends a continuing medical education course that
11 specifically addresses emergency medicine for athletic team
12 physicians.

13 Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC
14 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an
15 extracurricular athletic activity must complete the University
16 Interscholastic League forms entitled "Preparticipation Physical
17 Evaluation--Medical History" and "Acknowledgment of Rules." Each
18 form must be signed by both the student and the student's parent or
19 guardian.

20 (b) Each form described by Subsection (a) must clearly state
21 that failure to accurately and truthfully answer all questions on a
22 form required by statute or by the University Interscholastic
23 League as a condition for participation in an extracurricular
24 athletic activity subjects a signer of the form to penalties
25 determined by the University Interscholastic League.

26 (c) The "Preparticipation Physical Evaluation--Medical
27 History" form described by Subsection (a) must contain the

1 following statement:

2 "An individual answering in the affirmative to
3 any question relating to a possible cardiovascular
4 health issue, as identified on the form, should be
5 restricted from further participation until the
6 individual is examined by the individual's primary
7 care physician. Ultimately, the individual may need
8 to be evaluated by a cardiologist and/or undergo
9 cardiac testing (including an echocardiogram and/or
10 other heart-related examination) based on the
11 assessment by the primary care physician."

12 Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES
13 PROHIBITED. A coach, trainer, or sponsor for an extracurricular
14 athletic activity may not encourage or permit a student
15 participating in the activity to engage in any unreasonably
16 dangerous athletic technique that unnecessarily endangers the
17 health of a student, including using a helmet or any other sports
18 equipment as a weapon.

19 Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A
20 coach, trainer, or sponsor for an extracurricular athletic activity
21 shall at each athletic practice or competition ensure that:

22 (1) each student participating in the activity is
23 adequately hydrated;

24 (2) any prescribed asthma medication for a student
25 participating in the activity is readily available to the student;

26 (3) emergency lanes providing access to the practice
27 or competition area are open and clear; and

1 (4) heatstroke prevention materials are readily
2 available.

3 (b) If a student participating in an extracurricular
4 athletic activity, including a practice or competition, is rendered
5 unconscious during the activity, the student may not:

6 (1) return to the practice or competition during which
7 the student was rendered unconscious; or

8 (2) continue to participate in any extracurricular
9 athletic activity until the student receives written authorization
10 from a physician.

11 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a
12 school shall make available to the public proof of compliance for
13 each person enrolled in, employed by, or volunteering for the
14 school who is required to receive safety training described by
15 Section 33.202.

16 (b) The superintendent of a school district or the director
17 of a school subject to this subchapter shall maintain complete and
18 accurate records of the district's or school's compliance with
19 Section 33.202.

20 (c) A school campus that is determined by the school's
21 superintendent or director to not be in compliance with Section
22 33.202 or 33.204 or this section shall discontinue all
23 extracurricular athletic activities offered by the school campus,
24 including all practices and competitions, until the superintendent
25 or director determines that the school campus is in compliance.

26 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner
27 shall maintain an existing telephone number and an electronic mail

1 address to allow a person to report a violation of this subchapter.

2 (b) Each school that offers an extracurricular athletic
3 activity shall prominently display at the administrative offices of
4 the school the telephone number and electronic mail address
5 maintained under Subsection (a).

6 Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an
7 extracurricular athletic activity shall provide to each student
8 participating in an extracurricular athletic activity and to the
9 student's parent or guardian a copy of the text of Sections
10 33.201-33.206 and this section and a copy of the University
11 Interscholastic League's parent information manual.

12 (b) A document required to be provided under this section
13 may be provided in an electronic format unless otherwise requested
14 by a student, parent, or guardian.

15 Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The
16 University Interscholastic League shall incorporate the provisions
17 of Sections 33.203-33.207 into the league's constitution and
18 contest rules.

19 Sec. 33.209. LIABILITY. The requirements of this
20 subchapter are not considered ministerial acts for purposes of
21 immunity from liability under Section 22.0511.

22 SECTION 2K.02. Subchapter D, Chapter 33, Education Code, is
23 amended by adding Section 33.087 to read as follows:

24 Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL
25 DEFIBRILLATORS. (a) Using existing funds and other resources
26 available for the purpose, the agency and the University
27 Interscholastic League shall jointly investigate the availability

1 of federal, state, local, and private funds for purchasing
2 automated external defibrillators, as defined by Section 779.001,
3 Health and Safety Code, for use by University Interscholastic
4 League member schools, and the possibility of receiving a bulk
5 discount on such purchases.

6 (b) The agency and the University Interscholastic League
7 shall submit a report describing the findings of the investigation
8 to the legislature not later than June 1, 2006.

9 (c) This section expires July 1, 2006.

10 SECTION 2K.03. The heading to Section 34.008, Education
11 Code, is amended to read as follows:

12 Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, ~~[OR]~~
13 COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

14 SECTION 2K.04. Section 34.008(a), Education Code, is
15 amended to read as follows:

16 (a) A board of county school trustees or school district
17 board of trustees may contract with a mass transit authority, ~~[or]~~ a
18 commercial transportation company, or a juvenile board for all or
19 any part of a district's public school transportation if the
20 authority, ~~[or]~~ company, or board:

21 (1) requires its school bus drivers to have the
22 qualifications required by and to be certified in accordance with
23 standards established by the Department of Public Safety; and

24 (2) uses only those school buses or mass transit
25 authority buses in transporting 15 or more public school students
26 that meet or exceed safety standards for school buses established
27 under Section 34.002, Education Code.

1 SECTION 2K.05. Chapter 34, Education Code, is amended by
2 adding Section 34.012 to read as follows:

3 Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person
4 may offer to donate safety or lap belts or money for the purchase of
5 safety or lap belts for a school district's school buses.

6 (b) The board of trustees of a school district shall
7 consider any offer made by a person under Subsection (a). The board
8 of trustees may accept or decline the offer after adequate
9 consideration.

10 (c) The board of trustees may acknowledge a person who
11 donates safety or lap belts or money for the purchase of safety or
12 lap belts for a school bus under this section by displaying a small,
13 discreet sign on the side or back of the bus recognizing the person
14 who made the donation. The sign may not serve as an advertisement
15 for the person who made the donation.

16 SECTION 2K.06. The heading to Section 38.015, Education
17 Code, is amended to read as follows:

18 Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR
19 ANAPHYLAXIS MEDICINE BY STUDENTS.

20 SECTION 2K.07. Sections 38.015(a) and (b), Education Code,
21 are amended to read as follows:

22 (a) In this section:

23 (1) "Parent" includes a person standing in parental
24 relation.

25 (2) "Self-administration of prescription asthma or
26 anaphylaxis medicine" means a student's discretionary use of
27 prescription asthma or anaphylaxis medicine.

1 (b) A student with asthma or anaphylaxis is entitled to
2 possess and self-administer prescription asthma or anaphylaxis
3 medicine while on school property or at a school-related event or
4 activity if:

5 (1) the prescription [~~asthma~~] medicine has been
6 prescribed for that student as indicated by the prescription label
7 on the medicine;

8 (2) the student has demonstrated to the student's
9 physician or other licensed health care provider and the school
10 nurse, if available, the skill level necessary to self-administer
11 the prescription medication, including the use of any device
12 required to administer the medication;

13 (3) the self-administration is done in compliance with
14 the prescription or written instructions from the student's
15 physician or other licensed health care provider; and

16 (4) [~~(3)~~] a parent of the student provides to the
17 school:

18 (A) a written authorization, signed by the
19 parent, for the student to self-administer the prescription
20 [~~asthma~~] medicine while on school property or at a school-related
21 event or activity; and

22 (B) a written statement from the student's
23 physician or other licensed health care provider, signed by the
24 physician or provider, that states:

25 (i) that the student has asthma or
26 anaphylaxis and is capable of self-administering the prescription
27 [~~asthma~~] medicine;

- 1 (ii) the name and purpose of the medicine;
2 (iii) the prescribed dosage for the
3 medicine;
4 (iv) the times at which or circumstances
5 under which the medicine may be administered; and
6 (v) the period for which the medicine is
7 prescribed.

8 ARTICLE 3. CONFORMING AMENDMENTS

9 SECTION 3.01. Section 7.024(a), Education Code, is amended
10 to read as follows:

11 (a) The investment capital fund consists of money
12 transferred to the fund as provided by Section 42.152(d)(4)
13 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of
14 this fund are to assist eligible public schools to implement
15 practices and procedures consistent with deregulation and school
16 restructuring in order to improve student achievement and to help
17 schools identify and train parents and community leaders who will
18 hold the school and the school district accountable for achieving
19 high academic standards.

20 SECTION 3.02. Section 7.055(b)(34), Education Code, is
21 amended to read as follows:

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

25 SECTION 3.03. Section 11.158(a), Education Code, is amended
26 to read as follows:

27 (a) The board of trustees of an independent school district

1 may require payment of:

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

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

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

11 (4) a fee for personal physical education and athletic
12 equipment and apparel, although any student may provide the
13 student's own equipment or apparel if it meets reasonable
14 requirements and standards relating to health and safety
15 established by the board;

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

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

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

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

25 (9) a fee for items of personal apparel that become the
26 property of the student and that are used in extracurricular
27 activities;

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

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

5 (12) a fee for a course offered for credit that
6 requires the use of facilities not available on the school premises
7 or the employment of an educator who is not part of the school's
8 regular staff, if participation in the course is at the student's
9 option;

10 (13) a fee for a course offered during summer school,
11 except that the board may charge a fee for a course required for
12 graduation only if the course is also offered without a fee during
13 the regular school year;

14 (14) a reasonable fee for transportation of a student
15 who lives within two miles of the school the student attends to and
16 from that school, except that the board may not charge a fee for
17 transportation for which the school district receives funds under
18 Section 42.202 [~~42.155(d)~~]; or

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

25 SECTION 3.04. Section 12.013(b), Education Code, is amended
26 to read as follows:

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

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

3 (2) a provision of this title relating to limitations
4 on liability; and

5 (3) a prohibition, restriction, or requirement, as
6 applicable, imposed by this title or a rule adopted under this
7 title, relating to:

8 (A) the Public Education Information Management
9 System (PEIMS) to the extent necessary to monitor compliance with
10 this subchapter as determined by the commissioner;

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

13 (C) criminal history records under Subchapter C,
14 Chapter 22;

15 (D) student admissions under Section 25.001;

16 (E) school attendance under Sections 25.085,
17 25.086, and 25.087;

18 (F) inter-district or inter-county transfers of
19 students under Subchapter B, Chapter 25;

20 (G) elementary class size limits under Section
21 25.112, in the case of any campus in the district that is considered
22 academically unacceptable [~~low-performing~~] under Section 39.132;

23 (H) high school graduation under Section 28.025;

24 (I) special education programs under Subchapter
25 A, Chapter 29;

26 (J) bilingual education under Subchapter B,
27 Chapter 29;

1 (K) prekindergarten programs under Subchapter E,
2 Chapter 29;

3 (L) safety provisions relating to the
4 transportation of students under Sections 34.002, 34.003, 34.004,
5 and 34.008;

6 (M) computation and distribution of state aid
7 under Chapters 31, 42, and 43;

8 (N) extracurricular activities under Section
9 33.081;

10 (O) health and safety under Chapter 38;

11 (P) public school accountability under
12 Subchapters B, C, D, and G, Chapter 39;

13 (Q) equalization [~~equalized wealth~~] under
14 Section 42.401 [~~Chapter 41~~];

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

17 (S) purchasing under Chapter 44.

18 SECTION 3.05. Section 13.054(f), Education Code, is amended
19 to read as follows:

20 (f) For five years beginning with the school year in which
21 the annexation occurs, the commissioner shall annually adjust the
22 local share [~~fund assignment~~] of a district to which territory is
23 annexed under this section by multiplying the enlarged district's
24 local share [~~fund assignment~~] computed under Section 42.306
25 [~~42.252~~] by a fraction, the numerator of which is the number of
26 students residing in the district preceding the date of the
27 annexation and the denominator of which is the number of students

1 residing in the district as enlarged on the date of the annexation.

2 SECTION 3.06. Sections 13.282(a) and (b), Education Code,
3 are amended to read as follows:

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

6 (1) the sum of the entitlements computed under Section
7 42.313 [~~42.253~~] that would have been paid to the districts included
8 in the reorganized district if the districts had not been
9 consolidated; and

10 (2) the amount to which the reorganized district is
11 entitled under Section 42.313 [~~42.253~~].

12 (b) If the reorganized district is not eligible for an
13 entitlement under Section 42.313 [~~42.253~~], the amount of the
14 incentive aid payments may not exceed the sum of the entitlements
15 computed under Section 42.313 [~~42.253~~] for which the districts
16 included in the reorganized district were eligible in the school
17 year when they were consolidated.

18 SECTION 3.07. Section 21.410(h), Education Code, is amended
19 to read as follows:

20 (h) A grant a school district receives under this section is
21 in addition to any funding the district receives under Chapter 42.
22 The commissioner shall distribute funds under this section with the
23 Foundation School Program payment to which the district is entitled
24 as soon as practicable after the end of the school year as
25 determined by the commissioner. A district to which Section 42.401
26 [~~Chapter 41~~] applies is entitled to the grants paid under this
27 section. The commissioner shall determine the timing of the

1 distribution of grants to a district that does not receive
2 Foundation School Program payments.

3 SECTION 3.08. Section 21.411(h), Education Code, is amended
4 to read as follows:

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

15 SECTION 3.09. Section 21.412(h), Education Code, is amended
16 to read as follows:

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

27 SECTION 3.10. Section 21.413(h), Education Code, as added

1 by Chapter 430, Acts of the 78th Legislature, Regular Session,
2 2003, is amended to read as follows:

3 (h) A grant a school district receives under this section is
4 in addition to any funding the district receives under Chapter 42.
5 The commissioner shall distribute funds under this section with the
6 Foundation School Program payment to which the district is entitled
7 as soon as practicable after the end of the school year as
8 determined by the commissioner. A district to which Section 42.401
9 [~~Chapter 41~~] applies is entitled to the grants paid under this
10 section. The commissioner shall determine the timing of the
11 distribution of grants to a district that does not receive
12 Foundation School Program payments.

13 SECTION 3.11. Effective on the 91st day after the last day
14 of the legislative session, Section 21.453(b), Education Code, is
15 amended 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. Effective on the 91st day after the last day
26 of the legislative session, Section 22.004(c), Education Code, as
27 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th

1 Legislature, Regular Session, 2005, is amended to read as follows:

2 (c) The cost of the coverage provided under the program
3 described by Subsection (a) shall be paid by the state, the
4 district, and the employees in the manner provided by Subchapter F,
5 Chapter 1579, Insurance Code. The cost of coverage provided under a
6 plan adopted under Subsection (b) shall be shared by the employees
7 and the district using the contributions by the state described by
8 Subchapter F, Chapter 1579, Insurance Code, or compensation
9 designated for health care supplementation under Subchapter D.

10 SECTION 3.13. Section 29.008(b), Education Code, is amended
11 to read as follows:

12 (b) Except as provided by Subsection (c), costs of an
13 approved contract for residential placement may be paid from a
14 combination of federal, state, and local funds. The local share of
15 the total contract cost for each student is that portion of the
16 local tax effort that exceeds the district's local share [~~fund~~
17 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average
18 daily attendance in the district. If the contract involves a
19 private facility, the state share of the total contract cost is that
20 amount remaining after subtracting the local share. If the
21 contract involves a public facility, the state share is that amount
22 remaining after subtracting the local share from the portion of the
23 contract that involves the costs of instructional and related
24 services. For purposes of this subsection, "local tax effort"
25 means the total amount of money generated by taxes imposed for debt
26 service and maintenance and operation less any amounts paid into a
27 tax increment fund under Chapter 311, Tax Code.

1 SECTION 3.14. Section 29.014(d), Education Code, is amended
2 to read as follows:

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

5 (1) the cost of education adjustment under Section
6 42.301 [~~42.102~~] for the school district in which the district is
7 geographically located; and

8 (2) any other appropriate factor adopted by the
9 commissioner [~~the weight for a homebound student under Section~~
10 ~~42.151(a)~~].

11 SECTION 3.15. Section 29.087(j), Education Code, is amended
12 to read as follows:

13 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
14 46, a student attending a program authorized by this section may be
15 counted in attendance only for the actual number of hours each
16 school day the student attends the program, in accordance with
17 Sections 25.081 and 25.082.

18 SECTION 3.16. Effective on the 91st day after the last day
19 of the legislative session, Section 29.161(a), Education Code, as
20 added by S.B. No. 23, Acts of the 79th Legislature, Regular Session,
21 2005, is amended to read as follows:

22 (a) The State Center for Early Childhood Development, in
23 conjunction with the P-16 Council established under Section 61.076
24 [~~61.077~~], shall develop and adopt a school readiness certification
25 system for use in certifying the effectiveness of prekindergarten
26 programs, Head Start and Early Head Start programs,
27 government-subsidized child-care programs provided by nonprofit or

1 for-profit entities, government-subsidized faith-based child-care
2 programs, and other government-subsidized child-care programs in
3 preparing children for kindergarten. The system shall be made
4 available on a voluntary basis to program providers seeking to
5 obtain certification as evidence of the quality of the program
6 provided.

7 SECTION 3.17. Section 29.203(b), Education Code, is amended
8 to read as follows:

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

19 SECTION 3.18. Section 33.002(a), Education Code, is amended
20 to read as follows:

21 (a) This section applies only to a school district that
22 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

23 SECTION 3.19. Section 34.002(c), Education Code, is amended
24 to read as follows:

25 (c) A school district that fails or refuses to meet the
26 safety standards for school buses established under this section is
27 ineligible to share in the transportation allotment under

1 Subchapter D, Chapter 42, [Section 42.155] until the first
2 anniversary of the date the district begins complying with the
3 safety standards.

4 SECTION 3.20. Section 37.0061, Education Code, is amended
5 to read as follows:

6 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
7 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
8 education services to pre-adjudicated and post-adjudicated
9 students who are confined by court order in a juvenile residential
10 facility operated by a juvenile board is entitled to count such
11 students in the district's average daily attendance for purposes of
12 receipt of state funds under the Foundation School Program. [~~If the
13 district has a wealth per student greater than the guaranteed
14 wealth level but less than the equalized wealth level, the district
15 in which the student is enrolled on the date a court orders the
16 student to be confined to a juvenile residential facility shall
17 transfer to the district providing education services an amount
18 equal to the difference between the average Foundation School
19 Program costs per student of the district providing education
20 services and the sum of the state aid and the money from the
21 available school fund received by the district that is attributable
22 to the student for the portion of the school year for which the
23 district provides education services to the student.~~]

24 SECTION 3.21. Section 39.031, Education Code, is amended to
25 read as follows:

26 Sec. 39.031. COST. (a) The commissioner shall set aside an
27 appropriate amount from the Foundation School Program to pay the

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

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

11 (b) After setting aside an appropriate amount in accordance
12 with this section, the commissioner shall reduce each district's
13 tier one allotments proportionately. A reduction in tier one
14 allotments under this subsection does not affect the computation of
15 the guaranteed amount of revenue per student per cent of tax effort
16 under Section 42.252.

17 (c) Any amount set aside under this section must be approved
18 by the Legislative Budget Board and the governor's office of
19 budget, planning, and policy.

20 SECTION 3.22. Section 43.002(b), Education Code, is amended
21 to read as follows:

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

1 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the
2 estimated annual available school fund apportionment to category 2
3 school districts, as defined by Section 42.316 [~~42.259~~], may be
4 transferred from the general revenue fund to the available school
5 fund. Any remaining amount that would otherwise be available for
6 transfer for the months of January and February shall be
7 transferred from the general revenue fund to the available school
8 fund in equal amounts in June and in August of the same fiscal year.

9 SECTION 3.23. Section 44.004, Education Code, is amended by
10 amending Subsections (e) and (i) and adding Subsection (b-1) to
11 read as follows:

12 (b-1) The notice of the public meeting to discuss and adopt
13 the budget and the proposed tax rate may not be smaller than
14 one-quarter page of a standard-size or a tabloid-size newspaper,
15 and the headline on the notice must be in 18-point or larger type.

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) and (b-1) [~~(c)~~] and [~~(d)~~, ~~and~~], if applicable,
20 Subsection (i), and the failure to comply was not in good faith. An
21 action to enjoin the collection of taxes must be filed before the
22 date the school district delivers substantially all of its tax
23 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 3.24. 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 3.25. 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 3.26. 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 3.27. 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 3.28. 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 3.29. 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 3.30. 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 3.31. 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 3.32. 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 3.33. 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 3.34. Section 403.302(k), Government Code, is
7 amended to read as follows:

8 (k) For purposes of Sections 41.0012 and 42.308 [~~Section~~
9 ~~42.2522~~], Education Code, the comptroller shall certify to the
10 commissioner of 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; and

17 (3) a final value for each school district computed
18 after deducting the total dollar amount of residence homestead
19 exemptions granted under Section 11.13(n), Tax Code.

20 SECTION 3.35. Section 404.121(1), Government Code, is
21 amended to read as follows:

22 (1) "Cash flow deficit" for any period means the
23 excess, if any, of expenditures paid and transfers made from the
24 general revenue fund in the period, including payments provided by
25 Section 42.316 [~~42.259~~], Education Code, over taxes and other
26 revenues deposited to the fund in the period, other than revenues
27 deposited pursuant to Section 403.092, that are legally available

1 for the expenditures and transfers.

2 SECTION 3.36. Section 466.355(c), Government Code, is
3 amended to read as follows:

4 (c) Each August the comptroller shall:

5 (1) estimate the amount to be transferred to the Texas
6 education [~~foundation school~~] fund on or before September 15; and

7 (2) notwithstanding Subsection (b)(4), transfer the
8 amount estimated in Subdivision (1) to the Texas education
9 [~~foundation school~~] fund before August 25 [~~installment payments are~~
10 ~~made under Section 42.259, Education Code~~].

11 SECTION 3.37. Effective on the 91st day after the last day
12 of the legislative session, Section 822.201(c), Government Code, as
13 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th
14 Legislature, Regular Session, 2005, is amended to read as follows:

15 (c) Excluded from salary and wages are:

16 (1) expense payments;

17 (2) allowances;

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

19 (4) maintenance or other nonmonetary compensation;

20 (5) fringe benefits;

21 (6) deferred compensation other than as provided by
22 Subsection (b)(3);

23 (7) compensation that is not made pursuant to a valid
24 employment agreement;

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

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

3 (10) any compensation designated as health care
4 supplementation [~~amount received~~] by an employee under Subchapter
5 D, Chapter 22, Education Code, subject to the following annual
6 limits:

7 (A) \$1,000, for an employee entitled to the
8 minimum salary under Section 21.402, Education Code; and

9 (B) \$500, for any other school employee entitled
10 under Section 22.103, Education Code, to designate a portion of the
11 employee's compensation to be used as health care supplementation;

12 (11) any amount received by an employee under former
13 Article 3.50-8, Insurance Code, former Chapter 1580, Insurance
14 Code, or Rider 9, Page III-39, Chapter 1330, Acts of the 78th
15 Legislature, Regular Session, 2003 (the General Appropriations
16 Act); [~~and~~]

17 (12) amounts received under the educator excellence
18 incentive program under Subchapter N, Chapter 21, Education Code;
19 and

20 (13) [~~(11)~~] any compensation not described by
21 Subsection (b).

22 SECTION 3.38. Section 2175.304(c), Government Code, is
23 amended to read as follows:

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

1 in another manner. If more than one public school or school
 2 district or assistance organization seeks to acquire the same
 3 property on substantially the same terms, the system, institution,
 4 or agency shall give preference to a public school that is
 5 considered academically unacceptable under Section 39.132,
 6 Education Code, [~~low-performing by the commissioner of education~~]
 7 or to a school district that has a relatively low [~~taxable~~] wealth
 8 per student, as determined by the commissioner of education [~~that~~
 9 ~~entitles the district to an allotment of state funds under~~
 10 ~~Subchapter F, Chapter 42, Education Code~~], or to the assistance
 11 organization designated by such a school district.

12 SECTION 3.39. Section 1579.251, Insurance Code, is amended
 13 by amending Subsection (a) and adding Subsection (c) to read as
 14 follows:

15 (a) The state shall assist employees of participating
 16 school districts and charter schools in the purchase of group
 17 health coverage under this chapter by providing for each covered
 18 employee the amount of \$900 each state fiscal year or a greater
 19 amount as provided by the General Appropriations Act. The state
 20 contribution shall be distributed through the school finance
 21 formulas under Chapters 41 and 42, Education Code, and used by
 22 school districts and charter schools to pay contributions under a
 23 group health coverage plan for employees [~~as provided by Sections~~
 24 ~~42.2514 and 42.260, Education Code~~].

25 (c) A school district or charter school that does not
 26 participate in the program is entitled to state assistance computed
 27 and distributed as provided by Subsection (a). State funds

1 received under this subsection must be used to pay for employee
2 health coverage.

3 SECTION 3.40. Effective on the 91st day after the last day
4 of the legislative session, Section 302.006(c), Labor Code, is
5 amended to read as follows:

6 (c) To be eligible to receive a scholarship awarded under
7 this section, a person must:

8 (1) be employed in a child-care facility, as defined
9 by Section 42.002, Human Resources Code;

10 (2) intend to obtain a credential, certificate, or
11 degree specified in Subsection (b);

12 (3) agree to work for at least 18 additional months in
13 a child-care facility, as defined by Section 42.002, Human
14 Resources Code, that accepts federal Child Care Development Fund
15 subsidies and that, at the time the person begins to fulfill the
16 work requirement imposed by this subdivision, is located:

17 (A) within the attendance zone of a public school
18 campus considered academically unacceptable [~~low-performing~~] under
19 Section 39.132, Education Code; or

20 (B) in an economically disadvantaged community,
21 as determined by the commission; and

22 (4) satisfy any other requirements adopted by the
23 commission.

24 SECTION 3.41. Section 6.02(b), Tax Code, is amended to read
25 as follows:

26 (b) A taxing unit that has boundaries extending into two or
27 more counties may choose to participate in only one of the appraisal

1 districts. In that event, the boundaries of the district chosen
2 extend outside the county to the extent of the unit's boundaries.
3 To be effective, the choice must be approved by resolution of the
4 board of directors of the district chosen. ~~[The choice of a school~~
5 ~~district to participate in a single appraisal district does not~~
6 ~~apply to property annexed to the school district under Subchapter C~~
7 ~~or G, Chapter 41, Education Code, unless:~~

8 ~~[(1) the school district taxes property other than~~
9 ~~property annexed to the district under Subchapter C or G, Chapter~~
10 ~~41, Education Code, in the same county as the annexed property; or~~

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

14 SECTION 3.42. Section 21.02(a), Tax Code, is amended to
15 read as follows:

16 (a) Except as provided by ~~[Subsection (b) and]~~ Sections
17 21.021, 21.04, and 21.05, tangible personal property is taxable by
18 a taxing unit if:

19 (1) it is located in the unit on January 1 for more
20 than a temporary period;

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

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

27 (4) the owner resides (for property not used for

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

6 SECTION 3.43. Section 313.029, Tax Code, is amended to read
7 as follows:

8 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
9 a school district grants an application for a limitation on
10 appraised value under this subchapter, for each of the first two tax
11 years that begins after the date the application is approved, the
12 governing body of the school district may not adopt a tax rate that
13 exceeds the school district's rollback tax rate under Section
14 26.08, if applicable, for that year. If, in any tax year in which a
15 restriction on the school district's tax rate under this section is
16 in effect, the governing body approves a subsequent application for
17 a limitation on appraised value under this section, the restriction
18 on the school district's tax rate is extended until the first tax
19 year that begins after the second anniversary of the date the
20 subsequent application is approved.

21 SECTION 3.44. Except as otherwise provided by this Act,
22 this article takes effect September 1, 2006.

23 ARTICLE 4. CHARTER SCHOOLS

24 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,
25 Chapter 12, Education Code, is repealed.

26 (b) Except as provided by Section 11A.1041, Education Code,
27 as added by this Act, each open-enrollment charter school operating

1 or holding a charter to operate on August 1, 2006, shall be
2 dissolved in accordance with Subchapter J, Chapter 11A, Education
3 Code, as added by this Act.

4 SECTION 4.02. Subtitle C, Title 2, Education Code, is
5 amended by adding Chapter 11A to read as follows:

6 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 11A.001. DEFINITIONS. In this chapter:

9 (1) "Charter holder" means the entity to which a
10 charter is granted under this chapter.

11 (2) "Governing body of a charter holder" means the
12 board of directors, board of trustees, or other governing body of a
13 charter holder.

14 (3) "Governing body of a public charter district"
15 means the board of directors, board of trustees, or other governing
16 body of a public charter district. The term includes the governing
17 body of a charter holder if that body acts as the governing body of
18 the public charter district.

19 (4) "Management company" means a person, other than a
20 charter holder, who provides management services for a public
21 charter district.

22 (5) "Management services" means services related to
23 the management or operation of a public charter district,
24 including:

25 (A) planning, operating, supervising, and
26 evaluating the public charter district's educational programs,
27 services, and facilities;

1 (B) making recommendations to the governing body
2 of the public charter district relating to the selection of school
3 personnel;

4 (C) managing the public charter district's
5 day-to-day operations as its administrative manager;

6 (D) preparing and submitting to the governing
7 body of the public charter district a proposed budget;

8 (E) recommending policies to be adopted by the
9 governing body of the public charter district, developing
10 appropriate procedures to implement policies adopted by the
11 governing body of the public charter district, and overseeing the
12 implementation of adopted policies; and

13 (F) providing leadership for the attainment of
14 student performance at the public charter district based on the
15 indicators adopted under Section 39.051 or by the governing body of
16 the public charter district.

17 (6) "Officer of a public charter district" means:

18 (A) the principal, director, or other chief
19 operating officer of a public charter district or campus; or

20 (B) a person charged with managing the finances
21 of a public charter district.

22 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this
23 chapter, the State Board of Education may grant a charter on the
24 application of an eligible entity for a public charter district to
25 operate in a facility of a commercial or nonprofit entity, an
26 eligible entity, or a school district, including a home-rule school
27 district. In this subsection, "eligible entity" means:

1 (1) an institution of higher education as defined
2 under Section 61.003;

3 (2) a private or independent institution of higher
4 education as defined under Section 61.003;

5 (3) an organization that is exempt from federal income
6 taxation under Section 501(a), Internal Revenue Code of 1986, as an
7 organization described by Section 501(c)(3) of that code; or

8 (4) a governmental entity in this state.

9 (b) The State Board of Education may grant a charter for a
10 public charter district only to an applicant that meets all
11 financial, governing, and operational standards adopted by the
12 commissioner under this chapter.

13 (c) The State Board of Education may not grant more than a
14 total of 215 charters for public charter districts.

15 (d) An educator employed by a school district before the
16 effective date of a charter for a public charter district operated
17 at a school district facility may not be transferred to or employed
18 by the public charter district over the educator's objection.

19 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter
20 district:

21 (1) shall provide instruction to and assess a number
22 of students at a number of elementary or secondary grade levels, as
23 provided by the charter, sufficient to permit the agency to assign
24 an accountability rating under Chapter 39;

25 (2) is governed under the governing structure required
26 by this chapter and described by the charter;

27 (3) retains authority to operate under the charter

1 contingent on satisfactory student performance as provided by the
2 charter in accordance with Section 11A.103; and

3 (4) does not have authority to impose taxes.

4 Sec. 11A.004. STATUS. A public charter district or campus
5 is part of the public school system of this state.

6 Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related
7 to operation of a public charter district, a public charter
8 district is immune from liability to the same extent as a school
9 district, and its employees and volunteers are immune from
10 liability to the same extent as school district employees and
11 volunteers. Except as provided by Section 11A.154, a member of the
12 governing body of a public charter district or of a charter holder
13 is immune from liability to the same extent as a school district
14 trustee.

15 Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.
16 A reference in law to an open-enrollment charter school means a
17 public charter district or public charter campus, as applicable.

18 [Sections 11A.007-11A.050 reserved for expansion]

19 SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

20 Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND
21 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by
22 Subsection (b) or (c), a public charter district is subject to
23 federal and state laws and rules governing public schools and to
24 municipal zoning ordinances governing public schools.

25 (b) A public charter district is subject to this code and
26 rules adopted under this code only to the extent the applicability
27 to a public charter district of a provision of this code or a rule

1 adopted under this code is specifically provided.

2 (c) Notwithstanding Subsection (a), a campus of a public
3 charter district located in whole or in part in a municipality with
4 a population of 20,000 or less is not subject to a municipal zoning
5 ordinance governing public schools.

6 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter
7 district has the powers granted to schools under this title.

8 (b) A public charter district is subject to:

9 (1) a provision of this title establishing a criminal
10 offense; and

11 (2) a prohibition, restriction, or requirement, as
12 applicable, imposed by this title or a rule adopted under this
13 title, relating to:

14 (A) the Public Education Information Management
15 System (PEIMS) under Section 7.007;

16 (B) reporting an educator's misconduct under
17 Section 21.006;

18 (C) criminal history records under Subchapter C,
19 Chapter 22;

20 (D) reading instruments and accelerated reading
21 instruction programs under Section 28.006;

22 (E) satisfactory performance on assessment
23 instruments and to accelerated instruction under Section 28.0211;

24 (F) intensive programs of instruction under
25 Section 28.0213;

26 (G) high school graduation under Section 28.025;

27 (H) special education programs under Subchapter

1 A, Chapter 29, including a requirement that special education
2 teachers obtain appropriate certification;

3 (I) bilingual education under Subchapter B,
4 Chapter 29, including a requirement that bilingual education
5 teachers obtain appropriate certification;

6 (J) prekindergarten programs under Subchapter E,
7 Chapter 29;

8 (K) extracurricular activities under Section
9 33.081;

10 (L) discipline management practices or behavior
11 management techniques under Section 37.0021;

12 (M) health and safety under Chapter 38; and

13 (N) public school accountability under
14 Subchapters B, C, D, G, and I, Chapter 39.

15 (c) A public charter district is entitled to the same level
16 of services provided to school districts by regional education
17 service centers. The commissioner shall adopt rules that provide
18 for the representation of public charter districts on the boards of
19 directors of regional education service centers.

20 (d) The commissioner may by rule permit a public charter
21 district to voluntarily participate in any state program available
22 to school districts, including a purchasing program, if the public
23 charter district complies with all terms of the program.

24 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC
25 INFORMATION LAWS. (a) With respect to the operation of a public
26 charter district, the governing body of a charter holder and the
27 governing body of a public charter district are considered to be

1 governmental bodies for purposes of Chapters 551 and 552,
2 Government Code.

3 (b) With respect to the operation of a public charter
4 district, any requirement in Chapter 551 or 552, Government Code,
5 that applies to a school district, the board of trustees of a school
6 district, or public school students applies to a public charter
7 district, the governing body of a charter holder, the governing
8 body of a public charter district, or students in attendance at a
9 public charter district campus.

10 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL
11 GOVERNMENT RECORDS. (a) With respect to the operation of a public
12 charter district, a public charter district is considered to be a
13 local government for purposes of Subtitle C, Title 6, Local
14 Government Code, and Subchapter J, Chapter 441, Government Code.

15 (b) Records of a public charter district, a charter holder,
16 or a management company that relate to a public charter district are
17 government records for all purposes under state law.

18 (c) Any requirement in Subtitle C, Title 6, Local Government
19 Code, or Subchapter J, Chapter 441, Government Code, that applies
20 to a school district, the board of trustees of a school district, or
21 an officer or employee of a school district applies to a public
22 charter district or management company, the governing body of a
23 charter holder, the governing body of a public charter district, or
24 an officer or employee of a public charter district or management
25 company except that the records of a public charter district or
26 management company that ceases to operate shall be transferred in
27 the manner prescribed by Subsection (d).

1 (d) The records of a public charter district or management
2 company that ceases to operate shall be transferred in the manner
3 specified by the commissioner to a custodian designated by the
4 commissioner. The commissioner may designate any appropriate
5 entity to serve as custodian, including the agency, a regional
6 education service center, or a school district. In designating a
7 custodian, the commissioner shall ensure that the transferred
8 records, including student and personnel records, are transferred
9 to a custodian capable of:

10 (1) maintaining the records;

11 (2) making the records readily accessible to students,
12 parents, former school employees, and other persons entitled to
13 access; and

14 (3) complying with applicable state or federal law
15 restricting access to the records.

16 (e) If the charter holder of a public charter district that
17 ceases to operate or an officer or employee of the district or a
18 management company refuses to transfer school records in the manner
19 specified by the commissioner under Subsection (d), the
20 commissioner may ask the attorney general to petition a court for
21 recovery of the records. If the court grants the petition, the
22 court shall award attorney's fees and court costs to the state.

23 (f) A record described by this section is a public school
24 record for purposes of Section 37.10(c)(2), Penal Code.

25 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC
26 PURCHASING AND CONTRACTING. (a) This section applies to a public
27 charter district unless the district's charter otherwise describes

1 procedures for purchasing and contracting and the procedures are
2 approved by the State Board of Education.

3 (b) A public charter district is considered to be:

4 (1) a governmental entity for purposes of:

5 (A) Subchapter D, Chapter 2252, Government Code;

6 and

7 (B) Subchapter B, Chapter 271, Local Government

8 Code;

9 (2) a political subdivision for purposes of Subchapter
10 A, Chapter 2254, Government Code; and

11 (3) a local government for purposes of Sections
12 2256.009-2256.016, Government Code.

13 (c) To the extent consistent with this section, a
14 requirement in a law listed in this section that applies to a school
15 district or the board of trustees of a school district applies to a
16 public charter district, the governing body of a charter holder, or
17 the governing body of a public charter district.

18 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF
19 INTEREST. (a) A member of the governing body of a charter holder, a
20 member of the governing body of a public charter district, or an
21 officer of a public charter district is considered to be a local
22 public official for purposes of Chapter 171, Local Government Code.
23 For purposes of that chapter:

24 (1) a member of the governing body of a charter holder
25 or a member of the governing body or officer of a public charter
26 district is considered to have a substantial interest in a business
27 entity if a person related to the member or officer in the third

1 degree by consanguinity or affinity, as determined under Chapter
2 573, Government Code, has a substantial interest in the business
3 entity under Section 171.002, Local Government Code; and

4 (2) a teacher at a public charter district may serve as
5 a member of the governing body of the charter holder or the
6 governing body of the public charter district if the teachers
7 -serving on the governing body:

8 (A) do not constitute a quorum of the governing
9 body or any committee of the governing body; and

10 (B) comply with the requirements of Sections
11 171.003-171.007, Local Government Code.

12 (b) To the extent consistent with this section, a
13 requirement of a law listed in this section that applies to a school
14 district or the board of trustees of a school district applies to a
15 public charter district, the governing body of a charter holder, or
16 the governing body of a public charter district.

17 (c) An employee who is not a teacher may serve as a member of
18 the governing body of a charter holder or the governing body of a
19 public charter district if:

20 (1) the charter holder operating the public charter
21 district where the individual is employed and serves as a member of
22 the governing body operated an open-enrollment charter school under
23 Subchapter D, Chapter 12, on August 31, 2005;

24 (2) the individual was employed by the charter holder
25 and serving as a member of the governing body on August 31, 2005, in
26 compliance with former Section 12.1054; and

27 (3) the individual had been continuously so employed

1 and serving since a date on or before January 1, 2005.

2 (d) If under Subsection (c) an individual continues to be
3 employed and serve as a member of the governing body, the individual
4 may not participate in any deliberation or voting on the
5 appointment, reappointment, confirmation of the appointment or
6 reappointment, employment, reemployment, change in the status,
7 compensation, or dismissal of the individual if that action applies
8 only to the individual and is not taken regarding a bona fide class
9 or category of employees. In addition, the individual may not hear,
10 consider, or act on any grievance or complaint concerning the
11 individual or a matter with which the individual has dealt in the
12 individual's capacity as an employee.

13 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public
14 charter district, including the governing body of a public charter
15 district and any district employee with final authority to hire a
16 district employee, is subject to a prohibition, restriction, or
17 requirement, as applicable, imposed by state law or by a rule
18 adopted under state law, relating to nepotism under Chapter 573,
19 Government Code.

20 (b) Notwithstanding Subsection (a), a member of the
21 governing body of a charter holder or public charter district may
22 not be related in the third degree by consanguinity or affinity, as
23 determined under Chapter 573, Government Code, to another member of
24 the governing body of the charter holder or public charter
25 district.

26 (c) This section does not apply to an appointment,
27 confirmation of an appointment, or vote for an appointment or

1 confirmation of an appointment of an individual to a position if:

2 (1) the charter holder operating the public charter
3 district where the individual is employed or serves as a member of
4 the governing body operated an open-enrollment charter school under
5 Subchapter D, Chapter 12, on August 31, 2005;

6 (2) the individual was employed or serving in the
7 position on August 31, 2005, in compliance with former Section
8 12.1055; and

9 (3) the individual has been continuously employed or
10 serving since a date on or before January 1, 2005.

11 (d) If, under Subsection (c), an individual continues to be
12 employed or serve in a position, the public official to whom the
13 individual is related in a prohibited degree may not participate in
14 any deliberation or voting on the appointment, reappointment,
15 confirmation of the appointment or reappointment, employment,
16 reemployment, change in status, compensation, or dismissal of the
17 individual if that action applies only to the individual and is not
18 taken regarding a bona fide class or category of employees.

19 [Sections 11A.058-11A.100 reserved for expansion]

20 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

21 Sec. 11A.101. APPLICATION. (a) The State Board of
22 Education shall adopt:

23 (1) an application form and a procedure that must be
24 used to apply for a charter for a public charter district; and

25 (2) criteria to use in selecting a program for which to
26 grant a charter.

27 (b) The application form must provide for including the

1 information required under Section 11A.103 to be contained in a
2 charter.

3 (c) The State Board of Education may approve or deny an
4 application based on criteria it adopts and on financial,
5 governing, and operational standards adopted by the commissioner
6 under this chapter. The criteria the board adopts must include:

7 (1) criteria relating to improving student
8 performance and encouraging innovative programs; and

9 (2) criteria relating to the educational benefit for
10 students residing in the geographic area to be served by the
11 proposed public charter district, as compared to any significant
12 financial difficulty that a loss in enrollment may have on any
13 school district whose enrollment is likely to be affected by the
14 public charter district.

15 (d) A public charter district may not begin operating under
16 this chapter unless the commissioner has certified that the
17 applicant has acceptable administrative and accounting systems and
18 procedures in place for the operation of the proposed public
19 charter district.

20 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The
21 commissioner by rule shall adopt a procedure for providing notice
22 to each member of the legislature that represents the geographic
23 area to be served by the proposed public charter district, as
24 determined by the commissioner, on receipt by the State Board of
25 Education of an application for a charter for a public charter
26 district under Section 11A.101.

27 Sec. 11A.103. CONTENT. (a) Each charter granted under this

1 chapter must:

2 (1) describe the educational program to be offered,
3 which must include the required curriculum as provided by Section
4 28.002;

5 (2) establish educational goals, which must include
6 acceptable student performance as determined under Chapter 39;

7 (3) specify the grade levels to be offered, which must
8 be sufficient to permit the agency to assign an accountability
9 rating under Chapter 39;

10 (4) describe the facilities to be used;

11 (5) describe the geographical area served by the
12 program, which may not be statewide; and

13 (6) specify any type of enrollment criteria to be
14 used.

15 (b) A charter holder of a public charter district shall
16 consider including in the district's charter a requirement that the
17 district develop and administer personal graduation plans under
18 Section 28.0212.

19 (c) The terms of a charter may not include plans for future
20 increases in student enrollment, grade levels, campuses, or
21 geographical area, except that:

22 (1) the charter may contain a plan for adding grade
23 levels as necessary to comply with Section 11A.253(c) or (d); and

24 (2) the commissioner may approve such an increase in a
25 charter revision request under Section 11A.106.

26 Sec. 11A.104. FORM. A charter for a public charter district
27 shall be in the form of a license issued by the State Board of

1 Education to the charter holder.

2 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN
3 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner
4 shall immediately grant a charter under this chapter to the
5 following entities on or before August 1, 2006:

6 (1) an eligible entity holding a charter granted
7 before September 1, 2002, under Subchapter D, Chapter 12, as that
8 subchapter existed on January 1, 2005, if:

9 (A) for fiscal years 2004 and 2005, the entity
10 had total assets that exceeded total liabilities, as determined by
11 the entity's annual audit report under Section 44.008;

12 (B) at least 25 percent of all students enrolled
13 at the entity's open-enrollment charter school and administered an
14 assessment instrument under Section 39.023(a), (c), or (l)
15 performed satisfactorily on the assessment instrument in
16 mathematics, as determined by the school's assessment instrument
17 results for the 2005-2006 school year; and

18 (C) at least 25 percent of all students enrolled
19 at the entity's open-enrollment charter school and administered an
20 assessment instrument under Section 39.023(a), (c), or (l)
21 performed satisfactorily on the assessment instrument in reading or
22 English language arts, as applicable, as determined by the school's
23 assessment instrument results for the 2005-2006 school year;

24 (2) a governmental entity holding a charter under
25 Subchapter D, Chapter 12, as that subchapter existed on January 1,
26 2005;

27 (3) an eligible entity holding a charter under

1 Subchapter D, Chapter 12, as that subchapter existed on January 1,
2 2005, if at least 85 percent of students enrolled in the school
3 reside in a residential facility; and

4 (4) an eligible entity granted a charter on or after
5 September 1, 2002, under Subchapter D, Chapter 12, as that
6 subchapter existed on January 1, 2005.

7 (b) Assessment instrument results for fewer than five
8 students are not considered for purposes of Subsection (a)(1)(B) or
9 (C).

10 (c) The commissioner shall determine which entities are
11 eligible for a charter under this section as soon as practicable.

12 (d) The content and terms of a charter granted to an
13 eligible entity under this section must be the same as those under
14 which the entity operated under Subchapter D, Chapter 12, as that
15 subchapter existed on January 1, 2005, except that where the terms
16 conflict with this chapter, this chapter prevails.

17 (e) An eligible entity holding multiple charters prior to
18 January 1, 2005, may not combine those charters into one charter for
19 a public charter district but must retain each of those charters
20 which count towards the limit imposed under Section 11A.002(c).

21 (f) Section 11A.157 does not apply to an entity granted a
22 charter under this section.

23 (g) A decision of the commissioner under this section is not
24 subject to a hearing or an appeal to a district court.

25 (h) This section expires January 1, 2008.

26 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

27 (a) For purposes of Section 11A.1041(a), the commissioner shall

1 compute the percentage of students who performed satisfactorily on
2 an assessment instrument in a manner consistent with this section.

3 (b) The commissioner may only consider the performance of a
4 student who was enrolled as of the date for reporting enrollment for
5 the fall semester under the Public Education Information Management
6 System (PEIMS).

7 (c) In computing performance under this section, the
8 commissioner must:

9 (1) add the results for third through 11th grade
10 assessment instruments in English and third through sixth grade
11 assessment instruments in Spanish across grade levels tested at all
12 campuses operated by the charter holder and evaluate those results
13 for all students;

14 (2) combine the results for third through ninth grade
15 assessment instruments in reading and 10th and 11th grade
16 assessment instruments in English language arts and evaluate those
17 results as a single subject; and

18 (3) separately determine student performance for
19 reading and mathematics as a percentage equal to the sum of students
20 who performed satisfactorily on the specific subject area
21 assessment instrument in all grade levels tested at all campuses
22 operated by the charter holder divided by the number of students who
23 took the specific subject area assessment instrument in grade
24 levels tested at all campuses operated by the charter holder.

25 (d) To the extent consistent with this section, the
26 commissioner shall use the methodology used to compute passing
27 rates for reading and mathematics assessment instruments for

1 purposes of determining accountability ratings under Chapter 39 for
2 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

3 (e) This section expires January 1, 2008.

4 Sec. 11A.105. CHARTER GRANTED. Each charter the State
5 Board of Education grants for a public charter district must:

6 (1) satisfy this chapter; and

7 (2) include the information that is required under
8 Section 11A.103 consistent with the information provided in the
9 application and any modification the board requires.

10 Sec. 11A.106. REVISION. (a) A revision of a charter of a
11 public charter district may be made only with the approval of the
12 commissioner.

13 (b) Not more than once each year, a public charter district
14 may request approval to revise the maximum student enrollment
15 described by the district's charter.

16 (c) The commissioner may not approve a charter revision that
17 increases a public charter district's enrollment, increases the
18 grade levels offered, increases the number of campuses, or changes
19 the boundaries of the geographic area served by the program unless
20 the commissioner determines that:

21 (1) the public charter district has operated one or
22 more campuses for at least three school years;

23 (2) each campus operated by the public charter
24 district has been rated at least academically acceptable under
25 Subchapter D, Chapter 39, for each of its most recent three years of
26 operation;

27 (3) each campus operated by the public charter

1 district has achieved performance levels that are at least five
2 percentage points above the applicable accountability standard for
3 academically acceptable performance on statewide assessments under
4 Subchapter D, Chapter 39, as determined by the commissioner, for
5 all tested subjects for each of its most recent two years of
6 operation;

7 (4) the public charter district has been rated
8 superior, above standard, standard, or the equivalent, under the
9 financial accountability system under Subchapter I, Chapter 39;

10 (5) during the three years preceding the proposed
11 charter revision, the public charter district and its campuses have
12 not been subject to an intervention or sanction under Subchapter G,
13 Chapter 39, including an intervention or sanction related to:

14 (A) the quality of data or reports required by
15 state or federal law or court order;

16 (B) high school graduation requirements under
17 Section 28.025; or

18 (C) the effectiveness of programs for special
19 student populations; and

20 (6) the charter revision is in the best interest of
21 students of this state.

22 (d) In making a determination under Subsection (c)(6), the
23 commissioner shall review all available information relating to the
24 charter holder, including the charter holder's:

25 (1) academic and financial performance;

26 (2) history of compliance with applicable laws;

27 (3) staffing, financial, and organizational data; and

1 (4) any other information regarding the charter
2 holder's capacity to successfully implement the requested charter
3 revision.

4 (e) The commissioner may not approve a charter revision that
5 proposes an increase in:

6 (1) a public charter district's enrollment, unless the
7 charter holder adopts a business plan for implementing the
8 enrollment increase that includes components identified by the
9 commissioner; or

10 (2) the grade levels offered by a public charter
11 district, unless the charter holder adopts an educational plan for
12 the additional grade levels that includes components identified by
13 the commissioner.

14 (f) The commissioner may approve a charter revision
15 authorizing a public charter district to serve students in a
16 geographical area that is not contiguous with the existing
17 boundaries of the district, but may not approve a statewide
18 geographical boundary.

19 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON
20 PROBATION, OR REVOCATION. (a) The commissioner may modify, place
21 on probation, or revoke the charter of a public charter district if
22 the commissioner determines under Section 11A.108 that the charter
23 holder:

24 (1) committed a material violation of the charter;

25 (2) failed to satisfy generally accepted accounting
26 standards of fiscal management;

27 (3) failed to protect the health, safety, welfare, or

1 best interests of the students enrolled at the public charter
2 district; or

3 (4) failed to comply with this chapter or another
4 applicable law or rule.

5 (b) The commissioner shall revoke the charter of a public
6 charter district without a hearing if:

7 (1) in two consecutive years, the public charter
8 district:

9 (A) is rated academically unacceptable under
10 Subchapter D, Chapter 39; or

11 (B) is rated financially unacceptable by the
12 commissioner under Subchapter I, Chapter 39; or

13 (2) all campuses operated by the public charter
14 district have been ordered closed under Section 39.131(a) or
15 39.1322(f).

16 (c) A revocation under Subsection (b)(1) is effective on
17 January 1 following the school year in which the public charter
18 district received a second unacceptable rating.

19 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON
20 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a
21 procedure to be used for modifying, placing on probation, or
22 revoking the charter of a public charter district under Section
23 11A.107(a).

24 (b) The procedure adopted under Subsection (a) must provide
25 an opportunity for a hearing to the charter holder.

26 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON
27 PROBATION, OR REVOCATION. A charter holder may appeal a

1 modification, placement on probation, or revocation under this
2 subchapter only in the manner provided by the applicable procedures
3 adopted by the commissioner under Section 11A.108. The charter
4 holder may not otherwise appeal to the commissioner and may not
5 appeal to a district court.

6 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.

7 If the commissioner revokes a charter of a public charter district,
8 if a district is ordered closed under Chapter 39, or if a public
9 charter district surrenders its charter, the district may not:

10 (1) continue to operate under this chapter; or

11 (2) receive state funds under this chapter.

12 [Sections 11A.111-11A.150 reserved for expansion]

13 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF CHARTER
14 HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

15 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

16 The governing body of a charter holder is responsible for the
17 management, operation, and accountability of the public charter
18 district, regardless of whether the governing body delegates the
19 governing body's powers and duties to another person.

20 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER
21 HOLDER. The governing body of a charter holder must be composed of
22 at least five members.

23 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF
24 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS
25 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a
26 person may not serve as a member of the governing body of a charter
27 holder, as a member of the governing body of a public charter

1 district, or as an officer or employee of a public charter district
2 if the person:

3 (1) has been convicted of a felony or a misdemeanor
4 involving moral turpitude;

5 (2) has been convicted of an offense listed in Section
6 37.007(a);

7 (3) has been convicted of an offense listed in Article
8 62.01(5), Code of Criminal Procedure; or

9 (4) has a substantial interest in a management
10 company.

11 (b) A person who has been convicted of an offense described
12 by Subsection (a)(1), (2), or (3) may serve as a member of the
13 governing body of a charter holder, as a member of the governing
14 body of a public charter district, or as an officer or employee of a
15 public charter district if the commissioner determines that the
16 person is fit to serve in that capacity. In making a determination
17 under this subsection, the commissioner shall consider:

18 (1) the factors described by Section 53.022,
19 Occupations Code, for determining the extent to which a conviction
20 relates to an occupation;

21 (2) the factors described by Section 53.023,
22 Occupations Code, for determining the fitness of a person to
23 perform the duties and discharge the responsibilities of an
24 occupation; and

25 (3) other appropriate factors, as determined by the
26 commissioner.

27 (c) For purposes of Subsection (a)(4), a person has a

1 substantial interest in a management company if the person or a
2 relative within the third degree by consanguinity or affinity, as
3 determined under Chapter 573, Government Code:

4 (1) has a controlling interest in the company;

5 (2) owns more than 10 percent of the voting interest in
6 the company;

7 (3) owns more than \$25,000 of the fair market value of
8 the company;

9 (4) has a direct or indirect participating interest by
10 shares, stock, or otherwise, regardless of whether voting rights
11 are included, in more than 10 percent of the profits, proceeds, or
12 capital gains of the company;

13 (5) is a member of the board of directors or other
14 governing body of the company;

15 (6) serves as an elected officer of the company; or

16 (7) is an employee of the company.

17 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF
18 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit
19 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
20 Statutes), Chapter 22, Business Organizations Code, or other law,
21 on request of the commissioner, the attorney general shall bring
22 suit against a member of the governing body of a charter holder for
23 breach of a fiduciary duty by the member, including misapplication
24 of public funds.

25 (b) The attorney general may bring suit under Subsection (a)
26 for:

27 (1) damages;

1 (2) injunctive relief; or

2 (3) any other equitable remedy determined to be
3 appropriate by the court.

4 (c) This section is cumulative of all other remedies.

5 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF
6 CHARTER HOLDER. (a) The commissioner shall adopt rules
7 prescribing training for members of governing bodies of charter
8 holders.

9 (b) The rules adopted under Subsection (a) may:

10 (1) specify the minimum amount and frequency of the
11 training;

12 (2) require the training to be provided by:

13 (A) the agency and regional education service
14 centers;

15 (B) entities other than the agency and service
16 centers, subject to approval by the commissioner; or

17 (C) both the agency, service centers, and other
18 entities; and

19 (3) require training to be provided concerning:

20 (A) basic school law, including school finance;

21 (B) health and safety issues;

22 (C) accountability requirements related to the
23 use of public funds; and

24 (D) other requirements relating to
25 accountability to the public, such as open meetings requirements
26 under Chapter 551, Government Code, and public information
27 requirements under Chapter 552, Government Code.

1 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder
2 shall file with the commissioner a copy of its articles of
3 incorporation and bylaws, or comparable documents if the charter
4 holder does not have articles of incorporation or bylaws, within
5 the period and in the manner prescribed by the commissioner.

6 (b) Each public charter district shall file annually with
7 the commissioner the following information in a form prescribed by
8 the commissioner:

9 (1) the name, address, and telephone number of each
10 officer and member of the governing body of the charter holder; and

11 (2) the amount of annual compensation the public
12 charter district pays to each officer and member of the governing
13 body.

14 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During
15 a public charter district's first year of operation, the charter
16 holder shall submit quarterly financial reports to the
17 commissioner. The commissioner by rule shall determine the form
18 and content of the financial reports under this section.

19 Sec. 11A.158. PEIMS INFORMATION. The governing body of a
20 public charter district shall comply with Section 7.007.

21 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A
22 management company that provides management services to a public
23 charter district is liable for damages incurred by the state or a
24 school district as a result of the failure of the company to comply
25 with its contractual or other legal obligation to provide services
26 to the district.

27 (b) On request of the commissioner, the attorney general may

1 bring suit on behalf of the state against a management company
2 liable under Subsection (a) for:

3 (1) damages, including any state funding received by
4 the company and any consequential damages suffered by the state;

5 (2) injunctive relief; or

6 (3) any other equitable remedy determined to be
7 appropriate by the court.

8 (c) This section is cumulative of all other remedies and
9 does not affect:

10 (1) the liability of a management company to the
11 charter holder; or

12 (2) the liability of a charter holder, a member of the
13 governing body of a charter holder, or a member of the governing
14 body of a public charter district to the state.

15 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

16 (a) The charter holder or the governing body of a public charter
17 district may not accept a loan from a management company that has a
18 contract to provide management services to:

19 (1) the district; or

20 (2) another public charter district that operates
21 under a charter granted to the charter holder.

22 (b) A charter holder or the governing body of a public
23 charter district that accepts a loan from a management company may
24 not enter into a contract with that management company to provide
25 management services to the district.

26 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any
27 contract, including a contract renewal, between a public charter

1 district and a management company proposing to provide management
2 services to the district must require the management company to
3 maintain all records related to the management services separately
4 from any other records of the management company.

5 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS
6 PROHIBITED. The commissioner may prohibit, deny renewal of,
7 suspend, or revoke a contract between a public charter district and
8 a management company providing management services to the district
9 if the commissioner determines that the management company has:

10 (1) failed to provide educational or related services
11 in compliance with the company's contractual or other legal
12 obligation to any public charter district in this state or to any
13 other similar entity in another state;

14 (2) failed to protect the health, safety, or welfare
15 of the students enrolled at a public charter district served by the
16 company;

17 (3) violated this chapter or a rule adopted under this
18 chapter; or

19 (4) otherwise failed to comply with any contractual or
20 other legal obligation to provide services to the district.

21 [Sections 11A.163-11A.200 reserved for expansion]

22 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

23 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent
24 with Subsection (c), a charter holder is entitled to receive for the
25 public charter district funding under Chapter 42 as if the public
26 charter district were a school district without a local share for
27 purposes of Section 42.306 and without any local revenue ("LR") for

1 purposes of Section 42.252. In determining funding for a public
2 charter district, adjustments under Sections 42.301, 42.302, and
3 42.303 and the district enrichment tax rate ("DETR") under Section
4 42.252 are based on the average adjustment and average district
5 enrichment tax rate for the state.

6 (a-1) Notwithstanding Subsection (a), an entity granted a
7 charter under Section 11A.1041 is entitled to receive funding for
8 each student in weighted average daily attendance in an amount
9 equal to the greater of the amount determined under Subsection (a)
10 or the amount to which the entity was entitled for the 2003-2004 or
11 2004-2005 school year, as determined by the commissioner. A
12 determination of the commissioner under this subsection is final
13 and not subject to appeal. This subsection expires September 1,
14 2013.

15 (b) To the extent consistent with Subsection (c), a public
16 charter district is entitled to funds that are available to school
17 districts from the agency or the commissioner, including grants and
18 other discretionary funding and any teacher incentive payments
19 under Section 39.113, unless the statute authorizing the funding
20 explicitly provides that a public charter district is not entitled
21 to the funding.

22 (c) A charter holder is entitled to receive for a public
23 charter district funding under this section only if the holder:

24 (1) provides information for the Public Education
25 Information Management System (PEIMS) as required by this chapter;

26 (2) submits to the commissioner appropriate fiscal and
27 financial records as required by this chapter and the commissioner;

1 and

2 (3) receives an annual unqualified opinion in the
3 standard report filed pursuant to Section 11A.210.

4 (d) The commissioner shall suspend the funding of a charter
5 holder that fails to comply with Subsection (c) until the
6 commissioner determines that the charter holder is in compliance or
7 has cured any noncompliance and has adopted adequate procedures to
8 prevent future noncompliance.

9 (e) The commissioner may adopt rules to provide and account
10 for state funding of public charter districts under this section. A
11 rule adopted under this section may be similar to a provision of
12 this code that is not similar to Section 11A.052(b) if the
13 commissioner determines that the rule is related to financing of
14 public charter districts and is necessary or prudent to provide or
15 account for state funds.

16 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF
17 SALARIES. (a) This section applies to a charter holder that on
18 January 1, 2005, operated an open-enrollment charter school under
19 former Subchapter D, Chapter 12.

20 (b) A charter holder that participated in the program under
21 Chapter 1579, Insurance Code, for the 2004-2005 school year is
22 entitled to state aid in an amount, as determined by the
23 commissioner, equal to the difference, if any, between:

24 (1) an amount equal to the product of \$2,500
25 multiplied by the number of classroom teachers, full-time
26 librarians, and full-time counselors certified under Subchapter B,
27 Chapter 21, and full-time school nurses appropriately licensed

1 under Chapter 301, Occupations Code, who are employed by the
2 charter holder at a public charter district; and

3 (2) the amount of additional money to which the
4 charter holder is entitled as a result of H.B. No. 2, Acts of the
5 79th Legislature, 2nd Called Session, 2005.

6 (c) A charter holder that did not participate in the program
7 under Chapter 1579, Insurance Code, for the 2004-2005 school year
8 is entitled to state aid in an amount, as determined by the
9 commissioner, equal to the difference, if any, between:

10 (1) an amount equal to the product of \$1,500
11 multiplied by the number of classroom teachers, full-time
12 librarians, and full-time counselors certified under Subchapter B,
13 Chapter 21, and full-time school nurses appropriately licensed
14 under Chapter 301, Occupations Code, who are employed by the
15 charter holder at a public charter district; and

16 (2) the amount of additional money to which the
17 charter holder is entitled as a result of H.B. No. 2, Acts of the
18 79th Legislature, 1st Called Session, 2005.

19 (d) A charter holder is not entitled to funds under
20 Subsection (b) or (c) if the amount of additional funds to which the
21 charter holder is entitled as a result of H.B. No. 2, Acts of the
22 79th Legislature, 2nd Called Session, 2005, is sufficient to pay
23 the amounts described by Subsection (b) or (c), as determined by the
24 commissioner.

25 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In
26 this section, "instructional facility" has the meaning assigned by
27 Section 46.001.

1 (b) A charter holder is initially eligible for
2 instructional facilities allotments in accordance with this
3 section if:

4 (1) any campus of a public charter district for which
5 the charter holder has been granted a license has for two
6 consecutive school years been rated exemplary or recognized under
7 Subchapter D, Chapter 39, or has performed at a comparable level, as
8 determined by the commissioner for purposes of this section; and

9 (2) on the most recent audit of the financial
10 operations of the district conducted pursuant to Section 11A.210,
11 the district has satisfied generally accepted accounting standards
12 of fiscal management as evidenced by an unqualified opinion in the
13 standard report issued and filed pursuant to Section 11A.210.

14 (b-1) Notwithstanding Subsection (b), a charter holder is
15 eligible for instructional facilities allotments for the 2006-2007
16 school year in accordance with this section if any campus of a
17 public charter district for which the charter holder has been
18 granted a license has been rated exemplary or recognized under
19 Subchapter D, Chapter 39, for at least two of the 2003-2004,
20 2004-2005, and 2005-2006 school years.

21 (b-2) Subsection (b-1) and this subsection expire September
22 1, 2007.

23 (c) Once a public charter district satisfies the initial
24 eligibility requirements under Subsection (b) and receives an
25 allotment under this section, the district continues to remain
26 eligible until the district receives an accountability rating of
27 unacceptable under Subchapter D, Chapter 39, at which point the

1 district is again subject to the eligibility requirements of
2 Subsection (b).

3 (d) The commissioner annually shall review the eligibility
4 of a public charter district campus for purposes of this section.

5 (e) Except as otherwise provided by this section, a charter
6 holder is entitled to an annual allotment in an amount determined by
7 the commissioner, not to exceed \$1,000 or a different amount
8 provided by appropriation, for each student in average daily
9 attendance during the preceding year at a campus of a public charter
10 district that is eligible for an allotment under this section.

11 (f) A charter holder who receives funds under this section
12 may use the funds only to:

13 (1) purchase real property on which to construct an
14 instructional facility for a public charter district campus for
15 which the funds were paid under Subsection (e);

16 (2) purchase, lease, construct, expand, or renovate
17 instructional facilities for a public charter district campus for
18 which the funds were paid under Subsection (e);

19 (3) pay debt service in connection with instructional
20 facilities purchased or improved for a campus of the public charter
21 district that meets the requirements under Subsection (b); or

22 (4) maintain and operate public charter district
23 instructional facilities.

24 (g) A decision of the commissioner under Subsection (e) is
25 final and may not be appealed.

26 (h) The commissioner shall by rule establish procedures to
27 ensure that funds a charter holder claims to be using for purposes

1 of Subsection (f)(3) are used only for that purpose.

2 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received
3 under Section 11A.201 or 11A.202 by a charter holder:

4 (1) are considered to be public funds for all purposes
5 under state law;

6 (2) are held in trust by the charter holder for the
7 benefit of this state and the students of the public charter
8 district;

9 (3) may be used only for a purpose for which a school
10 may use local funds under Section 45.105(c) in the case of funds
11 received under Section 11A.201, and may be used only for a purpose
12 specified under Section 11A.202(f) in the case of funds received
13 under Section 11A.202; and

14 (4) pending their use, must be deposited into a bank,
15 as defined by Section 45.201, with which the charter holder has
16 entered into a depository contract under Section 11A.204.

17 (b) Funds deposited under Subsection (a)(4) may be directly
18 deposited into an account controlled by a bond trustee acting for
19 the charter holder pursuant to a bond indenture agreement requiring
20 direct deposit.

21 (c) The commissioner shall adopt rules for identifying
22 public funds in accordance with Subsection (a).

23 (d) The commissioner may bring an action in district court
24 in Travis County for injunctive or other relief to enforce this
25 section. In identifying public funds held by a charter holder, the
26 court shall use the criteria adopted by the commissioner under
27 Subsection (c). Except as otherwise provided by this subsection,

1 the court shall enter any order under this subsection concerning
2 public funds held by the charter holder necessary to best serve the
3 interests of the students of a public charter district. In the case
4 of a public charter district that has ceased to operate, the court
5 shall enter any order under this subsection concerning public funds
6 held by the charter holder necessary to best serve the interests of
7 this state.

8 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank
9 selected as a school depository and the charter holder shall enter
10 into a depository contract, bond, or other necessary instrument
11 setting forth the duties and agreements pertaining to the
12 depository, in a form and with the content prescribed by the State
13 Board of Education.

14 (b) The depository bank shall attach to the contract and
15 file with the charter holder a bond in an initial amount equal to
16 the estimated highest daily balance, determined by the charter
17 holder, of all deposits that the charter holder will have in the
18 depository during the term of the contract, less any applicable
19 Federal Deposit Insurance Corporation insurance. The bond must be
20 payable to the charter holder and must be signed by the depository
21 bank and by a surety company authorized to engage in business in
22 this state. The depository bank shall increase the amount of the
23 bond if the charter holder determines the increase is necessary to
24 adequately protect the funds of the charter holder deposited with
25 the depository bank.

26 (c) The bond shall be conditioned on:

27 (1) the faithful performance of all duties and

1 obligations imposed by law on the depository;

2 (2) the payment on presentation of all checks or
3 drafts on order of the charter holder, in accordance with its orders
4 entered by the charter holder according to law;

5 (3) the payment on demand of any demand deposit in the
6 depository;

7 (4) the payment, after the expiration of the period of
8 notice required, of any time deposit in the depository;

9 (5) the faithful keeping of school funds by the
10 depository and the accounting for the funds according to law; and

11 (6) the faithful paying over to the successor
12 depository all balances remaining in the accounts.

13 (d) The bond and the surety on the bond must be approved by
14 the charter holder. A premium on the depository bond may not be
15 paid out of charter holder funds related to operation of the public
16 charter district.

17 (e) The charter holder shall file a copy of the depository
18 contract and bond with the agency.

19 (f) Instead of the bond required under Subsection (b), the
20 depository bank may deposit or pledge, with the charter holder or
21 with a trustee designated by the charter holder, approved
22 securities, as defined by Section 45.201, in an amount sufficient
23 to adequately protect the funds of the charter holder deposited
24 with the depository bank. A depository bank may give a bond and
25 deposit or pledge approved securities in an aggregate amount
26 sufficient to adequately protect the funds of the charter holder
27 deposited with the depository bank. The charter holder shall

1 periodically designate the amount of approved securities or the
2 aggregate amount of the bond and approved securities necessary to
3 adequately protect the charter holder. The charter holder may not
4 designate an amount less than the balance of charter holder funds on
5 deposit with the depository bank from day to day, less any
6 applicable Federal Deposit Insurance Corporation insurance. The
7 depository bank may substitute approved securities on obtaining the
8 approval of the charter holder. For purposes of this subsection,
9 the approved securities are valued at their market value.

10 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter
11 holder who accepts state funds under Section 11A.201 or 11A.202
12 agrees to be subject to all requirements, prohibitions, and
13 sanctions authorized under this chapter.

14 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE
15 FUNDS. (a) Property purchased or leased with funds received by a
16 charter holder under Section 11A.201 or 11A.202:

17 (1) is considered to be public property for all
18 purposes under state law;

19 (2) is held in trust by the charter holder for the
20 benefit of this state and the students of the public charter
21 district; and

22 (3) may be used only for a purpose for which a school
23 district may use school district property.

24 (b) The commissioner shall:

25 (1) take possession and assume control of the property
26 described by Subsection (a) of a public charter district that
27 ceases to operate; and

1 (2) supervise the disposition of the property in
2 accordance with law.

3 (c) This section does not affect the priority of a security
4 interest in or lien on property established by a creditor in
5 compliance with law if the security interest or lien arose in
6 connection with the sale or lease of the property to the charter
7 holder.

8 (d) The commissioner shall adopt rules for identifying
9 public property in accordance with Subsection (a).

10 (e) The commissioner may bring an action in district court
11 in Travis County for injunctive or other relief to enforce this
12 section. In identifying public property held by a charter holder,
13 the court shall use the criteria adopted by the commissioner under
14 Subsection (d). Except as otherwise provided by this subsection,
15 the court shall enter any order under this subsection concerning
16 public property held by the charter holder necessary to best serve
17 the interests of the students of a public charter district. In the
18 case of a public charter district that has ceased to operate, the
19 court shall enter any order under this subsection concerning public
20 property held by the charter holder necessary to best serve the
21 interests of this state. The court may order title to real or
22 personal public property held by the charter holder transferred to
23 a trust established for the purpose of managing the property or may
24 make other disposition of the property necessary to best serve the
25 interests of this state.

26 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER
27 DISTRICT LAND OR FACILITIES. A municipality to which a charter is

1 granted under this chapter may borrow funds, issue obligations, or
2 otherwise spend its funds to acquire land or acquire, construct,
3 expand, or renovate school buildings or facilities and related
4 improvements for its public charter district within the city limits
5 of the municipality in the same manner the municipality is
6 authorized to borrow funds, issue obligations, or otherwise spend
7 its funds in connection with any other public works project.

8 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND
9 TECHNOLOGY. A public charter district is entitled to funding for
10 instructional materials under Chapter 31 and technology under
11 Subchapter A, Chapter 32, and is subject to those provisions as if
12 the public charter district were a school district.

13 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public
14 charter district shall annually adopt a budget for the district.

15 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public
16 charter district shall conduct an annual audit in a manner that
17 complies with Section 44.008.

18 [Sections 11A.211-11A.250 reserved for expansion]

19 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

20 Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by
21 this section, a public charter district may not discriminate in
22 admission policy on the basis of sex, national origin, ethnicity,
23 religion, disability, or academic, artistic, or athletic ability or
24 the district the child would otherwise attend in accordance with
25 this code.

26 (b) A public charter district admission policy may provide
27 for the exclusion of a student who has a documented history of a

1 criminal offense, a juvenile court adjudication, or discipline
2 problems under Subchapter A, Chapter 37.

3 (c) A public charter district admission policy may require a
4 student to demonstrate artistic ability if the school specializes
5 in performing arts.

6 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to
7 a public charter district campus, the governing body of the
8 district shall:

9 (1) require the applicant to complete and submit an
10 application not later than a reasonable deadline the district
11 establishes; and

12 (2) on receipt of more acceptable applications for
13 admission under this section than available positions in the
14 school:

15 (A) fill the available positions by lottery; or

16 (B) subject to Subsection (b), fill the available
17 positions in the order in which applications received before the
18 application deadline were received.

19 (b) A public charter district may fill applications for
20 admission under Subsection (a)(2)(B) only if the district published
21 a notice of the opportunity to apply for admission to the district.

22 A notice published under this subsection must:

23 (1) state the application deadline;

24 (2) be published in a newspaper of general circulation
25 in the community in which the district campus is located not later
26 than the seventh day before the application deadline; and

27 (3) be made available on the public charter district's

1 Internet website, if available.

2 (c) A public charter district may exempt an applicant from
3 the requirements of Subsection (a)(2) if the applicant is:

4 (1) the child or grandchild of a member of the
5 governing body of the charter holder at the time the district's
6 charter was first granted;

7 (2) the child of an employee of the district or the
8 charter holder; or

9 (3) a sibling of a student who is enrolled in the
10 district.

11 (d) A public charter district that specializes in one or
12 more performing arts may require an applicant to audition for
13 admission to the school.

14 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided
15 by Subsection (b) or as otherwise determined impracticable by the
16 commissioner, during a public charter district's first year of
17 operation, the district must have a student enrollment of at least
18 100 and not more than 500 at any time during the school year.

19 (b) A public charter district may have a student enrollment
20 of less than 100 if approved by the commissioner.

21 (c) Not later than a public charter district's third year of
22 operation, at least 25 percent of the district's students must be
23 enrolled in one or more grade levels for which assessment
24 instruments are administered under Section 39.023(a).

25 (d) The commissioner may grant a waiver from the
26 requirements of Subsection (c) for a public charter district that
27 opens a campus serving prekindergarten or kindergarten students and

1 agrees to:

2 (1) add at least one higher grade level class each
3 school year after opening the campus; and

4 (2) until the campus complies with Subsection (c),
5 adopt accountability measures to assess the performance of the
6 students not assessed under Section 39.023(a).

7 (e) The commissioner may grant a waiver from the
8 requirements of Subsection (c) for a public charter district that
9 was operating an open-enrollment charter school campus on January
10 1, 2005, serving prekindergarten, kindergarten, and first, second,
11 and third grade students if the public charter district:

12 (1) adopts one or more nationally norm-referenced
13 assessment instruments approved by the commissioner;

14 (2) administers the assessment instruments to its
15 second grade students at intervals and in the manner specified by
16 commissioner rule; and

17 (3) meets the applicable standards for student
18 performance on the assessment instruments, as determined by
19 commissioner rule.

20 (f) The commissioner shall adopt rules necessary to
21 implement this section.

22 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public
23 charter district may not charge tuition to an eligible student who
24 applies for admission to the district under this chapter.

25 (b) The governing body of a public charter district may
26 require a student to pay any fee that the board of trustees of a
27 school district may charge under Section 11.158(a). The governing

1 body may not require a student to pay a fee that the board of
2 trustees of a school district may not charge under Section
3 11.158(b).

4 Sec. 11A.255. TRANSPORTATION. A public charter district
5 shall provide transportation to each student attending the school
6 to the same extent a school district is required by law to provide
7 transportation to district students.

8 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY
9 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The
10 governing body of a public charter district shall adopt a code of
11 conduct for the district or for each campus in the district.

12 (b) The code of conduct must include:

13 (1) standards for student behavior, including the
14 types of prohibited behaviors and the possible consequences of
15 misbehavior; and

16 (2) the district's due process procedures regarding
17 expulsion of a student.

18 (c) A final decision of the governing body of a public
19 charter district regarding action taken under the code of conduct
20 may not be appealed.

21 (d) A public charter district may not expel a student for a
22 reason that is not authorized by Section 37.007 or specified in the
23 district's code of conduct as conduct that may result in expulsion.

24 (e) Section 37.002 does not apply to a public charter
25 district except to the extent specified by the governing body of the
26 public charter district in the district's code of conduct.

27 [Sections 11A.257-11A.300 reserved for expansion]

1 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

2 Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except
3 as otherwise required by this section or chapter, a person employed
4 as a teacher by a public charter district must hold a high school
5 diploma.

6 (b) To the extent required by federal law, including 20
7 U.S.C. Section 7801(11), a person employed as a teacher by a public
8 charter district must hold a baccalaureate degree.

9 Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE
10 QUALIFICATIONS. (a) Each public charter district shall provide to
11 the parent or guardian of each student enrolled at a campus in the
12 district written notice of the qualifications of each professional
13 employee, including each teacher, employed at the campus.

14 (b) The notice must include:

15 (1) any professional or educational degree held by the
16 employee;

17 (2) a statement of any certification under Subchapter
18 B, Chapter 21, held by the employee; and

19 (3) any relevant experience of the employee.

20 Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The
21 governing body of a public charter district shall obtain a complete
22 set of fingerprints from each person described by Section
23 21.0032(a).

24 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF
25 CERTAIN APPLICANTS. A public charter district must comply with
26 Section 21.0032 before employing or otherwise securing the services
27 of a person as a teacher, teacher intern or trainee, librarian,

1 educational aide, administrator, or counselor, regardless of
2 whether the applicant is certified under Subchapter B, Chapter 21.

3 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
4 TEXAS. (a) An employee of a public charter district who qualifies
5 for membership in the Teacher Retirement System of Texas shall be
6 covered under the system to the same extent a qualified employee of
7 a school district is covered.

8 (b) For each employee of a public charter district covered
9 under the system, the public charter district is responsible for
10 making any contribution that otherwise would be the legal
11 responsibility of a school district, and the state is responsible
12 for making contributions to the same extent it would be legally
13 responsible if the employee were a school district employee.

14 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.
15 (a) This section applies to a charter holder that on January 1,
16 2005, operated an open-enrollment charter school under former
17 Subchapter D, Chapter 12.

18 (b) Using state funds received by the charter holder for
19 that purpose under Section 11A.2011, a charter holder that
20 participated in the program under Chapter 1579, Insurance Code, for
21 the 2004-2005 school year each school year shall provide classroom
22 teachers, full-time librarians, full-time counselors certified
23 under Subchapter B, Chapter 21, and full-time school nurses
24 appropriately licensed under Chapter 301, Occupations Code,
25 employed by the charter holder compensation in the form of annual
26 salaries, incentives, or other compensation determined appropriate
27 by the charter holder that results in an average compensation

1 increase for the employees of \$2,500.

2 (c) Using state funds received by the charter holder for
3 that purpose under Section 11A.2011, a charter holder that did not
4 participate in the program under Chapter 1579, Insurance Code, for
5 the 2004-2005 school year each school year shall provide classroom
6 teachers, full-time librarians, full-time counselors certified
7 under Subchapter B, Chapter 21, and full-time school nurses
8 appropriately licensed under Chapter 301, Occupations Code,
9 employed by the charter holder compensation in the form of annual
10 salaries, incentives, or other compensation determined appropriate
11 by the charter holder that results in an average compensation
12 increase for the employees of \$1,500.

13 (d) A payment under this section is in addition to wages the
14 charter holder would otherwise pay the employee during the school
15 year.

16 [Sections 11A.307-11A.350 reserved for expansion]

17 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

18 Sec. 11A.351. AUDIT. (a) To the extent consistent with
19 this section, the commissioner may audit the records of:

20 (1) a public charter district or campus;

21 (2) a charter holder; and

22 (3) a management company.

23 (b) An audit under Subsection (a) must be limited to matters
24 directly related to the management or operation of a public charter
25 district, including any financial, student, and administrative
26 records.

27 (c) Unless the commissioner has specific cause to conduct an

1 additional audit, the commissioner may not conduct more than one
2 on-site audit of a public charter district under this section
3 during any fiscal year, including any audit of financial, student,
4 and administrative records. For purposes of this subsection, an
5 audit of a charter holder or management company associated with a
6 public charter district is not considered an audit of the district.

7 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a
8 subpoena to compel the attendance and testimony of a witness or the
9 production of materials relevant to an audit or investigation under
10 this chapter.

11 (b) A subpoena may be issued throughout the state and may be
12 served by any person designated by the commissioner.

13 (c) If a person fails to comply with a subpoena issued under
14 this section, the commissioner, acting through the attorney
15 general, may file suit to enforce the subpoena in a district court
16 in Travis County or in the county in which the audit or
17 investigation is conducted. The court shall order compliance with
18 the subpoena if the court finds that good cause exists to issue the
19 subpoena.

20 (d) This section expires September 1, 2007.

21 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take
22 any of the actions described by Subsection (b) or by Section
23 39.131(a), to the extent the commissioner determines necessary, if
24 a public charter district, as determined by a report issued under
25 Section 39.076(b):

26 (1) commits a material violation of the district's
27 charter;

1 (2) fails to satisfy generally accepted accounting
2 standards of fiscal management; or

3 (3) fails to comply with this chapter or another
4 applicable rule or law.

5 (b) The commissioner may temporarily withhold funding,
6 suspend the authority of a public charter district to operate, or
7 take any other reasonable action the commissioner determines
8 necessary to protect the health, safety, or welfare of students
9 enrolled at a district campus based on evidence that conditions at
10 the district campus present a danger to the health, safety, or
11 welfare of the students.

12 (c) After the commissioner acts under Subsection (b), the
13 public charter district may not receive funding and may not resume
14 operating until a determination is made that:

15 (1) despite initial evidence, the conditions at the
16 district campus do not present a danger of material harm to the
17 health, safety, or welfare of students; or

18 (2) the conditions at the district campus that
19 presented a danger of material harm to the health, safety, or
20 welfare of students have been corrected.

21 (d) Not later than the third business day after the date the
22 commissioner acts under Subsection (b), the commissioner shall
23 provide the charter holder an opportunity for a hearing. This
24 subsection does not apply to an action taken by the commissioner
25 under Chapter 39.

26 (e) Immediately after a hearing under Subsection (d), the
27 commissioner must cease the action under Subsection (b) or initiate

1 action under Section 11A.108.

2 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN
3 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the
4 Foundation School Program, the commissioner shall reduce the total
5 amount of state funds allocated to each district from any source in
6 the same manner described for a reduction in allotments under
7 Section 42.313 and adopt and implement a program for supervising
8 the administration of assessment instruments under Section 39.023
9 during the 2005-2006 school year at an open-enrollment charter
10 school, other than a school operated by an entity described by
11 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent
12 of all students enrolled at the school and administered an
13 assessment instrument under Section 39.023(a), (c), or (l)
14 performed satisfactorily on:

15 (1) the assessment instrument in mathematics, as
16 determined by the school's assessment instrument results for the
17 2004-2005 school year; or

18 (2) the assessment instrument in reading or English
19 language arts, as applicable, as determined by the school's
20 assessment instrument results for the 2004-2005 school year.

21 (b) The program adopted under Subsection (a) must be
22 designed to:

23 (1) ensure that the location at which an assessment
24 instrument is administered is secure and under the supervision of
25 persons who do not have any interest in the results of the
26 assessment instrument; and

27 (2) provide direct supervision of:

1 (A) the transportation of the assessment
2 instrument materials to and from the location at which the
3 instrument is administered; and

4 (B) the administration of the assessment
5 instrument to students.

6 (c) The commissioner may adopt rules necessary to
7 administer this section and may take any action that the
8 commissioner determines necessary to ensure the integrity of the
9 results of an assessment instrument administered at an
10 open-enrollment charter school described by Subsection (a).

11 (d) After deducting the amount withheld under Subsection
12 (a) from the total amount appropriated for the Foundation School
13 Program, the commissioner shall reduce the total amount of state
14 funds allocated to each district from any source in the same manner
15 described for a reduction in allotments under Section 42.313.

16 (e) An open-enrollment charter school's failure to fully
17 cooperate with the commissioner under this section is sufficient
18 grounds for revocation of the district's charter, as determined by
19 the commissioner.

20 (f) This section expires September 1, 2006.

21 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The
22 commissioner shall periodically consult with representatives of
23 charter holders regarding the duties and mission of the agency
24 relating to the operation of public charter districts. The
25 commissioner shall determine the frequency of the consultations.

26 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing
27 in this chapter may be construed to limit the commissioner's

1 authority under Chapter 39.

2 Sec. 11A.356. RULES. The commissioner may adopt rules for
3 the administration of this chapter.

4 [Sections 11A.357-11A.400 reserved for expansion]

5 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

6 Sec. 11A.401. AUTHORIZATION. (a) In this section,
7 "eligible entity" means an organization that is exempt from
8 taxation under Section 501(a), Internal Revenue Code of 1986, as an
9 organization described by Section 501(c)(3) of that code.

10 (b) In accordance with this subchapter, the commissioner
11 may authorize not more than three charter holders to grant a charter
12 to an eligible entity to operate a blue ribbon charter campus if:

13 (1) the charter holder proposes to grant the blue
14 ribbon charter to replicate a distinctive education program;

15 (2) the charter holder has demonstrated the ability to
16 replicate the education program;

17 (3) the education program has been implemented by the
18 charter holder for at least seven school years; and

19 (4) the charter school in which the charter holder has
20 implemented the program has been rated recognized or exemplary
21 under Section 39.072 for at least five school years.

22 (b-1) An eligible entity that assumed operation of an
23 existing charter school program during the seven years preceding
24 the proposed authorization under Subsection (b) may be authorized
25 to grant a blue ribbon charter under Subsection (b) if:

26 (1) the performance level of the program at a campus
27 before and after the entity assumed operation of the program meets

1 the qualifications described by Subsection (b); and

2 (2) the entity has met the qualifications described by
3 Subsection (b) since assuming operation of the program.

4 (c) A charter holder may grant a blue ribbon charter only to
5 an applicant that meets any financial, governing, and operational
6 standards adopted by the commissioner under this subchapter.

7 (d) A charter holder may grant not more than two blue ribbon
8 charters under this subchapter.

9 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue
10 ribbon charter campus is considered a public charter district
11 campus for purposes of state and federal law.

12 (b) A blue ribbon charter granted under this subchapter is
13 not considered for purposes of the limit on the number of public
14 charter districts imposed by Section 11A.002.

15 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE
16 RIBBON CHARTER CAMPUS. (a) The governing body of the public
17 charter district authorizing a blue ribbon charter is responsible
18 for the management and operation of the campus operated under a
19 blue ribbon charter. A blue ribbon charter campus is subject to the
20 rules and policies of the governing body of the charter holder that
21 granted the blue ribbon charter.

22 (b) For purposes of academic and financial accountability
23 and all other purposes under this chapter and Chapter 39, a blue
24 ribbon charter campus is considered a campus of the public charter
25 district operated by the charter holder that granted the blue
26 ribbon charter.

27 (c) A charter holder is entitled to receive funding for a

1 blue ribbon charter campus as if the blue ribbon charter campus were
2 a campus of the public charter district operated by the charter
3 holder.

4 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The
5 commissioner by rule shall adopt an application form and procedures
6 for a charter holder to apply for authorization to grant a blue
7 ribbon charter to an eligible entity under this subchapter.

8 (b) The application must specify:

9 (1) the criteria that will be used to grant blue ribbon
10 charters;

11 (2) procedures for governance and management of
12 campuses operating under a blue ribbon charter; and

13 (3) the performance standard by which continuation of
14 a blue ribbon charter will be determined.

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

17 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The
18 commissioner may revoke a charter holder's authorization to grant a
19 blue ribbon charter or operate a campus granted a blue ribbon
20 charter if the commissioner determines that the purposes of this
21 subchapter are not being satisfied.

22 (b) On revocation of a charter holder's authority under this
23 section, the charter holder shall:

24 (1) operate a campus granted a blue ribbon charter as a
25 standard campus of the charter holder under this chapter; or

26 (2) close the campus effective at the end of the school
27 year in which the commissioner revokes the authorization.

1 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter
2 granted under this subchapter must:

3 (1) describe the educational program to be offered,
4 which may be a general or specialized education program;

5 (2) provide that continuation of the charter is
6 contingent on satisfactory student performance under Subchapter B,
7 Chapter 39, and on compliance with other applicable accountability
8 provisions under Chapter 39;

9 (3) specify any basis, in addition to a basis
10 specified by this subchapter, on which the charter may be placed on
11 probation or revoked;

12 (4) prohibit discrimination in admission on the basis
13 of national origin, ethnicity, race, religion, or disability;

14 (5) describe the governing structure of the blue
15 ribbon charter campus;

16 (6) specify any procedure or requirement, in addition
17 to those under Chapter 38, that the campus will follow to ensure the
18 health and safety of students and employees; and

19 (7) describe the manner in which the campus and
20 charter holder granting the blue ribbon charter will comply with
21 financial and operational requirements, including requirements
22 related to the Public Education Information Management System
23 (PEIMS) under Section 11A.158 and the audit requirements under
24 Section 11A.210.

25 (b) A charter holder may reserve the right to approve
26 contracts, governance alterations, personnel decisions, and other
27 matters affecting the operation of the blue ribbon charter campus.

1 Sec. 11A.452. APPLICABILITY. The commissioner shall
2 appoint a receiver under this subchapter for each open-enrollment
3 charter school that on June 1, 2005, was operating under a charter
4 issued under Subchapter D, Chapter 12, as that subchapter existed
5 on January 1, 2005, and:

6 (1) is not authorized to operate as a public charter
7 district under this chapter; or

8 (2) elects not to operate as a public charter district
9 under this chapter.

10 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)
11 The commissioner shall appoint a receiver to protect the assets and
12 direct the dissolution of open-enrollment charter schools subject
13 to this subchapter.

14 (b) The receiver shall execute a bond in an amount set by the
15 commissioner to ensure the proper performance of the receiver's
16 duties.

17 (c) Until discharged by the commissioner, the receiver
18 shall perform the duties that the commissioner directs to preserve
19 the assets and direct the dissolution of the open-enrollment
20 charter school under this subchapter.

21 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After
22 appointment and execution of bond under Section 11A.453, the
23 receiver shall take possession of:

24 (1) assets and records in the possession of the
25 open-enrollment charter school specified by the commissioner; and

26 (2) any Foundation School Program funds and any other
27 public funds received by the school's charter holder.

1 (b) On request of the receiver, the attorney general shall
2 file a suit for attachment, garnishment, or involuntary bankruptcy
3 and take any other action necessary for the dissolution of an
4 open-enrollment charter school under this subchapter.

5 (c) If the charter holder of an open-enrollment charter
6 school or an officer or employee of such a school refuses to
7 transfer school assets or records to a receiver under this
8 subsection, the receiver may ask the attorney general to petition a
9 court for recovery of the assets or records. If the court grants
10 the petition, the court shall award attorney's fees and court costs
11 to the state.

12 (d) A record described by this section is a public school
13 record for purposes of Section 37.10(c)(2), Penal Code.

14 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall
15 wind up the affairs of an open-enrollment charter school and,
16 except as provided by Subsection (b), reduce its assets to cash for
17 the purpose of discharging all existing liabilities and obligations
18 of the school. In winding up the affairs of a school, the receiver
19 shall cooperate in any bankruptcy proceeding affecting the school.
20 The receiver shall distribute any remaining balance to the
21 commissioner.

22 (b) A receiver shall offer free of charge any equipment and
23 supplies of an open-enrollment charter school dissolved under this
24 subchapter to school districts, giving priority to districts based
25 on the percentage of the charter school's students that reside in
26 the districts.

27 (c) The commissioner shall use money in the foundation

1 school fund and money received under this section to pay the costs
2 described by Section 11A.458 and discharge liabilities and
3 obligations of open-enrollment charter schools under this
4 subchapter. The commissioner shall deposit any remaining balance
5 in the foundation school fund.

6 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of
7 an open-enrollment charter school subject to this subchapter shall
8 be transferred in the manner specified by the commissioner to a
9 custodian designated by the commissioner. The commissioner may
10 designate any appropriate entity to serve as custodian of records,
11 including the agency, a regional education service center, or a
12 school district. In designating a custodian, the commissioner
13 shall ensure that the transferred records, including student and
14 personnel records, are transferred to a custodian capable of:

15 (1) maintaining the records;

16 (2) making the records readily accessible to students,
17 parents, former school employees, and other persons entitled to
18 access; and

19 (3) complying with applicable state or federal law
20 restricting access to the records.

21 (b) The commissioner is entitled to access to any records
22 transferred to a custodian under this section as the commissioner
23 determines necessary for auditing, investigative, or monitoring
24 purposes.

25 Sec. 11A.457. LIABILITY. A receiver is not personally
26 liable for actions taken by the receiver under this subchapter.

27 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may

1 authorize reimbursement of reasonable costs related to the
2 receivership, including:

3 (1) payment of fees to the receiver for the receiver's
4 services; and

5 (2) payment of fees to attorneys, accountants, or any
6 other person that provides goods or services necessary to the
7 operation of the receivership.

8 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The
9 competitive bidding requirements of this code and the contracting
10 requirements of Chapter 2155, Government Code, do not apply to the
11 appointment of a receiver, attorney, accountant, or other person
12 appointed under this subchapter.

13 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is
14 amended by adding Sections 12.1058 and 12.135 to read as follows:

15 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT
16 PROVISIONS. (a) An open-enrollment charter school is subject to
17 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,
18 11A.304, 11A.352, 21.0032, and 21.058.

19 (b) The commissioner may bring an action for injunctive or
20 other relief as provided by Section 11A.203(d) to enforce Section
21 12.107.

22 (c) For purposes of this section, a reference in a law
23 described by this section to a public charter district means an
24 open-enrollment charter school.

25 Sec. 12.135. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

26 (a) This section applies to a charter holder that on January 1,
27 2005, operated an open-enrollment charter school.

1 (b) Using state funds received by the charter holder for
2 that purpose under Subsection (d), a charter holder that
3 participated in the program under Chapter 1579, Insurance Code, for
4 the 2004-2005 school year each school year shall provide classroom
5 teachers, full-time librarians, full-time counselors certified
6 under Subchapter B, Chapter 21, and full-time school nurses
7 appropriately licensed under Chapter 301, Occupations Code,
8 employed by the charter holder compensation in the form of annual
9 salaries, incentives, or other compensation determined appropriate
10 by the charter holder that results in an average compensation
11 increase for the employees of \$2,000.

12 (c) Using state funds received by the charter holder for
13 that purpose under Subsection (e), a charter holder that did not
14 participate in the program under Chapter 1579, Insurance Code, for
15 the 2004-2005 school year each school year shall provide classroom
16 teachers, full-time librarians, full-time counselors certified
17 under Subchapter B, Chapter 21, and full-time school nurses
18 appropriately licensed under Chapter 301, Occupations Code,
19 employed by the charter holder compensation in the form of annual
20 salaries, incentives, or other compensation determined appropriate
21 by the charter holder that results in an average compensation
22 increase for the employees of \$1,000.

23 (d) In addition to any amounts to which a charter holder is
24 entitled under this chapter, a charter holder that participated in
25 the program under Chapter 1579, Insurance Code, for the 2004-2005
26 school year is entitled to state aid in an amount, as determined by
27 the commissioner, equal to the product of \$2,000 multiplied by the

1 number of classroom teachers, full-time librarians, full-time
2 counselors certified under Subchapter B, Chapter 21, and full-time
3 school nurses appropriately licensed under Chapter 301,
4 Occupations Code, who are employed by the charter holder at an
5 open-enrollment charter school.

6 (e) In addition to any amounts to which a charter holder is
7 entitled under this chapter, a charter holder that did not
8 participate in the program under Chapter 1579, Insurance Code, for
9 the 2004-2005 school year is entitled to state aid in an amount, as
10 determined by the commissioner, equal to the product of \$1,000
11 multiplied by the number of classroom teachers, full-time
12 librarians, full-time counselors certified under Subchapter B,
13 Chapter 21, and full-time school nurses appropriately licensed
14 under Chapter 301, Occupations Code, who are employed by the
15 charter holder at an open-enrollment charter school.

16 (f) A payment under this section is in addition to wages the
17 charter holder would otherwise pay the employee during the school
18 year.

19 SECTION 4.04. Sections 12.152 and 12.156, Education Code,
20 are amended to read as follows:

21 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this
22 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of
23 Education may grant a charter on the application of a public senior
24 college or university for a public [~~an open-enrollment~~] charter
25 district [~~school~~] to operate on the campus of the public senior
26 college or university or in the same county in which the campus of
27 the public senior college or university is located.

1 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)
2 Except as otherwise provided by this subchapter, Chapter 11A
3 [~~Subchapter D~~] applies to a college or university charter school as
4 though the college or university charter school were granted a
5 charter under that chapter [~~subchapter~~].

6 (b) A charter granted under this subchapter is not
7 considered for purposes of the limit on the number of public
8 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section
9 11A.002 [~~12.101(b)~~].

10 (c) A college or university charter school is not subject to
11 a prohibition, restriction, or requirement relating to:

12 (1) open meetings and public information under Section
13 11A.053;

14 (2) maintenance of records under Section 11A.054;

15 (3) purchasing and contracting under Section 11A.055;

16 (4) conflict of interest under Section 11A.056;

17 (5) nepotism under Section 11A.057;

18 (6) composition of a governing body under Section
19 11A.152;

20 (7) restrictions on serving as a member of a governing
21 body or as an officer or employee under Section 11A.153;

22 (8) liability of members of a governing body under
23 Section 11A.154;

24 (9) training for members of a governing body under
25 Section 11A.155;

26 (10) bylaws and annual reports under Section 11A.156;

27 (11) quarterly financial reports under Section

1 11A.157; and

2 (12) depository bond and security requirements under
3 Section 11A.204.

4 (d) A college or university charter school and the governing
5 body of the school are subject to regulations and procedures that
6 govern a public senior college or university relating to open
7 meetings, records retention, purchasing, contracting, conflicts of
8 interest, and nepotism.

9 SECTION 4.05. Section 5.001, Education Code, is amended by
10 adding Subdivision (5-a) and amending Subdivision (6) to read as
11 follows:

12 (5-a) "Public charter campus" means a campus operated
13 by a public charter district.

14 (6) "Public charter district [~~Open-enrollment charter~~
15 ~~school~~]" means a public school authorized by [~~that has been~~
16 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

17 SECTION 4.06. Section 7.003, Education Code, is amended to
18 read as follows:

19 Sec. 7.003. LIMITATION ON AUTHORITY. An educational
20 function not specifically delegated to the agency or the board
21 under this code is reserved to and shall be performed by school
22 districts or [~~open-enrollment~~] charter schools.

23 SECTION 4.065. Section 7.027(b), Education Code, as added
24 by Chapter 201, Acts of the 78th Legislature, Regular Session,
25 2003, is amended to read as follows:

26 (b) The board of trustees of a school district or the
27 governing body of a public charter district [~~an open-enrollment~~

1 ~~charter school~~] has primary responsibility for ensuring that the
2 district [~~or school~~] complies with all applicable requirements of
3 state educational programs.

4 SECTION 4.07. Section 7.055(b)(17), Education Code, is
5 amended to read as follows:

6 (17) The commissioner shall distribute funds to public
7 charter districts [~~open-enrollment charter schools~~] as required
8 under Chapter 11A [~~Subchapter D, Chapter 12~~].

9 SECTION 4.08. Section 7.102(c)(9), Education Code, is
10 amended to read as follows:

11 (9) The board may grant a charter for a public charter
12 district [~~an open-enrollment charter or approve a charter revision~~]
13 as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

14 SECTION 4.09. Section 12.002, Education Code, is amended to
15 read as follows:

16 Sec. 12.002. CLASSES OF CHARTER. The classes of charter
17 under this chapter are:

18 (1) a home-rule school district charter as provided by
19 Subchapter B;

20 (2) a campus or campus program charter as provided by
21 Subchapter C; or

22 (3) a college or university [~~an open-enrollment~~]
23 charter as provided by Subchapter E [~~D~~].

24 SECTION 4.10. Effective August 1, 2006, Subchapter A,
25 Chapter 21, Education Code, is amended by adding Section 21.0032 to
26 read as follows:

27 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER

1 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or
2 serve as a teacher, teacher intern or teacher trainee, librarian,
3 educational aide, administrator, educational diagnostician, or
4 counselor for a public charter district unless the person has been
5 cleared by the agency following a national criminal history record
6 review and investigation under this section.

7 (b) Before or immediately after employing or securing the
8 services of a person described by Subsection (a), a public charter
9 district shall send to the agency the person's fingerprints and
10 social security number. The person may be employed or serve pending
11 action by the agency.

12 (c) The agency shall review and investigate the person's
13 national criminal history record information, educator
14 certification discipline history in any state, and other
15 information in the same manner as a review or investigation
16 conducted regarding an initial application for educator
17 certification. If the agency finds the person would not be eligible
18 for educator certification, the agency shall notify the public
19 charter district in writing that the person may not be employed or
20 serve in a capacity described by Subsection (a).

21 (d) On receipt of written notice under Subsection (c), a
22 public charter district may not employ or permit the person to serve
23 unless the person timely submits a written appeal under this
24 section. The agency shall conduct an appeal under this subsection
25 in the same manner as an appeal regarding the denial of an initial
26 application for educator certification.

27 SECTION 4.11. Sections 21.058(b) and (c), Education Code,

1 are amended to read as follows:

2 (b) Notwithstanding Section 21.041(b)(7), not later than
3 the fifth day after the date the board receives notice under Article
4 42.018, Code of Criminal Procedure, of the conviction of a person
5 described by Section 21.0032 or who holds a certificate under this
6 subchapter, the board shall:

7 (1) revoke the certificate or clearance held by the
8 person; and

9 (2) provide to the person and to any school district or
10 public charter district [~~open-enrollment charter school~~] employing
11 the person at the time of revocation written notice of:

12 (A) the revocation; and

13 (B) the basis for the revocation.

14 (c) A school district or public charter district
15 [~~open-enrollment charter school~~] that receives notice under
16 Subsection (b) of the revocation of a certificate issued under this
17 subchapter shall:

18 (1) immediately remove the person whose certificate
19 has been revoked from campus or from an administrative office, as
20 applicable, to prevent the person from having any contact with a
21 student; and

22 (2) as soon as practicable, terminate the employment
23 of the person in accordance with the person's contract and with this
24 subchapter.

25 SECTION 4.12. Sections 22.083(b) and (c), Education Code,
26 are amended to read as follows:

27 (b) A public charter district may [~~An open-enrollment~~

1 ~~charter school shall~~ obtain from the Department of Public Safety
2 ~~[any law enforcement or criminal justice agency]~~ all criminal
3 history record information that relates to:

4 (1) a person whom the district ~~[school]~~ intends to
5 employ in any capacity; or

6 (2) a person who has indicated, in writing, an
7 intention to serve as a volunteer with the district ~~[school]~~.

8 (c) A school district, public charter district
9 ~~[open-enrollment charter school]~~, private school, regional
10 education service center, or shared services arrangement may obtain
11 from a federal or state ~~[any]~~ law enforcement or criminal justice
12 agency all criminal history record information that relates to:

13 (1) a volunteer or employee of the district, school,
14 service center, or shared services arrangement; or

15 (2) an employee of or applicant for employment by a
16 person that contracts with the district, school, service center, or
17 shared services arrangement to provide services, if:

18 (A) the employee or applicant has or will have
19 continuing duties related to the contracted services; and

20 (B) the duties are or will be performed on school
21 property or at another location where students are regularly
22 present.

23 SECTION 4.13. Effective August 1, 2006, Section 22.084,
24 Education Code, is amended to read as follows:

25 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL
26 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided
27 by Subsections (c) and (d), a school district, public charter

1 district [~~open-enrollment charter school~~], private school,
2 regional education service center, or shared services arrangement
3 that contracts with a person for transportation services shall
4 obtain from the Department of Public Safety [~~any law enforcement or~~
5 ~~criminal justice agency~~] all criminal history record information
6 that relates to:

- 7 (1) a person employed by the person as a bus driver; or
8 (2) a person the person intends to employ as a bus
9 driver.

10 (b) Except as provided by Subsections (c) and (d), a person
11 that contracts with a school district, public charter district
12 [~~open-enrollment charter school~~], private school, regional
13 education service center, or shared services arrangement to provide
14 transportation services shall submit to the district, school,
15 service center, or shared services arrangement the name and other
16 identification data required to obtain criminal history record
17 information of each person described by Subsection (a). If the
18 district, school, service center, or shared services arrangement
19 obtains information that a person described by Subsection (a) has
20 been convicted of a felony or a misdemeanor involving moral
21 turpitude, the district, school, service center, or shared services
22 arrangement shall inform the chief personnel officer of the person
23 with whom the district, school, service center, or shared services
24 arrangement has contracted, and the person may not employ that
25 person to drive a bus on which students are transported without the
26 permission of the board of trustees of the district or service
27 center, the governing body of the public charter district

1 ~~[open-enrollment charter school]~~, or the chief executive officer of
2 the private school or shared services arrangement.

3 (c) A commercial transportation company that contracts with
4 a school district, public charter district ~~[open-enrollment~~
5 ~~charter school]~~, private school, regional education service
6 center, or shared services arrangement to provide transportation
7 services may obtain from a federal or state ~~[any]~~ law enforcement or
8 criminal justice agency all criminal history record information
9 that relates to:

10 (1) a person employed by the commercial transportation
11 company as a bus driver, bus monitor, or bus aide; or

12 (2) a person the commercial transportation company
13 intends to employ as a bus driver, bus monitor, or bus aide.

14 (d) If the commercial transportation company obtains
15 information that a person employed or to be employed by the company
16 has been convicted of a felony or a misdemeanor involving moral
17 turpitude, the company may not employ that person to drive or to
18 serve as a bus monitor or bus aide on a bus on which students are
19 transported without the permission of the board of trustees of the
20 district or service center, the governing body of the public
21 charter district ~~[open-enrollment charter school]~~, or the chief
22 executive officer of the private school or shared services
23 arrangement. Subsections (a) and (b) do not apply if information is
24 obtained as provided by Subsection (c).

25 SECTION 4.14. Section 25.087, Education Code, is amended by
26 amending Subsection (b) and adding Subsection (c) to read as
27 follows:

1 (b) A school district shall excuse a student from attending
2 school for:

3 (1) the following purposes, including travel for those
4 purposes:

5 (A) [purpose of] observing religious holy days;

6 (B) appearing at a governmental office to
7 complete paperwork required in connection with the student's
8 application for United States citizenship or to take part in a
9 naturalization oath ceremony;

10 (C) attending an appointment with the student's
11 probation officer;

12 (D) attending an adoption proceeding involving
13 the student; or

14 (E) attending a required court appearance; or

15 (2) a ~~[, including traveling for that purpose. A~~
16 ~~school district shall excuse a student for]~~ temporary absence
17 resulting from health care professionals if that student commences
18 classes or returns to school on the same day of the appointment.

19 (c) A student whose absence is excused under Subsection (b)
20 ~~[this subsection]~~ may not be penalized for that absence and shall be
21 counted as if the student attended school for purposes of
22 calculating the average daily attendance of students in the school
23 district. A student whose absence is excused under Subsection (b)
24 ~~[this subsection]~~ shall be allowed a reasonable time to make up
25 school work missed on those days. If the student satisfactorily
26 completes the school work, the day of absence shall be counted as a
27 day of compulsory attendance.

1 SECTION 4.15. Section 25.088, Education Code, is amended to
2 read as follows:

3 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school
4 attendance officer may be selected by:

- 5 (1) the county school trustees of any county;
6 (2) the board of trustees of any school district or the
7 boards of trustees of two or more school districts jointly; or
8 (3) the governing body of a public charter district
9 ~~[an open-enrollment charter school]~~.

10 SECTION 4.16. Section 25.089(a), Education Code, is amended
11 to read as follows:

12 (a) An attendance officer may be compensated from the funds
13 of the county, independent school district, or public charter
14 district ~~[open-enrollment charter school]~~, as applicable.

15 SECTION 4.17. Section 25.090(b), Education Code, is amended
16 to read as follows:

17 (b) If the governing body of a public charter district ~~[an~~
18 ~~open-enrollment charter school]~~ has not selected an attendance
19 officer for a district campus, the duties of attendance officer
20 shall be performed by the peace officers of the county in which the
21 campus ~~[school]~~ is located.

22 SECTION 4.18. Sections 25.093(d) and (e), Education Code,
23 are amended to read as follows:

24 (d) A fine collected under this section shall be deposited
25 as follows:

26 (1) one-half shall be deposited to the credit of the
27 operating fund of, as applicable:

1 (A) the school district in which the child
2 attends school;

3 (B) the public charter district [~~open-enrollment~~
4 ~~charter school~~] the child attends; or

5 (C) the juvenile justice alternative education
6 program that the child has been ordered to attend; and

7 (2) one-half shall be deposited to the credit of:

8 (A) the general fund of the county, if the
9 complaint is filed in the justice court or the constitutional
10 county court; or

11 (B) the general fund of the municipality, if the
12 complaint is filed in municipal court.

13 (e) At the trial of any person charged with violating this
14 section, the attendance records of the child may be presented in
15 court by any authorized employee of the school district or public
16 charter district [~~open-enrollment charter school~~], as applicable.

17 SECTION 4.19. Sections 25.095(a) and (b), Education Code,
18 are amended to read as follows:

19 (a) A school district or public charter district
20 [~~open-enrollment charter school~~] shall notify a student's parent in
21 writing at the beginning of the school year that if the student is
22 absent from school on 10 or more days or parts of days within a
23 six-month period in the same school year or on three or more days or
24 parts of days within a four-week period:

25 (1) the student's parent is subject to prosecution
26 under Section 25.093; and

27 (2) the student is subject to prosecution under

1 Section 25.094 or to referral to a juvenile court in a county with a
2 population of less than 100,000 for conduct that violates that
3 section.

4 (b) A school district or public charter district shall
5 notify a student's parent if the student has been absent from
6 school, without excuse under Section 25.087, on three days or parts
7 of days within a four-week period. The notice must:

8 (1) inform the parent that:

9 (A) it is the parent's duty to monitor the
10 student's school attendance and require the student to attend
11 school; and

12 (B) the parent is subject to prosecution under
13 Section 25.093; and

14 (2) request a conference between school officials and
15 the parent to discuss the absences.

16 SECTION 4.20. Section 25.0951(a), Education Code, as
17 amended by H.B. No. 1575, Acts of the 79th Legislature, Regular
18 Session, 2005, is amended to read as follows:

19 (a) If a student fails to attend school without excuse on 10
20 or more days or parts of days within a six-month period in the same
21 school year, a school district or public charter district shall
22 within seven school days of the student's last absence:

23 (1) file a complaint against the student or the
24 student's parent or both in a county, justice, or municipal court
25 for an offense under Section 25.093 or 25.094, as appropriate, or
26 refer the student to a juvenile court in a county with a population
27 of less than 100,000 for conduct that violates Section 25.094; or

1 (2) refer the student to a juvenile court for conduct
2 indicating a need for supervision under Section 51.03(b)(2), Family
3 Code.

4 SECTION 4.21. Section 25.0951(b), Education Code, is
5 amended to read as follows:

6 (b) If a student fails to attend school without excuse on
7 three or more days or parts of days within a four-week period but
8 does not fail to attend school for the time described by Subsection
9 (a), the school district or public charter district may:

10 (1) file a complaint against the student or the
11 student's parent or both in a county, justice, or municipal court
12 for an offense under Section 25.093 or 25.094, as appropriate, or
13 refer the student to a juvenile court in a county with a population
14 of less than 100,000 for conduct that violates Section 25.094; or

15 (2) refer the student to a juvenile court for conduct
16 indicating a need for supervision under Section 51.03(b)(2), Family
17 Code.

18 SECTION 4.22. Sections 26.0085(a), (c), (d), and (e),
19 Education Code, are amended to read as follows:

20 (a) A school district or public charter district
21 [~~open-enrollment charter school~~] that seeks to withhold
22 information from a parent who has requested public information
23 relating to the parent's child under Chapter 552, Government Code,
24 and that files suit as described by Section 552.324, Government
25 Code, to challenge a decision by the attorney general issued under
26 Subchapter G, Chapter 552, Government Code, must bring the suit not
27 later than the 30th calendar day after the date the school district

1 or public charter district [~~open-enrollment charter school~~]
2 receives the decision of the attorney general being challenged.

3 (c) Notwithstanding any other law, a school district or
4 public charter district [~~open-enrollment charter school~~] may not
5 appeal the decision of a court in a suit filed under Subsection (a).
6 This subsection does not affect the right of a parent to appeal the
7 decision.

8 (d) If the school district or public charter district
9 [~~open-enrollment charter school~~] does not bring suit within the
10 period established by Subsection (a), the school district or public
11 charter district [~~open-enrollment charter school~~] shall comply
12 with the decision of the attorney general.

13 (e) A school district or public charter district
14 [~~open-enrollment charter school~~] that receives a request from a
15 parent for public information relating to the parent's child shall
16 comply with Chapter 552, Government Code. If an earlier deadline
17 for bringing suit is established under Chapter 552, Government
18 Code, Subsection (a) does not apply. This section does not affect
19 the earlier deadline for purposes of Section 552.353(b)(3),
20 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer
21 for public information.

22 SECTION 4.23. Section 28.0211(j), Education Code, is
23 amended to read as follows:

24 (j) A school district [~~or open-enrollment charter school~~]
25 shall provide students required to attend accelerated programs
26 under this section with transportation to those programs if the
27 programs occur outside of regular school hours.

1 SECTION 4.24. Section 29.010(f), Education Code, is amended
2 to read as follows:

3 (f) This section does not create an obligation for or impose
4 a requirement on a school district [~~or open-enrollment charter~~
5 ~~school~~] that is not also created or imposed under another state law
6 or a federal law.

7 SECTION 4.25. Sections 29.012(a) and (c), Education Code,
8 are amended to read as follows:

9 (a) Except as provided by Subsection (b)(2), not later than
10 the third day after the date a person 22 years of age or younger is
11 placed in a residential facility, the residential facility shall:

12 (1) if the person is three years of age or older,
13 notify the school district in which the facility is located, unless
14 the facility is a public charter district [~~an open-enrollment~~
15 ~~charter school~~]; or

16 (2) if the person is younger than three years of age,
17 notify a local early intervention program in the area in which the
18 facility is located.

19 (c) For purposes of enrollment in a school, a person who
20 resides in a residential facility is considered a resident of the
21 school district or geographical area served by the public charter
22 district campus [~~open-enrollment charter school~~] in which the
23 facility is located.

24 SECTION 4.26. Sections 29.062(c)-(e), Education Code, are
25 amended to read as follows:

26 (c) Not later than the 30th day after the date of an on-site
27 monitoring inspection, the agency shall report its findings to the

1 school district [~~or open-enrollment charter school~~] and to the
2 division of accreditation.

3 (d) The agency shall notify a school district [~~or~~
4 ~~open-enrollment charter school~~] found in noncompliance in writing,
5 not later than the 30th day after the date of the on-site
6 monitoring. The district [~~or open-enrollment charter school~~] shall
7 take immediate corrective action.

8 (e) If a school district [~~or open-enrollment charter~~
9 ~~school~~] fails to satisfy appropriate standards adopted by the
10 commissioner for purposes of Subsection (a), the agency shall apply
11 sanctions, which may include the removal of accreditation, loss of
12 foundation school funds, or both.

13 SECTION 4.27. Sections 29.087(a)-(c), (e), (k), and (l),
14 Education Code, are amended to read as follows:

15 (a) The agency shall develop a process by which a school
16 district or public charter district [~~open-enrollment charter~~
17 ~~school~~] may apply to the commissioner for authority to operate a
18 program to prepare eligible students to take a high school
19 equivalency examination.

20 (b) Any school district or public charter district
21 [~~open-enrollment charter school~~] may apply for authorization to
22 operate a program under this section. As part of the application
23 process, the commissioner shall require a school district or public
24 charter district [~~or school~~] to provide information regarding the
25 operation of any similar program during the preceding five years.

26 (b-1) A school district or public charter district
27 [~~open-enrollment charter school~~] authorized by the commissioner on

1 or before August 31, 2003, to operate a program under this section
2 may continue to operate that program in accordance with this
3 section.

4 (c) A school district or public charter district
5 [~~open-enrollment charter school~~] may not increase enrollment of
6 students in a program authorized by this section by more than five
7 percent of the number of students enrolled in the similar program
8 operated by the school district or public charter district [~~or~~
9 ~~school~~] during the 2000-2001 school year.

10 (e) A school district or public charter district
11 [~~open-enrollment charter school~~] shall inform each student who has
12 completed a program authorized by this section of the time and place
13 at which the student may take the high school equivalency
14 examination. Notwithstanding any provision of this section, a
15 student may not take the high school equivalency examination except
16 as authorized by Section 7.111.

17 (k) The board of trustees of a school district or the
18 governing body [~~board~~] of a public charter district [~~an~~
19 ~~open-enrollment charter school~~] shall:

20 (1) hold a public hearing concerning the proposed
21 application of the school district or public charter district [~~or~~
22 ~~school~~] before applying to operate a program authorized by this
23 section; and

24 (2) subsequently hold a public hearing annually to
25 review the performance of the program.

26 (l) The commissioner may revoke a school district's or
27 public charter district's [~~open-enrollment charter school's~~]

1 authorization under this section after consideration of relevant
2 factors, including performance of students participating in the
3 school district's or public charter district's [~~or school's~~]
4 program on assessment instruments required under Chapter 39, the
5 percentage of students participating in the school district's or
6 public charter district's [~~or school's~~] program who complete the
7 program and perform successfully on the high school equivalency
8 examination, and other criteria adopted by the commissioner. A
9 decision by the commissioner under this subsection is final and may
10 not be appealed.

11 SECTION 4.28. Sections 29.155(a)-(d), (i), and (j),
12 Education Code, are amended to read as follows:

13 (a) From amounts appropriated for the purposes of this
14 section, the commissioner may make grants to school districts and
15 public charter districts [~~open-enrollment charter schools~~] to
16 implement or expand kindergarten and prekindergarten programs by:

17 (1) operating an existing half-day kindergarten or
18 prekindergarten program on a full-day basis; or

19 (2) implementing a prekindergarten program at a campus
20 that does not have a prekindergarten program.

21 (b) A school district or public charter district
22 [~~open-enrollment charter school~~] may use funds received under this
23 section to employ teachers and other personnel for a kindergarten
24 or prekindergarten program and acquire curriculum materials or
25 equipment, including computers, for use in kindergarten and
26 prekindergarten programs.

27 (c) To be eligible for a grant under this section, a school

1 district or public charter district [~~open-enrollment charter~~
2 ~~school~~] must apply to the commissioner in the manner and within the
3 time prescribed by the commissioner.

4 (d) In awarding grants under this section, the commissioner
5 shall give priority to districts and public charter districts
6 [~~open-enrollment charter schools~~] in which the level of performance
7 of students on the assessment instruments administered under
8 Section 39.023 to students in grade three is substantially below
9 the average level of performance on those assessment instruments
10 for all school districts in the state.

11 (i) In carrying out the purposes of Subsection (g), a school
12 district or public charter district [~~open-enrollment charter~~
13 ~~school~~] may use funds granted to the school district or public
14 charter district [~~or school~~] under this section [~~subsection~~] in
15 contracting with another entity, including a private entity.

16 (j) If a school district or public charter district
17 [~~open-enrollment charter school~~] returns to the commissioner funds
18 granted under this section, the commissioner may grant those funds
19 to another entity, including a private entity, for the purposes of
20 Subsection (g).

21 SECTION 4.29. Section 29.905(b), Education Code, is amended
22 to read as follows:

23 (b) The agency shall make the program available to a school
24 on the request of the board of trustees of [~~or~~] the school district
25 of which the school is a part, or if the school is a public charter
26 district [~~an open-enrollment charter school~~], on the request of the
27 governing body of the public charter district [~~school~~].

1 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is
2 amended by adding Section 32.1011 to read as follows:

3 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.
4 This subchapter applies to a public charter district as if the
5 public charter district were a school district.

6 SECTION 4.31. Section 32.102, Education Code, is amended to
7 read as follows:

8 Sec. 32.102. AUTHORITY. (a) As provided by this
9 subchapter, a school district [~~or open-enrollment charter school~~]
10 may transfer to a student enrolled in the district [~~or school~~]:

11 (1) any data processing equipment donated to the
12 district [~~or school~~], including equipment donated by:

13 (A) a private donor; or

14 (B) a state eleemosynary institution or a state
15 agency under Section 2175.128, Government Code;

16 (2) any equipment purchased by the district [~~or~~
17 ~~school~~], to the extent consistent with Section 32.105; and

18 (3) any surplus or salvage equipment owned by the
19 district [~~or school~~].

20 (b) A school district [~~or open-enrollment charter school~~]
21 may accept:

22 (1) donations of data processing equipment for
23 transfer under this subchapter; and

24 (2) any gifts, grants, or donations of money or
25 services to purchase, refurbish, or repair data processing
26 equipment under this subchapter.

27 SECTION 4.32. Section 32.103, Education Code, is amended to

1 read as follows:

2 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is
3 eligible to receive data processing equipment under this subchapter
4 only if the student does not otherwise have home access to data
5 processing equipment, as determined by the student's school
6 district [~~or open-enrollment charter school~~].

7 (b) In transferring data processing equipment to students,
8 a school district [~~or open-enrollment charter school~~] shall give
9 preference to educationally disadvantaged students.

10 SECTION 4.33. Section 32.104, Education Code, is amended to
11 read as follows:

12 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before
13 transferring data processing equipment to a student, a school
14 district [~~or open-enrollment charter school~~] must:

15 (1) adopt rules governing transfers under this
16 subchapter, including provisions for technical assistance to the
17 student by the district [~~or school~~];

18 (2) determine that the transfer serves a public
19 purpose and benefits the district [~~or school~~]; and

20 (3) remove from the equipment any offensive,
21 confidential, or proprietary information, as determined by the
22 district [~~or school~~].

23 SECTION 4.34. Section 32.105, Education Code, is amended to
24 read as follows:

25 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school
26 district [~~or open-enrollment charter school~~] may spend public funds
27 to:

1 (1) purchase, refurbish, or repair any data processing
2 equipment transferred to a student under this subchapter; and

3 (2) store, transport, or transfer data processing
4 equipment under this subchapter.

5 SECTION 4.35. Section 32.106, Education Code, is amended to
6 read as follows:

7 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided
8 by Subsection (b), a student who receives data processing equipment
9 from a school district [~~or open-enrollment charter school~~] under
10 this subchapter shall return the equipment to the district [~~or~~
11 ~~school~~] not later than the earliest of:

12 (1) five years after the date the student receives the
13 equipment;

14 (2) the date the student graduates;

15 (3) the date the student transfers to another school
16 district [~~or open-enrollment charter school~~]; or

17 (4) the date the student withdraws from school.

18 (b) Subsection (a) does not apply if, at the time the
19 student is required to return the data processing equipment under
20 that subsection, the district [~~or school~~] determines that the
21 equipment has no marketable value.

22 SECTION 4.36. Section 33.007, Education Code, is amended to
23 read as follows:

24 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)
25 Each counselor at an elementary, middle, or junior high school,
26 including a public charter district [~~an open-enrollment charter~~
27 ~~school~~] offering those grades, shall advise students and their

1 parents or guardians regarding the importance of higher education,
2 coursework designed to prepare students for higher education, and
3 financial aid availability and requirements.

4 (b) During the first school year a student is enrolled in a
5 high school or at the high school level in a public charter district
6 [~~an open-enrollment charter school~~], and again during a student's
7 senior year, a counselor shall provide information about higher
8 education to the student and the student's parent or guardian. The
9 information must include information regarding:

10 (1) the importance of higher education;

11 (2) the advantages of completing the recommended or
12 advanced high school program adopted under Section 28.025(a);

13 (3) the disadvantages of taking courses to prepare for
14 a high school equivalency examination relative to the benefits of
15 taking courses leading to a high school diploma;

16 (4) financial aid eligibility;

17 (5) instruction on how to apply for federal financial
18 aid;

19 (6) the center for financial aid information
20 established under Section 61.0776;

21 (7) the automatic admission of certain students to
22 general academic teaching institutions as provided by Section
23 51.803; and

24 (8) the eligibility and academic performance
25 requirements for the TEXAS Grant as provided by Subchapter M,
26 Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature,~~
27 ~~Regular Session, 1999~~].

1 SECTION 4.37. Section 33.901, Education Code, is amended to
2 read as follows:

3 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of
4 the students enrolled in one or more schools in a school district or
5 enrolled in a public charter district campus [~~an open-enrollment~~
6 ~~charter school~~] are eligible for free or reduced-price breakfasts
7 under the national school breakfast program provided for by the
8 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing
9 body of the district or the public charter district
10 [~~open-enrollment charter school~~] shall participate in the program
11 and make the benefits of the program available to all eligible
12 students in the schools or campus [~~school~~].

13 SECTION 4.38. Section 37.007(e), Education Code, is amended
14 to read as follows:

15 (e) In accordance with 20 U.S.C. Section 7151, a local
16 educational agency, including a school district, home-rule school
17 district, or public charter district [~~open-enrollment charter~~
18 ~~school~~], shall expel a student who brings a firearm, as defined by
19 18 U.S.C. Section 921, to school. The student must be expelled from
20 the student's regular campus for a period of at least one year,
21 except that:

22 (1) the superintendent or other chief administrative
23 officer of the school district or of the other local educational
24 agency, as defined by 20 U.S.C. Section 7801, may modify the length
25 of the expulsion in the case of an individual student;

26 (2) the district or other local educational agency
27 shall provide educational services to an expelled student in a

1 disciplinary alternative education program as provided by Section
2 37.008 if the student is younger than 10 years of age on the date of
3 expulsion; and

4 (3) the district or other local educational agency may
5 provide educational services to an expelled student who is 10 years
6 of age or older in a disciplinary alternative education program as
7 provided in Section 37.008.

8 SECTION 4.39. Section 37.008(j), Education Code, as amended
9 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
10 2005, is amended to read as follows:

11 (j) If a student placed in a disciplinary alternative
12 education program enrolls in another school district before the
13 expiration of the period of placement, the board of trustees of the
14 district requiring the placement shall provide to the district in
15 which the student enrolls, at the same time other records of the
16 student are provided, a copy of the placement order. The district
17 in which the student enrolls shall inform each educator who will
18 have responsibility for, or will be under the direction and
19 supervision of an educator who will have responsibility for, the
20 instruction of the student of the contents of the placement order.
21 Each educator shall keep the information received under this
22 subsection confidential from any person not entitled to the
23 information under this subsection, except that the educator may
24 share the information with the student's parent or guardian as
25 provided for by state or federal law. The district in which the
26 student enrolls may continue the disciplinary alternative
27 education program placement under the terms of the order or may

1 allow the student to attend regular classes without completing the
2 period of placement. A school district may take any action
3 permitted by this subsection if:

4 (1) the student was placed in a disciplinary
5 alternative education program by a public charter district [~~an~~
6 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and
7 the public charter district [~~school~~] provides to the school
8 district a copy of the placement order; or

9 (2) the student was placed in a disciplinary
10 alternative education program by a school district in another state
11 and:

12 (A) the out-of-state district provides to the
13 school district a copy of the placement order; and

14 (B) the grounds for the placement by the
15 out-of-state district are grounds for placement in the school
16 district in which the student is enrolling.

17 SECTION 4.40. Section 37.022(a)(2), Education Code, as
18 renumbered by Section 23.001(16), H.B. No. 2018, Acts of the 79th
19 Legislature, Regular Session, 2005, is amended to read as follows:

20 (2) "District or school" includes an independent
21 school district, a home-rule school district, a campus or campus
22 program charter holder, or a public charter district [~~an~~
23 ~~open-enrollment charter school~~].

24 SECTION 4.41. Section 44.008(a), Education Code, is amended
25 to read as follows:

26 (a) The board of school trustees of each school district
27 shall have its school district fiscal accounts audited annually at

1 district expense by a certified or public accountant holding a
2 permit from the Texas State Board of Public Accountancy. Except as
3 determined impracticable by the commissioner, the accountant must
4 have completed at least one peer-reviewed audit of a school
5 district, governmental entity, quasi-governmental entity, or
6 nonprofit corporation and received an unqualified opinion from the
7 peer review. The audit must be completed following the close of
8 each fiscal year.

9 SECTION 4.42. Section 46.012, Education Code, is amended to
10 read as follows:

11 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
12 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
13 ~~open-enrollment charter school~~] is not entitled to an allotment
14 under this subchapter.

15 SECTION 4.43. Section 46.036, Education Code, is amended to
16 read as follows:

17 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
18 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
19 ~~open-enrollment charter school~~] is not entitled to an allotment
20 under this subchapter.

21 SECTION 4.44. Section 53.02(13), Education Code, is amended
22 to read as follows:

23 (13) "Authorized charter school" means a public
24 charter district [~~an open-enrollment charter school~~] that holds a
25 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

26 SECTION 4.45. The heading to Section 53.351, Education
27 Code, is amended to read as follows:

1 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN-ENROLLMENT~~]
2 CHARTER SCHOOL FACILITIES.

3 SECTION 4.46. Sections 53.351(a), (c), (d), (f), and (g),
4 Education Code, are amended to read as follows:

5 (a) The Texas Public Finance Authority shall establish a
6 nonprofit corporation to issue revenue bonds on behalf of
7 authorized [~~open-enrollment~~] charter schools for the acquisition,
8 construction, repair, or renovation of educational facilities of
9 those schools.

10 (c) The corporation has all powers granted under the Texas
11 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
12 Texas Civil Statutes) for the purpose of aiding authorized
13 [~~open-enrollment~~] charter schools in providing educational
14 facilities. The corporation may make expenditures from the fund
15 described by Subsection (e) and may solicit and accept grants for
16 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,
17 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and
18 govern the corporation and its procedures and bonds.

19 (d) The corporation shall adopt rules governing the
20 issuance of bonds on behalf of an authorized [~~open-enrollment~~]
21 charter school.

22 (f) A revenue bond issued under this section is not a debt of
23 the state or any state agency, political corporation, or political
24 subdivision of the state and is not a pledge of the faith and credit
25 of any of these entities. A revenue bond is payable solely from the
26 revenue of the authorized [~~open-enrollment~~] charter school on whose
27 behalf the bond is issued. A revenue bond issued under this section

1 must contain on its face a statement to the effect that:

2 (1) neither the state nor a state agency, political
3 corporation, or political subdivision of the state is obligated to
4 pay the principal of or interest on the bond; and

5 (2) neither the faith and credit nor the taxing power
6 of the state or any state agency, political corporation, or
7 political subdivision of the state is pledged to the payment of the
8 principal of or interest on the bond.

9 (g) An educational facility financed in whole or in part
10 under this section is exempt from taxation if the facility:

11 (1) is owned by an authorized [~~open-enrollment~~]
12 charter school;

13 (2) is held for the exclusive benefit of the school;
14 and

15 (3) is held for the exclusive use of the students,
16 faculty, and staff members of the school.

17 SECTION 4.47. Section 411.097(c), Government Code, is
18 amended to read as follows:

19 (c) A public charter district [~~An open-enrollment charter~~
20 ~~school~~] is entitled to obtain from the department criminal history
21 record information maintained by the department that relates to a
22 person who:

23 (1) is a member of the governing body of the public
24 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],
25 Education Code; or

26 (2) has agreed to serve as a member of the governing
27 body of the public charter district [~~school~~].

1 SECTION 4.48. Sections 2175.128(a) and (b), Government
2 Code, are amended to read as follows:

3 (a) If a disposition of a state agency's surplus or salvage
4 data processing equipment is not made under Section 2175.125 or
5 2175.184, the state agency shall transfer the equipment to:

6 (1) a school district or public charter district
7 [~~open-enrollment charter school~~] in this state under Subchapter C,
8 Chapter 32, Education Code;

9 (2) an assistance organization specified by the school
10 district or public charter district; or

11 (3) the Texas Department of Criminal Justice.

12 (b) If a disposition of the surplus or salvage data
13 processing equipment of a state eleemosynary institution or an
14 institution or agency of higher education is not made under other
15 law, the institution or agency shall transfer the equipment to:

16 (1) a school district or public charter district
17 [~~open-enrollment charter school~~] in this state under Subchapter C,
18 Chapter 32, Education Code;

19 (2) an assistance organization specified by the school
20 district or public charter district; or

21 (3) the Texas Department of Criminal Justice.

22 SECTION 4.49. Section 2306.630(a), Government Code, is
23 amended to read as follows:

24 (a) Subject to Subsection (b), the following entities may
25 apply to receive a grant for an eligible project under this
26 subchapter:

27 (1) a private, nonprofit, tax-exempt organization

1 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26
2 U.S.C. Section 501(c)(3));

3 (2) a public agency that operates a community-based
4 youth employment training program;

5 (3) a community housing development organization
6 certified by the state;

7 (4) an educational facility approved by the Texas
8 Youth Commission;

9 (5) a corps-based community service organization;

10 (6) a public charter district [~~an open-enrollment~~
11 ~~charter school~~] approved by the State Board of Education [~~Texas~~
12 ~~Education Agency~~]; or

13 (7) another entity authorized by board rule.

14 SECTION 4.50. Section 1575.002(6), Insurance Code, is
15 amended to read as follows:

16 (6) "Public school" means:

17 (A) a school district;

18 (B) another educational district whose employees
19 are members of the Teacher Retirement System of Texas;

20 (C) a regional education service center
21 established under Chapter 8, Education Code; or

22 (D) a public charter district [~~an~~
23 ~~open-enrollment charter school~~] established under Chapter 11A
24 [~~Subchapter D, Chapter 12~~], Education Code.

25 SECTION 4.51. Section 1579.002(3), Insurance Code, is
26 amended to read as follows:

27 (3) "Charter school" means a public charter district

1 ~~[an open-enrollment charter school]~~ established under Chapter 11A
2 ~~[Subchapter D, Chapter 12]~~, Education Code.

3 SECTION 4.52. Section 140.005, Local Government Code, is
4 amended to read as follows:

5 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,
6 OR OTHER DISTRICT. The governing body of a school district, public
7 charter district ~~[open-enrollment charter school]~~, junior college
8 district, or a district or authority organized under Article III,
9 Section 52, or Article XVI, Section 59, of the Texas Constitution,
10 shall prepare an annual financial statement showing for each fund
11 subject to the authority of the governing body during the fiscal
12 year:

13 (1) the total receipts of the fund, itemized by source
14 of revenue, including taxes, assessments, service charges, grants
15 of state money, gifts, or other general sources from which funds are
16 derived;

17 (2) the total disbursements of the fund, itemized by
18 the nature of the expenditure; and

19 (3) the balance in the fund at the close of the fiscal
20 year.

21 SECTION 4.53. Section 140.006(c), Local Government Code, is
22 amended to read as follows:

23 (c) The presiding officer of a school district shall submit
24 a financial statement prepared under Section 140.005 to a daily,
25 weekly, or biweekly newspaper published within the boundaries of
26 the district. If a daily, weekly, or biweekly newspaper is not
27 published within the boundaries of the school district, the

1 financial statement shall be published in the manner provided by
2 Subsections (a) and (b). The financial statement of a public
3 charter district [~~an open-enrollment charter school~~] shall be made
4 available in the manner provided by Chapter 552, Government Code.

5 SECTION 4.54. Section 375.303(2), Local Government Code, is
6 amended to read as follows:

7 (2) "Eligible project" means a program authorized by
8 Section 379A.051 and a project as defined by Sections 2(11) and
9 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,
10 Vernon's Texas Civil Statutes). Notwithstanding this definition,
11 seeking a charter for or operating a public charter district [~~an~~
12 ~~open-enrollment charter school~~] authorized by Chapter 11A
13 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an
14 eligible project.

15 SECTION 4.55. Sections 375.308(b) and (c), Local Government
16 Code, are amended to read as follows:

17 (b) An authority may not:

18 (1) issue bonds or notes without the prior approval of
19 the governing body of the municipality that created the authority;

20 (2) seek a charter for or operate, within the
21 boundaries of the authority, a public charter district [~~an~~
22 ~~open-enrollment charter school~~] authorized by Chapter 11A
23 [~~Subchapter D, Chapter 12~~], Education Code; or

24 (3) levy ad valorem property taxes.

25 (c) A municipality may not seek a charter for or operate a
26 public charter district [~~an open-enrollment charter school~~]
27 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education

1 Code, within the boundaries of the authority.

2 SECTION 4.56. Section 541.201(15), Transportation Code, is
3 amended to read as follows:

4 (15) "School activity bus" means a bus designed to
5 accommodate more than 15 passengers, including the operator, that
6 is owned, operated, rented, or leased by a school district, county
7 school, public charter district [~~open-enrollment charter school~~],
8 regional education service center, or shared services arrangement
9 and that is used to transport public school students on a
10 school-related activity trip, other than on routes to and from
11 school. The term does not include a chartered bus, a bus operated
12 by a mass transit authority, or a school bus.

13 SECTION 4.57. Section 57.042(9), Utilities Code, is amended
14 to read as follows:

15 (9) "Public school" means a public elementary or
16 secondary school, including a public charter district [~~an~~
17 ~~open-enrollment charter school~~], a home-rule school district
18 school, and a school with a campus or campus program charter.

19 SECTION 4.58. Section 4(2), Chapter 22, Acts of the 57th
20 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
21 Texas Civil Statutes), is amended to read as follows:

22 (2) "Educational institution" means a school district
23 or a public charter district [~~an open-enrollment charter school~~].

24 SECTION 4.59. The following laws are repealed:

25 (1) Section 12.106, Education Code; and

26 (2) Section 40, Chapter 1504, Acts of the 77th
27 Legislature, Regular Session, 2001.

1 SECTION 4.60. Notwithstanding the repeal of Sections 12.107
2 and 12.128, Education Code, by this Act, those sections continue to
3 apply to state funds and property received or purchased by an
4 open-enrollment charter school before August 1, 2006.

5 SECTION 4.61. The changes in law made by Sections 4.04-4.60
6 of this article apply beginning August 1, 2006, except that
7 Sections 4.10, 4.11, 4.41, and 4.59 apply beginning on the 91st day
8 after the last day of the legislative session.

9 [ARTICLES 5-6 RESERVED]

10 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;
11 TRANSFER OF POWERS AND DUTIES

12 SECTION 7.01. Section 21.0031(a), Education Code, is
13 amended to read as follows:

14 (a) An employee's probationary, continuing, or term
15 contract under this chapter is void if the employee:

16 (1) does not hold a certificate or permit issued under
17 Subchapter B [~~by the State Board for Educator Certification~~]; or

18 (2) fails to fulfill the requirements necessary to
19 extend the employee's temporary or emergency certificate or permit.

20 SECTION 7.02. Sections 21.004(a)-(e), Education Code, are
21 amended to read as follows:

22 (a) To the extent that funds are available, the agency [~~the~~
23 ~~State Board for Educator Certification~~] and the Texas Higher
24 Education Coordinating Board shall develop and implement programs
25 to identify talented students and recruit those students and
26 persons, including high school and undergraduate students,
27 mid-career and retired professionals, honorably discharged and

1 retired military personnel, and members of underrepresented gender
2 and ethnic groups, into the teaching profession.

3 (b) From available funds, the agency[~~, the State Board for~~
4 ~~Educator Certification,~~] and the Texas Higher Education
5 Coordinating Board shall develop and distribute materials that
6 emphasize the importance of the teaching profession and inform
7 individuals about state-funded loan forgiveness and tuition
8 assistance programs.

9 (c) The commissioner, in cooperation with the commissioner
10 of higher education [~~and the executive director of the State Board~~
11 ~~for Educator Certification,~~] shall annually identify the need for
12 teachers in specific subject areas and geographic regions and among
13 underrepresented groups. The commissioner shall give priority to
14 developing and implementing recruitment programs to address those
15 needs from the agency's discretionary funds.

16 (d) The agency[~~, the State Board for Educator~~
17 ~~Certification,~~] and the Texas Higher Education Coordinating Board
18 shall encourage the business community to cooperate with local
19 schools to develop recruiting programs designed to attract and
20 retain capable teachers, including programs to provide summer
21 employment opportunities for teachers.

22 (e) The agency[~~, the State Board for Educator~~
23 ~~Certification,~~] and the Texas Higher Education Coordinating Board
24 shall encourage major education associations to cooperate in
25 developing a long-range program promoting teaching as a career and
26 to assist in identifying local activities and resources that may be
27 used to promote the teaching profession.

1 SECTION 7.03. Section 21.006, Education Code, is amended by
2 amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h)
3 to read as follows:

4 (a) In this section:

5 (1) "Abuse" [~~,"abuse"~~] has the meaning assigned by
6 Section 261.001, Family Code, and includes any sexual conduct
7 involving an educator and a student or minor.

8 (2) "Board" means the Educators' Professional
9 Practices Board.

10 (b) In addition to the reporting requirement under Section
11 261.101, Family Code, the superintendent or director of a school
12 district, regional education service center, or shared services
13 arrangement shall notify the commissioner [~~State Board for Educator~~
14 ~~Certification~~] if the superintendent or director has reasonable
15 cause to believe that:

16 (1) an educator employed by or seeking employment by
17 the district, service center, or shared services arrangement has a
18 criminal record;

19 (2) an educator's employment at the district, service
20 center, or shared services arrangement was terminated based on a
21 determination that the educator:

22 (A) abused or otherwise committed an unlawful act
23 with a student or minor;

24 (B) possessed, transferred, sold, or distributed
25 a controlled substance, as defined by Chapter 481, Health and
26 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~
27 ~~subsequent amendments~~];

1 (C) illegally transferred, appropriated, or
2 expended funds or other property of the district, service center,
3 or shared services arrangement;

4 (D) attempted by fraudulent or unauthorized
5 means to obtain or alter a professional certificate or license for
6 the purpose of promotion or additional compensation; or

7 (E) committed a criminal offense or any part of a
8 criminal offense on school property or at a school-sponsored event;
9 or

10 (3) the educator resigned and reasonable evidence
11 supports a recommendation by the superintendent or director to
12 terminate the educator based on a determination that the educator
13 engaged in misconduct described by Subdivision (2).

14 (c) The superintendent or director must notify the
15 commissioner [~~State Board for Educator Certification~~] by filing a
16 report with the commissioner [~~board~~] not later than the seventh day
17 after the date the superintendent or director first learns about an
18 alleged incident of misconduct described by Subsection (b). The
19 report must be:

20 (1) in writing; and

21 (2) in a form prescribed by the board.

22 (e) A superintendent or director who in good faith and while
23 acting in an official capacity files a report with the commissioner
24 [~~State Board for Educator Certification~~] under this section is
25 immune from civil or criminal liability that might otherwise be
26 incurred or imposed.

27 (f) The board, acting on a recommendation of the

1 commissioner, [~~State Board for Educator Certification~~] shall
2 determine whether to impose sanctions against a superintendent or
3 director who fails to file a report in violation of Subsection (c).

4 (g) The commissioner [~~State Board for Educator~~
5 ~~Certification~~] shall adopt [~~propose~~] rules as necessary to
6 implement this section.

7 (h) The commissioner shall forward a report received under
8 this section to the board for use as the commissioner determines
9 appropriate in the execution of the board's duties.

10 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is
11 amended by adding Section 21.007 to read as follows:

12 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner
13 shall determine whether to recommend a sanction against an educator
14 to the Educators' Professional Practices Board under this chapter.
15 The board shall make a final determination regarding the imposition
16 of a sanction under this chapter, except that the commissioner may
17 impose any sanction through informal disposition by stipulation,
18 agreed settlement, consent order, or default.

19 SECTION 7.04. Sections 21.031 and 21.032, Education Code,
20 are amended to read as follows:

21 Sec. 21.031. PURPOSE. (a) The Educators' Professional
22 Practices [~~State~~] Board [~~for Educator Certification~~] is
23 established in the agency to [~~recognize public school educators as~~
24 ~~professionals and to grant educators the authority to govern the~~
25 ~~standards of their profession. The board shall~~] regulate and
26 oversee [~~all aspects of~~] the [~~certification, continuing education,~~
27 ~~and~~] standards of conduct of public school educators.

1 (b) The commissioner shall adopt rules governing the
 2 certification of educators and continuing education for educators.
 3 In adopting [~~In proposing~~] rules under this subchapter, the
 4 commissioner [~~board~~] shall ensure that all candidates for
 5 certification or renewal of certification demonstrate the
 6 knowledge and skills necessary to improve the performance of the
 7 diverse student population of this state.

8 Sec. 21.032. DEFINITION. In this subchapter, "board" means
 9 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
 10 ~~Certification~~].

11 SECTION 7.05. The heading to Section 21.033, Education
 12 Code, is amended to read as follows:

13 Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [~~STATE~~]
 14 ~~BOARD [FOR EDUCATOR CERTIFICATION]~~.

15 SECTION 7.06. Section 21.033, Education Code, is amended by
 16 amending Subsection (a) and adding Subsections (a-1), (d), (e), and
 17 (f) to read as follows:

18 (a) The board [~~State Board for Educator Certification~~] is
 19 composed of 11 [~~14~~] members[~~. The commissioner of education shall~~
 20 ~~appoint an employee of the agency to represent the commissioner as a~~
 21 ~~nonvoting member. The commissioner of higher education shall~~
 22 ~~appoint an employee of the Texas Higher Education Coordinating~~
 23 ~~Board to represent the commissioner as a nonvoting member. The~~
 24 ~~governor shall appoint a dean of a college of education in this~~
 25 ~~state as a nonvoting member. The remaining 11 members are]~~
 26 appointed by the commissioner [~~governor with the advice and consent~~
 27 ~~of the senate,~~] as follows:

1 (1) six [~~four~~] members must be classroom teachers,
2 appointed as provided by Subsection (a-1) [~~employed in public~~
3 ~~schools~~];

4 (2) not more than two members of the board may [~~must~~]
5 be [~~public~~] school administrators; and

6 (3) a number of other members consistent with this
7 subsection who the commissioner determines are qualified [~~one~~
8 ~~member must be a public school counselor; and~~

9 [~~(4) four members must be citizens, three of whom are~~
10 ~~not and have not, in the five years preceding appointment, been~~
11 ~~employed by a public school district or by an educator preparation~~
12 ~~program in an institution of higher education and one of whom is not~~
13 ~~and has not been employed by a public school district or by an~~
14 ~~educator preparation program in an institution of higher~~
15 ~~education~~].

16 (a-1) In appointing a board member under Subsection (a)(1),
17 the commissioner shall:

18 (1) appoint teachers with at least five years'
19 experience as public school classroom teachers;

20 (2) give preference to teachers who have received
21 state or national awards for teaching excellence; and

22 (3) provide an opportunity for professional educator
23 associations to submit nominations for the appointment.

24 (d) The commissioner shall designate a member of the board
25 as the presiding officer of the board to serve in that capacity at
26 the pleasure of the commissioner.

27 (e) The agency shall provide administrative services for

1 the board as necessary.

2 (f) A reference in law to the State Board for Educator
3 Certification means the Educators' Professional Practices Board.

4 SECTION 7.07. Section 21.034, Education Code, is amended to
5 read as follows:

6 Sec. 21.034. TERMS; VACANCY. (a) The board members
7 [~~appointed by the governor~~] hold office for staggered terms of six
8 years with the terms of one-third, or as near to one-third as
9 possible, of the members expiring on February 1 of each
10 odd-numbered year. [~~A member appointed by the commissioner of~~
11 ~~education or the commissioner of higher education serves at the~~
12 ~~will of the appointing commissioner.~~]

13 (b) In the event of a vacancy during a term of a member
14 [~~appointed by the governor~~], the commissioner [~~governor~~] shall
15 appoint a replacement who meets the qualifications of the vacated
16 office to fill the unexpired portion of the term.

17 (c) A vacancy arises if a member [~~appointed by the governor~~]
18 no longer qualifies for the office to which the member was
19 appointed, as determined by the commissioner.

20 SECTION 7.075. Section 21.035, Education Code, as amended
21 by H.B. No. 1116, Acts of the 79th Legislature, Regular Session,
22 2005, is amended to read as follows:

23 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is
24 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
25 continued in existence as provided by that chapter, the board is
26 abolished and this subchapter expires on the date prescribed by
27 Section 7.004 for abolishment of the agency. [~~The Texas Education~~

1 ~~Agency shall provide the board's administrative functions and~~
2 ~~services.]~~

3 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is
4 amended by adding Section 21.0391 to read as follows:

5 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner
6 shall appoint an advisory committee composed of holders of each
7 class of educator certificate and stakeholders as required under
8 Chapter 2008, Government Code.

9 (b) The advisory committee shall recommend educator
10 certification standards under Section 21.041(b)(4) and educator
11 preparation program standards under Section 21.044 and propose
12 rules under those sections to the commissioner through negotiated
13 rulemaking under Chapter 2008, Government Code. For purposes of
14 that chapter, the advisory committee is considered to be the
15 negotiated rulemaking committee described by Section 2008.054,
16 Government Code. As provided by Section 2008.058, Government Code,
17 the commissioner may propose and adopt a rule that has not been
18 recommended or proposed by the advisory committee.

19 (c) The commissioner may not finally adopt or amend a rule
20 subject to this section unless the State Board of Education has
21 failed to reject the rule or amendment by an affirmative vote of
22 four-fifths of its members. A vote under this subsection may be
23 conducted by mail ballot, provided that the State Board of
24 Education has at least 30 days' written notice of the proposed final
25 rule adoption.

26 (d) Members of the advisory committee serve at the will of
27 the commissioner.

1 SECTION 7.09. Section 21.041, Education Code, is amended by
2 adding Subsection (a-1) and amending Subsection (b) to read as
3 follows:

4 (a-1) The board shall adopt rules that provide for the
5 adoption and amendment of an educator's code of ethics.

6 (b) The commissioner [~~board~~] shall adopt [~~propose~~] rules
7 that:

8 (1) provide for the issuance and renewal of educator
9 certificates [~~regulation of educators and the general~~
10 ~~administration of this subchapter~~] in a manner consistent with this
11 subchapter;

12 (2) specify the classes of educator certificates to be
13 issued, including emergency certificates;

14 (3) specify the period for which each class of
15 educator certificate is valid;

16 (4) specify the requirements for the issuance and
17 renewal of an educator certificate;

18 (5) provide for the issuance of an educator
19 certificate to a person who holds a similar certificate issued by
20 another state or foreign country, subject to Section 21.052;

21 (6) provide for special or restricted certification of
22 educators, including certification of instructors of American Sign
23 Language;

24 (7) provide for disciplinary proceedings, including:
25 (A) the suspension or revocation of an educator
26 certificate, as provided by Chapter 2001, Government Code; and

27 (B) enforcement of an educator's code of ethics

1 adopted by the board;

2 (8) [~~provide for the adoption, amendment, and~~
3 ~~enforcement of an educator's code of ethics;~~

4 [~~9~~] provide for continuing education requirements;
5 [~~and~~]

6 (9) [~~10~~] provide for certification of persons
7 performing appraisals under Subchapter H; and

8 (10) provide for the regulation of educators in a
9 manner consistent with this subchapter.

10 SECTION 7.10. Section 21.044, Education Code, is amended to
11 read as follows:

12 Sec. 21.044. EDUCATOR PREPARATION. The commissioner
13 [~~board~~] shall adopt [~~propose~~] rules establishing the training
14 requirements a person must accomplish to obtain a certificate,
15 enter an internship, or enter an induction-year program. The
16 commissioner [~~board~~] shall specify the minimum academic
17 qualifications required for a certificate.

18 SECTION 7.11. Sections 21.045(b)-(d), Education Code, are
19 amended to read as follows:

20 (b) Each educator preparation program shall submit data
21 elements as required by the commissioner [~~board~~] for an annual
22 performance report to ensure access and equity. At a minimum, the
23 annual report must contain the performance data from Subsection (a)
24 and the following information, disaggregated by sex and ethnicity:

25 (1) the number of candidates who apply;

26 (2) the number of candidates admitted;

27 (3) the number of candidates retained;

1 (4) the number of candidates completing the program;

2 (5) the number of candidates employed in the
3 profession after completing the program; and

4 (6) the number of candidates retained in the
5 profession.

6 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules
7 establishing performance standards for the Accountability System
8 for Educator Preparation for accrediting educator preparation
9 programs. At a minimum, performance standards must be based on
10 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]
11 rules for the sanction of educator preparation programs and shall
12 annually review the accreditation status of each educator
13 preparation program.

14 (d) The commissioner [~~executive director of the board~~]
15 shall appoint an oversight team of educators to make
16 recommendations and provide assistance to educator preparation
17 programs that do not meet accreditation standards. If, after one
18 year, an educator preparation program has not fulfilled the
19 recommendations of the oversight team, the commissioner [~~executive~~
20 ~~director~~] shall appoint a person to administer and manage the
21 operations of the program. If the program does not improve after
22 two years, the commissioner [~~board~~] shall revoke the approval of
23 the program to prepare educators for state certification.

24 SECTION 7.12. Sections 21.046(c) and (d), Education Code,
25 are amended to read as follows:

26 (c) Because an effective principal is essential to school
27 improvement, the commissioner [~~board~~] shall ensure that:

1 (1) each candidate for certification as a principal is
2 of the highest caliber; and

3 (2) multi-level screening processes, validated
4 comprehensive assessment programs, and flexible internships with
5 successful mentors exist to determine whether a candidate for
6 certification as a principal possesses the essential knowledge,
7 skills, and leadership capabilities necessary for success.

8 (d) In creating the qualifications for certification as a
9 principal, the commissioner [~~board~~] shall consider the knowledge,
10 skills, and proficiencies for principals as developed by relevant
11 national organizations and the State Board of Education.

12 SECTION 7.125. Subchapter B, Chapter 21, Education Code, is
13 amended by adding Section 21.0461 to read as follows:

14 Sec. 21.0461. TEMPORARY CERTIFICATE FOR SUPERINTENDENT OR
15 PRINCIPAL. (a) The commissioner may issue a temporary certificate
16 under this section for:

17 (1) assistant principal;

18 (2) principal; or

19 (3) superintendent.

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

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

23 (2) have significant management and leadership
24 experience, as determined by the board of trustees of the school
25 district that will employ the person under the temporary
26 certificate; and

27 (3) perform satisfactorily on the appropriate

1 examination prescribed under Section 21.048.

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

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

8 (e) A certificate issued under this section:

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

11 (2) is not renewable.

12 (f) The commissioner shall issue a standard certificate to a
13 person who holds a temporary certificate issued under this section
14 if the school district employing the person under the temporary
15 certificate:

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

18 (2) has recommended the person to the commissioner and
19 favorably reviewed, primarily using objective measures of student
20 performance and improvement in the district, the person's
21 performance.

22 (g) A school district employing a person who holds a
23 temporary certificate issued under this section must provide the
24 person with intensive support during the person's first year of
25 employment with the district, including:

26 (1) mentoring; and

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

1 SECTION 7.13. Section 21.048(a), Education Code, is amended
2 to read as follows:

3 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
4 prescribing comprehensive examinations for each class of
5 certificate issued by the board.

6 SECTION 7.14. Sections 21.0481, 21.0482, 21.0483, 21.0484,
7 and 21.049, Education Code, are amended to read as follows:

8 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a)
9 To ensure that there are teachers with special training to work with
10 other teachers and with students in order to improve student
11 reading performance, the commissioner [~~board~~] shall establish a
12 master reading teacher certificate.

13 (b) The board shall issue a master reading teacher
14 certificate to each eligible person.

15 (c) To be eligible for a master reading teacher certificate,
16 a person must:

17 (1) hold a reading specialist certificate issued under
18 this subchapter and satisfactorily complete a course of instruction
19 as prescribed under Subdivision (2)(B); or

20 (2) hold a teaching certificate issued under this
21 subchapter and:

22 (A) have at least three years of teaching
23 experience;

24 (B) satisfactorily complete a knowledge-based
25 and skills-based course of instruction on the science of teaching
26 children to read that includes training in:

27 (i) effective reading instruction

1 techniques, including effective techniques for students whose
2 primary language is a language other than English;

3 (ii) identification of dyslexia and related
4 reading disorders and effective reading instruction techniques for
5 students with those disorders; and

6 (iii) effective professional peer
7 mentoring techniques;

8 (C) perform satisfactorily on the master reading
9 teacher certification examination prescribed by the commissioner
10 [~~board~~]; and

11 (D) satisfy any other requirements prescribed by
12 the commissioner [~~board~~].

13 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

14 (a) To ensure that there are teachers with special training to work
15 with other teachers and with students in order to improve student
16 mathematics performance, the commissioner [~~board~~] shall establish:

17 (1) a master mathematics teacher certificate to teach
18 mathematics at elementary school grade levels;

19 (2) a master mathematics teacher certificate to teach
20 mathematics at middle school grade levels; and

21 (3) a master mathematics teacher certificate to teach
22 mathematics at high school grade levels.

23 (b) The board shall issue the appropriate master
24 mathematics teacher certificate to each eligible person.

25 (c) To be eligible for a master mathematics teacher
26 certificate, a person must:

27 (1) hold a teaching certificate issued under this

1 subchapter;

2 (2) have at least three years of teaching experience;

3 (3) satisfactorily complete a knowledge-based course
4 of instruction on the science of teaching children mathematics that
5 includes training in mathematics instruction and professional peer
6 mentoring techniques that, through scientific testing, have been
7 proven effective;

8 (4) perform satisfactorily on the appropriate master
9 mathematics teacher certification examination prescribed by the
10 commissioner [~~board~~]; and

11 (5) satisfy any other requirements prescribed by the
12 commissioner [~~board~~].

13 (d) The course of instruction prescribed under Subsection
14 (c)(3) shall be developed by the commissioner [~~board~~] in
15 consultation with mathematics and science faculty members at
16 institutions of higher education.

17 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a)
18 To ensure that there are teachers with special training to work with
19 other teachers and with students in order to increase the use of
20 technology in each classroom, the commissioner [~~board~~] shall
21 establish a master technology teacher certificate.

22 (b) The board shall issue a master technology teacher
23 certificate to each eligible person.

24 (c) To be eligible for a master technology teacher
25 certificate, a person must:

26 (1) hold a technology applications or Technology
27 Education certificate issued under this subchapter, satisfactorily

1 complete the course of instruction prescribed under Subdivision
2 (2)(B), and satisfactorily perform on the examination prescribed
3 under Subdivision (2)(C); or

4 (2) hold a teaching certificate issued under this
5 subchapter and:

6 (A) have at least three years of teaching
7 experience;

8 (B) satisfactorily complete a knowledge-based
9 and skills-based course of instruction on interdisciplinary
10 technology applications and the science of teaching technology that
11 includes training in:

12 (i) effective technology instruction
13 techniques, including applications designed to meet the
14 educational needs of students with disabilities;

15 (ii) classroom teaching methodology that
16 engages student learning through the integration of technology;

17 (iii) digital learning competencies,
18 including Internet research, graphics, animation, website
19 mastering, and video technologies;

20 (iv) curriculum models designed to prepare
21 teachers to facilitate an active student learning environment; and

22 (v) effective professional peer mentoring
23 techniques;

24 (C) satisfactorily perform on an examination
25 developed in cooperation with the Telecommunications
26 Infrastructure Fund Board and administered at the conclusion of the
27 course of instruction prescribed under Paragraph (B); and

1 (D) satisfy any other requirements prescribed by
2 the commissioner [~~board~~].

3 (d) The commissioner [~~board~~] may provide technology
4 applications training courses under Subsection (c)(2)(B) in
5 cooperation with:

6 (1) regional education service centers; and

7 (2) other public or private entities, including any
8 state council on technology.

9 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a)
10 To ensure that there are teachers with special training to work with
11 other teachers and with students in order to improve student
12 science performance, the commissioner [~~board~~] shall establish:

13 (1) a master science teacher certificate to teach
14 science at elementary school grade levels;

15 (2) a master science teacher certificate to teach
16 science at middle school grade levels; and

17 (3) a master science teacher certificate to teach
18 science at high school grade levels.

19 (b) The board shall issue the appropriate master science
20 teacher certificate to each eligible person.

21 (c) To be eligible for a master science teacher certificate,
22 a person must:

23 (1) hold a teaching certificate issued under this
24 subchapter;

25 (2) have at least three years of teaching experience;

26 (3) satisfactorily complete a knowledge-based course
27 of instruction on the science of teaching children science that

1 includes training in science instruction and professional peer
2 mentoring techniques that, through scientific testing, have been
3 proven effective;

4 (4) perform satisfactorily on the appropriate master
5 science teacher certification examination prescribed by the
6 commissioner [~~board~~]; and

7 (5) satisfy any other requirements prescribed by the
8 commissioner [~~board~~].

9 (d) The course of instruction prescribed under Subsection
10 (c)(3) shall be developed by the commissioner [~~board~~] in
11 consultation with science faculty members at institutions of higher
12 education.

13 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a
14 continuing additional source of qualified educators, the
15 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for
16 educator certification programs as an alternative to traditional
17 educator preparation programs. The rules may not provide that a
18 person may be certified under this section only if there is a
19 demonstrated shortage of educators in a school district or subject
20 area.

21 (b) The commissioner [~~board~~] may not require a person
22 employed as a teacher in a disciplinary [~~an~~] alternative education
23 program under Section 37.008 or a juvenile justice alternative
24 education program under Section 37.011 for at least three years to
25 complete an alternative educator certification program adopted
26 under this section before taking the appropriate certification
27 examination.

1 SECTION 7.15. Section 21.050(a), Education Code, is amended
2 to read as follows:

3 (a) A person who applies for a teaching certificate for
4 which commissioner [~~board~~] rules require a bachelor's degree must
5 possess a bachelor's degree received with an academic major or
6 interdisciplinary academic major, including reading, other than
7 education, that is related to the curriculum as prescribed under
8 Subchapter A, Chapter 28.

9 SECTION 7.16. Section 21.051, Education Code, is amended to
10 read as follows:

11 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.
12 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing
13 flexible options for persons for any field experience or internship
14 required for certification.

15 SECTION 7.17. Section 21.054(a), Education Code, is amended
16 to read as follows:

17 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
18 establishing a process for identifying continuing education
19 courses and programs that fulfill educators' continuing education
20 requirements.

21 SECTION 7.18. Section 21.056, Education Code, is amended to
22 read as follows:

23 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner
24 [~~board~~] by rule shall provide for a certified educator to qualify
25 for additional certification to teach at a grade level or in a
26 subject area not covered by the educator's certificate upon
27 satisfactory completion of an examination or other assessment of

1 the educator's qualification.

2 SECTION 7.19. Section 21.057(d), Education Code, is amended
3 to read as follows:

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

6 (1) includes:

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

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

12 (2) does not include an individual:

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

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

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

22 (D) certified by another state or country and
23 serving on a certificate issued under Section 21.052;

24 (E) serving on a school district teaching permit
25 issued under Section 21.055; or

26 (F) employed under a waiver granted by the
27 commissioner pursuant to Section 7.056.

1 SECTION 7.20. Section 21.058(d), Education Code, is amended
2 to read as follows:

3 (d) A person whose certificate is revoked under Subsection
4 (b) may reapply for a certificate in accordance with commissioner
5 ~~[board]~~ rules.

6 SECTION 7.21. Section 21.105(c), Education Code, is amended
7 to read as follows:

8 (c) On written complaint by the employing district and
9 recommendation by the commissioner, the Educators' Professional
10 Practices [State] Board [~~for Educator Certification~~] may impose
11 sanctions against a teacher employed under a probationary contract
12 who:

- 13 (1) resigns;
- 14 (2) fails without good cause to comply with Subsection
15 (a) or (b); and
- 16 (3) fails to perform the contract.

17 SECTION 7.22. Section 21.160(c), Education Code, is amended
18 to read as follows:

19 (c) On written complaint by the employing district and
20 recommendation by the commissioner, the Educators' Professional
21 Practices [State] Board [~~for Educator Certification~~] may impose
22 sanctions against a teacher who is employed under a continuing
23 contract that obligates the district to employ the person for the
24 following school year and who:

- 25 (1) resigns;
- 26 (2) fails without good cause to comply with Subsection
27 (a) or (b); and

1 (3) fails to perform the contract.

2 SECTION 7.23. Section 21.210(c), Education Code, is amended
3 to read as follows:

4 (c) On written complaint by the employing district and
5 recommendation by the commissioner, the Educators' Professional
6 Practices [~~State~~] Board [~~for Educator Certification~~] may impose
7 sanctions against a teacher who is employed under a term contract
8 that obligates the district to employ the person for the following
9 school year and who:

10 (1) resigns;

11 (2) fails without good cause to comply with Subsection
12 (a) or (b); and

13 (3) fails to perform the contract.

14 SECTION 7.24. Section 21.503, Education Code, is amended to
15 read as follows:

16 Sec. 21.503. ELIGIBILITY. A person is eligible for the
17 program if the person:

18 (1) has served in the armed forces of the United
19 States;

20 (2) is honorably discharged, retired, or released from
21 active duty on or after October 1, 1990, after at least six years of
22 continuous active duty service immediately before the discharge,
23 retirement, or release;

24 (3) has received a baccalaureate or advanced degree
25 from a public or private institution of higher education accredited
26 by a regional accrediting agency or group that is recognized by a
27 nationally recognized accreditation board; and

1 (4) satisfies any other criteria for selection
2 [~~jointly~~] prescribed by the agency [~~and the State Board for~~
3 ~~Educator Certification~~].

4 SECTION 7.25. Section 21.504(b), Education Code, is amended
5 to read as follows:

6 (b) The agency [~~and the State Board for Educator~~
7 ~~Certification~~] shall distribute the applications and information
8 regarding the program.

9 SECTION 7.26. Section 21.510(c), Education Code, is amended
10 to read as follows:

11 (c) For purposes of this section, a participant in the
12 program is not considered to be in violation of an agreement under
13 Section 21.508 during any period in which the participant:

14 (1) is pursuing a full-time course of study related to
15 the field of teaching at a public or private institution of higher
16 education approved by the agency [~~State Board for Educator~~
17 ~~Certification~~];

18 (2) is serving on active duty as a member of the armed
19 forces of the United States;

20 (3) is temporarily totally disabled for a period not
21 to exceed three years as established by sworn affidavit of a
22 qualified physician;

23 (4) is unable to secure employment for a period not to
24 exceed one year because of care required by a disabled spouse;

25 (5) is seeking and unable to find full-time employment
26 as a teacher in a public elementary or secondary school for a single
27 period not to exceed 27 months; or

1 (6) satisfies the provisions of any additional
2 reimbursement exception adopted by the agency.

3 SECTION 7.27. Sections 21.551, 21.552, and 21.553,
4 Education Code, are amended to read as follows:

5 Sec. 21.551. PURPOSES. The purposes of the alternative
6 certification Teach for Texas Pilot Program are to:

7 (1) attract to the teaching profession persons who
8 have expressed interest in teaching and to support the
9 certification of those persons as teachers;

10 (2) recognize the importance of the certification
11 process governed by the commissioner [~~State Board for Educator~~
12 ~~Certification~~] under Subchapter B, which requires verification of
13 competence in subject area and professional knowledge and skills;

14 (3) encourage the creation and expansion of educator
15 preparation programs that recognize the knowledge and skills gained
16 through previous educational and work-related experiences and that
17 are delivered in a manner that recognizes individual circumstances,
18 including the need to remain employed full-time while enrolled in
19 the Teach for Texas Pilot Program; and

20 (4) provide annual stipends to postbaccalaureate
21 teacher certification candidates.

22 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~
23 ~~Board for Educator Certification~~] by rule shall establish the Teach
24 for Texas Pilot Program consistent with the purposes provided by
25 Section 21.551.

26 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program
27 must offer to participants financial incentives, including tuition

1 assistance and loan forgiveness. In offering a financial
2 incentive, the commissioner [~~State Board for Educator~~
3 ~~Certification~~] shall:

4 (1) require a contract between each participant who
5 accepts a financial incentive and the agency [~~State Board for~~
6 ~~Educator Certification~~] under which the participant is obligated to
7 teach in a public school in this state for a stated period after
8 certification;

9 (2) provide financial incentives in proportion to the
10 length of the period the participant is obligated by contract to
11 teach after certification; and

12 (3) give special financial incentives to a participant
13 who agrees in the contract to teach in an underserved area.

14 (b) Financial incentives may be paid only from funds
15 appropriated specifically for that purpose and from gifts, grants,
16 and donations solicited or accepted by the commissioner [~~State~~
17 ~~Board for Educator Certification~~] for that purpose.

18 (c) The commissioner [~~State Board for Educator~~
19 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria
20 for awarding financial incentives under this section, including
21 criteria for awarding financial incentives if there are more
22 participants than funds available to provide the financial
23 incentives.

24 SECTION 7.28. Section 21.604(b), Education Code, is amended
25 to read as follows:

26 (b) The agency [~~and the State Board for Educator~~
27 ~~Certification~~] shall distribute the applications and information

1 regarding the program.

2 SECTION 7.29. Section 21.609(c), Education Code, is amended
3 to read as follows:

4 (c) For purposes of this section, a participant in the
5 program is not considered to be in violation of an agreement under
6 Section 21.607 during any period in which the participant:

7 (1) is pursuing a full-time course of study related to
8 the field of teaching at an institution of higher education
9 approved by the agency [~~State Board for Educator Certification~~];

10 (2) is serving on active duty as a member of the armed
11 forces of the United States;

12 (3) is temporarily totally disabled for a period not
13 to exceed three years as established by affidavit of a qualified
14 physician;

15 (4) is unable to secure employment for a period not to
16 exceed one year because of care required by a disabled spouse;

17 (5) is seeking and unable to find full-time employment
18 as a teacher in a public elementary or secondary school for a single
19 period not to exceed 27 months; or

20 (6) satisfies the provisions of any additional
21 reimbursement exception adopted by the agency.

22 SECTION 7.30. Section 22.0512(b), Education Code, is
23 amended to read as follows:

24 (b) In this section, "disciplinary proceeding" means:

25 (1) an action brought by the school district employing
26 a professional employee of a school district to discharge or
27 suspend the employee or terminate or not renew the employee's term

1 contract; or

2 (2) an action brought by the Educators' Professional
3 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the
4 educator's code of ethics adopted under Section 21.041(a-1)
5 [~~21.041(b)(8)~~].

6 SECTION 7.31. Sections 29.061(a)-(c) and (e), Education
7 Code, are amended to read as follows:

8 (a) The commissioner [~~State Board for Educator~~
9 ~~Certification~~] shall provide for the issuance of teaching
10 certificates appropriate for bilingual education instruction to
11 teachers who possess a speaking, reading, and writing ability in a
12 language other than English in which bilingual education programs
13 are offered and who meet the general requirements of Chapter 21.
14 The commissioner [~~board~~] shall also provide for the issuance of
15 teaching certificates appropriate for teaching English as a second
16 language. The commissioner [~~board~~] may issue emergency
17 endorsements in bilingual education and in teaching English as a
18 second language.

19 (b) A teacher assigned to a bilingual education program must
20 be appropriately certified under Subchapter B, Chapter 21, for
21 bilingual education [~~by the board~~].

22 (c) A teacher assigned to an English as a second language or
23 other special language program must be appropriately certified
24 under Subchapter B, Chapter 21, for English as a second language [~~by~~
25 ~~the board~~].

26 (e) The agency [~~State Board for Educator Certification~~] and
27 the Texas Higher Education Coordinating Board shall develop a

1 comprehensive plan for meeting the teacher supply needs created by
2 the programs outlined in this subchapter.

3 SECTION 7.32. Sections 33.002(b) and (c), Education Code,
4 are amended to read as follows:

5 (b) A school district with 500 or more students enrolled in
6 elementary school grades shall employ a counselor certified under
7 the rules of the commissioner [~~State Board for Educator~~
8 ~~Certification~~] for each elementary school in the district. A
9 school district shall employ at least one counselor for every 500
10 elementary school students in the district.

11 (c) A school district with fewer than 500 students enrolled
12 in elementary school grades shall provide guidance and counseling
13 services to elementary school students by:

14 (1) employing a part-time counselor certified under
15 the rules of the commissioner [~~State Board for Educator~~
16 ~~Certification~~];

17 (2) employing a part-time teacher certified as a
18 counselor under the rules of the commissioner [~~State Board for~~
19 ~~Educator Certification~~]; or

20 (3) entering into a shared services arrangement
21 agreement with one or more school districts to share a counselor
22 certified under the rules of the commissioner [~~State Board for~~
23 ~~Educator Certification~~].

24 SECTION 7.33. Section 37.007(g), Education Code, as amended
25 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
26 2005, is amended to read as follows:

27 (g) In addition to any notice required under Article 15.27,

1 Code of Criminal Procedure, a school district shall inform each
2 educator who has responsibility for, or is under the direction and
3 supervision of an educator who has responsibility for, the
4 instruction of a student who has engaged in any violation listed in
5 this section of the student's misconduct. Each educator shall keep
6 the information received under this subsection confidential from
7 any person not entitled to the information under this subsection,
8 except that the educator may share the information with the
9 student's parent or guardian as provided for by state or federal
10 law. The Educators' Professional Practices [~~State~~] Board on
11 recommendation of the commissioner [~~for Educator Certification~~]
12 may revoke or suspend the certification of an educator who
13 intentionally violates this subsection.

14 SECTION 7.34. Section 61.0514, Education Code, is amended
15 to read as follows:

16 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the
17 cooperation and advice of the commissioner of education [~~State~~
18 ~~Board for Educator Certification~~], shall adopt educator
19 preparation coursework guidelines that promote, to the greatest
20 extent practicable, the integration of subject matter knowledge
21 with classroom teaching strategies and techniques in order to
22 maximize the effectiveness and efficiency of coursework required
23 for certification under Subchapter B, Chapter 21.

24 SECTION 7.35. Section 61.076, Education Code, as amended by
25 H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005,
26 is amended by amending Subsection (b) and adding Subsection (j) to
27 read as follows:

1 (b) The P-16 Council is composed of the commissioner of
2 education, the commissioner of higher education, the executive
3 director of the Texas Workforce Commission, [~~the executive director~~
4 ~~of the State Board for Educator Certification,~~] and the
5 commissioner of assistive and rehabilitative services. The
6 commissioner of higher education and the commissioner of education
7 shall serve as co-chairs of the council.

8 (j) The P-16 Council, in conjunction with the State Center
9 for Early Childhood Development, shall develop and adopt a school
10 readiness certification system as required by Section 29.161.

11 SECTION 7.36. Section 1001.254(a), Education Code, is
12 amended to read as follows:

13 (a) A temporary driver education instructor license may be
14 issued authorizing a person to teach or provide classroom driver
15 education training if the person:

16 (1) has completed the educational requirements
17 prescribed by Section 1001.253(d)(1);

18 (2) holds a Texas teaching certificate with an
19 effective date before February 1, 1986;

20 (3) meets all license requirements, other than
21 successful completion of the examination required under rules
22 adopted by the commissioner [~~State Board for Educator~~
23 ~~Certification~~] to revalidate the teaching certificate; and

24 (4) demonstrates, in a manner prescribed by the
25 commissioner, the intention to comply with the examination
26 requirement at the first available opportunity.

27 SECTION 7.37. Article 15.27(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) A law enforcement agency that arrests any person or
3 refers a child to the office or official designated by the juvenile
4 board who the agency believes is enrolled as a student in a public
5 primary or secondary school, for an offense listed in Subsection
6 (h), shall attempt to ascertain whether the person is so enrolled.
7 If the law enforcement agency ascertains that the individual is
8 enrolled as a student in a public primary or secondary school, the
9 agency shall orally notify the superintendent or a person
10 designated by the superintendent in the school district in which
11 the student is enrolled of that arrest or referral within 24 hours
12 after the arrest or referral is made, or on the next school day. If
13 the law enforcement agency cannot ascertain whether the individual
14 is enrolled as a student, the agency shall orally notify the
15 superintendent or a person designated by the superintendent in the
16 school district in which the student is believed to be enrolled of
17 that arrest or detention within 24 hours after the arrest or
18 detention, or on the next school day. If the individual is a
19 student, the superintendent shall promptly notify all
20 instructional and support personnel who have responsibility for
21 supervision of the student. All personnel shall keep the
22 information received in this subsection confidential. The
23 Educators' Professional Practices [State] Board [~~for Educator~~
24 ~~Certification~~] may revoke or suspend the certification of personnel
25 who intentionally violate this subsection. Within seven days after
26 the date the oral notice is given, the law enforcement agency shall
27 mail written notification, marked "PERSONAL and CONFIDENTIAL" on

1 the mailing envelope, to the superintendent or the person
2 designated by the superintendent. Both the oral and written notice
3 shall contain sufficient details of the arrest or referral and the
4 acts allegedly committed by the student to enable the
5 superintendent or the superintendent's designee to determine
6 whether there is a reasonable belief that the student has engaged in
7 conduct defined as a felony offense by the Penal Code. The
8 information contained in the notice may be considered by the
9 superintendent or the superintendent's designee in making such a
10 determination.

11 SECTION 7.38. Article 42.018(b), Code of Criminal
12 Procedure, is amended to read as follows:

13 (b) Not later than the fifth day after the date a person who
14 holds a certificate issued under Subchapter B, Chapter 21,
15 Education Code, is convicted or granted deferred adjudication on
16 the basis of an offense, the clerk of the court in which the
17 conviction or deferred adjudication is entered shall provide to the
18 Texas Education Agency and the Educators' Professional Practices
19 [State] Board [for Educator Certification] written notice of the
20 person's conviction or deferred adjudication, including the
21 offense on which the conviction or deferred adjudication was based.

22 SECTION 7.39. Section 654.011(a), Government Code, is
23 amended to read as follows:

24 (a) The position classification plan and the salary rates
25 and provisions in the General Appropriations Act apply to all
26 hourly, part-time, temporary, and regular, full-time salaried
27 employments in the state departments, agencies, or judicial

1 entities specified in the articles of the General Appropriations
2 Act that appropriate money to:

- 3 (1) general government agencies;
- 4 (2) health and human services agencies;
- 5 (3) the judiciary, except for judges, district
6 attorneys, and assistant district attorneys;
- 7 (4) public safety and criminal justice agencies;
- 8 (5) natural resources agencies;
- 9 (6) business and economic development agencies;
- 10 (7) regulatory agencies; and
- 11 (8) agencies of public education, but only the Texas
12 Education Agency, the Texas School for the Blind and Visually
13 Impaired, ~~[the State Board for Educator Certification]~~, the
14 Telecommunications Infrastructure Fund, and the Texas School for
15 the Deaf.

16 SECTION 7.40. Section 821.001(7), Government Code, is
17 amended to read as follows:

18 (7) "Employer" means any agents or agencies in the
19 state responsible for public education, including the governing
20 board of any school district created under the laws of this state,
21 any county school board, the board of trustees, the board of regents
22 of any college or university, or any other legally constituted
23 board or agency of any public school, but excluding the State Board
24 of Education and~~[7]~~ the Texas Education Agency~~[7, and the State~~
25 ~~Board for Educator Certification]~~.

26 SECTION 7.41. Section 821.103, Government Code, is amended
27 to read as follows:

1 Sec. 821.103. REVOCATION [~~CANCELLATION~~] OF TEACHER
2 CERTIFICATE. (a) After receiving notice from the board of
3 trustees of an offense under Section 821.101 and after complying
4 with Chapter 2001 and rules adopted by the Educators' Professional
5 Practices [~~State~~] Board [~~for Educator Certification~~], the board
6 [~~State Board for Educator Certification~~] may revoke [~~cancel~~] the
7 teacher certificate of a person if the board [~~State Board for~~
8 ~~Educator Certification~~] determines that the person committed the
9 offense.

10 (b) The Educators' Professional Practices [~~executive~~
11 ~~director of the State~~] Board [~~for Educator Certification~~] may enter
12 into an agreed sanction.

13 (c) A criminal prosecution of an offender under Section
14 821.101 is not a prerequisite to action by the Educators'
15 Professional Practices [~~State~~] Board [~~for Educator Certification~~
16 ~~or its executive director~~].

17 SECTION 7.42. Section 2054.352(a), Government Code, as
18 amended by S.B. No. 411, Acts of the 79th Legislature, Regular
19 Session, 2005, is amended to read as follows:

20 (a) The following licensing entities shall participate in
21 the system established under Section 2054.353:

- 22 (1) Texas Board of Chiropractic Examiners;
- 23 (2) Court Reporters Certification Board;
- 24 (3) State Board of Dental Examiners;
- 25 (4) Texas Funeral Service Commission;
- 26 (5) Texas Board of Professional Land Surveying;
- 27 (6) Texas State Board of Medical Examiners;

- 1 (7) Board of Nurse Examiners;
- 2 (8) Texas Optometry Board;
- 3 (9) Texas Structural Pest Control Board;
- 4 (10) Texas State Board of Pharmacy;
- 5 (11) Executive Council of Physical Therapy and
6 Occupational Therapy Examiners;
- 7 (12) Texas State Board of Plumbing Examiners;
- 8 (13) Texas State Board of Podiatric Medical Examiners;
- 9 (14) Board of Tax Professional Examiners;
- 10 (15) Polygraph Examiners Board;
- 11 (16) Texas State Board of Examiners of Psychologists;
- 12 (17) State Board of Veterinary Medical Examiners;
- 13 (18) Texas Real Estate Commission;
- 14 (19) Texas Appraiser Licensing and Certification
15 Board;
- 16 (20) Texas Department of Licensing and Regulation;
- 17 (21) Texas State Board of Public Accountancy;
- 18 (22) Educators' Professional Practices [State] Board
19 [~~for Educator Certification~~];
- 20 (23) Texas Board of Professional Engineers;
- 21 (24) Department of State Health Services;
- 22 (25) Texas Board of Architectural Examiners;
- 23 (26) Texas Racing Commission;
- 24 (27) Commission on Law Enforcement Officer Standards
25 and Education; [~~and~~]
- 26 (28) Texas Private Security Board; and
- 27 (29) Texas Education Agency.

1 SECTION 7.43. Section 504.002(b), Occupations Code, is
2 amended to read as follows:

3 (b) This chapter does not apply to an activity or service of
4 a person who:

5 (1) is employed as a counselor by a federal
6 institution and is providing chemical dependency counseling within
7 the scope of the person's employment;

8 (2) except as provided by Section 504.1515 [~~504.057~~],
9 is a student, intern, or trainee pursuing a supervised course of
10 study in counseling at a regionally accredited institution of
11 higher education or training institution, if the person:

12 (A) is designated as a "counselor intern"; and

13 (B) is engaging in the activity or providing the
14 service as part of the course of study;

15 (3) is not a resident of this state, if the person:

16 (A) engages in the activity or provides the
17 service in this state for not more than 30 days during any year; and

18 (B) is authorized to engage in the activity or
19 provide the service under the law of the state of the person's
20 residence;

21 (4) is a licensed physician, psychologist,
22 professional counselor, or social worker;

23 (5) is a religious leader of a congregation providing
24 pastoral chemical dependency counseling within the scope of the
25 person's duties;

26 (6) is working for or providing counseling with a
27 program exempt under Subchapter C, Chapter 464, Health and Safety

1 Code; or

2 (7) is a school counselor certified under Subchapter
3 B, Chapter 21, Education Code [~~by the State Board for Educator~~
4 ~~Certification~~].

5 SECTION 7.44. Sections 21.036, 21.040, 21.042, and 21.047,
6 Education Code, are repealed.

7 SECTION 7.45. (a) The State Board for Educator
8 Certification is abolished, and all powers, duties, personnel,
9 property, assets, and obligations of the board are transferred to
10 the Educators' Professional Practices Board and the Texas Education
11 Agency, as determined appropriate by the commissioner of education.
12 The validity of a prior action of the State Board for Educator
13 Certification is not affected by the abolishment, and any pending
14 activities of the State Board for Educator Certification shall be
15 deemed to have continued without interruption or material change.

16 (b) The powers and duties of the Educators' Professional
17 Practices Board, as created by this Act, shall continue to be
18 exercised by the State Board for Educator Certification until the
19 initial appointees of the Educators' Professional Practices Board
20 assume their offices, which may not be later than January 1, 2006.

21 (c) All rules of the State Board for Educator Certification
22 relating to a transferred power or duty remain in effect as rules of
23 the Educators' Professional Practices Board or commissioner of
24 education, as appropriate, until amended or repealed by the board
25 or commissioner.

26 (d) A contested case, rulemaking procedure, program, test,
27 fee, contract, review, evaluation, sanction, act, or decision of

1 the State Board for Educator Certification that is pending,
2 completed, or in effect on the effective date of this Act shall be
3 deemed that of the commissioner of education or the Educators'
4 Professional Practices Board to the extent authorized by Subchapter
5 B, Chapter 21, Education Code, as amended by this article, or other
6 law, until and unless a change is expressly made by the commissioner
7 or the board, as appropriate.

8 (e) As soon as practicable after the effective date of this
9 article and not later than December 1, 2005, the commissioner shall
10 make initial appointments to the Educators' Professional Practices
11 Board. In making the initial appointments, the commissioner shall
12 designate four members to serve terms expiring February 1, 2007,
13 four members to serve terms expiring February 1, 2009, and three
14 members to serve terms expiring February 1, 2011.

15 (f) A person who holds a certificate issued under Subchapter
16 B, Chapter 21, Education Code, as it existed on January 1, 2005, may
17 continue to practice under that certificate until the certificate
18 is renewed or replaced under Subchapter B, Chapter 21, Education
19 Code, as amended by this article.

20 (g) The code of ethics adopted under Subchapter B, Chapter
21 21, Education Code, by the State Board for Educator Certification
22 and in effect on the effective date of this article remains in
23 effect until superseded by rules of the Educators' Professional
24 Practices Board.

25 ARTICLE 8. REPEALER; EFFECTIVE DATE

26 SECTION 8.01. Effective on the 91st day after the last day
27 of the legislative session, the following provisions are repealed:

1 (1) Sections 1-3, Chapter 201, Acts of the 78th
2 Legislature, Regular Session, 2003;

3 (2) Section 4, S.B. No. 23, Acts of the 79th
4 Legislature, Regular Session, 2005;

5 (3) Sections 21.357, 21.402(b) and (e), 29.056(h),
6 39.027(b), (c), and (f), 39.051(d), 39.073, 39.074, and 39.112,
7 Education Code; and

8 (4) Sections 1579.253(b) and 1581.702, Insurance
9 Code.

10 SECTION 8.02. Effective June 1, 2006, Sections 25.0811(b)
11 and (c), Education Code, are repealed.

12 SECTION 8.03. Effective September 1, 2006, the following
13 provisions are repealed:

14 (1) Subchapters B, C, E, F, and G, Chapter 41,
15 Education Code;

16 (2) Chapter 42, Education Code, as it existed on
17 January 1, 2006;

18 (3) Sections 29.203(c) and (g), 39.024(e), 41.001,
19 41.002, 41.003, 41.0031, 41.007, 41.009(b), 41.011, 41.092,
20 41.099, 41.252(b), 44.004(c) and (d), and 105.301(f), Education
21 Code;

22 (4) Section 403.302(j), Government Code;

23 (5) Section 1581.053(b), Insurance Code;

24 (6) Subchapter C, Chapter 1581, Insurance Code; and

25 (7) Sections 6.02(g), 6.03(m), 21.02(b) and 26.08(k),
26 (l), and (m), Tax Code.

27 SECTION 8.04. (a) Except as otherwise provided by this Act,

1 and subject to Subsection (b) of this section, this Act takes effect
2 on the 91st day after the last day of the legislative session.

3 (b) Notwithstanding any other provision of this Act, this
4 Act takes effect only if H.B. No. 3, Acts of the 79th Legislature,
5 2nd Called Session, 2005, or similar legislation enacted by the
6 79th or a subsequent legislature that specifically references this
7 section, becomes law. If H.B. No. 3, Acts of the 79th Legislature,
8 2nd Called Session, 2005, or similar legislation enacted by the
9 79th or a subsequent legislature that specifically references this
10 section, does not become law, this Act has no effect.