

By: Grusendorf

H.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to public education and public school finance matters;
imposing criminal penalties.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING 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 received during the 2004-2005 school year.

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

15 (c) This subsection applies to a district with a wealth per
16 student, as defined by Section 41.001, greater than the product of
17 the dollar amount guaranteed level of state and local funds per
18 weighted student per cent of tax effort, as provided by Section
19 42.302, multiplied by 10,000, but less than the equalized wealth
20 level under Section 41.002. A district to which this subsection
21 applies that adopts a tax rate that complies with the limitation
22 described by Subsection (a) is entitled to state aid in the amount
23 equal to the sum of the amounts described by Subsections (a)(1) and
24 (a)(2).

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

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

1 Sec. 42.2519. ADJUSTMENT FOR DISTRICTS THAT FAIL TO REDUCE
2 PROPERTY TAX RATES. (a) Notwithstanding Section 42.253 or any
3 other provision of this chapter, the commissioner shall reduce the
4 amount to which a district is entitled under this chapter or Chapter
5 41 by 15 percent if the district adopts and assesses a tax for the
6 maintenance and operations of the district for the 2005 tax year
7 that exceeds the limitation described by Section 42.2518(a).

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

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

11 Sec. 42.2520. PROFESSIONAL STAFF COMPENSATION. (a) For
12 the 2005-2006 school year, a school district shall provide
13 classroom teachers, full-time librarians, full-time counselors
14 certified under Subchapter B, Chapter 21, and full-time school
15 nurses with, in addition to the amounts required under Section
16 21.402, compensation in the form of annual salaries, incentives, or
17 other compensation determined appropriate by the district that
18 results in an average compensation increase for the employees of
19 \$500 over what the employees would have received in the 2005-2006
20 school year under the district's salary schedule for the 2004-2005
21 school year, including any local supplement and any money
22 representing a career ladder supplement the employee would have
23 received in the 2005-2006 school year.

24 (b) A school district that paid employees an additional
25 amount during each of the 2003-2004 and 2004-2005 school years to
26 compensate for reductions made in the health coverage or
27 compensation supplementation provided by former Article 3.50-8,

1 Insurance Code, may apply to the commissioner for authority to
2 provide a lesser average compensation increase than the amount
3 otherwise required by Subsection (a), to the extent equitable
4 considering the additional amount provided by the district during
5 the 2003-2004 and 2004-2005 school years.

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

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

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

11 SECTION 1A.02. This part takes effect November 1, 2005.

12 PART B. EDUCATION FUNDING

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

15 CHAPTER 42. FOUNDATION SCHOOL PROGRAM

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 42.001. STATE POLICY. (a) It is the policy of this
18 state that the provision of public education is a state
19 responsibility and that a thorough and efficient system be provided
20 and substantially financed through state revenue sources so that
21 each student enrolled in the public school system shall have access
22 to programs and services that are appropriate to the student's
23 educational needs and that are substantially equal to those
24 available to any similar student, notwithstanding varying local
25 economic factors.

26 (b) The public school finance system of this state shall
27 adhere to a standard of neutrality that provides for substantially

1 equal access to similar revenue per student at similar tax effort,
2 considering all state and local revenues of districts after
3 acknowledging all legitimate student and district cost
4 differences.

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

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

8 (1) adequate resources to provide each eligible
9 student an accredited instructional program and facilities
10 suitable to the student's educational needs; and

11 (2) access to substantially equalized financing for an
12 enriched program.

13 (b) The Foundation School Program consists of:

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

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

19 (B) substantially equal access to funds to
20 provide an enriched program; and

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

22 Sec. 42.003. STUDENT ELIGIBILITY. (a) A student is

23 entitled to the benefits of the Foundation School Program if the
24 student is five years of age or older and under 21 years of age on
25 September 1 of the school year and has not graduated from high
26 school.

27 (b) A student to whom Subsection (a) does not apply is

1 entitled to the benefits of the Foundation School Program if the
2 student is enrolled in a prekindergarten class under Section
3 29.153.

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

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

12 (1) the student performs satisfactorily on the
13 assessment instrument administered under Section 39.023(a) to
14 students in the third grade; and

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

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

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

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

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

1 instruction;

2 (2) for a district that operates under a flexible year
3 program under Section 29.0821, the quotient of the sum of
4 attendance for each actual day of instruction as permitted by
5 Section 29.0821(b)(1) divided by the number of actual days of
6 instruction as permitted by Section 29.0821(b)(1); or

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

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

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

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

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

25 (d) The commissioner may adjust the average daily
26 attendance of a school district in which a disaster, flood, extreme
27 weather condition, fuel curtailment, or other calamity has a

1 significant effect on the district's attendance.

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

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

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

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

20 (c) The funding elements must include:

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

24 (2) adjustments designed to reflect the variation in
25 known resource costs and costs of education beyond the control of
26 school districts;

27 (3) appropriate program cost differentials and other

1 funding elements for the programs authorized under Subchapter C,
2 with the program funding level expressed as total dollar amounts
3 for each program and the specific dollar amount to be provided for
4 each eligible student or course for the appropriate year;

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

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

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

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

17 (e) Notwithstanding Subsection (d), the board shall
18 contract for a comprehensive study of the funding elements. The
19 scope of the study shall include an investigation of uncontrollable
20 variations in the costs of education due to diseconomies of scale or
21 geographic variations in the costs of hiring highly qualified
22 teachers. To the extent practicable, the study shall examine
23 uncontrollable variations in the costs of providing the recommended
24 high school program in small, mid-sized, and urban school
25 districts. The board shall report the results of the study to the
26 commissioner and the legislature not later than December 1, 2008.
27 This subsection expires January 1, 2009.

1 (f) The study required by Subsection (e) must include a
2 component on funding elements relating to special education
3 programs and services. The special education component must
4 include a review of the current funding elements relating to
5 special education programs and services, an analysis of funding
6 mechanisms used by other states, the solicitation and consideration
7 of recommendations from persons with expertise in the area of
8 special education, a review of best practices in the area of special
9 education, and the development of recommendations for a funding
10 system that supports success for students with disabilities and
11 that appropriately recognizes the variance in needs for specialized
12 services, including related services, without providing fiscal
13 incentives to improperly identify or fail to identify students who
14 need special education services. Regardless of the date on which
15 the report under Subsection (e) is required to be submitted, the
16 board shall submit a report on the results of the special education
17 component required by this subsection to the commissioner and the
18 legislature not later than December 1, 2006. This subsection
19 expires January 1, 2007.

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

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

27 (1) a description of the amount of all spending on

1 primary and secondary education in this state, disaggregated by
2 federal, state, and local spending and spending by private
3 entities; and

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

5 [Sections 42.009-42.100 reserved for expansion]

6 SUBCHAPTER B. BASIC PROGRAM

7 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
8 ALLOTMENTS. (a) For each student in average daily attendance, a
9 school district is entitled to an accreditation allotment of
10 \$4,600.

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

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

16 [Sections 42.102-42.150 reserved for expansion]

17 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

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

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

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

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

1 of \$4,822.

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

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

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

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

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

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

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

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

21 (8) \$2,903, for a student in a nonpublic day school;

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

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

1 (11) \$7,726, for a student who resides in a state
2 school.

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

8 (e) For funding purposes, the contact hours credited per day
9 for each special education student in the resource room;
10 self-contained, mild and moderate, regular campus; and
11 self-contained, severe, regular campus instructional arrangements
12 may not exceed the average of the statewide total contact hours
13 credited per day for those three instructional arrangements in the
14 1992-1993 school year.

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

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

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

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

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

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

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

12 (m) From the total amount appropriated for purposes of this
13 section, the commissioner shall set aside an amount necessary to
14 pay the cost of the study of the funding elements for special
15 education required by Section 42.006(f). After setting aside funds
16 under this subsection, the commissioner shall reduce each
17 district's allotment in the manner provided by Section 42.313(f).
18 This subsection expires September 1, 2007.

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

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

23 where:

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

25 "ADA" is the district's total number of students in average
26 daily attendance;
27

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

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

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

16 (c) From the total amount of funds appropriated for
17 allotments under this section, the commissioner may, each fiscal
18 year:

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

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

26 (3) withhold an amount determined by the commissioner
27 as appropriate to finance the agency's administrative expenses in

1 conducting activities under Section 39.1321.

2 (d) From the total amount of funds appropriated for
3 allotments under this section, the commissioner shall, each fiscal
4 year:

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

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

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

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

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

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

1 (f) Notwithstanding any other provision of law, a district
2 may use funds allocated under this section to provide Saturday
3 classes for students in grade levels one through four who fail to
4 perform satisfactorily on an assessment instrument administered
5 under Section 39.023 or otherwise fail to perform satisfactorily,
6 as determined by the district. A district may contract with another
7 entity to provide Saturday classes under this subsection.

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

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

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

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

20 (c) A district is not entitled to an allotment under this
21 section for a student who meets the criteria for transferring out of
22 the district's bilingual education or special language program
23 unless the student is reenrolled in the program under Section
24 29.0561.

25 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

26 (a) For each student in average daily attendance in an approved
27 career and technology education program in grades eight through 12,

1 a district is entitled to an annual allotment of \$178 for each
2 annual credit hour the student is enrolled in the program, or a
3 greater amount for any school year provided by appropriation. This
4 subsection expires September 1, 2007.

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

10 (1) advanced technical credit courses as approved by a
11 statewide advisory leadership committee for statewide
12 articulation;

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

15 (3) courses designed for special education students.

16 (c) The commissioner shall establish a pilot program under
17 which participating districts receive the allotment described by
18 Subsection (a) or (b), as applicable, for students in grade seven.
19 The commissioner shall establish the pilot program in each county
20 that borders the Intracoastal Waterway and:

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

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

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

27 (4) has a population of at least 20,000 and adjoins a

1 county described by Subdivision (3).

2 (d) The commissioner shall establish a committee to study
3 the effectiveness of career and technology education programs and
4 the manner in which the programs have affected graduation rates.
5 Not later than January 1, 2012, the committee shall submit a report
6 to the legislature that contains the study's findings and
7 recommendations regarding statewide funding of career and
8 technology education programs in grade seven.

9 (e) Subsections (c) and (d) and this subsection expire
10 September 1, 2012.

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

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

24 Sec. 42.156. GIFTED AND TALENTED ALLOTMENT. (a) For each
25 identified student a school district serves in a program for gifted
26 and talented students that the district certifies to the
27 commissioner as complying with Subchapter D, Chapter 29, a district

1 is entitled to an annual allotment of \$526, or a greater amount for
2 any school year provided by appropriation.

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

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

15 [Sections 42.157-42.170 reserved for expansion]

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

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

25 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding
26 any other provision of this code, but subject to Subsection (b), a
27 school district may not spend in any school year for a program or

1 service listed below an amount per student in average daily
2 attendance that is less than the amount the district spent for that
3 program or service per student in average daily attendance during
4 the 2005-2006 school year:

5 (1) a special education program under Subchapter A,
6 Chapter 29;

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

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

15 (4) programs for students who do not have a disability
16 and reside in residential placement facilities in districts in
17 which the student's parents or legal guardians do not reside;

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

20 (6) a career and technology education program in
21 grades nine through 12 or a career and technology education program
22 for students with disabilities in grades seven through 12 under
23 Sections 29.182, 29.183, and 29.184; or

24 (7) a gifted and talented program under Subchapter D,
25 Chapter 29.

26 (b) The commissioner may authorize a school district to
27 spend less than the amount required by this section if the

1 commissioner, considering the district's unique circumstances,
2 determines that the requirement imposes an undue hardship on the
3 district.

4 [Sections 42.173-42.200 reserved for expansion]

5 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

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

14 (c) If the amount of an allotment under this section that a
15 school district or county receives exceeds the district's or
16 county's cost of operating the transportation system, the district
17 or county may use the excess funds for any legal purpose.

18 Sec. 42.202. HAZARDOUS CONDITIONS. A district or county
19 may apply for and on approval of the commissioner receive an
20 additional amount of up to 10 percent of its regular transportation
21 allotment to be used for the transportation of children living
22 within two miles of the school they attend who would be subject to
23 hazardous traffic conditions if they walked to school. Each board
24 of trustees shall provide to the commissioner the definition of
25 hazardous conditions applicable to that district and shall identify
26 the specific hazardous areas for which the allocation is requested.
27 A hazardous condition exists where no walkway is provided and

1 children must walk along or cross a freeway or expressway, an
2 underpass, an overpass or a bridge, an uncontrolled major traffic
3 artery, an industrial or commercial area, or another comparable
4 condition.

5 Sec. 42.203. PRIVATE OR COMMERCIAL TRANSPORTATION. The
6 commissioner may grant an amount set by appropriation for private
7 or commercial transportation for students from isolated areas. The
8 need for this type of transportation grant shall be determined on an
9 individual basis and the amount granted shall not exceed the actual
10 cost. The grants may be made only in extreme hardship cases. A
11 grant may not be made if the students live within two miles of an
12 approved school bus route.

13 Sec. 42.204. TRANSPORTATION OF SPECIAL EDUCATION STUDENTS.
14 Districts may use a portion of their allotment under Section 42.151
15 to pay transportation costs for special education students, if
16 necessary. The commissioner may grant an amount set by
17 appropriation for private transportation to reimburse parents or
18 their agents for transporting special education students. The
19 mileage allowed shall be computed along the shortest public road
20 from the student's home to school and back, morning and afternoon.
21 The need for this type of transportation shall be determined on an
22 individual basis and shall be approved only in extreme hardship
23 cases.

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

27 [Sections 42.206-42.220 reserved for expansion]

1 SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

2 Sec. 42.221. NEW INSTRUCTIONAL FACILITY ALLOTMENT. A
3 school district is entitled to an additional allotment as provided
4 by this subchapter for operational expenses associated with opening
5 a new instructional facility.

6 Sec. 42.222. DEFINITIONS. In this subchapter:

7 (1) "Fast growth school district" means a school
8 district that during the five school years preceding the opening of
9 a new instructional facility has experienced an increase in
10 enrollment of:

11 (A) greater than 10 percent; or

12 (B) more than 3,500 students.

13 (2) "Instructional facility" has the meaning assigned
14 by Section 46.001.

15 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. (a)
16 For the first school year in which students attend a new
17 instructional facility, a school district other than a fast growth
18 school district is entitled to an allotment of \$250 for each student
19 in average daily attendance at the facility or a greater amount
20 provided by appropriation.

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

25 Sec. 42.224. ALLOTMENT FOR SECOND AND THIRD YEARS OF
26 OPERATION. (a) For the second school year in which students attend
27 a new instructional facility, a school district other than a fast

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

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

9 (c) For purposes of this section, the number of additional
10 students in average daily attendance at a facility is the
11 difference between the number of students in average daily
12 attendance in the current year at that facility and the number of
13 students in average daily attendance at that facility in the
14 preceding year.

15 Sec. 42.225. LIMIT ON APPROPRIATIONS; PRORATION OF
16 ALLOTMENTS. (a) The amount appropriated for allotments under this
17 subchapter may not exceed \$35 million in a school year.

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

24 [Sections 42.226-42.250 reserved for expansion]

25 [Subchapter F reserved]

26 SUBCHAPTER G. ENRICHMENT PROGRAM

27 Sec. 42.251. PURPOSE. The purpose of the enrichment

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

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

$$12 \quad \text{GYA} = (\text{GL} \times \text{AF} \times \text{DETR} \times 100) - \text{LR}$$

13 where:

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

16 "GL" is the dollar amount guaranteed level, which is the
 17 amount of district enrichment tax revenue per cent of tax effort
 18 available to a school district at the target percentile, which is
 19 the 96th percentile in wealth per student, provided that a greater
 20 amount for any school year may be provided by appropriation;

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

26 "DETR" is the district enrichment tax rate of the school
 27 district, which is the district's adopted maintenance and

1 operations tax rate minus the maximum rate specified under Section
2 42.306 or otherwise provided by appropriation for purposes of that
3 section, or, if applicable, the rate applicable to the district
4 under Section 41.101; and

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

9 (b) The target percentile described by Subsection (a) for
10 purposes of determining the dollar amount guaranteed level ("GL")
11 applies beginning with the 2010-2011 school year. For the
12 2006-2007 through 2009-2010 school years, GL is determined as
13 provided by this subsection, except that a different amount may be
14 provided by appropriation:

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

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

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

21 and

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

25 (c) This subsection and Subsection (b) expire September 1,
26 2011.

27 Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district

1 enrichment tax rate may not exceed \$0.15 per \$100 of valuation.

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

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

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

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

11 (c) Subsection (a-1) and this subsection expire January 1,
12 2009.

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

20 [Sections 42.255-42.300 reserved for expansion]

21 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

1 would result from application of the cost of education index
2 adopted under Subsection (b), or a greater amount for any school
3 year provided by appropriation.

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

12 (b-1) In this subsection, "teacher fixed effects index"
13 means the teacher fixed effects index in the 2004 report
14 commissioned by the Joint Select Committee on Public School Finance
15 of the 78th Legislature, as adjusted so that there is not a greater
16 difference between the highest index value and the lowest index
17 value in the regional boundaries of a regional education service
18 center than the difference that existed between the highest index
19 value and lowest index value within the regional boundaries of that
20 regional education service center under 19 T.A.C. Chapter 203, as
21 that chapter existed on January 1, 2005. The commissioner shall
22 increase the amount of the lowest adjustment in the regional
23 boundaries of each regional education service center to satisfy
24 the requirements of this subsection. Notwithstanding Subsection
25 (a), the cost of education index for purposes of that subsection for
26 the following school years is determined using the teacher fixed
27 effects index in the following manner:

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

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

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

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

16 (b-2) All information relating to the computation and
17 adoption of the cost of education index under this section,
18 including underlying data, assumptions, and computations used in
19 the development of the index, is public information.

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

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

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

1 (d) If the index value provided by this section for a school
2 district is less than the index value used to calculate the cost of
3 education adjustment for that school district during the previous
4 school year, the district's adjustment shall be computed using the
5 index applied during the previous school year.

6 (e) A school district may apply to the agency for a
7 correction of the computation of the adjustment for the district
8 under this section. A review by the agency under this subsection
9 must be limited to the computation and application of data under
10 this section and may not include an appeal of the methodology used
11 to compute the cost of education index.

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

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

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

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

26 (b) The sum of the total accreditation allotments and any
27 special student allotments under Subchapter C of a school district

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

4
$$\underline{A = ((1,600 - ADA) \times 0.000447) \times SA}$$

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

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

10
$$\underline{A = ((1,600 - ADA) \times 0.000431) \times SA; \text{ and}}$$

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

12
$$\underline{A = ((1,600 - ADA) \times 0.000432) \times SA}$$

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

18
$$\underline{A = ((1,600 - ADA) \times 0.0002794) \times SA}$$

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

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

24
$$\underline{A = ((1,600 - ADA) \times 0.0002694) \times SA; \text{ and}}$$

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

26
$$\underline{A = ((1,600 - ADA) \times 0.0002700) \times SA}$$

27 (d) The sum of the total accreditation allotments and any

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

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

8 (2) $A = ((5,000 - ADA) \times 0.00002794) \times SA$

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

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

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

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

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

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

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

22 (e) In addition to the adjustment otherwise provided by this
23 section, the commissioner shall, in accordance with rules adopted
24 by the commissioner, provide an additional adjustment for each
25 school district that is located in a county with a population of
26 less than 5,000 and that contains a majority of the territory in the
27 county. The total amount distributed under this section may not

1 exceed \$3 million in any fiscal year.

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

4 Sec. 42.303. SPARSITY ADJUSTMENT. Notwithstanding
5 Sections 42.101 and 42.302:

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

13 (2) a school district that offers a kindergarten
14 through grade eight program and whose preceding or current year's
15 average daily attendance was or is at least 50 students or that is
16 30 miles or more by bus route from the nearest high school district
17 is entitled to an adjusted accreditation allotment on the basis of
18 75 students in average daily attendance; and

19 (3) a school district that offers a kindergarten
20 through grade six program and whose preceding or current year's
21 average daily attendance was or is at least 40 students or that is
22 30 miles or more by bus route from the nearest high school district
23 is entitled to an adjusted accreditation allotment on the basis of
24 60 students in average daily attendance.

25 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
26 accreditation allotments under Subchapter B and the additional
27 allotments under Subchapters C, D, and E, as adjusted in accordance

1 with this subchapter, constitutes the tier one allotments. The sum
2 of the tier one allotments and the enrichment program allotments
3 under Subchapter G constitutes the total cost of the Foundation
4 School Program.

5 (b) The program shall be financed by:

6 (1) state funds appropriated for the purposes of
7 public school education;

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

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

13 (4) state available school funds distributed in
14 accordance with law.

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

22 Sec. 42.3051. PROFESSIONAL STAFF SALARIES AND ADDITIONAL
23 STATE AID. (a) For the 2006-2007 school year, a school district
24 shall provide classroom teachers, full-time librarians, full-time
25 counselors certified under Subchapter B, Chapter 21, and full-time
26 school nurses with, in addition to the amounts required under
27 Section 21.402, compensation in the form of annual salaries,

1 incentives, or other compensation determined appropriate by the
2 district that results in an average compensation increase for the
3 employees of \$500 over the average annual salaries for the
4 2005-2006 school year.

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

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

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

17 (c) Section 42.311(b) applies to any determinations made
18 under Subsection (b).

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

21 (e) The commissioner may adopt rules to implement this
22 section.

23 Sec. 42.3052. CRISIS INTERVENTION FUNDING. (a) To the
24 extent consistent with this section, the commissioner may set aside
25 funds appropriated to the agency for purposes of the Foundation
26 School Program to provide temporary emergency assistance to a
27 school district responding to flood, extreme weather conditions,

1 fuel curtailment, severe financial crisis, or other crisis or
2 disaster, as determined appropriate by the commissioner. The
3 commissioner may determine funding priorities under this section.

4 (b) Before setting aside funds under this section, the
5 commissioner shall notify the Legislative Budget Board and the
6 governor.

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

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

$$13 \quad \quad \quad \underline{LS = TR \times DPV}$$

14 where:

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

16 "TR" is a tax rate that for each \$100 of valuation is an
17 adopted tax rate of \$1.20, or a lesser rate for any school year
18 provided by appropriation; and

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

22 (b) The commissioner shall adjust the values reported in the
23 official report of the comptroller as required by Section 403.302,
24 Government Code, to reflect reductions in taxable value of property
25 resulting from natural or economic disaster after January 1 in the
26 year in which the valuations are determined. The decision of the
27 commissioner is final. An adjustment does not affect the local

1 share of any other school district.

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

6 (d) If a school district's tax rate ("TR") is less than
7 \$1.20 or the rate otherwise provided by appropriation for purposes
8 of Subsection (a), the district's tier one allotment is adjusted by
9 a percentage determined by dividing the district's tax rate ("TR")
10 by \$1.20 or the rate otherwise provided by appropriation for
11 purposes of Subsection (a) and multiplying the resulting quotient
12 by 100. The commissioner shall determine the amount of the tier one
13 allotment to which a district is entitled under this subsection.
14 The commissioner's determination is final and may not be appealed.

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

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

27 (b) To the extent that a sufficient amount of money is not

1 available to fund all adjustments under this section, the
2 commissioner shall reduce adjustments in the manner provided by
3 Section 42.313(f) so that the total amount of adjustments equals
4 the amount of money available to fund the adjustments.

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

7 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

12 (1) funds are specifically appropriated for purposes
13 of this section; or

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

22 (b) In making a determination under Subsection (a)(2), the
23 commissioner shall:

24 (1) notwithstanding Section 42.313(b), reduce the
25 entitlement under this chapter of a school district whose final
26 taxable value of property is higher than the estimate under Section
27 42.314 and make payments to school districts accordingly; and

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

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

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

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

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

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

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

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

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

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

21 where:

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

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

26 "TN" is the total amount of tuition required to be paid by the
27

1 district under Section 25.039 for the school year for which the
2 adjustment is made, not to exceed the amount specified by
3 commissioner rule under Section 25.039(b); and

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

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

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

22 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)
23 Notwithstanding any other provision of this subtitle, and provided
24 that a school district imposes a tax at a minimum rate specified by
25 the commissioner, a school district is entitled to the amount of
26 state revenue necessary to maintain state and local revenue per
27 student in average daily attendance in the amount equal to the sum

1 of:

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

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

14 (B) the portion of any profit the district
15 received during the 2005-2006 school year as a result of an
16 agreement under Subchapter E, Chapter 41, that exceeds the amount
17 of state and local revenue that would have been available to the
18 district during that school year if the district imposed a
19 maintenance and operations tax of \$1.50 per \$100 of valuation
20 during that school year;

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

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

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

27 (b) The amount of revenue to which a school district is

1 entitled because of the instructional materials and technology
2 allotment under Section 32.005 is not included in making a
3 determination under Subsection (a).

4 (c) The commissioner shall determine the minimum tax rate
5 for a school district under Subsection (a) on the basis of the tax
6 rate adopted by the district for maintenance and operations for the
7 2005-2006 school year.

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

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

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

19 (b) In implementing any provision of this chapter that
20 entitles a school district to maintain the amount of state and local
21 revenue per student in average daily attendance that would have
22 been available to the district using the funding elements under
23 Chapters 41 and 42 in effect during the 2005-2006 school year, the
24 commissioner shall consider the tax rate of each district receiving
25 revenue from a countywide equalization tax to be the sum of the
26 equalization tax rate and the rate imposed by the district.

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

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

7 (1) 108 percent for the 2006-2007 school year;

8 (2) 116 percent for the 2007-2008 school year; and

9 (3) 124 percent for the 2008-2009 school year.

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

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

16 (d) Section 42.311(b) applies to any determinations made
17 under this section.

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

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

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

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

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

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

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

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

20 (c) Each school district is entitled to an amount equal to
21 the difference for that district between the sum of Subsections
22 (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and
23 (a)(5).

24 (d) The commissioner shall approve warrants to each school
25 district equaling the amount of its entitlement, except as provided
26 by this section. Warrants for all money expended according to this
27 chapter shall be approved and transmitted to treasurers or

1 depositories of school districts in the same manner as warrants for
2 state available fund payments are transmitted. The total amount of
3 the warrants issued under this section may not exceed the total
4 amount appropriated for Foundation School Program purposes for that
5 fiscal year.

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

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

20 (g) Not later than March 1 of each year, the commissioner
21 shall determine the actual amount of state funds to which each
22 school district is entitled under this chapter for the current
23 school year and shall compare that amount with the amount of the
24 warrants issued to each district for that year. If the amount of
25 the warrants differs from the amount to which a district is entitled
26 because of variations in the district's tax rate, student
27 enrollment, or taxable value of property, the commissioner shall

1 adjust the district's entitlement for the next fiscal year
2 accordingly.

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

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

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

27 (j) Notwithstanding any other provision of this chapter,

1 the commissioner may adjust the amount of funds allocated to a
2 school district under this chapter for a school year if the district
3 collects less than 96 percent of the maintenance and operations
4 taxes levied by the district during that school year. In making the
5 determination regarding a district's collection rate for a school
6 year for purposes of this subsection, the commissioner shall
7 include any delinquent taxes collected during that year.

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

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

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

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

20 (c) For purposes of this section, the agency shall use the
21 estimate of student enrollment provided by the school district,
22 unless the agency's review of the estimate indicates that it is
23 inaccurate. The commissioner shall adopt criteria for use by the
24 agency in reviewing a district's estimate and shall develop
25 procedures to be used to resolve significant differences between
26 the district's estimate and any revised estimate proposed by the
27 agency. The procedures must provide a district with an opportunity

1 to demonstrate the basis of the district's estimate.

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

12 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In
13 this section:

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

17 (2) "Category 2 school district" means a school
18 district having a wealth per student of at least one-half of the
19 statewide average wealth per student but not more than the
20 statewide average wealth per student.

21 (3) "Category 3 school district" means a school
22 district having a wealth per student of more than the statewide
23 average wealth per student.

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

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

3 (1) 15 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) 80 percent of the yearly entitlement of the
7 district shall be paid in eight equal installments to be made on or
8 before the 25th day of October, November, December, January, March,
9 May, June, and July; and

10 (3) five percent of the yearly entitlement of the
11 district shall be paid in an installment to be made on or before the
12 25th day of February.

13 (c) Payments from the Texas education fund to each category
14 2 school district shall be made as follows:

15 (1) 22 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 September of a fiscal year;

18 (2) 18 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 October;

21 (3) 9.5 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 November;

24 (4) 7.5 percent of the yearly entitlement of the
25 district shall be paid in an installment to be made on or before the
26 25th day of April;

27 (5) five percent of the yearly entitlement of the

1 district shall be paid in an installment to be made on or before the
2 25th day of May;

3 (6) 10 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 June;

6 (7) 13 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 July; and

9 (8) 15 percent of the yearly entitlement of the
10 district shall be paid in an installment to be made after the fifth
11 day of September and not later than the 10th day of September of the
12 calendar year following the calendar year of the payment made under
13 Subdivision (1).

14 (d) Payments from the Texas education fund to each category
15 3 school district shall be made as follows:

16 (1) 45 percent of the yearly entitlement of the
17 district shall be paid in an installment to be made on or before the
18 25th day of September of a fiscal year;

19 (2) 35 percent of the yearly entitlement of the
20 district shall be paid in an installment to be made on or before the
21 25th day of October; and

22 (3) 20 percent of the yearly entitlement of the
23 district shall be paid in an installment to be made after the fifth
24 day of September and not later than the 10th day of September of the
25 calendar year following the calendar year of the payment made under
26 Subdivision (1).

27 (e) The amount of any installment required by this section

1 may be modified to provide a school district with the proper amount
2 to which the district may be entitled by law and to correct errors
3 in the allocation or distribution of funds. If an installment under
4 this section is required to be equal to other installments, the
5 amount of other installments may be adjusted to provide for that
6 equality.

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

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

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

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

25 [Sections 42.318-42.400 reserved for expansion]

26 SUBCHAPTER I. ADDITIONAL EQUALIZATION

27 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

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

12 (b) Notwithstanding any other provision of this subtitle,
13 but subject to this section, the commissioner shall withhold from a
14 district subject to Section 42.401 an amount of state funds
15 necessary, or adjust the amount of attendance credits the district
16 must purchase under Section 41.091 in the amount necessary, to
17 ensure that the district does not receive an amount of state and
18 local revenue per student in average daily attendance that is
19 greater than the following percent of the amount described by
20 Section 42.311(a)(1):

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

24 (c) Notwithstanding Subsection (b) or any other provision
25 of this subtitle, for the 2006-2007 and 2007-2008 school years, the
26 commissioner shall withhold from a capped district an amount of
27 state funds necessary, or adjust the amount of attendance credits

1 the district must purchase under Section 41.091 in the amount
2 necessary, to ensure that the district does not receive an amount of
3 state and local revenue per student in average daily attendance
4 that is greater than 108 percent of the amount described by Section
5 42.311(a)(1). For the 2008-2009 and each following school year, a
6 capped district is subject to Section 41.101.

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

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

13 (f-1) The commissioner shall determine the total amount
14 that the Texas School for the Blind and Visually Impaired and the
15 Texas School for the Deaf would have received from school districts
16 pursuant to this section if H.B. No. 2 and H.B. No. 3, Acts of the
17 79th Legislature, 1st Called Session, 2005, had not reduced the
18 districts' share of the cost of providing education services. That
19 amount, minus any amount the schools do receive from school
20 districts, shall be set aside as a separate account in the Texas
21 education fund and appropriated to those schools for educational
22 purposes.

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

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

26 SECTION 1B.035. Subchapter A, Chapter 41, Education Code,
27 is amended by adding Sections 41.0011 and 41.0012 to read as

1 follows:

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

5 Sec. 41.0012. RECOGNITION OF OPTIONAL HOMESTEAD EXEMPTION.

6 (a) As provided by this section, a district subject to commissioner
7 action under Section 42.401, other than a district that elects to
8 purchase attendance credits in the amount specified by Section
9 41.091(a)(3), is entitled to state and local funds under this
10 chapter and Chapter 42 based on the district's taxable value of
11 property computed in accordance with Section 403.302(d)(14),
12 Government Code.

13 (b) The commissioner shall make a determination as to
14 whether a district is subject to commissioner action under Section
15 42.401 without recognizing the district's taxable value of property
16 computed in accordance with Section 403.302(d)(14), Government
17 Code.

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

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

25 Sec. 41.004. ANNUAL REVIEW OF EQUALIZATION [~~PROPERTY~~
26 ~~WEALTH~~]. (a) Not later than July 15 of each year, using the
27 estimate of enrollment under Section 42.314 [~~42.254~~], the

1 commissioner shall review the local share and tier one allotment
2 ~~[wealth per student]~~ of each school district ~~[districts]~~ in the
3 state and shall notify:

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

7 (2) each district that ~~[to which]~~ the commissioner has
8 determined is eligible to be a capped district for the following
9 school year ~~[proposes to annex property detached from a district~~
10 ~~notified under Subdivision (1), if necessary, under Subchapter G]~~;
11 and

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

15 (b) If, before the dates provided by this subsection, a
16 district notified under Subsection (a)(1) has not purchased average
17 daily attendance credit as provided by Subchapter D ~~[successfully~~
18 ~~exercised one or more options under Section 41.003 that reduce the~~
19 ~~district's wealth per student to a level equal to or less than the~~
20 ~~equalized wealth level]~~, the commissioner ~~[shall order the~~
21 ~~detachment of property from that district as provided by Subchapter~~
22 ~~G. If that detachment will not reduce the district's wealth per~~
23 ~~student to a level equal to or less than the equalized wealth level,~~
24 ~~the commissioner may not detach property under Subchapter G but]~~
25 shall order the consolidation of the district with one or more other
26 districts as provided by Subchapter H. ~~[An agreement under Section~~
27 ~~41.003(1) or (2) must be executed not later than September 1~~

1 ~~immediately following the notice under Subsection (a).]~~ An
 2 election to authorize the purchase of average daily attendance
 3 credit as provided by Subchapter D [~~for an option under Section~~
 4 ~~41.003(3), (4), or (5)] must be ordered before September 1
 5 immediately following the notice under Subsection (a).~~

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

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

13 (1) is effective for Foundation School Program funding
 14 purposes for the school year that begins in the calendar year in
 15 which the [~~detachment and annexation or~~] consolidation is [~~agreed~~
 16 ~~to or~~] ordered; and

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

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

22 (a) The commissioner may adopt rules necessary for the
 23 implementation of this chapter. The rules may provide for the
 24 commissioner to make necessary adjustments to the provisions of
 25 Chapter 42, including providing for the commissioner to make an
 26 adjustment in the funding element established by Section 42.252
 27 [~~42.302~~], at the earliest date practicable, to the amount the

1 commissioner believes, taking into consideration options exercised
2 by school districts under Section 42.401 [~~this chapter~~] and
3 estimates of student enrollments, will match appropriation levels.

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

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

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

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

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

25 Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax
26 increments under Chapter 311, Tax Code, is not affected by the
27 consolidation of territory [~~or tax bases or by annexation~~] under

1 this chapter. In each tax year a school district paying a tax
2 increment from taxes on property over which the district has
3 assumed taxing power is entitled to retain the same percentage of
4 the tax increment from that property that the district in which the
5 property was located before the consolidation [~~or annexation~~] could
6 have retained for the respective tax year.

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

9 (a) A [~~Except as provided by Subchapter C, a~~] decision of
10 the commissioner under this chapter is appealable under Section
11 7.057.

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

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

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

22 (2) if the district elects to have the district's
23 taxable value of property computed in accordance with Section
24 403.302(d)(14), Government Code, the difference between the
25 district's local share under Section 42.306 and the 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; and

3 (3) if the district elects not to have the district's
4 taxable value of property computed in accordance with Section
5 403.302(d)(14), Government Code, the difference between the
6 district's local share under Section 42.306 and 104 percent of the
7 sum of:

8 (A) the district's tier one allotment under
9 Section 42.304; and

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

12 (b) Subsection (a)(1) applies only to a school district that
13 levies a maintenance and operations tax at a rate at least equal to
14 75 percent of the maximum tax rate specified by Section 42.306.

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

26 (d) If the dollar amount guaranteed level ("GL") under
27 Section 42.252 for a school year is less than the amount of

1 enrichment tax revenue available to a school district at the
2 applicable target percentile under that section, the applicable
3 amount of state and local revenue per student in average daily
4 attendance required to be used to purchase attendance credits as
5 provided by Subsection (a)(1) is decreased by an amount equal to the
6 amount by which the dollar amount guaranteed level ("GL") under
7 Section 42.252 exceeds the dollar amount of state and local revenue
8 available per student in average daily attendance at the applicable
9 target percentile under that section.

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

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

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

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

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

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

Sec. 41.101. MINIMUM TAX RATES OF CAPPED DISTRICTS. (a)

Notwithstanding the percent described by Section 41.091(a)(1), revenue raised for a school year by a capped district in excess of the revenue that the capped district is permitted to raise at the minimum tax rate described by Section 41.091(b) is included in determining the district's local share for purposes of Section 42.401. For purposes of this subsection, a capped district is permitted each school year to raise the sum of:

(1) 108 percent of the amount described by Section 42.311(a)(1); and

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

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

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

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

1 expires January 1, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (f) Notwithstanding any other provision of this section, a
25 district may not adopt a tax rate for the maintenance and operations
26 of the district that exceeds the sum of the maximum rate for
27 purposes of Section 42.253 and the rate specified in Section 42.306

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

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

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

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

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

21 (a-1) Notwithstanding Section 45.003, Education Code, and
22 except as provided by Subsection (a-2), (a-3), or (a-4), for the
23 2006 tax year, a school district may not impose a tax for the
24 maintenance and operations of the district that exceeds the greater
25 of:

26 (1) the rate equal to the sum of 80 percent of the rate
27 adopted by the district for maintenance and operations for the 2004

1 tax year; or

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

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

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

24 (a-4) Notwithstanding any other provision of law, a school
25 district permitted by special law on January 1, 2006, to impose an
26 ad valorem tax for maintenance and operations at a rate greater than
27 \$1.50 on the \$100 valuation of taxable property in the district may,

1 for the 2006 tax year:

2 (1) impose a tax for the maintenance and operations of
3 the district at a rate not to exceed the rate that is \$0.30 less than
4 the rate adopted by the district for maintenance and operations for
5 the 2004 tax year, provided that, notwithstanding any other
6 provision of law, the tax authorized by this subdivision may not be
7 considered an enrichment tax rate for purposes of Subchapter G,
8 Chapter 42, Education Code; and

9 (2) seek voter authorization to impose a tax for
10 maintenance and operations for purposes of Subchapter G, Chapter
11 42, Education Code, at a rate greater than the rate authorized by
12 Subdivision (1), provided that the rate authorized by this
13 subdivision may not exceed the maximum tax permitted under
14 Subchapter G, Chapter 42, Education Code.

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

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

1 which the school district is located, an election is not required
2 under this section to approve the tax rate adopted by the governing
3 body for the year following the year in which the disaster occurs.

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

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

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

26 (h) For purposes of Subsection (b) [~~this section~~],
27 increases in taxable values and tax levies occurring within a

1 reinvestment zone under Chapter 311 (Tax Increment Financing Act),
2 in which the district is a participant, shall be eliminated from the
3 calculation of the tax rate adopted by the governing body of the
4 school district.

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

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

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

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

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

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

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

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

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

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

17 SECTION 1B.20. Effective November 1, 2005, Section 311.013,
18 Tax Code, as amended by S.B. No. 771, Acts of the 79th Legislature,
19 Regular Session, 2005, is amended by adding Subsection (n) to read
20 as follows:

21 (n) This subsection applies only to a school district whose
22 taxable value computed under Section 403.302(d), Government Code,
23 is reduced in accordance with Subdivision (5) of that subsection.
24 In addition to the amount otherwise required to be paid into the tax
25 increment fund, the district shall pay into the fund an amount equal
26 to the amount by which the amount of taxes the district would have
27 been required to pay into the fund in the current year if the

1 district levied taxes at the rate the district levied in 2004
2 exceeds the amount the district is otherwise required to pay into
3 the fund in the year of the reduction, not to exceed the amount the
4 school district realizes from the reduction in the school
5 district's taxable value under Section 403.302(d)(5), Government
6 Code. This subsection ceases to apply to the school district on the
7 earlier of the dates specified by Sections 311.017(a)(1) and (2)
8 for the reinvestment zone.

9 SECTION 1B.21. Effective November 1, 2005, Section 403.302,
10 Government Code, is amended by amending Subsections (d) and (i) and
11 adding Subsections (c-1), (c-2), and (d-1) to read as follows:

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

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

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

5 (3) the value estimates established under Subdivision
6 (2), together with the local tax roll value for any categories not
7 sampled and tested by the comptroller, less total deductions
8 determined by the comptroller, determines the taxable value for the
9 school district.

10 (c-2) Subsection (c-1) and this subsection expire September
11 1, 2007.

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

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

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

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

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

27 (A) is within a reinvestment zone created on or

1 before May 31, 1999, or is proposed to be included within the
2 boundaries of a reinvestment zone as the boundaries of the zone and
3 the proposed portion of tax increment paid into the tax increment
4 fund by a school district are described in a written notification
5 provided by the municipality or the board of directors of the zone
6 to the governing bodies of the other taxing units in the manner
7 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
8 within the boundaries of the zone as those boundaries existed on
9 September 1, 1999, including subsequent improvements to the
10 property regardless of when made;

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

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

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

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

27 (7) [~~6~~] the difference between the comptroller's

1 estimate of the market value and the productivity value of land that
2 qualifies for appraisal on the basis of its productive capacity,
3 except that the productivity value estimated by the comptroller may
4 not exceed the fair market value of the land;

5 (8) [~~(7)~~] the portion of the appraised value of
6 residence homesteads of individuals who receive a tax limitation
7 under Section 11.26, Tax Code, on which school district taxes are
8 not imposed in the year that is the subject of the study, calculated
9 as if the residence homesteads were appraised at the full value
10 required by law;

11 (9) [~~(8)~~] a portion of the market value of property
12 not otherwise fully taxable by the district at market value because
13 of:

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

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

24 (10) [~~(9)~~] the market value of all tangible personal
25 property, other than manufactured homes, owned by a family or
26 individual and not held or used for the production of income;

27 (11) [~~(10)~~] the appraised value of property the

1 collection of delinquent taxes on which is deferred under Section
2 33.06, Tax Code;

3 (12) [~~(11)~~] the portion of the appraised value of
4 property the collection of delinquent taxes on which is deferred
5 under Section 33.065, Tax Code; [~~and~~]

6 (13) [~~(12)~~] the amount by which the market value of a
7 residence homestead to which Section 23.23, Tax Code, applies
8 exceeds the appraised value of that property as calculated under
9 that section; and

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

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

23 (i) If the comptroller determines in the annual study that
24 the market value of property in a school district as determined by
25 the appraisal district that appraises property for the school
26 district, less the total of the amounts and values listed in
27 Subsection (d) as determined by that appraisal district, is valid,

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

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

22 PART C. SCHOOL FACILITIES

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

25 Sec. 46.008. STANDARDS. (a) The commissioner shall
 26 establish standards for adequacy of school facilities. The
 27 standards must include requirements related to space, educational

1 adequacy, and construction quality. All new facilities constructed
2 after September 1, 1998, must meet the standards to be eligible to
3 be financed with state or local tax funds.

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

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

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

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

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

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

27 (3) a determination of the number of school districts

1 and campuses that have student populations that exceed the state
2 average for enrollment growth, including, if appropriate, a
3 determination of:

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

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

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

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

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

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

20 (d) Not later than December 1, 2006, the Legislative Budget
21 Board and the agency shall submit to the legislature a report based
22 on the study required by this section. This section expires January
23 15, 2007.

24 SECTION 1C.03. This part takes effect November 1, 2005.

25 PART D. SOCIAL SECURITY CONTRIBUTIONS

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

1 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

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

6 (a-1) Subsection (a) applies beginning with the 2008-2009
7 school year. For the 2006-2007 school year, the state shall pay 16
8 percent of the total costs described by Subsection (a). For the
9 2007-2008 school year, the state shall pay 33 percent of the total
10 costs described by Subsection (a). This subsection expires
11 September 1, 2009.

12 (b) Payment of state assistance under this section is
13 limited to:

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

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

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

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

24 ARTICLE 2. EDUCATION EXCELLENCE

25 PART A. EDUCATION EMPLOYEES

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

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

5 (1) communication during:

6 (A) the employee's regular working hours at the
7 district; or

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

9 (2) ex parte communication relating to:

10 (A) a hearing under Subchapter E or F, Chapter
11 21; and

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

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

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

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

26 (c) A principal or a person interested in becoming a
27 principal may apply for participation in the program, in a form and

1 manner determined by the commissioner.

2 (d) A principal of a campus rated academically
3 unacceptable, as well as any person employed to replace that
4 principal, shall participate in the program and complete the
5 program requirements not later than a date determined by the
6 commissioner.

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

14 (e-1) For the state fiscal biennium beginning September 1,
15 2005, the amount set aside under Subsection (e) may not exceed \$3.6
16 million. This subsection expires August 31, 2007.

17 (f) To implement and administer the program, the
18 commissioner may accept grants, gifts, and donations from public
19 and private entities.

20 (g) The commissioner may adopt rules necessary to
21 administer this section.

22 (h) During the first semester of the 2008-2009 school year,
23 the agency shall evaluate the effectiveness of the program in
24 developing and enhancing the ability of principals participating in
25 the program to provide school leadership and improve student
26 achievement and graduation rates and teacher retention. Not later
27 than January 1, 2009, the agency shall submit a report explaining

1 the results of the study to the governor, lieutenant governor,
2 speaker of the house of representatives, and the presiding officers
3 of the standing committees of each house of the legislature with
4 primary jurisdiction over public education.

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

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

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

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

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

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

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

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

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

3 (b) Each educator preparation program shall submit data
4 elements as required by the commissioner [~~board~~] for an annual
5 performance report to ensure access and equity. At a minimum, the
6 annual report must contain the performance data from Subsection
7 (a), other than the data required for purposes of Subsection
8 (a)(3), and the following information, disaggregated by sex and
9 ethnicity:

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

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

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

22 (1) good cause as determined by the board of trustees;
23 or

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

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

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

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

17 (1) be represented by a representative of the
18 teacher's choice;

19 (2) hear the evidence supporting the reason for the
20 discharge;

21 (3) cross-examine adverse witnesses; and

22 (4) present evidence.

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

25 (1) take the appropriate action to discharge the
26 teacher or allow the teacher to complete the probationary contract
27 term; and

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

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

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

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

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

25 (1) be represented by a representative of the
26 teacher's choice;

27 (2) hear the evidence supporting the reason for the

1 discharge;

2 (3) cross-examine adverse witnesses; and

3 (4) present evidence.

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

5 (1) take the appropriate action to discharge the
6 teacher or allow the teacher to complete the current contract term;
7 and

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

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

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

18 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
19 if a teacher requests a hearing after receiving notice of the
20 proposed decision to:

21 (1) terminate the teacher's continuing contract at any
22 time;

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

26 (3) suspend the teacher without pay.

27 (b) This subchapter does not apply to:

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

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

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

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

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

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

22 (a) If the board of trustees decided not to renew a
23 teacher's term contract or decided to terminate a teacher's
24 probationary contract under Section 21.1041(c) or (d) or term
25 contract under Section 21.2111(c) or (d), the commissioner may not
26 substitute the commissioner's judgment for that of the board of
27 trustees unless the decision was arbitrary, capricious, or unlawful

1 or is not supported by substantial evidence.

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

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

11
$$[\text{MS} - \text{SF} \times \text{FS}]$$

12 ~~[where:~~

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

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

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

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

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

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

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

1	Years	15	16	17
2	Experience			
3	<u>Monthly Salary</u>	<u>\$3,926</u> [-.8811]	<u>\$3,994</u> [-.8970]	<u>\$4,058</u> [-.9119]
4	[Factor]			
5	Years	18	19	20 and over
6	Experience			
7	<u>Monthly Salary</u>	<u>\$4,118</u> [-.9260]	<u>\$4,176</u> [-.9394]	<u>\$4,230</u> [-.9520]
8	[Factor]			

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

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

19 (2) \$150.

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

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

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

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

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

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

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

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

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

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

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

25 Sec. 21.4031. SALARY SUPPLEMENT FOR CERTAIN
26 RETIREMENT-ELIGIBLE CLASSROOM TEACHERS. (a) The amounts specified
27 by this section are in addition to amounts to which a classroom

1 teacher is entitled under Section 21.402.

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

4 (1) \$1,000 for a year in which the sum of the teacher's
5 age and years of service credit in the Teacher Retirement System of
6 Texas equals at least 80 but less than 85;

7 (2) \$2,000 for a year in which the sum of the teacher's
8 age and years of service credit in the Teacher Retirement System of
9 Texas equals at least 85 but less than 90;

10 (3) \$3,000 for a year in which the sum of the teacher's
11 age and years of service credit in the Teacher Retirement System of
12 Texas equals at least 90 but less than 95; and

13 (4) \$4,000 for a year in which the sum of the teacher's
14 age and years of service credit in the Teacher Retirement System of
15 Texas equals at least 95.

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

19 (d) The Teacher Retirement System of Texas, at the request
20 of the agency, may release information to the agency about a member
21 of the retirement system or a retiree that the executive director of
22 the retirement system finds is necessary to determine a person's
23 eligibility for a salary supplement under this section. The
24 information remains confidential after the information is released
25 to the agency as authorized by this section. The agency may
26 disclose whether an employee is entitled to a supplement and the
27 amount of the supplement to which the employee is entitled but may

1 not release other information provided by the retirement system.

2 (e) A school district is entitled to state funds in an
3 amount equal to the sum of the salary supplements to which classroom
4 teachers employed by the district are entitled under this section.
5 Funding a school district receives under this section is in
6 addition to any funding the district receives under Chapter 42. The
7 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 Chapter 41
11 applies is entitled to funding under this section. The
12 commissioner shall determine the timing of the distribution of
13 funds to a district that does not receive Foundation School Program
14 payments.

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

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

20 (1) teach in the same school;

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

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

25 (b) The commissioner shall adopt rules necessary to
26 administer this section, including rules concerning the duties and
27 qualifications of a teacher who serves as a mentor. The rules

1 concerning qualifications must require that to serve as a mentor a
2 teacher must:

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

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

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

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

15 (1) mentor teacher stipends;

16 (2) scheduled time for mentor teachers to provide
17 mentoring to assigned classroom teachers; and

18 (3) mentoring support through providers of mentor
19 training.

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

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

25 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

26 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)

27 The commissioner shall establish an educator excellence incentive

1 program under which school districts, in accordance with locally
2 developed plans approved by the commissioner, provide incentive
3 payments to employees who demonstrate superior success in growth in
4 student achievement.

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

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

10 (1) encourage classroom teachers to:

11 (A) teach at campuses with high percentages of
12 educationally disadvantaged students;

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

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

18 (2) further the goals of any other locally designed
19 performance incentive program intended to improve student
20 achievement.

21 (d) The commissioner shall adopt rules necessary to
22 implement this subchapter. In adopting rules, the commissioner
23 shall:

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

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

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

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

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

8 (c) A local incentive plan must provide for incentive
9 payments to classroom teachers and may provide for incentive
10 payments to other employees.

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

20 (e) A local incentive plan must:

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

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

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

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

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

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

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

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

19 Sec. 22.101. DEFINITIONS. In this subchapter:

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

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

24 (A) is employed by a district, other educational
25 district whose employees are members of the Teacher Retirement
26 System of Texas, participating charter school, or regional
27 education service center;

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

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

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

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

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

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

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

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

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

26 [~~Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the~~
27 ~~availability of funds, each month the agency shall deliver to each]~~

1 district, [~~including a district that is ineligible for state aid~~
2 ~~under Chapter 42, each~~] other educational district that is a member
3 of the Teacher Retirement System of Texas, [~~each~~] participating
4 charter school, or [~~and each~~] regional education service center may
5 elect to designate a portion of the employee's compensation to be
6 used as health care supplementation under this subchapter.

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

9 (c) This section does not apply to:

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

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

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

1 funds.

2 Sec. 22.105. WRITTEN ELECTION REQUIRED. Each school year,
3 an active employee must elect in writing whether to designate a
4 portion of the employee's compensation to be used as health care
5 supplementation under this subchapter.

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

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

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

21 [~~Sec. 22.109.~~] USE OF DESIGNATED [~~SUPPLEMENTAL~~]
22 COMPENSATION. An employee may use compensation designated for
23 health care supplementation [~~a monthly distribution received~~]
24 under this subchapter for any employee benefit, including
25 depositing the amount of the distribution into a cafeteria plan, if
26 the employee is enrolled in a cafeteria plan, or using the
27 designated amount [~~of the distribution~~] for health care premiums

1 through a premium conversion plan. ~~[The employee may take the~~
2 ~~amount of the distribution as supplemental compensation.~~

3 ~~[Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount~~
4 ~~distributed to an employee under this subchapter must be in~~
5 ~~addition to the rate of compensation that:~~

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

9 ~~[(2) the district, school, or service center would~~
10 ~~have paid the employee in the preceding school year if the employee~~
11 ~~had been employed by the district, school, or service center in the~~
12 ~~same capacity in the preceding school year.]~~

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

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

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

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

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

1 except as provided by Subsection (c).

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

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

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

11 (d) This section:

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

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

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

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

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

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

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

8 SECTION 2A.19. Sections 21.104, 21.251, 21.301, and 21.303,
9 Education Code, as amended by this Act, and Sections 21.1041 and
10 21.2111, Education Code, as added by this Act, apply only to a
11 discharge under a probationary or term contract for which written
12 notice of the proposed discharge is given to a teacher on or after
13 November 1, 2005. A discharge under a probationary or term contract
14 for which written notice of the proposed discharge is given to a
15 teacher before November 1, 2005, is governed by the law in effect
16 when the notice is given, and the former law is continued in effect
17 for that purpose.

18 SECTION 2A.20. Section 21.402(a-1), 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.21. Section 21.402(a-2), Education Code, as
23 added by this Act, does not apply to the salary of an educator
24 employed under a contract entered into before the effective date of
25 this Act.

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

1 year.

2 PART B. STATE AND REGIONAL GOVERNANCE

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

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

8 (b) The commissioner of education and the commissioner of
9 higher education may establish not more than three centers for
10 education research for conducting research described by
11 Subsections (e) and (f).

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

13 (1) the Texas Education Agency;

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

15 (3) a public junior college, public senior college or
16 university, or public state college, as those terms are defined by
17 Section 61.003.

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

27 (e) A center shall conduct research for the benefit of

1 education in this state, including research relating to the impact
2 of state and federal education programs, the performance of
3 educator preparation programs, public school finance, and the best
4 practices of school districts with regard to classroom instruction,
5 bilingual education programs, special language programs, and
6 business practices.

7 (f) The commissioner of education and the commissioner of
8 higher education:

9 (1) under the memorandum of understanding described by
10 Subsection (d), may require a center to conduct certain research
11 projects considered of particular importance to the state, as
12 determined by the commissioners; and

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

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

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

27 (2) shall comply with rules adopted by the

1 commissioner of education and the commissioner of higher education
2 to protect the confidentiality of student information, including
3 rules establishing procedures to ensure that confidential student
4 information is not duplicated or removed from a center in an
5 unauthorized manner.

6 (h) The commissioner of education and the commissioner of
7 higher education may:

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

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

12 (i) This section does not authorize the disclosure of
13 student information that may not be disclosed under the Family
14 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
15 1232g).

16 (j) The commissioner of education and the commissioner of
17 higher education shall adopt rules as necessary to implement this
18 section.

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

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

25 Sec. 7.004. SUNSET PROVISION. (a) The Texas Education
26 Agency is subject to Chapter 325, Government Code (Texas Sunset
27 Act). Unless continued in existence as provided by that chapter,

1 the agency is abolished September 1, 2017 [~~2007. In the review of~~
2 ~~the agency by the Sunset Advisory Commission, as required by this~~
3 ~~section, the sunset commission shall limit its review to the~~
4 ~~appropriateness of recommendations made by the sunset commission to~~
5 ~~the 79th Legislature. In the Sunset Advisory Commission's report~~
6 ~~to the 80th Legislature, the sunset commission may include any~~
7 ~~recommendations it considers appropriate].~~

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

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

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

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

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

27 (1) provides useful, accurate, and timely information

1 on student demographics and academic performance, personnel, and
2 school district finances;

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

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

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

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

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

17 (b) Each school district, public charter district, and
18 institution of higher education shall participate in an electronic
19 student records system that satisfies standards approved by the
20 commissioner of education and the commissioner of higher education.

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

27 (1) course or grade completion;

- 1 (2) teachers of record;
2 (3) assessment instrument results; and
3 (4) receipt of special education services, including
4 placement in a special education program and the individualized
5 education program developed.

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

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

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

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

27 SECTION 2B.05. Subchapter B, Chapter 7, Education Code, is

1 amended by adding Section 7.0211 to read as follows:

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

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

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

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

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

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

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

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

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

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

1 of trustees that violate:

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

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

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

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

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

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

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

27 SECTION 2B.095. Subchapter C, Chapter 7, Education Code, is

1 amended by adding Section 7.061 to read as follows:

2 Sec. 7.061. SUBPOENA. (a) The commissioner may issue a
3 subpoena to compel the attendance and testimony of a witness or the
4 production of materials relevant to an audit or investigation under
5 this title.

6 (b) A subpoena may be issued throughout the state and may be
7 served by any person designated by the commissioner.

8 (c) If a person fails to comply with a subpoena issued under
9 this section, the commissioner, acting through the attorney
10 general, may file suit to enforce the subpoena in a district court
11 in Travis County or in the county in which the audit or
12 investigation is conducted. The court shall order compliance with
13 the subpoena if the court finds that good cause exists to issue the
14 subpoena.

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

17 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

22 (b) The grant system must:

23 (1) connect grant activities and funding to student
24 academic performance; and

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

27 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall

1 ensure that:

2 (1) the mission, purpose, and objectives of each
3 agency grant program support student academic performance or
4 another public education mission, objective, or goal specified
5 under Sections 4.001 and 4.002;

6 (2) each agency grant program coordinates with other
7 grant programs administered by the agency;

8 (3) grant programs with similar objectives have common
9 performance measures; and

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

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

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

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

25 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The
26 agency, in coordination with regional education service centers,
27 shall use data relating to grant programs, including grant spending

1 and performance information, to identify successful grant
2 programs. Based on the identification of successful grant
3 programs, each regional education service center shall provide
4 information concerning those programs to the school districts in
5 the service center's region.

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

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

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

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

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

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

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

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

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

27 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL

1 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the
2 agency shall provide the legislature with a status report
3 concerning the agency's development of the grant system. The
4 report may suggest any statutory changes needed to facilitate a
5 full transition to a performance-based grant system.

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

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

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

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

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

16 (1) an overview of this code and any rules adopted
17 under this code;

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

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

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

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

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

1 (b) Each regional education service center shall annually
2 develop and submit to the commissioner for approval a plan for
3 improvement. Each plan must include the purposes and description
4 of the services the center will provide to:

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

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

9 (3) other campuses.

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

13 (1) best practices information as provided by Section
14 7.010; and

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

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

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

22 (2) training and assistance in providing each program
23 that qualifies for a special education, compensatory education,
24 bilingual education, or gifted and talented student funding
25 allotment under Subchapter C, Chapter 42 ~~[Section 42.151, 42.152,
26 ~~42.153, or 42.156]~~;~~

27 (3) assistance specifically designed for a school

1 district or campus rated academically unacceptable under Section
2 39.072 [~~39.072(a) or a campus whose performance is considered~~
3 ~~unacceptable based on the indicators adopted under Section 39.051~~];

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

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

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

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

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

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

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

27 (2) identify and report each expenditure separately by

1 purpose as educational, support, or administrative.

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

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

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

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

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

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

14 (b) In the audit conducted under Subsection (a)(1), the
15 commissioner shall verify that the regional education service
16 center has identified each expenditure separately by purpose as
17 educational, support, or administrative as required by Section
18 8.102(b).

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

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

26 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later
27 than December 1, 2005, the commissioner shall evaluate the

1 feasibility of including a uniform indicator under Section
2 39.202(b) that measures effective administrative management
3 through the use of cooperative shared service arrangements. If the
4 commissioner determines that the adoption of a uniform indicator
5 described by this subsection is feasible, the commissioner by rule
6 shall include the indicator in the financial accountability rating
7 system under Subchapter I, Chapter 39, for school districts
8 beginning with the 2006-2007 school year. This subsection expires
9 September 1, 2007.

10 (b) Each regional education service center shall:

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

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

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

26 (d) The commissioner may:

27 (1) adopt by rule reasonable incentives to encourage

1 school districts and public charter districts to enter into
2 agreements for a cooperative shared service arrangement; and

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

7 SECTION 2B.16. Subchapter A, Chapter 28, Education Code, is
8 amended by adding Section 28.0022 to read as follows:

9 Sec. 28.0022. CURRICULUM REVIEW; ALIGNMENT WITH
10 INSTRUCTIONAL MATERIALS AND ASSESSMENT PROGRAM. (a) The State
11 Board of Education shall adopt a five-year cycle for reviewing the
12 essential knowledge and skills of each subject of the required
13 curriculum under Section 28.002.

14 (b) The State Board of Education may not modify the
15 curriculum in a manner intended to benefit:

16 (1) a specific publisher of instructional materials,
17 as those terms are defined by Section 31.002; or

18 (2) another vendor of educational products or
19 technology.

20 (c) It is the intent of the legislature that the State Board
21 of Education continue to align instructional materials approved
22 under Chapter 31 with the required curriculum. The agency shall
23 develop the state assessment program under Subchapter B, Chapter
24 39, in alignment with the required curriculum.

25 SECTION 2B.17. Subchapter A, Chapter 29, Education Code, is
26 amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as
27 follows:

1 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
2 PROCESS HEARINGS. (a) The agency shall make available to a parent,
3 student, school district, attorney, or other interested person, and
4 shall place on the agency's Internet website, comprehensive, easily
5 understood information concerning the special education due
6 process hearing process.

7 (b) The information described by Subsection (a) must
8 include:

9 (1) a description of the steps in the due process
10 hearing process;

11 (2) the text of any applicable administrative,
12 procedural, or evidentiary rule;

13 (3) a description of any notice requirements;

14 (4) an explanation of options for alternative dispute
15 resolution, including mediation;

16 (5) an explanation of a resolution session;

17 (6) answers to frequently asked questions; and

18 (7) other sources of information, including
19 electronic sources of information, such as special education case
20 law available on the Internet.

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

26 (1) the effectiveness of the due process hearing
27 process; and

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

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

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

11 SECTION 2B.18. Section 37.008, Education Code, is amended
12 by adding Subsection (o) to read as follows:

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

18 PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

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

21 Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM
22 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at
23 risk of dropping out of school" has the meaning described by Section
24 29.081.

25 (b) The agency shall develop a management information
26 system for funds awarded and allocated to school districts and
27 public charter districts for the purpose of providing services to

1 students at risk of dropping out of school.

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

8 (1) the amount of an award;

9 (2) the beginning and ending period of a grant or
10 award;

11 (3) expenditures related to an award; and

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

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

18 (1) the funds management information system includes:

19 (A) the information described by Subsection (c)
20 for all funding sources for services described by Section 29.092
21 for students at risk of dropping out of school, excluding funding
22 information relating to a compensatory, intensive, or accelerated
23 instruction program under Section 29.081, a disciplinary
24 alternative education program established under Section 37.008, or
25 a program eligible under Title I of the Elementary and Secondary
26 Education Act of 1965, as provided by Pub. L. No. 103-382; and

27 (B) all state funds and federal pass-through

1 funds targeting students at risk of dropping out of school;

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

4 (3) aggregate funding information is readily
5 available to agency personnel and policy makers, including
6 aggregate funding information relating to a compensatory,
7 intensive, or accelerated instruction program under Section
8 29.081, a disciplinary alternative education program established
9 under Section 37.008, or a program eligible under Title I of the
10 Elementary and Secondary Education Act of 1965, as provided by Pub.
11 L. No. 103-382.

12 SECTION 2C.02. Effective August 1, 2006, Section 7.056(e),
13 Education Code, as amended by S.B. No. 658, Acts of the 79th
14 Legislature, Regular Session, 2005, is amended to read as follows:

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

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

20 (2) a requirement imposed by federal law or rule,
21 including a requirement for special education or bilingual
22 education programs; or

23 (3) a requirement, restriction, or prohibition
24 relating to:

25 (A) essential knowledge or skills under Section
26 28.002 or minimum graduation requirements under Section 28.025;

27 (B) public school accountability as provided by

1 Subchapters B, C, D, and G, Chapter 39;

2 (C) extracurricular activities under Section
3 33.081 or participation in a University Interscholastic League
4 area, regional, or state competition under Section 33.0812;

5 (D) health and safety under Chapter 38;

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

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

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

11 (H) at-risk programs under Subchapter C, Chapter
12 29;

13 (I) prekindergarten programs under Subchapter E,
14 Chapter 29;

15 (J) educator rights and benefits under
16 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
17 A, Chapter 22;

18 (K) special education programs under Subchapter
19 A, Chapter 29; ~~or~~

20 (L) bilingual education programs under
21 Subchapter B, Chapter 29; or

22 (M) the requirements for the first and last day
23 of instruction under Section 25.0811, except as provided by that
24 section.

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

27 Sec. 11.059. TERMS. (a) A trustee of an independent school

1 district serves a term of [~~three or~~] four years.

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

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

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

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

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

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

20 (b) If the superintendent of the school district has
21 knowledge that a ground for removal under this section exists, the
22 superintendent shall notify the board of trustees. On a
23 determination that a potential ground for removal exists, the board
24 shall notify the appropriate county or district attorney or the
25 attorney general.

26 SECTION 2C.05. Subchapter E, Chapter 11, Education Code, is
27 amended by adding Section 11.2011 to read as follows:

1 Sec. 11.2011. SUPERINTENDENTS: CONFLICT OF INTEREST
2 PROVISIONS. (a) Except as provided by Subsection (b), a
3 superintendent may not receive any financial benefit for personal
4 services performed by the superintendent for any business entity
5 that conducts business with or solicits business from the school
6 district. Any financial benefit received by the superintendent for
7 performing personal services for any other entity must be approved
8 by the board of trustees on a case-by-case basis in an open meeting.

9 (b) Subsection (a) does not apply to personal services
10 performed by a superintendent for an institution of higher
11 education, as defined by Section 61.003, regional education service
12 center, or professional association or organization if the
13 superintendent provides notice to the board of trustees of the
14 school district disclosing the agreement to perform the services.

15 SECTION 2C.06. Section 25.031, Education Code, is amended
16 to read as follows:

17 Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF
18 GOVERNING BOARD. (a) In conformity with this subchapter, the board
19 of trustees of a school district or the board of county school
20 trustees or a school employee designated by the board may assign and
21 transfer any student from one school facility or classroom to
22 another within its jurisdiction.

23 (b) A student who transfers to a school campus other than
24 the campus the student would normally attend based on the student's
25 residence may not be subsequently transferred out of a class at that
26 campus before the end of a semester if the only purpose of the
27 subsequent transfer is to comply with the limit in Section 25.112.

1 A school district is not required to apply for an exception under
2 Section 25.112(d) for the class in which the student is enrolled.

3 SECTION 2C.07. Effective August 1, 2006, the heading to
4 Section 25.0811, Education Code, is amended to read as follows:

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

6 SECTION 2C.08. Effective August 1, 2006, Section
7 25.0811(a), Education Code, is amended to read as follows:

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

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

13 (2) the commissioner grants a waiver to extend the
14 school year at a campus as the result of a disaster, flood, extreme
15 weather condition, fuel curtailment, or other calamity that caused
16 a closure of the campus for a significant period ~~[before the week in~~
17 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
18 ~~considered the first day of the week].~~

19 SECTION 2C.09. Subchapter C, Chapter 29, Education Code, is
20 amended by adding Sections 29.092, 29.093, and 29.0931 to read as
21 follows:

22 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES
23 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this
24 section, "student at risk of dropping out of school" has the meaning
25 described by Section 29.081.

26 (b) To enable school districts and public charter districts
27 to provide supplemental programs and services for the benefit of

1 students at risk of dropping out of school, the commissioner each
2 school year shall award funds to a school district or public charter
3 district in accordance with a streamlined and simplified grant
4 process developed by the commissioner. To the extent practicable,
5 the grant process developed by the commissioner under this
6 subsection must comply with Subchapter E, Chapter 7.

7 (c) The commissioner shall consolidate funding from the
8 following currently funded programs and types of services,
9 excluding early childhood care and education programs and
10 accelerated reading or mathematics initiatives under Section
11 28.006, 28.007, or 28.0211:

12 (1) an optional extended year program under Section
13 29.082;

14 (2) a basic skills program for high school students
15 under Section 29.086;

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

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

20 (d) The commissioner may include grants under Section 7.024
21 as part of one or more consolidated grant application processes
22 developed under this section. The commissioner shall ensure that a
23 grant applied for under a consolidated application process under
24 this section and awarded under Section 7.024 is used only for the
25 purposes of Section 7.024.

26 (e) The commissioner may redistribute the funding of
27 programs described under Subsection (c) as necessary to accomplish

1 the purpose of improving the achievement of students at risk of
2 dropping out of school.

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

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

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

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

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

15 (5) any academic or support services for pregnant or
16 parenting students, including basic instruction and health and life
17 skills training and support for pregnant or parenting students;

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

20 (7) programs or services designed to promote the
21 involvement of parents of students at risk of dropping out of
22 school; and

23 (8) services or programs promoting school and
24 community collaboration to restructure schools for the successful
25 achievement of all students, especially students at risk of
26 dropping out of school.

27 (g) The agency shall make available research-based guidance

1 to school districts and public charter districts to enable
2 successful implementation of the academic and support services
3 described by Subsection (f) that assist students at risk of
4 dropping out of school to succeed in school.

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

16 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and the
17 Legislative Budget Board shall jointly develop a request for
18 proposals for a qualified third party to conduct a comprehensive
19 cost-outcome analysis of federal and state funding for programs
20 targeting students at risk of dropping out of school, as described
21 by Section 29.081, and the impact of those programs on student
22 achievement outcomes. In order to be qualified under this section,
23 a party must at a minimum have experience in educational program
24 evaluation and statistical analysis of public education data.

25 (b) The cost-outcome methodology developed by the
26 contractor under this section is subject to joint review and
27 approval by the agency and the Legislative Budget Board. The

1 cost-outcome analysis at a minimum must consist of the following
2 components:

3 (1) a methodology for assessing the
4 cost-effectiveness of individual school districts and public
5 charter districts in providing services to students at risk of
6 dropping out of school;

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

11 (3) a methodology for evaluating best practices in
12 providing effective services for students at risk of dropping out
13 of school;

14 (4) a statistical methodology for:

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

18 (B) disaggregating data by peer groups;

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

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

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

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

25 (A) report findings from the cost-outcome
26 analysis to the lieutenant governor, the speaker of the house of
27 representatives, and the presiding officer of the standing

1 committee of each house of the legislature with primary
2 jurisdiction over public education, including data related to the
3 feasibility of constructing a cost-effectiveness measure for
4 school districts and public charter districts;

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

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

10 (2) during the 2006-2007 school year, develop a plan
11 to implement the cost-outcome methodology to assess the
12 effectiveness of school districts and public charter districts in
13 providing services during the 2007-2008 school year to students at
14 risk of dropping out of school.

15 (d) During the state fiscal biennium beginning September 1,
16 2005, the commissioner shall retain an amount not to exceed
17 \$500,000 from the total amount of funds allotted under the
18 Foundation School Program to finance the comprehensive
19 cost-outcome analysis and shall reduce the total amount of state
20 funds allocated to each district from any source in the same manner
21 described for a reduction in allotments under Section 42.313.

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

23 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S
24 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a
25 cost-outcome analysis methodology for use in assessing the
26 effectiveness of school districts and public charter districts in
27 providing services for students at risk of dropping out of school,

1 as described by Section 29.081. The commissioner shall use the
2 adopted methodology until the commissioner determines that an
3 alternate methodology approved by the agency and the Legislative
4 Budget Board under Section 29.093(b) more accurately portrays the
5 cost-effectiveness of the analyzed services.

6 (b) The methodology adopted by the commissioner must
7 include the following components:

8 (1) a composite performance measure that combines key
9 indicators of student performance, disaggregated for students at
10 risk of dropping out of school;

11 (2) a format for reporting all state, federal, local,
12 and private sources of funding and total expenditures for
13 supplemental services for students at risk of dropping out of
14 school, reported by school district, public charter district, and
15 statewide; and

16 (3) a system for scoring and ranking school districts
17 and public charter districts, including criteria for establishing
18 school district and public charter district peer groups for
19 comparison purposes.

20 (c) Based on the cost-outcome analysis methodology, the
21 commissioner shall use the ranking system under Subsection (b)(3)
22 to determine annually the level at which school districts and
23 public charter districts are cost-effective in serving students at
24 risk of dropping out of school.

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

27 (1) report the methodology and the results of the

1 cost-outcome analysis to the lieutenant governor, the speaker of
2 the house of representatives, and the presiding officer of the
3 standing committee of each house of the legislature with primary
4 jurisdiction over public education; and

5 (2) make the report under Subdivision (1) available to
6 the public.

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

10 SECTION 2C.10. Subchapter D, Chapter 33, Education Code, is
11 amended by adding Section 33.088 to read as follows:

12 Sec. 33.088. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT
13 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
14 eligible to participate in an extracurricular activity or a
15 University Interscholastic League competition is not ineligible
16 because the student is enrolled in a course offered for joint high
17 school and college credit or in a course offered under a concurrent
18 enrollment program, regardless of the location at which the course
19 is provided.

20 SECTION 2C.11. Subchapter A, Chapter 44, Education Code, is
21 amended by adding Section 44.011 to read as follows:

22 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL
23 ACTIVITIES. (a) A school district shall allocate at least 65
24 percent of the district's total available revenue to fund direct
25 instructional activities in the district. The commissioner by rule
26 shall determine the manner in which a district's total available
27 revenue for purposes of this section is computed.

1 (a-1) Subsection (a) applies beginning with the 2009-2010
2 school year. For the 2006-2007, 2007-2008, and 2008-2009 school
3 years, a school district shall allocate the following percentages
4 of the district's total available revenue to fund direct
5 instructional activities in the district:

6 (1) for the 2006-2007 school year, at least 50
7 percent;

8 (2) for the 2007-2008 school year, at least 55
9 percent; and

10 (3) for the 2008-2009 school year, at least 60
11 percent.

12 (a-2) Subsection (a-1) and this subsection expire August 1,
13 2009.

14 (b) For purposes of this section, whether an expenditure is
15 an expenditure for direct instructional activities shall be
16 determined in accordance with standards and definitions adopted by
17 the National Center for Education Statistics of the United States
18 Department of Education.

19 (c) The commissioner may adopt rules for purposes of this
20 section in a manner consistent with Subsection (b) and Section
21 44.0071.

22 SECTION 2C.12. Section 44.0071, Education Code, is amended
23 by amending Subsection (a) and adding Subsection (a-1) to read as
24 follows:

25 (a) Each fiscal year, a school district shall compute and
26 report to the commissioner:

27 (1) the percentage of the district's total available

1 revenue [~~expenditures~~] for the preceding fiscal year that was
2 [~~were~~] used to fund direct instructional activities; [~~and~~]

3 (2) the percentage of the district's total available
4 revenue for the preceding fiscal year that was used to fund direct
5 instructional activities related to courses that are subject to
6 assessment under Subchapter B, Chapter 39; and

7 (3) the percentage of the district's full-time
8 equivalent employees during the preceding fiscal year whose job
9 function was to directly provide classroom instruction to students,
10 determined by dividing the number of hours spent by employees in
11 providing direct classroom instruction by the total number of hours
12 worked by all district employees.

13 (a-1) The commissioner by rule shall determine the manner in
14 which a district's total available revenue for purposes of this
15 section is computed.

16 SECTION 2C.13. Section 42.002(a), Election Code, as amended
17 by H.B. No. 1209, Acts of the 79th Legislature, Regular Session,
18 2005, is amended to read as follows:

19 (a) The county election precincts are the election
20 precincts for the following elections:

21 (1) the general election for state and county
22 officers;

23 (2) a special election ordered by the governor;

24 (3) a primary election;

25 (4) a countywide election ordered by the commissioners
26 court, county judge, or other county authority, except an election
27 subject to Section 42.062(2); [~~and~~]

1 (5) any other election of a political subdivision not
2 located in a county with a population of more than 3.3 million or a
3 county adjacent to a county with a population of more than 3.3
4 million held on the November uniform election date, as provided by
5 Section 42.0621; and

6 (6) an election held by a school district on the
7 November uniform election date, as provided by Section 42.0622.

8 SECTION 2C.14. Subchapter C, Chapter 42, Election Code, is
9 amended by adding Section 42.0622 to read as follows:

10 Sec. 42.0622. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT
11 ELECTION. (a) A school district that holds an election on the
12 November uniform election date shall use the regular county
13 election precincts.

14 (b) If an election precinct contains territory from more
15 than one school district or more than one district used to elect a
16 member of the governing body of a school district, election
17 officials shall take reasonable measures to ensure that a voter
18 voting at that precinct may not vote in an election in which the
19 voter is not entitled to vote.

20 (c) This section does not require a school district to
21 contract with a county under Section 31.092 or hold a joint election
22 with a county under Chapter 271.

23 (d) The secretary of state shall prescribe procedures to
24 implement this section.

25 SECTION 2C.15. Section 43.004, Election Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) If a school district holds an election on the November

1 uniform election date, the school district shall designate as the
2 polling places for the election the regular county polling places
3 in the county election precincts that contain territory from the
4 school district.

5 SECTION 2C.16. (a) Section 11.059, Education Code, as
6 amended by this Act, applies to a school district trustee election
7 scheduled to be held on or after November 8, 2005.

8 (b) Except as provided by Subsection (c) of this section, a
9 school district trustee election that on the effective date of this
10 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
11 be held on November 7, 2006.

12 (c) If, under Subsection (b) of this section, the positions
13 of more than one-half of the trustees or as near to one-half as
14 possible would be scheduled for election on November 7, 2006, the
15 trustees holding those positions shall draw lots to determine, as
16 appropriate, which positions are subject to election in 2006 and
17 which are subject to election in 2008.

18 (d) To implement the changes made to Section 11.059,
19 Education Code, as amended by this Act, a person may serve a term as
20 school district trustee that is longer than the term for which the
21 person was elected.

22 SECTION 2C.17. Section 11.066, Education Code, as added by
23 this Act, applies only to trustee attendance at a board of trustees
24 meeting held on or after the effective date of this Act. Trustee
25 attendance at a board of trustees meeting held before the effective
26 date of this Act is governed by the law in effect when the meeting
27 was held, and the former law is continued in effect for that

1 purpose.

2 SECTION 2C.18. Section 11.2011, Education Code, as added by
3 this Act, applies only to a contract between a superintendent of a
4 school district and a business entity that is entered into,
5 amended, or extended on or after September 1, 2006. A contract
6 between a superintendent of a school district and a business entity
7 that is entered into, amended, or extended before September 1,
8 2006, is governed by the law in effect on the date the contract is
9 entered into, and the former law is continued in effect for that
10 purpose.

11 SECTION 2C.19. Not later than January 1, 2007, the Texas
12 Education Agency shall adopt a five-year plan to renovate the
13 Public Education Information Management System (PEIMS) to provide
14 for efficient and effective information storage and retrieval for
15 the purposes of allocating scarce school resources. The renovation
16 must include a redesign of the records layout.

17 SECTION 2C.20. A waiver under Section 7.056(e), Education
18 Code, from the requirements for the first and last day of
19 instruction under Section 25.0811, Education Code, as amended by
20 this Act, for the 2006-2007 or a subsequent school year may be
21 granted only as provided by Section 25.0811, Education Code, as
22 amended by this Act, and a waiver of those requirements for the
23 2006-2007 or a subsequent school year that is granted before August
24 1, 2006, and that does not comply with Section 25.0811, Education
25 Code, as amended by this Act, is void.

26 PART D. ACCOUNTABILITY

27 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is

1 amended by adding Section 7.0071 to read as follows:

2 Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The
3 commissioner by rule shall adopt procedures to make available,
4 through the agency Internet website, all financial information
5 provided by school districts and campuses through the Public
6 Education Information Management System (PEIMS), including
7 campus-level expenditure information.

8 (b) In adopting rules under this section, the commissioner
9 shall provide a summarized format for reporting financial
10 information on the agency Internet website.

11 SECTION 2D.02. Section 28.006(j), Education Code, is
12 amended to read as follows:

13 (j) No more than 15 percent of the funds certified by the
14 commissioner under Subsection (i) may be spent on indirect costs.
15 The commissioner shall evaluate the programs that fail to meet the
16 standard of performance under Section 39.051(b)(10) [~~39.051(b)(7)~~]
17 and may implement sanctions under Subchapter G, Chapter 39. The
18 commissioner may audit the expenditures of funds appropriated for
19 purposes of this section. The use of the funds appropriated for
20 purposes of this section shall be verified as part of the district
21 audit under Section 44.008.

22 SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is
23 amended by adding Section 7.010 to read as follows:

24 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In
25 coordination with the Legislative Budget Board and with the
26 assistance of the centers of education research established under
27 Section 1.005, the agency shall establish an online clearinghouse

1 of information relating to best practices of campuses and school
2 districts regarding instruction, resource allocation, and business
3 practices. To the extent practicable, the agency shall ensure that
4 information provided through the online clearinghouse is specific,
5 actionable information relating to the best practices of
6 high-performing and highly efficient campuses and school districts
7 rather than general guidelines relating to campus and school
8 district operation. The information must be accessible by campuses,
9 school districts, and interested members of the public.

10 (b) The agency shall solicit and collect from the
11 Legislative Budget Board, centers of education research
12 established under Section 1.005, and exemplary or recognized school
13 districts and public charter districts, as rated under Section
14 39.072, examples of best practices relating to instruction,
15 resource allocation, and business practices, including best
16 practices relating to curriculum, scope and sequence, compensation
17 and incentive systems, bilingual education and special language
18 programs, and the effective use of instructional technology,
19 including online courses.

20 (c) The agency may contract for the services of one or more
21 third-party contractors to develop and implement a system of
22 collecting and evaluating the best practices of campuses and school
23 districts as provided by this section. In addition to any other
24 considerations required by law, the agency must consider an
25 applicant's demonstrated competence and qualifications in
26 analyzing campus and school district practices in awarding a
27 contract under this subsection.

1 SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is
2 amended by adding Section 11.004 to read as follows:

3 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
4 AND CAMPUSES. (a) Except as provided by Subsection (b), a school
5 district or campus rated exemplary under Section 39.072 is subject
6 only to the prohibitions, restrictions, and requirements of this
7 title that apply to a public charter district under Section
8 11A.052(b) as approved by the commissioner.

9 (b) A school district or campus described by Subsection (a)
10 is subject to the prohibitions, restrictions, and requirements of
11 Chapter 37, as applicable.

12 SECTION 2D.05. Sections 29.053(b) and (d), Education Code,
13 are amended to read as follows:

14 (b) Within the first five [~~four~~] weeks following the first
15 day of school, the language proficiency assessment committee
16 established under Section 29.063 shall determine and report to the
17 board of trustees of the district the number of students of limited
18 English proficiency on each campus and shall classify each student
19 according to the language in which the student possesses primary
20 proficiency. The board shall report that information to the agency
21 before November 1 each year.

22 (d) Each district that is required to offer bilingual
23 education and special language programs under this section shall
24 offer the following for students of limited English proficiency:

25 (1) bilingual education in prekindergarten at
26 campuses that offer prekindergarten classes;

27 (2) bilingual education in kindergarten through the

1 elementary grades;

2 (3) [~~(2)~~] bilingual education, instruction in English
3 as a second language, or other transitional language instruction
4 approved by the agency in post-elementary grades through grade 8;
5 and

6 (4) [~~(3)~~] instruction in English as a second language
7 in grades 9 through 12.

8 SECTION 2D.06. Subchapter C, Chapter 29, Education Code, is
9 amended by adding Section 29.0822 to read as follows:

10 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)
11 Notwithstanding Section 25.081 or 25.082, a school district may
12 provide a flexible school day program for students in grades nine
13 through 12 who have dropped out of school or who are at risk of
14 dropping out of school as defined by Section 29.081.

15 (b) To enable a school district to provide a program under
16 this section that meets the needs of students described by
17 Subsection (a), a school district may:

18 (1) provide flexibility in the number of hours each
19 day a student attends;

20 (2) provide flexibility in the number of days each
21 week a student attends; or

22 (3) allow a student to enroll in less or more than a
23 full course load.

24 (c) A course offered in a program under this section must
25 provide for at least the same number of instructional hours as
26 required for a course offered in a program that meets the required
27 minimum number of instructional days under Section 25.081 and the

1 required length of school day under Section 25.082.

2 (d) The commissioner may adopt rules for the administration
3 of this section. The commissioner shall calculate average daily
4 attendance for students served under this section. The
5 commissioner shall allow accumulations of hours of instruction for
6 students whose schedule would not otherwise allow full state
7 funding. Funding under this subsection shall be determined based
8 on the number of instructional days in the district calendar and a
9 seven-hour school day, but attendance may be cumulated over a
10 school year, inclusive of any summer or vacation sessions. The
11 attendance of students who accumulate less than the number of
12 attendance hours required under this subsection shall be
13 proportionately reduced for funding purposes. The commissioner may
14 set maximum funding amounts for an individual course under this
15 section.

16 SECTION 2D.07. Section 29.202, Education Code, is amended
17 to read as follows:

18 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate
19 yearly progress standard" means a standard:

20 (1) determined by the commissioner and approved by the
21 United States Department of Education as provided by the No Child
22 Left Behind Act of 2001 (Pub. L. No. 107-110); and

23 (2) used to measure various indicators of educational
24 success to determine the progress of a campus towards academic
25 achievement.

26 (b) A student is eligible to receive a public education
27 grant or to attend another public school in the district in which

1 the student resides under this subchapter if the student is
2 assigned to attend a public school campus:

3 (1) at which 50 percent or more of the students did not
4 perform satisfactorily on an assessment instrument administered
5 under Section 39.023(a) or (c) in any two of the preceding three
6 years; ~~[or]~~

7 (2) that was, at any time in the preceding three years,
8 considered academically unacceptable ~~[low-performing]~~ under
9 Section 39.132; or

10 (3) that has not met the adequate yearly progress
11 standard for the same indicator of educational success for the
12 preceding two years.

13 (c) ~~(b)~~ After a student has used a public education grant
14 to attend a school in a district other than the district in which
15 the student resides, [+

16 ~~[(1)]~~ the student does not become ineligible for the
17 grant if the school on which the student's initial eligibility is
18 based no longer meets the criteria under Subsection (b) ~~[(a); and~~

19 ~~[(2) the student becomes ineligible for the grant if~~
20 ~~the student is assigned to attend a school that does not meet the~~
21 ~~criteria under Subsection (a)].~~

22 SECTION 2D.08. Subchapter G, Chapter 29, Education Code, is
23 amended by adding Section 29.2021 to read as follows:

24 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
25 between this subchapter and a provision of Section 1116, No Child
26 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
27 Behind Act of 2001 prevails.

1 SECTION 2D.09. Section 29.203(f), Education Code, is
2 amended to read as follows:

3 (f) The school district in which a student resides shall
4 provide each student attending a school in another district under
5 this subchapter transportation free of charge to and from the
6 school the student would otherwise attend, except as provided by
7 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
8 6316).

9 SECTION 2D.10. Subchapter Z, Chapter 29, Education Code, is
10 amended by adding Section 29.913 to read as follows:

11 Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate
12 middle school, junior high school, and high school students about
13 the importance of higher education, each school district and each
14 open-enrollment charter school offering those grades shall
15 designate one week during the school year as "Education. Go Get It"
16 Week.

17 (b) During the designated week, each middle school, junior
18 high school, and high school shall provide students with
19 comprehensive grade-appropriate information regarding the pursuit
20 of higher education. The information provided must include
21 information regarding:

22 (1) higher education options available to students;
23 (2) standard admission requirements for institutions
24 of higher education, including:

25 (A) overall high school grade point average;
26 (B) required curriculum; and
27 (C) scores necessary on generally recognized

1 tests or assessments used in admissions determinations, including
2 the Scholastic Assessment Test and the American College Test;

3 (3) automatic admission of certain students to general
4 academic teaching institutions as provided by Section 51.803; and

5 (4) financial aid availability and requirements,
6 including the financial aid information provided by counselors
7 under Section 33.007(b).

8 (c) In addition to the information provided under
9 Subsection (b), each middle school, junior high school, and high
10 school shall provide to the students during the designated week at
11 least one public speaker to promote the importance of higher
12 education.

13 SECTION 2D.11. Section 39.022, Education Code, is amended
14 to read as follows:

15 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of
16 Education by rule shall create and implement a statewide assessment
17 program that is knowledge- and skills-based to ensure school
18 accountability for student achievement that achieves the goals
19 provided under Section 4.002. After adopting rules under this
20 section, the State Board of Education shall consider the importance
21 of maintaining stability in the statewide assessment program when
22 adopting any subsequent modification of the rules.

23 (b) The commissioner by rule shall provide for the
24 administration of assessment instruments under this subchapter.

25 SECTION 2D.12. Section 39.023, Education Code, is amended
26 by amending Subsections (a)-(e), (i), (j), and (l)-(n) and adding
27 Subsections (a-1) and (b-1) to read as follows:

1 (a) The agency shall adopt or develop appropriate
2 criterion-referenced assessment instruments designed to assess
3 essential knowledge and skills in reading, writing, mathematics,
4 social studies, and science. Except as otherwise provided by this
5 subchapter, all [All] students~~[, except students assessed under~~
6 ~~Subsection (b) or (1) or exempted under Section 39.027,]~~ shall be
7 assessed in:

8 (1) mathematics, annually in grades three through
9 ~~[seven without the aid of technology and in grades eight through]~~ 11
10 ~~[with the aid of technology on any assessment instruments that~~
11 ~~include algebra];~~

12 (2) reading, annually in grades three through nine;

13 (3) writing, including spelling and grammar, in grades
14 four and seven;

15 (4) English language arts, in grades ~~[grade]~~ 10 and
16 11;

17 (5) social studies, in grades eight, ~~[and]~~ 10, and 11;

18 (6) science, in grades five, eight, ~~[and]~~ 10, and 11;

19 and

20 (7) any other subject and grade required by federal
21 law.

22 (a-1) An assessment instrument under this section may
23 include questions that test a broader range of knowledge and skills
24 or that are at a higher difficulty level for the purpose of
25 differentiating student achievement. A student may not be required
26 to answer a question described by this subsection correctly to
27 perform satisfactorily on the assessment instrument or to be

1 promoted to the next grade level. To ensure a valid bank of
2 questions for use each year, the agency is not required to release a
3 question that is being field-tested until after the fifth school
4 year the question is used on an assessment instrument administered
5 under this section.

6 (b) The agency shall develop or adopt appropriate
7 criterion-referenced assessment instruments to be administered to
8 each student in a special education program under Subchapter A,
9 Chapter 29, who receives modified instruction in the essential
10 knowledge and skills identified under Section 28.002 for the
11 assessed subject but for whom an assessment instrument adopted
12 under Subsection (a), even with allowable accommodations
13 [~~modifications~~], would not provide an appropriate measure of
14 student achievement, as determined by the student's admission,
15 review, and dismissal committee. The assessment instruments
16 required under this subsection must assess essential knowledge and
17 skills [~~and growth~~] in the subjects of reading, mathematics, and
18 writing and any other subject required by federal law. A student's
19 admission, review, and dismissal committee shall determine whether
20 any allowable accommodation [~~modification~~] is necessary in
21 administering to the student an assessment instrument required
22 under this subsection or whether an alternate assessment instrument
23 must be used to measure alternate academic achievement standards.
24 A student's admission, review, and dismissal committee shall
25 determine the high school graduation assessment requirements for a
26 student in a special education program under Subchapter A, Chapter
27 29, and may use local alternative assessment instruments if

1 multiple testing opportunities are not available for a student. To
2 the extent practicable, the [The] assessment instruments required
3 under this subsection shall be administered on the same schedule as
4 the assessment instruments administered under Subsection (a). The
5 commissioner shall adopt rules to implement this subsection.

6 (b-1) The agency shall adopt or develop appropriate
7 criterion-referenced instruments as required by federal law
8 designed to measure alternate academic achievement standards for
9 students in a special education program under Subchapter A, Chapter
10 29, with the most significant cognitive disabilities.

11 (c) The [~~agency shall also adopt~~] secondary exit-level
12 assessment instruments designed to be administered to students in
13 grade 11 under Subsection (a) must [~~to~~] assess essential knowledge
14 and skills in mathematics, English language arts, social studies,
15 and science. The mathematics section must include at least Algebra
16 I and geometry [~~with the aid of technology~~]. The English language
17 arts section must include at least English III and must include the
18 assessment of essential knowledge and skills in writing. The social
19 studies section must include early American and United States
20 history. The science section must include at least biology and
21 integrated chemistry and physics. The assessment instruments must
22 be designed to assess a student's mastery of minimum skills
23 necessary for high school graduation and readiness to enroll in an
24 institution of higher education. [~~If a student is in a special~~
25 ~~education program under Subchapter A, Chapter 29, the student's~~
26 ~~admission, review, and dismissal committee shall determine whether~~
27 ~~any allowable modification is necessary in administering to the~~

1 ~~student an assessment instrument required under this subsection or~~
2 ~~whether the student should be exempted under Section 39.027(a)(2).~~
3 ~~The State Board of Education shall administer the assessment~~
4 ~~instruments. The State Board of Education shall adopt a schedule~~
5 ~~for the administration of secondary exit-level assessment~~
6 ~~instruments.]~~ Each student who did not perform satisfactorily on
7 any secondary exit-level assessment instrument when initially
8 tested shall be given multiple opportunities to retake that
9 assessment instrument. A student who performs at or above a level
10 established by the Texas Higher Education Coordinating Board on the
11 secondary exit-level assessment instruments is exempt from the
12 requirements of Section 51.3062 [~~51.306~~]. The performance level
13 established by the Texas Higher Education Coordinating Board under
14 this subsection represents the level of academic achievement
15 indicating a student is prepared for college course work. The
16 performance level may be used as an indicator to measure progress
17 toward college preparedness of public school students in the state.

18 (d) The commissioner may participate in multistate efforts
19 to develop voluntary standardized end-of-course assessment
20 instruments. The commissioner by rule may require a school
21 district to administer an end-of-course assessment instrument
22 developed through the multistate efforts. The admission, review,
23 and dismissal committee of a student in a special education program
24 under Subchapter A, Chapter 29, shall determine whether any
25 allowable accommodation [~~modification~~] is necessary in
26 administering to the student an end-of-course assessment
27 instrument or whether the student should be exempted [~~under Section~~

1 ~~39.027(a)(2)]~~.

2 (e) Under rules adopted by the State Board of Education,
3 ~~[every other year]~~, the agency shall release the questions and
4 answer keys to each assessment instrument administered under
5 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after
6 August 1 after the second anniversary of the date ~~[after the last~~
7 ~~time]~~ the instrument was ~~[is]~~ administered ~~[for that school year]~~.
8 To ensure a valid bank of questions for use each year, the agency is
9 not required to release a question that is being field-tested and
10 was not used to compute the student's score on the instrument. The
11 agency shall also release, under board rule, each question that is
12 no longer being field-tested and that was not used to compute a
13 student's score.

14 (i) The provisions of this section, except Subsection (d),
15 are subject to modification by rules adopted under Section 39.022.
16 Each assessment instrument adopted or developed under this section
17 ~~[those rules and each assessment instrument required under~~
18 ~~Subsection (d)]~~ must be reliable and valid and must meet any
19 applicable federal requirements for measurement of student
20 progress.

21 (j) The commissioner shall develop a standardized
22 end-of-course assessment instrument for Algebra I. The
23 commissioner by rule shall ~~[may]~~ require a school district to
24 administer the ~~[an]~~ end-of-course assessment instrument developed
25 under this subsection ~~[in Algebra I]~~. The admission, review, and
26 dismissal committee of a student in a special education program
27 under Subchapter A, Chapter 29, shall determine whether any

1 allowable accommodation [~~modification~~] is necessary in
2 administering to the student an end-of-course assessment
3 instrument [~~or whether the student should be exempted under Section~~
4 ~~39.027(a)(2)~~].

5 (l) The agency [~~State Board of Education~~] shall adopt or
6 develop a Spanish version [~~rules for the administration~~] of the
7 assessment instruments adopted under Subsection (a) for [~~in Spanish~~
8 ~~to~~] students in grades three through six who are of limited English
9 proficiency, as defined by Section 29.052, whose primary language
10 is Spanish, and who are not otherwise exempt from the
11 administration of an assessment instrument under Section 39.027
12 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency
13 whose primary language is Spanish, other than a student to whom
14 Subsection (b) or (b-1) applies, may be assessed using assessment
15 instruments in Spanish under this subsection for up to three years
16 or assessment instruments in English under Subsection (a). The
17 language proficiency assessment committee established under
18 Section 29.063 shall determine which students are administered
19 assessment instruments in Spanish under this subsection.

20 (m) The commissioner by rule shall develop procedures under
21 which the language proficiency assessment committee established
22 under Section 29.063 shall determine which students in grades three
23 through 10 are exempt from the administration of the assessment
24 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules
25 adopted under this subsection shall ensure that the language
26 proficiency assessment committee provides that the exempted
27 students are administered the assessment instruments under

1 Subsections (a) and (c) at the earliest practical date. As
2 necessary to comply with federal requirements, the commissioner by
3 rule shall develop procedures under which a student who is exempt
4 from the administration of an assessment instrument under Section
5 39.027 is administered a linguistically accommodated assessment
6 instrument.

7 (n) This subsection applies only to a student who is
8 determined to have dyslexia or a related disorder and who is an
9 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~
10 ~~its subsequent amendments~~]. The agency shall adopt or develop
11 appropriate [~~criterion-referenced~~] assessment administration
12 procedures, including accommodations for a [~~instruments designed~~
13 ~~to assess the ability of and to be administered to each~~] student to
14 whom this subsection applies. The [~~for whom the assessment~~
15 ~~instruments adopted under Subsection (a), even with allowable~~
16 ~~modifications, would not provide an appropriate measure of student~~
17 ~~achievement, as determined by the~~] committee established by the
18 board of trustees of the district to determine the placement of
19 students with dyslexia or related disorders[~~. The committee~~] shall
20 determine whether the [~~any~~] allowable accommodations are
21 [~~modification is~~] necessary in administering to a student an
22 assessment instrument required under this section [~~subsection. The~~
23 ~~assessment instruments required under this subsection shall be~~
24 ~~administered on the same schedule as the assessment instruments~~
25 ~~administered under Subsection (a)]].~~

26 SECTION 2D.13. Subchapter B, Chapter 39, Education Code, is
27 amended by adding Section 39.0233 to read as follows:

Sec. 39.0233. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a)

Subject to the discretion of the commissioner regarding subjects and grade levels, the agency shall develop or acquire ongoing, computer-adaptive, interactive assessment tools for each subject and grade level for which an assessment instrument is adopted under Section 39.023.

(b) The commissioner shall set aside an appropriate amount, not to exceed \$11.5 million each fiscal year, from the Foundation School Program to pay the cost of developing or acquiring assessment tools under this section. After setting aside an appropriate amount in accordance with this section, the commissioner shall reduce each district's tier one allotments proportionately. A reduction in tier one allotments under this subsection does not affect the computation of the guaranteed amount of revenue per student per cent of tax effort under Section 42.252.

(b-1) Subsection (b) applies beginning with the fiscal year beginning September 1, 2006. This subsection expires September 1, 2007.

(c) Any amount set aside under this section must be approved by the Legislative Budget Board and the governor's office of budget, planning, and policy.

(d) The agency shall make assessment tools developed or acquired under this section available to public schools at no cost.

SECTION 2D.14. Sections 39.024(a) and (c), Education Code, are amended to read as follows:

(a) Except as otherwise provided by this subsection, the State Board of Education shall determine the level of performance

1 considered to be satisfactory on the assessment instruments
 2 administered under Section 39.023. The commissioner by rule
 3 ~~[admission, review, and dismissal committee of a student being~~
 4 ~~assessed under Section 39.023(b)]~~ shall determine the level of
 5 performance considered to be satisfactory on the assessment
 6 instruments administered under Section 39.023(b) or (b-1) ~~[to that~~
 7 ~~student]~~ in accordance with applicable federal requirements
 8 ~~[criteria established by agency rule].~~

9 (c) The agency shall develop study guides for the assessment
 10 instruments administered under Sections 39.023(a) and (1) ~~[(c)].~~
 11 To assist parents in providing assistance during the period that
 12 school is recessed for summer, each school district shall
 13 distribute the study guides to parents of students who do not
 14 perform satisfactorily on one or more parts of the ~~[an]~~ assessment
 15 instrument ~~[administered under this subchapter].~~

16 SECTION 2D.15. Subchapter B, Chapter 39, Education Code,
 17 is amended by adding Sections 39.0241, 39.0242, and 39.0243 to read
 18 as follows:

19 Sec. 39.0241. END-OF-COURSE ASSESSMENT INSTRUMENTS. (a)
 20 The commissioner shall develop, in addition to the Algebra I
 21 end-of-course assessment instrument, described by Section
 22 39.023(j), end-of-course assessment instruments for other subjects
 23 described by Section 39.023(c).

24 (b) The commissioner by rule may require a school district
 25 to administer an end-of-course assessment instrument developed
 26 under this section. The admission, review, and dismissal committee
 27 of a student in a special education program under Subchapter A,

1 Chapter 29, shall determine whether any allowable accommodation is
2 necessary in administering to the student an end-of-course
3 assessment instrument.

4 (c) The agency shall ensure that each end-of-course
5 assessment instrument administered under this section or Section
6 39.023(j) complies with the requirements of this chapter and the No
7 Child Left Behind Act of 2001 (Pub. L. No. 107-110).

8 Sec. 39.0242. END-OF-COURSE ASSESSMENT INSTRUMENT:
9 SATISFACTORY PERFORMANCE. (a) The State Board of Education shall
10 determine the level of performance considered to be satisfactory on
11 end-of-course assessment instruments developed under Section
12 39.0241.

13 (b) The commissioner by rule may exempt a student from the
14 requirements of Section 39.025 as to a subject if the student has
15 performed satisfactorily on the comparable end-of-course
16 assessment instrument for that subject.

17 (c) For purposes of Section 28.0211, the commissioner by
18 rule may provide that a student who has performed satisfactorily on
19 the Algebra I end-of-course assessment instrument is exempt from
20 the requirement relating to passage of the assessment instrument
21 administered under Section 39.023(a)(1) in grade eight.

22 Sec. 39.0243. JOINT LEGISLATIVE OVERSIGHT COMMITTEE:
23 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) In this section,
24 "committee" means the legislative oversight committee on
25 end-of-course assessment instruments.

26 (b) The legislative oversight committee on end-of-course
27 assessment instruments is composed of eight members as follows:

1 (1) four members of the senate who serve on the senate
2 standing committee with primary jurisdiction over public
3 education, appointed by the lieutenant governor; and

4 (2) four members of the house of representatives who
5 serve on the house standing committee with primary jurisdiction
6 over public education, appointed by the speaker of the house of
7 representatives.

8 (c) The lieutenant governor shall designate one of the
9 committee members appointed by the lieutenant governor as committee
10 co-chair and the speaker shall designate one of the committee
11 members appointed by the speaker as committee co-chair.

12 (d) An appointed member of the committee serves at the
13 pleasure of the appointing official.

14 (e) The committee:

15 (1) shall receive information regarding rules
16 relating to end-of-course assessment instruments that have been
17 adopted by the commissioner under Section 39.0241; and

18 (2) may request reports and other information from the
19 commissioner relating to the development and administration of
20 end-of-course assessment instruments.

21 (f) The committee shall monitor the development and
22 administration of end-of-course assessment instruments.

23 (g) Not later than December 31 of each even-numbered year,
24 the committee shall file a report with the governor, the lieutenant
25 governor, the speaker of the house of representatives, and the
26 presiding officer of the standing committee of each house with
27 primary jurisdiction over public education.

1 (h) The report shall include an explanation relating to the
2 progress of the development and administration of end-of-course
3 assessment instruments and any recommendations for the
4 commissioner or for legislative action.

5 SECTION 2D.16. Section 39.025(a), Education Code, is
6 amended to read as follows:

7 (a) A student may not receive a high school diploma until
8 the student has performed satisfactorily on the secondary
9 exit-level assessment instruments for English language arts,
10 mathematics, social studies, and science administered under
11 Section 39.023(a) [~~39.023(c)~~]. This subsection does not require a
12 student to demonstrate readiness to enroll in an institution of
13 higher education.

14 SECTION 2D.17. Effective August 1, 2006, Subchapter B,
15 Chapter 39, Education Code, is amended by adding Section 39.0261 to
16 read as follows:

17 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
18 addition to the assessment instruments otherwise authorized or
19 required by this subchapter:

20 (1) each school year and at state cost, a school
21 district shall administer to students in any two grade levels other
22 than the 11th or 12th grade an established, valid, reliable, and
23 nationally norm-referenced preliminary college preparation
24 assessment instrument; and

25 (2) high school students in the spring of the 11th
26 grade or during the 12th grade may select and take once, at state
27 cost, one of the valid, reliable, and nationally norm-referenced

1 assessment instruments used by colleges and universities as part of
2 their undergraduate admissions processes.

3 (b) The agency shall:

4 (1) select and approve vendors of the specific
5 assessment instruments administered under this section; and

6 (2) pay all fees associated with the administration of
7 the assessment instrument from funds allotted under the Foundation
8 School Program, and the commissioner shall reduce the total amount
9 of state funds allocated to each district from any source in the
10 same manner described for a reduction in allotments under Section
11 42.313.

12 (c) The agency shall ensure that vendors are not paid under
13 Subsection (b) for the administration of an assessment instrument
14 to a student to whom the assessment instrument is not actually
15 administered. The agency may comply with this subsection by any
16 reasonable means, including by creating a refund system under which
17 a vendor returns any payment made for a student who registered for
18 the administration of an assessment instrument but did not appear
19 for the administration.

20 (d) A vendor that administers an assessment instrument for a
21 district under this section shall report the results of the
22 assessment instrument to the agency.

23 (e) Subsection (a)(2) does not prohibit a high school
24 student in the spring of the 11th grade or during the 12th grade
25 from selecting and taking, at the student's own expense, one of the
26 valid, reliable, and nationally norm-referenced assessment
27 instruments used by colleges and universities as part of their

1 undergraduate admissions processes more than once.

2 SECTION 2D.18. Sections 39.027(a), (e), and (g), Education
3 Code, are amended to read as follows:

4 (a) A student in grades three through 10 may be exempted
5 from the administration of an assessment instrument under:

6 (1) [~~Section 39.023(a) or (b) if the student is~~
7 ~~eligible for a special education program under Section 29.003 and~~
8 ~~the student's individualized education program does not include~~
9 ~~instruction in the essential knowledge and skills under Section~~
10 ~~28.002 at any grade level;~~

11 [~~(2) Section 39.023(c) or (d) if the student is~~
12 ~~eligible for a special education program under Section 29.003 and:~~

13 [~~(A) the student's individualized education~~
14 ~~program does not include instruction in the essential knowledge and~~
15 ~~skills under Section 28.002 at any grade level; or~~

16 [~~(B) the assessment instrument, even with~~
17 ~~allowable modifications, would not provide an appropriate measure~~
18 ~~of the student's achievement as determined by the student's~~
19 ~~admission, review, and dismissal committee;~~

20 [~~(3)~~] Section 39.023(a), (b), (b-1), or (l) for a
21 period of up to one year after initial enrollment in a school in the
22 United States if the student is of limited English proficiency, as
23 defined by Section 29.052, and has not demonstrated proficiency in
24 English as determined by the assessment system under Subsection
25 (e); or

26 (2) [~~(4)~~] Section 39.023(a), (b), (b-1), or (l) for a
27 period of up to two years in addition to the exemption period

1 authorized by Subdivision (1) [~~(3)~~] if the student has received an
2 exemption under Subdivision (1) [~~(3)~~] and:

3 (A) is a recent unschooled immigrant; or

4 (B) is in a grade for which no assessment
5 instrument in the primary language of the student is available.

6 (e) As provided by applicable federal requirements, the
7 ~~[The]~~ commissioner shall develop an assessment system that shall be
8 used for evaluating the academic progress toward attaining academic
9 language proficiency in English, including reading proficiency in
10 English, of all students of limited English proficiency, as defined
11 by Section 29.052. A student who has demonstrated the designated
12 level of [~~is exempt from the administration of an assessment~~
13 ~~instrument under Subsection (a)(3) or (4) who achieves]~~ reading
14 proficiency in English as determined by the assessment system
15 developed under this subsection is not eligible for an exemption
16 under Subsection (a)(1) or (2). [~~shall be administered the~~
17 ~~assessment instruments described by Sections 39.023(a) and (c).~~
18 ~~The performance under the assessment system developed under this~~
19 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~
20 ~~shall be included in the academic excellence indicator system under~~
21 ~~Section 39.051, the performance report under Section 39.053, and~~
22 ~~the comprehensive annual report under Section 39.182.~~]

23 (g) For purposes of this section, "recent unschooled
24 immigrant" means an immigrant who initially enrolled in a school in
25 the United States not more than 12 months before the date of the
26 administration of an assessment instrument under Section 39.023
27 [~~39.023(a) or (1)~~] and who, as a result of inadequate schooling

1 outside of the United States, lacks the necessary foundation in the
2 essential knowledge and skills of the curriculum prescribed under
3 Section 28.002 as determined by the language proficiency assessment
4 committee established under Section 29.063. For purposes of this
5 subsection and to the extent authorized by federal law, a child's
6 prior enrollment in a school in the United States shall be
7 determined on the basis of documents and records required under
8 Section 25.002(a).

9 SECTION 2D.19. Subchapter B, Chapter 39, Education Code, is
10 amended by adding Section 39.034 to read as follows:

11 Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT
12 ACHIEVEMENT. (a) The commissioner shall determine a method by
13 which the agency may measure incremental growth in student
14 achievement from one school year to the next on an assessment
15 instrument required under this subchapter.

16 (b) The agency shall report to each school district the
17 comparisons made under Subsection (a). Each school district shall
18 provide the comparisons to each teacher for all students who were:

19 (1) assessed on an assessment instrument; and

20 (2) taught by that teacher in the subject for which the
21 assessment instrument was administered.

22 (c) The school a student attends shall provide a record of
23 the comparison made under this section and provided to the school
24 under Subsection (b) in a written notice to the student's parents.

25 (d) To the extent practicable, the agency shall combine the
26 report of the comparisons required under this section with the
27 report of the student's performance on assessment instruments

1 administered under Section 39.023.

2 (e) The commissioner shall implement this section not later
3 than September 1, 2006. This subsection expires January 1, 2008.

4 SECTION 2D.20. Subchapter B, Chapter 39, Education Code, is
5 amended by adding Section 39.035 to read as follows:

6 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF
7 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other
8 employee, contractor, or volunteer of a school district or public
9 charter district commits an offense if, for the primary purpose of
10 influencing the results of an assessment instrument administered
11 under this subchapter, the person intentionally:

12 (1) discriminates in school admissions based on a
13 student's academic ability in a manner that is not otherwise
14 permitted by law;

15 (2) refers a student to a special education program
16 under Subchapter A, Chapter 29, or a bilingual or special language
17 program under Subchapter B, Chapter 29, for the purpose of gaining
18 an exemption for the student from the administration of the
19 assessment instrument;

20 (3) requires or encourages a student to be absent from
21 a school campus during the day on which the assessment instrument is
22 administered at the campus;

23 (4) tampers with the assessment instrument or related
24 materials to alter the results of the assessment instrument; or

25 (5) engages in any other action designed to alter the
26 accuracy of the results of the assessment instrument.

27 (b) An offense under this section is a Class A misdemeanor.

1 (c) An offense under Subsection (a)(4) is in addition to any
2 offense under Section 37.10(c)(2), Penal Code, arising from the
3 same action.

4 SECTION 2D.21. Section 39.051(b), Education Code, as
5 amended by Chapters 433 and 805, Acts of the 78th Legislature,
6 Regular Session, 2003, is reenacted and amended to read as follows:

7 (b) Performance on the indicators adopted under this
8 section shall be compared to state-established standards. The
9 degree of change from one school year to the next in performance on
10 each indicator adopted under this section shall also be considered.
11 The indicators must be based on information that is disaggregated
12 by race, ethnicity, gender, and socioeconomic status and must
13 include:

14 (1) the results of assessment instruments required
15 under Sections 39.023(a), (c), and (l), aggregated by grade level
16 and subject area;

17 (2) dropout rates, including dropout rates and
18 district completion rates for grade levels 7 [~~9~~] through 12,
19 computed:

20 (A) as a longitudinal rate and an annual
21 completion rate by grade; and

22 (B) in accordance with standards and definitions
23 adopted by the National Center for Education Statistics of the
24 United States Department of Education;

25 (3) high school graduation rates, computed in
26 accordance with standards and definitions adopted in compliance
27 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.

1 107-110);

2 (4) student attendance rates;

3 (5) the percentage of graduating students who attain
4 scores on the secondary exit-level assessment instruments required
5 under Subchapter B that are equivalent to a passing score on the
6 assessment [~~test~~] instrument required under Section 51.3062
7 [~~51.306~~];

8 (6) the percentage of graduating students who meet the
9 course requirements established for the recommended high school
10 program by State Board of Education rule;

11 (7) the results of the Scholastic Assessment Test
12 (SAT), the American College Test (ACT), articulated postsecondary
13 degree programs described by Section 61.852, and certified
14 workforce training programs described by Chapter 311, Labor Code;

15 (8) incremental growth in student achievement, as
16 measured under Section 39.034, aggregated by grade level and
17 subject area;

18 (9) the number and percentage of students at risk of
19 dropping out of school, the number and percentage of those students
20 who are administered each assessment instrument required under
21 Section 39.023, the number and percentage of those students who
22 perform satisfactorily on the assessment instruments, and the
23 results of those students, grouped by number and percentage, on the
24 assessment instruments, disaggregated by subject area and grade
25 level;

26 (10) the number and percentage of students, aggregated
27 by grade level, provided accelerated instruction under Section

1 28.0211(c), the results of assessments administered under that
2 section, the percentage of students promoted through the grade
3 placement committee process under Section 28.0211, the subject of
4 the assessment instrument on which each student failed to perform
5 satisfactorily, and the performance of those students in the school
6 year following that promotion on the assessment instruments
7 required under Section 39.023;

8 (11) [~~(9)~~] for students who have failed to perform
9 satisfactorily on an assessment instrument required under Section
10 39.023(a) or (c), the numerical progress of those students grouped
11 by number and percentage on subsequent assessment instruments
12 required under those sections, aggregated by grade level and
13 subject area;

14 (12) [~~(10)~~] the percentage of students exempted, by
15 exemption category, from the assessment program generally
16 applicable under this chapter; [~~and~~]

17 (13) [~~(11)~~] the percentage of students of limited
18 English proficiency exempted from the administration of an
19 assessment instrument under Sections 39.027(a)(1) and (2);

20 (14) [~~39.027(a)(3) and (4)~~] the percentage of students
21 in a special education program under Subchapter A, Chapter 29,
22 assessed through assessment instruments developed or adopted under
23 Section 39.023(b);

24 (15) for students of limited English proficiency, as
25 defined by Section 29.052, a measure of progress toward English
26 language proficiency, as determined by the commissioner, including
27 the student's performance after transferring out of a bilingual

1 education program or instruction in English as a second language;
2 and

3 (16) the performance of students who are not
4 educationally disadvantaged on an assessment instrument under
5 Sections 39.023(a), (b), (c), and (l) and dropout rates and
6 district completion rates for grades 9 through 12 for those
7 students.

8 SECTION 2D.22. Section 39.052(b), Education Code, is
9 amended to read as follows:

10 (b) The report card shall include the following
11 information:

12 (1) where applicable, the academic excellence
13 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];

14 (2) average class size by grade level and subject;

15 (3) the administrative and instructional costs per
16 student, computed in a manner consistent with Section 44.0071; and

17 (4) the district's instructional expenditures ratio
18 and instructional employees ratio computed under Section 44.0071,
19 and the statewide average of those ratios, as determined by the
20 commissioner.

21 SECTION 2D.23. Section 39.055, Education Code, is amended
22 to read as follows:

23 Sec. 39.055. [~~ANNUAL~~] AUDIT OF DROPOUT RECORDS; REPORT.

24 (a) The commissioner shall develop a process for auditing school
25 district dropout records electronically. The commissioner shall
26 also develop a system and standards for review of the audit or use
27 systems already available at the agency. The system must be

1 designed to identify districts that are at high risk of having
2 inaccurate dropout records and that, as a result, may be subject to
3 a special accreditation investigation under Section 39.075
4 ~~[require on-site monitoring of dropout records. If the electronic~~
5 ~~audit of a district's dropout records indicates that a district is~~
6 ~~not at high risk of having inaccurate dropout records, the district~~
7 ~~may not be subject to on-site monitoring under this subsection. If~~
8 ~~the risk-based system indicates that a district is at high risk of~~
9 ~~having inaccurate dropout records, the district is entitled to an~~
10 ~~opportunity to respond to the commissioner's determination before~~
11 ~~on-site monitoring may be conducted. The district must respond not~~
12 ~~later than the 30th day after the date the commissioner notifies the~~
13 ~~district of the commissioner's determination. If the district's~~
14 ~~response does not change the commissioner's determination that the~~
15 ~~district is at high risk of having inaccurate dropout records or if~~
16 ~~the district does not respond in a timely manner, the commissioner~~
17 ~~shall order agency staff to conduct on-site monitoring of the~~
18 ~~district's dropout records].~~

19 **(b)** ~~[(e)]~~ The commissioner shall notify the superintendent
20 ~~[board of trustees]~~ of a school district of any objection the
21 commissioner has to the district's dropout data, any violation of
22 sound accounting practices or of a law or rule revealed by the data,
23 or any recommendation by the commissioner concerning the data. If
24 the data reflect that a penal law has been violated, the
25 commissioner shall notify the county attorney, district attorney,
26 or criminal district attorney, as appropriate, and the attorney
27 general. The commissioner is entitled to access to all district

1 records the commissioner considers necessary or appropriate for the
2 review, analysis, or approval of district dropout data.

3 SECTION 2D.24. Sections 39.071 and 39.072, Education Code,
4 are amended to read as follows:

5 Sec. 39.071. ACCREDITATION. (a) Accreditation of a school
6 district is determined in accordance with this section
7 ~~[subchapter]~~.

8 (b) Each year, the commissioner shall determine the
9 accreditation status of each school district. In determining
10 accreditation status, the commissioner:

11 (1) shall evaluate and consider the performance of the
12 district under:

13 (A) the academic accountability system under
14 Section 39.072; and

15 (B) the financial accountability system under
16 Subchapter I;

17 (2) shall evaluate and consider:

18 (A) the results of any special accreditation
19 investigation under Section 39.075; and

20 (B) the district's current special education
21 monitoring or compliance status with the agency; and

22 (3) may consider:

23 (A) the district's compliance with statutory
24 requirements and requirements imposed by rule of the commissioner
25 or State Board of Education under specific statutory authority that
26 relate to:

27 (i) reporting data through the Public

1 Education Information Management System (PEIMS) or other reports
2 required by state or federal law or court order;

3 (ii) the high school graduation
4 requirements under Section 28.025; or

5 (iii) an item listed under Sections
6 7.056(e)(3)(C)-(I) that applies to the district;

7 (B) the effectiveness of the district's programs
8 for special populations; and

9 (C) the effectiveness of the district's career
10 and technology program.

11 (c) Based on a school district's performance under
12 Subsection (b), the commissioner shall:

13 (1) assign a district an accreditation status of:

14 (A) accredited;

15 (B) accredited-warned; or

16 (C) accredited-probation; or

17 (2) revoke the accreditation of the district and order
18 closure of the district under this subchapter.

19 (d) The commissioner shall notify a school district that
20 receives an accreditation status of accredited-warned or
21 accredited-probation that the performance of the district is below
22 a standard required under this section. The commissioner shall
23 require the district to notify the parents of students enrolled in
24 the district and property owners in the district of the district's
25 accreditation status and the implications of that accreditation
26 status.

27 (e) A school district that is not accredited may not

1 receive funds from the agency or hold itself out as operating a
2 public school of this state.

3 (f) This chapter may not be construed to invalidate a
4 diploma awarded, course credit earned, or grade promotion granted
5 by a school district before the commissioner revoked the district's
6 accreditation.

7 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
8 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
9 adopt rules for assigning [~~to evaluate the performance of school~~
10 ~~districts and to assign~~] to each school district and campus a
11 performance rating as follows:

12 (1) exemplary (meets or exceeds state exemplary
13 standards);

14 (2) recognized (meets or exceeds required improvement
15 or [~~and~~] within 10 percent of state exemplary standards);

16 (3) academically acceptable (below the exemplary and
17 recognized standards but exceeds the academically unacceptable
18 standards); or

19 (4) academically unacceptable (below the state
20 clearly unacceptable performance standard and does not meet
21 required improvement).

22 (b) The academic excellence indicators adopted under
23 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~
24 ~~district's current special education compliance status with the~~
25 ~~agency~~] shall be the main considerations of the agency in the rating
26 of a school [~~the~~] district or campus under this section.
27 [~~Additional criteria in the rules may include consideration of:~~

1 ~~[(1) compliance with statutory requirements and~~
2 ~~requirements imposed by rule of the State Board of Education under~~
3 ~~specific statutory authority that relate to:~~

4 ~~[(A) reporting data through the Public Education~~
5 ~~Information Management System (PEIMS);~~

6 ~~[(B) the high school graduation requirements~~
7 ~~under Section 28.025; or~~

8 ~~[(C) an item listed in Sections~~
9 ~~7.056(e)(3)(C)-(I) that applies to the district;~~

10 ~~[(2) the effectiveness of the district's programs for~~
11 ~~special populations; and~~

12 ~~[(3) the effectiveness of the district's career and~~
13 ~~technology programs.]~~

14 (c) The agency shall evaluate ~~[against state standards]~~ and
15 ~~[shall]~~, not later than August 1 of each year, report the
16 performance of each school ~~[campus in a]~~ district and campus. ~~[each~~
17 ~~open-enrollment charter school on the basis of the campus's~~
18 ~~performance on the indicators adopted under Sections 39.051(b)(1)~~
19 ~~through (7). Consideration of the effectiveness of district~~
20 ~~programs under Subsection (b)(2) or (3) must be based on data~~
21 ~~collected through the Public Education Information Management~~
22 ~~System for purposes of accountability under this chapter and~~
23 ~~include the results of assessments required under Section 39.023.]~~

24 (d) The agency shall annually review the performance of each
25 school district and campus and determine if a change in the academic
26 performance rating of the district or campus is warranted.
27 Notwithstanding any other provision of this code, the commissioner

1 shall determine how the indicators adopted under Section 39.051(b)
2 may be used to determine academic performance ratings and to select
3 districts and campuses for acknowledgment.

4 (e) Each annual review shall include an analysis of the
5 indicators under Section 39.051(b) to determine district and campus
6 performance in relation to:

7 (1) state standards established for each indicator;

8 (2) required improvement as defined under Section
9 39.051(c); and

10 (3) comparable improvement as determined under
11 Section 39.051(c).

12 (f) The academic performance rating of a school district may
13 be raised or lowered based on the district's performance or may be
14 lowered based on the unacceptable performance of one or more
15 campuses in the district. The academic performance rating of a
16 school district may also be lowered based on a determination that
17 data provided to the agency by the district that is necessary for
18 conducting an annual review under this section is unreliable.

19 (g) The commissioner shall notify a school district if the
20 performance of the district or a campus in the district is below a
21 standard required under this section. The commissioner shall
22 require the school district to notify the parents of students who
23 are enrolled in the district and property owners in the district of
24 the academic performance rating and the implications of that
25 rating.

26 (h) Notwithstanding any other provision of this code, for
27 purposes of determining the performance of a school district or

1 public charter district under this chapter, including the academic
 2 performance rating [~~accreditation status~~] of the district or
 3 school, a student attending a campus that is a [~~confined by court~~
 4 ~~order in a residential program or~~] facility operated by or under
 5 contract with the Texas Youth Commission, a pre-adjudication secure
 6 detention facility or a post-adjudication secure correctional
 7 facility that is registered with the Texas Juvenile Probation
 8 Commission, or a residential facility is not considered to be a
 9 student of the school district or public charter district school
 10 serving the student [~~in which the program or facility is physically~~
 11 ~~located~~]. For purposes of this section, an involuntary residential
 12 facility, including a detention center, residential treatment
 13 center, or psychiatric hospital, is not considered a campus in
 14 determining accreditation status. [~~The performance of such a~~
 15 ~~student on an assessment instrument or other academic excellence~~
 16 ~~indicator adopted under Section 39.051 shall be determined,~~
 17 ~~reported, and considered separately from the performance of~~
 18 ~~students attending a school of the district in which the program or~~
 19 ~~facility is physically located.~~]

20 SECTION 2D.25. Subchapter D, Chapter 39, Education Code, is
 21 amended by adding Section 39.0722 to read as follows:

22 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)
 23 In addition to school district performance ratings under Section
 24 39.072, the commissioner shall annually rate districts according to
 25 the degree to which the districts prepare students for
 26 postsecondary success, including student performance on assessment
 27 instruments administered under Section 39.0261 and on the

1 applicable indicators under Sections 39.051(b) and 39.0721. The
2 commissioner shall consult with the P-16 Council established under
3 Section 61.076 when adopting criteria under this section.

4 (b) The commissioner may adopt rules as necessary to
5 administer this section.

6 SECTION 2D.26. Section 39.075(a), Education Code, is
7 amended to read as follows:

8 (a) The commissioner may [~~shall~~] authorize special
9 accreditation investigations to be conducted:

10 (1) when excessive numbers of absences of students
11 eligible to be tested on state assessment instruments are
12 determined;

13 (2) when excessive numbers of allowable exemptions
14 from the required state assessment instrument are determined;

15 (3) in response to complaints submitted to the agency
16 with respect to alleged violations of civil rights or other
17 requirements imposed on the state by federal law or court order;

18 (4) in response to established monitoring or
19 compliance reviews of the district's financial accounting
20 practices and state and federal program requirements;

21 (5) when extraordinary numbers of student placements
22 in alternative education programs, other than placements under
23 Sections 37.006 and 37.007, are determined;

24 (6) in response to an allegation involving a conflict
25 between members of the board of trustees or between the board and
26 the district administration if it appears that the conflict
27 involves a violation of a role or duty of the board members or the

1 administration clearly defined by this code;

2 (7) when excessive numbers of students in special
3 education programs under Subchapter A, Chapter 29, are assessed
4 through assessment instruments developed or adopted under Section
5 39.023(b); [~~or~~]

6 (8) in response to questions concerning a program,
7 including special education, that is required by federal law or for
8 which the district receives federal funds;

9 (9) when an annual review indicates the academically
10 unacceptable performance under Section 39.072 of one or more
11 campuses in a district, except that the resulting investigation is
12 limited to those campuses;

13 (10) in response to concerns regarding the integrity
14 of data submitted to the agency;

15 (11) in response to allegations of a violation of
16 student assessment procedures for assessment instruments adopted
17 under Section 39.023; or

18 (12) as the commissioner otherwise determines
19 necessary.

20 SECTION 2D.27. Section 39.075(c), Education Code, as
21 amended by Chapters 396 and 931, Acts of the 76th Legislature,
22 Regular Session, 1999, is reenacted and amended to read as follows:

23 (c) Based on the results of a special accreditation
24 investigation, the commissioner may:

25 (1) take appropriate action under Subchapter G;

26 (2) raise or lower the district's accreditation status
27 [~~rating~~]; or

1 (3) take action under both Subdivisions (1) and (2).

2 SECTION 2D.28. Section 39.076, Education Code, is amended
3 by amending Subsection (a) and adding Subsections (a-1), (a-2),
4 (a-3), and (c) to read as follows:

5 (a) The agency shall adopt written procedures for
6 conducting [~~on-site~~] investigations under this subchapter. The
7 agency shall make the procedures available to the complainant, the
8 alleged violator, and the public. Agency staff must be trained in
9 the procedures and must follow the procedures in conducting the
10 investigation.

11 (a-1) An investigation conducted under this subchapter may
12 be an on-site, desk, or data-based investigation as determined by
13 the commissioner.

14 (a-2) If conducting an on-site investigation, the
15 investigators may obtain information from administrators,
16 teachers, or parents of students enrolled in the school district.
17 The commissioner shall adopt rules for:

18 (1) obtaining information from parents and using that
19 information in the investigator's report; and

20 (2) obtaining information from teachers in a manner
21 that prevents a campus or district from screening the information.

22 (a-3) The agency may give written notice of any impending
23 on-site investigation to the superintendent and the board of
24 trustees of a school district.

25 (c) The investigators conducting an on-site investigation
26 shall report the results of the investigation orally and in writing
27 to the board of trustees of the district and, as appropriate, to

1 campus administrators, and shall make recommendations concerning
2 any necessary improvements or sources of aid, such as regional
3 education service centers.

4 SECTION 2D.29. Subchapter D, Chapter 39, Education Code, is
5 amended by adding Sections 39.077 and 39.078 to read as follows:

6 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
7 school district or public charter district that wishes to challenge
8 a decision to assign or lower an accreditation status, an academic
9 performance rating, or a financial accountability rating must
10 petition for an informal review as provided by Section 7.0571.

11 (b) A final decision by the commissioner to assign or lower
12 an accreditation status, an academic performance rating, or a
13 financial accountability rating following a review under Section
14 7.0571 is final and may not be appealed.

15 Sec. 39.078. RULES. (a) The commissioner may adopt rules
16 as necessary to administer this subchapter.

17 (b) Unless a provision of this code clearly specifies
18 otherwise, any rule adopted under Subsection (a) must apply
19 accreditation requirements and academic performance ratings under
20 this subchapter to:

21 (1) a public charter district in the same manner as the
22 requirements and ratings are applied to a school district; and

23 (2) a campus operated by a public charter district in
24 the same manner as the requirements and ratings are applied to a
25 campus operated by a school district.

26 SECTION 2D.30. Effective August 1, 2006, Subchapter F,
27 Chapter 39, Education Code, is amended by adding Section 39.113 to

1 read as follows:

2 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
3 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
4 rules to create an incentive award system for annual growth in
5 student achievement. A school that achieves incremental growth in
6 student achievement, as described in Subsection (b), is eligible
7 for an award if the school:

8 (1) has a student population of at least 50 percent
9 educationally disadvantaged students;

10 (2) achieves an accreditation performance rating of
11 academically acceptable or better; and

12 (3) demonstrates superior growth in the academic
13 performance of educationally disadvantaged students.

14 (b) The commissioner by rule shall adopt performance
15 criteria to measure annual growth in student academic performance.
16 The commissioner shall consider the following criteria, as
17 applicable:

18 (1) annual growth in student achievement that
19 contributes to closing performance gaps among various populations
20 of students;

21 (2) improvements in student scores on the assessment
22 instruments required under Section 39.023;

23 (3) growth in high school completion rates;

24 (4) improvement in student scores on college advanced
25 placement tests; and

26 (5) any other factor that contributes to student
27 achievement.

1 (c) From funds appropriated for the purposes of this
2 section, the commissioner shall award grants to campuses that meet
3 performance criteria adopted under Subsection (b). The
4 commissioner shall allocate awards to campuses not later than
5 December 1 of each year, based on growth in student achievement as
6 measured for the preceding two school years.

7 (c-1) The commissioner shall award grants under this
8 section beginning September 1, 2006. This subsection expires
9 January 1, 2007.

10 (d) At least 75 percent of an award under this section must
11 be used for additional teacher compensation at the campus level.
12 The commissioner by rule shall provide for allocating awards under
13 this subsection, including providing individual awards of at least
14 \$3,000 for each teacher at a campus receiving an award under this
15 subsection.

16 (e) Grants from funds appropriated for the award program may
17 be awarded beginning the 2006-2007 school year and may not exceed
18 \$100 million in the 2006-2007 school year except as expressly
19 authorized by the General Appropriations Act or other law.

20 (f) A determination of the commissioner under this section
21 is final and may not be appealed.

22 (g) The commissioner shall annually evaluate the
23 effectiveness of the state incentive program for improving student
24 performance on at-risk campuses established under this section.
25 The evaluation must consider:

26 (1) the performance of students in districts under
27 this section on assessment instruments administered under Section

1 39.023;

2 (2) the districts' high school graduation and
3 completion rates; and

4 (3) the districts' teacher attrition rates.

5 SECTION 2D.31. Section 39.131, Education Code, is amended
6 to read as follows:

7 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
8 district does not satisfy the accreditation criteria under Section
9 39.071, the academic performance standards under Section 39.072, or
10 any financial accountability standard as determined by
11 commissioner rule, the commissioner shall take any of the following
12 actions[~~, listed in order of severity,~~] to the extent the
13 commissioner determines necessary:

14 (1) issue public notice of the deficiency to the board
15 of trustees;

16 (2) order a hearing conducted by the board of trustees
17 of the district for the purpose of notifying the public of the
18 unacceptable performance, the improvements in performance expected
19 by the agency, and the sanctions that may be imposed under this
20 section if the performance does not improve;

21 (3) order the preparation of a student achievement
22 improvement plan that addresses each academic excellence indicator
23 for which the district's performance is unacceptable, the
24 submission of the plan to the commissioner for approval, and
25 implementation of the plan;

26 (4) order a hearing to be held before the commissioner
27 or the commissioner's designee at which the president of the board

1 of trustees of the district and the superintendent shall appear and
2 explain the district's low performance, lack of improvement, and
3 plans for improvement;

4 (5) arrange an on-site investigation of the district;

5 (6) appoint an agency monitor to participate in and
6 report to the agency on the activities of the board of trustees or
7 the superintendent;

8 (7) appoint a conservator to oversee the operations of
9 the district;

10 (8) appoint a management team to direct the operations
11 of the district in areas of unacceptable performance or require the
12 district to obtain certain services under a contract with another
13 person;

14 (9) if a district has a current accreditation status
15 of accredited-warned or accredited-probation, is ~~been~~ rated ~~as~~
16 academically unacceptable, or fails to satisfy financial
17 accountability standards as determined by commissioner rule ~~for a~~
18 ~~period of one year or more~~, appoint a board of managers to exercise
19 the powers and duties of the board of trustees;

20 (10) if for two consecutive school years, including
21 the current school year, a district has received an accreditation
22 status of accredited-warned or accredited-probation, has been
23 rated academically unacceptable, or has failed to satisfy financial
24 accountability standards as determined by commissioner rule,
25 revoke the district's accreditation and ~~been rated as academically~~
26 ~~unacceptable for a period of two years or more~~;

27 (A) order closure of the district and annex the

1 district to one or more adjoining districts under Section 13.054;
2 or

3 (B) in the case of a home-rule school district or
4 public charter district [~~open-enrollment charter school~~], order
5 closure of all programs operated under the district's or school's
6 charter; or

7 (11) if a district has been rated [~~as~~] academically
8 unacceptable for [~~a period of~~] two consecutive school years,
9 including the current school year, [~~or more~~] due to the district's
10 dropout rates, impose sanctions designed to improve high school
11 completion rates, including:

12 (A) ordering the development of a dropout
13 prevention plan for approval by the commissioner;

14 (B) restructuring the district or appropriate
15 school campuses to improve identification of and service to
16 students who are at risk of dropping out of school, as defined by
17 Section 29.081;

18 (C) ordering lower student-to-counselor ratios
19 on school campuses with high dropout rates; and

20 (D) ordering the use of any other intervention
21 strategy effective in reducing dropout rates, including mentor
22 programs and flexible class scheduling.

23 (b) This subsection applies regardless of whether a
24 district has satisfied the accreditation criteria. If for two
25 consecutive school years, including the current school year, [~~a~~
26 ~~period of one year or more~~] a district has had a conservator or
27 management team assigned, the commissioner may appoint a board of

1 managers, a majority of whom must be residents of the district, to
2 exercise the powers and duties of the board of trustees.

3 SECTION 2D.32. Section 39.132, Education Code, is amended
4 to read as follows:

5 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND
6 CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any
7 standard under Section 39.072 [~~39.073(b)~~], the campus is considered
8 an academically unacceptable [~~a low-performing~~] campus. The
9 commissioner may permit the campus to participate in an innovative
10 redesign of the campus to improve campus performance or shall [~~may~~]
11 take any of the other following actions[~~, listed in order of~~
12 ~~severity~~], to the extent the commissioner determines necessary:

13 (1) issue public notice of the deficiency to the board
14 of trustees;

15 (2) order a hearing conducted by the board of trustees
16 at the campus for the purpose of:

17 (A) notifying the public of the unacceptable
18 performance, the improvements in performance expected by the
19 agency, and the sanctions that may be imposed under this section if
20 the performance does not improve within a designated period of
21 time; and

22 (B) soliciting public comment on the initial
23 steps being taken to improve performance;

24 (3) [~~order the preparation of a report regarding the~~
25 ~~parental involvement program at the campus and a plan describing~~
26 ~~strategies for improving parental involvement at the campus,~~

27 [~~(4) order the preparation of a report regarding the~~

1 ~~effectiveness of the district- and campus-level planning and~~
2 ~~decision-making committees established under Subchapter F, Chapter~~
3 ~~11, and a plan describing strategies for improving the~~
4 ~~effectiveness of those committees;~~

5 ~~[(5)]~~ order the preparation of a student [~~achievement~~]
6 improvement plan that addresses each academic excellence indicator
7 for which the campus's performance is unacceptable, the submission
8 of the plan to the commissioner for approval, and implementation of
9 the plan;

10 (4) ~~[(6)]~~ order a hearing to be held before the
11 commissioner or the commissioner's designee at which the president
12 of the board of trustees, the superintendent, and the campus
13 principal shall appear and explain the campus's low performance,
14 lack of improvement, and plans for improvement;

15 (5) appoint a technical assistance team under Section
16 39.1321; or

17 (6) appoint a campus intervention team under Section
18 39.1321.

19 ~~[(7)]~~ ~~appoint a special campus intervention team to:~~
20 ~~[(A)]~~ ~~conduct a comprehensive on-site evaluation~~
21 ~~of the campus to determine the cause for the campus's low~~
22 ~~performance and lack of progress;~~

23 ~~[(B)]~~ ~~recommend actions, including reallocation~~
24 ~~of resources and technical assistance, changes in school procedures~~
25 ~~or operations, staff development for instructional and~~
26 ~~administrative staff, intervention for individual administrators~~
27 ~~or teachers, waivers from state statute or rule, or other actions~~

1 ~~the team considers appropriate,~~

2 ~~[(C) assist in the development of a campus plan~~
3 ~~for student achievement; and~~

4 ~~[(D) assist the commissioner in monitoring the~~
5 ~~progress of the campus in implementing the campus plan for~~
6 ~~improvement of student achievement; or~~

7 ~~[(8) if a campus has been a low-performing campus for a~~
8 ~~period of one year or more, appoint a board of managers composed of~~
9 ~~residents of the district to exercise the powers and duties of the~~
10 ~~board of trustees of the district in relation to the campus.~~

11 ~~[(b) If a campus has been a low-performing campus for a~~
12 ~~period of two consecutive years or more, the commissioner shall~~
13 ~~order the closure of the district or charter program on the campus~~
14 ~~or reconstitute the campus. In reconstituting the campus, a~~
15 ~~special campus intervention team shall be assembled for the purpose~~
16 ~~of deciding which educators may be retained at that campus. If an~~
17 ~~educator is not retained, the educator may be assigned to another~~
18 ~~position in the district.]~~

19 SECTION 2D.33. Subchapter G, Chapter 39, Education Code, is
20 amended by adding Sections 39.1321-39.1323 and 39.1325-39.1327 to
21 read as follows:

22 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION
23 TEAMS. (a) If a campus is rated academically acceptable for the
24 current school year but would be rated as academically unacceptable
25 if performance standards to be used for the following school year
26 were applied to the current school year, the commissioner shall
27 select and assign a technical assistance team to assist the campus

1 in executing a school improvement plan and any other school
2 improvement strategies the commissioner determines appropriate.

3 (b) If a campus has been identified as academically
4 unacceptable under Section 39.132, the commissioner shall appoint a
5 campus intervention team.

6 (c) To the extent practicable, the commissioner shall
7 select and assign the technical assistance team under Subsection
8 (a) or the campus intervention team under Subsection (b) before the
9 first day of instruction for the school year.

10 (d) The commissioner may determine when the services of a
11 technical assistance team or campus intervention team are no longer
12 needed at a campus under this section.

13 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A
14 campus intervention team shall:

15 (1) conduct a comprehensive on-site evaluation of the
16 campus to determine the cause for the campus's low performance and
17 lack of progress;

18 (2) recommend actions, including reallocation of
19 resources and technical assistance, changes in school procedures or
20 operations, staff development for instructional and administrative
21 staff, intervention for individual administrators or teachers,
22 waivers from state statute or rule, or other actions the team
23 considers appropriate;

24 (3) assist in the development of a school improvement
25 plan for student achievement; and

26 (4) assist the commissioner in monitoring the progress
27 of the campus in implementing the school improvement plan for

1 improvement of student achievement.

2 (b) A campus intervention team assigned under Section
3 39.1321 to a campus shall conduct a comprehensive on-site
4 evaluation of the campus to determine the cause for the campus's low
5 performance and lack of progress. The team shall have wide latitude
6 to determine what factors to assess and how to conduct the
7 assessment. Some factors to be considered are:

8 (1) an assessment of the staff to determine the
9 percentage of certified teachers who are teaching in their field,
10 the number of teachers with less than three years of experience, and
11 teacher turnover rates;

12 (2) compliance with the appropriate class-size rules
13 and number of class-size waivers received;

14 (3) an assessment of the quality, quantity, and
15 appropriateness of instructional materials, including the
16 availability of technology-based instructional materials;

17 (4) a report on the parental involvement strategies
18 and the effectiveness of the strategies;

19 (5) an assessment of the extent and quality of the
20 mentoring program provided for new teachers on the campus;

21 (6) an assessment of the type and quality of the
22 professional development provided to the staff;

23 (7) a demographic analysis of the student population,
24 including student demographics, at-risk populations, and special
25 education percentages;

26 (8) a report of disciplinary incidents and school
27 safety information;

- 1 (9) financial and accounting practices; and
2 (10) an assessment of the appropriateness of the
3 curriculum and teaching strategies.

4 (c) On completing the evaluation under this section, the
5 campus intervention team shall recommend actions, including:

- 6 (1) reallocation of resources;
7 (2) distribution of additional funds to the campus
8 from funds set aside by the agency for purposes of assisting
9 campuses in meeting standards specified in the intervention plan;
10 (3) technical assistance;
11 (4) changes in school procedures or operations;
12 (5) staff development for instructional and
13 administrative staff;
14 (6) intervention for individual administrators or
15 teachers;
16 (7) waivers from state statutes or rules; or
17 (8) other actions the campus intervention team
18 considers appropriate.

19 (d) In executing a school improvement plan developed under
20 Subsection (a)(3), the campus intervention team shall:

- 21 (1) assist the campus in implementing research-based
22 practices for curriculum development and classroom instruction,
23 including bilingual education and special education programs, if
24 appropriate, and financial management;
25 (2) provide research-based technical assistance,
26 including data analysis, academic deficiency identification,
27 intervention implementation, and budget analysis, to strengthen

1 and improve the instructional programs at the campus; and

2 (3) submit the school improvement plan to the
3 commissioner for approval.

4 (e) A campus intervention team appointed under Section
5 39.1321(b):

6 (1) shall continue to work with a campus until:

7 (A) the campus is rated academically acceptable
8 for a two-year period; or

9 (B) the campus is rated academically acceptable
10 for a one-year period and the commissioner determines that the
11 campus is operating and will continue to operate in a manner that
12 improves student achievement; and

13 (2) may continually update the school improvement
14 plan, with approval from the commissioner, to meet the needs of the
15 campus.

16 (f) Notwithstanding any other provision of this subchapter,
17 if the commissioner determines that a campus for which an
18 intervention is ordered under Section 39.1321(b) is not fully
19 implementing the campus intervention team's recommendations or
20 school improvement plan, the commissioner may order the
21 reconstitution of the campus, pursue alternative management of the
22 campus as provided by Section 39.1326, or order closure of the
23 campus.

24 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has
25 been identified as academically unacceptable for a period of two
26 consecutive school years, including the current school year, the
27 commissioner shall order the reconstitution of the campus and

1 assign a campus intervention team. In determining whether a campus
2 is rated academically unacceptable for a second year under this
3 subsection, dropout rates and completion rates may not be
4 considered. In reconstituting the campus, a campus intervention
5 team shall assist the campus in:

6 (1) developing a school improvement plan;

7 (2) obtaining approval of the plan from the
8 commissioner; and

9 (3) executing the plan on approval by the
10 commissioner.

11 (b) The campus intervention team shall decide which
12 educators may be retained at that campus. A principal who has been
13 employed by the campus in that capacity during the two-year period
14 described by Subsection (a) may not be retained at that campus. A
15 teacher of a subject assessed by an assessment instrument under
16 Section 39.023 may be retained only if the campus intervention team
17 determines that a pattern exists of significant academic growth by
18 students taught by the teacher. If an educator is not retained, the
19 educator may be assigned to another position in the district.

20 (c) A campus subject to Subsection (a) shall implement the
21 school improvement plan as approved by the commissioner. The
22 commissioner may appoint a monitor, conservator, management team,
23 or a board of managers to the district to ensure and oversee the
24 implementation of the school improvement plan.

25 (d) Notwithstanding any other provision of this subchapter,
26 if the commissioner determines that a campus subject to Subsection
27 (a) is not fully implementing the school improvement plan, the

1 commissioner may pursue alternative management of the campus as
2 provided by Section 39.1326, or may order closure of the campus.

3 (e) If a campus is considered an academically unacceptable
4 campus for more than two consecutive school years, the commissioner
5 may order reconstitution or closure of the campus or pursue
6 alternative management under Section 39.1326.

7 (f) If a campus is considered an academically unacceptable
8 campus for the subsequent school year after the campus is
9 reconstituted under this section, the commissioner shall pursue
10 alternative management under Section 39.1326.

11 Sec. 39.1325. TRANSITIONAL SANCTIONS PROVISIONS. For the
12 2005-2006 school year, the commissioner shall assign a campus
13 intervention team or a technical assistance team to a campus under
14 Section 39.1321 on the basis of academic performance ratings for
15 the 2004-2005 school year. The commissioner may impose a sanction
16 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the
17 basis of academic performance ratings for the 2004-2005 school year
18 and the 2005-2006 school year. A sanction ordered by the
19 commissioner before July 1, 2005, shall remain in effect for the
20 2005-2006 school year. The commissioner may allow a principal
21 subject to Section 39.1323(b) to remain at a campus for the
22 2005-2006 school year. This section expires September 1, 2007.

23 Sec. 39.1326. MANAGEMENT OF CERTAIN ACADEMICALLY
24 UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section
25 if the campus has been identified as academically unacceptable
26 under Section 39.132 and the commissioner orders alternative
27 management under Section 39.1323(e) or (f).

1 (b) The commissioner shall solicit proposals from qualified
2 entities to assume management of a campus subject to this section.

3 (c) If the commissioner determines that the basis for
4 identifying a campus as academically unacceptable is limited to a
5 specific condition that may be remedied with targeted technical
6 assistance, the commissioner may:

7 (1) provide the campus a one-year waiver under this
8 section; and

9 (2) require the district to contract for the
10 appropriate technical assistance.

11 (d) The commissioner may annually solicit proposals under
12 this section for the management of a campus subject to this section.
13 The commissioner shall notify a qualified entity that has been
14 approved as a provider under this section. The district must
15 execute a contract with an approved provider and relinquish control
16 of the campus before January 1 of the school year.

17 (e) To qualify for consideration as a managing entity under
18 this section, the entity must submit a proposal that provides
19 information relating to the entity's management and leadership team
20 that will participate in management of the campus under
21 consideration, including information relating to individuals that
22 have:

23 (1) documented success in whole school interventions
24 that increased the educational and performance levels of students
25 in academically unacceptable campuses;

26 (2) a proven record of effectiveness with programs
27 assisting low-performing students;

1 (3) a proven ability to apply research-based school
2 intervention strategies;

3 (4) a proven record of financial ability to perform
4 under the management contract; and

5 (5) any other experience or qualifications the
6 commissioner determines necessary.

7 (f) In selecting a managing entity under this section, the
8 commissioner shall give preference to an entity that:

9 (1) meets any qualifications under this section; and

10 (2) has documented success in educating students from
11 similar demographic groups and with similar educational needs as
12 the students who attend the campus that is to be operated by a
13 managing entity under this section.

14 (g) The school district may negotiate the term of a
15 management contract for not more than five years with an option to
16 renew the contract. The management contract must include a
17 provision describing the district's responsibilities in supporting
18 the operation of the campus. The commissioner shall approve the
19 contract before the contract is executed and, as appropriate, may
20 require the district, as a term of the contract, to support the
21 campus in the same manner as the district was required to support
22 the campus before the execution of the management contract.

23 (h) A management contract under this section shall include
24 provisions approved by the commissioner that require the managing
25 entity to demonstrate improvement in campus performance, including
26 negotiated performance measures. The performance measures must be
27 consistent with the priorities of this chapter. The commissioner

1 shall evaluate a managing entity's performance on the first and
2 second anniversaries of the date of the management contract. If the
3 evaluation fails to demonstrate improvement as negotiated under the
4 contract by the first anniversary of the date of the management
5 contract, the district may terminate the management contract, with
6 the commissioner's consent, for nonperformance or breach of
7 contract and select another provider from an approved list provided
8 by the commissioner. If the evaluation fails to demonstrate
9 significant improvement, as determined by the commissioner, by the
10 second anniversary of the date of the management contract, the
11 district shall terminate the management contract and select another
12 provider from an approved list provided by the commissioner or
13 resume operation of the campus if approved by the commissioner. If
14 the commissioner approves the district's operation of the campus,
15 the commissioner shall assign a technical assistance team to assist
16 the campus.

17 (i) Notwithstanding any other provision of this code, the
18 funding for a campus operated by a managing entity must be
19 equivalent to the funding of the other campuses in the district on a
20 per student basis so that the managing entity receives the same
21 funding the campus would otherwise have received.

22 (j) Each campus operated by a managing entity under this
23 section is subject to this chapter in the same manner as any other
24 campus in the district.

25 (k) The commissioner may adopt rules necessary to implement
26 this section.

27 (l) With respect to the management of a campus under this

1 section:

2 (1) a managing entity is considered to be a
3 governmental body for purposes of Chapters 551 and 552, Government
4 Code; and

5 (2) any requirement in Chapter 551 or 552, Government
6 Code, that applies to a school district or the board of trustees of
7 a school district applies to a managing entity.

8 Sec. 39.1327. REVIEW OF SANCTIONS FOR CAMPUSES SERVING
9 RESIDENTIAL FACILITIES. (a) A school district or public charter
10 district may petition the commissioner to review an academically
11 unacceptable rating assigned to a campus if the campus
12 predominantly served students residing in a residential facility
13 during the rating period.

14 (b) If the commissioner determines that the basis for
15 identifying the campus as academically unacceptable was limited to
16 a condition that was not related to the educational purpose of the
17 residential facility, the commissioner may take any of the
18 following actions as the commissioner determines appropriate:

19 (1) change, modify, or suspend the academically
20 unacceptable rating; or

21 (2) impose any sanction otherwise authorized under
22 Section 39.131 or 39.132.

23 (c) The commissioner may consider a factor other than a
24 factor used to assign a rating in evaluating a campus under this
25 section. The commissioner may assign a campus intervention team
26 under Section 39.1321 at the expense of the school district or
27 public charter district as provided by Section 39.134 to develop a

1 long-term intervention plan to improve services for students.

2 (d) On a determination that a campus subject to this section
3 is appropriately meeting the educational needs of its students, the
4 commissioner may waive revocation of a public charter district for
5 a period not to exceed two years. A waiver under this subsection
6 may be extended for additional two-year periods based on subsequent
7 evaluations of the campus.

8 (e) This section does not limit the commissioner's ability
9 to sanction a public charter district for the performance of a
10 campus subject to this section or any other law.

11 (f) A decision by the commissioner under this section is
12 final and may not be appealed.

13 SECTION 2D.34. Section 39.133, Education Code, is amended
14 to read as follows:

15 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
16 review annually the performance of a district or campus subject to a
17 sanction under this subchapter to determine the appropriate actions
18 to be implemented under this subchapter. The determination shall
19 take into account the number, severity, and duration of the
20 problems identified. [~~The commissioner must review at least~~
21 ~~annually the performance of a district for which the accreditation~~
22 ~~rating has been lowered due to unacceptable student performance and~~
23 ~~may not raise the rating until the district has demonstrated~~
24 ~~improved student performance.~~] If the review reveals a lack of
25 improvement, the commissioner shall increase the level of state
26 intervention and sanction unless the commissioner finds good cause
27 for maintaining the current status.

1 (b) The commissioner shall review at least annually the
2 performance of a school district for which the academic performance
3 rating has been lowered due to unacceptable student performance and
4 may not raise the rating until the district has demonstrated
5 improved student performance.

6 SECTION 2D.35. Subchapter G, Chapter 39, Education Code, is
7 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as
8 follows:

9 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In
10 addition to other sanctions authorized under Sections 39.131 and
11 39.132, the commissioner may order a school district or campus to
12 acquire professional services at the expense of the district or
13 campus to address the applicable financial, assessment, data
14 quality, program, or governance deficiency. The commissioner's
15 order may require the district or campus to:

16 (1) select an external auditor, data quality expert,
17 professional authorized to monitor district assessment instrument
18 administration, or curriculum or program expert; or

19 (2) provide for the appropriate training of district
20 staff or board of trustees members in the case of a district, or
21 campus staff, in the case of a campus.

22 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a)
23 The commissioner may revoke the accreditation of a school district
24 and order the closure of the district or a campus, as appropriate,
25 under the following circumstances:

26 (1) the commissioner is authorized to close the
27 district or campus under Section 39.131(a)(10) or 39.1322(f);

1 (2) the commissioner determines that the district is
2 insolvent and unable to complete the school year; or

3 (3) the commissioner determines that the district has
4 ceased operations for 11 or more instructional days during the
5 current or most recent scheduled school year without the
6 commissioner's authorization.

7 (b) The commissioner shall issue an order of closure under
8 this section that includes provisions necessary for the
9 continuation of the education of students enrolled in the district
10 or campus, including annexation to one or more adjoining districts
11 as provided by Section 13.054. An order of closure may:

12 (1) establish an effective date for accreditation
13 revocation and closure that is not later than the first anniversary
14 of the date of the order;

15 (2) provide for an interim board of managers to
16 exercise the duties of the board of trustees of the district as
17 designated by the commissioner;

18 (3) require enrollment or student services to be
19 provided by another district as necessary to allow students
20 enrolled in the closed district to complete a school year, and make
21 adjustments in the state and federal funding to which the district
22 would otherwise be entitled as determined by the commissioner; and

23 (4) require the preservation, transfer, or surrender
24 of all student records and other records required for an audit of
25 any state and federal funding provided to the district.

26 (c) A person who intentionally destroys, conceals, or
27 tampers with a record that is required to be preserved,

1 transferred, or surrendered under Subsection (b)(4) commits an
2 offense punishable under Section 37.10(c)(2), Penal Code.

3 (d) A board of managers exercising authority under
4 Subsection (b)(2) may exercise the authority of the board of
5 trustees with regard to financial management of the district and
6 personnel actions. The board of managers is not required to be
7 composed of residents of the district.

8 (e) An open-enrollment charter school ordered closed under
9 this section is not entitled to a separate hearing concerning the
10 revocation or nonrenewal of the charter under Section 11A.108.

11 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A
12 school district or open-enrollment charter school that wishes to
13 challenge a decision to impose a sanction under this subchapter,
14 including a decision to close a district, school, or campus under
15 Section 39.1332, must petition for an informal review as provided
16 by Section 7.0571.

17 (b) A final decision by the commissioner to impose a
18 sanction under this subchapter, including a decision to close a
19 school district or a campus under Section 39.1332, following a
20 review under Section 7.0571 is final and may not be appealed.

21 (c) A school district may not collaterally contest an
22 academic performance rating or other accreditation standard as part
23 of the review of a sanction under this subchapter if a review
24 opportunity has already been provided for the academic performance
25 rating.

26 SECTION 2D.36. Section 39.134, Education Code, is amended
27 to read as follows:

1 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
2 a monitor, conservator, management team, [~~or special~~] campus
3 intervention team, technical assistance team, managing entity
4 under Section 39.1326, or service provider under Section 39.1331
5 shall be paid by the district. If the district fails or refuses to
6 pay the costs in a timely manner, the commissioner may:

7 (1) pay the costs using amounts withheld from any
8 funds to which the district is otherwise entitled; or

9 (2) recover the amount of the costs in the manner
10 provided for recovery of an overallocation of state funds under
11 Section 42.317 [~~42.258~~].

12 SECTION 2D.37. Subchapter G, Chapter 39, Education Code, is
13 amended by adding Section 39.1371 to read as follows:

14 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
15 responsible for managing an intervention of a campus subject to
16 sanctions under this subchapter.

17 (b) The agency shall:

18 (1) monitor the progress of technical assistance teams
19 and campus intervention teams appointed by the commissioner under
20 this subchapter; and

21 (2) supervise the activities of the managing entities
22 under Section 39.1326.

23 (c) The agency shall:

24 (1) establish by rule and publish school improvement
25 objectives;

26 (2) advocate for the increased use of research-based
27 effective practices; and

1 (3) coordinate campus improvement activities of the
2 agency and regional education service centers.

3 (d) The commissioner may contract for services under this
4 section.

5 SECTION 2D.38. Section 39.182(a), Education Code, as
6 amended by S.B. No. 42, Acts of the 79th Legislature, Regular
7 Session, 2005, is amended to read as follows:

8 (a) Not later than December 1 of each year, the agency shall
9 prepare and deliver to the governor, the lieutenant governor, the
10 speaker of the house of representatives, each member of the
11 legislature, the Legislative Budget Board, and the clerks of the
12 standing committees of the senate and house of representatives with
13 primary jurisdiction over the public school system a comprehensive
14 report covering the preceding school year and containing:

15 (1) an evaluation of the achievements of the state
16 educational program in relation to the statutory goals for the
17 public education system under Section 4.002;

18 (2) an evaluation of the status of education in the
19 state as reflected by the academic excellence indicators adopted
20 under Section 39.051;

21 (3) a summary compilation of the percentage of
22 graduating students who attain scores on the secondary exit-level
23 assessment instruments required under Section 39.023(c) that are
24 equivalent to a passing score on the assessment instrument required
25 under Section 51.3062;

26 (4) a summary compilation of overall student
27 performance on academic skills assessment instruments required by

1 Section 39.023 with the number and percentage of students exempted
2 from the administration of those instruments and the basis of the
3 exemptions, aggregated by grade level, subject area, campus, and
4 district, with appropriate interpretations and analysis, and
5 disaggregated by race, ethnicity, gender, and socioeconomic
6 status;

7 (5) [~~(4)~~] a summary compilation of overall
8 performance of students placed in a disciplinary alternative
9 education program established under Section 37.008 on academic
10 skills assessment instruments required by Section 39.023 with the
11 number of those students exempted from the administration of those
12 instruments and the basis of the exemptions, aggregated by
13 district, grade level, and subject area, with appropriate
14 interpretations and analysis, and disaggregated by race,
15 ethnicity, gender, and socioeconomic status;

16 (6) [~~(5)~~] a summary compilation of the progress
17 [~~overall performance~~] of students at risk of dropping out of
18 school, as defined by Section 29.081(d), including information
19 described by the academic excellence indicators under Sections
20 39.051(b)(7), (8), (10), and (11), provided statewide and
21 aggregated by district, on academic skills assessment instruments
22 required by Section 39.023 and any other assessment instrument
23 required by the commissioner [~~with the number of those students~~
24 ~~exempted from the administration of those instruments and the basis~~
25 ~~of the exemptions, aggregated by district, grade level, and subject~~
26 ~~area~~], with appropriate interpretations and analysis, and
27 disaggregated by race, ethnicity, gender, and socioeconomic

1 status;

2 (7) [~~(6)~~] an evaluation of the correlation between
3 student grades and student performance on academic skills
4 assessment instruments required by Section 39.023;

5 (8) [~~(7)~~] a statement of the dropout rate of students
6 in grade levels 7 through 12, expressed in the aggregate and by
7 grade level, and a statement of the completion rates of students for
8 grade levels 9 through 12;

9 (9) [~~(8)~~] a statement of:

10 (A) the completion rate of students who enter
11 grade level 9 and graduate not more than four years later;

12 (B) the completion rate of students who enter
13 grade level 9 and graduate, including students who require more
14 than four years to graduate;

15 (C) the completion rate of students who enter
16 grade level 9 and not more than four years later receive a high
17 school equivalency certificate;

18 (D) the completion rate of students who enter
19 grade level 9 and receive a high school equivalency certificate,
20 including students who require more than four years to receive a
21 certificate; and

22 (E) the number and percentage of all students who
23 have not been accounted for under Paragraph (A), (B), (C), or (D);

24 (10) [~~(9)~~] a statement of the projected
25 cross-sectional and longitudinal dropout rates for grade levels 9
26 through 12 for the next five years, assuming no state action is
27 taken to reduce the dropout rate;

1 (11) [~~(10)~~] a description of a systematic, measurable
2 plan for reducing the projected cross-sectional and longitudinal
3 dropout rates to five percent or less for the 1997-1998 school year;

4 (12) [~~(11)~~] a summary of the information required by
5 Section 29.083 regarding grade level retention of students and
6 information concerning:

7 (A) the number and percentage of students
8 retained; and

9 (B) the performance of retained students on
10 assessment instruments required under Section 39.023(a);

11 (13) [~~(12)~~] information, aggregated by district type
12 and disaggregated by race, ethnicity, gender, and socioeconomic
13 status, on:

14 (A) the number of students placed in a
15 disciplinary alternative education program established under
16 Section 37.008;

17 (B) the average length of a student's placement
18 in a disciplinary alternative education program established under
19 Section 37.008;

20 (C) the academic performance of students on
21 assessment instruments required under Section 39.023(a) during the
22 year preceding and during the year following placement in a
23 disciplinary alternative education program; and

24 (D) the dropout rates of students who have been
25 placed in a disciplinary alternative education program established
26 under Section 37.008;

27 (14) [~~(13)~~] a list of each school district or campus

1 that does not satisfy performance standards, with an explanation of
2 the actions taken by the commissioner to improve student
3 performance in the district or campus and an evaluation of the
4 results of those actions;

5 (15) [~~(14)~~] an evaluation of the status of the
6 curriculum taught in public schools, with recommendations for
7 legislative changes necessary to improve or modify the curriculum
8 required by Section 28.002;

9 (16) [~~(15)~~] a description of all funds received by and
10 each activity and expenditure of the agency;

11 (17) [~~(16)~~] a summary and analysis of the
12 instructional expenditures ratios and instructional employees
13 ratios of school districts computed under Section 44.0071;

14 (18) [~~(17)~~] a summary of the effect of deregulation,
15 including exemptions and waivers granted under Section 7.056 [~~or~~
16 ~~39.112~~];

17 (19) [~~(18)~~] a statement of the total number and length
18 of reports that school districts and school district employees must
19 submit to the agency, identifying which reports are required by
20 federal statute or rule, state statute, or agency rule, and a
21 summary of the agency's efforts to reduce overall reporting
22 requirements;

23 (20) [~~(19)~~] a list of each school district that is not
24 in compliance with state special education requirements,
25 including:

26 (A) the period for which the district has not
27 been in compliance;

1 (B) the manner in which the agency considered the
2 district's failure to comply in determining the district's
3 accreditation status; and

4 (C) an explanation of the actions taken by the
5 commissioner to ensure compliance and an evaluation of the results
6 of those actions;

7 (21) an evaluation of public charter districts,
8 including:

9 (A) the academic performance of students
10 enrolled in public charter districts, disaggregated by race,
11 ethnicity, gender, and socioeconomic status;

12 (B) the costs of instruction, administration,
13 and transportation incurred by public charter districts; and

14 (C) other issues, as determined by the
15 commissioner [~~(20) a comparison of the performance of~~
16 ~~open-enrollment charter schools and school districts on the~~
17 ~~academic excellence indicators specified in Section 39.051(b) and~~
18 ~~accountability measures adopted under Section 39.051(g), with a~~
19 ~~separately aggregated comparison of the performance of~~
20 ~~open-enrollment charter schools predominantly serving students at~~
21 ~~risk of dropping out of school, as defined by Section 29.081(d),~~
22 ~~with the performance of school districts];~~

23 (22) [(21)] a summary of the information required by
24 Section 38.0141 regarding student health and physical activity from
25 each school district;

26 (23) a statement of the percentage of students scoring
27 at the proficient and advanced levels on the National Assessment of

1 Educational Progress; and

2 (24) [~~(22)~~] any additional information considered
3 important by the commissioner or the State Board of Education.

4 SECTION 2D.39. Section 39.182(b), Education Code, is
5 amended to read as follows:

6 (b) In reporting the information required by Subsection
7 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate
8 the performance data of students enrolled in a special education
9 program under Subchapter A, Chapter 29, or a bilingual education or
10 special language program under Subchapter B, Chapter 29.

11 SECTION 2D.40. Section 39.182, Education Code, is amended
12 by adding Subsections (b-1) and (b-2) to read as follows:

13 (b-1) The report must include an assessment of the impact of
14 the performance-based grant system developed under Subchapter E,
15 Chapter 7, on student academic performance, including:

16 (1) an analysis of performance and spending
17 information relating to grants administered by the agency; and

18 (2) recommendations on any statutory changes needed
19 for the agency to more effectively administer grant programs,
20 including recommendations on whether to eliminate or modify
21 inefficient grant programs, expand effective grant programs, or
22 consolidate similar grant programs to maximize the effectiveness
23 and efficiencies of those programs.

24 (b-2) Subsection (b-1) applies beginning January 1, 2009.
25 This subsection expires February 1, 2009.

26 SECTION 2D.41. Section 39.183, Education Code, is amended
27 to read as follows:

1 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The
2 agency shall prepare and deliver to the governor, the lieutenant
3 governor, the speaker of the house of representatives, each member
4 of the legislature, the Legislative Budget Board, and the clerks of
5 the standing committees of the senate and house of representatives
6 with primary jurisdiction over the public school system a regional
7 and district level report covering the preceding two school years
8 and containing:

9 (1) a summary of school district compliance with the
10 student/teacher ratios and class-size limitations prescribed by
11 Sections 25.111 and 25.112, including:

12 (A) the number of campuses and classes at each
13 campus granted an exception from Section 25.112; and

14 (B) the performance rating under Subchapter D of
15 each campus granted an exception from Section 25.112;

16 (2) a summary of the exemptions and waivers granted to
17 school districts under Section 7.056 [~~or 39.112~~] and a review of the
18 effectiveness of each campus or district following deregulation;

19 (3) an evaluation of the performance of the system of
20 regional education service centers based on the indicators adopted
21 under Section 8.101 and client satisfaction with services provided
22 under Subchapter B, Chapter 8;

23 (4) an evaluation of accelerated instruction programs
24 offered under Section 28.006, including an assessment of the
25 quality of such programs and the performance of students enrolled
26 in such programs; and

27 (5) the number of classes at each campus that are

1 currently being taught by individuals who are not certified in the
2 content areas of their respective classes.

3 SECTION 2D.42. Section 39.202(a), Education Code, is
4 amended to read as follows:

5 (a) The commissioner shall, in consultation with the
6 comptroller, develop and implement a financial accountability
7 rating system for school districts in this state that distinguishes
8 among districts' varying levels of financial performance and
9 includes procedures for:

10 (1) providing additional transparency to public
11 education finance; and

12 (2) enabling the commissioner and district
13 administrators to provide meaningful financial oversight and
14 improvement.

15 SECTION 2D.43. Section 39.203(b), Education Code, is
16 amended to read as follows:

17 (b) The annual financial management report must include:

18 (1) a description of the district's financial
19 management performance based on a comparison, provided by the
20 agency, of the district's performance on the standards [~~indicators~~]
21 adopted under Section 39.202 [~~39.202(b)~~] to:

22 (A) state-established standards; and

23 (B) the district's previous performance on the
24 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

25 (2) a description of the district's actual
26 expenditures for each campus and any difference between those
27 campus expenditures and the foundation school program allotments

1 received for the campus; and

2 (3) any descriptive information required by the
3 commissioner.

4 SECTION 2D.44. Subchapter I, Chapter 39, Education Code, is
5 amended by adding Section 39.205 to read as follows:

6 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than
7 September 1, 2006, the agency shall submit a report to the
8 legislature on the status of the financial accountability system
9 that recommends to the legislature methods for linking school
10 district financial management performance and academic
11 performance.

12 (b) This section expires September 2, 2006.

13 SECTION 2D.45. (a) Not later than the 2007-2008 school
14 year, the Texas Education Agency shall collect information
15 concerning:

16 (1) incremental growth in student achievement for
17 purposes of Section 39.051(b)(8), Education Code, as amended by
18 this Act; and

19 (2) the measure of progress toward English language
20 proficiency for purposes of Section 39.051(b)(15), Education Code,
21 as added by this Act.

22 (b) Not later than the 2008-2009 school year, the Texas
23 Education Agency shall include, in evaluating the performance of
24 school districts, campuses, and public charter districts under
25 Subchapter D, Chapter 39, Education Code:

26 (1) incremental growth in student achievement under
27 Section 39.051(b)(8), Education Code, as amended by this Act; and

1 (2) the measure of progress toward English language
2 proficiency under Section 39.051(b)(15), Education Code, as added
3 by this Act.

4 SECTION 2D.46. The commissioner of education shall develop
5 and implement the reporting procedures for:

6 (1) districts to prepare and distribute annual
7 financial management reports under Section 39.203, Education Code,
8 as amended by this Act, beginning with the 2007-2008 school year;
9 and

10 (2) campuses to provide financial information under
11 Section 39.202, Education Code, as amended by this Act, beginning
12 with the 2008-2009 school year.

13 PART E. INSTRUCTIONAL MATERIALS

14 SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is
15 amended by adding Section 7.030 to read as follows:

16 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED
17 GRANT PROGRAMS. (a) The agency shall conduct a review of
18 state-funded and federally funded grant programs and incentives
19 designed to improve student academic performance and shall actively
20 determine the full extent to which funds awarded under those
21 programs may be used to enhance or expand the use of technology in
22 public schools. For purposes of removing barriers to and
23 encouraging the use of technology in public schools, the
24 commissioner may, as appropriate, issue a waiver to one or more
25 schools.

26 (b) Not later than December 1, 2006, the agency shall submit
27 a report regarding the findings of the review conducted under this

1 section to the legislature. The report must include a summary of
2 promising practices for current grant programs that leverage
3 technology. This section expires January 15, 2007.

4 SECTION 2E.02. Section 7.055(b)(28), Education Code, is
5 amended to read as follows:

6 (28) The commissioner shall perform duties relating to
7 the funding, adoption, and purchase of instructional materials
8 [~~textbooks~~] under Chapter 31.

9 SECTION 2E.03. Section 7.056(f), Education Code, is amended
10 to read as follows:

11 (f) A school district or campus that is required to develop
12 and implement a student achievement improvement plan under Section
13 39.131 or 39.132 may receive an exemption or waiver under this
14 section from any law or rule other than:

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

17 (2) a requirement imposed by federal law or rule;

18 (3) a requirement, restriction, or prohibition
19 imposed by state law or rule relating to:

20 (A) public school accountability as provided by
21 Subchapters B, C, D, and G, Chapter 39; or

22 (B) educator rights and benefits under
23 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
24 A, Chapter 22; or

25 (4) [~~textbook~~] selection of instructional materials
26 under Chapter 31.

27 SECTION 2E.04. Section 7.102(c)(23), Education Code, is

1 amended to read as follows:

2 (23) The board shall approve [~~adopt~~] and purchase or
3 license instructional materials [~~textbooks~~] as provided by Chapter
4 31 and adopt rules required by that chapter.

5 SECTION 2E.05. Sections 7.108(a) and (c), Education Code,
6 are amended to read as follows:

7 (a) A person interested in selling bonds of any type or a
8 person engaged in manufacturing, shipping, selling, or advertising
9 instructional materials [~~textbooks~~] or otherwise connected with
10 the instructional material [~~textbook~~] business commits an offense
11 if the person makes or authorizes a political contribution to or
12 takes part in, directly or indirectly, the campaign of any person
13 seeking election to or serving on the board.

14 (c) In this section:

15 (1) "Instructional material" has the meaning assigned
16 by Section 31.002.

17 (2) "Political contribution" has the meaning assigned
18 by Section 251.001, Election Code.

19 [~~(2) "Textbook" has the meaning assigned by Section~~
20 ~~31.002.~~]

21 SECTION 2E.06. The heading to Section 7.112, Education
22 Code, is amended to read as follows:

23 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
24 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

25 SECTION 2E.07. Section 7.112(a), Education Code, is amended
26 to read as follows:

27 (a) A former member of the State Board of Education who is

1 employed by or otherwise receives compensation from a [~~textbook~~]
2 publisher of instructional materials may not, before the second
3 anniversary of the date on which the person last served as a member
4 of the State Board of Education:

5 (1) confer with a member of the board of trustees of a
6 school district concerning instructional materials [~~a textbook~~]
7 published by that [~~textbook~~] publisher; or

8 (2) appear at a meeting of the board of trustees on
9 behalf of the [~~textbook~~] publisher.

10 SECTION 2E.08. Section 7.112(c)(2), Education Code, is
11 amended to read as follows:

12 (2) "Instructional material" and "publisher"
13 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
14 31.002.

15 SECTION 2E.09. Section 11.158(b), Education Code, is
16 amended to read as follows:

17 (b) The board may not charge fees for:

18 (1) instructional materials [~~textbooks~~], workbooks,
19 laboratory supplies, or other supplies necessary for participation
20 in any instructional course except as authorized under this code;

21 (2) field trips required as a part of a basic education
22 program or course;

23 (3) any specific form of dress necessary for any
24 required educational program or diplomas;

25 (4) the payment of instructional costs for necessary
26 school personnel employed in any course or educational program
27 required for graduation;

1 (5) library materials [~~books~~] required to be used for
2 any educational course or program, other than fines for lost,
3 damaged, or overdue materials [~~books~~];

4 (6) admission to any activity the student is required
5 to attend as a prerequisite to graduation;

6 (7) admission to or examination in any required
7 educational course or program; or

8 (8) lockers.

9 SECTION 2E.10. Section 11.164(a), Education Code, is
10 amended to read as follows:

11 (a) The board of trustees of each school district shall
12 limit redundant requests for information and the number and length
13 of written reports that a classroom teacher is required to prepare.
14 A classroom teacher may not be required to prepare any written
15 information other than:

16 (1) any report concerning the health, safety, or
17 welfare of a student;

18 (2) a report of a student's grade on an assignment or
19 examination;

20 (3) a report of a student's academic progress in a
21 class or course;

22 (4) a report of a student's grades at the end of each
23 grade reporting period;

24 (5) a [~~textbook~~] report on instructional materials;

25 (6) a unit or weekly lesson plan that outlines, in a
26 brief and general manner, the information to be presented during
27 each period at the secondary level or in each subject or topic at

1 the elementary level;

2 (7) an attendance report;

3 (8) any report required for accreditation review;

4 (9) any information required by a school district that
5 relates to a complaint, grievance, or actual or potential
6 litigation and that requires the classroom teacher's involvement;
7 or

8 (10) any information specifically required by law,
9 rule, or regulation.

10 SECTION 2E.11. Section 19.007(e), Education Code, is
11 amended to read as follows:

12 (e) The district may participate in the instructional
13 materials [~~textbook~~] program under Chapter 31.

14 SECTION 2E.12. Sections 26.006(a) and (c), Education Code,
15 are amended to read as follows:

16 (a) A parent is entitled to:

17 (1) review all teaching materials, instructional
18 materials [~~textbooks~~], and other teaching aids used in the
19 classroom of the parent's child; and

20 (2) review each test administered to the parent's
21 child after the test is administered.

22 (c) A student's parent is entitled to request that the
23 public school [~~district or open-enrollment charter school~~] the
24 student attends allow the student to take home any instructional
25 materials [~~textbook~~] used by the student. Subject to the
26 availability of the instructional materials [~~a textbook~~], the
27 [~~district or~~] school shall honor the request. A student who takes

1 home instructional materials [~~a textbook~~] must return the
2 instructional materials [~~textbook~~] to school at the beginning of
3 the next school day if requested to do so by the student's teacher.
4 In this subsection, "instructional material" [~~"textbook"~~] has the
5 meaning assigned by Section 31.002.

6 SECTION 2E.13. Sections 28.002(c) and (h), Education Code,
7 are amended to read as follows:

8 (c) The State Board of Education, with the direct
9 participation of educators, parents, business and industry
10 representatives, and employers shall by rule identify the essential
11 knowledge and skills of each subject of the required curriculum
12 that all students should be able to demonstrate and that will be
13 used in evaluating instructional materials [~~textbooks~~] under
14 Chapter 31 and addressed on the assessment instruments required
15 under Subchapter B, Chapter 39. As a condition of accreditation,
16 the board shall require each district to provide instruction in the
17 essential knowledge and skills at appropriate grade levels.

18 (h) The State Board of Education and each school district
19 shall foster the continuation of the tradition of teaching United
20 States and Texas history and the free enterprise system in regular
21 subject matter and in reading courses and in the adoption of
22 instructional materials [~~textbooks~~]. A primary purpose of the
23 public school curriculum is to prepare thoughtful, active citizens
24 who understand the importance of patriotism and can function
25 productively in a free enterprise society with appreciation for the
26 basic democratic values of our state and national heritage.

27 SECTION 2E.14. The heading to Chapter 31, Education Code,

1 is amended to read as follows:

2 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

3 SECTION 2E.15. Section 31.001, Education Code, is amended
4 to read as follows:

5 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
6 Instructional materials [~~Textbooks~~] selected for use in the public
7 schools shall be furnished without cost to the students attending
8 those schools in accordance with Section 3(b), Article VII, Texas
9 Constitution.

10 SECTION 2E.16. Sections 31.002(1), (2), and (4), Education
11 Code, are amended to read as follows:

12 (1) "Instructional material" [~~"Electronic textbook"~~]
13 means a medium or a combination of media for conveying information
14 to a student. The term includes a book, supplementary materials, a
15 combination of a book, workbook, supplementary materials, computer
16 software, [~~interactive videodisc,~~ magnetic media, DVD, CD-ROM,
17 computer courseware, on-line services, or an electronic medium, or
18 other means of conveying information to the student or otherwise
19 contributing to the learning process through electronic means.

20 (2) "Publisher" means a person who prepares
21 instructional materials for sale or distribution to educational
22 institutions. The term includes an on-line service or a developer
23 or distributor of [an] electronic instructional materials
24 [~~textbook~~].

25 (4) "Technological equipment" means hardware, a
26 device, or equipment necessary for:

27 (A) instructional use in the classroom,

1 including to gain access to or enhance the use of [~~an~~] electronic
2 instructional materials [~~textbook~~]; or

3 (B) professional use by a classroom teacher.

4 SECTION 2E.17. Section 31.003, Education Code, is amended
5 to read as follows:

6 Sec. 31.003. RULES. The State Board of Education shall
7 [~~may~~] adopt rules, consistent with this chapter, for the approval
8 [~~adoption~~], requisition, distribution, care, use, and disposal of
9 instructional materials [~~textbooks~~].

10 SECTION 2E.18. The heading to Subchapter B, Chapter 31,
11 Education Code, is amended to read as follows:

12 SUBCHAPTER B. STATE APPROVAL

13 [~~FUNDING, ADOPTION, AND PURCHASE~~]

14 SECTION 2E.19. Section 31.021, Education Code, as amended
15 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
16 2005, is amended to read as follows:

17 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]

18 FUND. (a) The state instructional materials [~~textbook~~] fund
19 consists of:

20 (1) an amount set aside by the State Board of Education
21 from the available school fund, computed in accordance with this
22 section; and

23 (2) [~~all funds accruing from the state's sale of~~
24 ~~disused textbooks; and~~

25 [~~3~~] all amounts lawfully paid into the fund from any
26 other source.

27 (b) The State Board of Education shall annually set aside

1 out of the available school fund of the state an amount sufficient
2 for the instructional materials allotment to provide public [~~board,~~
3 ~~school districts, and open-enrollment charter~~] schools with the
4 funds required to purchase and distribute the necessary
5 instructional materials [~~textbooks~~] for the use of the students of
6 this state for the following school year. The board shall determine
7 the amount of the available school fund to set aside for the state
8 instructional materials [~~textbook~~] fund based on the amount of the
9 instructional materials and technology allotment under Section
10 32.005(a). [~~+~~

11 [~~(1) a report by the commissioner issued on July 1 or,~~
12 ~~if that date is a Saturday or Sunday, on the following Monday,~~
13 ~~stating the amount of unobligated money in the fund;~~

14 [~~(2) the commissioner's estimate, based on textbooks~~
15 ~~selected under Section 31.101 and on attendance reports submitted~~
16 ~~under Section 31.103 by school districts and open-enrollment~~
17 ~~charter schools, of the amount of funds, in addition to funds~~
18 ~~reported under Subdivision (1), that will be necessary for purchase~~
19 ~~and distribution of textbooks for the following school year; and~~

20 [~~(3) any amount the board determines should be set~~
21 ~~aside for emergency purposes caused by unexpected increases in~~
22 ~~attendance.]~~

23 (c) This subsection applies only if the pilot project
24 established under Section 54.2161 is implemented[, ~~and expires~~
25 ~~August 15, 2009~~]. In addition to the amount set aside under
26 Subsection (b), the State Board of Education shall annually set
27 aside out of the available school fund an amount sufficient for each

1 school district with one or more students entitled to free
2 textbooks under the pilot project established under Section 54.2161
3 to pay the costs of those textbooks as required by Section 31.031
4 for the following school year. The board shall determine the amount
5 of the available school fund to set aside for the state
6 instructional materials [~~textbook~~] fund for purposes of this
7 subsection based on the commissioner's estimate of the amount that
8 will be necessary to pay the costs of textbooks as required under
9 Section 31.031. This subsection expires August 31, 2006.

10 (d) Money transferred to the state instructional materials
11 [~~textbook~~] fund remains in the fund until spent and does not lapse
12 to the state at the end of the fiscal year.

13 [~~(c) All necessary expenses incurred under this chapter~~
14 ~~shall be paid from the state textbook fund on invoices approved by~~
15 ~~the commissioner.~~]

16 SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is
17 amended by adding Sections 31.0251, 31.0252, and 31.0253 to read as
18 follows:

19 Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS;
20 REVIEW. (a) A publisher may at any time submit an instructional
21 material to the State Board of Education for approval. As part of a
22 submission, a publisher must include a statement that identifies in
23 writing the essential knowledge and skills for a subject and grade
24 level as determined by the board under Section 28.002 that the
25 instructional material covers.

26 (b) The board shall:

27 (1) review each instructional material submitted for

1 approval as provided by Section 31.0253;

2 (2) determine whether the instructional material
3 covers the essential knowledge and skills identified in the
4 submission; and

5 (3) identify the degree to which the instructional
6 material complies with the essential knowledge and skills.

7 Sec. 31.0252. CORRECTION OF FACTUAL ERRORS. (a) The State
8 Board of Education shall adopt rules authorizing the imposition of
9 an administrative penalty in the manner provided by Section 31.151
10 against a publisher who knowingly fails to promptly correct any
11 factual errors discovered by the board in the instructional
12 materials submitted by the publisher.

13 (b) In setting the amount of any penalty to be imposed under
14 this section, the board shall consider the stage of the
15 instructional materials review and approval process at which the
16 failure occurs and set progressively higher penalties for failures
17 that occur later in the process.

18 Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION. (a)
19 The State Board of Education shall meet biannually to approve
20 instructional materials submitted under Section 31.0251. The board
21 must approve or reject each submitted instructional material not
22 later than the second biannual meeting held for the purpose of
23 approving instructional materials under this section after the date
24 the instructional material was submitted.

25 (b) By majority vote, the board shall approve an
26 instructional material submitted under Section 31.0251 unless the
27 board determines, based on the board's own review, that the

1 instructional material does not contain the essential knowledge and
2 skills identified by the publisher in the submission. The board
3 shall identify the essential knowledge and skills for a subject and
4 grade level that an approved instructional material covers.

5 (c) Each approved instructional material must be free from
6 factual errors.

7 (d) For each subject and grade level, the board shall list
8 the approved instructional materials. The board shall
9 periodically:

10 (1) review each list of approved instructional
11 materials; and

12 (2) by majority vote, remove approved instructional
13 materials that the board determines no longer cover the essential
14 knowledge and skills.

15 SECTION 2E.21. Sections 31.026-31.030, Education Code, are
16 amended to read as follows:

17 Sec. 31.026. CONTRACT; PRICE. (a) The Department of
18 Information Resources may [~~State Board of Education shall~~] execute
19 a contract[+]

20 [~~(1)~~] for the purchase or licensing of each approved
21 instructional material. The commissioner, with the assistance of
22 the Department of Information Resources, the State Board of
23 Education, and the office of the attorney general, shall develop
24 model contracts that may be used by public schools for the purchase
25 or licensing of instructional materials under this chapter [~~adopted~~
26 ~~textbook other than an electronic textbook, and~~

27 [~~(2)~~ for the purchase or licensing of each adopted

1 ~~electronic textbook~~].

2 (b) A contract for the purchase or licensing of
3 instructional materials must require the publisher to provide all
4 of the approved instructional materials [~~the number of textbooks~~]
5 required by public schools [~~school districts~~] in this state for the
6 term of the contract [~~, which must coincide with the board's~~
7 ~~adoption cycle~~].

8 (c) As applicable, a contract must provide for the purchase
9 or licensing of instructional materials [~~a textbook~~] at a
10 [~~specific~~] price determined through negotiation between the
11 publisher and the Department of Information Resources or the public
12 school, as applicable, that does [~~, which may~~] not exceed the lowest
13 price paid by any other state or any school or school district. The
14 price must be fixed for the term of the contract.

15 (d) The Department of Information Resources shall execute a
16 blanket purchase order with the publisher of an approved
17 instructional material. A school district may requisition
18 instructional materials under the purchase order.

19 (e) The agency and the Department of Information Resources
20 shall enter into an interagency contract specifying each agency's
21 duties regarding the purchasing and licensing of instructional
22 materials.

23 (f) The contract may allow the publisher of an approved
24 instructional material to update the material as provided by
25 Section 31.033.

26 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~
27 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each

1 public school [~~district and open-enrollment charter school~~] with
2 information that fully describes each of the publisher's approved
3 instructional materials. [~~adopted textbooks. On request of a~~
4 ~~school district, a publisher shall provide a sample copy of an~~
5 ~~adopted textbook.~~]

6 (b) A publisher shall provide at least two sample copies of
7 each approved instructional material [~~adopted textbook~~] to be
8 maintained at each regional education service center.

9 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

10 (a) The State Board of Education may provide for [~~purchase~~] special
11 instructional materials [~~textbooks~~] for the education of blind and
12 visually impaired students in public schools. In addition, for a
13 teacher who is blind or visually impaired, the board shall provide a
14 teacher's edition in Braille or large type, as requested by the
15 teacher, for each printed instructional material [~~textbook~~] the
16 teacher uses in the instruction of students. The printed teacher
17 edition must be available at the same time the printed student
18 instructional materials [~~textbooks~~] become available.

19 (b) The publisher of an approved printed instructional
20 material [~~adopted textbook~~] shall provide the agency with
21 computerized [~~textbook~~] files for the production of Braille
22 instructional materials [~~textbooks~~] or other versions of
23 instructional materials [~~textbooks~~] to be used by students with
24 disabilities, on request of the State Board of Education. A
25 publisher shall arrange the computerized [~~textbook~~] files in one of
26 several optional formats specified by the State Board of Education.

27 (c) The board shall require electronic instructional

1 materials submitted for approval under Section 31.0251 to comply
2 with the standards established under Section 508, Rehabilitation
3 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~
4 ~~providing for the acceptance, requisition, and distribution of~~
5 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~
6 ~~Section 101 et seq.~~] for use by students enrolled in:

- 7 (1) public schools; or
8 (2) private nonprofit schools, if state funds, other
9 than for administrative costs, are not involved.

10 (d) In this section:

11 (1) "Blind or visually impaired student" includes any
12 student whose visual acuity is impaired to the extent that the
13 student is unable to read the text [~~print~~] in [~~a~~] regularly approved
14 instructional materials [~~adopted textbook~~] used in the student's
15 class.

16 (2) "Special instructional materials" [~~textbook~~]
17 means instructional materials [~~a textbook~~] in Braille, large type
18 or any other medium or any apparatus that conveys information to a
19 student or otherwise contributes to the learning process.

20 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
21 [~~TEXTBOOKS~~]. The board shall approve instructional materials
22 [~~purchase or otherwise acquire textbooks~~] for use in bilingual
23 education classes.

24 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
25 State Board of Education shall adopt rules to ensure that used
26 instructional materials [~~textbooks~~] sold to public schools [~~school~~
27 ~~districts and open-enrollment charter schools~~] are not sample

1 copies that contain factual errors. The rules may provide for the
2 imposition of an administrative penalty in accordance with Section
3 31.151 against a seller of used instructional materials [~~textbooks~~]
4 who knowingly violates this section.

5 SECTION 2E.22. Section 31.031(b), Education Code, as added
6 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
7 2005, is amended to read as follows:

8 (b) From the amount set aside by the State Board of
9 Education under Section 31.021(c) or allocated to a school district
10 under Section 32.005(c), the school district that a student
11 entitled to free textbooks under the pilot project established by
12 Section 54.2161 attends shall pay the costs of each textbook the
13 student requires for a course described by Section 54.2161(b)(2).

14 SECTION 2E.23. Subchapter B, Chapter 31, Education Code, is
15 amended by adding Sections 31.032 and 31.033 to read as follows:

16 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL
17 MATERIALS. The publisher of an approved electronic instructional
18 material may offer the material to public schools on an annual
19 subscription basis.

20 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The
21 publisher of an approved instructional material may, under the
22 terms of a contract under Section 31.026, update the instructional
23 material. The State Board of Education by rule shall provide for an
24 expedited review process to determine the extent to which an
25 updated instructional material:

26 (1) is aligned with the essential knowledge and skills
27 for the subject and grade level; and

1 (2) does not contain factual errors.

2 SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is
3 amended by adding Sections 31.1012 and 31.1013 to read as follows:

4 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. (a) A school
5 district shall:

6 (1) select the instructional materials to be used by
7 the district; and

8 (2) using funds allotted under Section 32.005 or other
9 funds that may be used for the purpose, purchase those materials:

10 (A) directly from the publisher of the materials;
11 or

12 (B) through the Department of Information
13 Resources, if the materials have been approved by the State Board of
14 Education.

15 (b) A school district is not required to select
16 instructional materials that have been approved by the State Board
17 of Education under this chapter.

18 Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL
19 MATERIALS. Each school district shall annually certify to the
20 agency that, for each subject in the required curriculum and each
21 grade level, the district provides each student with instructional
22 materials that are aligned with the essential knowledge and skills
23 adopted by the State Board of Education for that subject and grade
24 level.

25 SECTION 2E.25. Section 31.102, Education Code, is amended
26 to read as follows:

27 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional

1 material [~~textbook~~] purchased as provided by this chapter is the
2 property of this state.

3 (b) Subsection (a) applies to an electronic instructional
4 material [~~textbook~~] only to the extent of any applicable licensing
5 agreement.

6 (c) The board of trustees of a school district [~~or the~~
7 ~~governing body of an open-enrollment charter school~~] is the legal
8 custodian of instructional materials [~~textbooks~~] purchased as
9 provided by this chapter for the district [~~or school~~]. The board of
10 trustees shall distribute instructional materials [~~textbooks~~] to
11 students in the manner that the board [~~or governing body~~]
12 determines is most effective and economical.

13 SECTION 2E.26. Sections 31.104-31.106, Education Code, are
14 amended to read as follows:

15 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of
16 trustees of a school district [~~or the governing body of an~~
17 ~~open-enrollment charter school~~] may delegate to an employee the
18 authority to requisition, distribute, and manage the inventory of
19 instructional materials [~~textbooks~~] in a manner consistent with
20 this chapter and rules adopted under this chapter.

21 (b) A school district [~~or open-enrollment charter school~~]
22 may order replacements for instructional materials [~~textbooks~~]
23 that have been lost or damaged directly from[+]

24 [~~(1) the textbook depository, or~~

25 [~~(2) the~~] the [~~textbook~~] publisher of the instructional
26 materials [~~or manufacturer if the textbook publisher or~~

27 ~~manufacturer does not have a designated textbook depository in this~~

1 ~~state under Section 31.151(a)(6)(B)].~~

2 (c) Each instructional material [~~textbook~~] must state that
3 the instructional material [~~textbook~~] is the property of or is
4 licensed to this state, as appropriate. The board may require the
5 publisher of a textbook that must be returned by a student under
6 Subsection (d) to place a bar code with a unique identifying number
7 on the textbook. Each instructional material [~~textbook~~], other
8 than an electronic instructional material [~~textbook~~], must be
9 covered by the student under the direction of the teacher. A student
10 must return all instructional materials [~~textbooks~~] to the teacher
11 at the end of the school year or when the student withdraws from
12 school.

13 (d) Each student, or the student's parent or guardian, is
14 responsible for each instructional material [~~textbook~~] not
15 returned by the student. A student who fails to return all
16 instructional materials [~~textbooks~~] forfeits the right to free
17 instructional materials [~~textbooks~~] until each instructional
18 material [~~textbook~~] previously issued but not returned is paid for
19 by the student, parent, or guardian. As provided by policy of the
20 board of trustees [~~or governing body~~], a school district [~~or~~
21 ~~open-enrollment charter school~~] may waive or reduce the payment
22 requirement if the student is from a low-income family. The
23 district [~~or school~~] shall allow the student to use instructional
24 materials [~~textbooks~~] at school during each school day. If an
25 instructional material [~~a textbook~~] is not returned or paid for,
26 the district [~~or school~~] may withhold the student's records. A
27 district [~~or school~~] may not, under this subsection, prevent a

1 student from graduating, participating in a graduation ceremony, or
2 receiving a diploma.

3 (e) The board of trustees of a school district may not
4 require an employee of the district to pay for an instructional
5 material [~~a textbook~~] or instructional technology that is stolen,
6 misplaced, or not returned by a student.

7 Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL
8 MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school
9 district [~~or governing body of an open-enrollment charter school~~]
10 may sell instructional materials [~~textbooks~~], other than
11 electronic instructional materials [~~textbooks~~], to a student or
12 another school at a [~~the state contract~~] price determined by board
13 rule. Money [~~The district shall send money~~] from the sale of
14 instructional materials may be used only to purchase items that may
15 be purchased lawfully using the allotment provided by Section
16 32.005.

17 (b) Subject to any applicable licensing agreement, the
18 board of trustees of a school district may:

19 (1) exchange instructional materials with another
20 school district; or

21 (2) loan instructional materials to another school
22 district [~~textbooks to the commissioner as required by the~~
23 ~~commissioner. The commissioner shall deposit the money in the~~
24 ~~state textbook fund~~].

25 Sec. 31.106. USE OF LOCAL FUNDS. A [~~In addition to any~~
26 ~~textbook selected under this chapter, a~~] school district [~~or~~
27 ~~open-enrollment charter school~~] may use local funds to purchase any

1 instructional materials [~~textbooks~~].

2 SECTION 2E.27. The heading to Section 31.151, Education
3 Code, is amended to read as follows:

4 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

5 SECTION 2E.28. Sections 31.151(a), (b), and (d), Education
6 Code, are amended to read as follows:

7 (a) A publisher [~~or manufacturer~~] of instructional
8 materials [~~textbooks~~]:

9 (1) shall furnish any instructional material
10 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[~~7~~]
11 at a price that does not exceed the lowest price at which the
12 publisher offers that instructional material [~~textbook~~] for
13 adoption or sale to any state, public school, or school district in
14 the United States;

15 (2) shall automatically reduce the price of an
16 instructional material [~~a textbook~~] sold for use in a public school
17 [~~district or open-enrollment charter school~~] to the extent that the
18 price is reduced elsewhere in the United States;

19 (3) shall provide any instructional material
20 [~~textbook~~] or ancillary item free of charge in this state to the
21 same extent that the publisher [~~or manufacturer~~] provides the
22 instructional material [~~textbook~~] or ancillary item free of charge
23 to any state, public school, or school district in the United
24 States;

25 (4) shall guarantee that each copy of an instructional
26 material [~~a textbook~~] sold in this state is at least equal in
27 quality to copies of that instructional material [~~textbook~~] sold

1 elsewhere in the United States and is free from factual error;

2 (5) may not become associated or connected with,
3 directly or indirectly, any combination in restraint of trade in
4 instructional materials [~~textbooks~~] or enter into any
5 understanding or combination to control prices or restrict
6 competition in the sale of instructional materials [~~textbooks~~] for
7 use in this state;

8 (6) shall~~+~~

9 [~~(A) maintain a depository in this state or~~
10 ~~arrange with a depository in this state to receive and fill orders~~
11 ~~for textbooks, other than on-line textbooks or on-line textbook~~
12 ~~components, consistent with State Board of Education rules; or~~

13 [~~(B)~~] deliver instructional materials
14 [~~textbooks~~] to a public school [~~district or open-enrollment charter~~
15 ~~school~~] without a delivery charge to the school [~~district,~~
16 ~~open-enrollment charter school,~~] or state~~, if:~~

17 [~~(i) the publisher or manufacturer does not~~
18 ~~maintain or arrange with a depository in this state under Paragraph~~
19 ~~(A) and the publisher's or manufacturer's textbooks and related~~
20 ~~products are warehoused or otherwise stored less than 300 miles~~
21 ~~from a border of this state; or~~

22 [~~(ii) the textbooks are on-line textbooks~~
23 ~~or on-line textbook components~~];

24 (7) shall, at the time an order for instructional
25 materials [~~textbooks~~] is acknowledged, provide to public [~~school~~
26 ~~districts or open-enrollment charter~~] schools an accurate shipping
27 date for instructional materials [~~textbooks~~] that are

1 back-ordered;

2 (8) shall guarantee delivery of instructional
3 materials [~~textbooks~~] at least 10 business days before the opening
4 day of school of the year for which the instructional materials
5 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
6 are ordered by a date specified in the sales contract; and

7 (9) shall submit to the State Board of Education an
8 affidavit certifying any instructional material [~~textbook~~] the
9 publisher [~~or manufacturer~~] offers in this state to be free of
10 factual errors at the time the publisher executes the contract
11 required by Section 31.026.

12 (b) The State Board of Education may impose a reasonable
13 administrative penalty against a publisher [~~or manufacturer~~] who
14 knowingly violates Subsection (a). The board shall provide for a
15 hearing to be held to determine whether a penalty is to be imposed
16 and, if so, the amount of the penalty. The board shall base the
17 amount of the penalty on:

- 18 (1) the seriousness of the violation;
19 (2) any history of a previous violation;
20 (3) the amount necessary to deter a future violation;
21 (4) any effort to correct the violation; and
22 (5) any other matter justice requires.

23 (d) A penalty collected under this section shall be
24 deposited to the credit of the state instructional materials
25 [~~textbook~~] fund.

26 SECTION 2E.29. The heading to Section 31.152, Education
27 Code, is amended to read as follows:

1 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS
2 ~~[TEXTBOOKS]~~.

3 SECTION 2E.30. Sections 31.152(a), (b), and (d), Education
4 Code, are amended to read as follows:

5 (a) A school trustee, administrator, or teacher commits an
6 offense if that person receives any commission or rebate on any
7 instructional materials ~~[textbooks]~~ used in the schools with which
8 the person is associated as a trustee, administrator, or teacher.

9 (b) A school trustee, administrator, or teacher commits an
10 offense if the person accepts a gift, favor, or service that:

11 (1) is given to the person or the person's school;

12 (2) might reasonably tend to influence a trustee,
13 administrator, or teacher in the selection of instructional
14 materials ~~[a textbook]~~; and

15 (3) could not be lawfully purchased with state
16 instructional materials funds ~~[from the state textbook fund]~~.

17 (d) In this section, "gift, favor, or service" does not
18 include:

19 (1) staff development, in-service, or teacher
20 training; or

21 (2) ancillary ~~[instructional]~~ materials, such as maps
22 or worksheets, that convey information to the student or otherwise
23 contribute to the learning process.

24 SECTION 2E.31. The heading to Section 31.153, Education
25 Code, is amended to read as follows:

26 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
27 ~~[TEXTBOOK]~~ LAW.

1 SECTION 2E.32. Section 31.153(a), Education Code, is
2 amended to read as follows:

3 (a) A person commits an offense if the person knowingly
4 violates any law providing for the purchase or distribution of free
5 instructional materials [~~textbooks~~] for the public schools.

6 SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is
7 amended to read as follows:

8 SUBCHAPTER E. DISPOSITION OF
9 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

10 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS
11 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State
12 Board of Education, may provide for the disposition of:

13 (1) instructional materials [~~textbooks~~], other than
14 electronic instructional materials [~~textbooks~~], that are no longer
15 in acceptable condition to be used for instructional purposes; or

16 (2) discontinued instructional materials [~~textbooks~~],
17 other than electronic instructional materials [~~textbooks~~].

18 (b) The commissioner, as provided by rules adopted by the
19 State Board of Education, shall make available on request copies of
20 discontinued instructional materials [~~textbooks~~], other than
21 electronic instructional materials [~~textbooks~~], for use in
22 libraries maintained in municipal and county jails and facilities
23 of the institutional division of the Texas Department of Criminal
24 Justice and other state agencies.

25 (c) The State Board of Education shall adopt rules under
26 which a public school [~~district or open-enrollment charter school~~]
27 may donate discontinued instructional materials [~~textbooks~~], other

1 than electronic instructional materials [~~textbooks~~], to a student,
2 to an adult education program, or to a nonprofit organization.

3 SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is
4 amended by adding Section 32.0011 to read as follows:

5 Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND
6 IMPLEMENTATION. (a) An advisory committee for technology and
7 implementation is created to assist the agency and permit the
8 agency to monitor changing technology in business, industry, and
9 education.

10 (b) Members of the advisory committee are appointed as
11 follows:

12 (1) the commissioner, in consultation with the
13 lieutenant governor, the speaker of the house of representatives,
14 and the presiding officers of the standing committees of the senate
15 and the house of representatives with jurisdiction over the agency,
16 shall appoint members from the business and education communities
17 and public members; and

18 (2) the State Board of Education may appoint one
19 member.

20 (c) The advisory committee is subject to Chapters 551 and
21 552, Government Code.

22 SECTION 2E.35. Sections 32.002 and 32.003, Education Code,
23 are amended to read as follows:

24 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A
25 public school [~~district~~] is not required by this subchapter to
26 acquire or use technology that has been approved, selected, or
27 contracted for by the State Board of Education or the commissioner.

1 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The
2 commissioner may contract with developers of technology to supply
3 technology for use by public schools [~~school districts~~] throughout
4 this state.

5 SECTION 2E.36. Effective September 1, 2006, Section 32.005,
6 Education Code, is amended to read as follows:

7 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
8 ALLOTMENT. (a) Each school district is entitled to an allotment of
9 \$100 [~~\$30~~] for each student in average daily attendance or a
10 different amount for any year provided by appropriation.

11 (a-1) From the funds a school district receives under
12 Subsection (a), the district shall use an amount equal to \$50 for
13 each student in average daily attendance to fund targeted
14 technology programs under Section 32.006. A school district shall
15 use funds for targeted technology programs in a manner that allows
16 each student and teacher assigned to a targeted campus, grade level
17 on a campus, or specific educational program to benefit from a
18 targeted technology program. The commissioner shall adopt rules
19 concerning the use of funds under this subsection. This subsection
20 expires August 31, 2007.

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

22 (1) provide for the purchase by school districts of
23 instructional materials [~~electronic textbooks~~] or technological
24 equipment that contributes to student learning; and

25 (2) pay for training educational personnel directly
26 involved in student learning in the appropriate use of electronic
27 instructional materials [~~textbooks~~] and for providing for access to

1 technological equipment for instructional use.

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

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

5 (2) the available school fund; [~~or~~]

6 (3) the state instructional materials fund under
7 Section 31.021; or

8 (4) any other fund that may be used for that purpose
9 and that is identified in the General Appropriations Act as the
10 source of payment of the allotment.

11 (d) This subsection applies only if the pilot project
12 established under Section 54.2161 is implemented. In addition to
13 amounts to which the district is entitled under Subsection (a), a
14 school district is entitled to an amount sufficient for the
15 district to pay the costs of textbooks for students participating
16 in the pilot project established under Section 54.2161. This
17 subsection expires August 15, 2009.

18 SECTION 2E.37. Effective September 1, 2007, Section 32.005,
19 Education Code, is amended by amending Subsection (a) and adding
20 Subsection (a-1) to read as follows:

21 (a) Each school district is entitled to an allotment of \$150
22 [~~\$30~~] for each student in average daily attendance or a different
23 amount for any year provided by appropriation.

24 (a-1) From the funds a school district receives under
25 Subsection (a), the district shall use an amount equal to \$60 for
26 each student in average daily attendance to fund targeted
27 technology programs under Section 32.006. A school district shall

1 use funds for targeted technology programs in a manner that allows
2 each student and teacher assigned to a targeted campus, grade level
3 on a campus, or specific educational program to benefit from a
4 targeted technology program. The commissioner shall adopt rules
5 concerning the use of funds under this subsection.

6 SECTION 2E.38. Subchapter A, Chapter 32, Education Code, is
7 amended by adding Section 32.006 to read as follows:

8 Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each
9 school district shall use funds designated for targeted technology
10 programs under Section 32.005(a-1) in accordance with this section
11 and in a manner consistent with the long-range plan developed by the
12 State Board of Education under Section 32.001 and the district's
13 own technology plan. A school district may use funds from other
14 sources, including grants, donations, and state and federal funds,
15 to provide targeted technology programs.

16 (b) A targeted technology program must provide for each
17 student and teacher at a targeted campus or grade level on a
18 targeted campus:

19 (1) the provision of:

20 (A) wireless electronic mobile computing devices
21 or other technology devices that convey instruction;

22 (B) productivity software and hardware,
23 including writing, computation, presentation, printing, and
24 communication tools;

25 (C) electronic learning software aligned with
26 the essential knowledge and skills adopted by the State Board of
27 Education under Section 28.002;

1 (D) library and other research tools;

2 (E) electronic assessment tools;

3 (F) electronic learning tools to improve
4 communications among students, teachers, school administrators,
5 parents, and the community; and

6 (G) classroom management systems;

7 (2) professional development for teachers to
8 integrate the tools and solutions described by Subdivision (1); or

9 (3) the provision of other infrastructure,
10 components, and technologies to support and enhance student
11 performance through individual instruction programs.

12 (c) The Legislative Budget Board shall:

13 (1) conduct a biennial study of the cost of school
14 district targeted technology programs, including the cost of
15 implementing those programs on a statewide basis; and

16 (2) based on the results of the study required by
17 Subdivision (1), make recommendations to the legislature before the
18 beginning of each regular session of the legislature concerning
19 statewide implementation of targeted technology programs.

20 (d) Each biennium, the Legislative Budget Board and the
21 commissioner shall jointly conduct a performance evaluation of
22 school district targeted technology programs.

23 SECTION 2E.39. Subchapter A, Chapter 32, Education Code, is
24 amended by adding Section 32.007 to read as follows:

25 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

26 (a) The commissioner may enter into an agreement with a public
27 broadcasting station, or a consortium of public broadcasting

1 stations, under which the station or consortium will provide online
2 instructional content and educational materials.

3 (b) From funds appropriated to the agency, the commissioner
4 may, under an agreement entered into under Subsection (a), make
5 instructional materials available through public broadcasting
6 stations for purposes of instruction and professional development
7 and for use in providing adult-based education.

8 (c) An agreement entered into under Subsection (a) must, to
9 the extent practicable, provide access to instructional materials
10 and online content to persons located in all parts of this state.

11 (d) For purposes of providing high-quality online
12 instructional materials under this section, the commissioner may:

13 (1) use federal funds that may be used for those
14 purposes; or

15 (2) use unexpended balances of funds appropriated to
16 the agency for educational purposes, including adult education.

17 SECTION 2E.391. Subchapter A, Chapter 32, Education Code,
18 is amended by adding Section 32.008 to read as follows:

19 Sec. 32.008. TECHNOLOGY GRANTS. (a) From amounts
20 appropriated for the purpose, the commissioner shall make grants as
21 provided by this section to school districts on behalf of eligible
22 campuses and to eligible open-enrollment charter schools. A grant
23 under this section must be in the amount of \$300 for each student
24 enrolled at an eligible campus or eligible open-enrollment charter
25 school.

26 (b) To be eligible for a grant under this section, a public
27 school must:

1 (1) be identified by the agency as meeting the goals of
2 the long-range plan for technology under Section 32.001; and

3 (2) certify to the commissioner that the school will
4 commit to using, for a purpose specified by Subsection (c), other
5 funds available to the school in an amount equal to \$50 for each
6 student enrolled at the school.

7 (c) A grant under this section may be used only to:

8 (1) provide for the purchase by public schools of:

9 (A) wireless electronic mobile computing devices
10 or other technology devices that convey instruction;

11 (B) productivity software and hardware,
12 including writing, computation, presentation, printing, and
13 communication tools;

14 (C) electronic learning software aligned with
15 the essential knowledge and skills adopted by the State Board of
16 Education under Section 28.002;

17 (D) library and other research tools;

18 (E) electronic assessment tools;

19 (F) electronic learning tools to improve
20 communications among students, teachers, school administrators,
21 parents, and the community; and

22 (G) classroom and school management systems;

23 (2) provide professional development for teachers to
24 integrate the tools and solutions described by Subdivision (1); and

25 (3) acquire other infrastructure, components, and
26 technologies necessary to support and enhance student performance.

27 (d) To receive a grant under this section, a school district

1 or open-enrollment charter school must apply in the time and manner
2 specified by commissioner rule. A grant under this section is for a
3 period of two school years and may be renewed as provided by
4 commissioner rule. The commissioner shall ensure that public
5 schools that are awarded grants under this section reflect the
6 demographic and geographic diversity of this state.

7 SECTION 2E.40. The heading to Section 32.154, Education
8 Code, as added by Chapter 834, Acts of the 78th Legislature, Regular
9 Session, 2003, is amended to read as follows:

10 Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

11 SECTION 2E.41. Section 32.154, Education Code, as added by
12 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,
13 is amended by adding Subsection (a-1) and amending Subsection (b)
14 to read as follows:

15 (a-1) In addition to school districts and schools selected
16 before September 1, 2005, for participation in the technology
17 immersion pilot project, the agency shall expand the program by
18 selecting for participation in the pilot project for the 2005-2006
19 and subsequent school years each high school to which a school
20 district regularly assigns students who were enrolled in grade
21 eight during the 2004-2005 school year at a district school
22 participating in the pilot project. The agency shall establish
23 criteria for expanding the pilot project under this subsection.

24 (b) Except as provided by Subsection (a-1), the [~~The~~] agency
25 shall select the participating [~~districts and~~] schools for the
26 pilot project based on each [~~district's or~~] school's need for the
27 pilot project. In selecting participants, the agency shall

1 consider the following criteria:

2 (1) whether the [~~district or~~] school has limited
3 access to educational resources that could be improved through the
4 use of wireless mobile computing devices and other technologies;

5 (2) whether the [~~district or~~] school has the following
6 problems and whether those problems can be mitigated through the
7 use of wireless mobile computing devices and other technologies:

8 (A) documented teacher shortages in critical
9 areas;

10 (B) limited access to advanced placement
11 courses;

12 (C) low rates of satisfactory performance on
13 assessment instruments under Subchapter B, Chapter 39; and

14 (D) high dropout rates;

15 (3) the [~~district's or~~] school's readiness to
16 incorporate technology into its classrooms;

17 (4) the possibility of obtaining a trained technology
18 support staff and high-speed Internet services for the [~~district
19 or~~] school; and

20 (5) the methods the [~~district or~~] school will use to
21 measure the progress of the pilot project in the [~~district or~~]
22 school in accordance with Section 32.155(e).

23 SECTION 2E.42. Section 32.156, Education Code, as added by
24 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,
25 is amended to read as follows:

26 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

27 (a) The agency may develop and adopt strategies for making

1 instructional materials [~~textbooks~~] available through the portal
2 or through other means in an electronic format as an alternative or
3 supplement to traditional instructional materials [~~textbooks~~].

4 (b) In developing and adopting strategies under this
5 section, the agency shall seek to achieve a system under which a
6 student may, in addition to [~~a~~] traditional instructional materials
7 [~~textbook~~], be provided with secure Internet access to each
8 instructional material [~~textbook~~] used by the student.

9 SECTION 2E.43. Section 32.161(b), Education Code, is
10 amended to read as follows:

11 (b) To the extent possible considering other statutory
12 requirements, the commissioner and agency shall encourage the use
13 of instructional materials [~~textbook—funds~~] and technology
14 allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner
15 that facilitates the development and use of the portal.

16 SECTION 2E.44. Subchapter B, Chapter 39, Education Code, is
17 amended by adding Section 39.0232 to read as follows:

18 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
19 extent practicable and appropriate, the agency shall provide for
20 assessment instruments required under Section 39.023 to be designed
21 so that those assessment instruments can be computer-adaptive.

22 (b) To the extent practicable and appropriate, the agency
23 shall require school districts to administer to students the
24 computer-adaptive assessment instruments.

25 (c) The commissioner may adopt rules to implement this
26 section.

27 (d) As necessary to implement this section, the

1 commissioner by rule may delay the release of assessment instrument
2 questions and answer keys under Section 39.023(e).

3 (e) The agency shall implement this section not later than
4 May 1, 2007. This subsection expires September 1, 2007.

5 SECTION 2E.45. Subchapter B, Chapter 44, Education Code, is
6 amended by adding Section 44.046 to read as follows:

7 Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS.
8 Notwithstanding Section 44.031, a public school may purchase
9 instructional materials, as defined by Section 31.002, under a
10 blanket purchase order executed by the Department of Information
11 Resources under Section 31.026.

12 SECTION 2E.46. Sections 31.002(3), 31.022, 31.023, 31.024,
13 31.025, 31.101, 31.103, and 31.1031, Education Code, and Sections
14 32.154(a) and (c), Education Code, as added by Chapter 834, Acts of
15 the 78th Legislature, Regular Session, 2003, are repealed.

16 PART F. BILINGUAL EDUCATION AND SPECIAL
17 LANGUAGE PROGRAMS

18 SECTION 2F.01. Effective August 1, 2006, Subchapter B,
19 Chapter 21, Education Code, is amended by adding Sections 21.0485
20 and 21.0486 to read as follows:

21 Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER
22 CERTIFICATION. (a) To ensure that there are teachers with special
23 training to work with other teachers and with students in a dual
24 language education program, the commissioner shall establish a dual
25 language education teaching certificate.

26 (b) The commissioner shall adopt rules establishing the
27 training requirements, including the minimum academic

1 qualifications, a person must accomplish to obtain a certificate
2 under this section.

3 (c) The commissioner shall adopt rules establishing the
4 requirements for a teacher who receives training in a foreign
5 country to obtain a certificate under this section.

6 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

7 (a) To ensure that there are teachers with special training to
8 work with other teachers and with students in order to improve
9 student performance in English and other languages, the
10 commissioner shall establish:

11 (1) a master language teacher certificate to teach
12 bilingual education, dual language instruction, or English as a
13 second language at elementary school grade levels;

14 (2) a master language teacher certificate to teach
15 bilingual education, dual language instruction, or English as a
16 second language at middle school grade levels; and

17 (3) a master language teacher certificate to teach
18 dual language instruction at high school grade levels.

19 (b) The board shall issue the appropriate master language
20 teacher certificate to each eligible person.

21 (c) To be eligible for a master language teacher
22 certificate, a person must:

23 (1) hold a teaching certificate issued under this
24 subchapter;

25 (2) have at least three years of experience teaching
26 bilingual education, dual language instruction, or English as a
27 second language;

1 (3) satisfactorily complete a knowledge-based course
2 of instruction on second language acquisition and the science of
3 teaching children language that includes training in language
4 instruction and professional peer mentoring techniques that,
5 through scientific testing, have been proven effective;

6 (4) perform satisfactorily on the appropriate master
7 language certification examination prescribed by the commissioner;
8 and

9 (5) satisfy any other requirements prescribed by the
10 commissioner.

11 SECTION 2F.02. Section 21.050(b), Education Code, is
12 amended to read as follows:

13 (b) The commissioner [~~board~~] may not require more than 18
14 semester credit hours of education courses at the baccalaureate
15 level for the granting of a teaching certificate. The commissioner
16 [~~board~~] shall provide for a minimum number of semester credit hours
17 of internship to be included in the hours needed for certification.
18 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring
19 additional credit hours for certification in bilingual education,
20 dual language instruction, English as a second language, early
21 childhood education, or special education.

22 SECTION 2F.03. Section 21.054, Education Code, is amended
23 by adding Subsection (c) to read as follows:

24 (c) Rules adopted under Subsection (a) must permit an
25 educator to fulfill continuing education requirements by acquiring
26 conversational skills in one or more languages other than English
27 and academic language development in the subject area for which the

1 educator provides instruction. The rules must permit educators to
2 obtain language instruction through a variety of methods, including
3 attendance at workshops offered by qualified entities and
4 enrollment on a noncredit basis in courses offered by public or
5 private colleges and universities.

6 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is
7 amended by adding Section 21.060 to read as follows:

8 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.
9 On issuing an educator certificate to an educational aide or
10 renewing such a certificate, the commissioner shall notify the
11 person to whom the certificate is issued of the existence of the
12 educational aide exemption under Section 54.214.

13 SECTION 2F.05. Section 28.0051, Education Code, is amended
14 by adding Subsection (d) to read as follows:

15 (d) The commissioner shall provide for the issuance of
16 teaching certificates appropriate for dual language instruction to
17 teachers who:

18 (1) possess a speaking, reading, and writing language
19 ability in a language other than English in which a dual language
20 immersion program is offered; and

21 (2) meet the general requirements of Subchapter B,
22 Chapter 21.

23 SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is
24 amended by adding Section 28.0052 to read as follows:

25 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)
26 The commissioner shall establish a pilot project in school
27 districts selected by the commissioner under which the agency

1 examines dual language education programs and the effect of those
2 programs on a student's ability to graduate from high school.

3 (b) In selecting school districts under Subsection (a), the
4 commissioner shall:

5 (1) select districts that:

6 (A) will commit to at least a three-year dual
7 language education program; and

8 (B) demonstrate a substantially equal enrollment
9 of students with limited English proficiency and students whose
10 primary language is English or, if a district does not have a
11 sufficient number of limited English proficiency students to meet
12 the equal enrollment standard, include the enrollment of students
13 with limited English proficiency, students whose primary language
14 is English, and bilingual students; and

15 (2) give preference to a district that:

16 (A) demonstrates the potential for expanding the
17 program through middle school; and

18 (B) will implement the program at the
19 kindergarten level.

20 (c) The commissioner by rule shall require a district to
21 limit activities of the dual language education program during the
22 first year of the program to planning activities, including:

23 (1) hiring and training teachers and ensuring teacher
24 certification;

25 (2) establishing parental and community support for
26 the program; and

27 (3) acquiring adequate learning materials in both

1 program languages.

2 (d) From amounts appropriated to the agency, including
3 foundation school program funds, the commissioner shall award
4 grants to school districts that participate in the program. A grant
5 under this section must be in an amount sufficient to pay the costs
6 to the district of participating in the program, as determined by
7 the commissioner. A determination of the commissioner under this
8 subsection is final and may not be appealed.

9 (e) A school district that applies for the expansion of an
10 existing dual language education program is eligible for a grant
11 under Subsection (d).

12 (f) A school district may use a grant awarded under
13 Subsection (d) for:

14 (1) classroom materials;

15 (2) tuition and textbook expenses for students seeking
16 teacher certification under Section 21.0485; and

17 (3) other necessary costs of operating the program, as
18 approved by the commissioner.

19 (f-1) During the 2006-2007 school year, the commissioner
20 may award grants to school districts under this section only for the
21 purpose of planning activities described by Subsection (c) in an
22 amount not to exceed two percent of the total amount required to
23 fully implement the pilot program for the 2007-2008 school year.
24 This subsection expires September 1, 2008.

25 (g) Grants under this section may not exceed \$13 million for
26 each biennium.

27 (h) The agency shall report to the legislature describing

1 the agency's activities under the pilot project, the effect of the
2 project on grade-level completion, and the recommendations arising
3 from the project. The agency shall submit an interim report under
4 this subsection not later than January 1, 2009, and a final report
5 not later than January 1, 2011.

6 (i) This section expires August 1, 2011.

7 SECTION 2F.07. Section 29.056, Education Code, is amended
8 by amending Subsections (a), (d), and (g) and adding Subsections
9 (g-1) and (i) to read as follows:

10 (a) The agency shall establish standardized criteria for
11 the identification, assessment, and classification of students of
12 limited English proficiency eligible for entry into the program or
13 exit from the program. Except as provided by this subsection, the
14 [The] student's parent must approve a student's entry into the
15 program, exit from the program, or placement in the program. A
16 school district shall provide notice to the student's parent that
17 the district intends to transfer the student from the program. If
18 the student's parent fails to respond to the notice on or before the
19 30th day after the date the notice is provided, the district may
20 transfer the student from the program without the student's
21 parent's approval. The district must inform the student's parent of
22 the student's transfer from the program. The school district or
23 parent may appeal the decision under Section 29.064. The criteria
24 for identification, assessment, and classification may include:

25 (1) results of a home language survey conducted within
26 four weeks of each student's enrollment to determine the language
27 normally used in the home and the language normally used by the

1 student, conducted in English and the home language, signed by the
2 student's parents if the student is in kindergarten through grade 8
3 or by the student if the student is in grades 9 through 12, and kept
4 in the student's permanent folder by the language proficiency
5 assessment committee;

6 (2) the results of an agency-approved English language
7 proficiency test administered to all students identified through
8 the home survey as normally speaking a language other than English
9 to determine the level of English language proficiency, with
10 students in kindergarten or grade 1 being administered an oral
11 English proficiency test and students in grades 2 through 12 being
12 administered an oral English proficiency test and, if the oral
13 English proficiency test demonstrates proficiency, a written
14 English proficiency test; and

15 (3) the results of an agency-approved proficiency test
16 in the primary language administered to all students identified
17 under Subdivision (2) as being of limited English proficiency to
18 determine the level of primary language proficiency, with students
19 in kindergarten or grade 1 being administered an oral primary
20 language proficiency test and students in grades 2 through 12 being
21 administered an oral and written primary language proficiency test.

22 (d) Not later than the 20th [~~10th~~] day after the date of the
23 student's classification as a student of limited English
24 proficiency, the language proficiency assessment committee shall
25 give written notice of the classification to the student's parent.
26 The notice must be in English and the parent's primary language.
27 The parents of students eligible to participate in the required

1 bilingual education program shall be informed of the benefits of
2 the bilingual education or special language program and that it is
3 an integral part of the school program.

4 (g) A district may transfer a student of limited English
5 proficiency out of a bilingual education or special language
6 program for the first time or a subsequent time if the student is
7 able to participate equally in a regular all-English instructional
8 program as determined by:

9 (1) agency-approved tests administered at the end of
10 each school year to determine the extent to which the student has
11 developed oral and written language proficiency and specific
12 language skills in [~~both the student's primary language and~~
13 English;

14 (2) satisfactory performance on the reading
15 assessment instrument under Section 39.023(a)(2) or the English
16 language arts assessment instrument under Section 39.023(a)(4), as
17 applicable, with the assessment instrument administered in
18 English, or, if the student is enrolled in the first or second
19 grade, an achievement score at or above the 40th percentile in the
20 reading and language arts sections of an English standardized test
21 approved by the agency; and

22 (3) agency-approved [~~other indications of a student's~~
23 ~~overall progress, including~~] criterion-referenced tests and the
24 results of a [~~test scores,~~] subjective teacher evaluation[~~, and~~
25 ~~parental evaluation~~].

26 (g-1) A school district may transfer a student of limited
27 English proficiency who is eligible for special education services

1 under Subchapter A out of a bilingual education or special language
2 program and into a special education program if the language
3 proficiency assessment committee and the student's admission,
4 review, and dismissal committee agree that the student has a
5 learning disability and would be better served in a special
6 education program. The student's admission, review, and dismissal
7 committee must document that the student has a learning disability
8 that cannot be addressed effectively in a bilingual education or
9 special language program and that the student's learning disability
10 is not due to the student's limited English proficiency. The
11 commissioner by rule shall adopt criteria for a school district to
12 use in transferring a student under this subsection.

13 (i) On approval of the student's parent, a school district
14 may allow a student of limited English proficiency who meets the
15 criteria for being transferred out of a bilingual education or
16 special language program to continue participating in the program.

17 SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is
18 amended by adding Section 29.0561 to read as follows:

19 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;
20 REENROLLMENT. (a) The language proficiency assessment committee
21 shall reevaluate a student who is transferred out of a bilingual
22 education or special language program under Section 29.056(g) if
23 the student earns a failing grade in a subject in the foundation
24 curriculum under Section 28.002(a)(1) during any grading period in
25 the first two school years after the student is transferred to
26 determine whether the student should be reenrolled in a bilingual
27 education or special language program.

1 (b) During the first two school years after a student is
2 transferred out of a bilingual education or special language
3 program under Section 29.056(g), the language proficiency
4 assessment committee shall review the student's performance and
5 consider:

6 (1) the total amount of time the student was enrolled
7 in a bilingual education or special language program;

8 (2) the student's grades each grading period in each
9 subject in the foundation curriculum under Section 28.002(a)(1);

10 (3) the student's performance on each assessment
11 instrument administered under Section 39.023(a) or (c);

12 (4) the number of credits the student has earned
13 toward high school graduation, if applicable; and

14 (5) any disciplinary actions taken against the student
15 under Subchapter A, Chapter 37.

16 (c) After an evaluation under this section, the language
17 proficiency assessment committee may require intensive instruction
18 for the student or reenroll the student in a bilingual education or
19 special language program.

20 SECTION 2F.09. Effective August 1, 2006, Subchapter B,
21 Chapter 29, Education Code, is amended by adding Section 29.065 to
22 read as follows:

23 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
24 PROFICIENCY. The commissioner by rule shall develop a longitudinal
25 measure of progress toward English language proficiency under which
26 a student of limited English proficiency is evaluated from the time
27 the student enters public school until, for two consecutive school

1 years, the student scores at a specific level determined by the
2 commissioner on the reading assessment instrument under Section
3 39.023(a)(2) or the English language arts assessment instrument
4 under Section 39.023(a)(4), as applicable. The commissioner shall:

5 (1) as part of the measure of progress, include
6 student advancement from one proficiency level to a higher level
7 under the reading proficiency in English assessment system
8 developed under Section 39.027(e) and from the highest level under
9 that assessment system to the level determined by the commissioner
10 under this section on the reading assessment instrument under
11 Section 39.023(a)(2) or the English language arts assessment
12 instrument under Section 39.023(a)(4), as applicable; and

13 (2) to the extent practicable in developing the
14 measure of progress, use applicable research and analysis done in
15 developing an annual measurable achievement objective as required
16 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
17 6842).

18 SECTION 2F.10. Not later than January 1, 2006, the
19 commissioner of education shall adopt rules permitting an educator
20 to fulfill continuing education requirements by requiring
21 conversational skill in a language other than English, as required
22 by Section 21.054(c), Education Code, as added by this Act.

23 SECTION 2F.11. Not later than January 1, 2007, the
24 commissioner shall adopt rules:

25 (1) establishing requirements and prescribing an
26 examination for master language teacher certification as required
27 by Section 21.0486, Education Code, as added by this Act; and

1 (2) establishing requirements and prescribing an
2 examination for dual language instruction teacher certification as
3 required by Section 21.050(b), Education Code, as amended by this
4 Act, and Section 28.0051(d), Education Code, as added by this Act.

5 PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

6 SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is
7 amended by adding Section 29.124 to read as follows:

8 Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this
9 section, "public senior college or university" has the meaning
10 assigned by Section 61.003.

11 (b) A Texas governor's school is a summer residential
12 program for high-achieving high school students. A governor's
13 school program may include any or all of the following educational
14 curricula:

15 (1) mathematics and science;

16 (2) humanities; or

17 (3) leadership and public policy.

18 (c) A public senior college or university may apply to the
19 commissioner to administer a Texas governor's school program under
20 this section. The commissioner shall give preference to a public
21 senior college or university that applies in cooperation with a
22 nonprofit association. The commissioner shall give additional
23 preference if the nonprofit association receives private
24 foundation funds that may be used to finance the program.

25 (d) The commissioner may approve an application under this
26 section only if the applicant:

27 (1) applies within the period and in the manner

1 required by rule adopted by the commissioner;

2 (2) submits a program proposal that includes:

3 (A) a curriculum consistent with Subsection (b);

4 (B) criteria for selecting students to
5 participate in the program;

6 (C) a statement of the length of the program,
7 which must be at least three weeks; and

8 (D) a statement of the location of the program;

9 (3) agrees to use a grant under this section only for
10 the purpose of administering a program; and

11 (4) satisfies any other requirements established by
12 rule adopted by the commissioner.

13 (e) From funds appropriated to the agency, the commissioner
14 may make a grant in an amount not to exceed \$750,000 each year to
15 public senior colleges or universities whose applications are
16 approved under this section to pay the costs of administering a
17 Texas governor's school program.

18 (f) The commissioner may adopt other rules necessary to
19 implement this section.

20 SECTION 2G.02. Section 39.051, Education Code, is amended
21 by adding Subsection (b-1) to read as follows:

22 (b-1) In addition to the indicators adopted under
23 Subsection (b), the commissioner shall consider adopting and may
24 adopt the following indicators relating to high academic
25 achievement in assigning a district an exemplary performance rating
26 under Section 39.072:

27 (1) the percentage of students, disaggregated by race,

1 ethnicity, gender, and socioeconomic status, who are enrolled in an
2 educational program for gifted and talented students;

3 (2) student results on advanced placement and
4 international baccalaureate examinations, including the percentage
5 of students scoring three or higher on the advanced placement
6 examinations and the percentage of students scoring four or higher
7 on the international baccalaureate examinations;

8 (3) student results on the Scholastic Assessment Test
9 (SAT) and the American College Test (ACT);

10 (4) the percentage of students scoring in the top five
11 percent on nationally recognized norm-referenced assessment
12 instruments;

13 (5) the percentage of high school students enrolled in
14 an advanced course;

15 (6) the percentage of students achieving commended
16 performance, as determined by the State Board of Education, on an
17 assessment instrument required under Section 39.023(a), (c), or
18 (1);

19 (7) the percentage of students completing the
20 recommended or advanced high school program established under
21 Section 28.025; and

22 (8) the percentage of the district's graduating
23 students who enroll in an institution of higher education for the
24 academic year following graduation.

25 SECTION 2G.03. Section 39.053(a), Education Code, is
26 amended to read as follows:

27 (a) Each board of trustees shall publish an annual report

1 describing the educational performance of the district and of each
2 campus in the district that includes uniform student performance
3 and descriptive information as determined under rules adopted by
4 the commissioner. The annual report must also include:

5 (1) campus performance objectives established under
6 Section 11.253 and the progress of each campus toward those
7 objectives, which shall be available to the public;

8 (2) the academic performance rating for the district
9 [~~as provided under Section 39.072(a)~~] and [~~the performance rating~~
10 ~~of~~] each campus in the district [~~as provided~~] under Section 39.072
11 [~~39.072(c)~~];

12 (3) the district's current special education
13 compliance status with the agency;

14 (4) a statement of the number, rate, and type of
15 violent or criminal incidents that occurred on each district
16 campus, to the extent permitted under the Family Educational Rights
17 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

18 (5) information concerning school violence prevention
19 and violence intervention policies and procedures that the district
20 is using to protect students; [~~and~~]

21 (6) the findings that result from evaluations
22 conducted under the Safe and Drug-Free Schools and Communities Act
23 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
24 amendments; [~~and~~]

25 (7) information received under Section 51.403(e) for
26 each high school campus in the district, presented in a form
27 determined by the commissioner; and

1 (8) information relating to high academic achievement
2 in the district, as determined by the district's performance on the
3 indicators under Section 39.051(b-1).

4 SECTION 2G.04. (a) Not later than the 2006-2007 school
5 year, the Texas Education Agency shall collect information
6 concerning high academic achievement for purposes of Section
7 39.051(b-1), Education Code, as added by this Act.

8 (b) Not later than the 2007-2008 school year, the Texas
9 Education Agency shall include information concerning high
10 academic achievement for purposes of Section 39.051(b-1),
11 Education Code, as added by this Act, in evaluating the performance
12 of school districts, campuses, and public charter districts under
13 Subchapter D, Chapter 39, Education Code.

14 (c) Not later than the 2007-2008 school year, the Texas
15 Education Agency shall include the information required by Section
16 39.182(a)(23), Education Code, as added by this Act, in the
17 agency's comprehensive annual report under Section 39.182,
18 Education Code.

19 PART H. PREKINDERGARTEN PROGRAMS

20 SECTION 2H.01. Section 29.1532, Education Code, is amended
21 by adding Subsections (d), (e), and (f) to read as follows:

22 (d) Before a school district may implement a
23 prekindergarten program, the district shall:

24 (1) investigate the possibility of sharing program
25 sites with existing child-care programs licensed by the Department
26 of Family and Protective Services and existing federal Head Start
27 programs; and

1 (2) coordinate use of any sites to the greatest extent
2 possible.

3 (e) A school district shall implement to the greatest extent
4 possible coordinated use of licensed child-care and Head Start
5 sites with existing prekindergarten programs.

6 (f) The commissioner may adopt rules relating to the
7 operation of prekindergarten and early childhood care and education
8 programs that receive state funds to foster school readiness in
9 children enrolled in those programs.

10 PART I. SCHOOL DISCIPLINE

11 SECTION 21.01. Chapter 26, Education Code, is amended by
12 adding Section 26.0083 to read as follows:

13 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY
14 ACTION. (a) A parent is entitled to notice from a school district
15 or public charter district as provided by this section if the
16 parent's child is removed from class under Section 37.006 for
17 placement in a disciplinary alternative education program or under
18 Section 37.007 for expulsion or placement in a juvenile justice
19 alternative education program. A school district or public charter
20 district shall make a good faith effort to provide the notice
21 required by this subsection on the same day the parent's child is
22 removed from class. If the district fails to provide the notice on
23 that day, the district shall provide or mail the notice not later
24 than 5 p.m. on the first business day after the day the student is
25 removed from class.

26 (b) A noncustodial parent who has requested notice of
27 disciplinary actions as provided by Section 37.0091 is entitled to

1 notice under Subsection (a).

2 SECTION 2I.02. Section 37.004, Education Code, is amended
3 by adding Subsections (e) and (f) to read as follows:

4 (e) Notwithstanding any other provision of this subchapter,
5 in a county with a juvenile justice alternative education program
6 established under Section 37.011, the expulsion under a provision
7 of Section 37.007 described by this subsection of a student with a
8 disability who receives special education services must occur in
9 accordance with this subsection and Subsection (f). The school
10 district from which the student was expelled shall, in accordance
11 with applicable federal law, provide the administrator of the
12 juvenile justice alternative education program or the
13 administrator's designee with reasonable notice of the meeting of
14 the student's admission, review, and dismissal committee to discuss
15 the student's expulsion. A representative of the juvenile justice
16 alternative education program may participate in the meeting to the
17 extent that the meeting relates to the student's placement in the
18 program. This subsection applies only to an expulsion under:

19 (1) Section 37.007(b), (c), or (f); or

20 (2) Section 37.007(d) as a result of conduct that
21 contains the elements of any offense listed in Section
22 37.007(b)(2)(C) against any employee or volunteer in retaliation
23 for or as a result of the person's employment or association with a
24 school district.

25 (f) If, after placement of a student in a juvenile justice
26 alternative education program under Subsection (e), the
27 administrator of the program or the administrator's designee has

1 concerns that the student's educational or behavioral needs cannot
2 be met in the program, the administrator or designee shall
3 immediately provide written notice of those concerns to the school
4 district from which the student was expelled. The student's
5 admission, review, and dismissal committee shall meet to reconsider
6 the placement of the student in the program. The district shall, in
7 accordance with applicable federal law, provide the administrator
8 or designee with reasonable notice of the meeting, and a
9 representative of the program may participate in the meeting to the
10 extent that the meeting relates to the student's continued
11 placement in the program.

12 SECTION 2I.03. Section 37.008, Education Code, is amended
13 by amending Subsections (m) and (m-1) and adding Subsection (n) to
14 read as follows:

15 (m) Notwithstanding Section 7.028, the [The] commissioner
16 shall adopt rules necessary to evaluate through an annual
17 monitoring process [annually] the performance of each district's
18 disciplinary alternative education program established under this
19 subchapter. The monitoring process [evaluation] required by this
20 section may be electronic and shall be based on indicators defined
21 by the commissioner, but must include student performance on
22 assessment instruments required under Section [Sections] 39.023(a)
23 and at least one indicator that measures student academic progress
24 [and (c)]. Academically, the mission of disciplinary alternative
25 education programs shall be to enable students to perform at grade
26 level.

27 (m-1) The agency shall integrate the monitoring process

1 developed under Subsection (m) with the monitoring the agency is
2 authorized to conduct under Section 7.028(a). The commissioner may
3 require [~~shall develop a process for evaluating~~] a school district
4 to contract at the district's expense in the manner provided by
5 Section 39.134 with a public or private service provider for
6 services determined by the commissioner to be necessary to:

7 (1) improve student performance;

8 (2) improve disciplinary alternative education
9 program effectiveness; and

10 (3) [~~electronically. The commissioner shall also~~
11 ~~develop a system and standards for review of the evaluation or use~~
12 ~~systems already available at the agency. The system must be~~
13 ~~designed to identify districts that are at high risk of having~~
14 ~~inaccurate disciplinary alternative education program data or of~~
15 ~~failing to~~] comply with disciplinary alternative education program
16 state and federal requirements.

17 (n) [~~The commissioner shall notify the board of trustees of~~
18 ~~a district of any objection the commissioner has to the district's~~
19 ~~disciplinary alternative education program data or of a violation~~
20 ~~of a law or rule revealed by the data, including any violation of~~
21 ~~disciplinary alternative education program requirements, or of any~~
22 ~~recommendation by the commissioner concerning the data. If the~~
23 ~~data reflect that a penal law has been violated, the commissioner~~
24 ~~shall notify the county attorney, district attorney, or criminal~~
25 ~~district attorney, as appropriate, and the attorney general.] The
26 commissioner is entitled to access to all district records the
27 commissioner considers necessary or appropriate for the review,~~

1 analysis, or approval of disciplinary alternative education
2 program data.

3 SECTION 2I.04. Sections 37.020(b) and (c), Education Code,
4 are amended to read as follows:

5 (b) For each placement in a disciplinary alternative
6 education program established under Section 37.008, the district
7 shall report:

8 (1) information identifying the student, including
9 the student's race, sex, and date of birth, that will enable the
10 agency to compare placement data with information collected through
11 other reports;

12 (2) information indicating whether the student was
13 enrolled in a special education program under Subchapter A, Chapter
14 29, at the time of the placement;

15 (3) information indicating whether the placement was
16 based on:

17 (A) conduct violating the student code of conduct
18 adopted under Section 37.001;

19 (B) conduct for which a student may be removed
20 from class under Section 37.002(b);

21 (C) conduct for which placement in a disciplinary
22 alternative education program is required by Section 37.006; or

23 (D) conduct occurring while a student was
24 enrolled in another district and for which placement in a
25 disciplinary alternative education program is permitted by Section
26 37.008(j);

27 (4) [~~3~~] the number of full or partial days the

1 student was assigned to the program and the number of full or
2 partial days the student attended the program; and

3 (5) [~~(4)~~] the number of placements that were
4 inconsistent with the guidelines included in the student code of
5 conduct under Section 37.001(a)(5).

6 (c) For each expulsion under Section 37.007, the district
7 shall report:

8 (1) information identifying the student, including
9 the student's race, sex, and date of birth, that will enable the
10 agency to compare placement data with information collected through
11 other reports;

12 (2) information indicating whether the student was
13 enrolled in a special education program under Subchapter A, Chapter
14 29, at the time of the expulsion;

15 (3) information indicating whether the expulsion was
16 based on:

17 (A) conduct for which expulsion is required under
18 Section 37.007, including information specifically indicating
19 whether a student was expelled on the basis of Section 37.007(e); or

20 (B) conduct for which expulsion is permitted
21 under Section 37.007;

22 (4) [~~(3)~~] the number of full or partial days the
23 student was expelled;

24 (5) [~~(4)~~] information indicating whether:

25 (A) the student was placed in a juvenile justice
26 alternative education program under Section 37.011;

27 (B) the student was placed in a disciplinary

1 alternative education program; or

2 (C) the student was not placed in a juvenile
3 justice or other disciplinary alternative education program; and

4 (6) [~~(5)~~] the number of expulsions that were
5 inconsistent with the guidelines included in the student code of
6 conduct under Section 37.001(a)(5).

7 PART J. CRIMINAL HISTORY RECORDS INFORMATION

8 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is
9 amended by adding Section 21.0401 to read as follows:

10 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
11 commissioner shall obtain a complete set of fingerprints from:

12 (1) each applicant for a certificate issued under this
13 subchapter;

14 (2) each applicant for or holder of a teaching permit
15 issued under this subchapter; and

16 (3) each person described by Section 11A.153 or
17 Section 21.0032 for whom the commissioner has received information
18 from a public charter district.

19 SECTION 2J.02. Section 21.041(c), Education Code, is
20 amended to read as follows:

21 (c) The commissioner by rule [~~board~~] shall set fees [~~propose~~
22 ~~a rule adopting a fee~~] for:

23 (1) the issuance and maintenance of each [~~an~~] educator
24 certificate that is adequate to cover the cost of administration of
25 this subchapter, including costs related to the operation of the
26 board and any amount necessary to cover the cost of obtaining
27 fingerprints under Section 21.0401 or conducting a national

1 criminal background review and investigation under Sections
2 21.0032 and 22.082; and

3 (2) the cost of obtaining fingerprints from or
4 conducting a national criminal background review of a holder of a
5 teaching permit issued under this subchapter.

6 SECTION 2J.03. Section 22.082, Education Code, is amended
7 to read as follows:

8 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
9 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The
10 agency [~~State Board for Educator Certification~~] shall obtain from
11 the Department of Public Safety [~~any law enforcement or criminal~~
12 ~~justice agency~~] all state and national criminal history record
13 information that relates to:

14 (1) an applicant for or holder of a certificate or
15 permit issued under Subchapter B, Chapter 21; or

16 (2) a person described by Section 11A.153 or 21.0032.

17 (b) The Educators' Professional Practices Board may obtain
18 from the Department of Public Safety all criminal history record
19 information that relates to a holder of a certificate issued under
20 Subchapter B, Chapter 21.

21 (c) The agency shall require each applicant, holder, and
22 person described by Subsection (a)(2) to pay any costs to the agency
23 related to obtaining criminal history record information related to
24 the person under this section.

25 SECTION 2J.04. Section 22.083(d), Education Code, is
26 amended to read as follows:

27 (d) The superintendent of a district or the director of a

1 public charter district [~~an open-enrollment charter school~~],
 2 private school, regional education service center, or shared
 3 services arrangement shall promptly notify the Educators'
 4 Professional Practices [~~State~~] Board [~~for Educator Certification~~]
 5 in writing if the person obtains or has knowledge of information
 6 showing that an applicant for or holder of a certificate issued
 7 under Subchapter B, Chapter 21, has a reported criminal history.
 8 The board shall notify the commissioner of the reported criminal
 9 history.

10 SECTION 2J.05. Sections 22.085 and 22.086, Education Code,
 11 are amended to read as follows:

12 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.
 13 A school district, public charter district [~~open-enrollment~~
 14 ~~charter school~~], private school, regional education service
 15 center, or shared services arrangement may discharge an employee if
 16 the district or school obtains information of the employee's
 17 conviction of a felony or of a misdemeanor involving moral
 18 turpitude that the employee did not disclose to the agency [~~State~~
 19 ~~Board for Educator Certification~~] or the district, school, service
 20 center, or shared services arrangement. An employee discharged
 21 under this section is considered to have been discharged for
 22 misconduct for purposes of Section 207.044, Labor Code.

23 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,
 24 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
 25 ~~Certification~~], a school district, a public charter district [~~an~~
 26 ~~open-enrollment charter school~~], a private school, a regional
 27 education service center, a shared services arrangement, or an

1 employee of the agency, board, district, school, service center, or
2 shared services arrangement is not civilly or criminally liable for
3 making a report required under this subchapter.

4 SECTION 2J.06. Section 411.090, Government Code, is amended
5 to read as follows:

6 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
7 AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR~~
8 ~~EDUCATOR CERTIFICATION~~]. (a) The Texas Education Agency [~~State~~
9 ~~Board for Educator Certification~~] is entitled to obtain from the
10 department any criminal history record information maintained by
11 the department about:

12 (1) a person who has applied or expressed to the
13 commissioner an intention to apply [~~board~~] for a certificate or
14 permit or holds a certificate or permit under Subchapter B, Chapter
15 21, Education Code; or

16 (2) a person described by Section 11A.153 or 21.0032,
17 Education Code.

18 (b) Criminal history record information obtained by the
19 agency [~~board~~] under Subsection (a):

20 (1) may be used for any purpose related to the issuance
21 or [~~7~~] denial [~~7~~, ~~suspension, or cancellation~~] of a certificate issued
22 under Subchapter B, Chapter 21, Education Code, or for any purpose
23 authorized by Section 11A.153 or 21.0032, Education Code [~~by the~~
24 ~~board~~];

25 (2) may be provided to the Educators' Professional
26 Practices Board to be used for any purpose related to the suspension
27 or revocation of a certificate issued under Subchapter B, Chapter

1 21, Education Code;

2 (3) may not be released to any other person except on
3 court order or with the consent of the subject of the criminal
4 history record information [~~applicant for a certificate~~]; and

5 (4) [~~(3)~~] shall be destroyed by the agency [~~board~~]
6 after the information is used for the authorized purposes.

7 (c) The Texas Education Agency may keep on file with the
8 department all fingerprints obtained by the agency under Section
9 21.0401, Education Code. The department shall notify the agency of
10 the arrest of any person who has fingerprints on file with the
11 department pursuant to that section.

12 (d) On receipt of notice from the department of an arrest of
13 a person described by Section 11A.153 or 21.0032, Education Code,
14 the Texas Education Agency shall notify the public charter district
15 affected.

16 PART K. HEALTH AND SAFETY

17 SECTION 2K.01. Chapter 33, Education Code, is amended by
18 adding Subchapter F to read as follows:

19 SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN

20 EXTRACURRICULAR ACTIVITIES

21 Sec. 33.201. APPLICABILITY. This subchapter applies to
22 each public school in this state and to any other school in this
23 state subject to University Interscholastic League regulations.

24 Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The
25 commissioner by rule shall develop and adopt a safety training
26 program as provided by this section. In developing the program, the
27 commissioner may use materials available from the American Red

1 Cross or another appropriate entity.

2 (b) The following persons must satisfactorily complete the
3 safety training program:

4 (1) a coach, trainer, or sponsor for an
5 extracurricular athletic activity;

6 (2) except as provided by Subsection (f), a physician
7 who is employed by a school or school district or who volunteers to
8 assist with an extracurricular athletic activity; and

9 (3) a director responsible for a school marching band.

10 (c) The safety training program must include:

11 (1) certification of participants by the American Red
12 Cross, the American Heart Association, or a similar organization or
13 the University Interscholastic League, as determined by the
14 commissioner;

15 (2) annual training in:

16 (A) emergency action planning;

17 (B) cardiopulmonary resuscitation if the person
18 is not required to obtain certification under Section 33.086;

19 (C) communicating effectively with 9-1-1
20 emergency service operators and other emergency personnel; and

21 (D) recognizing symptoms of potentially
22 catastrophic injuries, including head and neck injuries,
23 concussions, injuries related to second impact syndrome, asthma
24 attacks, heatstroke, cardiac arrest, and injuries requiring use of
25 a defibrillator; and

26 (3) at least once each school year, a safety drill that
27 incorporates the training described by Subdivision (2) and

1 simulates various injuries described by Subdivision (2)(D).

2 (d) A student participating in an extracurricular athletic
3 activity must receive training related to:

4 (1) recognizing the symptoms of injuries described by
5 Subsection (c)(2)(D); and

6 (2) the risks of using supplements designed or
7 marketed to enhance athletic performance.

8 (e) The safety training program and the training under
9 Subsection (d) may each be conducted by a school or school district
10 or by an organization described by Subsection (c)(1).

11 (f) A physician who is employed by a school or school
12 district or who volunteers to assist with an extracurricular
13 athletic activity is exempt from the requirements of Subsection (b)
14 if the physician attends a continuing medical education course that
15 specifically addresses emergency medicine for athletic team
16 physicians.

17 Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC
18 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an
19 extracurricular athletic activity must complete the University
20 Interscholastic League forms entitled "Preparticipation Physical
21 Evaluation--Medical History" and "Acknowledgment of Rules." Each
22 form must be signed by both the student and the student's parent or
23 guardian.

24 (b) Each form described by Subsection (a) must clearly state
25 that failure to accurately and truthfully answer all questions on a
26 form required by statute or by the University Interscholastic
27 League as a condition for participation in an extracurricular

1 athletic activity subjects a signer of the form to penalties
2 determined by the University Interscholastic League.

3 (c) The "Preparticipation Physical Evaluation--Medical
4 History" form described by Subsection (a) must contain the
5 following statement:

6 "An individual answering in the affirmative to
7 any question relating to a possible cardiovascular
8 health issue, as identified on the form, should be
9 restricted from further participation until the
10 individual is examined by the individual's primary
11 care physician. Ultimately, the individual may need
12 to be evaluated by a cardiologist and/or undergo
13 cardiac testing (including an echocardiogram and/or
14 other heart-related examination) based on the
15 assessment by the primary care physician."

16 Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES
17 PROHIBITED. A coach, trainer, or sponsor for an extracurricular
18 athletic activity may not encourage or permit a student
19 participating in the activity to engage in any unreasonably
20 dangerous athletic technique that unnecessarily endangers the
21 health of a student, including using a helmet or any other sports
22 equipment as a weapon.

23 Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A
24 coach, trainer, or sponsor for an extracurricular athletic activity
25 shall at each athletic practice or competition ensure that:

26 (1) each student participating in the activity is
27 adequately hydrated;

1 (2) any prescribed asthma medication for a student
2 participating in the activity is readily available to the student;

3 (3) emergency lanes providing access to the practice
4 or competition area are open and clear; and

5 (4) heatstroke prevention materials are readily
6 available.

7 (b) If a student participating in an extracurricular
8 athletic activity, including a practice or competition, is rendered
9 unconscious during the activity, the student may not:

10 (1) return to the practice or competition during which
11 the student was rendered unconscious; or

12 (2) continue to participate in any extracurricular
13 athletic activity until the student receives written authorization
14 from a physician.

15 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a
16 school shall make available to the public proof of compliance for
17 each person enrolled in, employed by, or volunteering for the
18 school who is required to receive safety training described by
19 Section 33.202.

20 (b) The superintendent of a school district or the director
21 of a school subject to this subchapter shall maintain complete and
22 accurate records of the district's or school's compliance with
23 Section 33.202.

24 (c) A school campus that is determined by the school's
25 superintendent or director to not be in compliance with Section
26 33.202, 33.204, or 33.205 shall discontinue all extracurricular
27 athletic activities offered by the school campus, including all

1 practices and competitions, until the superintendent or director
2 determines that the school campus is in compliance.

3 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner
4 shall maintain an existing telephone number and an electronic mail
5 address to allow a person to report a violation of this subchapter.

6 (b) Each school that offers an extracurricular athletic
7 activity shall prominently display at the administrative offices of
8 the school the telephone number and electronic mail address
9 maintained under Subsection (a).

10 Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an
11 extracurricular athletic activity shall provide to each student
12 participating in an extracurricular athletic activity and to the
13 student's parent or guardian a copy of the text of Sections
14 33.201-33.207 and a copy of the University Interscholastic League's
15 parent information manual.

16 (b) A document required to be provided under this section
17 may be provided in an electronic format unless otherwise requested
18 by a student, parent, or guardian.

19 Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The
20 University Interscholastic League shall incorporate the provisions
21 of Sections 33.203-33.207 into the league's constitution and
22 contest rules.

23 Sec. 33.209. LIABILITY. The requirements of this
24 subchapter are not considered ministerial acts for purposes of
25 immunity from liability under Section 22.0511.

26 SECTION 2K.02. Subchapter D, Chapter 33, Education Code, is
27 amended by adding Section 33.087 to read as follows:

1 Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL
2 DEFIBRILLATORS. (a) Using existing funds and other resources
3 available for the purpose, the agency and the University
4 Interscholastic League shall jointly investigate the availability
5 of federal, state, local, and private funds for purchasing
6 automated external defibrillators, as defined by Section 779.001,
7 Health and Safety Code, for use by University Interscholastic
8 League member schools, and the possibility of receiving a bulk
9 discount on such purchases.

10 (b) The agency and the University Interscholastic League
11 shall submit a report describing the findings of the investigation
12 to the legislature not later than June 1, 2006.

13 (c) This section expires July 1, 2006.

14 SECTION 2K.03. The heading to Section 34.008, Education
15 Code, is amended to read as follows:

16 Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, ~~[OR]~~
17 COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

18 SECTION 2K.04. Section 34.008(a), Education Code, is
19 amended to read as follows:

20 (a) A board of county school trustees or school district
21 board of trustees may contract with a mass transit authority, ~~[or]~~ a
22 commercial transportation company, or a juvenile board for all or
23 any part of a district's public school transportation if the
24 authority, ~~[or]~~ company, or board:

25 (1) requires its school bus drivers to have the
26 qualifications required by and to be certified in accordance with
27 standards established by the Department of Public Safety; and

1 (2) uses only those school buses or mass transit
2 authority buses in transporting 15 or more public school students
3 that meet or exceed safety standards for school buses established
4 under Section 34.002, Education Code.

5 SECTION 2K.05. Chapter 34, Education Code, is amended by
6 adding Section 34.012 to read as follows:

7 Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person
8 may offer to donate safety or lap belts or money for the purchase of
9 safety or lap belts for a school district's school buses.

10 (b) The board of trustees of a school district shall
11 consider any offer made by a person under Subsection (a). The board
12 of trustees may accept or decline the offer after adequate
13 consideration.

14 (c) The board of trustees may acknowledge a person who
15 donates safety or lap belts or money for the purchase of safety or
16 lap belts for a school bus under this section by displaying a small,
17 discreet sign on the side or back of the bus recognizing the person
18 who made the donation. The sign may not serve as an advertisement
19 for the person who made the donation.

20 SECTION 2K.06. The heading to Section 38.015, Education
21 Code, is amended to read as follows:

22 Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR
23 ANAPHYLAXIS MEDICINE BY STUDENTS.

24 SECTION 2K.07. Sections 38.015(a) and (b), Education Code,
25 are amended to read as follows:

26 (a) In this section:

27 (1) "Parent" includes a person standing in parental

1 relation.

2 (2) "Self-administration of prescription asthma or
3 anaphylaxis medicine" means a student's discretionary use of
4 prescription asthma or anaphylaxis medicine.

5 (b) A student with asthma or anaphylaxis is entitled to
6 possess and self-administer prescription asthma or anaphylaxis
7 medicine while on school property or at a school-related event or
8 activity if:

9 (1) the prescription [~~asthma~~] medicine has been
10 prescribed for that student as indicated by the prescription label
11 on the medicine;

12 (2) the student has demonstrated to the student's
13 physician or other licensed health care provider and the school
14 nurse, if available, the skill level necessary to self-administer
15 the prescription medication, including the use of any device
16 required to administer the medication;

17 (3) the self-administration is done in compliance with
18 the prescription or written instructions from the student's
19 physician or other licensed health care provider; and

20 (4) [~~(3)~~] a parent of the student provides to the
21 school:

22 (A) a written authorization, signed by the
23 parent, for the student to self-administer the prescription
24 [~~asthma~~] medicine while on school property or at a school-related
25 event or activity; and

26 (B) a written statement from the student's
27 physician or other licensed health care provider, signed by the

1 physician or provider, that states:

2 (i) that the student has asthma or
3 anaphylaxis and is capable of self-administering the prescription
4 [~~asthma~~] medicine;

5 (ii) the name and purpose of the medicine;

6 (iii) the prescribed dosage for the
7 medicine;

8 (iv) the times at which or circumstances
9 under which the medicine may be administered; and

10 (v) the period for which the medicine is
11 prescribed.

12 ARTICLE 3. CONFORMING AMENDMENTS

13 SECTION 3.01. Section 7.024(a), Education Code, is amended
14 to read as follows:

15 (a) The investment capital fund consists of money
16 transferred to the fund as provided by Section 42.152(d)(4)
17 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of
18 this fund are to assist eligible public schools to implement
19 practices and procedures consistent with deregulation and school
20 restructuring in order to improve student achievement and to help
21 schools identify and train parents and community leaders who will
22 hold the school and the school district accountable for achieving
23 high academic standards.

24 SECTION 3.02. Section 7.055(b)(34), Education Code, is
25 amended to read as follows:

26 (34) The commissioner shall perform duties in
27 connection with equalization actions [~~the equalized wealth level~~]

1 under Chapter 41.

2 SECTION 3.03. Section 11.158(a), Education Code, is amended
3 to read as follows:

4 (a) The board of trustees of an independent school district
5 may require payment of:

6 (1) a fee for materials used in any program in which
7 the resultant product in excess of minimum requirements becomes, at
8 the student's option, the personal property of the student, if the
9 fee does not exceed the cost of materials;

10 (2) membership dues in student organizations or clubs
11 and admission fees or charges for attending extracurricular
12 activities, if membership or attendance is voluntary;

13 (3) a security deposit for the return of materials,
14 supplies, or equipment;

15 (4) a fee for personal physical education and athletic
16 equipment and apparel, although any student may provide the
17 student's own equipment or apparel if it meets reasonable
18 requirements and standards relating to health and safety
19 established by the board;

20 (5) a fee for items of personal use or products that a
21 student may purchase at the student's option, such as student
22 publications, class rings, annuals, and graduation announcements;

23 (6) a fee specifically permitted by any other statute;

24 (7) a fee for an authorized voluntary student health
25 and accident benefit plan;

26 (8) a reasonable fee, not to exceed the actual annual
27 maintenance cost, for the use of musical instruments and uniforms

1 owned or rented by the district;

2 (9) a fee for items of personal apparel that become the
3 property of the student and that are used in extracurricular
4 activities;

5 (10) a parking fee or a fee for an identification card;

6 (11) a fee for a driver training course, not to exceed
7 the actual district cost per student in the program for the current
8 school year;

9 (12) a fee for a course offered for credit that
10 requires the use of facilities not available on the school premises
11 or the employment of an educator who is not part of the school's
12 regular staff, if participation in the course is at the student's
13 option;

14 (13) a fee for a course offered during summer school,
15 except that the board may charge a fee for a course required for
16 graduation only if the course is also offered without a fee during
17 the regular school year;

18 (14) a reasonable fee for transportation of a student
19 who lives within two miles of the school the student attends to and
20 from that school, except that the board may not charge a fee for
21 transportation for which the school district receives funds under
22 Section 42.202 [~~42.155(d)~~]; or

23 (15) a reasonable fee, not to exceed \$50, for costs
24 associated with an educational program offered outside of regular
25 school hours through which a student who was absent from class
26 receives instruction voluntarily for the purpose of making up the
27 missed instruction and meeting the level of attendance required

1 under Section 25.092.

2 SECTION 3.04. Section 12.013(b), Education Code, is amended
3 to read as follows:

4 (b) A home-rule school district is subject to:

5 (1) a provision of this title establishing a criminal
6 offense;

7 (2) a provision of this title relating to limitations
8 on liability; and

9 (3) a prohibition, restriction, or requirement, as
10 applicable, imposed by this title or a rule adopted under this
11 title, relating to:

12 (A) the Public Education Information Management
13 System (PEIMS) to the extent necessary to monitor compliance with
14 this subchapter as determined by the commissioner;

15 (B) educator certification under Chapter 21 and
16 educator rights under Sections 21.407, 21.408, and 22.001;

17 (C) criminal history records under Subchapter C,
18 Chapter 22;

19 (D) student admissions under Section 25.001;

20 (E) school attendance under Sections 25.085,
21 25.086, and 25.087;

22 (F) inter-district or inter-county transfers of
23 students under Subchapter B, Chapter 25;

24 (G) elementary class size limits under Section
25 25.112, in the case of any campus in the district that is considered
26 academically unacceptable [~~low-performing~~] under Section 39.132;

27 (H) high school graduation under Section 28.025;

- 1 (I) special education programs under Subchapter
2 A, Chapter 29;
- 3 (J) bilingual education under Subchapter B,
4 Chapter 29;
- 5 (K) prekindergarten programs under Subchapter E,
6 Chapter 29;
- 7 (L) safety provisions relating to the
8 transportation of students under Sections 34.002, 34.003, 34.004,
9 and 34.008;
- 10 (M) computation and distribution of state aid
11 under Chapters 31, 42, and 43;
- 12 (N) extracurricular activities under Section
13 33.081;
- 14 (O) health and safety under Chapter 38;
- 15 (P) public school accountability under
16 Subchapters B, C, D, and G, Chapter 39;
- 17 (Q) equalization [~~equalized wealth~~] under
18 Section 42.401 [~~Chapter 41~~];
- 19 (R) a bond or other obligation or tax rate under
20 Chapters 42, 43, and 45; and
- 21 (S) purchasing under Chapter 44.

22 SECTION 3.05. Section 13.054(f), Education Code, is amended
23 to read as follows:

24 (f) For five years beginning with the school year in which
25 the annexation occurs, the commissioner shall annually adjust the
26 local share [~~fund assignment~~] of a district to which territory is
27 annexed under this section by multiplying the enlarged district's

1 local share [~~fund assignment~~] computed under Section 42.306
2 [~~42.252~~] by a fraction, the numerator of which is the number of
3 students residing in the district preceding the date of the
4 annexation and the denominator of which is the number of students
5 residing in the district as enlarged on the date of the annexation.

6 SECTION 3.06. Sections 13.282(a) and (b), Education Code,
7 are amended to read as follows:

8 (a) The amount of incentive aid payments may not exceed the
9 difference between:

10 (1) the sum of the entitlements computed under Section
11 42.313 [~~42.253~~] that would have been paid to the districts included
12 in the reorganized district if the districts had not been
13 consolidated; and

14 (2) the amount to which the reorganized district is
15 entitled under Section 42.313 [~~42.253~~].

16 (b) If the reorganized district is not eligible for an
17 entitlement under Section 42.313 [~~42.253~~], the amount of the
18 incentive aid payments may not exceed the sum of the entitlements
19 computed under Section 42.313 [~~42.253~~] for which the districts
20 included in the reorganized district were eligible in the school
21 year when they were consolidated.

22 SECTION 3.07. Section 21.410(h), Education Code, is amended
23 to read as follows:

24 (h) A grant a school district receives under this section is
25 in addition to any funding the district receives under Chapter 42.
26 The commissioner shall distribute funds under this section with the
27 Foundation School Program payment to which the district is entitled

1 as soon as practicable after the end of the school year as
2 determined by the commissioner. A district to which Section 42.401
3 [~~Chapter 41~~] applies is entitled to the grants paid under this
4 section. The commissioner shall determine the timing of the
5 distribution of grants to a district that does not receive
6 Foundation School Program payments.

7 SECTION 3.08. Section 21.411(h), Education Code, is amended
8 to read as follows:

9 (h) A grant a school district receives under this section is
10 in addition to any funding the district receives under Chapter 42.
11 The commissioner shall distribute funds under this section with the
12 Foundation School Program payment to which the district is entitled
13 as soon as practicable after the end of the school year as
14 determined by the commissioner. A district to which Section 42.401
15 [~~Chapter 41~~] applies is entitled to the grants paid under this
16 section. The commissioner shall determine the timing of the
17 distribution of grants to a district that does not receive
18 Foundation School Program payments.

19 SECTION 3.09. Section 21.412(h), Education Code, is amended
20 to read as follows:

21 (h) A grant a school district receives under this section is
22 in addition to any funding the district receives under Chapter 42.
23 The commissioner shall distribute funds under this section with the
24 Foundation School Program payment to which the district is entitled
25 as soon as practicable after the end of the school year as
26 determined by the commissioner. A district to which Section 42.401
27 [~~Chapter 41~~] applies is entitled to the grants paid under this

1 section. The commissioner shall determine the timing of the
2 distribution of grants to a district that does not receive
3 Foundation School Program payments.

4 SECTION 3.10. Section 21.413(h), Education Code, as added
5 by Chapter 430, Acts of the 78th Legislature, Regular Session,
6 2003, is amended to read as follows:

7 (h) A grant a school district receives under this section is
8 in addition to any funding the district receives under Chapter 42.
9 The commissioner shall distribute funds under this section with the
10 Foundation School Program payment to which the district is entitled
11 as soon as practicable after the end of the school year as
12 determined by the commissioner. A district to which Section 42.401
13 [~~Chapter 41~~] applies is entitled to the grants paid under this
14 section. The commissioner shall determine the timing of the
15 distribution of grants to a district that does not receive
16 Foundation School Program payments.

17 SECTION 3.11. Effective November 1, 2005, Section
18 21.453(b), Education Code, is amended to read as follows:

19 (b) The commissioner may allocate funds from the account to
20 regional education service centers to provide staff development
21 resources to school districts that:

22 (1) are rated academically unacceptable;

23 (2) have one or more campuses rated academically
24 unacceptable [~~as low performing~~]; or

25 (3) are otherwise in need of assistance as indicated
26 by the academic performance of students, as determined by the
27 commissioner.

1 SECTION 3.12. Effective November 1, 2005, Section
2 22.004(c), Education Code, as amended by S.B. No. 1691 and S.B. No.
3 1863, Acts of the 79th Legislature, Regular Session, 2005, is
4 amended to read as follows:

5 (c) The cost of the coverage provided under the program
6 described by Subsection (a) shall be paid by the state, the
7 district, and the employees in the manner provided by Subchapter F,
8 Chapter 1579, Insurance Code. The cost of coverage provided under a
9 plan adopted under Subsection (b) shall be shared by the employees
10 and the district using the contributions by the state described by
11 Subchapter F, Chapter 1579, Insurance Code, or compensation
12 designated for health care supplementation under Subchapter D.

13 SECTION 3.13. Section 29.008(b), Education Code, is amended
14 to read as follows:

15 (b) Except as provided by Subsection (c), costs of an
16 approved contract for residential placement may be paid from a
17 combination of federal, state, and local funds. The local share of
18 the total contract cost for each student is that portion of the
19 local tax effort that exceeds the district's local share [~~fund~~
20 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average
21 daily attendance in the district. If the contract involves a
22 private facility, the state share of the total contract cost is that
23 amount remaining after subtracting the local share. If the
24 contract involves a public facility, the state share is that amount
25 remaining after subtracting the local share from the portion of the
26 contract that involves the costs of instructional and related
27 services. For purposes of this subsection, "local tax effort"

1 means the total amount of money generated by taxes imposed for debt
2 service and maintenance and operation less any amounts paid into a
3 tax increment fund under Chapter 311, Tax Code.

4 SECTION 3.14. Section 29.014(d), Education Code, is amended
5 to read as follows:

6 (d) The accreditation [~~basic~~] allotment for a student
7 enrolled in a district to which this section applies is adjusted by:

8 (1) the cost of education adjustment under Section
9 42.301 [~~42.102~~] for the school district in which the district is
10 geographically located; and

11 (2) any other appropriate factor adopted by the
12 commissioner [~~the weight for a homebound student under Section~~
13 ~~42.151(a)~~].

14 SECTION 3.15. Section 29.087(j), Education Code, is amended
15 to read as follows:

16 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
17 46, a student attending a program authorized by this section may be
18 counted in attendance only for the actual number of hours each
19 school day the student attends the program, in accordance with
20 Sections 25.081 and 25.082.

21 SECTION 3.16. Effective November 1, 2005, Section
22 29.161(a), Education Code, as added by S.B. No. 23, Acts of the 79th
23 Legislature, Regular Session, 2005, is amended to read as follows:

24 (a) The State Center for Early Childhood Development, in
25 conjunction with the P-16 Council established under Section 61.076
26 [~~61.077~~], shall develop and adopt a school readiness certification
27 system for use in certifying the effectiveness of prekindergarten

1 programs, Head Start and Early Head Start programs,
2 government-subsidized child-care programs provided by nonprofit or
3 for-profit entities, government-subsidized faith-based child-care
4 programs, and other government-subsidized child-care programs in
5 preparing children for kindergarten. The system shall be made
6 available on a voluntary basis to program providers seeking to
7 obtain certification as evidence of the quality of the program
8 provided.

9 SECTION 3.17. Section 29.203(b), Education Code, is amended
10 to read as follows:

11 (b) A school district is entitled to the allotment provided
12 by Section 42.155 [~~42.157~~] for each eligible student using a public
13 education grant. [~~If the district has a wealth per student greater
14 than the guaranteed wealth level but less than the equalized wealth
15 level, a school district is entitled under rules adopted by the
16 commissioner to additional state aid in an amount equal to the
17 difference between the cost to the district of providing services
18 to a student using a public education grant and the sum of the state
19 aid received because of the allotment under Section 42.157 and
20 money from the available school fund attributable to the student.]~~]

21 SECTION 3.18. Section 33.002(a), Education Code, is amended
22 to read as follows:

23 (a) This section applies only to a school district that
24 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

25 SECTION 3.19. Section 34.002(c), Education Code, is amended
26 to read as follows:

27 (c) A school district that fails or refuses to meet the

1 safety standards for school buses established under this section is
2 ineligible to share in the transportation allotment under
3 Subchapter D, Chapter 42, [Section 42.155] until the first
4 anniversary of the date the district begins complying with the
5 safety standards.

6 SECTION 3.20. Section 37.0061, Education Code, is amended
7 to read as follows:

8 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
9 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
10 education services to pre-adjudicated and post-adjudicated
11 students who are confined by court order in a juvenile residential
12 facility operated by a juvenile board is entitled to count such
13 students in the district's average daily attendance for purposes of
14 receipt of state funds under the Foundation School Program. [~~If the
15 district has a wealth per student greater than the guaranteed
16 wealth level but less than the equalized wealth level, the district
17 in which the student is enrolled on the date a court orders the
18 student to be confined to a juvenile residential facility shall
19 transfer to the district providing education services an amount
20 equal to the difference between the average Foundation School
21 Program costs per student of the district providing education
22 services and the sum of the state aid and the money from the
23 available school fund received by the district that is attributable
24 to the student for the portion of the school year for which the
25 district provides education services to the student.~~]

26 SECTION 3.21. Section 39.031, Education Code, is amended to
27 read as follows:

1 Sec. 39.031. COST. (a) The commissioner shall set aside an
2 appropriate amount from the Foundation School Program to pay the
3 cost of preparing, administering, or grading the assessment
4 instruments and the ~~[shall be paid from the funds allotted under~~
5 ~~Section 42.152, and each district shall bear the cost in the same~~
6 ~~manner described for a reduction in allotments under Section~~
7 ~~42.253. If a district does not receive an allotment under Section~~
8 ~~42.152, the commissioner shall subtract the cost from the~~
9 ~~district's other foundation school fund allotments.~~

10 ~~[(b) The]~~ cost of releasing the question and answer keys
11 under Section 39.023(e) ~~[shall be paid from amounts appropriated to~~
12 ~~the agency].~~

13 (b) After setting aside an appropriate amount in accordance
14 with this section, the commissioner shall reduce each district's
15 tier one allotments proportionately. A reduction in tier one
16 allotments under this subsection does not affect the computation of
17 the guaranteed amount of revenue per student per cent of tax effort
18 under Section 42.252.

19 (c) Any amount set aside under this section must be approved
20 by the Legislative Budget Board and the governor's office of
21 budget, planning, and policy.

22 SECTION 3.22. Effective November 1, 2005, Section 39.183,
23 Education Code, is amended 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 3.23. Section 43.002(b), Education Code, is amended
27 to read as follows:

1 (b) Of the amounts available for transfer from the general
2 revenue fund to the available school fund for the months of January
3 and February of each fiscal year, no more than the amount necessary
4 to enable the comptroller to distribute from the available school
5 fund an amount equal to 9-1/2 percent of the estimated annual
6 available school fund apportionment to category 1 school districts,
7 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the
8 estimated annual available school fund apportionment to category 2
9 school districts, as defined by Section 42.316 [~~42.259~~], may be
10 transferred from the general revenue fund to the available school
11 fund. Any remaining amount that would otherwise be available for
12 transfer for the months of January and February shall be
13 transferred from the general revenue fund to the available school
14 fund in equal amounts in June and in August of the same fiscal year.

15 SECTION 3.24. Section 44.004, Education Code, is amended by
16 amending Subsections (b), (e), and (i) and adding Subsections (b-1)
17 and (b-2) to read as follows:

18 (b) Except as provided by Subsection (b-2), the [~~The~~
19 president shall provide for the publication of notice of the budget
20 and proposed tax rate meeting in a daily, weekly, or biweekly
21 newspaper published in the district. If no daily, weekly, or
22 biweekly newspaper is published in the district, the president
23 shall provide for the publication of notice in at least one
24 newspaper of general circulation in the county in which the
25 district's central administrative office is located. Notice under
26 this subsection shall be published not earlier than the 30th day or
27 later than the 10th day before the date of the hearing.

1 (b-1) The notice of the public meeting to discuss and adopt
2 the budget and the proposed tax rate may not be smaller than
3 one-quarter page of a standard-size or a tabloid-size newspaper,
4 and the headline on the notice must be in 18-point or larger type.

5 (b-2) Instead of publishing notice in the manner prescribed
6 by Subsection (b), a school district may publish the required
7 notice on its Internet website not earlier than the 30th day or
8 later than the 10th day before the date of the hearing. A school
9 district that publishes notice under this subsection must have a
10 link on its Internet website that is clearly identified as the link
11 to the public notice for the budget and proposed tax rate meeting.

12 (e) A person who owns taxable property in a school district
13 is entitled to an injunction restraining the collection of taxes by
14 the district if the district has not complied with the requirements
15 of Subsections (b), (b-1), and (b-2)~~[(c),]~~ and ~~[(d), and]~~, if
16 applicable, Subsection (i), and the failure to comply was not in
17 good faith. An action to enjoin the collection of taxes must be
18 filed before the date the school district delivers substantially
19 all of its tax bills.

20 (i) A school district that uses a certified estimate, as
21 authorized by Subsection (h), may adopt a budget at the public
22 meeting designated in the notice prepared using the estimate, but
23 the district may not adopt a tax rate before the district receives
24 the certified appraisal roll for the district required by Section
25 26.01(a), Tax Code. After receipt of the certified appraisal roll,
26 the district must publish a revised notice and hold another public
27 meeting before the district may adopt a tax rate that exceeds:

1 (1) the rate proposed in the notice prepared using the
2 estimate; or

3 (2) the district's rollback rate determined under
4 Section 26.08, Tax Code, if applicable, using the certified
5 appraisal roll.

6 SECTION 3.25. Section 46.003(a), Education Code, is amended
7 to read as follows:

8 (a) For each year, except as provided by Sections 46.005 and
9 46.006, a school district is guaranteed a specified amount per
10 student in state and local funds for each cent of tax effort, up to
11 the maximum rate under Subsection (b), to pay the principal of and
12 interest on eligible bonds issued to construct, acquire, renovate,
13 or improve an instructional facility. The amount of state support
14 is determined by the formula:

15
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

16 where:

17 "FYA" is the guaranteed facilities yield amount of state
18 funds allocated to the district for the year;

19 "FYL" is the dollar amount guaranteed level of state and
20 local funds per student per cent of tax effort, which is \$35 or a
21 greater amount for any year provided by appropriation;

22 "ADA" is the greater of the number of students in average
23 daily attendance, as determined under Section 42.005, in the
24 district or 400;

25 "BTR" is the district's bond tax rate for the current year,
26 which is determined by dividing the amount budgeted by the district
27 for payment of eligible bonds by the quotient of the district's

1 taxable value of property as determined under Subchapter M, Chapter
2 403, Government Code, [~~or, if applicable, Section 42.2521,~~] divided
3 by 100; and

4 "DPV" is the district's taxable value of property as
5 determined under Subchapter M, Chapter 403, Government Code [~~, or,~~
6 ~~if applicable, Section 42.2521~~].

7 SECTION 3.26. Section 46.006(g), Education Code, is amended
8 to read as follows:

9 (g) In this section, "wealth per student" means a school
10 district's taxable value of property as determined under Subchapter
11 M, Chapter 403, Government Code, [~~or, if applicable, Section~~
12 ~~42.2521,~~] divided by the district's average daily attendance as
13 determined under Section 42.005.

14 SECTION 3.27. Sections 46.009(b), (e), and (f), Education
15 Code, are amended to read as follows:

16 (b) If the amount appropriated for purposes of this
17 subchapter for a year is less than the total amount determined under
18 Subsection (a) for that year, the commissioner shall:

19 (1) transfer from the Foundation School Program to the
20 instructional facilities program the amount by which the total
21 amount determined under Subsection (a) exceeds the amount
22 appropriated; and

23 (2) reduce each district's Texas education [~~foundation~~
24 ~~school~~] fund allocations in the manner provided by Section
25 42.313(f) [~~42.253(h)~~].

26 (e) Section 42.317 [~~42.258~~] applies to payments under this
27 subchapter.

1 (f) If a school district would have received a greater
2 amount under this subchapter for the applicable school year using
3 the adjusted value determined under Section 42.310 [~~42.257~~], the
4 commissioner shall add the difference between the adjusted value
5 and the amount the district received under this subchapter to
6 subsequent distributions to the district under this subchapter.

7 SECTION 3.28. Section 46.013, Education Code, is amended to
8 read as follows:

9 Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school
10 district is not entitled to state assistance under this subchapter
11 based on taxes with respect to which the district receives state
12 assistance under Subchapter G [~~F~~], Chapter 42.

13 SECTION 3.29. Section 46.032(a), Education Code, is amended
14 to read as follows:

15 (a) Each school district is guaranteed a specified amount
16 per student in state and local funds for each cent of tax effort to
17 pay the principal of and interest on eligible bonds. The amount of
18 state support, subject only to the maximum amount under Section
19 46.034, is determined by the formula:

20
$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

21 where:

22 "EDA" is the amount of state funds to be allocated to the
23 district for assistance with existing debt;

24 "EDGL" is the dollar amount guaranteed level of state and
25 local funds per student per cent of tax effort, which is \$35 or a
26 greater amount for any year provided by appropriation;

27 "ADA" is the number of students in average daily attendance,

1 as determined under Section 42.005, in the district;

2 "EDTR" is the existing debt tax rate of the district, which is
3 determined by dividing the amount budgeted by the district for
4 payment of eligible bonds by the quotient of the district's taxable
5 value of property as determined under Subchapter M, Chapter 403,
6 Government Code, [~~or, if applicable, under Section 42.2521,~~]
7 divided 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, under Section 42.2521~~].

11 SECTION 3.30. Section 46.037, Education Code, is amended to
12 read as follows:

13 Sec. 46.037. 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 3.31. Section 56.208, Education Code, is amended to
18 read as follows:

19 Sec. 56.208. FUNDING. (a) The Early High School Graduation
20 Scholarship program is financed under the Foundation School
21 Program. [~~Funding for the state tuition credits is not subject to~~
22 ~~the provisions of Sections 42.253(c) through (k).~~]

23 (b) The commissioner of education shall reduce the total
24 annual amount of Texas education [~~foundation school~~] fund payments
25 made to a school district by an amount equal to $F \times A$, where:

26 (1) "F" is the lesser of one or the quotient of the
27 district's local share for the preceding school year under Section

1 42.306 [~~42.252~~] divided by the tier one allotment under Section
2 42.304 [~~amount of money to which the district was entitled under~~
3 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

4 (2) "A" is the amount of state tuition credits under
5 this subchapter applied by institutions of higher education on
6 behalf of eligible persons who graduated from the district that has
7 not been used to compute a previous reduction under this
8 subsection.

9 (c) A school district that does not receive Texas education
10 [~~foundation school~~] fund payments during a year in which the
11 commissioner would otherwise withhold money from the district under
12 Subsection (b) shall remit an amount equal to the amount that would
13 be withheld under Subsection (b) to the comptroller for deposit to
14 the credit of the Texas education [~~foundation school~~] fund.

15 SECTION 3.32. Section 105.301(e), Education Code, is
16 amended to read as follows:

17 (e) The academy is not subject to the provisions of this
18 code, or to the rules of the Texas Education Agency, regulating
19 public schools, except that:

20 (1) professional employees of the academy are entitled
21 to the limited liability of an employee under Section 22.0511,
22 22.0512, or 22.052;

23 (2) a student's attendance at the academy satisfies
24 compulsory school attendance requirements; and

25 (3) for each student enrolled, the academy is entitled
26 to allotments from the foundation school program under Chapter 42
27 as if the academy were a school district without a tier one local

1 share for purposes of Section 42.306 [~~42.253~~].

2 SECTION 3.33. Section 317.005(f), Government Code, is
3 amended to read as follows:

4 (f) The governor or board may adopt an order under this
5 section withholding or transferring any portion of the total amount
6 appropriated to finance the foundation school program for a fiscal
7 year. The governor or board may not adopt such an order if it would
8 result in an allocation of money between particular programs or
9 statutory allotments under the foundation school program contrary
10 to the statutory proration formula provided by Section 42.313(f)
11 [~~42.253(h)~~], Education Code. The governor or board may transfer an
12 amount to the total amount appropriated to finance the foundation
13 school program for a fiscal year and may increase the accreditation
14 [~~basic~~] allotment. The governor or board may adjust allocations of
15 amounts between particular programs or statutory allotments under
16 the foundation school program only for the purpose of conforming
17 the allocations to actual pupil enrollments or attendance.

18 SECTION 3.34. Section 403.093(d), Government Code, is
19 amended to read as follows:

20 (d) The comptroller shall transfer from the general revenue
21 fund to the Texas education [~~foundation school~~] fund an amount of
22 money necessary to fund the foundation school program as provided
23 by Chapter 42, Education Code. The comptroller shall make the
24 transfers in installments as necessary to comply with Section
25 42.316 [~~42.259~~], Education Code. An installment must be made not
26 earlier than two days before the date an installment to school
27 districts is required by Section 42.316 [~~42.259~~], Education Code,

1 and must not exceed the amount necessary for that payment.

2 SECTION 3.35. Section 403.302(k), Government Code, is
3 amended to read as follows:

4 (k) For purposes of Sections 41.0012 and 42.308 [~~Section~~
5 ~~42.2522~~], Education Code, the comptroller shall certify to the
6 commissioner of education:

7 (1) a final value for each school district computed
8 without any deduction for residence homestead exemptions granted
9 under Section 11.13(n), Tax Code; [~~and~~]

10 (2) a final value for each school district computed
11 after deducting one-half the total dollar amount of residence
12 homestead exemptions granted under Section 11.13(n), Tax Code; and

13 (3) a final value for each school district computed
14 after deducting the total dollar amount of residence homestead
15 exemptions granted under Section 11.13(n), Tax Code.

16 SECTION 3.36. Section 404.121(1), Government Code, is
17 amended to read as follows:

18 (1) "Cash flow deficit" for any period means the
19 excess, if any, of expenditures paid and transfers made from the
20 general revenue fund in the period, including payments provided by
21 Section 42.316 [~~42.259~~], Education Code, over taxes and other
22 revenues deposited to the fund in the period, other than revenues
23 deposited pursuant to Section 403.092, that are legally available
24 for the expenditures and transfers.

25 SECTION 3.37. Section 466.355(c), Government Code, is
26 amended to read as follows:

27 (c) Each August the comptroller shall:

1 (1) estimate the amount to be transferred to the Texas
2 education [~~foundation school~~] fund on or before September 15; and

3 (2) notwithstanding Subsection (b)(4), transfer the
4 amount estimated in Subdivision (1) to the Texas education
5 [~~foundation school~~] fund before August 25 [~~installment payments are~~
6 ~~made under Section 42.259, Education Code~~].

7 SECTION 3.38. Effective November 1, 2005, Section
8 822.201(c), Government Code, as amended by S.B. No. 1691 and S.B.
9 No. 1863, Acts of the 79th Legislature, Regular Session, 2005, is
10 amended to read as follows:

11 (c) Excluded from salary and wages are:

- 12 (1) expense payments;
- 13 (2) allowances;
- 14 (3) payments for unused vacation or sick leave;
- 15 (4) maintenance or other nonmonetary compensation;
- 16 (5) fringe benefits;
- 17 (6) deferred compensation other than as provided by
18 Subsection (b)(3);
- 19 (7) compensation that is not made pursuant to a valid
20 employment agreement;
- 21 (8) payments received by an employee in a school year
22 that exceed \$5,000 for teaching a driver education and traffic
23 safety course that is conducted outside regular classroom hours;
- 24 (9) the benefit replacement pay a person earns as a
25 result of a payment made under Subchapter B or C, Chapter 661;
- 26 (10) any compensation designated as health care
27 supplementation [~~amount received~~] by an employee under Subchapter

1 D, Chapter 22, Education Code, subject to the following annual
2 limits:

3 (A) \$1,000, for an employee entitled to the
4 minimum salary under Section 21.402, Education Code; and

5 (B) \$500, for any other school employee entitled
6 under Section 22.103, Education Code, to designate a portion of the
7 employee's compensation to be used as health care supplementation;

8 (11) any amount received by an employee under former
9 Article 3.50-8, Insurance Code, former Chapter 1580, Insurance
10 Code, or Rider 9, Page III-39, Chapter 1330, Acts of the 78th
11 Legislature, Regular Session, 2003 (the General Appropriations
12 Act); [~~and~~]

13 (12) amounts received under the educator excellence
14 incentive program under Subchapter N, Chapter 21, Education Code;
15 and

16 (13) [~~(11)~~] any compensation not described by
17 Subsection (b).

18 SECTION 3.39. Section 2175.304(c), Government Code, is
19 amended to read as follows:

20 (c) The procedures established under Subsection (b) must
21 give preference to transferring the property directly to a public
22 school or school district or to an assistance organization
23 designated by the school district before disposing of the property
24 in another manner. If more than one public school or school
25 district or assistance organization seeks to acquire the same
26 property on substantially the same terms, the system, institution,
27 or agency shall give preference to a public school that is

1 considered academically unacceptable under Section 39.132,
 2 Education Code, [~~low-performing by the commissioner of education~~]
 3 or to a school district that has a relatively low [~~taxable~~] wealth
 4 per student, as determined by the commissioner of education [~~that~~
 5 ~~entitles the district to an allotment of state funds under~~
 6 ~~Subchapter F, Chapter 42, Education Code~~], or to the assistance
 7 organization designated by such a school district.

8 SECTION 3.40. Section 1579.251, Insurance Code, is amended
 9 by amending Subsection (a) and adding Subsection (c) to read as
 10 follows:

11 (a) The state shall assist employees of participating
 12 school districts and charter schools in the purchase of group
 13 health coverage under this chapter by providing for each covered
 14 employee the amount of \$900 each state fiscal year or a greater
 15 amount as provided by the General Appropriations Act. The state
 16 contribution shall be distributed through the school finance
 17 formulas under Chapters 41 and 42, Education Code, and used by
 18 school districts and charter schools to pay contributions under a
 19 group health coverage plan for employees [~~as provided by Sections~~
 20 ~~42.2514 and 42.260, Education Code~~].

21 (c) A school district or charter school that does not
 22 participate in the program is entitled to state assistance computed
 23 and distributed as provided by Subsection (a). State funds
 24 received under this subsection must be used to pay for employee
 25 health coverage.

26 SECTION 3.41. Effective November 1, 2005, Section
 27 302.006(c), Labor Code, is amended to read as follows:

1 (c) To be eligible to receive a scholarship awarded under
2 this section, a person must:

3 (1) be employed in a child-care facility, as defined
4 by Section 42.002, Human Resources Code;

5 (2) intend to obtain a credential, certificate, or
6 degree specified in Subsection (b);

7 (3) agree to work for at least 18 additional months in
8 a child-care facility, as defined by Section 42.002, Human
9 Resources Code, that accepts federal Child Care Development Fund
10 subsidies and that, at the time the person begins to fulfill the
11 work requirement imposed by this subdivision, is located:

12 (A) within the attendance zone of a public school
13 campus considered academically unacceptable [~~low-performing~~] under
14 Section 39.132, Education Code; or

15 (B) in an economically disadvantaged community,
16 as determined by the commission; and

17 (4) satisfy any other requirements adopted by the
18 commission.

19 SECTION 3.42. Section 6.02(b), Tax Code, is amended to read
20 as follows:

21 (b) A taxing unit that has boundaries extending into two or
22 more counties may choose to participate in only one of the appraisal
23 districts. In that event, the boundaries of the district chosen
24 extend outside the county to the extent of the unit's boundaries.
25 To be effective, the choice must be approved by resolution of the
26 board of directors of the district chosen. [~~The choice of a school
27 district to participate in a single appraisal district does not~~

1 ~~apply to property annexed to the school district under Subchapter C~~
2 ~~or G, Chapter 41, Education Code, unless:~~

3 ~~[(1) the school district taxes property other than~~
4 ~~property annexed to the district under Subchapter C or G, Chapter~~
5 ~~41, Education Code, in the same county as the annexed property; or~~

6 ~~[(2) the annexed property is contiguous to property in~~
7 ~~the school district other than property annexed to the district~~
8 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

9 SECTION 3.43. Section 21.02(a), Tax Code, is amended to
10 read as follows:

11 (a) Except as provided by ~~[Subsection (b) and]~~ Sections
12 21.021, 21.04, and 21.05, tangible personal property is taxable by
13 a taxing unit if:

14 (1) it is located in the unit on January 1 for more
15 than a temporary period;

16 (2) it normally is located in the unit, even though it
17 is outside the unit on January 1, if it is outside the unit only
18 temporarily;

19 (3) it normally is returned to the unit between uses
20 elsewhere and is not located in any one place for more than a
21 temporary period; or

22 (4) the owner resides (for property not used for
23 business purposes) or maintains the owner's ~~his~~ principal place
24 of business in this state (for property used for business purposes)
25 in the unit and the property is taxable in this state but does not
26 have a taxable situs pursuant to Subdivisions (1) through (3) ~~[of~~
27 ~~this section]~~.

1 SECTION 3.44. Section 313.029, Tax Code, is amended to read
2 as follows:

3 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
4 a school district grants an application for a limitation on
5 appraised value under this subchapter, for each of the first two tax
6 years that begins after the date the application is approved, the
7 governing body of the school district may not adopt a tax rate that
8 exceeds the school district's rollback tax rate under Section
9 26.08, if applicable, for that year. If, in any tax year in which a
10 restriction on the school district's tax rate under this section is
11 in effect, the governing body approves a subsequent application for
12 a limitation on appraised value under this section, the restriction
13 on the school district's tax rate is extended until the first tax
14 year that begins after the second anniversary of the date the
15 subsequent application is approved.

16 SECTION 3.45. Except as otherwise provided by this Act,
17 this article takes effect September 1, 2006.

18 ARTICLE 4. CHARTER SCHOOLS

19 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,
20 Chapter 12, Education Code, is repealed.

21 (b) Except as provided by Section 11A.1041, Education Code,
22 as added by this Act, each open-enrollment charter school operating
23 or holding a charter to operate on August 1, 2006, shall be
24 dissolved in accordance with Subchapter J, Chapter 11A, Education
25 Code, as added by this Act.

26 SECTION 4.02. Subtitle C, Title 2, Education Code, is
27 amended by adding Chapter 11A to read as follows:

1 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 11A.001. DEFINITIONS. In this chapter:

4 (1) "Charter holder" means the entity to which a
5 charter is granted under this chapter.

6 (2) "Governing body of a charter holder" means the
7 board of directors, board of trustees, or other governing body of a
8 charter holder.

9 (3) "Governing body of a public charter district"
10 means the board of directors, board of trustees, or other governing
11 body of a public charter district. The term includes the governing
12 body of a charter holder if that body acts as the governing body of
13 the public charter district.

14 (4) "Management company" means a person, other than a
15 charter holder, who provides management services for a public
16 charter district.

17 (5) "Management services" means services related to
18 the management or operation of a public charter district,
19 including:

20 (A) planning, operating, supervising, and
21 evaluating the public charter district's educational programs,
22 services, and facilities;

23 (B) making recommendations to the governing body
24 of the public charter district relating to the selection of school
25 personnel;

26 (C) managing the public charter district's
27 day-to-day operations as its administrative manager;

1 (D) preparing and submitting to the governing
2 body of the public charter district a proposed budget;

3 (E) recommending policies to be adopted by the
4 governing body of the public charter district, developing
5 appropriate procedures to implement policies adopted by the
6 governing body of the public charter district, and overseeing the
7 implementation of adopted policies; and

8 (F) providing leadership for the attainment of
9 student performance at the public charter district based on the
10 indicators adopted under Section 39.051 or by the governing body of
11 the public charter district.

12 (6) "Officer of a public charter district" means:

13 (A) the principal, director, or other chief
14 operating officer of a public charter district or campus; or

15 (B) a person charged with managing the finances
16 of a public charter district.

17 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this
18 chapter, the State Board of Education may grant a charter on the
19 application of an eligible entity for a public charter district to
20 operate in a facility of a commercial or nonprofit entity, an
21 eligible entity, or a school district, including a home-rule school
22 district. In this subsection, "eligible entity" means:

23 (1) an institution of higher education as defined
24 under Section 61.003;

25 (2) a private or independent institution of higher
26 education as defined under Section 61.003;

27 (3) an organization that is exempt from federal income

1 taxation under Section 501(a), Internal Revenue Code of 1986, as an
2 organization described by Section 501(c)(3) of that code; or

3 (4) a governmental entity in this state.

4 (b) The State Board of Education may grant a charter for a
5 public charter district only to an applicant that meets all
6 financial, governing, and operational standards adopted by the
7 commissioner under this chapter.

8 (c) The State Board of Education may not grant more than a
9 total of 215 charters for public charter districts.

10 (d) An educator employed by a school district before the
11 effective date of a charter for a public charter district operated
12 at a school district facility may not be transferred to or employed
13 by the public charter district over the educator's objection.

14 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter
15 district:

16 (1) shall provide instruction to and assess a number
17 of students at a number of elementary or secondary grade levels, as
18 provided by the charter, sufficient to permit the agency to assign
19 an accountability rating under Chapter 39;

20 (2) is governed under the governing structure required
21 by this chapter and described by the charter;

22 (3) retains authority to operate under the charter
23 contingent on satisfactory student performance as provided by the
24 charter in accordance with Section 11A.103; and

25 (4) does not have authority to impose taxes.

26 Sec. 11A.004. STATUS. A public charter district or campus
27 is part of the public school system of this state.

1 Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related
2 to operation of a public charter district, a public charter
3 district is immune from liability to the same extent as a school
4 district, and its employees and volunteers are immune from
5 liability to the same extent as school district employees and
6 volunteers. Except as provided by Section 11A.154, a member of the
7 governing body of a public charter district or of a charter holder
8 is immune from liability to the same extent as a school district
9 trustee.

10 Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.
11 A reference in law to an open-enrollment charter school means a
12 public charter district or public charter campus, as applicable.

13 [Sections 11A.007-11A.050 reserved for expansion]

14 SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

15 Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND
16 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by
17 Subsection (b) or (c), a public charter district is subject to
18 federal and state laws and rules governing public schools and to
19 municipal zoning ordinances governing public schools.

20 (b) A public charter district is subject to this code and
21 rules adopted under this code only to the extent the applicability
22 to a public charter district of a provision of this code or a rule
23 adopted under this code is specifically provided.

24 (c) Notwithstanding Subsection (a), a campus of a public
25 charter district located in whole or in part in a municipality with
26 a population of 20,000 or less is not subject to a municipal zoning
27 ordinance governing public schools.

1 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter
2 district has the powers granted to schools under this title.

3 (b) A public charter district is subject to:

4 (1) a provision of this title establishing a criminal
5 offense; and

6 (2) a prohibition, restriction, or requirement, as
7 applicable, imposed by this title or a rule adopted under this
8 title, relating to:

9 (A) the Public Education Information Management
10 System (PEIMS) under Section 7.007;

11 (B) reporting an educator's misconduct under
12 Section 21.006;

13 (C) criminal history records under Subchapter C,
14 Chapter 22;

15 (D) reading instruments and accelerated reading
16 instruction programs under Section 28.006;

17 (E) satisfactory performance on assessment
18 instruments and to accelerated instruction under Section 28.0211;

19 (F) intensive programs of instruction under
20 Section 28.0213;

21 (G) high school graduation under Section 28.025;

22 (H) special education programs under Subchapter
23 A, Chapter 29, including a requirement that special education
24 teachers obtain appropriate certification;

25 (I) bilingual education under Subchapter B,
26 Chapter 29, including a requirement that bilingual education
27 teachers obtain appropriate certification;

1 (J) prekindergarten programs under Subchapter E,
2 Chapter 29;

3 (K) extracurricular activities under Section
4 33.081;

5 (L) discipline management practices or behavior
6 management techniques under Section 37.0021;

7 (M) health and safety under Chapter 38; and

8 (N) public school accountability under
9 Subchapters B, C, D, G, and I, Chapter 39.

10 (c) A public charter district is entitled to the same level
11 of services provided to school districts by regional education
12 service centers. The commissioner shall adopt rules that provide
13 for the representation of public charter districts on the boards of
14 directors of regional education service centers.

15 (d) The commissioner may by rule permit a public charter
16 district to voluntarily participate in any state program available
17 to school districts, including a purchasing program, if the public
18 charter district complies with all terms of the program.

19 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC
20 INFORMATION LAWS. (a) With respect to the operation of a public
21 charter district, the governing body of a charter holder and the
22 governing body of a public charter district are considered to be
23 governmental bodies for purposes of Chapters 551 and 552,
24 Government Code.

25 (b) With respect to the operation of a public charter
26 district, any requirement in Chapter 551 or 552, Government Code,
27 that applies to a school district, the board of trustees of a school

1 district, or public school students applies to a public charter
2 district, the governing body of a charter holder, the governing
3 body of a public charter district, or students in attendance at a
4 public charter district campus.

5 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL
6 GOVERNMENT RECORDS. (a) With respect to the operation of a public
7 charter district, a public charter district is considered to be a
8 local government for purposes of Subtitle C, Title 6, Local
9 Government Code, and Subchapter J, Chapter 441, Government Code.

10 (b) Records of a public charter district, a charter holder,
11 or a management company that relate to a public charter district are
12 government records for all purposes under state law.

13 (c) Any requirement in Subtitle C, Title 6, Local Government
14 Code, or Subchapter J, Chapter 441, Government Code, that applies
15 to a school district, the board of trustees of a school district, or
16 an officer or employee of a school district applies to a public
17 charter district or management company, the governing body of a
18 charter holder, the governing body of a public charter district, or
19 an officer or employee of a public charter district or management
20 company except that the records of a public charter district or
21 management company that ceases to operate shall be transferred in
22 the manner prescribed by Subsection (d).

23 (d) The records of a public charter district or management
24 company that ceases to operate shall be transferred in the manner
25 specified by the commissioner to a custodian designated by the
26 commissioner. The commissioner may designate any appropriate
27 entity to serve as custodian, including the agency, a regional

1 education service center, or a school district. In designating a
2 custodian, the commissioner shall ensure that the transferred
3 records, including student and personnel records, are transferred
4 to a custodian capable of:

5 (1) maintaining the records;

6 (2) making the records readily accessible to students,
7 parents, former school employees, and other persons entitled to
8 access; and

9 (3) complying with applicable state or federal law
10 restricting access to the records.

11 (e) If the charter holder of a public charter district that
12 ceases to operate or an officer or employee of the district or a
13 management company refuses to transfer school records in the manner
14 specified by the commissioner under Subsection (d), the
15 commissioner may ask the attorney general to petition a court for
16 recovery of the records. If the court grants the petition, the
17 court shall award attorney's fees and court costs to the state.

18 (f) A record described by this section is a public school
19 record for purposes of Section 37.10(c)(2), Penal Code.

20 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC
21 PURCHASING AND CONTRACTING. (a) This section applies to a public
22 charter district unless the district's charter otherwise describes
23 procedures for purchasing and contracting and the procedures are
24 approved by the State Board of Education.

25 (b) A public charter district is considered to be:

26 (1) a governmental entity for purposes of:

27 (A) Subchapter D, Chapter 2252, Government Code;

1 and

2 (B) Subchapter B, Chapter 271, Local Government
3 Code;

4 (2) a political subdivision for purposes of Subchapter
5 A, Chapter 2254, Government Code; and

6 (3) a local government for purposes of Sections
7 2256.009-2256.016, Government Code.

8 (c) To the extent consistent with this section, a
9 requirement in a law listed in this section that applies to a school
10 district or the board of trustees of a school district applies to a
11 public charter district, the governing body of a charter holder, or
12 the governing body of a public charter district.

13 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF
14 INTEREST. (a) A member of the governing body of a charter holder, a
15 member of the governing body of a public charter district, or an
16 officer of a public charter district is considered to be a local
17 public official for purposes of Chapter 171, Local Government Code.
18 For purposes of that chapter:

19 (1) a member of the governing body of a charter holder
20 or a member of the governing body or officer of a public charter
21 district is considered to have a substantial interest in a business
22 entity if a person related to the member or officer in the third
23 degree by consanguinity or affinity, as determined under Chapter
24 573, Government Code, has a substantial interest in the business
25 entity under Section 171.002, Local Government Code; and

26 (2) a teacher at a public charter district may serve as
27 a member of the governing body of the charter holder or the

1 governing body of the public charter district if the teachers
2 servng on the governing body:

3 (A) do not constitute a quorum of the governing
4 body or any committee of the governing body; and

5 (B) comply with the requirements of Sections
6 171.003-171.007, Local Government Code.

7 (b) To the extent consistent with this section, a
8 requirement of a law listed in this section that applies to a school
9 district or the board of trustees of a school district applies to a
10 public charter district, the governing body of a charter holder, or
11 the governing body of a public charter district.

12 (c) An employee who is not a teacher may serve as a member of
13 the governing body of a charter holder or the governing body of a
14 public charter district if:

15 (1) the charter holder operating the public charter
16 district where the individual is employed and serves as a member of
17 the governing body operated an open-enrollment charter school under
18 Subchapter D, Chapter 12, on August 31, 2005;

19 (2) the individual was employed by the charter holder
20 and serving as a member of the governing body on August 31, 2005, in
21 compliance with former Section 12.1054; and

22 (3) the individual had been continuously so employed
23 and serving since a date on or before January 1, 2005.

24 (d) If under Subsection (c) an individual continues to be
25 employed and serve as a member of the governing body, the individual
26 may not participate in any deliberation or voting on the
27 appointment, reappointment, confirmation of the appointment or

1 reappointment, employment, reemployment, change in the status,
2 compensation, or dismissal of the individual if that action applies
3 only to the individual and is not taken regarding a bona fide class
4 or category of employees. In addition, the individual may not hear,
5 consider, or act on any grievance or complaint concerning the
6 individual or a matter with which the individual has dealt in the
7 individual's capacity as an employee.

8 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public
9 charter district, including the governing body of a public charter
10 district and any district employee with final authority to hire a
11 district employee, is subject to a prohibition, restriction, or
12 requirement, as applicable, imposed by state law or by a rule
13 adopted under state law, relating to nepotism under Chapter 573,
14 Government Code.

15 (b) Notwithstanding Subsection (a), a member of the
16 governing body of a charter holder or public charter district may
17 not be related in the third degree by consanguinity or affinity, as
18 determined under Chapter 573, Government Code, to another member of
19 the governing body of the charter holder or public charter
20 district.

21 (c) This section does not apply to an appointment,
22 confirmation of an appointment, or vote for an appointment or
23 confirmation of an appointment of an individual to a position if:

24 (1) the charter holder operating the public charter
25 district where the individual is employed or serves as a member of
26 the governing body operated an open-enrollment charter school under
27 Subchapter D, Chapter 12, on August 31, 2005;

1 (2) the individual was employed or serving in the
2 position on August 31, 2005, in compliance with former Section
3 12.1055; and

4 (3) the individual has been continuously employed or
5 serving since a date on or before January 1, 2005.

6 (d) If, under Subsection (c), an individual continues to be
7 employed or serve in a position, the public official to whom the
8 individual is related in a prohibited degree may not participate in
9 any deliberation or voting on the appointment, reappointment,
10 confirmation of the appointment or reappointment, employment,
11 reemployment, change in status, compensation, or dismissal of the
12 individual if that action applies only to the individual and is not
13 taken regarding a bona fide class or category of employees.

14 [Sections 11A.058-11A.100 reserved for expansion]

15 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

16 Sec. 11A.101. APPLICATION. (a) The State Board of
17 Education shall adopt:

18 (1) an application form and a procedure that must be
19 used to apply for a charter for a public charter district; and

20 (2) criteria to use in selecting a program for which to
21 grant a charter.

22 (b) The application form must provide for including the
23 information required under Section 11A.103 to be contained in a
24 charter.

25 (c) The State Board of Education may approve or deny an
26 application based on criteria it adopts and on financial,
27 governing, and operational standards adopted by the commissioner

1 under this chapter. The criteria the board adopts must include:

2 (1) criteria relating to improving student
3 performance and encouraging innovative programs; and

4 (2) criteria relating to the educational benefit for
5 students residing in the geographic area to be served by the
6 proposed public charter district, as compared to any significant
7 financial difficulty that a loss in enrollment may have on any
8 school district whose enrollment is likely to be affected by the
9 public charter district.

10 (d) A public charter district may not begin operating under
11 this chapter unless the commissioner has certified that the
12 applicant has acceptable administrative and accounting systems and
13 procedures in place for the operation of the proposed public
14 charter district.

15 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The
16 commissioner by rule shall adopt a procedure for providing notice
17 to each member of the legislature that represents the geographic
18 area to be served by the proposed public charter district, as
19 determined by the commissioner, on receipt by the State Board of
20 Education of an application for a charter for a public charter
21 district under Section 11A.101.

22 Sec. 11A.103. CONTENT. (a) Each charter granted under this
23 chapter must:

24 (1) describe the educational program to be offered,
25 which must include the required curriculum as provided by Section
26 28.002;

27 (2) establish educational goals, which must include

1 acceptable student performance as determined under Chapter 39;

2 (3) specify the grade levels to be offered, which must
3 be sufficient to permit the agency to assign an accountability
4 rating under Chapter 39;

5 (4) describe the facilities to be used;

6 (5) describe the geographical area served by the
7 program, which may not be statewide; and

8 (6) specify any type of enrollment criteria to be
9 used.

10 (b) A charter holder of a public charter district shall
11 consider including in the district's charter a requirement that the
12 district develop and administer personal graduation plans under
13 Section 28.0212.

14 (c) The terms of a charter may not include plans for future
15 increases in student enrollment, grade levels, campuses, or
16 geographical area, except that:

17 (1) the charter may contain a plan for adding grade
18 levels as necessary to comply with Section 11A.253(c) or (d); and

19 (2) the commissioner may approve such an increase in a
20 charter revision request under Section 11A.106.

21 Sec. 11A.104. FORM. A charter for a public charter district
22 shall be in the form of a license issued by the State Board of
23 Education to the charter holder.

24 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN
25 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner
26 shall immediately grant a charter under this chapter to the
27 following entities on or before August 1, 2006:

1 (1) an eligible entity holding a charter granted
2 before September 1, 2002, under Subchapter D, Chapter 12, as that
3 subchapter existed on January 1, 2005, if:

4 (A) for fiscal years 2004 and 2005, the entity
5 had total assets that exceeded total liabilities, as determined by
6 the entity's annual audit report under Section 44.008;

7 (B) at least 25 percent of all students enrolled
8 at the entity's open-enrollment charter school and administered an
9 assessment instrument under Section 39.023(a), (c), or (l)
10 performed satisfactorily on the assessment instrument in
11 mathematics, as determined by the school's assessment instrument
12 results for the 2005-2006 school year; and

13 (C) at least 25 percent of all students enrolled
14 at the entity's open-enrollment charter school and administered an
15 assessment instrument under Section 39.023(a), (c), or (l)
16 performed satisfactorily on the assessment instrument in reading or
17 English language arts, as applicable, as determined by the school's
18 assessment instrument results for the 2005-2006 school year;

19 (2) a governmental entity holding a charter under
20 Subchapter D, Chapter 12, as that subchapter existed on January 1,
21 2005;

22 (3) an eligible entity holding a charter under
23 Subchapter D, Chapter 12, as that subchapter existed on January 1,
24 2005, if at least 85 percent of students enrolled in the school
25 reside in a residential facility; and

26 (4) an eligible entity granted a charter on or after
27 September 1, 2002, under Subchapter D, Chapter 12, as that

1 subchapter existed on January 1, 2005.

2 (b) Assessment instrument results for fewer than five
3 students are not considered for purposes of Subsection (a)(1)(B) or
4 (C).

5 (c) The commissioner shall determine which entities are
6 eligible for a charter under this section as soon as practicable.

7 (d) The content and terms of a charter granted to an
8 eligible entity under this section must be the same as those under
9 which the entity operated under Subchapter D, Chapter 12, as that
10 subchapter existed on January 1, 2005, except that where the terms
11 conflict with this chapter, this chapter prevails.

12 (e) An eligible entity holding multiple charters prior to
13 January 1, 2005, may not combine those charters into one charter for
14 a public charter district but must retain each of those charters
15 which count towards the limit imposed under Section 11A.002(c).

16 (f) Section 11A.157 does not apply to an entity granted a
17 charter under this section.

18 (g) A decision of the commissioner under this section is not
19 subject to a hearing or an appeal to a district court.

20 (h) This section expires January 1, 2008.

21 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

22 (a) For purposes of Section 11A.1041(a), the commissioner shall
23 compute the percentage of students who performed satisfactorily on
24 an assessment instrument in a manner consistent with this section.

25 (b) The commissioner may only consider the performance of a
26 student who was enrolled as of the date for reporting enrollment for
27 the fall semester under the Public Education Information Management

1 System (PEIMS).

2 (c) In computing performance under this section, the
3 commissioner must:

4 (1) add the results for third through 11th grade
5 assessment instruments in English and third through sixth grade
6 assessment instruments in Spanish across grade levels tested at all
7 campuses operated by the charter holder and evaluate those results
8 for all students;

9 (2) combine the results for third through ninth grade
10 assessment instruments in reading and 10th and 11th grade
11 assessment instruments in English language arts and evaluate those
12 results as a single subject; and

13 (3) separately determine student performance for
14 reading and mathematics as a percentage equal to the sum of students
15 who performed satisfactorily on the specific subject area
16 assessment instrument in all grade levels tested at all campuses
17 operated by the charter holder divided by the number of students who
18 took the specific subject area assessment instrument in grade
19 levels tested at all campuses operated by the charter holder.

20 (d) To the extent consistent with this section, the
21 commissioner shall use the methodology used to compute passing
22 rates for reading and mathematics assessment instruments for
23 purposes of determining accountability ratings under Chapter 39 for
24 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

25 (e) This section expires January 1, 2008.

26 Sec. 11A.105. CHARTER GRANTED. Each charter the State
27 Board of Education grants for a public charter district must:

1 (1) satisfy this chapter; and

2 (2) include the information that is required under
3 Section 11A.103 consistent with the information provided in the
4 application and any modification the board requires.

5 Sec. 11A.106. REVISION. (a) A revision of a charter of a
6 public charter district may be made only with the approval of the
7 commissioner.

8 (b) Not more than once each year, a public charter district
9 may request approval to revise the maximum student enrollment
10 described by the district's charter.

11 (c) The commissioner may not approve a charter revision that
12 increases a public charter district's enrollment, increases the
13 grade levels offered, increases the number of campuses, or changes
14 the boundaries of the geographic area served by the program unless
15 the commissioner determines that:

16 (1) the public charter district has operated one or
17 more campuses for at least three school years;

18 (2) each campus operated by the public charter
19 district has been rated at least academically acceptable under
20 Subchapter D, Chapter 39, for each of its most recent three years of
21 operation;

22 (3) each campus operated by the public charter
23 district has achieved performance levels that are at least five
24 percentage points above the applicable accountability standard for
25 academically acceptable performance on statewide assessments under
26 Subchapter D, Chapter 39, as determined by the commissioner, for
27 all tested subjects for each of its most recent two years of

1 operation;

2 (4) the public charter district has been rated
3 superior, above standard, standard, or the equivalent, under the
4 financial accountability system under Subchapter I, Chapter 39;

5 (5) during the three years preceding the proposed
6 charter revision, the public charter district and its campuses have
7 not been subject to an intervention or sanction under Subchapter G,
8 Chapter 39, including an intervention or sanction related to:

9 (A) the quality of data or reports required by
10 state or federal law or court order;

11 (B) high school graduation requirements under
12 Section 28.025; or

13 (C) the effectiveness of programs for special
14 student populations; and

15 (6) the charter revision is in the best interest of
16 students of this state.

17 (d) In making a determination under Subsection (c)(6), the
18 commissioner shall review all available information relating to the
19 charter holder, including the charter holder's:

20 (1) academic and financial performance;

21 (2) history of compliance with applicable laws;

22 (3) staffing, financial, and organizational data; and

23 (4) any other information regarding the charter
24 holder's capacity to successfully implement the requested charter
25 revision.

26 (e) The commissioner may not approve a charter revision that
27 proposes an increase in:

1 (1) a public charter district's enrollment, unless the
2 charter holder adopts a business plan for implementing the
3 enrollment increase that includes components identified by the
4 commissioner; or

5 (2) the grade levels offered by a public charter
6 district, unless the charter holder adopts an educational plan for
7 the additional grade levels that includes components identified by
8 the commissioner.

9 (f) The commissioner may approve a charter revision
10 authorizing a public charter district to serve students in a
11 geographical area that is not contiguous with the existing
12 boundaries of the district, but may not approve a statewide
13 geographical boundary.

14 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON
15 PROBATION, OR REVOCATION. (a) The commissioner may modify, place
16 on probation, or revoke the charter of a public charter district if
17 the commissioner determines under Section 11A.108 that the charter
18 holder:

19 (1) committed a material violation of the charter;

20 (2) failed to satisfy generally accepted accounting
21 standards of fiscal management;

22 (3) failed to protect the health, safety, welfare, or
23 best interests of the students enrolled at the public charter
24 district; or

25 (4) failed to comply with this chapter or another
26 applicable law or rule.

27 (b) The commissioner shall revoke the charter of a public

1 charter district without a hearing if:

2 (1) in two consecutive years, the public charter
3 district:

4 (A) is rated academically unacceptable under
5 Subchapter D, Chapter 39; or

6 (B) is rated financially unacceptable by the
7 commissioner under Subchapter I, Chapter 39; or

8 (2) all campuses operated by the public charter
9 district have been ordered closed under Section 39.131(a) or
10 39.1322(f).

11 (c) A revocation under Subsection (b)(1) is effective on
12 January 1 following the school year in which the public charter
13 district received a second unacceptable rating.

14 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON
15 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a
16 procedure to be used for modifying, placing on probation, or
17 revoking the charter of a public charter district under Section
18 11A.107(a).

19 (b) The procedure adopted under Subsection (a) must provide
20 an opportunity for a hearing to the charter holder.

21 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON
22 PROBATION, OR REVOCATION. A charter holder may appeal a
23 modification, placement on probation, or revocation under this
24 subchapter only in the manner provided by the applicable procedures
25 adopted by the commissioner under Section 11A.108. The charter
26 holder may not otherwise appeal to the commissioner and may not
27 appeal to a district court.

1 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.

2 If the commissioner revokes a charter of a public charter district,
3 if a district is ordered closed under Chapter 39, or if a public
4 charter district surrenders its charter, the district may not:

5 (1) continue to operate under this chapter; or

6 (2) receive state funds under this chapter.

7 [Sections 11A.111-11A.150 reserved for expansion]

8 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF CHARTER

9 HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

10 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

11 The governing body of a charter holder is responsible for the
12 management, operation, and accountability of the public charter
13 district, regardless of whether the governing body delegates the
14 governing body's powers and duties to another person.

15 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER

16 HOLDER. The governing body of a charter holder must be composed of
17 at least five members.

18 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF

19 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS
20 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a
21 person may not serve as a member of the governing body of a charter
22 holder, as a member of the governing body of a public charter
23 district, or as an officer or employee of a public charter district
24 if the person:

25 (1) has been convicted of a felony or a misdemeanor
26 involving moral turpitude;

27 (2) has been convicted of an offense listed in Section

1 37.007(a);

2 (3) has been convicted of an offense listed in Article
3 62.01(5), Code of Criminal Procedure; or

4 (4) has a substantial interest in a management
5 company.

6 (b) A person who has been convicted of an offense described
7 by Subsection (a)(1), (2), or (3) may serve as a member of the
8 governing body of a charter holder, as a member of the governing
9 body of a public charter district, or as an officer or employee of a
10 public charter district if the commissioner determines that the
11 person is fit to serve in that capacity. In making a determination
12 under this subsection, the commissioner shall consider:

13 (1) the factors described by Section 53.022,
14 Occupations Code, for determining the extent to which a conviction
15 relates to an occupation;

16 (2) the factors described by Section 53.023,
17 Occupations Code, for determining the fitness of a person to
18 perform the duties and discharge the responsibilities of an
19 occupation; and

20 (3) other appropriate factors, as determined by the
21 commissioner.

22 (c) For purposes of Subsection (a)(4), a person has a
23 substantial interest in a management company if the person or a
24 relative within the third degree by consanguinity or affinity, as
25 determined under Chapter 573, Government Code:

26 (1) has a controlling interest in the company;

27 (2) owns more than 10 percent of the voting interest in

1 the company;

2 (3) owns more than \$25,000 of the fair market value of
3 the company;

4 (4) has a direct or indirect participating interest by
5 shares, stock, or otherwise, regardless of whether voting rights
6 are included, in more than 10 percent of the profits, proceeds, or
7 capital gains of the company;

8 (5) is a member of the board of directors or other
9 governing body of the company;

10 (6) serves as an elected officer of the company; or

11 (7) is an employee of the company.

12 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF
13 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit
14 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
15 Statutes), Chapter 22, Business Organizations Code, or other law,
16 on request of the commissioner, the attorney general shall bring
17 suit against a member of the governing body of a charter holder for
18 breach of a fiduciary duty by the member, including misapplication
19 of public funds.

20 (b) The attorney general may bring suit under Subsection (a)
21 for:

22 (1) damages;

23 (2) injunctive relief; or

24 (3) any other equitable remedy determined to be
25 appropriate by the court.

26 (c) This section is cumulative of all other remedies.

27 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF

1 CHARTER HOLDER. (a) The commissioner shall adopt rules
2 prescribing training for members of governing bodies of charter
3 holders.

4 (b) The rules adopted under Subsection (a) may:

5 (1) specify the minimum amount and frequency of the
6 training;

7 (2) require the training to be provided by:

8 (A) the agency and regional education service
9 centers;

10 (B) entities other than the agency and service
11 centers, subject to approval by the commissioner; or

12 (C) both the agency, service centers, and other
13 entities; and

14 (3) require training to be provided concerning:

15 (A) basic school law, including school finance;

16 (B) health and safety issues;

17 (C) accountability requirements related to the
18 use of public funds; and

19 (D) other requirements relating to
20 accountability to the public, such as open meetings requirements
21 under Chapter 551, Government Code, and public information
22 requirements under Chapter 552, Government Code.

23 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder
24 shall file with the commissioner a copy of its articles of
25 incorporation and bylaws, or comparable documents if the charter
26 holder does not have articles of incorporation or bylaws, within
27 the period and in the manner prescribed by the commissioner.

1 (b) Each public charter district shall file annually with
2 the commissioner the following information in a form prescribed by
3 the commissioner:

4 (1) the name, address, and telephone number of each
5 officer and member of the governing body of the charter holder; and

6 (2) the amount of annual compensation the public
7 charter district pays to each officer and member of the governing
8 body.

9 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During
10 a public charter district's first year of operation, the charter
11 holder shall submit quarterly financial reports to the
12 commissioner. The commissioner by rule shall determine the form
13 and content of the financial reports under this section.

14 Sec. 11A.158. PEIMS INFORMATION. The governing body of a
15 public charter district shall comply with Section 7.007.

16 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A
17 management company that provides management services to a public
18 charter district is liable for damages incurred by the state or a
19 school district as a result of the failure of the company to comply
20 with its contractual or other legal obligation to provide services
21 to the district.

22 (b) On request of the commissioner, the attorney general may
23 bring suit on behalf of the state against a management company
24 liable under Subsection (a) for:

25 (1) damages, including any state funding received by
26 the company and any consequential damages suffered by the state;

27 (2) injunctive relief; or

1 (3) any other equitable remedy determined to be
2 appropriate by the court.

3 (c) This section is cumulative of all other remedies and
4 does not affect:

5 (1) the liability of a management company to the
6 charter holder; or

7 (2) the liability of a charter holder, a member of the
8 governing body of a charter holder, or a member of the governing
9 body of a public charter district to the state.

10 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

11 (a) The charter holder or the governing body of a public charter
12 district may not accept a loan from a management company that has a
13 contract to provide management services to:

14 (1) the district; or

15 (2) another public charter district that operates
16 under a charter granted to the charter holder.

17 (b) A charter holder or the governing body of a public
18 charter district that accepts a loan from a management company may
19 not enter into a contract with that management company to provide
20 management services to the district.

21 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any
22 contract, including a contract renewal, between a public charter
23 district and a management company proposing to provide management
24 services to the district must require the management company to
25 maintain all records related to the management services separately
26 from any other records of the management company.

27 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS

1 PROHIBITED. The commissioner may prohibit, deny renewal of,
2 suspend, or revoke a contract between a public charter district and
3 a management company providing management services to the district
4 if the commissioner determines that the management company has:

5 (1) failed to provide educational or related services
6 in compliance with the company's contractual or other legal
7 obligation to any public charter district in this state or to any
8 other similar entity in another state;

9 (2) failed to protect the health, safety, or welfare
10 of the students enrolled at a public charter district served by the
11 company;

12 (3) violated this chapter or a rule adopted under this
13 chapter; or

14 (4) otherwise failed to comply with any contractual or
15 other legal obligation to provide services to the district.

16 [Sections 11A.163-11A.200 reserved for expansion]

17 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

18 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent
19 with Subsection (c), a charter holder is entitled to receive for the
20 public charter district funding under Chapter 42 as if the public
21 charter district were a school district without a local share for
22 purposes of Section 42.306 and without any local revenue ("LR") for
23 purposes of Section 42.252. In determining funding for a public
24 charter district, adjustments under Sections 42.301, 42.302, and
25 42.303 and the district enrichment tax rate ("DETR") under Section
26 42.252 are based on the average adjustment and average district
27 enrichment tax rate for the state.

1 (a-1) Notwithstanding Subsection (a), an entity granted a
2 charter under Section 11A.1041 is entitled to receive funding for
3 each student in weighted average daily attendance in an amount
4 equal to the greater of the amount determined under Subsection (a)
5 or the amount to which the entity was entitled for the 2003-2004 or
6 2004-2005 school year, as determined by the commissioner. A
7 determination of the commissioner under this subsection is final
8 and not subject to appeal. This subsection expires September 1,
9 2013.

10 (b) To the extent consistent with Subsection (c), a public
11 charter district is entitled to funds that are available to school
12 districts from the agency or the commissioner, including grants and
13 other discretionary funding and any teacher incentive payments
14 under Section 39.113, unless the statute authorizing the funding
15 explicitly provides that a public charter district is not entitled
16 to the funding.

17 (c) A charter holder is entitled to receive for a public
18 charter district funding under this section only if the holder:

19 (1) provides information for the Public Education
20 Information Management System (PEIMS) as required by this chapter;

21 (2) submits to the commissioner appropriate fiscal and
22 financial records as required by this chapter and the commissioner;
23 and

24 (3) receives an annual unqualified opinion in the
25 standard report filed pursuant to Section 11A.210.

26 (d) The commissioner shall suspend the funding of a charter
27 holder that fails to comply with Subsection (c) until the

1 commissioner determines that the charter holder is in compliance or
2 has cured any noncompliance and has adopted adequate procedures to
3 prevent future noncompliance.

4 (e) The commissioner may adopt rules to provide and account
5 for state funding of public charter districts under this section. A
6 rule adopted under this section may be similar to a provision of
7 this code that is not similar to Section 11A.052(b) if the
8 commissioner determines that the rule is related to financing of
9 public charter districts and is necessary or prudent to provide or
10 account for state funds.

11 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF
12 SALARIES. (a) This section applies to a charter holder that on
13 January 1, 2005, operated an open-enrollment charter school under
14 former Subchapter D, Chapter 12.

15 (b) A charter holder that participated in the program under
16 Chapter 1579, Insurance Code, for the 2004-2005 school year is
17 entitled to state aid in an amount, as determined by the
18 commissioner, equal to the difference, if any, between:

19 (1) an amount equal to the product of \$2,500
20 multiplied by the number of classroom teachers, full-time
21 librarians, and full-time counselors certified under Subchapter B,
22 Chapter 21, and full-time school nurses appropriately licensed
23 under Chapter 301, Occupations Code, who are employed by the
24 charter holder at a public charter district; and

25 (2) the amount of additional money to which the
26 charter holder is entitled as a result of H.B. No. 2, Acts of the
27 79th Legislature, 1st Called Session, 2005.

1 (c) A charter holder that did not participate in the program
2 under Chapter 1579, Insurance Code, for the 2004-2005 school year
3 is entitled to state aid in an amount, as determined by the
4 commissioner, equal to the difference, if any, between:

5 (1) an amount equal to the product of \$1,500
6 multiplied by the number of classroom teachers, full-time
7 librarians, and full-time counselors certified under Subchapter B,
8 Chapter 21, and full-time school nurses appropriately licensed
9 under Chapter 301, Occupations Code, who are employed by the
10 charter holder at a public charter district; and

11 (2) the amount of additional money to which the
12 charter holder is entitled as a result of H.B. No. 2, Acts of the
13 79th Legislature, 1st Called Session, 2005.

14 (d) A charter holder is not entitled to funds under
15 Subsection (b) or (c) if the amount of additional funds to which the
16 charter holder is entitled as a result of H.B. No. 2, Acts of the
17 79th Legislature, 1st Called Session, 2005, is sufficient to pay
18 the amounts described by Subsection (b) or (c), as determined by the
19 commissioner.

20 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In
21 this section, "instructional facility" has the meaning assigned by
22 Section 46.001.

23 (b) A charter holder is initially eligible for
24 instructional facilities allotments in accordance with this
25 section if:

26 (1) any campus of a public charter district for which
27 the charter holder has been granted a license has for two

1 consecutive school years been rated exemplary or recognized under
2 Subchapter D, Chapter 39, or has performed at a comparable level, as
3 determined by the commissioner for purposes of this section; and

4 (2) on the most recent audit of the financial
5 operations of the district conducted pursuant to Section 11A.210,
6 the district has satisfied generally accepted accounting standards
7 of fiscal management as evidenced by an unqualified opinion in the
8 standard report issued and filed pursuant to Section 11A.210.

9 (b-1) Notwithstanding Subsection (b), a charter holder is
10 eligible for instructional facilities allotments for the 2006-2007
11 school year in accordance with this section if any campus of a
12 public charter district for which the charter holder has been
13 granted a license has been rated exemplary or recognized under
14 Subchapter D, Chapter 39, for at least two of the 2003-2004,
15 2004-2005, and 2005-2006 school years.

16 (b-2) Subsection (b-1) and this subsection expire September
17 1, 2007.

18 (c) Once a public charter district satisfies the initial
19 eligibility requirements under Subsection (b) and receives an
20 allotment under this section, the district continues to remain
21 eligible until the district receives an accountability rating of
22 unacceptable under Subchapter D, Chapter 39, at which point the
23 district is again subject to the eligibility requirements of
24 Subsection (b).

25 (d) The commissioner annually shall review the eligibility
26 of a public charter district campus for purposes of this section.

27 (e) Except as otherwise provided by this section, a charter

1 holder is entitled to an annual allotment in an amount determined by
2 the commissioner, not to exceed \$1,000 or a different amount
3 provided by appropriation, for each student in average daily
4 attendance during the preceding year at a campus of a public charter
5 district that is eligible for an allotment under this section.

6 (f) A charter holder who receives funds under this section
7 may use the funds only to:

8 (1) purchase real property on which to construct an
9 instructional facility for a public charter district campus for
10 which the funds were paid under Subsection (e);

11 (2) purchase, lease, construct, expand, or renovate
12 instructional facilities for a public charter district campus for
13 which the funds were paid under Subsection (e);

14 (3) pay debt service in connection with instructional
15 facilities purchased or improved for a campus of the public charter
16 district that meets the requirements under Subsection (b); or

17 (4) maintain and operate public charter district
18 instructional facilities.

19 (g) A decision of the commissioner under Subsection (e) is
20 final and may not be appealed.

21 (h) The commissioner shall by rule establish procedures to
22 ensure that funds a charter holder claims to be using for purposes
23 of Subsection (f)(3) are used only for that purpose.

24 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received
25 under Section 11A.201 or 11A.202 by a charter holder:

26 (1) are considered to be public funds for all purposes
27 under state law;

1 (2) are held in trust by the charter holder for the
2 benefit of this state and the students of the public charter
3 district;

4 (3) may be used only for a purpose for which a school
5 may use local funds under Section 45.105(c) in the case of funds
6 received under Section 11A.201, and may be used only for a purpose
7 specified under Section 11A.202(f) in the case of funds received
8 under Section 11A.202; and

9 (4) pending their use, must be deposited into a bank,
10 as defined by Section 45.201, with which the charter holder has
11 entered into a depository contract under Section 11A.204.

12 (b) Funds deposited under Subsection (a)(4) may be directly
13 deposited into an account controlled by a bond trustee acting for
14 the charter holder pursuant to a bond indenture agreement requiring
15 direct deposit.

16 (c) The commissioner shall adopt rules for identifying
17 public funds in accordance with Subsection (a).

18 (d) The commissioner may bring an action in district court
19 in Travis County for injunctive or other relief to enforce this
20 section. In identifying public funds held by a charter holder, the
21 court shall use the criteria adopted by the commissioner under
22 Subsection (c). Except as otherwise provided by this subsection,
23 the court shall enter any order under this subsection concerning
24 public funds held by the charter holder necessary to best serve the
25 interests of the students of a public charter district. In the case
26 of a public charter district that has ceased to operate, the court
27 shall enter any order under this subsection concerning public funds

1 held by the charter holder necessary to best serve the interests of
2 this state.

3 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank
4 selected as a school depository and the charter holder shall enter
5 into a depository contract, bond, or other necessary instrument
6 setting forth the duties and agreements pertaining to the
7 depository, in a form and with the content prescribed by the State
8 Board of Education.

9 (b) The depository bank shall attach to the contract and
10 file with the charter holder a bond in an initial amount equal to
11 the estimated highest daily balance, determined by the charter
12 holder, of all deposits that the charter holder will have in the
13 depository during the term of the contract, less any applicable
14 Federal Deposit Insurance Corporation insurance. The bond must be
15 payable to the charter holder and must be signed by the depository
16 bank and by a surety company authorized to engage in business in
17 this state. The depository bank shall increase the amount of the
18 bond if the charter holder determines the increase is necessary to
19 adequately protect the funds of the charter holder deposited with
20 the depository bank.

21 (c) The bond shall be conditioned on:

22 (1) the faithful performance of all duties and
23 obligations imposed by law on the depository;

24 (2) the payment on presentation of all checks or
25 drafts on order of the charter holder, in accordance with its orders
26 entered by the charter holder according to law;

27 (3) the payment on demand of any demand deposit in the

1 depository;

2 (4) the payment, after the expiration of the period of
3 notice required, of any time deposit in the depository;

4 (5) the faithful keeping of school funds by the
5 depository and the accounting for the funds according to law; and

6 (6) the faithful paying over to the successor
7 depository all balances remaining in the accounts.

8 (d) The bond and the surety on the bond must be approved by
9 the charter holder. A premium on the depository bond may not be
10 paid out of charter holder funds related to operation of the public
11 charter district.

12 (e) The charter holder shall file a copy of the depository
13 contract and bond with the agency.

14 (f) Instead of the bond required under Subsection (b), the
15 depository bank may deposit or pledge, with the charter holder or
16 with a trustee designated by the charter holder, approved
17 securities, as defined by Section 45.201, in an amount sufficient
18 to adequately protect the funds of the charter holder deposited
19 with the depository bank. A depository bank may give a bond and
20 deposit or pledge approved securities in an aggregate amount
21 sufficient to adequately protect the funds of the charter holder
22 deposited with the depository bank. The charter holder shall
23 periodically designate the amount of approved securities or the
24 aggregate amount of the bond and approved securities necessary to
25 adequately protect the charter holder. The charter holder may not
26 designate an amount less than the balance of charter holder funds on
27 deposit with the depository bank from day to day, less any

1 applicable Federal Deposit Insurance Corporation insurance. The
2 depository bank may substitute approved securities on obtaining the
3 approval of the charter holder. For purposes of this subsection,
4 the approved securities are valued at their market value.

5 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter
6 holder who accepts state funds under Section 11A.201 or 11A.202
7 agrees to be subject to all requirements, prohibitions, and
8 sanctions authorized under this chapter.

9 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE
10 FUNDS. (a) Property purchased or leased with funds received by a
11 charter holder under Section 11A.201 or 11A.202:

12 (1) is considered to be public property for all
13 purposes under state law;

14 (2) is held in trust by the charter holder for the
15 benefit of this state and the students of the public charter
16 district; and

17 (3) may be used only for a purpose for which a school
18 district may use school district property.

19 (b) The commissioner shall:

20 (1) take possession and assume control of the property
21 described by Subsection (a) of a public charter district that
22 ceases to operate; and

23 (2) supervise the disposition of the property in
24 accordance with law.

25 (c) This section does not affect the priority of a security
26 interest in or lien on property established by a creditor in
27 compliance with law if the security interest or lien arose in

1 connection with the sale or lease of the property to the charter
2 holder.

3 (d) The commissioner shall adopt rules for identifying
4 public property in accordance with Subsection (a).

5 (e) The commissioner may bring an action in district court
6 in Travis County for injunctive or other relief to enforce this
7 section. In identifying public property held by a charter holder,
8 the court shall use the criteria adopted by the commissioner under
9 Subsection (d). Except as otherwise provided by this subsection,
10 the court shall enter any order under this subsection concerning
11 public property held by the charter holder necessary to best serve
12 the interests of the students of a public charter district. In the
13 case of a public charter district that has ceased to operate, the
14 court shall enter any order under this subsection concerning public
15 property held by the charter holder necessary to best serve the
16 interests of this state. The court may order title to real or
17 personal public property held by the charter holder transferred to
18 a trust established for the purpose of managing the property or may
19 make other disposition of the property necessary to best serve the
20 interests of this state.

21 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER
22 DISTRICT LAND OR FACILITIES. A municipality to which a charter is
23 granted under this chapter may borrow funds, issue obligations, or
24 otherwise spend its funds to acquire land or acquire, construct,
25 expand, or renovate school buildings or facilities and related
26 improvements for its public charter district within the city limits
27 of the municipality in the same manner the municipality is

1 authorized to borrow funds, issue obligations, or otherwise spend
2 its funds in connection with any other public works project.

3 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND
4 TECHNOLOGY. A public charter district is entitled to funding for
5 instructional materials under Chapter 31 and technology under
6 Subchapter A, Chapter 32, and is subject to those provisions as if
7 the public charter district were a school district.

8 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public
9 charter district shall annually adopt a budget for the district.

10 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public
11 charter district shall conduct an annual audit in a manner that
12 complies with Section 44.008.

13 [Sections 11A.211-11A.250 reserved for expansion]

14 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

15 Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by
16 this section, a public charter district may not discriminate in
17 admission policy on the basis of sex, national origin, ethnicity,
18 religion, disability, or academic, artistic, or athletic ability or
19 the district the child would otherwise attend in accordance with
20 this code.

21 (b) A public charter district admission policy may provide
22 for the exclusion of a student who has a documented history of a
23 criminal offense, a juvenile court adjudication, or discipline
24 problems under Subchapter A, Chapter 37.

25 (c) A public charter district admission policy may require a
26 student to demonstrate artistic ability if the school specializes
27 in performing arts.

1 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to
2 a public charter district campus, the governing body of the
3 district shall:

4 (1) require the applicant to complete and submit an
5 application not later than a reasonable deadline the district
6 establishes; and

7 (2) on receipt of more acceptable applications for
8 admission under this section than available positions in the
9 school:

10 (A) fill the available positions by lottery; or

11 (B) subject to Subsection (b), fill the available
12 positions in the order in which applications received before the
13 application deadline were received.

14 (b) A public charter district may fill applications for
15 admission under Subsection (a)(2)(B) only if the district published
16 a notice of the opportunity to apply for admission to the district.

17 A notice published under this subsection must:

18 (1) state the application deadline;

19 (2) be published in a newspaper of general circulation
20 in the community in which the district campus is located not later
21 than the seventh day before the application deadline; and

22 (3) be made available on the public charter district's
23 Internet website, if available.

24 (c) A public charter district may exempt an applicant from
25 the requirements of Subsection (a)(2) if the applicant is:

26 (1) the child or grandchild of a member of the
27 governing body of the charter holder at the time the district's

1 charter was first granted;

2 (2) the child of an employee of the district or the
3 charter holder; or

4 (3) a sibling of a student who is enrolled in the
5 district.

6 (d) A public charter district that specializes in one or
7 more performing arts may require an applicant to audition for
8 admission to the school.

9 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided
10 by Subsection (b) or as otherwise determined impracticable by the
11 commissioner, during a public charter district's first year of
12 operation, the district must have a student enrollment of at least
13 100 and not more than 500 at any time during the school year.

14 (b) A public charter district may have a student enrollment
15 of less than 100 if approved by the commissioner.

16 (c) Not later than a public charter district's third year of
17 operation, at least 25 percent of the district's students must be
18 enrolled in one or more grade levels for which assessment
19 instruments are administered under Section 39.023(a).

20 (d) The commissioner may grant a waiver from the
21 requirements of Subsection (c) for a public charter district that
22 opens a campus serving prekindergarten or kindergarten students and
23 agrees to:

24 (1) add at least one higher grade level class each
25 school year after opening the campus; and

26 (2) until the campus complies with Subsection (c),
27 adopt accountability measures to assess the performance of the

1 students not assessed under Section 39.023(a).

2 (e) The commissioner may grant a waiver from the
3 requirements of Subsection (c) for a public charter district that
4 was operating an open-enrollment charter school campus on January
5 1, 2005, serving prekindergarten, kindergarten, and first, second,
6 and third grade students if the public charter district:

7 (1) adopts one or more nationally norm-referenced
8 assessment instruments approved by the commissioner;

9 (2) administers the assessment instruments to its
10 second grade students at intervals and in the manner specified by
11 commissioner rule; and

12 (3) meets the applicable standards for student
13 performance on the assessment instruments, as determined by
14 commissioner rule.

15 (f) The commissioner shall adopt rules necessary to
16 implement this section.

17 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public
18 charter district may not charge tuition to an eligible student who
19 applies for admission to the district under this chapter.

20 (b) The governing body of a public charter district may
21 require a student to pay any fee that the board of trustees of a
22 school district may charge under Section 11.158(a). The governing
23 body may not require a student to pay a fee that the board of
24 trustees of a school district may not charge under Section
25 11.158(b).

26 Sec. 11A.255. TRANSPORTATION. A public charter district
27 shall provide transportation to each student attending the school

1 to the same extent a school district is required by law to provide
2 transportation to district students.

3 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY
4 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The
5 governing body of a public charter district shall adopt a code of
6 conduct for the district or for each campus in the district.

7 (b) The code of conduct must include:

8 (1) standards for student behavior, including the
9 types of prohibited behaviors and the possible consequences of
10 misbehavior; and

11 (2) the district's due process procedures regarding
12 expulsion of a student.

13 (c) A final decision of the governing body of a public
14 charter district regarding action taken under the code of conduct
15 may not be appealed.

16 (d) A public charter district may not expel a student for a
17 reason that is not authorized by Section 37.007 or specified in the
18 district's code of conduct as conduct that may result in expulsion.

19 (e) Section 37.002 does not apply to a public charter
20 district except to the extent specified by the governing body of the
21 public charter district in the district's code of conduct.

22 [Sections 11A.257-11A.300 reserved for expansion]

23 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

24 Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except
25 as otherwise required by this section or chapter, a person employed
26 as a teacher by a public charter district must hold a high school
27 diploma.

1 (b) To the extent required by federal law, including 20
2 U.S.C. Section 7801(11), a person employed as a teacher by a public
3 charter district must hold a baccalaureate degree.

4 Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE
5 QUALIFICATIONS. (a) Each public charter district shall provide to
6 the parent or guardian of each student enrolled at a campus in the
7 district written notice of the qualifications of each professional
8 employee, including each teacher, employed at the campus.

9 (b) The notice must include:

10 (1) any professional or educational degree held by the
11 employee;

12 (2) a statement of any certification under Subchapter
13 B, Chapter 21, held by the employee; and

14 (3) any relevant experience of the employee.

15 Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The
16 governing body of a public charter district shall obtain a complete
17 set of fingerprints from each person described by Section
18 21.0032(a).

19 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF
20 CERTAIN APPLICANTS. A public charter district must comply with
21 Section 21.0032 before employing or otherwise securing the services
22 of a person as a teacher, teacher intern or trainee, librarian,
23 educational aide, administrator, or counselor, regardless of
24 whether the applicant is certified under Subchapter B, Chapter 21.

25 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
26 TEXAS. (a) An employee of a public charter district who qualifies
27 for membership in the Teacher Retirement System of Texas shall be

1 covered under the system to the same extent a qualified employee of
2 a school district is covered.

3 (b) For each employee of a public charter district covered
4 under the system, the public charter district is responsible for
5 making any contribution that otherwise would be the legal
6 responsibility of a school district, and the state is responsible
7 for making contributions to the same extent it would be legally
8 responsible if the employee were a school district employee.

9 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

10 (a) This section applies to a charter holder that on January 1,
11 2005, operated an open-enrollment charter school under former
12 Subchapter D, Chapter 12.

13 (b) Using state funds received by the charter holder for
14 that purpose under Section 11A.2011, a charter holder that
15 participated in the program under Chapter 1579, Insurance Code, for
16 the 2004-2005 school year each school year shall provide classroom
17 teachers, full-time librarians, full-time counselors certified
18 under Subchapter B, Chapter 21, and full-time school nurses
19 appropriately licensed under Chapter 301, Occupations Code,
20 employed by the charter holder compensation in the form of annual
21 salaries, incentives, or other compensation determined appropriate
22 by the charter holder that results in an average compensation
23 increase for the employees of \$2,500.

24 (c) Using state funds received by the charter holder for
25 that purpose under Section 11A.2011, a charter holder that did not
26 participate in the program under Chapter 1579, Insurance Code, for
27 the 2004-2005 school year each school year shall provide classroom

1 teachers, full-time librarians, full-time counselors certified
2 under Subchapter B, Chapter 21, and full-time school nurses
3 appropriately licensed under Chapter 301, Occupations Code,
4 employed by the charter holder compensation in the form of annual
5 salaries, incentives, or other compensation determined appropriate
6 by the charter holder that results in an average compensation
7 increase for the employees of \$1,500.

8 (d) A payment under this section is in addition to wages the
9 charter holder would otherwise pay the employee during the school
10 year.

11 [Sections 11A.307-11A.350 reserved for expansion]

12 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

13 Sec. 11A.351. AUDIT. (a) To the extent consistent with
14 this section, the commissioner may audit the records of:

15 (1) a public charter district or campus;

16 (2) a charter holder; and

17 (3) a management company.

18 (b) An audit under Subsection (a) must be limited to matters
19 directly related to the management or operation of a public charter
20 district, including any financial, student, and administrative
21 records.

22 (c) Unless the commissioner has specific cause to conduct an
23 additional audit, the commissioner may not conduct more than one
24 on-site audit of a public charter district under this section
25 during any fiscal year, including any audit of financial, student,
26 and administrative records. For purposes of this subsection, an
27 audit of a charter holder or management company associated with a

1 public charter district is not considered an audit of the district.

2 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a
3 subpoena to compel the attendance and testimony of a witness or the
4 production of materials relevant to an audit or investigation under
5 this chapter.

6 (b) A subpoena may be issued throughout the state and may be
7 served by any person designated by the commissioner.

8 (c) If a person fails to comply with a subpoena issued under
9 this section, the commissioner, acting through the attorney
10 general, may file suit to enforce the subpoena in a district court
11 in Travis County or in the county in which the audit or
12 investigation is conducted. The court shall order compliance with
13 the subpoena if the court finds that good cause exists to issue the
14 subpoena.

15 (d) This section expires September 1, 2007.

16 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take
17 any of the actions described by Subsection (b) or by Section
18 39.131(a), to the extent the commissioner determines necessary, if
19 a public charter district, as determined by a report issued under
20 Section 39.076(b):

21 (1) commits a material violation of the district's
22 charter;

23 (2) fails to satisfy generally accepted accounting
24 standards of fiscal management; or

25 (3) fails to comply with this chapter or another
26 applicable rule or law.

27 (b) The commissioner may temporarily withhold funding,

1 suspend the authority of a public charter district to operate, or
2 take any other reasonable action the commissioner determines
3 necessary to protect the health, safety, or welfare of students
4 enrolled at a district campus based on evidence that conditions at
5 the district campus present a danger to the health, safety, or
6 welfare of the students.

7 (c) After the commissioner acts under Subsection (b), the
8 public charter district may not receive funding and may not resume
9 operating until a determination is made that:

10 (1) despite initial evidence, the conditions at the
11 district campus do not present a danger of material harm to the
12 health, safety, or welfare of students; or

13 (2) the conditions at the district campus that
14 presented a danger of material harm to the health, safety, or
15 welfare of students have been corrected.

16 (d) Not later than the third business day after the date the
17 commissioner acts under Subsection (b), the commissioner shall
18 provide the charter holder an opportunity for a hearing. This
19 subsection does not apply to an action taken by the commissioner
20 under Chapter 39.

21 (e) Immediately after a hearing under Subsection (d), the
22 commissioner must cease the action under Subsection (b) or initiate
23 action under Section 11A.108.

24 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN
25 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the
26 Foundation School Program, the commissioner shall reduce the total
27 amount of state funds allocated to each district from any source in

1 the same manner described for a reduction in allotments under
2 Section 42.313 and adopt and implement a program for supervising
3 the administration of assessment instruments under Section 39.023
4 during the 2005-2006 school year at an open-enrollment charter
5 school, other than a school operated by an entity described by
6 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent
7 of all students enrolled at the school and administered an
8 assessment instrument under Section 39.023(a), (c), or (l)
9 performed satisfactorily on:

10 (1) the assessment instrument in mathematics, as
11 determined by the school's assessment instrument results for the
12 2004-2005 school year; or

13 (2) the assessment instrument in reading or English
14 language arts, as applicable, as determined by the school's
15 assessment instrument results for the 2004-2005 school year.

16 (b) The program adopted under Subsection (a) must be
17 designed to:

18 (1) ensure that the location at which an assessment
19 instrument is administered is secure and under the supervision of
20 persons who do not have any interest in the results of the
21 assessment instrument; and

22 (2) provide direct supervision of:

23 (A) the transportation of the assessment
24 instrument materials to and from the location at which the
25 instrument is administered; and

26 (B) the administration of the assessment
27 instrument to students.

1 (c) The commissioner may adopt rules necessary to
2 administer this section and may take any action that the
3 commissioner determines necessary to ensure the integrity of the
4 results of an assessment instrument administered at an
5 open-enrollment charter school described by Subsection (a).

6 (d) After deducting the amount withheld under Subsection
7 (a) from the total amount appropriated for the Foundation School
8 Program, the commissioner shall reduce the total amount of state
9 funds allocated to each district from any source in the same manner
10 described for a reduction in allotments under Section 42.313.

11 (e) An open-enrollment charter school's failure to fully
12 cooperate with the commissioner under this section is sufficient
13 grounds for revocation of the district's charter, as determined by
14 the commissioner.

15 (f) This section expires September 1, 2006.

16 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The
17 commissioner shall periodically consult with representatives of
18 charter holders regarding the duties and mission of the agency
19 relating to the operation of public charter districts. The
20 commissioner shall determine the frequency of the consultations.

21 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing
22 in this chapter may be construed to limit the commissioner's
23 authority under Chapter 39.

24 Sec. 11A.356. RULES. The commissioner may adopt rules for
25 the administration of this chapter.

26 [Sections 11A.357-11A.400 reserved for expansion]

1 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

2 Sec. 11A.401. AUTHORIZATION. (a) In this section,
3 "eligible entity" means an organization that is exempt from
4 taxation under Section 501(a), Internal Revenue Code of 1986, as an
5 organization described by Section 501(c)(3) of that code.

6 (b) In accordance with this subchapter, the commissioner
7 may authorize not more than three charter holders to grant a charter
8 to an eligible entity to operate a blue ribbon charter campus if:

9 (1) the charter holder proposes to grant the blue
10 ribbon charter to replicate a distinctive education program;

11 (2) the charter holder has demonstrated the ability to
12 replicate the education program;

13 (3) the education program has been implemented by the
14 charter holder for at least seven school years; and

15 (4) the charter school in which the charter holder has
16 implemented the program has been rated recognized or exemplary
17 under Section 39.072 for at least five school years.

18 (b-1) An eligible entity that assumed operation of an
19 existing charter school program during the seven years preceding
20 the proposed authorization under Subsection (b) may be authorized
21 to grant a blue ribbon charter under Subsection (b) if:

22 (1) the performance level of the program at a campus
23 before and after the entity assumed operation of the program meets
24 the qualifications described by Subsection (b); and

25 (2) the entity has met the qualifications described by
26 Subsection (b) since assuming operation of the program.

27 (c) A charter holder may grant a blue ribbon charter only to

1 an applicant that meets any financial, governing, and operational
2 standards adopted by the commissioner under this subchapter.

3 (d) A charter holder may grant not more than two blue ribbon
4 charters under this subchapter.

5 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue
6 ribbon charter campus is considered a public charter district
7 campus for purposes of state and federal law.

8 (b) A blue ribbon charter granted under this subchapter is
9 not considered for purposes of the limit on the number of public
10 charter districts imposed by Section 11A.002.

11 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE
12 RIBBON CHARTER CAMPUS. (a) The governing body of the public
13 charter district authorizing a blue ribbon charter is responsible
14 for the management and operation of the campus operated under a
15 blue ribbon charter. A blue ribbon charter campus is subject to the
16 rules and policies of the governing body of the charter holder that
17 granted the blue ribbon charter.

18 (b) For purposes of academic and financial accountability
19 and all other purposes under this chapter and Chapter 39, a blue
20 ribbon charter campus is considered a campus of the public charter
21 district operated by the charter holder that granted the blue
22 ribbon charter.

23 (c) A charter holder is entitled to receive funding for a
24 blue ribbon charter campus as if the blue ribbon charter campus were
25 a campus of the public charter district operated by the charter
26 holder.

27 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The

1 commissioner by rule shall adopt an application form and procedures
2 for a charter holder to apply for authorization to grant a blue
3 ribbon charter to an eligible entity under this subchapter.

4 (b) The application must specify:

5 (1) the criteria that will be used to grant blue ribbon
6 charters;

7 (2) procedures for governance and management of
8 campuses operating under a blue ribbon charter; and

9 (3) the performance standard by which continuation of
10 a blue ribbon charter will be determined.

11 (c) A determination by the commissioner regarding an
12 application under this section is final and may not be appealed.

13 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The
14 commissioner may revoke a charter holder's authorization to grant a
15 blue ribbon charter or operate a campus granted a blue ribbon
16 charter if the commissioner determines that the purposes of this
17 subchapter are not being satisfied.

18 (b) On revocation of a charter holder's authority under this
19 section, the charter holder shall:

20 (1) operate a campus granted a blue ribbon charter as a
21 standard campus of the charter holder under this chapter; or

22 (2) close the campus effective at the end of the school
23 year in which the commissioner revokes the authorization.

24 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter
25 granted under this subchapter must:

26 (1) describe the educational program to be offered,
27 which may be a general or specialized education program;

1 (2) provide that continuation of the charter is
2 contingent on satisfactory student performance under Subchapter B,
3 Chapter 39, and on compliance with other applicable accountability
4 provisions under Chapter 39;

5 (3) specify any basis, in addition to a basis
6 specified by this subchapter, on which the charter may be placed on
7 probation or revoked;

8 (4) prohibit discrimination in admission on the basis
9 of national origin, ethnicity, race, religion, or disability;

10 (5) describe the governing structure of the blue
11 ribbon charter campus;

12 (6) specify any procedure or requirement, in addition
13 to those under Chapter 38, that the campus will follow to ensure the
14 health and safety of students and employees; and

15 (7) describe the manner in which the campus and
16 charter holder granting the blue ribbon charter will comply with
17 financial and operational requirements, including requirements
18 related to the Public Education Information Management System
19 (PEIMS) under Section 11A.158 and the audit requirements under
20 Section 11A.210.

21 (b) A charter holder may reserve the right to approve
22 contracts, governance alterations, personnel decisions, and other
23 matters affecting the operation of the blue ribbon charter campus.

24 (c) A blue ribbon charter must specify the basis and
25 procedure to be used by the charter holder for placing the blue
26 ribbon charter campus on probation or revoking the charter, which
27 must include an opportunity for an informal review of the blue

1 ribbon charter campus and governing body of the campus by the
2 charter holder. A charter holder's decision to place on probation
3 or revoke a blue ribbon charter is final and may not be appealed.

4 Sec. 11A.407. FORM. A blue ribbon charter issued under this
5 subchapter must be in the form and substance of a written contract
6 signed by the president or equivalent officer of the governing body
7 of the charter holder granting the blue ribbon charter and the
8 president or equivalent officer of the governing body of the
9 eligible entity to which the blue ribbon charter is granted.

10 Sec. 11A.408. REVISION. A blue ribbon charter granted
11 under this subchapter may be revised with the approval of the
12 charter holder that granted the charter.

13 [Sections 11A.409-11A.450 reserved for expansion]

14 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER
15 SCHOOLS

16 Sec. 11A.451. DEFINITIONS. In this subchapter:

17 (1) "Assets" means:

18 (A) public funds, as determined under Section
19 12.107, as that section existed on January 1, 2005; and

20 (B) public property, as determined under Section
21 12.128, as that section existed on January 1, 2005.

22 (2) "Records" means government records, as determined
23 under Section 12.1052, as that section existed on January 1, 2005.

24 Sec. 11A.452. APPLICABILITY. The commissioner shall
25 appoint a receiver under this subchapter for each open-enrollment
26 charter school that on June 1, 2005, was operating under a charter
27 issued under Subchapter D, Chapter 12, as that subchapter existed

1 on January 1, 2005, and:

2 (1) is not authorized to operate as a public charter
3 district under this chapter; or

4 (2) elects not to operate as a public charter district
5 under this chapter.

6 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)
7 The commissioner shall appoint a receiver to protect the assets and
8 direct the dissolution of open-enrollment charter schools subject
9 to this subchapter.

10 (b) The receiver shall execute a bond in an amount set by the
11 commissioner to ensure the proper performance of the receiver's
12 duties.

13 (c) Until discharged by the commissioner, the receiver
14 shall perform the duties that the commissioner directs to preserve
15 the assets and direct the dissolution of the open-enrollment
16 charter school under this subchapter.

17 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After
18 appointment and execution of bond under Section 11A.453, the
19 receiver shall take possession of:

20 (1) assets and records in the possession of the
21 open-enrollment charter school specified by the commissioner; and

22 (2) any Foundation School Program funds and any other
23 public funds received by the school's charter holder.

24 (b) On request of the receiver, the attorney general shall
25 file a suit for attachment, garnishment, or involuntary bankruptcy
26 and take any other action necessary for the dissolution of an
27 open-enrollment charter school under this subchapter.

1 (c) If the charter holder of an open-enrollment charter
2 school or an officer or employee of such a school refuses to
3 transfer school assets or records to a receiver under this
4 subsection, the receiver may ask the attorney general to petition a
5 court for recovery of the assets or records. If the court grants
6 the petition, the court shall award attorney's fees and court costs
7 to the state.

8 (d) A record described by this section is a public school
9 record for purposes of Section 37.10(c)(2), Penal Code.

10 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall
11 wind up the affairs of an open-enrollment charter school and,
12 except as provided by Subsection (b), reduce its assets to cash for
13 the purpose of discharging all existing liabilities and obligations
14 of the school. In winding up the affairs of a school, the receiver
15 shall cooperate in any bankruptcy proceeding affecting the school.
16 The receiver shall distribute any remaining balance to the
17 commissioner.

18 (b) A receiver shall offer free of charge any equipment and
19 supplies of an open-enrollment charter school dissolved under this
20 subchapter to school districts, giving priority to districts based
21 on the percentage of the charter school's students that reside in
22 the districts.

23 (c) The commissioner shall use money in the foundation
24 school fund and money received under this section to pay the costs
25 described by Section 11A.458 and discharge liabilities and
26 obligations of open-enrollment charter schools under this
27 subchapter. The commissioner shall deposit any remaining balance

1 in the foundation school fund.

2 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of
3 an open-enrollment charter school subject to this subchapter shall
4 be transferred in the manner specified by the commissioner to a
5 custodian designated by the commissioner. The commissioner may
6 designate any appropriate entity to serve as custodian of records,
7 including the agency, a regional education service center, or a
8 school district. In designating a custodian, the commissioner
9 shall ensure that the transferred records, including student and
10 personnel records, are transferred to a custodian capable of:

- 11 (1) maintaining the records;
12 (2) making the records readily accessible to students,
13 parents, former school employees, and other persons entitled to
14 access; and
15 (3) complying with applicable state or federal law
16 restricting access to the records.

17 (b) The commissioner is entitled to access to any records
18 transferred to a custodian under this section as the commissioner
19 determines necessary for auditing, investigative, or monitoring
20 purposes.

21 Sec. 11A.457. LIABILITY. A receiver is not personally
22 liable for actions taken by the receiver under this subchapter.

23 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may
24 authorize reimbursement of reasonable costs related to the
25 receivership, including:

- 26 (1) payment of fees to the receiver for the receiver's
27 services; and

1 (2) payment of fees to attorneys, accountants, or any
2 other person that provides goods or services necessary to the
3 operation of the receivership.

4 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The
5 competitive bidding requirements of this code and the contracting
6 requirements of Chapter 2155, Government Code, do not apply to the
7 appointment of a receiver, attorney, accountant, or other person
8 appointed under this subchapter.

9 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is
10 amended by adding Sections 12.1058 and 12.135 to read as follows:

11 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT
12 PROVISIONS. (a) An open-enrollment charter school is subject to
13 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,
14 11A.304, 11A.352, 21.0032, and 21.058.

15 (b) The commissioner may bring an action for injunctive or
16 other relief as provided by Section 11A.203(d) to enforce Section
17 12.107.

18 (c) For purposes of this section, a reference in a law
19 described by this section to a public charter district means an
20 open-enrollment charter school.

21 Sec. 12.135. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

22 (a) This section applies to a charter holder that on January 1,
23 2005, operated an open-enrollment charter school.

24 (b) Using state funds received by the charter holder for
25 that purpose under Subsection (d), a charter holder that
26 participated in the program under Chapter 1579, Insurance Code, for
27 the 2004-2005 school year each school year shall provide classroom

1 teachers, full-time librarians, full-time counselors certified
2 under Subchapter B, Chapter 21, and full-time school nurses
3 appropriately licensed under Chapter 301, Occupations Code,
4 employed by the charter holder compensation in the form of annual
5 salaries, incentives, or other compensation determined appropriate
6 by the charter holder that results in an average compensation
7 increase for the employees of \$2,000.

8 (c) Using state funds received by the charter holder for
9 that purpose under Subsection (e), a charter holder that did not
10 participate in the program under Chapter 1579, Insurance Code, for
11 the 2004-2005 school year each school year shall provide classroom
12 teachers, full-time librarians, full-time counselors certified
13 under Subchapter B, Chapter 21, and full-time school nurses
14 appropriately licensed under Chapter 301, Occupations Code,
15 employed by the charter holder compensation in the form of annual
16 salaries, incentives, or other compensation determined appropriate
17 by the charter holder that results in an average compensation
18 increase for the employees of \$1,000.

19 (d) In addition to any amounts to which a charter holder is
20 entitled under this chapter, a charter holder that participated in
21 the program under Chapter 1579, Insurance Code, for the 2004-2005
22 school year is entitled to state aid in an amount, as determined by
23 the commissioner, equal to the product of \$2,000 multiplied by the
24 number of classroom teachers, full-time librarians, full-time
25 counselors certified under Subchapter B, Chapter 21, and full-time
26 school nurses appropriately licensed under Chapter 301,
27 Occupations Code, who are employed by the charter holder at an

1 open-enrollment charter school.

2 (e) In addition to any amounts to which a charter holder is
 3 entitled under this chapter, a charter holder that did not
 4 participate in the program under Chapter 1579, Insurance Code, for
 5 the 2004-2005 school year is entitled to state aid in an amount, as
 6 determined by the commissioner, equal to the product of \$1,000
 7 multiplied by the number of classroom teachers, full-time
 8 librarians, full-time counselors certified under Subchapter B,
 9 Chapter 21, and full-time school nurses appropriately licensed
 10 under Chapter 301, Occupations Code, who are employed by the
 11 charter holder at an open-enrollment charter school.

12 (f) A payment under this section is in addition to wages the
 13 charter holder would otherwise pay the employee during the school
 14 year.

15 SECTION 4.04. Sections 12.152 and 12.156, Education Code,
 16 are amended to read as follows:

17 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this
 18 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of
 19 Education may grant a charter on the application of a public senior
 20 college or university for a public [~~an open-enrollment~~] charter
 21 district [~~school~~] to operate on the campus of the public senior
 22 college or university or in the same county in which the campus of
 23 the public senior college or university is located.

24 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)
 25 Except as otherwise provided by this subchapter, Chapter 11A
 26 [~~Subchapter D~~] applies to a college or university charter school as
 27 though the college or university charter school were granted a

1 charter under that chapter [~~subchapter~~].

2 (b) A charter granted under this subchapter is not
3 considered for purposes of the limit on the number of public
4 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section
5 11A.002 [~~12.101(b)~~].

6 (c) A college or university charter school is not subject to
7 a prohibition, restriction, or requirement relating to:

8 (1) open meetings and public information under Section
9 11A.053;

10 (2) maintenance of records under Section 11A.054;

11 (3) purchasing and contracting under Section 11A.055;

12 (4) conflict of interest under Section 11A.056;

13 (5) nepotism under Section 11A.057;

14 (6) composition of a governing body under Section
15 11A.152;

16 (7) restrictions on serving as a member of a governing
17 body or as an officer or employee under Section 11A.153;

18 (8) liability of members of a governing body under
19 Section 11A.154;

20 (9) training for members of a governing body under
21 Section 11A.155;

22 (10) bylaws and annual reports under Section 11A.156;

23 (11) quarterly financial reports under Section
24 11A.157; and

25 (12) depository bond and security requirements under
26 Section 11A.204.

27 (d) A college or university charter school and the governing

1 body of the school are subject to regulations and procedures that
2 govern a public senior college or university relating to open
3 meetings, records retention, purchasing, contracting, conflicts of
4 interest, and nepotism.

5 SECTION 4.05. Section 5.001, Education Code, is amended by
6 adding Subdivision (5-a) and amending Subdivision (6) to read as
7 follows:

8 (5-a) "Public charter campus" means a campus operated
9 by a public charter district.

10 (6) "Public charter district [~~Open-enrollment charter~~
11 ~~school]~~" means a public school authorized by [~~that has been~~
12 ~~granted]~~ a charter under Chapter 11A [~~Subchapter D, Chapter 12]~~.

13 SECTION 4.06. Section 7.003, Education Code, is amended to
14 read as follows:

15 Sec. 7.003. LIMITATION ON AUTHORITY. An educational
16 function not specifically delegated to the agency or the board
17 under this code is reserved to and shall be performed by school
18 districts or [~~open-enrollment~~] charter schools.

19 SECTION 4.065. Section 7.027(b), Education Code, as added
20 by Chapter 201, Acts of the 78th Legislature, Regular Session,
21 2003, is amended to read as follows:

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 4.07. Section 7.055(b)(17), Education Code, is

1 amended to read as follows:

2 (17) The commissioner shall distribute funds to public
3 charter districts [~~open-enrollment charter schools~~] as required
4 under Chapter 11A [~~Subchapter D, Chapter 12~~].

5 SECTION 4.08. Section 7.102(c)(9), Education Code, is
6 amended to read as follows:

7 (9) The board may grant a charter for a public charter
8 district [~~an open-enrollment charter or approve a charter revision~~]
9 as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

10 SECTION 4.09. Section 12.002, Education Code, is amended to
11 read as follows:

12 Sec. 12.002. CLASSES OF CHARTER. The classes of charter
13 under this chapter are:

14 (1) a home-rule school district charter as provided by
15 Subchapter B;

16 (2) a campus or campus program charter as provided by
17 Subchapter C; or

18 (3) a college or university [~~an open-enrollment~~]
19 charter as provided by Subchapter E [~~D~~].

20 SECTION 4.10. Effective August 1, 2006, Subchapter A,
21 Chapter 21, Education Code, is amended by adding Section 21.0032 to
22 read as follows:

23 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER
24 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or
25 serve as a teacher, teacher intern or teacher trainee, librarian,
26 educational aide, administrator, educational diagnostician, or
27 counselor for a public charter district unless the person has been

1 cleared by the agency following a national criminal history record
2 review and investigation under this section.

3 (b) Before or immediately after employing or securing the
4 services of a person described by Subsection (a), a public charter
5 district shall send to the agency the person's fingerprints and
6 social security number. The person may be employed or serve pending
7 action by the agency.

8 (c) The agency shall review and investigate the person's
9 national criminal history record information, educator
10 certification discipline history in any state, and other
11 information in the same manner as a review or investigation
12 conducted regarding an initial application for educator
13 certification. If the agency finds the person would not be eligible
14 for educator certification, the agency shall notify the public
15 charter district in writing that the person may not be employed or
16 serve in a capacity described by Subsection (a).

17 (d) On receipt of written notice under Subsection (c), a
18 public charter district may not employ or permit the person to serve
19 unless the person timely submits a written appeal under this
20 section. The agency shall conduct an appeal under this subsection
21 in the same manner as an appeal regarding the denial of an initial
22 application for educator certification.

23 SECTION 4.11. Sections 21.058(b) and (c), Education Code,
24 are amended to read as follows:

25 (b) Notwithstanding Section 21.041(b)(7), not later than
26 the fifth day after the date the board receives notice under Article
27 42.018, Code of Criminal Procedure, of the conviction of a person

1 described by Section 21.0032 or who holds a certificate under this
2 subchapter, the board shall:

3 (1) revoke the certificate or clearance held by the
4 person; and

5 (2) provide to the person and to any school district or
6 public charter district [~~open-enrollment charter school~~] employing
7 the person at the time of revocation written notice of:

8 (A) the revocation; and

9 (B) the basis for the revocation.

10 (c) A school district or public charter district
11 [~~open-enrollment charter school~~] that receives notice under
12 Subsection (b) of the revocation of a certificate issued under this
13 subchapter shall:

14 (1) immediately remove the person whose certificate
15 has been revoked from campus or from an administrative office, as
16 applicable, to prevent the person from having any contact with a
17 student; and

18 (2) as soon as practicable, terminate the employment
19 of the person in accordance with the person's contract and with this
20 subchapter.

21 SECTION 4.12. Sections 22.083(b) and (c), Education Code,
22 are amended to read as follows:

23 (b) A public charter district may [~~An open-enrollment~~
24 ~~charter school shall~~] obtain from the Department of Public Safety
25 [~~any law enforcement or criminal justice agency~~] all criminal
26 history record information that relates to:

27 (1) a person whom the district [~~school~~] intends to

1 employ in any capacity; or

2 (2) a person who has indicated, in writing, an
3 intention to serve as a volunteer with the district [~~school~~].

4 (c) A school district, public charter district
5 [~~open-enrollment charter school~~], private school, regional
6 education service center, or shared services arrangement may obtain
7 from a federal or state [~~any~~] law enforcement or criminal justice
8 agency all criminal history record information that relates to:

9 (1) a volunteer or employee of the district, school,
10 service center, or shared services arrangement; or

11 (2) an employee of or applicant for employment by a
12 person that contracts with the district, school, service center, or
13 shared services arrangement to provide services, if:

14 (A) the employee or applicant has or will have
15 continuing duties related to the contracted services; and

16 (B) the duties are or will be performed on school
17 property or at another location where students are regularly
18 present.

19 SECTION 4.13. Effective August 1, 2006, Section 22.084,
20 Education Code, is amended to read as follows:

21 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL
22 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided
23 by Subsections (c) and (d), a school district, public charter
24 district [~~open-enrollment charter school~~], private school,
25 regional education service center, or shared services arrangement
26 that contracts with a person for transportation services shall
27 obtain from the Department of Public Safety [~~any law enforcement or~~

1 ~~criminal justice agency~~] all criminal history record information
2 that relates to:

3 (1) a person employed by the person as a bus driver; or

4 (2) a person the person intends to employ as a bus
5 driver.

6 (b) Except as provided by Subsections (c) and (d), a person
7 that contracts with a school district, public charter district
8 [~~open-enrollment charter school~~], private school, regional
9 education service center, or shared services arrangement to provide
10 transportation services shall submit to the district, school,
11 service center, or shared services arrangement the name and other
12 identification data required to obtain criminal history record
13 information of each person described by Subsection (a). If the
14 district, school, service center, or shared services arrangement
15 obtains information that a person described by Subsection (a) has
16 been convicted of a felony or a misdemeanor involving moral
17 turpitude, the district, school, service center, or shared services
18 arrangement shall inform the chief personnel officer of the person
19 with whom the district, school, service center, or shared services
20 arrangement has contracted, and the person may not employ that
21 person to drive a bus on which students are transported without the
22 permission of the board of trustees of the district or service
23 center, the governing body of the public charter district
24 [~~open-enrollment charter school~~], or the chief executive officer of
25 the private school or shared services arrangement.

26 (c) A commercial transportation company that contracts with
27 a school district, public charter district [~~open-enrollment~~

1 ~~charter school~~], private school, regional education service
2 center, or shared services arrangement to provide transportation
3 services may obtain from a federal or state ~~[any]~~ law enforcement or
4 criminal justice agency all criminal history record information
5 that relates to:

6 (1) a person employed by the commercial transportation
7 company as a bus driver, bus monitor, or bus aide; or

8 (2) a person the commercial transportation company
9 intends to employ as a bus driver, bus monitor, or bus aide.

10 (d) If the commercial transportation company obtains
11 information that a person employed or to be employed by the company
12 has been convicted of a felony or a misdemeanor involving moral
13 turpitude, the company may not employ that person to drive or to
14 serve as a bus monitor or bus aide on a bus on which students are
15 transported without the permission of the board of trustees of the
16 district or service center, the governing body of the public
17 charter district ~~[open-enrollment charter school]~~, or the chief
18 executive officer of the private school or shared services
19 arrangement. Subsections (a) and (b) do not apply if information is
20 obtained as provided by Subsection (c).

21 SECTION 4.14. Section 25.087, Education Code, is amended by
22 amending Subsection (b) and adding Subsection (c) to read as
23 follows:

24 (b) A school district shall excuse a student from attending
25 school for:

26 (1) the following purposes, including travel for those
27 purposes:

1 (A) ~~[purpose of]~~ observing religious holy days;

2 (B) appearing at a governmental office to
3 complete paperwork required in connection with the student's
4 application for United States citizenship or to take part in a
5 naturalization oath ceremony;

6 (C) attending an appointment with the student's
7 probation officer;

8 (D) attending an adoption proceeding involving
9 the student; or

10 (E) attending a required court appearance; or

11 (2) a ~~[, including traveling for that purpose. A~~
12 ~~school district shall excuse a student for]~~ temporary absence
13 resulting from health care professionals if that student commences
14 classes or returns to school on the same day of the appointment.

15 (c) A student whose absence is excused under Subsection (b)
16 ~~[this subsection]~~ may not be penalized for that absence and shall be
17 counted as if the student attended school for purposes of
18 calculating the average daily attendance of students in the school
19 district. A student whose absence is excused under Subsection (b)
20 ~~[this subsection]~~ shall be allowed a reasonable time to make up
21 school work missed on those days. If the student satisfactorily
22 completes the school work, the day of absence shall be counted as a
23 day of compulsory attendance.

24 SECTION 4.15. Section 25.088, Education Code, is amended to
25 read as follows:

26 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school
27 attendance officer may be selected by:

- 1 (1) the county school trustees of any county;
- 2 (2) the board of trustees of any school district or the
- 3 boards of trustees of two or more school districts jointly; or
- 4 (3) the governing body of a public charter district
- 5 [~~an open-enrollment charter school~~].

6 SECTION 4.16. Section 25.089(a), Education Code, is amended

7 to read as follows:

8 (a) An attendance officer may be compensated from the funds

9 of the county, independent school district, or public charter

10 district [~~open-enrollment charter school~~], as applicable.

11 SECTION 4.17. Section 25.090(b), Education Code, is amended

12 to read as follows:

13 (b) If the governing body of a public charter district [~~an~~

14 ~~open-enrollment charter school~~] has not selected an attendance

15 officer for a district campus, the duties of attendance officer

16 shall be performed by the peace officers of the county in which the

17 campus [~~school~~] is located.

18 SECTION 4.18. Sections 25.093(d) and (e), Education Code,

19 are amended to read as follows:

20 (d) A fine collected under this section shall be deposited

21 as follows:

22 (1) one-half shall be deposited to the credit of the

23 operating fund of, as applicable:

24 (A) the school district in which the child

25 attends school;

26 (B) the public charter district [~~open-enrollment~~

27 ~~charter school~~] the child attends; or

1 (C) the juvenile justice alternative education
2 program that the child has been ordered to attend; and

3 (2) one-half shall be deposited to the credit of:

4 (A) the general fund of the county, if the
5 complaint is filed in the justice court or the constitutional
6 county court; or

7 (B) the general fund of the municipality, if the
8 complaint is filed in municipal court.

9 (e) At the trial of any person charged with violating this
10 section, the attendance records of the child may be presented in
11 court by any authorized employee of the school district or public
12 charter district [~~open-enrollment charter school~~], as applicable.

13 SECTION 4.19. Sections 25.095(a) and (b), Education Code,
14 are amended to read as follows:

15 (a) A school district or public charter district
16 [~~open-enrollment charter school~~] shall notify a student's parent in
17 writing at the beginning of the school year that if the student is
18 absent from school on 10 or more days or parts of days within a
19 six-month period in the same school year or on three or more days or
20 parts of days within a four-week period:

21 (1) the student's parent is subject to prosecution
22 under Section 25.093; and

23 (2) the student is subject to prosecution under
24 Section 25.094 or to referral to a juvenile court in a county with a
25 population of less than 100,000 for conduct that violates that
26 section.

27 (b) A school district or public charter district shall

1 notify a student's parent if the student has been absent from
2 school, without excuse under Section 25.087, on three days or parts
3 of days within a four-week period. The notice must:

4 (1) inform the parent that:

5 (A) it is the parent's duty to monitor the
6 student's school attendance and require the student to attend
7 school; and

8 (B) the parent is subject to prosecution under
9 Section 25.093; and

10 (2) request a conference between school officials and
11 the parent to discuss the absences.

12 SECTION 4.20. Section 25.0951(a), Education Code, as
13 amended by H.B. No. 1575, Acts of the 79th Legislature, Regular
14 Session, 2005, is amended to read as follows:

15 (a) If a student fails to attend school without excuse on 10
16 or more days or parts of days within a six-month period in the same
17 school year, a school district or public charter district shall
18 within seven school days of the student's last absence:

19 (1) file a complaint against the student or the
20 student's parent or both in a county, justice, or municipal court
21 for an offense under Section 25.093 or 25.094, as appropriate, or
22 refer the student to a juvenile court in a county with a population
23 of less than 100,000 for conduct that violates Section 25.094; or

24 (2) refer the student to a juvenile court for conduct
25 indicating a need for supervision under Section 51.03(b)(2), Family
26 Code.

27 SECTION 4.21. Section 25.0951(b), Education Code, is

1 amended to read as follows:

2 (b) If a student fails to attend school without excuse on
3 three or more days or parts of days within a four-week period but
4 does not fail to attend school for the time described by Subsection
5 (a), the school district or public charter district may:

6 (1) file a complaint against the student or the
7 student's parent or both in a county, justice, or municipal court
8 for an offense under Section 25.093 or 25.094, as appropriate, or
9 refer the student to a juvenile court in a county with a population
10 of less than 100,000 for conduct that violates Section 25.094; or

11 (2) refer the student to a juvenile court for conduct
12 indicating a need for supervision under Section 51.03(b)(2), Family
13 Code.

14 SECTION 4.22. Sections 26.0085(a), (c), (d), and (e),
15 Education Code, are amended to read as follows:

16 (a) A school district or public charter district
17 [~~open-enrollment charter school~~] that seeks to withhold
18 information from a parent who has requested public information
19 relating to the parent's child under Chapter 552, Government Code,
20 and that files suit as described by Section 552.324, Government
21 Code, to challenge a decision by the attorney general issued under
22 Subchapter G, Chapter 552, Government Code, must bring the suit not
23 later than the 30th calendar day after the date the school district
24 or public charter district [~~open-enrollment charter school~~]
25 receives the decision of the attorney general being challenged.

26 (c) Notwithstanding any other law, a school district or
27 public charter district [~~open-enrollment charter school~~] may not

1 appeal the decision of a court in a suit filed under Subsection (a).
2 This subsection does not affect the right of a parent to appeal the
3 decision.

4 (d) If the school district or public charter district
5 [~~open-enrollment charter school~~] does not bring suit within the
6 period established by Subsection (a), the school district or public
7 charter district [~~open-enrollment charter school~~] shall comply
8 with the decision of the attorney general.

9 (e) A school district or public charter district
10 [~~open-enrollment charter school~~] that receives a request from a
11 parent for public information relating to the parent's child shall
12 comply with Chapter 552, Government Code. If an earlier deadline
13 for bringing suit is established under Chapter 552, Government
14 Code, Subsection (a) does not apply. This section does not affect
15 the earlier deadline for purposes of Section 552.353(b)(3),
16 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer
17 for public information.

18 SECTION 4.23. Section 28.0211(j), Education Code, is
19 amended to read as follows:

20 (j) A school district [~~or open-enrollment charter school~~]
21 shall provide students required to attend accelerated programs
22 under this section with transportation to those programs if the
23 programs occur outside of regular school hours.

24 SECTION 4.24. Section 29.010(f), Education Code, is amended
25 to read as follows:

26 (f) This section does not create an obligation for or impose
27 a requirement on a school district [~~or open-enrollment charter~~

1 ~~school~~] that is not also created or imposed under another state law
2 or a federal law.

3 SECTION 4.25. Sections 29.012(a) and (c), Education Code,
4 are amended to read as follows:

5 (a) Except as provided by Subsection (b)(2), not later than
6 the third day after the date a person 22 years of age or younger is
7 placed in a residential facility, the residential facility shall:

8 (1) if the person is three years of age or older,
9 notify the school district in which the facility is located, unless
10 the facility is a public charter district [~~an open-enrollment~~
11 ~~charter school~~]; or

12 (2) if the person is younger than three years of age,
13 notify a local early intervention program in the area in which the
14 facility is located.

15 (c) For purposes of enrollment in a school, a person who
16 resides in a residential facility is considered a resident of the
17 school district or geographical area served by the public charter
18 district campus [~~open-enrollment charter school~~] in which the
19 facility is located.

20 SECTION 4.26. Sections 29.062(c)-(e), Education Code, are
21 amended to read as follows:

22 (c) Not later than the 30th day after the date of an on-site
23 monitoring inspection, the agency shall report its findings to the
24 school district [~~or open-enrollment charter school~~] and to the
25 division of accreditation.

26 (d) The agency shall notify a school district [~~or~~
27 ~~open-enrollment charter school~~] found in noncompliance in writing,

1 not later than the 30th day after the date of the on-site
2 monitoring. The district [~~or open-enrollment charter school~~] shall
3 take immediate corrective action.

4 (e) If a school district [~~or open-enrollment charter~~
5 ~~school~~] fails to satisfy appropriate standards adopted by the
6 commissioner for purposes of Subsection (a), the agency shall apply
7 sanctions, which may include the removal of accreditation, loss of
8 foundation school funds, or both.

9 SECTION 4.27. Sections 29.087(a)-(c), (e), (k), and (l),
10 Education Code, are amended to read as follows:

11 (a) The agency shall develop a process by which a school
12 district or public charter district [~~open-enrollment charter~~
13 ~~school~~] may apply to the commissioner for authority to operate a
14 program to prepare eligible students to take a high school
15 equivalency examination.

16 (b) Any school district or public charter district
17 [~~open-enrollment charter school~~] may apply for authorization to
18 operate a program under this section. As part of the application
19 process, the commissioner shall require a school district or public
20 charter district [~~or school~~] to provide information regarding the
21 operation of any similar program during the preceding five years.

22 (b-1) A school district or public charter district
23 [~~open-enrollment charter school~~] authorized by the commissioner on
24 or before August 31, 2003, to operate a program under this section
25 may continue to operate that program in accordance with this
26 section.

27 (c) A school district or public charter district

1 ~~[open-enrollment charter school]~~ may not increase enrollment of
2 students in a program authorized by this section by more than five
3 percent of the number of students enrolled in the similar program
4 operated by the school district or public charter district ~~[or~~
5 ~~school]~~ during the 2000-2001 school year.

6 (e) A school district or public charter district
7 ~~[open-enrollment charter school]~~ shall inform each student who has
8 completed a program authorized by this section of the time and place
9 at which the student may take the high school equivalency
10 examination. Notwithstanding any provision of this section, a
11 student may not take the high school equivalency examination except
12 as authorized by Section 7.111.

13 (k) The board of trustees of a school district or the
14 governing body ~~[board]~~ of a public charter district ~~[an~~
15 ~~open-enrollment charter school]~~ shall:

16 (1) hold a public hearing concerning the proposed
17 application of the school district or public charter district ~~[or~~
18 ~~school]~~ before applying to operate a program authorized by this
19 section; and

20 (2) subsequently hold a public hearing annually to
21 review the performance of the program.

22 (l) The commissioner may revoke a school district's or
23 public charter district's ~~[open-enrollment charter school's]~~
24 authorization under this section after consideration of relevant
25 factors, including performance of students participating in the
26 school district's or public charter district's ~~[or school's]~~
27 program on assessment instruments required under Chapter 39, the

1 percentage of students participating in the school district's or
2 public charter district's [~~or school's~~] program who complete the
3 program and perform successfully on the high school equivalency
4 examination, and other criteria adopted by the commissioner. A
5 decision by the commissioner under this subsection is final and may
6 not be appealed.

7 SECTION 4.28. Sections 29.155(a)-(d), (i), and (j),
8 Education Code, are amended to read as follows:

9 (a) From amounts appropriated for the purposes of this
10 section, the commissioner may make grants to school districts and
11 public charter districts [~~open-enrollment charter schools~~] to
12 implement or expand kindergarten and prekindergarten programs by:

13 (1) operating an existing half-day kindergarten or
14 prekindergarten program on a full-day basis; or

15 (2) implementing a prekindergarten program at a campus
16 that does not have a prekindergarten program.

17 (b) A school district or public charter district
18 [~~open-enrollment charter school~~] may use funds received under this
19 section to employ teachers and other personnel for a kindergarten
20 or prekindergarten program and acquire curriculum materials or
21 equipment, including computers, for use in kindergarten and
22 prekindergarten programs.

23 (c) To be eligible for a grant under this section, a school
24 district or public charter district [~~open-enrollment charter~~
25 ~~school~~] must apply to the commissioner in the manner and within the
26 time prescribed by the commissioner.

27 (d) In awarding grants under this section, the commissioner

1 shall give priority to districts and public charter districts
2 [~~open-enrollment charter schools~~] in which the level of performance
3 of students on the assessment instruments administered under
4 Section 39.023 to students in grade three is substantially below
5 the average level of performance on those assessment instruments
6 for all school districts in the state.

7 (i) In carrying out the purposes of Subsection (g), a school
8 district or public charter district [~~open-enrollment charter~~
9 ~~school~~] may use funds granted to the school district or public
10 charter district [~~or school~~] under this section [~~subsection~~] in
11 contracting with another entity, including a private entity.

12 (j) If a school district or public charter district
13 [~~open-enrollment charter school~~] returns to the commissioner funds
14 granted under this section, the commissioner may grant those funds
15 to another entity, including a private entity, for the purposes of
16 Subsection (g).

17 SECTION 4.29. Section 29.905(b), Education Code, is amended
18 to read as follows:

19 (b) The agency shall make the program available to a school
20 on the request of the board of trustees of [~~or~~] the school district
21 of which the school is a part, or if the school is a public charter
22 district [~~an open-enrollment charter school~~], on the request of the
23 governing body of the public charter district [~~school~~].

24 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is
25 amended by adding Section 32.1011 to read as follows:

26 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.
27 This subchapter applies to a public charter district as if the

1 public charter district were a school district.

2 SECTION 4.31. Section 32.102, Education Code, is amended to
3 read as follows:

4 Sec. 32.102. AUTHORITY. (a) As provided by this
5 subchapter, a school district [~~or open-enrollment charter school~~]
6 may transfer to a student enrolled in the district [~~or school~~]:

7 (1) any data processing equipment donated to the
8 district [~~or school~~], including equipment donated by:

9 (A) a private donor; or

10 (B) a state eleemosynary institution or a state
11 agency under Section 2175.128, Government Code;

12 (2) any equipment purchased by the district [~~or~~
13 ~~school~~], to the extent consistent with Section 32.105; and

14 (3) any surplus or salvage equipment owned by the
15 district [~~or school~~].

16 (b) A school district [~~or open-enrollment charter school~~]
17 may accept:

18 (1) donations of data processing equipment for
19 transfer under this subchapter; and

20 (2) any gifts, grants, or donations of money or
21 services to purchase, refurbish, or repair data processing
22 equipment under this subchapter.

23 SECTION 4.32. Section 32.103, Education Code, is amended to
24 read as follows:

25 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is
26 eligible to receive data processing equipment under this subchapter
27 only if the student does not otherwise have home access to data

1 processing equipment, as determined by the student's school
2 district [~~or open-enrollment charter school~~].

3 (b) In transferring data processing equipment to students,
4 a school district [~~or open-enrollment charter school~~] shall give
5 preference to educationally disadvantaged students.

6 SECTION 4.33. Section 32.104, Education Code, is amended to
7 read as follows:

8 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before
9 transferring data processing equipment to a student, a school
10 district [~~or open-enrollment charter school~~] must:

11 (1) adopt rules governing transfers under this
12 subchapter, including provisions for technical assistance to the
13 student by the district [~~or school~~];

14 (2) determine that the transfer serves a public
15 purpose and benefits the district [~~or school~~]; and

16 (3) remove from the equipment any offensive,
17 confidential, or proprietary information, as determined by the
18 district [~~or school~~].

19 SECTION 4.34. Section 32.105, Education Code, is amended to
20 read as follows:

21 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school
22 district [~~or open-enrollment charter school~~] may spend public funds
23 to:

24 (1) purchase, refurbish, or repair any data processing
25 equipment transferred to a student under this subchapter; and

26 (2) store, transport, or transfer data processing
27 equipment under this subchapter.

1 SECTION 4.35. Section 32.106, Education Code, is amended to
2 read as follows:

3 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided
4 by Subsection (b), a student who receives data processing equipment
5 from a school district [~~or open-enrollment charter school~~] under
6 this subchapter shall return the equipment to the district [~~or~~
7 ~~school~~] not later than the earliest of:

8 (1) five years after the date the student receives the
9 equipment;

10 (2) the date the student graduates;

11 (3) the date the student transfers to another school
12 district [~~or open-enrollment charter school~~]; or

13 (4) the date the student withdraws from school.

14 (b) Subsection (a) does not apply if, at the time the
15 student is required to return the data processing equipment under
16 that subsection, the district [~~or school~~] determines that the
17 equipment has no marketable value.

18 SECTION 4.36. Section 33.007, Education Code, is amended to
19 read as follows:

20 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)
21 Each counselor at an elementary, middle, or junior high school,
22 including a public charter district [~~an open-enrollment charter~~
23 ~~school~~] offering those grades, shall advise students and their
24 parents or guardians regarding the importance of higher education,
25 coursework designed to prepare students for higher education, and
26 financial aid availability and requirements.

27 (b) During the first school year a student is enrolled in a

1 high school or at the high school level in a public charter district
2 [~~an open-enrollment charter school~~], and again during a student's
3 senior year, a counselor shall provide information about higher
4 education to the student and the student's parent or guardian. The
5 information must include information regarding:

6 (1) the importance of higher education;

7 (2) the advantages of completing the recommended or
8 advanced high school program adopted under Section 28.025(a);

9 (3) the disadvantages of taking courses to prepare for
10 a high school equivalency examination relative to the benefits of
11 taking courses leading to a high school diploma;

12 (4) financial aid eligibility;

13 (5) instruction on how to apply for federal financial
14 aid;

15 (6) the center for financial aid information
16 established under Section 61.0776;

17 (7) the automatic admission of certain students to
18 general academic teaching institutions as provided by Section
19 51.803; and

20 (8) the eligibility and academic performance
21 requirements for the TEXAS Grant as provided by Subchapter M,
22 Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature,~~
23 ~~Regular Session, 1999~~].

24 SECTION 4.37. Section 33.901, Education Code, is amended to
25 read as follows:

26 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of
27 the students enrolled in one or more schools in a school district or

1 enrolled in a public charter district campus [~~an open-enrollment~~
2 ~~charter school~~] are eligible for free or reduced-price breakfasts
3 under the national school breakfast program provided for by the
4 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing
5 body of the district or the public charter district
6 [~~open-enrollment charter school~~] shall participate in the program
7 and make the benefits of the program available to all eligible
8 students in the schools or campus [~~school~~].

9 SECTION 4.38. Section 37.007(e), Education Code, is amended
10 to read as follows:

11 (e) In accordance with 20 U.S.C. Section 7151, a local
12 educational agency, including a school district, home-rule school
13 district, or public charter district [~~open-enrollment charter~~
14 ~~school~~], shall expel a student who brings a firearm, as defined by
15 18 U.S.C. Section 921, to school. The student must be expelled from
16 the student's regular campus for a period of at least one year,
17 except that:

18 (1) the superintendent or other chief administrative
19 officer of the school district or of the other local educational
20 agency, as defined by 20 U.S.C. Section 7801, may modify the length
21 of the expulsion in the case of an individual student;

22 (2) the district or other local educational agency
23 shall provide educational services to an expelled student in a
24 disciplinary alternative education program as provided by Section
25 37.008 if the student is younger than 10 years of age on the date of
26 expulsion; and

27 (3) the district or other local educational agency may

1 provide educational services to an expelled student who is 10 years
2 of age or older in a disciplinary alternative education program as
3 provided in Section 37.008.

4 SECTION 4.39. Section 37.008(j), Education Code, as amended
5 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
6 2005, is amended to read as follows:

7 (j) If a student placed in a disciplinary alternative
8 education program enrolls in another school district before the
9 expiration of the period of placement, the board of trustees of the
10 district requiring the placement shall provide to the district in
11 which the student enrolls, at the same time other records of the
12 student are provided, a copy of the placement order. The district
13 in which the student enrolls shall inform each educator who will
14 have responsibility for, or will be under the direction and
15 supervision of an educator who will have responsibility for, the
16 instruction of the student of the contents of the placement order.
17 Each educator shall keep the information received under this
18 subsection confidential from any person not entitled to the
19 information under this subsection, except that the educator may
20 share the information with the student's parent or guardian as
21 provided for by state or federal law. The district in which the
22 student enrolls may continue the disciplinary alternative
23 education program placement under the terms of the order or may
24 allow the student to attend regular classes without completing the
25 period of placement. A school district may take any action
26 permitted by this subsection if:

27 (1) the student was placed in a disciplinary

1 alternative education program by a public charter district [~~an~~
2 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and
3 the public charter district [~~school~~] provides to the school
4 district a copy of the placement order; or

5 (2) the student was placed in a disciplinary
6 alternative education program by a school district in another state
7 and:

8 (A) the out-of-state district provides to the
9 school district a copy of the placement order; and

10 (B) the grounds for the placement by the
11 out-of-state district are grounds for placement in the school
12 district in which the student is enrolling.

13 SECTION 4.40. Section 37.022(a)(2), Education Code, as
14 renumbered by Section 23.001(16), H.B. No. 2018, Acts of the 79th
15 Legislature, Regular Session, 2005, is amended to read as follows:

16 (2) "District or school" includes an independent
17 school district, a home-rule school district, a campus or campus
18 program charter holder, or a public charter district [~~an~~
19 ~~open-enrollment charter school~~].

20 SECTION 4.41. Section 44.008(a), Education Code, is amended
21 to read as follows:

22 (a) The board of school trustees of each school district
23 shall have its school district fiscal accounts audited annually at
24 district expense by a certified or public accountant holding a
25 permit from the Texas State Board of Public Accountancy. Except as
26 determined impracticable by the commissioner, the accountant must
27 have completed at least one peer-reviewed audit of a school

1 district, governmental entity, quasi-governmental entity, or
2 nonprofit corporation and received an unqualified opinion from the
3 peer review. The audit must be completed following the close of
4 each fiscal year.

5 SECTION 4.42. Section 46.012, Education Code, is amended to
6 read as follows:

7 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
8 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
9 ~~open-enrollment charter school~~] is not entitled to an allotment
10 under this subchapter.

11 SECTION 4.43. Section 46.036, Education Code, is amended to
12 read as follows:

13 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
14 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
15 ~~open-enrollment charter school~~] is not entitled to an allotment
16 under this subchapter.

17 SECTION 4.44. Section 53.02(13), Education Code, is amended
18 to read as follows:

19 (13) "Authorized charter school" means a public
20 charter district [~~an open-enrollment charter school~~] that holds a
21 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

22 SECTION 4.45. The heading to Section 53.351, Education
23 Code, is amended to read as follows:

24 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN-ENROLLMENT~~]
25 CHARTER SCHOOL FACILITIES.

26 SECTION 4.46. Sections 53.351(a), (c), (d), (f), and (g),
27 Education Code, are amended to read as follows:

1 (a) The Texas Public Finance Authority shall establish a
2 nonprofit corporation to issue revenue bonds on behalf of
3 authorized [~~open-enrollment~~] charter schools for the acquisition,
4 construction, repair, or renovation of educational facilities of
5 those schools.

6 (c) The corporation has all powers granted under the Texas
7 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
8 Texas Civil Statutes) for the purpose of aiding authorized
9 [~~open-enrollment~~] charter schools in providing educational
10 facilities. The corporation may make expenditures from the fund
11 described by Subsection (e) and may solicit and accept grants for
12 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,
13 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and
14 govern the corporation and its procedures and bonds.

15 (d) The corporation shall adopt rules governing the
16 issuance of bonds on behalf of an authorized [~~open-enrollment~~]
17 charter school.

18 (f) A revenue bond issued under this section is not a debt of
19 the state or any state agency, political corporation, or political
20 subdivision of the state and is not a pledge of the faith and credit
21 of any of these entities. A revenue bond is payable solely from the
22 revenue of the authorized [~~open-enrollment~~] charter school on whose
23 behalf the bond is issued. A revenue bond issued under this section
24 must contain on its face a statement to the effect that:

25 (1) neither the state nor a state agency, political
26 corporation, or political subdivision of the state is obligated to
27 pay the principal of or interest on the bond; and

1 (2) neither the faith and credit nor the taxing power
2 of the state or any state agency, political corporation, or
3 political subdivision of the state is pledged to the payment of the
4 principal of or interest on the bond.

5 (g) An educational facility financed in whole or in part
6 under this section is exempt from taxation if the facility:

7 (1) is owned by an authorized [~~open-enrollment~~]
8 charter school;

9 (2) is held for the exclusive benefit of the school;
10 and

11 (3) is held for the exclusive use of the students,
12 faculty, and staff members of the school.

13 SECTION 4.47. Section 411.097(c), Government Code, is
14 amended to read as follows:

15 (c) A public charter district [~~An open-enrollment charter~~
16 ~~school~~] is entitled to obtain from the department criminal history
17 record information maintained by the department that relates to a
18 person who:

19 (1) is a member of the governing body of the public
20 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],
21 Education Code; or

22 (2) has agreed to serve as a member of the governing
23 body of the public charter district [~~school~~].

24 SECTION 4.48. Sections 2175.128(a) and (b), Government
25 Code, are amended to read as follows:

26 (a) If a disposition of a state agency's surplus or salvage
27 data processing equipment is not made under Section 2175.125 or

1 2175.184, the state agency shall transfer the equipment to:

2 (1) a school district or public charter district
3 [~~open-enrollment charter school~~] in this state under Subchapter C,
4 Chapter 32, Education Code;

5 (2) an assistance organization specified by the school
6 district or public charter district; or

7 (3) the Texas Department of Criminal Justice.

8 (b) If a disposition of the surplus or salvage data
9 processing equipment of a state eleemosynary institution or an
10 institution or agency of higher education is not made under other
11 law, the institution or agency shall transfer the equipment to:

12 (1) a school district or public charter district
13 [~~open-enrollment charter school~~] in this state under Subchapter C,
14 Chapter 32, Education Code;

15 (2) an assistance organization specified by the school
16 district or public charter district; or

17 (3) the Texas Department of Criminal Justice.

18 SECTION 4.49. Section 2306.630(a), Government Code, is
19 amended to read as follows:

20 (a) Subject to Subsection (b), the following entities may
21 apply to receive a grant for an eligible project under this
22 subchapter:

23 (1) a private, nonprofit, tax-exempt organization
24 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26
25 U.S.C. Section 501(c)(3));

26 (2) a public agency that operates a community-based
27 youth employment training program;

1 (3) a community housing development organization
2 certified by the state;

3 (4) an educational facility approved by the Texas
4 Youth Commission;

5 (5) a corps-based community service organization;

6 (6) a public charter district [~~an open-enrollment~~
7 ~~charter school~~] approved by the State Board of Education [~~Texas~~
8 ~~Education Agency~~]; or

9 (7) another entity authorized by board rule.

10 SECTION 4.50. Section 1575.002(6), Insurance Code, is
11 amended to read as follows:

12 (6) "Public school" means:

13 (A) a school district;

14 (B) another educational district whose employees
15 are members of the Teacher Retirement System of Texas;

16 (C) a regional education service center
17 established under Chapter 8, Education Code; or

18 (D) a public charter district [~~an~~
19 ~~open-enrollment charter school~~] established under Chapter 11A
20 [~~Subchapter D, Chapter 12~~], Education Code.

21 SECTION 4.51. Section 1579.002(3), Insurance Code, is
22 amended to read as follows:

23 (3) "Charter school" means a public charter district
24 [~~an open-enrollment charter school~~] established under Chapter 11A
25 [~~Subchapter D, Chapter 12~~], Education Code.

26 SECTION 4.52. Section 140.005, Local Government Code, is
27 amended to read as follows:

1 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,
2 OR OTHER DISTRICT. The governing body of a school district, public
3 charter district [~~open-enrollment charter school~~], junior college
4 district, or a district or authority organized under Article III,
5 Section 52, or Article XVI, Section 59, of the Texas Constitution,
6 shall prepare an annual financial statement showing for each fund
7 subject to the authority of the governing body during the fiscal
8 year:

9 (1) the total receipts of the fund, itemized by source
10 of revenue, including taxes, assessments, service charges, grants
11 of state money, gifts, or other general sources from which funds are
12 derived;

13 (2) the total disbursements of the fund, itemized by
14 the nature of the expenditure; and

15 (3) the balance in the fund at the close of the fiscal
16 year.

17 SECTION 4.53. Section 140.006(c), Local Government Code, is
18 amended to read as follows:

19 (c) The presiding officer of a school district shall submit
20 a financial statement prepared under Section 140.005 to a daily,
21 weekly, or biweekly newspaper published within the boundaries of
22 the district. If a daily, weekly, or biweekly newspaper is not
23 published within the boundaries of the school district, the
24 financial statement shall be published in the manner provided by
25 Subsections (a) and (b). The financial statement of a public
26 charter district [~~an open-enrollment charter school~~] shall be made
27 available in the manner provided by Chapter 552, Government Code.

1 SECTION 4.54. Section 375.303(2), Local Government Code, is
2 amended to read as follows:

3 (2) "Eligible project" means a program authorized by
4 Section 379A.051 and a project as defined by Sections 2(11) and
5 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,
6 Vernon's Texas Civil Statutes). Notwithstanding this definition,
7 seeking a charter for or operating a public charter district [~~an~~
8 ~~open-enrollment charter school~~] authorized by Chapter 11A
9 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an
10 eligible project.

11 SECTION 4.55. Sections 375.308(b) and (c), Local Government
12 Code, are amended to read as follows:

13 (b) An authority may not:

14 (1) issue bonds or notes without the prior approval of
15 the governing body of the municipality that created the authority;

16 (2) seek a charter for or operate, within the
17 boundaries of the authority, a public charter district [~~an~~
18 ~~open-enrollment charter school~~] authorized by Chapter 11A
19 [~~Subchapter D, Chapter 12~~], Education Code; or

20 (3) levy ad valorem property taxes.

21 (c) A municipality may not seek a charter for or operate a
22 public charter district [~~an open-enrollment charter school~~]
23 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education
24 Code, within the boundaries of the authority.

25 SECTION 4.56. Section 541.201(15), Transportation Code, is
26 amended to read as follows:

27 (15) "School activity bus" means a bus designed to

1 accommodate more than 15 passengers, including the operator, that
2 is owned, operated, rented, or leased by a school district, county
3 school, public charter district [~~open-enrollment charter school~~],
4 regional education service center, or shared services arrangement
5 and that is used to transport public school students on a
6 school-related activity trip, other than on routes to and from
7 school. The term does not include a chartered bus, a bus operated
8 by a mass transit authority, or a school bus.

9 SECTION 4.57. Section 57.042(9), Utilities Code, is amended
10 to read as follows:

11 (9) "Public school" means a public elementary or
12 secondary school, including a public charter district [~~an~~
13 ~~open-enrollment charter school~~], a home-rule school district
14 school, and a school with a campus or campus program charter.

15 SECTION 4.58. Section 4(2), Chapter 22, Acts of the 57th
16 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
17 Texas Civil Statutes), is amended to read as follows:

18 (2) "Educational institution" means a school district
19 or a public charter district [~~an open-enrollment charter school~~].

20 SECTION 4.59. The following laws are repealed:

21 (1) Section 12.106, Education Code; and

22 (2) Section 40, Chapter 1504, Acts of the 77th
23 Legislature, Regular Session, 2001.

24 SECTION 4.60. Notwithstanding the repeal of Sections 12.107
25 and 12.128, Education Code, by this Act, those sections continue to
26 apply to state funds and property received or purchased by an
27 open-enrollment charter school before August 1, 2006.

1 SECTION 4.61. The changes in law made by Sections 4.04-4.60
2 of this article apply beginning August 1, 2006, except that
3 Sections 4.10, 4.11, 4.41, and 4.59 apply beginning November 1,
4 2005.

5 SECTION 4.62. Except as otherwise provided by this article,
6 this article takes effect November 1, 2005.

7 [ARTICLES 5-6 RESERVED]

8 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;

9 TRANSFER OF POWERS AND DUTIES

10 SECTION 7.01. Section 21.0031(a), Education Code, is
11 amended to read as follows:

12 (a) An employee's probationary, continuing, or term
13 contract under this chapter is void if the employee:

14 (1) does not hold a certificate or permit issued under
15 Subchapter B [~~by the State Board for Educator Certification~~]; or

16 (2) fails to fulfill the requirements necessary to
17 extend the employee's temporary or emergency certificate or permit.

18 SECTION 7.02. Sections 21.004(a)-(e), Education Code, are
19 amended to read as follows:

20 (a) To the extent that funds are available, the agency [~~the~~
21 ~~State Board for Educator Certification~~] and the Texas Higher
22 Education Coordinating Board shall develop and implement programs
23 to identify talented students and recruit those students and
24 persons, including high school and undergraduate students,
25 mid-career and retired professionals, honorably discharged and
26 retired military personnel, and members of underrepresented gender
27 and ethnic groups, into the teaching profession.

1 (b) From available funds, the agency[, ~~the State Board for~~
2 ~~Educator Certification,~~] and the Texas Higher Education
3 Coordinating Board shall develop and distribute materials that
4 emphasize the importance of the teaching profession and inform
5 individuals about state-funded loan forgiveness and tuition
6 assistance programs.

7 (c) The commissioner, in cooperation with the commissioner
8 of higher education [~~and the executive director of the State Board~~
9 ~~for Educator Certification,~~] shall annually identify the need for
10 teachers in specific subject areas and geographic regions and among
11 underrepresented groups. The commissioner shall give priority to
12 developing and implementing recruitment programs to address those
13 needs from the agency's discretionary funds.

14 (d) The agency[, ~~the State Board for Educator~~
15 ~~Certification,~~] and the Texas Higher Education Coordinating Board
16 shall encourage the business community to cooperate with local
17 schools to develop recruiting programs designed to attract and
18 retain capable teachers, including programs to provide summer
19 employment opportunities for teachers.

20 (e) The agency[, ~~the State Board for Educator~~
21 ~~Certification,~~] and the Texas Higher Education Coordinating Board
22 shall encourage major education associations to cooperate in
23 developing a long-range program promoting teaching as a career and
24 to assist in identifying local activities and resources that may be
25 used to promote the teaching profession.

26 SECTION 7.03. Section 21.006, Education Code, is amended by
27 amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h)

1 to read as follows:

2 (a) In this section:

3 (1) "Abuse" [~~,"abuse"~~] has the meaning assigned by
4 Section 261.001, Family Code, and includes any sexual conduct
5 involving an educator and a student or minor.

6 (2) "Board" means the Educators' Professional
7 Practices Board.

8 (b) In addition to the reporting requirement under Section
9 261.101, Family Code, the superintendent or director of a school
10 district, regional education service center, or shared services
11 arrangement shall notify the commissioner [~~State Board for Educator~~
12 ~~Certification~~] if the superintendent or director has reasonable
13 cause to believe that:

14 (1) an educator employed by or seeking employment by
15 the district, service center, or shared services arrangement has a
16 criminal record;

17 (2) an educator's employment at the district, service
18 center, or shared services arrangement was terminated based on a
19 determination that the educator:

20 (A) abused or otherwise committed an unlawful act
21 with a student or minor;

22 (B) possessed, transferred, sold, or distributed
23 a controlled substance, as defined by Chapter 481, Health and
24 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~
25 ~~subsequent amendments~~];

26 (C) illegally transferred, appropriated, or
27 expended funds or other property of the district, service center,

1 or shared services arrangement;

2 (D) attempted by fraudulent or unauthorized
3 means to obtain or alter a professional certificate or license for
4 the purpose of promotion or additional compensation; or

5 (E) committed a criminal offense or any part of a
6 criminal offense on school property or at a school-sponsored event;
7 or

8 (3) the educator resigned and reasonable evidence
9 supports a recommendation by the superintendent or director to
10 terminate the educator based on a determination that the educator
11 engaged in misconduct described by Subdivision (2).

12 (c) The superintendent or director must notify the
13 commissioner [~~State Board for Educator Certification~~] by filing a
14 report with the commissioner [~~board~~] not later than the seventh day
15 after the date the superintendent or director first learns about an
16 alleged incident of misconduct described by Subsection (b). The
17 report must be:

18 (1) in writing; and

19 (2) in a form prescribed by the board.

20 (e) A superintendent or director who in good faith and while
21 acting in an official capacity files a report with the commissioner
22 [~~State Board for Educator Certification~~] under this section is
23 immune from civil or criminal liability that might otherwise be
24 incurred or imposed.

25 (f) The board, acting on a recommendation of the
26 commissioner, [~~State Board for Educator Certification~~] shall
27 determine whether to impose sanctions against a superintendent or

1 director who fails to file a report in violation of Subsection (c).

2 (g) The commissioner [~~State Board for Educator~~
3 ~~Certification~~] shall adopt [~~propose~~] rules as necessary to
4 implement this section.

5 (h) The commissioner shall forward a report received under
6 this section to the board for use as the commissioner determines
7 appropriate in the execution of the board's duties.

8 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is
9 amended by adding Section 21.007 to read as follows:

10 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner
11 shall determine whether to recommend a sanction against an educator
12 to the Educators' Professional Practices Board under this chapter.
13 The board shall make a final determination regarding the imposition
14 of a sanction under this chapter, except that the commissioner may
15 impose any sanction through informal disposition by stipulation,
16 agreed settlement, consent order, or default.

17 SECTION 7.04. Sections 21.031 and 21.032, Education Code,
18 are amended to read as follows:

19 Sec. 21.031. PURPOSE. (a) The Educators' Professional
20 Practices [~~State~~] Board [~~for Educator Certification~~] is
21 established in the agency to [~~recognize public school educators as~~
22 ~~professionals and to grant educators the authority to govern the~~
23 ~~standards of their profession. The board shall~~] regulate and
24 oversee [~~all aspects of~~] the [~~certification, continuing education,~~
25 ~~and~~] standards of conduct of public school educators.

26 (b) The commissioner shall adopt rules governing the
27 certification of educators and continuing education for educators.

1 In adopting [~~In proposing~~] rules under this subchapter, the
2 commissioner [~~board~~] shall ensure that all candidates for
3 certification or renewal of certification demonstrate the
4 knowledge and skills necessary to improve the performance of the
5 diverse student population of this state.

6 Sec. 21.032. DEFINITION. In this subchapter, "board" means
7 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
8 ~~Certification~~].

9 SECTION 7.05. The heading to Section 21.033, Education
10 Code, is amended to read as follows:

11 Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [~~STATE~~]
12 BOARD [~~FOR EDUCATOR CERTIFICATION~~].

13 SECTION 7.06. Section 21.033, Education Code, is amended by
14 amending Subsection (a) and adding Subsections (a-1), (d), (e), and
15 (f) to read as follows:

16 (a) The board [~~State Board for Educator Certification~~] is
17 composed of 11 [~~14~~] members [~~. The commissioner of education shall~~
18 ~~appoint an employee of the agency to represent the commissioner as a~~
19 ~~nonvoting member. The commissioner of higher education shall~~
20 ~~appoint an employee of the Texas Higher Education Coordinating~~
21 ~~Board to represent the commissioner as a nonvoting member. The~~
22 ~~governor shall appoint a dean of a college of education in this~~
23 ~~state as a nonvoting member. The remaining 11 members are]~~
24 appointed by the commissioner [~~governor with the advice and consent~~
25 ~~of the senate,~~] as follows:

26 (1) six [~~four~~] members must be classroom teachers,
27 appointed as provided by Subsection (a-1) [~~employed in public~~

1 schools];

2 (2) not more than two members of the board may ~~[must]~~
3 be ~~[public]~~ school administrators; and

4 (3) a number of other members consistent with this
5 subsection who the commissioner determines are qualified ~~[one~~
6 ~~member must be a public school counselor; and~~

7 ~~[(4) four members must be citizens, three of whom are~~
8 ~~not and have not, in the five years preceding appointment, been~~
9 ~~employed by a public school district or by an educator preparation~~
10 ~~program in an institution of higher education and one of whom is not~~
11 ~~and has not been employed by a public school district or by an~~
12 ~~educator preparation program in an institution of higher~~
13 ~~education].~~

14 (a-1) In appointing a board member under Subsection (a)(1),
15 the commissioner shall:

16 (1) appoint teachers with at least five years'
17 experience as public school classroom teachers;

18 (2) give preference to teachers who have received
19 state or national awards for teaching excellence; and

20 (3) provide an opportunity for professional educator
21 associations to submit nominations for the appointment.

22 (d) The commissioner shall designate a member of the board
23 as the presiding officer of the board to serve in that capacity at
24 the pleasure of the commissioner.

25 (e) The agency shall provide administrative services for
26 the board as necessary.

27 (f) A reference in law to the State Board for Educator

1 Certification means the Educators' Professional Practices Board.

2 SECTION 7.07. Section 21.034, Education Code, is amended to
3 read as follows:

4 Sec. 21.034. TERMS; VACANCY. (a) The board members
5 ~~[appointed by the governor]~~ hold office for staggered terms of six
6 years with the terms of one-third, or as near to one-third as
7 possible, of the members expiring on February 1 of each
8 odd-numbered year. ~~[A member appointed by the commissioner of~~
9 ~~education or the commissioner of higher education serves at the~~
10 ~~will of the appointing commissioner.]~~

11 (b) In the event of a vacancy during a term of a member
12 ~~[appointed by the governor],~~ the commissioner ~~[governor]~~ shall
13 appoint a replacement who meets the qualifications of the vacated
14 office to fill the unexpired portion of the term.

15 (c) A vacancy arises if a member ~~[appointed by the governor]~~
16 no longer qualifies for the office to which the member was
17 appointed, as determined by the commissioner.

18 SECTION 7.075. Section 21.035, Education Code, as amended
19 by H.B. No. 1116, Acts of the 79th Legislature, Regular Session,
20 2005, is amended to read as follows:

21 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is
22 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
23 continued in existence as provided by that chapter, the board is
24 abolished and this subchapter expires on the date prescribed by
25 Section 7.004 for abolishment of the agency. ~~[The Texas Education~~
26 ~~Agency shall provide the board's administrative functions and~~
27 ~~services.]~~

1 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is
2 amended by adding Section 21.0391 to read as follows:

3 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner
4 shall appoint an advisory committee composed of holders of each
5 class of educator certificate and stakeholders as required under
6 Chapter 2008, Government Code.

7 (b) The advisory committee shall recommend educator
8 certification standards under Section 21.041(b)(4) and educator
9 preparation program standards under Section 21.044 and propose
10 rules under those sections to the commissioner through negotiated
11 rulemaking under Chapter 2008, Government Code. For purposes of
12 that chapter, the advisory committee is considered to be the
13 negotiated rulemaking committee described by Section 2008.054,
14 Government Code. As provided by Section 2008.058, Government Code,
15 the commissioner may propose and adopt a rule that has not been
16 recommended or proposed by the advisory committee.

17 (c) The commissioner may not finally adopt or amend a rule
18 subject to this section unless the State Board of Education has
19 failed to reject the rule or amendment by an affirmative vote of
20 four-fifths of its members. A vote under this subsection may be
21 conducted by mail ballot, provided that the State Board of
22 Education has at least 30 days' written notice of the proposed final
23 rule adoption.

24 (d) Members of the advisory committee serve at the will of
25 the commissioner.

26 SECTION 7.09. Section 21.041, Education Code, is amended by
27 adding Subsection (a-1) and amending Subsection (b) to read as

1 follows:

2 (a-1) The board shall adopt rules that provide for the
3 adoption and amendment of an educator's code of ethics.

4 (b) The commissioner [~~board~~] shall adopt [~~propose~~] rules
5 that:

6 (1) provide for the issuance and renewal of educator
7 certificates [~~regulation of educators and the general~~
8 ~~administration of this subchapter~~] in a manner consistent with this
9 subchapter;

10 (2) specify the classes of educator certificates to be
11 issued, including emergency certificates;

12 (3) specify the period for which each class of
13 educator certificate is valid;

14 (4) specify the requirements for the issuance and
15 renewal of an educator certificate;

16 (5) provide for the issuance of an educator
17 certificate to a person who holds a similar certificate issued by
18 another state or foreign country, subject to Section 21.052;

19 (6) provide for special or restricted certification of
20 educators, including certification of instructors of American Sign
21 Language;

22 (7) provide for disciplinary proceedings, including:
23 (A) the suspension or revocation of an educator
24 certificate, as provided by Chapter 2001, Government Code; and
25 (B) enforcement of an educator's code of ethics
26 adopted by the board;

27 [~~provide for the adoption, amendment, and~~

1 ~~enforcement of an educator's code of ethics;~~
2 ~~[(9)]~~ provide for continuing education requirements;
3 ~~[and]~~
4 (9) ~~[(10)]~~ provide for certification of persons
5 performing appraisals under Subchapter H; and
6 (10) provide for the regulation of educators in a
7 manner consistent with this subchapter.

8 SECTION 7.10. Section 21.044, Education Code, is amended to
9 read as follows:

10 Sec. 21.044. EDUCATOR PREPARATION. The commissioner
11 ~~[board]~~ shall adopt ~~[propose]~~ rules establishing the training
12 requirements a person must accomplish to obtain a certificate,
13 enter an internship, or enter an induction-year program. The
14 commissioner ~~[board]~~ shall specify the minimum academic
15 qualifications required for a certificate.

16 SECTION 7.11. Sections 21.045(b)-(d), Education Code, are
17 amended to read as follows:

18 (b) Each educator preparation program shall submit data
19 elements as required by the commissioner ~~[board]~~ for an annual
20 performance report to ensure access and equity. At a minimum, the
21 annual report must contain the performance data from Subsection (a)
22 and the following information, disaggregated by sex and ethnicity:

- 23 (1) the number of candidates who apply;
- 24 (2) the number of candidates admitted;
- 25 (3) the number of candidates retained;
- 26 (4) the number of candidates completing the program;
- 27 (5) the number of candidates employed in the

1 profession after completing the program; and

2 (6) the number of candidates retained in the
3 profession.

4 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules
5 establishing performance standards for the Accountability System
6 for Educator Preparation for accrediting educator preparation
7 programs. At a minimum, performance standards must be based on
8 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]
9 rules for the sanction of educator preparation programs and shall
10 annually review the accreditation status of each educator
11 preparation program.

12 (d) The commissioner [~~executive director of the board~~]
13 shall appoint an oversight team of educators to make
14 recommendations and provide assistance to educator preparation
15 programs that do not meet accreditation standards. If, after one
16 year, an educator preparation program has not fulfilled the
17 recommendations of the oversight team, the commissioner [~~executive~~
18 ~~director~~] shall appoint a person to administer and manage the
19 operations of the program. If the program does not improve after
20 two years, the commissioner [~~board~~] shall revoke the approval of
21 the program to prepare educators for state certification.

22 SECTION 7.12. Sections 21.046(c) and (d), Education Code,
23 are amended to read as follows:

24 (c) Because an effective principal is essential to school
25 improvement, the commissioner [~~board~~] shall ensure that:

26 (1) each candidate for certification as a principal is
27 of the highest caliber; and

1 (2) multi-level screening processes, validated
2 comprehensive assessment programs, and flexible internships with
3 successful mentors exist to determine whether a candidate for
4 certification as a principal possesses the essential knowledge,
5 skills, and leadership capabilities necessary for success.

6 (d) In creating the qualifications for certification as a
7 principal, the commissioner [~~board~~] shall consider the knowledge,
8 skills, and proficiencies for principals as developed by relevant
9 national organizations and the State Board of Education.

10 SECTION 7.125. Subchapter B, Chapter 21, Education Code, is
11 amended by adding Section 21.0461 to read as follows:

12 Sec. 21.0461. TEMPORARY CERTIFICATE FOR SUPERINTENDENT OR
13 PRINCIPAL. (a) The commissioner may issue a temporary certificate
14 under this section for:

15 (1) assistant principal;

16 (2) principal; or

17 (3) superintendent.

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

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

21 (2) have significant management and leadership
22 experience, as determined by the board of trustees of the school
23 district that will employ the person under the temporary
24 certificate; and

25 (3) perform satisfactorily on the appropriate
26 examination prescribed under Section 21.048.

27 (c) A school district may require that a person who is

1 employed by the district and who holds a certificate issued under
2 this section complete a training program.

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

6 (e) A certificate issued under this section:

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

9 (2) is not renewable.

10 (f) The commissioner shall issue a standard certificate to a
11 person who holds a temporary certificate issued under this section
12 if the school district employing the person under the temporary
13 certificate:

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

16 (2) has recommended the person to the commissioner and
17 favorably reviewed, primarily using objective measures of student
18 performance and improvement in the district, the person's
19 performance.

20 (g) A school district employing a person who holds a
21 temporary certificate issued under this section must provide the
22 person with intensive support during the person's first year of
23 employment with the district, including:

24 (1) mentoring; and

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

26 SECTION 7.13. Section 21.048(a), Education Code, is amended
27 to read as follows:

1 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
2 prescribing comprehensive examinations for each class of
3 certificate issued by the board.

4 SECTION 7.14. Sections 21.0481, 21.0482, 21.0483, 21.0484,
5 and 21.049, Education Code, are amended to read as follows:

6 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a)
7 To ensure that there are teachers with special training to work with
8 other teachers and with students in order to improve student
9 reading performance, the commissioner [~~board~~] shall establish a
10 master reading teacher certificate.

11 (b) The board shall issue a master reading teacher
12 certificate to each eligible person.

13 (c) To be eligible for a master reading teacher certificate,
14 a person must:

15 (1) hold a reading specialist certificate issued under
16 this subchapter and satisfactorily complete a course of instruction
17 as prescribed under Subdivision (2)(B); or

18 (2) hold a teaching certificate issued under this
19 subchapter and:

20 (A) have at least three years of teaching
21 experience;

22 (B) satisfactorily complete a knowledge-based
23 and skills-based course of instruction on the science of teaching
24 children to read that includes training in:

25 (i) effective reading instruction
26 techniques, including effective techniques for students whose
27 primary language is a language other than English;

1 (ii) identification of dyslexia and related
2 reading disorders and effective reading instruction techniques for
3 students with those disorders; and

4 (iii) effective professional peer
5 mentoring techniques;

6 (C) perform satisfactorily on the master reading
7 teacher certification examination prescribed by the commissioner
8 [~~board~~]; and

9 (D) satisfy any other requirements prescribed by
10 the commissioner [~~board~~].

11 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

12 (a) To ensure that there are teachers with special training to work
13 with other teachers and with students in order to improve student
14 mathematics performance, the commissioner [~~board~~] shall establish:

15 (1) a master mathematics teacher certificate to teach
16 mathematics at elementary school grade levels;

17 (2) a master mathematics teacher certificate to teach
18 mathematics at middle school grade levels; and

19 (3) a master mathematics teacher certificate to teach
20 mathematics at high school grade levels.

21 (b) The board shall issue the appropriate master
22 mathematics teacher certificate to each eligible person.

23 (c) To be eligible for a master mathematics teacher
24 certificate, a person must:

25 (1) hold a teaching certificate issued under this
26 subchapter;

27 (2) have at least three years of teaching experience;

1 (3) satisfactorily complete a knowledge-based course
2 of instruction on the science of teaching children mathematics that
3 includes training in mathematics instruction and professional peer
4 mentoring techniques that, through scientific testing, have been
5 proven effective;

6 (4) perform satisfactorily on the appropriate master
7 mathematics teacher certification examination prescribed by the
8 commissioner [~~board~~]; and

9 (5) satisfy any other requirements prescribed by the
10 commissioner [~~board~~].

11 (d) The course of instruction prescribed under Subsection
12 (c)(3) shall be developed by the commissioner [~~board~~] in
13 consultation with mathematics and science faculty members at
14 institutions of higher education.

15 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a)
16 To ensure that there are teachers with special training to work with
17 other teachers and with students in order to increase the use of
18 technology in each classroom, the commissioner [~~board~~] shall
19 establish a master technology teacher certificate.

20 (b) The board shall issue a master technology teacher
21 certificate to each eligible person.

22 (c) To be eligible for a master technology teacher
23 certificate, a person must:

24 (1) hold a technology applications or Technology
25 Education certificate issued under this subchapter, satisfactorily
26 complete the course of instruction prescribed under Subdivision
27 (2)(B), and satisfactorily perform on the examination prescribed

1 under Subdivision (2)(C); or

2 (2) hold a teaching certificate issued under this
3 subchapter and:

4 (A) have at least three years of teaching
5 experience;

6 (B) satisfactorily complete a knowledge-based
7 and skills-based course of instruction on interdisciplinary
8 technology applications and the science of teaching technology that
9 includes training in:

10 (i) effective technology instruction
11 techniques, including applications designed to meet the
12 educational needs of students with disabilities;

13 (ii) classroom teaching methodology that
14 engages student learning through the integration of technology;

15 (iii) digital learning competencies,
16 including Internet research, graphics, animation, website
17 mastering, and video technologies;

18 (iv) curriculum models designed to prepare
19 teachers to facilitate an active student learning environment; and

20 (v) effective professional peer mentoring
21 techniques;

22 (C) satisfactorily perform on an examination
23 developed in cooperation with the Telecommunications
24 Infrastructure Fund Board and administered at the conclusion of the
25 course of instruction prescribed under Paragraph (B); and

26 (D) satisfy any other requirements prescribed by
27 the commissioner [~~board~~].

1 (d) The commissioner [~~board~~] may provide technology
2 applications training courses under Subsection (c)(2)(B) in
3 cooperation with:

4 (1) regional education service centers; and

5 (2) other public or private entities, including any
6 state council on technology.

7 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a)
8 To ensure that there are teachers with special training to work with
9 other teachers and with students in order to improve student
10 science performance, the commissioner [~~board~~] shall establish:

11 (1) a master science teacher certificate to teach
12 science at elementary school grade levels;

13 (2) a master science teacher certificate to teach
14 science at middle school grade levels; and

15 (3) a master science teacher certificate to teach
16 science at high school grade levels.

17 (b) The board shall issue the appropriate master science
18 teacher certificate to each eligible person.

19 (c) To be eligible for a master science teacher certificate,
20 a person must:

21 (1) hold a teaching certificate issued under this
22 subchapter;

23 (2) have at least three years of teaching experience;

24 (3) satisfactorily complete a knowledge-based course
25 of instruction on the science of teaching children science that
26 includes training in science instruction and professional peer
27 mentoring techniques that, through scientific testing, have been

1 proven effective;

2 (4) perform satisfactorily on the appropriate master
3 science teacher certification examination prescribed by the
4 commissioner [~~board~~]; and

5 (5) satisfy any other requirements prescribed by the
6 commissioner [~~board~~].

7 (d) The course of instruction prescribed under Subsection
8 (c)(3) shall be developed by the commissioner [~~board~~] in
9 consultation with science faculty members at institutions of higher
10 education.

11 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a
12 continuing additional source of qualified educators, the
13 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for
14 educator certification programs as an alternative to traditional
15 educator preparation programs. The rules may not provide that a
16 person may be certified under this section only if there is a
17 demonstrated shortage of educators in a school district or subject
18 area.

19 (b) The commissioner [~~board~~] may not require a person
20 employed as a teacher in a disciplinary [~~an~~] alternative education
21 program under Section 37.008 or a juvenile justice alternative
22 education program under Section 37.011 for at least three years to
23 complete an alternative educator certification program adopted
24 under this section before taking the appropriate certification
25 examination.

26 SECTION 7.15. Section 21.050(a), Education Code, is amended
27 to read as follows:

1 (a) A person who applies for a teaching certificate for
2 which commissioner [~~board~~] rules require a bachelor's degree must
3 possess a bachelor's degree received with an academic major or
4 interdisciplinary academic major, including reading, other than
5 education, that is related to the curriculum as prescribed under
6 Subchapter A, Chapter 28.

7 SECTION 7.16. Section 21.051, Education Code, is amended to
8 read as follows:

9 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.
10 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing
11 flexible options for persons for any field experience or internship
12 required for certification.

13 SECTION 7.17. Section 21.054(a), Education Code, is amended
14 to read as follows:

15 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
16 establishing a process for identifying continuing education
17 courses and programs that fulfill educators' continuing education
18 requirements.

19 SECTION 7.18. Section 21.056, Education Code, is amended to
20 read as follows:

21 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner
22 [~~board~~] by rule shall provide for a certified educator to qualify
23 for additional certification to teach at a grade level or in a
24 subject area not covered by the educator's certificate upon
25 satisfactory completion of an examination or other assessment of
26 the educator's qualification.

27 SECTION 7.19. Section 21.057(d), Education Code, is amended

1 to read as follows:

2 (d) For purposes of this section, "inappropriately
3 certified or uncertified teacher":

4 (1) includes:

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

7 (B) an individual who does not hold any
8 certificate or permit issued under this chapter and is not employed
9 as specified by Subdivision (2)(E); and

10 (2) does not include an individual:

11 (A) who is a certified teacher assigned to teach
12 a class or classes outside his or her area of certification, as
13 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]
14 in specifying the certificate required for each assignment;

15 (B) serving on a certificate issued due to a
16 hearing impairment under Section 21.048;

17 (C) serving on a certificate issued pursuant to
18 enrollment in an approved alternative certification program under
19 Section 21.049;

20 (D) certified by another state or country and
21 serving on a certificate issued under Section 21.052;

22 (E) serving on a school district teaching permit
23 issued under Section 21.055; or

24 (F) employed under a waiver granted by the
25 commissioner pursuant to Section 7.056.

26 SECTION 7.20. Section 21.058(d), Education Code, is amended
27 to read as follows:

1 (d) A person whose certificate is revoked under Subsection
2 (b) may reapply for a certificate in accordance with commissioner
3 ~~[board]~~ rules.

4 SECTION 7.21. Section 21.105(c), Education Code, is amended
5 to read as follows:

6 (c) On written complaint by the employing district and
7 recommendation by the commissioner, the Educators' Professional
8 Practices [State] Board [~~for Educator Certification~~] may impose
9 sanctions against a teacher employed under a probationary contract
10 who:

11 (1) resigns;

12 (2) fails without good cause to comply with Subsection
13 (a) or (b); and

14 (3) fails to perform the contract.

15 SECTION 7.22. Section 21.160(c), Education Code, is amended
16 to read as follows:

17 (c) On written complaint by the employing district and
18 recommendation by the commissioner, the Educators' Professional
19 Practices [State] Board [~~for Educator Certification~~] may impose
20 sanctions against a teacher who is employed under a continuing
21 contract that obligates the district to employ the person for the
22 following school year and who:

23 (1) resigns;

24 (2) fails without good cause to comply with Subsection
25 (a) or (b); and

26 (3) fails to perform the contract.

27 SECTION 7.23. Section 21.210(c), Education Code, is amended

1 to read as follows:

2 (c) On written complaint by the employing district and
3 recommendation by the commissioner, the Educators' Professional
4 Practices [~~State~~] Board [~~for Educator Certification~~] may impose
5 sanctions against a teacher who is employed under a term contract
6 that obligates the district to employ the person for the following
7 school year and who:

8 (1) resigns;

9 (2) fails without good cause to comply with Subsection
10 (a) or (b); and

11 (3) fails to perform the contract.

12 SECTION 7.24. Section 21.503, Education Code, is amended to
13 read as follows:

14 Sec. 21.503. ELIGIBILITY. A person is eligible for the
15 program if the person:

16 (1) has served in the armed forces of the United
17 States;

18 (2) is honorably discharged, retired, or released from
19 active duty on or after October 1, 1990, after at least six years of
20 continuous active duty service immediately before the discharge,
21 retirement, or release;

22 (3) has received a baccalaureate or advanced degree
23 from a public or private institution of higher education accredited
24 by a regional accrediting agency or group that is recognized by a
25 nationally recognized accreditation board; and

26 (4) satisfies any other criteria for selection
27 [~~jointly~~] prescribed by the agency [~~and the State Board for~~

1 ~~Educator Certification]~~.

2 SECTION 7.25. Section 21.504(b), Education Code, is amended
3 to read as follows:

4 (b) The agency [~~and the State Board for Educator~~
5 ~~Certification]~~ shall distribute the applications and information
6 regarding the program.

7 SECTION 7.26. Section 21.510(c), Education Code, is amended
8 to read as follows:

9 (c) For purposes of this section, a participant in the
10 program is not considered to be in violation of an agreement under
11 Section 21.508 during any period in which the participant:

12 (1) is pursuing a full-time course of study related to
13 the field of teaching at a public or private institution of higher
14 education approved by the agency [~~State Board for Educator~~
15 ~~Certification]~~;

16 (2) is serving on active duty as a member of the armed
17 forces of the United States;

18 (3) is temporarily totally disabled for a period not
19 to exceed three years as established by sworn affidavit of a
20 qualified physician;

21 (4) is unable to secure employment for a period not to
22 exceed one year because of care required by a disabled spouse;

23 (5) is seeking and unable to find full-time employment
24 as a teacher in a public elementary or secondary school for a single
25 period not to exceed 27 months; or

26 (6) satisfies the provisions of any additional
27 reimbursement exception adopted by the agency.

1 SECTION 7.27. Sections 21.551, 21.552, and 21.553,
2 Education Code, are amended to read as follows:

3 Sec. 21.551. PURPOSES. The purposes of the alternative
4 certification Teach for Texas Pilot Program are to:

5 (1) attract to the teaching profession persons who
6 have expressed interest in teaching and to support the
7 certification of those persons as teachers;

8 (2) recognize the importance of the certification
9 process governed by the commissioner [~~State Board for Educator
10 Certification~~] under Subchapter B, which requires verification of
11 competence in subject area and professional knowledge and skills;

12 (3) encourage the creation and expansion of educator
13 preparation programs that recognize the knowledge and skills gained
14 through previous educational and work-related experiences and that
15 are delivered in a manner that recognizes individual circumstances,
16 including the need to remain employed full-time while enrolled in
17 the Teach for Texas Pilot Program; and

18 (4) provide annual stipends to postbaccalaureate
19 teacher certification candidates.

20 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State
21 Board for Educator Certification~~] by rule shall establish the Teach
22 for Texas Pilot Program consistent with the purposes provided by
23 Section 21.551.

24 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program
25 must offer to participants financial incentives, including tuition
26 assistance and loan forgiveness. In offering a financial
27 incentive, the commissioner [~~State Board for Educator~~

1 ~~Certification~~] shall:

2 (1) require a contract between each participant who
3 accepts a financial incentive and the agency [~~State Board for~~
4 ~~Educator Certification~~] under which the participant is obligated to
5 teach in a public school in this state for a stated period after
6 certification;

7 (2) provide financial incentives in proportion to the
8 length of the period the participant is obligated by contract to
9 teach after certification; and

10 (3) give special financial incentives to a participant
11 who agrees in the contract to teach in an underserved area.

12 (b) Financial incentives may be paid only from funds
13 appropriated specifically for that purpose and from gifts, grants,
14 and donations solicited or accepted by the commissioner [~~State~~
15 ~~Board for Educator Certification~~] for that purpose.

16 (c) The commissioner [~~State Board for Educator~~
17 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria
18 for awarding financial incentives under this section, including
19 criteria for awarding financial incentives if there are more
20 participants than funds available to provide the financial
21 incentives.

22 SECTION 7.28. Section 21.604(b), Education Code, is amended
23 to read as follows:

24 (b) The agency [~~and the State Board for Educator~~
25 ~~Certification~~] shall distribute the applications and information
26 regarding the program.

27 SECTION 7.29. Section 21.609(c), Education Code, is amended

1 to read as follows:

2 (c) For purposes of this section, a participant in the
3 program is not considered to be in violation of an agreement under
4 Section 21.607 during any period in which the participant:

5 (1) is pursuing a full-time course of study related to
6 the field of teaching at an institution of higher education
7 approved by the agency [~~State Board for Educator Certification~~];

8 (2) is serving on active duty as a member of the armed
9 forces of the United States;

10 (3) is temporarily totally disabled for a period not
11 to exceed three years as established by affidavit of a qualified
12 physician;

13 (4) is unable to secure employment for a period not to
14 exceed one year because of care required by a disabled spouse;

15 (5) is seeking and unable to find full-time employment
16 as a teacher in a public elementary or secondary school for a single
17 period not to exceed 27 months; or

18 (6) satisfies the provisions of any additional
19 reimbursement exception adopted by the agency.

20 SECTION 7.30. Section 22.0512(b), Education Code, is
21 amended to read as follows:

22 (b) In this section, "disciplinary proceeding" means:

23 (1) an action brought by the school district employing
24 a professional employee of a school district to discharge or
25 suspend the employee or terminate or not renew the employee's term
26 contract; or

27 (2) an action brought by the Educators' Professional

1 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the
2 educator's code of ethics adopted under Section 21.041(a-1)
3 [~~21.041(b)(8)~~].

4 SECTION 7.31. Sections 29.061(a)-(c) and (e), Education
5 Code, are amended to read as follows:

6 (a) The commissioner [~~State Board for Educator~~
7 ~~Certification~~] shall provide for the issuance of teaching
8 certificates appropriate for bilingual education instruction to
9 teachers who possess a speaking, reading, and writing ability in a
10 language other than English in which bilingual education programs
11 are offered and who meet the general requirements of Chapter 21.
12 The commissioner [~~board~~] shall also provide for the issuance of
13 teaching certificates appropriate for teaching English as a second
14 language. The commissioner [~~board~~] may issue emergency
15 endorsements in bilingual education and in teaching English as a
16 second language.

17 (b) A teacher assigned to a bilingual education program must
18 be appropriately certified under Subchapter B, Chapter 21, for
19 bilingual education [~~by the board~~].

20 (c) A teacher assigned to an English as a second language or
21 other special language program must be appropriately certified
22 under Subchapter B, Chapter 21, for English as a second language [~~by~~
23 ~~the board~~].

24 (e) The agency [~~State Board for Educator Certification~~] and
25 the Texas Higher Education Coordinating Board shall develop a
26 comprehensive plan for meeting the teacher supply needs created by
27 the programs outlined in this subchapter.

1 SECTION 7.32. Sections 33.002(b) and (c), Education Code,
2 are amended to read as follows:

3 (b) A school district with 500 or more students enrolled in
4 elementary school grades shall employ a counselor certified under
5 the rules of the commissioner [~~State Board for Educator~~
6 ~~Certification~~] for each elementary school in the district. A
7 school district shall employ at least one counselor for every 500
8 elementary school students in the district.

9 (c) A school district with fewer than 500 students enrolled
10 in elementary school grades shall provide guidance and counseling
11 services to elementary school students by:

12 (1) employing a part-time counselor certified under
13 the rules of the commissioner [~~State Board for Educator~~
14 ~~Certification~~];

15 (2) employing a part-time teacher certified as a
16 counselor under the rules of the commissioner [~~State Board for~~
17 ~~Educator Certification~~]; or

18 (3) entering into a shared services arrangement
19 agreement with one or more school districts to share a counselor
20 certified under the rules of the commissioner [~~State Board for~~
21 ~~Educator Certification~~].

22 SECTION 7.33. Section 37.007(g), Education Code, as amended
23 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
24 2005, is amended to read as follows:

25 (g) In addition to any notice required under Article 15.27,
26 Code of Criminal Procedure, a school district shall inform each
27 educator who has responsibility for, or is under the direction and

1 supervision of an educator who has responsibility for, the
2 instruction of a student who has engaged in any violation listed in
3 this section of the student's misconduct. Each educator shall keep
4 the information received under this subsection confidential from
5 any person not entitled to the information under this subsection,
6 except that the educator may share the information with the
7 student's parent or guardian as provided for by state or federal
8 law. The Educators' Professional Practices [~~State~~] Board on
9 recommendation of the commissioner [~~for Educator Certification~~]
10 may revoke or suspend the certification of an educator who
11 intentionally violates this subsection.

12 SECTION 7.34. Section 61.0514, Education Code, is amended
13 to read as follows:

14 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the
15 cooperation and advice of the commissioner of education [~~State~~
16 ~~Board for Educator Certification~~], shall adopt educator
17 preparation coursework guidelines that promote, to the greatest
18 extent practicable, the integration of subject matter knowledge
19 with classroom teaching strategies and techniques in order to
20 maximize the effectiveness and efficiency of coursework required
21 for certification under Subchapter B, Chapter 21.

22 SECTION 7.35. Section 61.076, Education Code, as amended by
23 H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005,
24 is amended by amending Subsection (b) and adding Subsection (j) to
25 read as follows:

26 (b) The P-16 Council is composed of the commissioner of
27 education, the commissioner of higher education, the executive

1 director of the Texas Workforce Commission, [~~the executive director~~
2 ~~of the State Board for Educator Certification,~~] and the
3 commissioner of assistive and rehabilitative services. The
4 commissioner of higher education and the commissioner of education
5 shall serve as co-chairs of the council.

6 (j) The P-16 Council, in conjunction with the State Center
7 for Early Childhood Development, shall develop and adopt a school
8 readiness certification system as required by Section 29.161.

9 SECTION 7.36. Section 1001.254(a), Education Code, is
10 amended to read as follows:

11 (a) A temporary driver education instructor license may be
12 issued authorizing a person to teach or provide classroom driver
13 education training if the person:

14 (1) has completed the educational requirements
15 prescribed by Section 1001.253(d)(1);

16 (2) holds a Texas teaching certificate with an
17 effective date before February 1, 1986;

18 (3) meets all license requirements, other than
19 successful completion of the examination required under rules
20 adopted by the commissioner [~~State Board for Educator~~
21 ~~Certification~~] to revalidate the teaching certificate; and

22 (4) demonstrates, in a manner prescribed by the
23 commissioner, the intention to comply with the examination
24 requirement at the first available opportunity.

25 SECTION 7.37. Article 15.27(a), Code of Criminal Procedure,
26 is amended to read as follows:

27 (a) A law enforcement agency that arrests any person or

1 refers a child to the office or official designated by the juvenile
2 board who the agency believes is enrolled as a student in a public
3 primary or secondary school, for an offense listed in Subsection
4 (h), shall attempt to ascertain whether the person is so enrolled.
5 If the law enforcement agency ascertains that the individual is
6 enrolled as a student in a public primary or secondary school, the
7 agency shall orally notify the superintendent or a person
8 designated by the superintendent in the school district in which
9 the student is enrolled of that arrest or referral within 24 hours
10 after the arrest or referral is made, or on the next school day. If
11 the law enforcement agency cannot ascertain whether the individual
12 is enrolled as a student, the agency shall orally notify the
13 superintendent or a person designated by the superintendent in the
14 school district in which the student is believed to be enrolled of
15 that arrest or detention within 24 hours after the arrest or
16 detention, or on the next school day. If the individual is a
17 student, the superintendent shall promptly notify all
18 instructional and support personnel who have responsibility for
19 supervision of the student. All personnel shall keep the
20 information received in this subsection confidential. The
21 Educators' Professional Practices [State] Board [~~for Educator~~
22 ~~Certification~~] may revoke or suspend the certification of personnel
23 who intentionally violate this subsection. Within seven days after
24 the date the oral notice is given, the law enforcement agency shall
25 mail written notification, marked "PERSONAL and CONFIDENTIAL" on
26 the mailing envelope, to the superintendent or the person
27 designated by the superintendent. Both the oral and written notice

1 shall contain sufficient details of the arrest or referral and the
2 acts allegedly committed by the student to enable the
3 superintendent or the superintendent's designee to determine
4 whether there is a reasonable belief that the student has engaged in
5 conduct defined as a felony offense by the Penal Code. The
6 information contained in the notice may be considered by the
7 superintendent or the superintendent's designee in making such a
8 determination.

9 SECTION 7.38. Article 42.018(b), Code of Criminal
10 Procedure, is amended to read as follows:

11 (b) Not later than the fifth day after the date a person who
12 holds a certificate issued under Subchapter B, Chapter 21,
13 Education Code, is convicted or granted deferred adjudication on
14 the basis of an offense, the clerk of the court in which the
15 conviction or deferred adjudication is entered shall provide to the
16 Texas Education Agency and the Educators' Professional Practices
17 [State] Board [for Educator Certification] written notice of the
18 person's conviction or deferred adjudication, including the
19 offense on which the conviction or deferred adjudication was based.

20 SECTION 7.39. Section 654.011(a), Government Code, is
21 amended to read as follows:

22 (a) The position classification plan and the salary rates
23 and provisions in the General Appropriations Act apply to all
24 hourly, part-time, temporary, and regular, full-time salaried
25 employments in the state departments, agencies, or judicial
26 entities specified in the articles of the General Appropriations
27 Act that appropriate money to:

- 1 (1) general government agencies;
- 2 (2) health and human services agencies;
- 3 (3) the judiciary, except for judges, district
- 4 attorneys, and assistant district attorneys;
- 5 (4) public safety and criminal justice agencies;
- 6 (5) natural resources agencies;
- 7 (6) business and economic development agencies;
- 8 (7) regulatory agencies; and
- 9 (8) agencies of public education, but only the Texas
- 10 Education Agency, the Texas School for the Blind and Visually
- 11 Impaired, [~~the State Board for Educator Certification,~~] the
- 12 Telecommunications Infrastructure Fund, and the Texas School for
- 13 the Deaf.

14 SECTION 7.40. Section 821.001(7), Government Code, is

15 amended to read as follows:

16 (7) "Employer" means any agents or agencies in the

17 state responsible for public education, including the governing

18 board of any school district created under the laws of this state,

19 any county school board, the board of trustees, the board of regents

20 of any college or university, or any other legally constituted

21 board or agency of any public school, but excluding the State Board

22 of Education and[~~7~~] the Texas Education Agency[~~7~~ and the State

23 ~~Board for Educator Certification~~].

24 SECTION 7.41. Section 821.103, Government Code, is amended

25 to read as follows:

26 Sec. 821.103. REVOCATION [~~CANCELLATION~~] OF TEACHER

27 CERTIFICATE. (a) After receiving notice from the board of

1 trustees of an offense under Section 821.101 and after complying
2 with Chapter 2001 and rules adopted by the Educators' Professional
3 Practices [~~State~~] Board [~~for Educator Certification~~], the board
4 [~~State Board for Educator Certification~~] may revoke [~~cancel~~] the
5 teacher certificate of a person if the board [~~State Board for~~
6 ~~Educator Certification~~] determines that the person committed the
7 offense.

8 (b) The Educators' Professional Practices [~~executive~~
9 ~~director of the State~~] Board [~~for Educator Certification~~] may enter
10 into an agreed sanction.

11 (c) A criminal prosecution of an offender under Section
12 821.101 is not a prerequisite to action by the Educators'
13 Professional Practices [~~State~~] Board [~~for Educator Certification~~
14 ~~or its executive director~~].

15 SECTION 7.42. Section 2054.352(a), Government Code, as
16 amended by S.B. No. 411, Acts of the 79th Legislature, Regular
17 Session, 2005, is amended to read as follows:

18 (a) The following licensing entities shall participate in
19 the system established under Section 2054.353:

- 20 (1) Texas Board of Chiropractic Examiners;
- 21 (2) Court Reporters Certification Board;
- 22 (3) State Board of Dental Examiners;
- 23 (4) Texas Funeral Service Commission;
- 24 (5) Texas Board of Professional Land Surveying;
- 25 (6) Texas State Board of Medical Examiners;
- 26 (7) Board of Nurse Examiners;
- 27 (8) Texas Optometry Board;

- 1 (9) Texas Structural Pest Control Board;
- 2 (10) Texas State Board of Pharmacy;
- 3 (11) Executive Council of Physical Therapy and
4 Occupational Therapy Examiners;
- 5 (12) Texas State Board of Plumbing Examiners;
- 6 (13) Texas State Board of Podiatric Medical Examiners;
- 7 (14) Board of Tax Professional Examiners;
- 8 (15) Polygraph Examiners Board;
- 9 (16) Texas State Board of Examiners of Psychologists;
- 10 (17) State Board of Veterinary Medical Examiners;
- 11 (18) Texas Real Estate Commission;
- 12 (19) Texas Appraiser Licensing and Certification
13 Board;
- 14 (20) Texas Department of Licensing and Regulation;
- 15 (21) Texas State Board of Public Accountancy;
- 16 (22) Educators' Professional Practices ~~[State]~~ Board
17 ~~[for Educator Certification]~~;
- 18 (23) Texas Board of Professional Engineers;
- 19 (24) Department of State Health Services;
- 20 (25) Texas Board of Architectural Examiners;
- 21 (26) Texas Racing Commission;
- 22 (27) Commission on Law Enforcement Officer Standards
23 and Education; ~~and~~
- 24 (28) Texas Private Security Board; and
- 25 (29) Texas Education Agency.

26 SECTION 7.43. Section 504.002(b), Occupations Code, is
27 amended to read as follows:

1 (b) This chapter does not apply to an activity or service of
2 a person who:

3 (1) is employed as a counselor by a federal
4 institution and is providing chemical dependency counseling within
5 the scope of the person's employment;

6 (2) except as provided by Section 504.1515 [~~504.057~~],
7 is a student, intern, or trainee pursuing a supervised course of
8 study in counseling at a regionally accredited institution of
9 higher education or training institution, if the person:

10 (A) is designated as a "counselor intern"; and

11 (B) is engaging in the activity or providing the
12 service as part of the course of study;

13 (3) is not a resident of this state, if the person:

14 (A) engages in the activity or provides the
15 service in this state for not more than 30 days during any year; and

16 (B) is authorized to engage in the activity or
17 provide the service under the law of the state of the person's
18 residence;

19 (4) is a licensed physician, psychologist,
20 professional counselor, or social worker;

21 (5) is a religious leader of a congregation providing
22 pastoral chemical dependency counseling within the scope of the
23 person's duties;

24 (6) is working for or providing counseling with a
25 program exempt under Subchapter C, Chapter 464, Health and Safety
26 Code; or

27 (7) is a school counselor certified under Subchapter

1 B, Chapter 21, Education Code [~~by the State Board for Educator~~
2 ~~Certification~~].

3 SECTION 7.44. Sections 21.036, 21.040, 21.042, and 21.047,
4 Education Code, are repealed.

5 SECTION 7.45. (a) The State Board for Educator
6 Certification is abolished, and all powers, duties, personnel,
7 property, assets, and obligations of the board are transferred to
8 the Educators' Professional Practices Board and the Texas Education
9 Agency, as determined appropriate by the commissioner of education.
10 The validity of a prior action of the State Board for Educator
11 Certification is not affected by the abolishment, and any pending
12 activities of the State Board for Educator Certification shall be
13 deemed to have continued without interruption or material change.

14 (b) The powers and duties of the Educators' Professional
15 Practices Board, as created by this Act, shall continue to be
16 exercised by the State Board for Educator Certification until the
17 initial appointees of the Educators' Professional Practices Board
18 assume their offices, which may not be later than January 1, 2006.

19 (c) All rules of the State Board for Educator Certification
20 relating to a transferred power or duty remain in effect as rules of
21 the Educators' Professional Practices Board or commissioner of
22 education, as appropriate, until amended or repealed by the board
23 or commissioner.

24 (d) A contested case, rulemaking procedure, program, test,
25 fee, contract, review, evaluation, sanction, act, or decision of
26 the State Board for Educator Certification that is pending,
27 completed, or in effect on the effective date of this Act shall be

1 deemed that of the commissioner of education or the Educators'
2 Professional Practices Board to the extent authorized by Subchapter
3 B, Chapter 21, Education Code, as amended by this article, or other
4 law, until and unless a change is expressly made by the commissioner
5 or the board, as appropriate.

6 (e) As soon as practicable after the effective date of this
7 article and not later than December 1, 2005, the commissioner shall
8 make initial appointments to the Educators' Professional Practices
9 Board. In making the initial appointments, the commissioner shall
10 designate four members to serve terms expiring February 1, 2007,
11 four members to serve terms expiring February 1, 2009, and three
12 members to serve terms expiring February 1, 2011.

13 (f) A person who holds a certificate issued under Subchapter
14 B, Chapter 21, Education Code, as it existed on January 1, 2005, may
15 continue to practice under that certificate until the certificate
16 is renewed or replaced under Subchapter B, Chapter 21, Education
17 Code, as amended by this article.

18 (g) The code of ethics adopted under Subchapter B, Chapter
19 21, Education Code, by the State Board for Educator Certification
20 and in effect on the effective date of this article remains in
21 effect until superseded by rules of the Educators' Professional
22 Practices Board.

23 ARTICLE 8. REPEALER; EFFECTIVE DATE

24 SECTION 8.01. Effective November 1, 2005, the following
25 provisions are repealed:

26 (1) Sections 1-3, Chapter 201, Acts of the 78th
27 Legislature, Regular Session, 2003;

1 (2) Section 4, S.B. No. 23, Acts of the 79th
2 Legislature, Regular Session, 2005;

3 (3) Sections 21.357, 21.402(b) and (e), 29.056(h),
4 39.027(b), (c), and (f), 39.051(d), 39.073, 39.074, and 39.112,
5 Education Code; and

6 (4) Sections 1579.253(b) and 1581.702, Insurance
7 Code.

8 SECTION 8.02. Effective June 1, 2006, Sections 25.0811(b)
9 and (c), Education Code, are repealed.

10 SECTION 8.03. Effective September 1, 2006, the following
11 provisions are repealed:

12 (1) Subchapters B, C, E, F, and G, Chapter 41,
13 Education Code;

14 (2) Chapter 42, Education Code, as it existed on
15 January 1, 2006;

16 (3) Sections 29.203(c) and (g), 39.024(e), 41.001,
17 41.002, 41.003, 41.0031, 41.007, 41.009(b), 41.011, 41.092,
18 41.099, 41.252(b), 44.004(c) and (d), and 105.301(f), Education
19 Code;

20 (4) Section 403.302(j), Government Code;

21 (5) Section 1581.053(b), Insurance Code;

22 (6) Subchapter C, Chapter 1581, Insurance Code; and

23 (7) Sections 6.02(g), 6.03(m), 21.02(b) and 26.08(k),
24 (l), and (m), Tax Code.

25 SECTION 8.04. (a) Except as otherwise provided by this Act,
26 and subject to Subsection (b) of this section, this Act takes effect
27 November 1, 2005.

1 (b) Notwithstanding any other provision of this Act, this
2 Act takes effect only if H.B. No. 3, Acts of the 79th Legislature,
3 1st Called Session, 2005, or similar legislation enacted by the
4 79th or a subsequent legislature that specifically references this
5 section, becomes law. If H.B. No. 3, Acts of the 79th Legislature,
6 1st Called Session, 2005, or similar legislation enacted by the
7 79th or a subsequent legislature that specifically references this
8 section, does not become law, this Act has no effect.