

By: Grusendorf

H.B. No. 71

A BILL TO BE ENTITLED

AN ACT

relating to public education and public school finance matters.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING

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

CHAPTER 42. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

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

(b) The Foundation School Program consists of:

(1) two tiers that in combination provide for:

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

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

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

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

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

(c) A child may be enrolled in the first grade if the child

1 is at least six years of age at the beginning of the school year of  
2 the district or has been enrolled in the first grade or has  
3 completed kindergarten in the public schools in another state  
4 before transferring to a public school in this state.

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

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

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

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

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

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

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

25 (2) for a district that operates under a flexible year  
26 program under Section 29.0821, the quotient of the sum of  
27 attendance for each actual day of instruction as permitted by

1 Section 29.0821(b)(1) divided by the number of actual days of  
2 instruction as permitted by Section 29.0821(b)(1).

3 (b) A school district that experiences a decline of more  
4 than two percent in average daily attendance shall be funded on the  
5 basis of an average daily attendance equal to 98 percent of the  
6 actual average daily attendance of the preceding school year.

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

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

15 (e) An open-enrollment charter school is not entitled to  
16 funding based on an adjustment under Subsection (b).

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

23 (b) Before each regular session of the legislature, the  
24 board shall report the equalized funding elements to the  
25 commissioner and the legislature.

26 (c) The funding elements must include:

27 (1) accreditation allotment amounts for the purposes

1 of Section 42.101 that represent the cost per student of a regular  
2 education program that meets all mandates of law and regulation;

3 (2) adjustments designed to reflect the variation in  
4 known resource costs and costs of education beyond the control of  
5 school districts;

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

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

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

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

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

23 (e) Notwithstanding Subsection (d), the board shall  
24 contract for a comprehensive study of the funding elements. The  
25 board shall report the results of the study to the commissioner and  
26 the legislature not later than December 1, 2008. This subsection  
27 expires January 1, 2009.

1 [Sections 42.007-42.100 reserved for expansion]

2 SUBCHAPTER B. BASIC PROGRAM

3 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT  
4 ALLOTMENTS. (a) For each student in average daily attendance, not  
5 including the time a student spends each day in special education  
6 programs in an instructional arrangement other than mainstream, a  
7 school district is entitled to an accreditation allotment of:

8 (1) \$4,550, if the student is enrolled below the ninth  
9 grade level; or

10 (2) \$5,550, if the student is enrolled at or above the  
11 ninth grade level.

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

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

17 [Sections 42.102-42.150 reserved for expansion]

18 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

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

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

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

26 (b) For each student in average daily attendance in a  
27 special education program in a mainstream instructional

1 arrangement, a school district is entitled, in addition to the  
2 accreditation allotment under Section 42.101, to an annual  
3 allotment of \$254.

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

9 (1) \$12,685, for a student in a homebound  
10 instructional arrangement;

11 (2) \$7,611, for a student in a hospital class  
12 instructional arrangement;

13 (3) \$12,685, for a student in a speech therapy  
14 instructional arrangement;

15 (4) \$7,611, for a student in a resource room  
16 instructional arrangement;

17 (5) \$7,611, for a student in a self-contained, mild  
18 and moderate, regular campus instructional arrangement;

19 (6) \$7,611, for a student in a self-contained, severe,  
20 regular campus instructional arrangement;

21 (7) \$6,850, for a student in an off-home-campus  
22 instructional arrangement;

23 (8) \$4,313, for a student in a nonpublic day school;

24 (9) \$5,835, for a student in a vocational adjustment  
25 class;

26 (10) \$10,148, for a student who resides in a  
27 residential care and treatment facility, other than a state school,

1 whose parent or guardian does not reside in the district, and who  
2 receives educational services from a local school district; and

3 (11) \$7,104, for a student who resides in a state  
4 school.

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

10 (e) For funding purposes, the contact hours credited per day  
11 for each special education student in the resource room;  
12 self-contained, mild and moderate, regular campus; and  
13 self-contained, severe, regular campus instructional arrangements  
14 may not exceed the average of the statewide total contact hours  
15 credited per day for those three instructional arrangements in the  
16 1992-1993 school year.

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

26 (g) The State Board of Education shall adopt rules and  
27 procedures governing contracts for residential placement of



1 special education students. The legislature shall provide by  
2 appropriation for the state's share of the costs of those  
3 placements.

4 (h) Funds allocated under this section, other than an  
5 indirect cost allotment established under State Board of Education  
6 rule, must be used in the special education program under  
7 Subchapter A, Chapter 29.

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

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

19 (k) A school district that provides an extended year program  
20 required by federal law for special education students who may  
21 regress is entitled to receive, for each full-time equivalent  
22 student in average daily attendance, funds in an amount equal to 75  
23 percent, or a lesser percentage determined by the commissioner, of  
24 the sum of the accreditation allotment and the additional allotment  
25 for the student's instructional arrangement under this section for  
26 each day the program is provided divided by the number of days in  
27 the minimum school year. The total amount of state funding for

1 extended year services under this subsection may not exceed \$10  
2 million per year. A school district may use funds received under  
3 this subsection only in providing an extended year program.

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

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

$$19 \qquad \qquad \qquad \underline{APA = 665 \times ADA \times PR}$$

20 where:

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

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

24 "PR" is the percentage of the district's total number of  
25 students enrolled in prekindergarten through grade level eight who  
26 participate in the national free or reduced-price lunch program as  
27 reported through the Public Education Information Management

1 System (PEIMS) for the current school year or the percentage  
2 determined in accordance with commissioner rule if no campus in the  
3 district with students enrolled in prekindergarten through grade  
4 level eight participates in the national free or reduced-price  
5 lunch program.

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

8 (c) In addition to the allotment provided by Subsection (a),  
9 the legislature may also provide funding by appropriation for any  
10 program or activity formerly funded under Section 42.152, as that  
11 section existed on January 1, 2005. Funding provided under this  
12 subsection is not considered a special student allotment for  
13 purposes of Sections 42.301 and 42.302 or any other provision in  
14 this chapter that refers to special student allotments.

15 Sec. 42.153. TRANSITIONAL PROGRAM ALLOTMENT. For each  
16 student in average daily attendance in a bilingual education or  
17 special language program under Subchapter B, Chapter 29, a district  
18 is entitled to an annual allotment of \$450 or a greater amount for  
19 any school year provided by appropriation.

20 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.  
21 For each student in average daily attendance in an approved career  
22 and technology education program in grades seven through 12, a  
23 district is entitled to an annual allotment of \$178 for each annual  
24 credit hour the student is enrolled in the program, or a greater  
25 amount for any school year provided by appropriation.

26 Sec. 42.155. PUBLIC EDUCATION GRANT ALLOTMENT. (a) Except  
27 as provided by Subsection (b), for each student in average daily

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

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

12 [Sections 42.156-42.170 reserved for expansion]

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

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

22 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding  
23 any other provision of this code, but subject to Subsection (b), a  
24 school district may not spend in any school year for a program or  
25 service listed below an amount per student in average daily  
26 attendance that is less than the amount the district spent for that  
27 program or service per student in average daily attendance during

1 the 2004-2005 school year:

2 (1) a special education program under Subchapter A,  
3 Chapter 29;

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

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

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

16 (5) a gifted and talented program under Subchapter D,  
17 Chapter 29.

18 (b) The commissioner may authorize a school district to  
19 spend less than the amount required by this section if the  
20 commissioner, considering the district's unique circumstances,  
21 determines that the requirement imposes an undue hardship on the  
22 district.

23 [Sections 42.173-42.200 reserved for expansion]

24 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

25 Sec. 42.201. TRANSPORTATION ALLOTMENT. (a) Subject to  
26 Subsection (b), a school district is entitled to a transportation  
27 allotment in an amount determined by whichever of the following

1 formulas results in the greatest allotment:

2 (1) TA = ADA x 100; or

3 (2) TA = ADA x 100 x (DMS/ADMS)

4 where:

5 "TA" is the allotment to which the district is entitled;

6 "ADA" is the number of students in average daily attendance  
7 in the district;

8 "DMS" is the district number of square miles per student in  
9 average daily attendance, which is computed by dividing the number  
10 of square miles in the district by the number of students in average  
11 daily attendance in the district; and

12 "ADMS" is the average district number of square miles per  
13 student in average daily attendance, which is computed by dividing  
14 the sum of each school district's number of square miles per student  
15 in average daily attendance by the number of districts in the state.

16 (b) A school district may not receive a transportation  
17 allotment that exceeds \$1,000 per student in average daily  
18 attendance.

19 Sec. 42.202. TRANSPORTATION ALLOTMENT FOR TEXAS SCHOOL FOR  
20 THE DEAF. The Texas School for the Deaf is entitled to an allotment  
21 under this subchapter. The commissioner shall determine the  
22 appropriate allotment.

23 Sec. 42.203. USE OF TRANSPORTATION ALLOTMENT. A school  
24 district is not required to use funds allotted under this  
25 subchapter in providing transportation services.

26 [Sections 42.204-42.220 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. DEFINITION. In this subchapter,  
7 "instructional facility" has the meaning assigned by Section  
8 46.001.

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

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

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

26           Sec. 42.225. PRORATION OF ALLOTMENTS. If the total amount  
27 of allotments to which school districts are entitled under this

1 subchapter for a school year exceeds the amount appropriated for  
2 allotments under this subchapter, the commissioner shall reduce  
3 each district's allotment under this subchapter in the manner  
4 provided by Section 42.313(f).

5 Sec. 42.226. APPLICABILITY TO CERTAIN DISTRICTS. A school  
6 district subject to Section 42.401 that elects to purchase average  
7 daily attendance credit under Subchapter D, Chapter 41, is entitled  
8 to a credit, in the amount of the allotments to which the district  
9 is entitled under this subchapter, against the total amount  
10 required under Section 41.093 for the district to purchase  
11 attendance credits.

12 [Sections 42.227-42.240 reserved for expansion]

13 SUBCHAPTER F. INSTRUCTIONAL MATERIALS AND  
14 TECHNOLOGY ALLOTMENT

15 Sec. 42.241. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
16 ALLOTMENT. (a) For each student in average daily attendance, a  
17 school district is entitled to an annual allotment of \$150.

18 (b) Funds allotted under this section may be used only to  
19 purchase approved instructional materials, including online  
20 instructional materials.

21 (c) This section applies beginning with the 2006-2007  
22 school year. This subsection expires September 1, 2007.

23 [Sections 42.242-42.250 reserved for expansion]

24 SUBCHAPTER G. ENRICHMENT PROGRAM

25 Sec. 42.251. PURPOSE. The purpose of the enrichment  
26 program component of the Foundation School Program is to provide  
27 each school district with the opportunity to supplement the basic



1 program at a level of its own choice. An allotment under this  
2 subchapter may be used for any legal purpose other than capital  
3 outlay or debt service.

4 Sec. 42.252. ALLOTMENT. (a) In this section, "wealth per  
5 student" means a school district's taxable value of property, as  
6 determined under Subchapter M, Chapter 403, Government Code,  
7 divided by the number of students in specially adjusted average  
8 daily attendance in the district.

9 (b) Each school district is guaranteed a specified amount  
10 per student in specially adjusted average daily attendance in state  
11 and local funds for each cent of enrichment tax effort up to the  
12 maximum level specified in this subchapter. The amount of state  
13 support, subject only to the maximum amount under Section 42.253,  
14 is determined by the formula:

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

15 where:

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

18 "GL" is the dollar amount guaranteed level of state and local  
19 enrichment funds per student in specially adjusted average daily  
20 attendance per cent of tax effort, which is the amount of district  
21 enrichment tax revenue per cent of tax effort available to a school  
22 district at the 90th percentile in wealth per student, as  
23 determined by the commissioner, or a greater amount for any school  
24 year provided by appropriation;

25 "SPADA" is the number of students in specially adjusted  
26 average daily attendance, which is computed by dividing the sum of  
27

1 the district's allotments under Subchapters B, C, and D by the  
2 accreditation allotment specified by Section 42.101(a)(1) for the  
3 applicable year;

4 "DETR" is the district enrichment tax rate of the school  
5 district, which is determined by dividing the total amount of  
6 maintenance and operations taxes collected by the school district  
7 for the applicable school year, as provided by Subsection (c), by  
8 the quotient of the district's taxable value of property for the  
9 preceding tax year as determined under Subchapter M, Chapter 403,  
10 Government Code, divided by 100; and

11 "LR" is the local revenue, which is determined by multiplying  
12 "DETR" by the quotient of the district's taxable value of property  
13 as determined under Subchapter M, Chapter 403, Government Code,  
14 divided by 100.

15 (c) For purposes of this section:

16 (1) the total amount of maintenance and operations  
17 taxes collected by the school district does not include the amount  
18 of:

19 (A) the district's local share under Section  
20 42.306; or

21 (B) taxes paid into a tax increment fund under  
22 Chapter 311, Tax Code;

23 (2) school district taxes for which credit is granted  
24 under Section 31.035, 31.036, or 31.037, Tax Code, or under  
25 Subchapter D, Chapter 313, Tax Code, are considered taxes collected  
26 by the school district as if the taxes were paid when the credit for  
27 the taxes was granted; and

1           (3) the total amount of maintenance and operations  
2 taxes collected for an applicable school year by a school district  
3 with alternate tax dates, as authorized by Section 26.135, Tax  
4 Code, is the amount of taxes collected on or after January 1 of the  
5 year in which the school year begins and not later than December 31  
6 of the same year.

7           Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district  
8 enrichment tax rate may not exceed \$0.10 per \$100 of valuation.

9           (a-1) Notwithstanding Subsection (a):

10           (1) the district enrichment tax rate may not exceed:

11           (A) for the 2005 tax year, the rate of \$0.02 per  
12 \$100 of valuation;

13           (B) for the 2006 tax year, the rate of \$0.04 per  
14 \$100 of valuation;

15           (C) for the 2007 tax year, the rate of \$0.06 per  
16 \$100 of valuation; and

17           (D) for the 2008 tax year, the rate of \$0.08 per  
18 \$100 of valuation.

19           (b) A school district's enrichment tax rate must be approved  
20 by the voters in accordance with Section 45.003.

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

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

1 per student of school districts in the county, as determined by the  
2 commissioner.

3 [Sections 42.255-42.300 reserved for expansion]

4 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

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

23 (b-1) For the 2005-2006 school year, the cost of education  
24 index for purposes of Subsection (a) is based on the average of the  
25 teacher fixed effects index in the 2004 report commissioned by the  
26 Joint Select Committee on Public School Finance of the 78th  
27 Legislature and the index used to determine a school district's

1 adjustment for the 2004-2005 school year. For the 2006-2007 school  
2 year, the cost of education index for purposes of Subsection (a) is  
3 the teacher fixed effects index in the 2004 report commissioned by  
4 the Joint Select Committee on Public School Finance of the 78th  
5 Legislature. This subsection expires September 1, 2007.

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

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

17 (1) "T" is the district's total sum after adjustment  
18 for size of the district;

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

22 (3) "SA" is the sum of the district's accreditation  
23 allotments under Subchapter B, each special student allotment under  
24 Subchapter C, and transportation allotments under Subchapter D.

25 (b) The sum of the total accreditation allotments, any  
26 special student allotments under Subchapter C, and the  
27 transportation allotment under Subchapter D 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:

$$4 \quad T = (1 + ((1,600 - ADA) \times .0004)) \times SA$$

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

$$10 \quad T = (1 + ((1,600 - ADA) \times .00025)) \times SA$$

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

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

$$20 \quad (2) \quad T = (1 + ((5,000 - ADA) \times .000025)) \times SA$$

21 (e) The commissioner may make the adjustment authorized by  
 22 Subsection (d)(2) only if the district is not subject to additional  
 23 equalization under Section 42.401. For purposes of this  
 24 subsection, the adjustments provided by Subsection (d)(2) and  
 25 Section 42.301 are not used in determining whether the district is  
 26 subject to additional equalization under Section 42.401.

27 Sec. 42.303. SPARSITY ADJUSTMENT. (a) Notwithstanding

1 Sections 42.101 and 42.302:

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

9 (2) a school district that offers a kindergarten  
10 through grade eight program and whose preceding or current year's  
11 average daily attendance was or is at least 50 students or that is  
12 30 miles or more by bus route from the nearest high school district  
13 is entitled to an adjusted accreditation allotment on the basis of  
14 75 students in average daily attendance; and

15 (3) a school district that offers a kindergarten  
16 through grade six program and whose preceding or current year's  
17 average daily attendance was or is at least 40 students or that is  
18 30 miles or more by bus route from the nearest high school district  
19 is entitled to an adjusted accreditation allotment on the basis of  
20 60 students in average daily attendance.

21 (b) For purposes of computing an adjusted accreditation  
22 allotment under Subsection (a)(1):

23 (1) the school district is entitled to an  
24 accreditation allotment under Section 42.101(a)(1) determined by  
25 dividing the number of students in actual average daily attendance  
26 who are enrolled below the ninth grade level by the district's total  
27 actual average daily attendance and multiplying the resulting

1 quotient by 130; and

2 (2) the school district is entitled to an  
3 accreditation allotment under Section 42.101(a)(2) determined by  
4 dividing the number of students in actual average daily attendance  
5 who are enrolled at or above the ninth grade level by the district's  
6 total actual average daily attendance and multiplying the resulting  
7 quotient by 130.

8 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the  
9 accreditation allotments under Subchapter B and the additional  
10 allotments under Subchapters C, D, E, and F constitutes the tier one  
11 allotments. The sum of the tier one allotments and the enrichment  
12 program allotments under Subchapter G constitutes the total cost of  
13 the Foundation School Program.

14 (b) The program shall be financed by:

15 (1) state funds appropriated for the purposes of  
16 public school education;

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

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

22 (4) state available school funds distributed in  
23 accordance with law.

24 Sec. 42.305. ADDITIONAL STATE AID FOR AD VALOREM TAX  
25 CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. For each school year,  
26 a school district, including a school district that is otherwise  
27 ineligible for state aid under this chapter, is entitled to state



1 aid in an amount equal to the amount of all tax credits credited  
2 against ad valorem taxes of the district in that year under  
3 Subchapter D, Chapter 313, Tax Code.

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

$$7 \quad \quad \quad \underline{LS = TR \times DPV}$$

8 where:

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

10 "TR" is a tax rate which for each hundred dollars of valuation  
11 is an effective tax rate of \$1.00, or a lesser rate for any school  
12 year provided by appropriation; and

13 "DPV" is the taxable value of property in the school district  
14 for the preceding tax year determined under Subchapter M, Chapter  
15 403, Government Code.

16 (b) The commissioner shall adjust the values reported in the  
17 official report of the comptroller as required by Section 5.09(a),  
18 Tax Code, to reflect reductions in taxable value of property  
19 resulting from natural or economic disaster after January 1 in the  
20 year in which the valuations are determined. The decision of the  
21 commissioner is final. An adjustment does not affect the local  
22 share of any other school district.

23 (c) A school district that adopts a maintenance and  
24 operations tax rate sufficient to raise its total local share of the  
25 Foundation School Program is eligible to receive the full amount of  
26 the tier one allotment to which the district is entitled under this  
27 chapter.

1       (d) If a school district adopts a maintenance and operations  
2 tax rate that is less than the rate prescribed by Subsection (a),  
3 the district's tier one allotment is adjusted by a percentage  
4 determined by dividing the district's adopted tax rate by the rate  
5 prescribed by Subsection (a) and multiplying the resulting quotient  
6 by 100. The commissioner shall determine the amount of the tier one  
7 allotment to which a district is entitled under this subsection.  
8 The commissioner's determination is final and may not be appealed.

9       (e) In implementing any provision of this title that refers  
10 to a school district's local share or tier one allotment:

11           (1) the local share of a district described by  
12 Subsection (d) is based on the tax rate adopted by the district  
13 under that subsection; and

14           (2) the tier one allotment of a district described by  
15 Subsection (d) is the proportionate amount provided by that  
16 subsection.

17       (f) A school district's adopted maintenance and operations  
18 tax rate, including any enrichment tax rate under Subchapter G, may  
19 not exceed the maximum rate specified by Section 45.003(d).

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

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

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

8       Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

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

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

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

25               (1) notwithstanding Section 42.313(b), reduce the  
26 entitlement under this chapter of a school district whose final  
27 taxable value of property is higher than the estimate under Section

1 42.314 and make payments to school districts accordingly; and

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

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

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

20 (e) The commissioner shall notify school districts as soon  
21 as practicable as to the availability of funds under this section.

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

1 ADPV = DPV - (TN/.015)

2 where:

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

4 "DPV" is the taxable value of property in the district for the  
5 preceding tax year determined under Subchapter M, Chapter 403,  
6 Government Code; and

7 "TN" is the total amount of tuition required to be paid by the  
8 district under Section 25.039 for the school year for which the  
9 adjustment is made, not to exceed the amount specified by  
10 commissioner rule under Section 25.039(b).

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

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

26 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)  
27 Notwithstanding any other provision of this subtitle, and provided

1 that a school district imposes a tax at a minimum rate specified by  
2 the commissioner, a school district is entitled to the amount of  
3 state revenue necessary to maintain state and local revenue per  
4 student in average daily attendance in an amount equal to the sum  
5 of:

6 (1) the amount of state and local revenue per student  
7 in average daily attendance for maintenance and operation of the  
8 district available to the district, including any amounts the  
9 district received under Rider 82, page III-23, Chapter 1330, Acts  
10 of the 78th Legislature, Regular Session, 2003 (the General  
11 Appropriations Act), during the 2004-2005 school year; and

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

14 (b) The commissioner shall determine the minimum tax rate  
15 for a school district under Subsection (a) on the basis of the tax  
16 rate adopted by the district for maintenance and operations for the  
17 2004-2005 school year.

18 (c) The commissioner shall determine the amount of state  
19 funds to which a school district is entitled under this section. The  
20 commissioner's determination is final and may not be appealed.

21 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)  
22 Notwithstanding any other provision of this subtitle, the  
23 commissioner shall withhold from a school district the amount of  
24 state funds necessary to ensure that the district does not receive  
25 an amount of state and local revenue per student in average daily  
26 attendance that is greater than the following percentage of the  
27 amount to which the district is entitled under Section

1 42.311(a)(1):

2 (1) 108 percent for the 2005-2006 school year;

3 (2) 116 percent for the 2006-2007 school year; and

4 (3) 124 percent for the 2007-2008 school year.

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

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

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

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

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

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

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

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

22 (b) Except as provided by this subsection, the commissioner  
23 shall base the determinations under Subsection (a) on the estimates  
24 provided to the legislature under Section 42.314, or, if the  
25 General Appropriations Act provides estimates for that purpose, on  
26 the estimates provided under that Act, for each school district for  
27 each school year. The commissioner shall reduce the entitlement of

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

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

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

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



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

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

16       (h) The legislature may appropriate funds necessary for  
17 increases under Subsection (g) from funds that the comptroller, at  
18 any time during the fiscal year, finds are available.

19       (i) The commissioner shall compute for each school district  
20 the total amount by which the district's allocation of state funds  
21 is increased or reduced under Subsection (g) and shall certify that  
22 amount to the district.

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

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

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

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

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

18           Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In  
19 this section:

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

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

27           (3) "Category 3 school district" means a school

1 district having a wealth per student of more than the statewide  
2 average wealth per student.

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

7 (b) Payments from the Texas education fund to each category  
8 1 school district shall be made as follows:

9 (1) 15 percent of the yearly entitlement of the  
10 district shall be paid in an installment to be made on or before the  
11 25th day of September of a fiscal year;

12 (2) 80 percent of the yearly entitlement of the  
13 district shall be paid in eight equal installments to be made on or  
14 before the 25th day of October, November, December, January, March,  
15 May, June, and July; and

16 (3) five 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 February.

19 (c) Payments from the Texas education fund to each category  
20 2 school district shall be made as follows:

21 (1) 22 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 September of a fiscal year;

24 (2) 18 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 October;

27 (3) 9.5 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 November;

3 (4) 7.5 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 April;

6 (5) five 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 May;

9 (6) 10 percent of the yearly entitlement of the  
10 district shall be paid in an installment to be made on or before the  
11 25th day of June;

12 (7) 13 percent of the yearly entitlement of the  
13 district shall be paid in an installment to be made on or before the  
14 25th day of July; and

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

20 (d) Payments from the Texas education fund to each category  
21 3 school district shall be made as follows:

22 (1) 45 percent of the yearly entitlement of the  
23 district shall be paid in an installment to be made on or before the  
24 25th day of September of a fiscal year;

25 (2) 35 percent of the yearly entitlement of the  
26 district shall be paid in an installment to be made on or before the  
27 25th day of October; and

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

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

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

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

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

1 to the attorney general for collection.

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

4 [Sections 42.318-42.400 reserved for expansion]

5 SUBCHAPTER I. ADDITIONAL EQUALIZATION

6 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

15 [Sections 42.402-42.500 reserved for expansion]

16 SUBCHAPTER J. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

17 Sec. 42.501. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)

18 The commissioner shall establish an educator excellence incentive  
19 program under which school districts, in accordance with locally  
20 developed plans approved by the commissioner, provide incentive  
21 payments to employees who demonstrate success in adding value to  
22 student achievement.

23 (b) Except as provided by Subsection (c), each year a school  
24 district shall use an amount equal to at least one percent of the  
25 district's total state and local expenditures for maintenance and  
26 operations to provide incentive payments to employees in accordance  
27 with this subchapter.

1       (c) A school district may elect to use a portion of the  
2 amount described by Subsection (b) to provide stipends to teachers  
3 assigned as mentors under Section 21.458.

4       (d) The commissioner shall adopt rules necessary to  
5 implement this subchapter. In adopting rules, the commissioner  
6 shall encourage local flexibility in designing incentive plans that  
7 promote student achievement.

8       Sec. 42.502. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

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

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

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

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

25       (e) A local incentive plan must be developed through a  
26 process that considers comments of classroom teachers in the  
27 district.

1       Sec. 42.503. 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 bonus for performance and not an  
6 entitlement as part of an employee's salary.

7       Sec. 42.504. DECISION BY BOARD OF TRUSTEES. A decision by  
8 the board of trustees or the board's designee in providing an  
9 incentive payment under a local incentive plan approved under this  
10 subchapter is final and may not be appealed.

11       SECTION 1A.02. The heading to Chapter 41, Education Code,  
12 is amended to read as follows:

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

14       SECTION 1A.03. Section 41.006(a), Education Code, is  
15 amended to read as follows:

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

25       SECTION 1A.04. Section 41.008(a), Education Code, is  
26 amended to read as follows:

27       (a) The governing board of a school district that results



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

10 SECTION 1A.05. Section 41.009(a), Education Code, is  
11 amended to read as follows:

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

17 SECTION 1A.06. Section 41.010, Education Code, is amended  
18 to read as follows:

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

1 SECTION 1A.07. Section 41.013(a), Education Code, is  
2 amended to read as follows:

3 (a) A [~~Except as provided by Subchapter G, a~~] decision of  
4 the commissioner under this chapter is appealable under Section  
5 7.057.

6 SECTION 1A.08. Section 41.091, Education Code, is amended  
7 to read as follows:

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

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

16 (2) the amount equal to 35 percent of the district's  
17 total maintenance and operations tax revenue for the school year,  
18 including any enrichment revenue under Subchapter G, Chapter 42  
19 [~~sufficient, in combination with any other actions taken under this~~  
20 ~~chapter, to reduce the district's wealth per student to a level that~~  
21 ~~is equal to or less than the equalized wealth level~~].

22 SECTION 1A.09. Section 41.093(a), Education Code, is  
23 amended to read as follows:

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

26 (1) the amount of the district's maintenance and  
27 operations tax revenue per student in [~~weighted~~] average daily

1 attendance for the school year for which the contract is executed;  
2 or

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

7 SECTION 1A.10. Section 41.251, Education Code, is amended  
8 to read as follows:

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

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

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

27 (1) first, to the contiguous district that has the

1 lowest local share percentage [~~wealth per student~~] and is located  
2 in the same county;

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

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

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

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

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

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

27 (d) In this section, "local share percentage" means a

1 percentage determined by dividing a school district's local share  
2 under Section 42.306 by the district's tier one allotment under  
3 Section 42.304.

4 SECTION 1A.12. Section 41.257, Education Code, is amended  
5 to read as follows:

6 Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS  
7 AND TRANSPORTATION ALLOTMENT. The budget of the consolidated  
8 district must apply the benefit of the adjustment or allotment to  
9 the schools of the consolidating district to which Section 42.302,  
10 42.303, or Subchapter D, Chapter 42, [42.103, 42.105, or 42.155]  
11 would have applied in the event that the consolidated district  
12 still qualifies as a small or sparse district.

13 SECTION 1A.13. Section 45.003, Education Code, is amended  
14 by amending Subsections (a) and (d) and adding Subsections (d-1),  
15 (d-2), (e), (f), (g), and (h) to read as follows:

16 (a) Bonds described by Section 45.001 may not be issued and  
17 taxes described by Section 45.001 or 45.002 may not be levied unless  
18 authorized by a majority of the qualified voters of the district,  
19 voting at an election held for that purpose [~~, at the expense of the~~  
20 ~~district, in accordance with the Election Code, except as provided~~  
21 ~~by this section. Each election must be called by resolution or~~  
22 ~~order of the governing board or commissioners court. The~~  
23 ~~resolution or order must state the date of the election, the~~  
24 ~~proposition or propositions to be submitted and voted on, the~~  
25 ~~polling place or places, and any other matters considered necessary~~  
26 ~~or advisable by the governing board or commissioners court].~~

27 (d) A proposition submitted to authorize the levy of

1 maintenance taxes must include the question of whether the  
2 governing board or commissioners court may levy, assess, and  
3 collect annual ad valorem taxes for the further maintenance of  
4 public schools, at a rate not to exceed the rate, which may be not  
5 more than \$1.10 [~~\$1.50~~] on the \$100 valuation of taxable property in  
6 the district, stated in the proposition.

7 (d-1) Notwithstanding Subsection (d), the maximum rate  
8 under that subsection is:

9 (1) for the 2005 tax year, \$1.02 on the \$100 valuation  
10 of taxable property;

11 (2) for the 2006 tax year, \$1.04 on the \$100 valuation  
12 of taxable property;

13 (3) for the 2007 tax year, \$1.06 on the \$100 valuation  
14 of taxable property; and

15 (4) for the 2008 tax year, \$1.08 on the \$100 valuation  
16 of taxable property.

17 (d-2) Subsection (d-1) and this subsection expire January  
18 1, 2009.

19 (e) An election held before June 1, 2005, authorizing a  
20 maintenance tax, other than a tax described by Section 45.001, at a  
21 rate of at least \$1.00 on the \$100 valuation of taxable property in  
22 the district is sufficient to authorize a rate not to exceed \$1.00.

23 (f) A school district must obtain voter authorization in an  
24 election held on or after June 1, 2005, before the district may levy  
25 an ad valorem tax for the maintenance and enrichment of the public  
26 schools at a rate that exceeds the rate of \$1.00 on the \$100  
27 valuation of taxable property in the district.

1       (g) A school district must obtain additional voter  
2 authorization in an election each time the district adopts a tax  
3 rate for the maintenance and enrichment of the district that  
4 exceeds the rate levied by the district in the preceding tax year.

5       (h) Notwithstanding any other provision of law, a district  
6 permitted by special law on January 1, 2005, to impose an ad valorem  
7 tax at a rate greater than \$1.50 may continue to impose a rate that  
8 is \$0.50 less than the rate previously authorized.

9                   PART B. SCHOOL DISTRICT EFFICIENCY

10       SECTION 1B.01. Subchapter A, Chapter 11, Education Code, is  
11 amended by adding Section 11.003 to read as follows:

12       Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) The  
13 commissioner shall develop and implement a program allowing a  
14 school district board of trustees to enter into an agreement with  
15 another district or a regional education service center for a  
16 cooperative arrangement regarding administrative services,  
17 including transportation, food service, purchasing, and payroll  
18 functions. The program may include reasonable incentives to  
19 encourage districts to enter into an agreement, as determined by  
20 the commissioner.

21       (b) An agreement under this section must contain an  
22 explanation of how the cooperative arrangement would allow a  
23 participating school district to reduce costs, operate more  
24 efficiently, and improve educational quality.

25       (c) This section does not limit a school district's  
26 authority to enter into any other agreement authorized by law.

ARTICLE 2. EDUCATIONAL EXCELLENCE

PART A. EDUCATOR QUALITY

SECTION 2A.01. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0461 to read as follows:

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

(1) assistant principal;

(2) principal; or

(3) superintendent.

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

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

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

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

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

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

(e) A certificate issued under this section:

(1) expires on the third anniversary of the date on



1 which the certificate was issued; and

2 (2) is not renewable.

3 (f) The board shall issue a standard certificate to a person  
4 who holds a temporary certificate issued under this section if the  
5 school district employing the person under the temporary  
6 certificate:

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

9 (2) has recommended the person to the board and  
10 favorably reviewed, primarily using objective measures of student  
11 performance and improvement in the district, the person's  
12 performance.

13 (g) A school district employing a person who holds a  
14 temporary certificate issued under this section must provide the  
15 person with intensive support during the person's first year of  
16 employment with the district, including:

17 (1) mentoring; and

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

19 (h) For purposes of this section, the board by rule may  
20 determine the criteria a school district board of trustees shall  
21 use to determine whether a candidate for certification under this  
22 section has significant management and leadership experience.

23 SECTION 2A.02. Section 21.054, Education Code, is amended  
24 by amending Subsection (b) and adding Subsection (c) to read as  
25 follows:

26 (b) Continuing education for principals must be based on an  
27 individual assessment of the knowledge, skills, and proficiencies

1 necessary to perform successfully as a principal, as identified in  
2 Section 21.046. As part of a principal's compliance with  
3 continuing education requirements under this section, a principal  
4 must attend advanced management training courses or programs as  
5 prescribed by board rule. An individualized professional growth  
6 plan shall be developed as a result of the assessment and shall be  
7 used exclusively for professional growth purposes. The assessment  
8 results and the growth plan may only be released with the approval  
9 of the principal assessed. Each certified principal shall  
10 participate in the assessment process and professional growth  
11 activities at least once every five years.

12 (c) The board, in consultation with business schools,  
13 departments, or programs at institutions of higher education, shall  
14 propose rules to govern the approval and accountability of advanced  
15 management training courses or programs required under this  
16 section. In proposing a rule under this section, the board shall  
17 require that a person conducting a course or program have  
18 recognized expertise in business management.

19 SECTION 2A.03. Section 21.402, Education Code, is amended  
20 by amending Subsections (a), (c), and (d) and adding Subsections  
21 (c-1) and (c-2) to read as follows:

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

1  $[MS = SF \times FS$

2 ~~[where:~~

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

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

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

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

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

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

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

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

21 (2) \$100.

22 (c-2) Subsection (c-1) and this subsection expire September  
 23 1, 2006.

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

1 entitled to a salary that is at least equal to the salary the  
2 employee received for the 2005-2006 [~~2000-2001~~] school year.

3 SECTION 2A.04. Subchapter J, Chapter 21, Education Code, is  
4 amended by adding Section 21.458 to read as follows:

5 Sec. 21.458. MENTORS. (a) Each school district may assign  
6 as a mentor to each classroom teacher who has less than two years of  
7 teaching experience a teacher who:

8 (1) teaches in the same school;

9 (2) to the extent practicable, teaches the same  
10 subject or grade level, as applicable; and

11 (3) meets the qualifications prescribed by  
12 commissioner rules adopted under Subsection (b).

13 (b) The commissioner shall adopt rules necessary to  
14 administer this section, including rules concerning the duties and  
15 qualifications of a teacher who serves as a mentor. The rules  
16 concerning qualifications must require that to serve as a mentor a  
17 teacher must have at least three complete years of teaching  
18 experience with a proven record of superior value-added student  
19 achievement as demonstrated under Section 39.034.

20 (c) From the funds appropriated to the agency for purposes  
21 of this section, the commissioner shall adopt rules to implement  
22 this section. In adopting rules under this subsection, the  
23 commissioner shall rely on mentoring programs that, through  
24 external evaluation, have demonstrated success. This subsection  
25 expires January 1, 2006.

26 SECTION 2A.05. Section 21.054, Education Code, as added by  
27 this Act, applies beginning with the 2006-2007 school year.

PART B. STATE GOVERNANCE

SECTION 2B.01. Subchapter A, Chapter 7, Education Code, is amended by adding Sections 7.007-7.009 to read as follows:

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

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

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

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

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

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

(d) The commissioner's rules must ensure that the Public Education Information Management System links student performance

1 data to other related information for purposes of efficient and  
2 effective allocation of school resources.

3 Sec. 7.008. STATEWIDE STUDENT ENROLLMENT, ATTENDANCE, AND  
4 ACHIEVEMENT TRACKING SYSTEM. (a) Each school district shall  
5 participate in a system meeting standards approved by the  
6 commissioner to track each student enrolled in a public school in  
7 this state. A student tracking system must:

8 (1) produce detailed reports for agency officials and  
9 policy-makers and update information as applicable on each  
10 student's:

11 (A) enrollment;

12 (B) attendance;

13 (C) achievement, including course or grade  
14 completion and assessment instrument results;

15 (D) receipt of special education services,  
16 including placement in a special education program and the  
17 individualized education program developed;

18 (E) individual graduation plans; and

19 (F) specific reason for leaving a school or  
20 school district, such as transferring, graduating, or dropping out  
21 of school; and

22 (2) to facilitate the electronic transfer of student  
23 records and the evaluation and improvement of educational programs  
24 in the state, permit an authorized state or district official to  
25 electronically retrieve information about a particular student as  
26 necessary.

27 (b) Each school district shall use the student tracking

1 system.

2 (c) The commissioner may solicit and accept grant funds to  
3 maintain the student tracking system and to make the system  
4 available to school districts.

5 Sec. 7.009. CONTRACT FOR STUDENT TRACKING SYSTEM;  
6 CONFIDENTIALITY OF STUDENT INFORMATION. (a) To assist school  
7 districts in complying with Section 7.008, the agency may contract  
8 with a public or private entity that develops tracking systems or  
9 electronic transfer systems. The third-party contractor may  
10 produce software or other electronic tools or host an Internet  
11 website to collect and compile data and produce reports meeting  
12 standards approved by the commissioner as provided by Section  
13 7.008.

14 (b) In order to develop and evaluate the data, the  
15 third-party contractor may collect data from each school district  
16 under the contract, including data that is confidential under state  
17 or federal law. Confidential data collected by the contractor does  
18 not lose its character as confidential information because of its  
19 collection by the contractor, and providing that data to the  
20 contractor does not constitute a release of the information by the  
21 school district.

22 (c) The contractor and its employees are subject to any  
23 state or federal law governing the release of or providing access to  
24 any confidential information to the same extent as the school  
25 district from which the data is collected. The contractor may not  
26 release or distribute the data to any other person in a form that  
27 contains confidential information.



1        (d) Confidential information may be used by the contractor  
2 solely for the purposes provided by Section 7.008 and must be  
3 destroyed immediately when no longer needed for those purposes.

4                    PART C. SCHOOL DISTRICT GOVERNANCE AND OPERATION

5            SECTION 2C.01. (a) Section 11.059, Education Code, is  
6 amended to read as follows:

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

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

12            [~~(c)~~] Elections for trustees [~~with four-year terms~~] shall  
13 be held on the uniform election date in November [~~biennially~~]. The  
14 terms of one-half of the trustees, or as near to one-half as  
15 possible, expire every two years.

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

18            (b) Section 41.001(d), Election Code, is amended to read as  
19 follows:

20            (d) A general election of officers of a city, school  
21 district, junior college district, or hospital district may not be  
22 held on the February or September uniform election date. A general  
23 election of officers of an independent school district may not be  
24 held on the February, May, or September uniform election date.

25            SECTION 2C.02. Section 25.0811(a), Education Code, is  
26 amended to read as follows:

27            [~~(a)~~] A school district shall [~~may not~~] begin instruction

1 for students for a school year on the first Tuesday after Labor Day  
2 [~~before the week in which August 21 falls. For purposes of this~~  
3 ~~subsection, Sunday is considered the first day of the week~~].

4 SECTION 2C.03. (a) Section 11.059, Education Code, as  
5 amended by this Act, applies beginning with a school district  
6 trustee election scheduled for 2006.

7 (b) Except as provided by Subsection (c) of this section, a  
8 school district trustee election that on the effective date of this  
9 Act is scheduled to be held in 2006 or 2007 must be held on November  
10 7, 2006, or November 6, 2007.

11 (c) If, under Subsection (b) of this section, the positions  
12 of more than one-half of the trustees or as near to one-half as  
13 possible would be scheduled for election on November 7, 2006, or  
14 November 6, 2007, the trustees holding those positions shall draw  
15 lots to determine, as appropriate, which positions are subject to  
16 election in 2006 or 2007 and which are subject to election in 2008  
17 or 2009.

18 (d) To implement the changes made to Section 11.059,  
19 Education Code, by this Act, a person may serve a term as school  
20 district trustee that is longer than the term for which the person  
21 was elected.

22 PART D. ACCOUNTABILITY

23 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is  
24 amended by adding Section 7.010 to read as follows:

25 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) The agency  
26 shall establish a clearinghouse of information relating to the best  
27 practices of school districts for curriculum development,

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

3 (b) The agency shall:

4 (1) allow each school district to submit examples of  
5 the district's best practices for:

6 (A) curriculum development and classroom  
7 instruction, including best practices regarding scope and sequence  
8 of education;

9 (B) bilingual education and special language  
10 programs; and

11 (C) business practices, including descriptions  
12 of effective, efficient practices;

13 (2) organize the best practices for curriculum  
14 development and classroom instruction by each grade level and each  
15 subject in the required curriculum under Section 28.002;

16 (3) organize the best practices for business practices  
17 with priority given to descriptions of effective, efficient  
18 practices provided by districts rated exemplary or recognized under  
19 Subchapter D, Chapter 39; and

20 (4) periodically update information described by this  
21 section as the agency determines necessary to provide timely  
22 information regarding best practices.

23 (c) The agency may include in the clearinghouse any  
24 information that the agency determines to be relevant to the best  
25 practices of school districts.

26 (d) The agency shall make available on its Internet website  
27 the best practices information described by this section. The

1 information must be easily accessible by school districts and  
2 interested members of the public.

3 (e) Based on the measure of progress toward English language  
4 proficiency under Section 29.065, the commissioner shall determine  
5 which school districts offer the most effective bilingual education  
6 and special language programs and make the information available as  
7 provided by this section.

8 (f) The agency shall contract for the services of one or  
9 more third-party contractors to develop a system of collecting and  
10 evaluating best practices of school districts as provided by this  
11 section. In addition to any other considerations required by law,  
12 the agency must consider an applicant's demonstrated competence and  
13 qualifications in analyzing school district practices in awarding a  
14 contract under this subsection.

15 (g) The agency shall implement this section not later than  
16 September 1, 2006. This subsection expires January 1, 2007.

17 SECTION 2D.02. Subchapter A, Chapter 11, Education Code, is  
18 amended by adding Section 11.004 to read as follows:

19 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS  
20 AND CAMPUSES. A school district or campus rated exemplary under  
21 Section 39.072 is subject only to the prohibitions, restrictions,  
22 and requirements of this title that apply to an open-enrollment  
23 charter school under Section 12.104(b).

24 SECTION 2D.03. Section 25.005(b), Education Code, is  
25 amended to read as follows:

26 (b) A reciprocity agreement must:

27 (1) address procedures for:

- 1 (A) transferring student records;  
2 (B) awarding credit for completed course work;  
3 and  
4 (C) permitting a student to satisfy the  
5 requirements of Section 39.025 through successful performance on  
6 comparable end-of-course or other exit-level assessment  
7 instruments administered in another state; and  
8 (2) include appropriate criteria developed by the  
9 agency.

10 SECTION 2D.04. Section 29.081(b), Education Code, is  
11 amended to read as follows:

12 (b) Each district shall provide accelerated instruction to  
13 a student enrolled in the district who has taken an end-of-course  
14 ~~[the secondary exit-level]~~ assessment instrument administered  
15 under Section 39.023(c) and has not performed satisfactorily on the  
16 assessment instrument ~~[each section]~~ or who is at risk of dropping  
17 out of school.

18 SECTION 2D.05. Section 29.202, Education Code, is amended  
19 to read as follows:

20 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate  
21 yearly progress standard" means a standard:

22 (1) determined by the commissioner and approved by the  
23 United States Department of Education as provided by the No Child  
24 Left Behind Act of 2001 (Pub. L. No. 107-110); and

25 (2) used to measure various indicators of educational  
26 success to determine the progress of a campus towards academic  
27 achievement.

1           **(b)** A student is eligible to receive a public education  
2 grant or to attend another public school in the district in which  
3 the student resides under this subchapter if the student is  
4 assigned to attend a public school campus:

5           (1) at which 50 percent or more of the students did not  
6 perform satisfactorily on an assessment instrument administered  
7 under Section 39.023(a) or (c) in any two of the preceding three  
8 years; ~~[or]~~

9           (2) that was, at any time in the preceding three years,  
10 considered low-performing under Section 39.132; or

11           (3) that has not met the adequate yearly progress  
12 standard for the same indicator of educational success for the  
13 preceding two years.

14           **(c)** ~~[(b)]~~ After a student has used a public education grant  
15 to attend a school in a district other than the district in which  
16 the student resides, [+

17           ~~[(1)]~~ the student does not become ineligible for the  
18 grant if the school on which the student's initial eligibility is  
19 based no longer meets the criteria under Subsection **(b)** ~~[(a), and~~

20           ~~[(2) the student becomes ineligible for the grant if~~  
21 ~~the student is assigned to attend a school that does not meet the~~  
22 ~~criteria under Subsection (a)].~~

23           SECTION 2D.06. Subchapter G, Chapter 29, Education Code, is  
24 amended by adding Section 29.2021 to read as follows:

25           Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict  
26 between this subchapter and a provision of Section 1116, No Child  
27 Left Behind Act of 2001 (20 U.S.C. Section 6316), as described by

1 Subsection (a), the No Child Left Behind Act of 2001 prevails.

2 SECTION 2D.07. Section 29.203(f), Education Code, is  
3 amended to read as follows:

4 (f) The school district in which a student resides shall  
5 provide each student attending a school in another district under  
6 this subchapter transportation free of charge to and from the  
7 school the student would otherwise attend, except as provided by  
8 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section  
9 6316).

10 SECTION 2D.08. Section 30.021(e), Education Code, is  
11 amended to read as follows:

12 (e) The school shall cooperate with public and private  
13 agencies and organizations serving students and other persons with  
14 visual impairments in the planning, development, and  
15 implementation of effective educational and rehabilitative service  
16 delivery systems associated with educating students with visual  
17 impairments. To maximize and make efficient use of state  
18 facilities, funding, and resources, the services provided in this  
19 area may include conducting a cooperative program with other  
20 agencies to serve students who have graduated from high school by  
21 completing all academic requirements applicable to students in  
22 regular education, excluding satisfactory performance on the  
23 end-of-course [~~exit-level~~] assessment instruments required by  
24 commissioner rule under Section 39.025(a) [~~instrument~~], who are  
25 younger than 22 years of age on September 1 of the school year and  
26 who have identified needs related to vocational training,  
27 independent living skills, orientation and mobility, social and

1 leisure skills, compensatory skills, or remedial academic skills.

2 SECTION 2D.09. Sections 39.023(a) and (c), Education Code,  
3 are amended to read as follows:

4 (a) The agency shall adopt or develop appropriate  
5 criterion-referenced assessment instruments designed to assess  
6 essential knowledge and skills in reading, writing, mathematics,  
7 social studies, and science. All students, except students  
8 assessed under Subsection (b) or (1) or exempted under Section  
9 39.027, shall be assessed in:

10 (1) mathematics, annually in grades three through  
11 seven without the aid of technology and in grade [~~grades~~]  
12 [~~through 11~~] with the aid of technology on any assessment  
13 instruments that include algebra;

14 (2) reading, annually in grades three through eight  
15 [~~nine~~];

16 (3) writing, including spelling and grammar, in grades  
17 four and seven;

18 (4) [~~English language arts, in grade 10,~~  
19 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~  
20 ~~10~~];

21 (5) [~~6~~] science, in grades five and [~~7~~] eight [~~and~~  
22 ~~10~~]; and

23 (6) [~~7~~] any other subject and grade required by  
24 federal law.

25 (c) The agency shall also adopt end-of-course [~~secondary~~  
26 ~~exit-level~~] assessment instruments for secondary-level courses in  
27 Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics,



1 Integrated Physics and Chemistry, English I, English II, English  
2 III, World Geography, World History, and United States History. A  
3 school district may adopt a policy that a student may not receive  
4 course credit for a course listed in this subsection until the  
5 student performs satisfactorily on the end-of-course assessment  
6 for that course [~~designed to be administered to students in grade 11~~  
7 ~~to assess essential knowledge and skills in mathematics, English~~  
8 ~~language arts, social studies, and science. The mathematics~~  
9 ~~section must include at least Algebra I and geometry with the aid of~~  
10 ~~technology. The English language arts section must include at~~  
11 ~~least English III and must include the assessment of essential~~  
12 ~~knowledge and skills in writing. The social studies section must~~  
13 ~~include early American and United States history. The science~~  
14 ~~section must include at least biology and integrated chemistry and~~  
15 ~~physics. The assessment instruments must be designed to assess a~~  
16 ~~student's mastery of minimum skills necessary for high school~~  
17 ~~graduation and readiness to enroll in an institution of higher~~  
18 ~~education~~]. If a student is in a special education program under  
19 Subchapter A, Chapter 29, the student's admission, review, and  
20 dismissal committee shall determine whether any allowable  
21 modification is necessary in administering to the student an  
22 assessment instrument required under this subsection or whether the  
23 student should be exempted under Section 39.027(a)(2). The State  
24 Board of Education shall administer the assessment instruments.  
25 The State Board of Education shall adopt a schedule for the  
26 administration of end-of-course [~~secondary exit-level~~] assessment  
27 instruments. Each student who did not perform satisfactorily on

1 any end-of-course [~~secondary exit-level~~] assessment instrument  
2 when initially tested shall be given multiple opportunities to  
3 retake that assessment instrument. [~~A student who performs at or~~  
4 ~~above a level established by the Texas Higher Education~~  
5 ~~Coordinating Board on the secondary exit-level assessment~~  
6 ~~instruments is exempt from the requirements of Section 51.306.~~]

7 SECTION 2D.10. Subchapter B, Chapter 39, Education Code, is  
8 amended by adding Section 39.0232 to read as follows:

9 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) The  
10 agency shall provide for assessment instruments required under  
11 Section 39.023 to be designed so that those assessment instruments  
12 can be computer-adaptive.

13 (b) To the extent practicable and appropriate, the agency  
14 shall require school districts to administer to students the  
15 computer-adaptive assessment instruments.

16 (c) The agency shall implement this section not later than  
17 March 1, 2006. This subsection expires September 1, 2006.

18 SECTION 2D.11. Section 39.025, Education Code, is amended  
19 to read as follows:

20 Sec. 39.025. SECONDARY-LEVEL [EXIT-LEVEL] PERFORMANCE  
21 REQUIRED. (a) The commissioner shall adopt rules specifying the  
22 end-of-course assessment instruments for secondary-level courses  
23 administered under Section 39.023(c) on which a student must  
24 perform satisfactorily to receive a high school diploma. A student  
25 may not receive a high school diploma until the student has  
26 performed satisfactorily on those [the secondary exit-level]  
27 assessment instruments [for English language arts, mathematics,

1 ~~social studies, and science administered under Section 39.023(c)].~~

2 This subsection does not require a student to demonstrate readiness  
3 to enroll in an institution of higher education.

4 (b) Each time an end-of-course [~~a secondary exit-level~~]  
5 assessment instrument is administered, a student who has not been  
6 given a high school diploma because of a failure to perform  
7 satisfactorily on the assessment instrument for that subject area  
8 may retake the assessment instrument.

9 (c) A student who has been denied a high school diploma  
10 under Subsections (a) and (b) and who subsequently performs  
11 satisfactorily on each necessary end-of-course [~~secondary~~  
12 ~~exit-level~~] assessment instrument shall be issued a high school  
13 diploma.

14 (d) The commissioner shall by rule adopt a transition plan  
15 to implement the amendments made by \_\_.B. No. \_\_, Acts of the 79th  
16 Legislature, Regular Session, 2005, to this section and Sections  
17 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the  
18 administration of end-of-course assessment instruments adopted  
19 under Section 39.023(c) to begin as soon as practicable but not  
20 later than the 2008-2009 school year. During the period under which  
21 the transition to end-of-course assessment instruments is made:

22 (1) the commissioner may retain, administer, and use  
23 for campus and district ratings under Subchapter D any assessment  
24 instrument required by Section 39.023(a) or (c), as that section  
25 existed before amendment by \_\_.B. No. \_\_, Acts of the 79th  
26 Legislature, Regular Session, 2005; and

27 (2) the agency may defer releasing assessment

1 instrument questions and answer keys as required by Section  
2 39.023(e) to the extent necessary to develop additional assessment  
3 instruments.

4 (e) Rules adopted under Subsection (d) must require that  
5 each student who will be subject to the requirements of Subsection  
6 (a) is entitled to notice of the specific requirements applicable  
7 to the student. Notice under this subsection must be provided not  
8 later than the date the student enters the ninth grade. Subsection  
9 (d) and this subsection expire September 1, 2009.

10 SECTION 2D.12. Subchapter B, Chapter 39, Education Code, is  
11 amended by adding Section 39.0261 to read as follows:

12 Sec. 39.0261. COLLEGE PREPARATION ACHIEVEMENT ASSESSMENTS.

13 (a) In addition to the assessment instruments otherwise authorized  
14 or required by this subchapter, a school district shall administer  
15 to students in grades 8, 10, and 12 an established, valid, and  
16 reliable system of nationally normed and curriculum-based  
17 educational planning and achievement assessment instruments with  
18 the following characteristics:

19 (1) an integrated series of standards and  
20 curriculum-based achievement assessment instruments, with the  
21 grade 12 assessment instrument currently accepted by this state's  
22 colleges and universities for use in determining admissions; and

23 (2) a common content continuum and score scale in the  
24 assessed areas of reading, English, mathematics, and science across  
25 the assessment instruments administered at each grade level.

26 (b) The agency shall:

27 (1) select and approve vendors of the specific

1 assessment instruments administered under this section; and

2 (2) pay from its operating budget all costs associated  
3 with administration of the assessment instruments.

4 (c) The agency shall compile the results of any assessment  
5 instrument administered under this section and make the results  
6 available through the Public Education Information Management  
7 System (PEIMS).

8 SECTION 2D.13. Subchapter B, Chapter 39, Education Code, is  
9 amended by adding Section 39.034 to read as follows:

10 Sec. 39.034. MEASURE OF VALUE-ADDED STUDENT ACHIEVEMENT ON  
11 ASSESSMENT INSTRUMENTS. (a) The commissioner by rule shall adopt a  
12 method by which the agency may measure value-added student  
13 achievement by tracking changes in a student's performance from one  
14 school year to the next on an assessment instrument required under  
15 this subchapter.

16 (b) Each year, for each student who takes an assessment  
17 instrument required under Section 39.023(a), (b), or (l), the  
18 agency shall use the method adopted under Subsection (a) to compare  
19 the student's results on the assessment instrument to the student's  
20 results on any assessment instrument for that subject the student  
21 has taken during the preceding school year.

22 (c) The agency shall maintain a record of the comparisons  
23 made under this section. Each year the agency shall:

24 (1) provide the record to the school the student  
25 attends; and

26 (2) provide to each teacher a record of all students  
27 who were:

1           (A) assessed on an assessment instrument; and  
2           (B) taught by that teacher in the subject for  
3 which the assessment instrument was administered.

4           (d) The commissioner shall implement this section not later  
5 than September 1, 2006. This subsection expires January 1, 2008.

6           SECTION 2D.14. Section 39.051(b), Education Code, as  
7 amended by Chapters 433 and 805, Acts of the 78th Legislature,  
8 Regular Session, 2003, is reenacted and amended to read as follows:

9           (b) Performance on the indicators adopted under this  
10 section shall be compared to state-established standards. The  
11 degree of change from one school year to the next in performance on  
12 each indicator adopted under this section shall also be considered.  
13 The indicators must be based on information that is disaggregated  
14 by race, ethnicity, gender, and socioeconomic status and must  
15 include:

16           (1) the results of assessment instruments required  
17 under Sections 39.023(a), (c), and (l), aggregated by grade level  
18 and subject area;

19           (2) dropout rates, including dropout rates and  
20 district completion rates for grade levels 9 through 12, computed  
21 in accordance with standards and definitions adopted by the  
22 National Center for Education Statistics of the United States  
23 Department of Education;

24           (3) high school graduation rates, computed in  
25 accordance with standards and definitions adopted in compliance  
26 with the [~~Federal~~] No Child Left Behind Act of 2001 (Pub. L. No.  
27 107-110);

- 1           (4) student attendance rates;
- 2           (5) the percentage of graduating students who attain  
3 scores on the end-of-course [~~secondary exit-level~~] assessment  
4 instruments required under Subchapter B that are equivalent to a  
5 passing score on the assessment [~~test~~] instrument required under  
6 Section 51.3062 [~~51.306~~];
- 7           (6) the percentage of graduating students who meet the  
8 course requirements established for the recommended high school  
9 program by State Board of Education rule;
- 10          (7) the measure of progress toward English language  
11 proficiency under Section 29.065, for students of limited English  
12 proficiency, as defined by Section 29.052;
- 13          (8) value-added student achievement, as measured  
14 under Section 39.034;
- 15          (9) the results of the Scholastic Assessment Test  
16 (SAT), the American College Test (ACT), articulated postsecondary  
17 degree programs described by Section 61.852, and certified  
18 workforce training programs described by Chapter 311, Labor Code;
- 19          (10) [~~(8)~~] the percentage of students, aggregated by  
20 grade level, provided accelerated instruction under Section  
21 28.0211(c), the results of assessments administered under that  
22 section, the percentage of students promoted through the grade  
23 placement committee process under Section 28.0211, the subject of  
24 the assessment instrument on which each student failed to perform  
25 satisfactorily, and the performance of those students in the school  
26 year following that promotion on the assessment instruments  
27 required under Section 39.023;

1           (11) [~~(9)~~] for students who have failed to perform  
2 satisfactorily on an assessment instrument required under Section  
3 39.023(a) or (c), the numerical progress of those students on  
4 subsequent assessment instruments required under those sections,  
5 aggregated by grade level and subject area;

6           (12) [~~(10)~~] the percentage of students exempted, by  
7 exemption category, from the assessment program generally  
8 applicable under this chapter; [~~and~~]

9           (13) [~~(11)~~] the percentage of students of limited  
10 English proficiency exempted from the administration of an  
11 assessment instrument under Sections 39.027(a)(3) and (4); and

12           (14) the percentage of students in a special education  
13 program under Subchapter A, Chapter 29, assessed through assessment  
14 instruments developed or adopted under Section 39.023(b).

15           SECTION 2D.15. Section 39.051(d), Education Code, is  
16 amended to read as follows:

17           (d) Annually, the commissioner shall define exemplary,  
18 recognized, and unacceptable performance for each academic  
19 excellence indicator included under Subsections (b)(1) through (9)  
20 [~~(6)~~] and shall project the standards for each of those levels of  
21 performance for succeeding years. For the indicator under  
22 Subsection (b)(10) [~~(b)(7)~~], the commissioner shall define  
23 exemplary, recognized, and unacceptable performance based on  
24 student performance for the period covering both the current and  
25 preceding academic years. In defining exemplary, recognized, and  
26 unacceptable performance for the indicators under Subsections  
27 (b)(2) and (4) [~~(3)~~], the commissioner may not consider as a dropout



1 or as a student who has failed to attend school a student whose  
2 failure to attend school results from:

3 (1) the student's expulsion under Section 37.007; and

4 (2) as applicable:

5 (A) adjudication as having engaged in delinquent  
6 conduct or conduct indicating a need for supervision, as defined by  
7 Section 51.03, Family Code; or

8 (B) conviction of and sentencing for an offense  
9 under the Penal Code.

10 SECTION 2D.16. Section 39.052(b), Education Code, is  
11 amended to read as follows:

12 (b) The report card shall include the following  
13 information:

14 (1) where applicable, the academic excellence  
15 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];

16 (2) average class size by grade level and subject;

17 (3) the administrative and instructional costs per  
18 student, computed in a manner consistent with Section 44.0071;

19 (4) a summary of the district's significant  
20 noninstructional expenditures, as determined under Section  
21 44.0072; and

22 (5) [~~(4)~~] the district's instructional expenditures  
23 ratio and instructional employees ratio computed under Section  
24 44.0071, and the statewide average of those ratios, as determined  
25 by the commissioner.

26 SECTION 2D.17. Section 39.131, Education Code, is amended  
27 by amending Subsection (a) and adding Subsection (c) to read as

1 follows:

2 (a) If a district does not satisfy the accreditation  
3 criteria, the commissioner shall take any of the following actions,  
4 listed in order of severity, to the extent the commissioner  
5 determines necessary:

6 (1) issue public notice of the deficiency to the board  
7 of trustees;

8 (2) order a hearing conducted by the board of trustees  
9 of the district for the purpose of notifying the public of the  
10 unacceptable performance, the improvements in performance expected  
11 by the agency, and the sanctions that may be imposed under this  
12 section if the performance does not improve;

13 (3) order the preparation of a student achievement  
14 improvement plan that addresses each academic excellence indicator  
15 for which the district's performance is unacceptable, the  
16 submission of the plan to the commissioner for approval, and  
17 implementation of the plan;

18 (4) order a hearing to be held before the commissioner  
19 or the commissioner's designee at which the president of the board  
20 of trustees of the district and the superintendent shall appear and  
21 explain the district's low performance, lack of improvement, and  
22 plans for improvement;

23 (5) arrange an on-site investigation of the district;

24 (6) appoint an agency monitor to participate in and  
25 report to the agency on the activities of the board of trustees or  
26 the superintendent;

27 (7) appoint a conservator to oversee the operations of

1 the district;

2 (8) appoint a management team to direct the operations  
3 of the district in areas of unacceptable performance or require the  
4 district to obtain certain services under a contract with another  
5 person;

6 (9) if a district has been rated as academically  
7 unacceptable for a period of one year or more, appoint a board of  
8 managers to exercise the powers and duties of the board of trustees;

9 (10) if a district has been rated as academically  
10 unacceptable for a period of two years or more:

11 (A) annex the district to one or more adjoining  
12 districts under Section 13.054; or

13 (B) in the case of a home-rule school district  
14 [~~or open-enrollment charter school~~], order closure of all programs  
15 operated under the district's [~~or school's~~] charter; or

16 (11) if a district has been rated as academically  
17 unacceptable for a period of two years or more due to the district's  
18 dropout rates, impose sanctions designed to improve high school  
19 completion rates, including:

20 (A) ordering the development of a dropout  
21 prevention plan for approval by the commissioner;

22 (B) restructuring the district or appropriate  
23 school campuses to improve identification of and service to  
24 students who are at risk of dropping out of school, as defined by  
25 Section 29.081;

26 (C) ordering lower student-to-counselor ratios  
27 on school campuses with high dropout rates; and

1 (D) ordering the use of any other intervention  
2 strategy effective in reducing dropout rates, including mentor  
3 programs and flexible class scheduling.

4 (c) The commissioner shall order the closure of all programs  
5 operated under the charter of an open-enrollment charter school if  
6 a majority of the campuses operated by the charter holder have  
7 received an unsatisfactory rating as determined by the commissioner  
8 for a period of two years or more.

9 SECTION 2D.18. Section 39.132, Education Code, is amended  
10 to read as follows:

11 Sec. 39.132. SANCTIONS FOR CAMPUSES. (a) If a campus  
12 performance is below any standard under Section 39.073(b), the  
13 campus is considered a low-performing campus. The commissioner may  
14 permit the campus to participate in an innovative redesign of the  
15 campus to improve campus performance or may take any of the other  
16 following actions, listed in order of severity, to the extent the  
17 commissioner determines necessary:

18 (1) issue public notice of the deficiency to the board  
19 of trustees;

20 (2) order a hearing conducted by the board of trustees  
21 at the campus for the purpose of:

22 (A) notifying the public of the unacceptable  
23 performance, the improvements in performance expected by the  
24 agency, and the sanctions that may be imposed under this section if  
25 the performance does not improve within a designated period of  
26 time; and

27 (B) soliciting public comment on the initial

1 steps being taken to improve performance;

2 (3) order the preparation of a report regarding the  
3 parental involvement program at the campus and a plan describing  
4 strategies for improving parental involvement at the campus;

5 (4) order the preparation of a report regarding the  
6 effectiveness of the district- and campus-level planning and  
7 decision-making committees established under Subchapter F, Chapter  
8 11, and a plan describing strategies for improving the  
9 effectiveness of those committees;

10 (5) order the preparation of a student achievement  
11 improvement plan that addresses each academic excellence indicator  
12 for which the campus's performance is unacceptable, the submission  
13 of the plan to the commissioner for approval, and implementation of  
14 the plan;

15 (6) order a hearing to be held before the commissioner  
16 or the commissioner's designee at which the president of the board  
17 of trustees, the superintendent, and the campus principal shall  
18 appear and explain the campus's low performance, lack of  
19 improvement, and plans for improvement; or

20 (7) appoint a special campus intervention team to:

21 (A) conduct a comprehensive on-site evaluation  
22 of the campus to determine the cause for the campus's low  
23 performance and lack of progress;

24 (B) recommend actions, including reallocation of  
25 resources and technical assistance, changes in school procedures or  
26 operations, staff development for instructional and administrative  
27 staff, intervention for individual administrators or teachers,

1 waivers from state statute or rule, or other actions the team  
2 considers appropriate;

3 (C) assist in the development of a campus plan  
4 for student achievement; and

5 (D) assist the commissioner in monitoring the  
6 progress of the campus in implementing the campus plan for  
7 improvement of student achievement.

8 (b) If ~~;~~ ~~or~~

9 ~~[(8) if]~~ a campus has been a low-performing campus for  
10 a period of one year or more, the commissioner shall require the  
11 campus to take the actions described by Subsections (a)(1), (2),  
12 and (5) [appoint a board of managers composed of residents of the  
13 district to exercise the powers and duties of the board of trustees  
14 of the district in relation to the campus].

15 (c) ~~(b)~~ If a campus has been a low-performing campus for a  
16 period of two consecutive years or more:

17 (1) a student assigned to attend the campus is  
18 eligible to transfer to another campus as provided by Subchapter G,  
19 Chapter 29; and

20 (2) ~~(7)~~ the commissioner shall order the closure of the  
21 district or charter program on the campus or reconstitute the  
22 campus.

23 (d) In reconstituting a ~~the~~ campus under Subsection (c),  
24 the commissioner shall appoint a special management [campus  
25 intervention] team to supervise the reconstitution. The management  
26 team shall decide [be assembled for the purpose of deciding] which  
27 educators may be retained at that campus. A principal who has been

1 employed by the campus in that capacity during the two-year  
2 low-performing period may not be retained at that campus. A teacher  
3 of a subject assessed by an assessment instrument under Section  
4 39.023 may be retained only if the teacher has a record of  
5 value-added student achievement as measured under Section 39.034.  
6 If an educator is not retained, the educator may be assigned to  
7 another position in the district.

8 (e) The special management team shall:

9 (1) implement the best practices of campuses for  
10 curriculum development and classroom instruction, including  
11 bilingual education and special education programs, if  
12 appropriate, and business practices; and

13 (2) provide technical assistance based on  
14 scientifically based research, including data analysis,  
15 identification and implementation strategies, and budget analysis,  
16 to strengthen and improve the instructional program at the campus.

17 SECTION 2D.19. Section 39.183, Education Code, is amended  
18 to read as follows:

19 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The  
20 agency shall prepare and deliver to the governor, the lieutenant  
21 governor, the speaker of the house of representatives, each member  
22 of the legislature, the Legislative Budget Board, and the clerks of  
23 the standing committees of the senate and house of representatives  
24 with primary jurisdiction over the public school system a regional  
25 and district level report covering the preceding two school years  
26 and containing:

27 (1) a summary of school district compliance with the

1 student/teacher ratios and class-size limitations prescribed by  
2 Sections 25.111 and 25.112, including:

3 (A) the number of campuses and classes at each  
4 campus granted an exception from Section 25.112; and

5 (B) the performance rating under Subchapter D of  
6 each campus granted an exception from Section 25.112;

7 (2) a summary of the exemptions and waivers granted to  
8 school districts under Section 7.056 or 11.004 [~~39.112~~] and a  
9 review of the effectiveness of each campus or district following  
10 deregulation;

11 (3) an evaluation of the performance of the system of  
12 regional education service centers based on the indicators adopted  
13 under Section 8.101 and client satisfaction with services provided  
14 under Subchapter B, Chapter 8;

15 (4) an evaluation of accelerated instruction programs  
16 offered under Section 28.006, including an assessment of the  
17 quality of such programs and the performance of students enrolled  
18 in such programs; and

19 (5) the number of classes at each campus that are  
20 currently being taught by individuals who are not certified in the  
21 content areas of their respective classes.

22 SECTION 2D.20. Section 39.202(b), Education Code, is  
23 amended to read as follows:

24 (b) The system must include uniform indicators adopted by  
25 the commissioner by which to measure a district's financial  
26 management performance. In adopting uniform indicators, the  
27 commissioner shall:



1           (1) identify indicators the commissioner considers  
2 critical; and

3           (2) include in the indicators identified under  
4 Subdivision (1) an indicator relating to a district's instructional  
5 costs.

6           SECTION 2D.21. The heading to Section 39.203, Education  
7 Code, is amended to read as follows:

8           Sec. 39.203. DISTRICT REPORTING.

9           SECTION 2D.22. Section 39.203(b), Education Code, is  
10 amended to read as follows:

11           (b) The annual financial management report must include:

12           (1) a description of the district's financial  
13 management performance based on a comparison, provided by the  
14 agency, of the district's performance on the indicators adopted  
15 under Section 39.202(b) to:

16                   (A) state-established standards; and

17                   (B) the district's previous performance on the  
18 indicators; ~~and~~

19           (2) any descriptive information required by the  
20 commissioner; and

21           (3) a total sum of expenditures made by the district  
22 reconciled with a detailed statement of all expenditures made, by  
23 category, as prescribed by the commissioner.

24           SECTION 2D.23. Subchapter I, Chapter 39, Education Code, is  
25 amended by adding Section 39.2031 to read as follows:

26           Sec. 39.2031. CAMPUS REPORTING. (a) The commissioner  
27 shall develop, as part of the system under this subchapter, a

1 reporting procedure under which:

2 (1) each campus is required to prepare and distribute  
3 an annual financial management report; and

4 (2) the report is made easily accessible to interested  
5 members of the public.

6 (b) The annual financial management report must include:

7 (1) any difference between the foundation school  
8 program allotments received and actual campus expenditures; and

9 (2) separate reporting of:

10 (A) the actual expenditures for personnel  
11 working on the campus;

12 (B) the operation and maintenance of the campus;  
13 and

14 (C) services that cannot be allocated at the  
15 campus level, including:

16 (i) any shared services by campuses; and

17 (ii) support services, administrative  
18 assistance, and management services provided at the district level.

19 (c) Expenditures reported under Subsection (b)(2)(C) must  
20 be identified as administrative, instructional, or support in  
21 purpose.

22 SECTION 2D.24. Subchapter A, Chapter 44, Education Code, is  
23 amended by adding Section 44.0072 to read as follows:

24 Sec. 44.0072. NONINSTRUCTIONAL EXPENDITURES. (a) Each  
25 fiscal year, a school district shall compute and report through the  
26 Public Education Information Management System (PEIMS) to the  
27 commissioner:

1           (1) the district's significant noninstructional  
2 expenditures for the preceding fiscal year, as determined by the  
3 commissioner; and

4           (2) any money spent by the district during the  
5 preceding fiscal year on dues or contributions to a  
6 noninstructional group, club, committee, organization, or  
7 association, including dues or contributions used for the purpose  
8 of lobbying.

9           (b) The commissioner may determine, in a manner consistent  
10 with Section 44.0071, whether an expenditure is noninstructional.

11           SECTION 2D.25. Section 51.3062(q), Education Code, is  
12 amended to read as follows:

13           (q) A student who has achieved scores [~~a score~~] set by the  
14 board on end-of-course assessment instruments [~~an exit-level~~  
15 ~~assessment instrument~~] required under Section 39.023 is exempt from  
16 the requirements of this section. The exemption is effective for  
17 the three-year period following the date a student takes the last  
18 assessment instrument required for purposes of this section and  
19 achieves the standard set by the board. This subsection does not  
20 apply during any period for which the board designates the  
21 end-of-course assessment instruments [~~exit-level assessment~~  
22 ~~instrument~~] required under Section 39.023 as the primary assessment  
23 instrument under this section, except that the three-year period  
24 described by this subsection remains in effect for students who  
25 qualify for an exemption under this subsection [~~section~~] before  
26 that period.

27           SECTION 2D.26. A reference in the Education Code to an

1 end-of-course assessment instrument administered under Section  
2 39.023(c), Education Code, includes a secondary exit-level  
3 assessment instrument administered under that section as provided  
4 by Section 39.025(d), Education Code, as added by this Act.

5 SECTION 2D.27. (a) Not later than the 2006-2007 school  
6 year, the Texas Education Agency shall collect information  
7 concerning:

8 (1) the measure of progress toward English language  
9 proficiency for purposes of Section 39.051(b)(7), Education Code,  
10 as amended by this Act; and

11 (2) value-added student achievement for purposes of  
12 Section 39.051(b)(8), Education Code, as amended by this Act.

13 (b) Not later than the 2007-2008 school year, the Texas  
14 Education Agency shall include, in evaluating the performance of  
15 school districts, campuses, and open-enrollment charter schools  
16 under Subchapter D, Chapter 39, Education Code:

17 (1) the measure of progress toward English language  
18 proficiency under Section 39.051(b)(7), Education Code, as amended  
19 by this Act; and

20 (2) value-added student achievement under Section  
21 39.051(b)(8), Education Code, as amended by this Act.

22 SECTION 2D.28. The commissioner of education shall develop  
23 and implement the reporting procedures for campuses to prepare and  
24 distribute annual financial management reports under Section  
25 39.2031, Education Code, as added by this Act, not later than  
26 September 1, 2006.

PART E. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

SECTION 2E.01. Section 28.006(j), Education Code, is amended to read as follows:

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.051(b)(10) [~~39.051(b)(7)~~] and may implement sanctions under Subchapter G, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

SECTION 2E.02. Section 29.056(g), Education Code, is amended to read as follows:

(g) A district may transfer a student of limited English proficiency out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

(1) tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in both the student's primary language and English;

(2) satisfactory performance on the reading assessment instrument under Section 39.023(a) or the English I or II assessment instrument under Section 39.023(c), as applicable, with the assessment instrument administered in English, or, if the

1 student is enrolled in the first or second grade, an achievement  
2 score at or above the 40th percentile in the reading and language  
3 arts sections of an English standardized test approved by the  
4 agency; and

5 (3) other indications of a student's overall progress,  
6 including criterion-referenced test scores, subjective teacher  
7 evaluation, and parental evaluation.

8 SECTION 2E.03. Subchapter B, Chapter 29, Education Code, is  
9 amended by adding Section 29.065 to read as follows:

10 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE  
11 PROFICIENCY. The commissioner by rule shall develop a longitudinal  
12 measure of progress toward English language proficiency under which  
13 a student of limited English proficiency is evaluated from the time  
14 the student enters public school until, for two consecutive school  
15 years, the student scores at a specific level determined by the  
16 commissioner on the reading assessment instrument under Section  
17 39.023(a) or the English I or II assessment instrument under  
18 Section 39.023(c), as applicable. The commissioner shall:

19 (1) as part of the measure of progress, include  
20 student advancement from one proficiency level to a higher level  
21 under the reading proficiency in English assessment system  
22 developed under Section 39.027(e) and from the highest level under  
23 that assessment system to the level determined by the commissioner  
24 under this section on the reading assessment instrument under  
25 Section 39.023(a) or the English I or II assessment instrument  
26 under Section 39.023(c), as applicable; and

27 (2) to the extent practicable in developing the

1 measure of progress, use applicable research and analysis done in  
2 developing an annual measurable achievement objective as required  
3 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section  
4 6842).

5 SECTION 2E.04. Sections 39.072(b) and (c), Education Code,  
6 are amended to read as follows:

7 (b) The academic excellence indicators adopted under  
8 Sections 39.051(b)(1) through (10) [~~(7)~~] and the district's current  
9 special education compliance status with the agency shall be the  
10 main considerations of the agency in the rating of the district  
11 under this section. Additional criteria in the rules may include  
12 consideration of:

13 (1) compliance with statutory requirements and  
14 requirements imposed by rule of the State Board of Education under  
15 specific statutory authority that relate to:

16 (A) reporting data through the Public Education  
17 Information Management System (PEIMS);

18 (B) the high school graduation requirements  
19 under Section 28.025; or

20 (C) an item listed in Sections  
21 7.056(e)(3)(C)-(I) that applies to the district;

22 (2) the effectiveness of the district's programs for  
23 special populations; and

24 (3) the effectiveness of the district's career and  
25 technology programs.

26 (c) The agency shall evaluate against state standards and  
27 shall, not later than August 1 of each year, report the performance

1 of each campus in a district and each open-enrollment charter  
2 school on the basis of the campus's performance on the indicators  
3 adopted under Sections 39.051(b)(1) through (10) [~~(7)~~].  
4 Consideration of the effectiveness of district programs under  
5 Subsection (b)(2) or (3) must be based on data collected through the  
6 Public Education Information Management System for purposes of  
7 accountability under this chapter and include the results of  
8 assessments required under Section 39.023.

9 SECTION 2E.05. Sections 39.073(a) and (b), Education Code,  
10 are amended to read as follows:

11 (a) The agency shall annually review the performance of each  
12 district and campus on the indicators adopted under Sections  
13 39.051(b)(1) through (10) [~~(7)~~] and determine if a change in the  
14 accreditation status of the district is warranted. The  
15 commissioner may determine how all indicators adopted under Section  
16 39.051(b) may be used to determine accountability ratings and to  
17 select districts and campuses for acknowledgment.

18 (b) Each annual review shall include an analysis of the  
19 indicators under Sections 39.051(b)(1) through (10) [~~(6)~~] to  
20 determine district and campus performance in relation to:

- 21 (1) standards established for each indicator;
- 22 (2) required improvement as defined under Section  
23 39.051(c); and
- 24 (3) comparable improvement as defined by Section  
25 39.051(c).

26 SECTION 2E.06. Section 39.074(e), Education Code, is  
27 amended to read as follows:



1 (e) If an annual review indicates low performance on one or  
2 more of the indicators under Sections 39.051(b)(1) through (10)  
3 [~~(7)~~] of one or more campuses in a district, the agency may conduct  
4 an on-site evaluation of those campuses only.

5 PART F. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

6 SECTION 2F.01. Subchapter D, Chapter 29, Education Code, is  
7 amended by adding Section 29.127 to read as follows:

8 Sec. 29.127. 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 Texas  
13 governor's school program may include any or all of the following  
14 educational 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 foundation school  
24 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 for the purpose, the  
14 commissioner may make a grant to pay the costs of administering a  
15 Texas governor's school program to a public senior college or  
16 university whose application is approved under this section.

17 (f) The commissioner may adopt other rules necessary to  
18 implement this section.

19 SECTION 2F.02. Section 39.051, Education Code, is amended  
20 by adding Subsection (b-1) to read as follows:

21 (b-1) In addition to the indicators adopted under  
22 Subsection (b), the State Board of Education shall adopt the  
23 following indicators relating to high academic achievement to be  
24 considered in assigning a district an exemplary performance rating  
25 under Section 39.072:

26 (1) the percentage of students, disaggregated by race,  
27 ethnicity, gender, and socioeconomic status, who are enrolled in an

1 educational program for gifted and talented students;

2 (2) student results on advanced placement and  
3 international baccalaureate examinations, including the percentage  
4 of students scoring three or higher on the advanced placement  
5 examinations and the percentage of students scoring four or higher  
6 on the international baccalaureate examinations;

7 (3) student results on the Scholastic Assessment Test  
8 (SAT) and the American College Test (ACT);

9 (4) the percentage of students scoring in the top five  
10 percent on nationally recognized norm-referenced assessment  
11 instruments;

12 (5) the percentage of high school students enrolled in  
13 an advanced course;

14 (6) the percentage of students achieving commended  
15 performance, as determined by the State Board of Education, on an  
16 assessment instrument required under Section 39.023(a), (c), or  
17 (1);

18 (7) the percentage of students completing the  
19 recommended or advanced high school program established under  
20 Section 28.025; and

21 (8) the percentage of the district's graduating  
22 students who enroll in an institution of higher education for the  
23 academic year following graduation.

24 SECTION 2F.03. Section 39.053(a), Education Code, is  
25 amended to read as follows:

26 (a) Each board of trustees shall publish an annual report  
27 describing the educational performance of the district and of each

1 campus in the district that includes uniform student performance  
2 and descriptive information as determined under rules adopted by  
3 the commissioner. The annual report must also include:

4 (1) campus performance objectives established under  
5 Section 11.253 and the progress of each campus toward those  
6 objectives, which shall be available to the public;

7 (2) the performance rating for the district as  
8 provided under Section 39.072(a) and the performance rating of each  
9 campus in the district as provided under Section 39.072(c);

10 (3) the district's current special education  
11 compliance status with the agency;

12 (4) a statement of the number, rate, and type of  
13 violent or criminal incidents that occurred on each district  
14 campus, to the extent permitted under the Family Educational Rights  
15 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

16 (5) information concerning school violence prevention  
17 and violence intervention policies and procedures that the district  
18 is using to protect students; ~~and~~

19 (6) the findings that result from evaluations  
20 conducted under the Safe and Drug-Free Schools and Communities Act  
21 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent  
22 amendments; ~~and~~

23 (7) information received under Section 51.403(e) for  
24 each high school campus in the district, presented in a form  
25 determined by the commissioner; and

26 (8) information relating to high academic achievement  
27 in the district, as determined by the district's performance on the

1 indicators under Section 39.051(b-1).

2 SECTION 2F.04. Section 39.072, Education Code, is amended  
3 by adding Subsection (c-1) to read as follows:

4 (c-1) For purposes of assigning a district, campus, or  
5 open-enrollment charter school a performance rating of exemplary  
6 under this section, the agency shall consider the district's,  
7 campus's, or school's performance on the indicators relating to  
8 high academic achievement under Section 39.051(b-1). This  
9 information is in addition to any other indicators or factors  
10 considered by the agency in assigning a performance rating.

11 SECTION 2F.05. Section 39.0721(c), Education Code, is  
12 amended to read as follows:

13 (c) The performance standards on which a gold performance  
14 rating is based should include:

15 (1) student proficiency on:

16 (A) assessment instruments administered under  
17 Sections 39.023(a), (c), and (1); and

18 (B) other measures of proficiency determined by  
19 the commissioner;

20 (2) student performance on one or more nationally  
21 recognized norm-referenced assessment instruments;

22 (3) improvement in student performance;

23 (4) performance on indicators relating to high  
24 academic achievement under Section 39.051(b-1);

25 (5) [~~4~~] in the case of middle or junior high school  
26 campuses, student proficiency in mathematics, including algebra;  
27 and

1           (6) [~~(5)~~] in the case of high school campuses:

2           (A) the extent to which graduating students are  
3 academically prepared to attend institutions of higher education;

4           (B) the percentage of students who take advanced  
5 placement tests and student performance on those tests; and

6           (C) the percentage of students who take and  
7 successfully complete advanced academic courses or college-level  
8 course work offered through dual credit programs provided under  
9 agreements between high schools and institutions of higher  
10 education.

11           SECTION 2F.06. Section 39.182(a), Education Code, is  
12 amended to read as follows:

13           (a) Not later than December 1 of each year, the agency shall  
14 prepare and deliver to the governor, the lieutenant governor, the  
15 speaker of the house of representatives, each member of the  
16 legislature, the Legislative Budget Board, and the clerks of the  
17 standing committees of the senate and house of representatives with  
18 primary jurisdiction over the public school system a comprehensive  
19 report covering the preceding school year and containing:

20           (1) an evaluation of the achievements of the state  
21 educational program in relation to the statutory goals for the  
22 public education system under Section 4.002;

23           (2) an evaluation of the status of education in the  
24 state as reflected by the academic excellence indicators adopted  
25 under Section 39.051;

26           (3) 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 (4) a summary compilation of overall performance of  
8 students placed in a disciplinary [~~an~~] alternative education  
9 program established under Section 37.008 on academic skills  
10 assessment instruments required by Section 39.023 with the number  
11 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 (5) a summary compilation of overall performance of  
17 students at risk of dropping out of school, as defined by Section  
18 29.081(d), on academic skills assessment instruments required by  
19 Section 39.023 with the number of those students exempted from the  
20 administration of those instruments and the basis of the  
21 exemptions, aggregated by district, grade level, and subject area,  
22 with appropriate interpretations and analysis, and disaggregated  
23 by race, ethnicity, gender, and socioeconomic status;

24 (6) an evaluation of the correlation between student  
25 grades and student performance on academic skills assessment  
26 instruments required by Section 39.023;

27 (7) a statement of the dropout rate of students in

1 grade levels 7 through 12, expressed in the aggregate and by grade  
2 level, and a statement of the completion rates of students for grade  
3 levels 9 through 12;

4 (8) a statement of:

5 (A) the completion rate of students who enter  
6 grade level 9 and graduate not more than four years later;

7 (B) the completion rate of students who enter  
8 grade level 9 and graduate, including students who require more  
9 than four years to graduate;

10 (C) the completion rate of students who enter  
11 grade level 9 and not more than four years later receive a high  
12 school equivalency certificate;

13 (D) the completion rate of students who enter  
14 grade level 9 and receive a high school equivalency certificate,  
15 including students who require more than four years to receive a  
16 certificate; and

17 (E) the number and percentage of all students who  
18 have not been accounted for under Paragraph (A), (B), (C), or (D);

19 (9) a statement of the projected cross-sectional and  
20 longitudinal dropout rates for grade levels 9 through 12 for the  
21 next five years, assuming no state action is taken to reduce the  
22 dropout rate;

23 (10) a description of a systematic, measurable plan  
24 for reducing the projected cross-sectional and longitudinal  
25 dropout rates to five percent or less for the 1997-1998 school year;

26 (11) a summary of the information required by Section  
27 29.083 regarding grade level retention of students and information



1 concerning:

2 (A) the number and percentage of students  
3 retained; and

4 (B) the performance of retained students on  
5 assessment instruments required under Section 39.023(a);

6 (12) information, aggregated by district type and  
7 disaggregated by race, ethnicity, gender, and socioeconomic  
8 status, on:

9 (A) the number of students placed in a  
10 disciplinary [~~an~~] alternative education program established under  
11 Section 37.008;

12 (B) the average length of a student's placement  
13 in a disciplinary [~~an~~] alternative education program established  
14 under Section 37.008;

15 (C) the academic performance of students on  
16 assessment instruments required under Section 39.023(a) during the  
17 year preceding and during the year following placement in a  
18 disciplinary [~~an~~] alternative education program; and

19 (D) the dropout rates of students who have been  
20 placed in a disciplinary [~~an~~] alternative education program  
21 established under Section 37.008;

22 (13) a list of each school district or campus that does  
23 not satisfy performance standards, with an explanation of the  
24 actions taken by the commissioner to improve student performance in  
25 the district or campus and an evaluation of the results of those  
26 actions;

27 (14) an evaluation of the status of the curriculum

1 taught in public schools, with recommendations for legislative  
2 changes necessary to improve or modify the curriculum required by  
3 Section 28.002;

4 (15) a description of all funds received by and each  
5 activity and expenditure of the agency;

6 (16) a summary and analysis of the instructional  
7 expenditures ratios and instructional employees ratios of school  
8 districts computed under Section 44.0071;

9 (17) a summary of the effect of deregulation,  
10 including exemptions and waivers granted under Section 7.056 or  
11 11.004 [~~39.112~~];

12 (18) a statement of the total number and length of  
13 reports that school districts and school district employees must  
14 submit to the agency, identifying which reports are required by  
15 federal statute or rule, state statute, or agency rule, and a  
16 summary of the agency's efforts to reduce overall reporting  
17 requirements;

18 (19) a list of each school district that is not in  
19 compliance with state special education requirements, including:

20 (A) the period for which the district has not  
21 been in compliance;

22 (B) the manner in which the agency considered the  
23 district's failure to comply in determining the district's  
24 accreditation status; and

25 (C) an explanation of the actions taken by the  
26 commissioner to ensure compliance and an evaluation of the results  
27 of those actions;

1           (20) a comparison of the performance of  
2 open-enrollment charter schools and school districts on the  
3 academic excellence indicators specified in Section 39.051(b) and  
4 accountability measures adopted under Section 39.051(g), with a  
5 separately aggregated comparison of the performance of  
6 open-enrollment charter schools predominantly serving students at  
7 risk of dropping out of school, as defined by Section 29.081(d),  
8 with the performance of school districts; ~~and~~

9           (21) a statement of the percentage of students scoring  
10 at the proficient and advanced levels on the National Assessment of  
11 Educational Progress; and

12           (22) any additional information considered important  
13 by the commissioner or the State Board of Education.

14           SECTION 2F.07. (a) Not later than the 2006-2007 school  
15 year, the Texas Education Agency shall collect information  
16 concerning high academic achievement for purposes of Section  
17 39.051(b-1), Education Code, as added by this Act.

18           (b) Not later than the 2007-2008 school year, the Texas  
19 Education Agency shall include information concerning high  
20 academic achievement for purposes of Section 39.051(b-1),  
21 Education Code, as added by this Act, in evaluating the performance  
22 of school districts, campuses, and open-enrollment charter schools  
23 under Subchapter D, Chapter 39, Education Code.

24           (c) Not later than the 2007-2008 school year, the Texas  
25 Education Agency shall include the information required by Section  
26 39.182(a)(21), Education Code, as amended by this Act, in the  
27 agency's comprehensive annual report under Section 39.182,

1 Education Code.

2 ARTICLE 3. CONFORMING AMENDMENTS

3 SECTION 3.01. Section 7.024(a), Education Code, is amended  
4 to read as follows:

5 (a) The investment capital fund consists of money  
6 appropriated by the legislature for that purpose [~~transferred to~~  
7 ~~the fund as provided by Section 42.152(1)~~]. The agency shall  
8 administer the fund. The purposes of this fund are to assist  
9 eligible public schools to implement practices and procedures  
10 consistent with deregulation and school restructuring in order to  
11 improve student achievement and to help schools identify and train  
12 parents and community leaders who will hold the school and the  
13 school district accountable for achieving high academic standards.

14 SECTION 3.02. Section 7.055(b)(34), Education Code, is  
15 amended to read as follows:

16 (34) The commissioner shall perform duties in  
17 connection with equalization actions [~~the equalized wealth level~~]  
18 under Chapter 41.

19 SECTION 3.03. Section 8.051(d), Education Code, is amended  
20 to read as follows:

21 (d) Each regional education service center shall maintain  
22 core services for purchase by school districts and campuses. The  
23 core services are:

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

26 (2) training and assistance in providing:

27 (A) each program that qualifies for a funding

1 allotment under Section 42.151, 42.152, or 42.153[~~, or 42.156~~]; or  
2 (B) a gifted and talented program under  
3 Subchapter D, Chapter 29;

4 (3) assistance specifically designed for a school  
5 district rated academically unacceptable under Section 39.072(a)  
6 or a campus whose performance is considered unacceptable based on  
7 the indicators adopted under Section 39.051;

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

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

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

16 SECTION 3.04. Section 11.158(a), Education Code, is amended  
17 to read as follows:

18 (a) The board of trustees of an independent school district  
19 may require payment of:

20 (1) a fee for materials used in any program in which  
21 the resultant product in excess of minimum requirements becomes, at  
22 the student's option, the personal property of the student, if the  
23 fee does not exceed the cost of materials;

24 (2) membership dues in student organizations or clubs  
25 and admission fees or charges for attending extracurricular  
26 activities, if membership or attendance is voluntary;

27 (3) a security deposit for the return of materials,

1 supplies, or equipment;

2 (4) a fee for personal physical education and athletic  
3 equipment and apparel, although any student may provide the  
4 student's own equipment or apparel if it meets reasonable  
5 requirements and standards relating to health and safety  
6 established by the board;

7 (5) a fee for items of personal use or products that a  
8 student may purchase at the student's option, such as student  
9 publications, class rings, annuals, and graduation announcements;

10 (6) a fee specifically permitted by any other statute;

11 (7) a fee for an authorized voluntary student health  
12 and accident benefit plan;

13 (8) a reasonable fee, not to exceed the actual annual  
14 maintenance cost, for the use of musical instruments and uniforms  
15 owned or rented by the district;

16 (9) a fee for items of personal apparel that become the  
17 property of the student and that are used in extracurricular  
18 activities;

19 (10) a parking fee or a fee for an identification card;

20 (11) a fee for a driver training course, not to exceed  
21 the actual district cost per student in the program for the current  
22 school year;

23 (12) a fee for a course offered for credit that  
24 requires the use of facilities not available on the school premises  
25 or the employment of an educator who is not part of the school's  
26 regular staff, if participation in the course is at the student's  
27 option;

1           (13) a fee for a course offered during summer school,  
2 except that the board may charge a fee for a course required for  
3 graduation only if the course is also offered without a fee during  
4 the regular school year;

5           (14) a reasonable fee for transportation of a student  
6 who lives within two miles of the school the student attends to and  
7 from that school[, ~~except that the board may not charge a fee for~~  
8 ~~transportation for which the school district receives funds under~~  
9 ~~Section 42.155(d)~~]; or

10           (15) a reasonable fee, not to exceed \$50, for costs  
11 associated with an educational program offered outside of regular  
12 school hours through which a student who was absent from class  
13 receives instruction voluntarily for the purpose of making up the  
14 missed instruction and meeting the level of attendance required  
15 under Section 25.092.

16           SECTION 3.05. Section 12.013(b), Education Code, is amended  
17 to read as follows:

18           (b) A home-rule school district is subject to:

19           (1) a provision of this title establishing a criminal  
20 offense;

21           (2) a provision of this title relating to limitations  
22 on liability; and

23           (3) a prohibition, restriction, or requirement, as  
24 applicable, imposed by this title or a rule adopted under this  
25 title, relating to:

26           (A) the Public Education Information Management  
27 System (PEIMS) to the extent necessary to monitor compliance with

1 this subchapter as determined by the commissioner;

2 (B) educator certification under Chapter 21 and  
3 educator rights under Sections 21.407, 21.408, and 22.001;

4 (C) criminal history records under Subchapter C,  
5 Chapter 22;

6 (D) student admissions under Section 25.001;

7 (E) school attendance under Sections 25.085,  
8 25.086, and 25.087;

9 (F) inter-district or inter-county transfers of  
10 students under Subchapter B, Chapter 25;

11 (G) elementary class size limits under Section  
12 25.112, in the case of any campus in the district that is considered  
13 low-performing under Section 39.132;

14 (H) high school graduation under Section 28.025;

15 (I) special education programs under Subchapter  
16 A, Chapter 29;

17 (J) bilingual education under Subchapter B,  
18 Chapter 29;

19 (K) prekindergarten programs under Subchapter E,  
20 Chapter 29;

21 (L) safety provisions relating to the  
22 transportation of students under Sections 34.002, 34.003, 34.004,  
23 and 34.008;

24 (M) computation and distribution of state aid  
25 under Chapters 31, 42, and 43;

26 (N) extracurricular activities under Section  
27 33.081;



- 1 (O) health and safety under Chapter 38;
- 2 (P) public school accountability under
- 3 Subchapters B, C, D, and G, Chapter 39;
- 4 (Q) equalization [~~equalized—wealth~~] under
- 5 Section 42.401 [~~Chapter 41~~];
- 6 (R) a bond or other obligation or tax rate under
- 7 Chapters 42, 43, and 45; and
- 8 (S) purchasing under Chapter 44.

9 SECTION 3.06. Section 12.106(a), Education Code, is amended  
10 to read as follows:

11 (a) A charter holder is entitled to receive for the  
12 open-enrollment charter school funding under Chapter 42 as if the  
13 school were a school district without a tier one local share for  
14 purposes of Section 42.306 [~~42.253~~] and without any local revenue  
15 ("LR") for purposes of Section 42.252 [~~42.302~~]. In determining  
16 funding for an open-enrollment charter school:

17 (1) the adjustment [~~,—adjustments~~] under Section  
18 42.301 is [~~Sections 42.102, 42.103, 42.104, and 42.105 and the~~  
19 ~~district enrichment tax rate ("DTR") under Section 42.302 are based~~  
20 ~~on~~] the [average] adjustment, if any, for the school district in  
21 which the school is located;

22 (2) the adjustments under Sections 42.302 and 42.303  
23 are the average adjustments under those sections for the state; and

24 (3) the district enrichment tax rate under Section  
25 42.252 is the average district enrichment tax rate for the state.

26 SECTION 3.07. Section 13.054(f), Education Code, is amended  
27 to read as follows:

1 (f) For five years beginning with the school year in which  
2 the annexation occurs, the commissioner shall annually adjust the  
3 local share [~~fund assignment~~] of a district to which territory is  
4 annexed under this section by multiplying the enlarged district's  
5 local share [~~fund assignment~~] computed under Section 42.306  
6 [~~42.252~~] by a fraction, the numerator of which is the number of  
7 students residing in the district preceding the date of the  
8 annexation and the denominator of which is the number of students  
9 residing in the district as enlarged on the date of the annexation.

10 SECTION 3.08. Sections 13.282(a) and (b), Education Code,  
11 are amended to read as follows:

12 (a) The amount of incentive aid payments may not exceed the  
13 difference between:

14 (1) the sum of the entitlements computed under Section  
15 42.313 [~~42.253~~] that would have been paid to the districts included  
16 in the reorganized district if the districts had not been  
17 consolidated; and

18 (2) the amount to which the reorganized district is  
19 entitled under Section 42.313 [~~42.253~~].

20 (b) If the reorganized district is not eligible for an  
21 entitlement under Section 42.313 [~~42.253~~], the amount of the  
22 incentive aid payments may not exceed the sum of the entitlements  
23 computed under Section 42.313 [~~42.253~~] for which the districts  
24 included in the reorganized district were eligible in the school  
25 year when they were consolidated.

26 SECTION 3.09. Section 21.410(h), Education Code, is amended  
27 to read as follows:

1 (h) A grant a school district receives under this section is  
2 in addition to any funding the district receives under Chapter 42.  
3 The commissioner shall distribute funds under this section with the  
4 Foundation School Program payment to which the district is entitled  
5 as soon as practicable after the end of the school year as  
6 determined by the commissioner. A district to which Section 42.401  
7 [~~Chapter 41~~] applies is entitled to the grants paid under this  
8 section. The commissioner shall determine the timing of the  
9 distribution of grants to a district that does not receive  
10 Foundation School Program payments.

11 SECTION 3.10. Section 21.411(h), Education Code, is amended  
12 to read as follows:

13 (h) A grant a school district receives under this section is  
14 in addition to any funding the district receives under Chapter 42.  
15 The commissioner shall distribute funds under this section with the  
16 Foundation School Program payment to which the district is entitled  
17 as soon as practicable after the end of the school year as  
18 determined by the commissioner. A district to which Section 42.401  
19 [~~Chapter 41~~] applies is entitled to the grants paid under this  
20 section. The commissioner shall determine the timing of the  
21 distribution of grants to a district that does not receive  
22 Foundation School Program payments.

23 SECTION 3.11. Section 21.412(h), Education Code, is amended  
24 to read as follows:

25 (h) A grant a school district receives under this section is  
26 in addition to any funding the district receives under Chapter 42.  
27 The commissioner shall distribute funds under this section with the

1 Foundation School Program payment to which the district is entitled  
2 as soon as practicable after the end of the school year as  
3 determined by the commissioner. A district to which Section 42.401  
4 [~~Chapter 41~~] applies is entitled to the grants paid under this  
5 section. The commissioner shall determine the timing of the  
6 distribution of grants to a district that does not receive  
7 Foundation School Program payments.

8 SECTION 3.12. Section 21.413(h), Education Code, as added  
9 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular  
10 Session, 2003, is amended to read as follows:

11 (h) A grant a school district receives under this section is  
12 in addition to any funding the district receives under Chapter 42.  
13 The commissioner shall distribute funds under this section with the  
14 Foundation School Program payment to which the district is entitled  
15 as soon as practicable after the end of the school year as  
16 determined by the commissioner. A district to which Section 42.401  
17 [~~Chapter 41~~] applies is entitled to the grants paid under this  
18 section. The commissioner shall determine the timing of the  
19 distribution of grants to a district that does not receive  
20 Foundation School Program payments.

21 SECTION 3.13. Section 22.004(c), Education Code, is amended  
22 to read as follows:

23 (c) The cost of the coverage provided under the program  
24 described by Subsection (a) shall be paid by the state, the  
25 district, and the employees in the manner provided by Chapter 1579  
26 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided  
27 under a plan adopted under Subsection (b) shall be shared by the

1 employees and the district using the contributions by the state  
2 described by Subchapter F, Chapter 1579 [~~Section 9, Article~~  
3 ~~3.50-7~~], Insurance Code [~~, or by Article 3.50-8, Insurance Code~~].

4 SECTION 3.14. Section 29.008(b), Education Code, is amended  
5 to read as follows:

6 (b) Except as provided by Subsection (c), costs of an  
7 approved contract for residential placement may be paid from a  
8 combination of federal, state, and local funds. The local share of  
9 the total contract cost for each student is that portion of the  
10 local tax effort that exceeds the district's local share [~~fund~~  
11 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average  
12 daily attendance in the district. If the contract involves a  
13 private facility, the state share of the total contract cost is that  
14 amount remaining after subtracting the local share. If the  
15 contract involves a public facility, the state share is that amount  
16 remaining after subtracting the local share from the portion of the  
17 contract that involves the costs of instructional and related  
18 services. For purposes of this subsection, "local tax effort"  
19 means the total amount of money generated by taxes imposed for debt  
20 service and maintenance and operation less any amounts paid into a  
21 tax increment fund under Chapter 311, Tax Code.

22 SECTION 3.15. Section 29.014(d), Education Code, is amended  
23 to read as follows:

24 (d) The accreditation [~~basic~~] allotment for a student  
25 enrolled in a district to which this section applies is adjusted by:

26 (1) the cost of education adjustment under Section  
27 42.301 [~~42.102~~] for the school district in which the district is

1 geographically located; and

2 (2) any other appropriate factor adopted by the  
3 commissioner [~~the weight for a homebound student under Section~~  
4 ~~42.151(a)~~].

5 SECTION 3.16. Section 29.087(j), Education Code, is amended  
6 to read as follows:

7 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and  
8 46, a student attending a program authorized by this section may be  
9 counted in attendance only for the actual number of hours each  
10 school day the student attends the program, in accordance with  
11 Sections 25.081 and 25.082.

12 SECTION 3.17. Section 29.203(b), Education Code, is amended  
13 to read as follows:

14 (b) A school district is entitled to the allotment provided  
15 by Section 42.155 [~~42.157~~] for each eligible student using a public  
16 education grant. [~~If the district has a wealth per student greater~~  
17 ~~than the guaranteed wealth level but less than the equalized wealth~~  
18 ~~level, a school district is entitled under rules adopted by the~~  
19 ~~commissioner to additional state aid in an amount equal to the~~  
20 ~~difference between the cost to the district of providing services~~  
21 ~~to a student using a public education grant and the sum of the state~~  
22 ~~aid received because of the allotment under Section 42.157 and~~  
23 ~~money from the available school fund attributable to the student.]~~

24 SECTION 3.18. Effective September 1, 2006, Section  
25 31.025(a), Education Code, is amended to read as follows:

26 (a) The State Board of Education shall set a limit on the  
27 cost that may be paid using state funds [~~from the state textbook~~

1 ~~fund~~] for a textbook placed on the conforming or nonconforming list  
2 for a particular subject and grade level. The board may not reject  
3 a textbook for placement on the conforming or nonconforming list  
4 because the textbook's price exceeds the limit established under  
5 this subsection.

6 SECTION 3.19. Effective September 1, 2006, Section 31.1031,  
7 Education Code, is amended to read as follows:

8 Sec. 31.1031. SHORTAGE OF REQUISITIONED TEXTBOOKS. If a  
9 school district or open-enrollment charter school does not have a  
10 sufficient number of copies of a textbook used by the district or  
11 school for use during the following school year, and a sufficient  
12 number of additional copies will not be available from the  
13 depository or the publisher within the time specified by Section  
14 31.151(a)(8), the district or school is entitled to:

15 (1) be reimbursed by the state [~~from the state~~  
16 ~~textbook fund~~], at a rate and in the manner provided by State Board  
17 of Education or commissioner rule, for the purchase of a sufficient  
18 number of used adopted textbooks; or

19 (2) return currently used textbooks to the  
20 commissioner in exchange for sufficient copies, if available, of  
21 other textbooks on the conforming or nonconforming list to be used  
22 during the following school year.

23 SECTION 3.20. Effective September 1, 2006, Section 31.105,  
24 Education Code, is amended to read as follows:

25 Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a  
26 school district or governing body of an open-enrollment charter  
27 school may sell textbooks, other than electronic textbooks, to a

1 student or another school at the state contract price. The district  
2 shall send money from the sale of textbooks to the commissioner as  
3 required by the commissioner. The commissioner shall deposit the  
4 money in the Texas education [~~state textbook~~] fund.

5 SECTION 3.21. Effective September 1, 2006, Section  
6 31.151(d), Education Code, is amended to read as follows:

7 (d) A penalty collected under this section shall be  
8 deposited to the credit of the Texas education [~~state textbook~~]  
9 fund.

10 SECTION 3.22. Effective September 1, 2006, Section  
11 31.152(b), Education Code, is amended to read as follows:

12 (b) A school trustee, administrator, or teacher commits an  
13 offense if the person accepts a gift, favor, or service that:

14 (1) is given to the person or the person's school;

15 (2) might reasonably tend to influence a trustee,  
16 administrator, or teacher in the selection of a textbook; and

17 (3) could not be lawfully purchased with state funds  
18 [~~from the state textbook fund~~].

19 SECTION 3.23. Section 32.161(b), Education Code, is amended  
20 to read as follows:

21 (b) To the extent possible considering other statutory  
22 requirements, the commissioner and agency shall encourage the use  
23 of textbook funds and any other funds provided to school districts  
24 for technology [~~and technology allotment funds under Section~~  
25 ~~31.021(b)(2)~~] in a manner that facilitates the development and use  
26 of the portal.

27 SECTION 3.24. Section 32.005, Education Code, is amended by



1 amending Subsection (a) and adding Subsection (d) to read as  
2 follows:

3 (a) Each school district is entitled to an allotment of \$70  
4 [~~\$30~~] for each student in average daily attendance or a different  
5 amount for any year provided by appropriation.

6 (d) This section expires August 1, 2006.

7 SECTION 3.25. Section 34.002(c), Education Code, is amended  
8 to read as follows:

9 (c) A school district that fails or refuses to meet the  
10 safety standards for school buses established under this section is  
11 ineligible to share in the transportation allotment under  
12 Subchapter D, Chapter 42, [Section 42.155] until the first  
13 anniversary of the date the district begins complying with the  
14 safety standards.

15 SECTION 3.26. Section 37.0061, Education Code, is amended  
16 to read as follows:

17 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
18 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
19 education services to pre-adjudicated and post-adjudicated  
20 students who are confined by court order in a juvenile residential  
21 facility operated by a juvenile board is entitled to count such  
22 students in the district's average daily attendance for purposes of  
23 receipt of state funds under the Foundation School Program. [~~If the~~  
24 ~~district has a wealth per student greater than the guaranteed~~  
25 ~~wealth level but less than the equalized wealth level, the district~~  
26 ~~in which the student is enrolled on the date a court orders the~~  
27 ~~student to be confined to a juvenile residential facility shall~~

1 ~~transfer to the district providing education services an amount~~  
2 ~~equal to the difference between the average Foundation School~~  
3 ~~Program costs per student of the district providing education~~  
4 ~~services and the sum of the state aid and the money from the~~  
5 ~~available school fund received by the district that is attributable~~  
6 ~~to the student for the portion of the school year for which the~~  
7 ~~district provides education services to the student.]~~

8 SECTION 3.27. Section 39.031, Education Code, is amended to  
9 read as follows:

10 Sec. 39.031. COST. (a) The commissioner shall set aside an  
11 appropriate amount from the Foundation School Program to pay the  
12 cost of preparing, administering, or grading the assessment  
13 instruments and the ~~[shall be paid from the funds allotted under~~  
14 ~~Section 42.152, and each district shall bear the cost in the same~~  
15 ~~manner described for a reduction in allotments under Section~~  
16 ~~42.253. If a district does not receive an allotment under Section~~  
17 ~~42.152, the commissioner shall subtract the cost from the~~  
18 ~~district's other foundation school fund allotments.~~

19 ~~[(b) The]~~ cost of releasing the question and answer keys  
20 under Section 39.023(e) ~~[shall be paid from amounts appropriated~~  
21 ~~to the agency].~~

22 (b) After setting aside an appropriate amount in accordance  
23 with this section, the commissioner shall reduce each district's  
24 tier one allotments proportionately. A reduction in tier one  
25 allotments under this subsection does not affect the computation of  
26 guaranteed level of state and local enrichment funds per student in  
27 average daily attendance per cent of tax effort under Section

1 42.252.

2 (c) Any amount set aside under this section must be approved  
3 by the Legislative Budget Board and the governor's office of  
4 budget, planning, and policy.

5 SECTION 3.28. Section 39.134, Education Code, is amended to  
6 read as follows:

7 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing  
8 a monitor, conservator, management team, or special campus  
9 intervention team shall be paid by the district. If the district  
10 fails or refuses to pay the costs in a timely manner, the  
11 commissioner may:

12 (1) pay the costs using amounts withheld from any  
13 funds to which the district is otherwise entitled; or

14 (2) recover the amount of the costs in the manner  
15 provided for recovery of an overallocation of state funds under  
16 Section 42.317 [~~42.258~~].

17 SECTION 3.29. Section 43.002(b), Education Code, is amended  
18 to read as follows:

19 (b) Of the amounts available for transfer from the general  
20 revenue fund to the available school fund for the months of January  
21 and February of each fiscal year, no more than the amount necessary  
22 to enable the comptroller to distribute from the available school  
23 fund an amount equal to 9-1/2 percent of the estimated annual  
24 available school fund apportionment to category 1 school districts,  
25 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the  
26 estimated annual available school fund apportionment to category 2  
27 school districts, as defined by Section 42.316 [~~42.259~~], may be

1 transferred from the general revenue fund to the available school  
2 fund. Any remaining amount that would otherwise be available for  
3 transfer for the months of January and February shall be  
4 transferred from the general revenue fund to the available school  
5 fund in equal amounts in June and in August of the same fiscal year.

6 SECTION 3.30. Section 44.004, Education Code, is amended by  
7 adding Subsection (b-1) and amending Subsections (e) and (i) to  
8 read as follows:

9 (b-1) The notice of the public meeting to discuss and adopt  
10 the budget and the proposed tax rate may not be smaller than  
11 one-quarter page of a standard-size or a tabloid-size newspaper,  
12 and the headline on the notice must be in 18-point or larger type.

13 (e) A person who owns taxable property in a school district  
14 is entitled to an injunction restraining the collection of taxes by  
15 the district if the district has not complied with the requirements  
16 of Subsections (b) and (b-1) [~~(c)~~] and [~~(d)~~, ~~and~~], if applicable,  
17 Subsection (i), and the failure to comply was not in good faith. An  
18 action to enjoin the collection of taxes must be filed before the  
19 date the school district delivers substantially all of its tax  
20 bills.

21 (i) A school district that uses a certified estimate, as  
22 authorized by Subsection (h), may adopt a budget at the public  
23 meeting designated in the notice prepared using the estimate, but  
24 the district may not adopt a tax rate before the district receives  
25 the certified appraisal roll for the district required by Section  
26 26.01(a), Tax Code. After receipt of the certified appraisal roll,  
27 the district must publish a revised notice and hold another public

1 meeting before the district may adopt a tax rate that exceeds[+]

2 [~~(1)~~] the rate proposed in the notice prepared using  
3 the estimate[~~, or~~

4 [~~(2) the district's rollback rate determined under~~  
5 ~~Section 26.08, Tax Code, using the certified appraisal roll]~~.

6 SECTION 3.31. 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:

$$15 \quad FYA = (FYL \times ADA \times BTR \times 100) - (BTR \times (DPV/100))$$

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 3.32. 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 3.33. 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 3.34. 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 3.35. 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:

$$20 \quad \text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

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 3.36. 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 3.37. 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 3.38. 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 3.39. Section 403.093(d), Government Code, is  
3 amended to read as follows:

4 (d) The comptroller shall transfer from the general revenue  
5 fund to the Texas education [~~foundation school~~] fund an amount of  
6 money necessary to fund the foundation school program as provided  
7 by Chapter 42, Education Code. The comptroller shall make the  
8 transfers in installments as necessary to comply with Section  
9 42.316 [~~42.259~~], Education Code. An installment must be made not  
10 earlier than two days before the date an installment to school  
11 districts is required by Section 42.316 [~~42.259~~], Education Code,  
12 and must not exceed the amount necessary for that payment.

13 SECTION 3.40. Section 403.302(k), Government Code, is  
14 amended to read as follows:

15 (k) For purposes of Section 42.308 [~~42.2522~~], Education  
16 Code, the comptroller shall certify to the commissioner of  
17 education:

18 (1) a final value for each school district computed  
19 without any deduction for residence homestead exemptions granted  
20 under Section 11.13(n), Tax Code; and

21 (2) a final value for each school district computed  
22 after deducting one-half the total dollar amount of residence  
23 homestead exemptions granted under Section 11.13(n), Tax Code.

24 SECTION 3.41. Section 404.121(1), Government Code, is  
25 amended to read as follows:

26 (1) "Cash flow deficit" for any period means the  
27 excess, if any, of expenditures paid and transfers made from the

1 general revenue fund in the period, including payments provided by  
2 Section 42.316 [~~42.259~~], Education Code, over taxes and other  
3 revenues deposited to the fund in the period, other than revenues  
4 deposited pursuant to Section 403.092, that are legally available  
5 for the expenditures and transfers.

6 SECTION 3.42. Section 822.201(c), Government Code, is  
7 amended to read as follows:

8 (c) Excluded from salary and wages are:

- 9 (1) expense payments;
- 10 (2) allowances;
- 11 (3) payments for unused vacation or sick leave;
- 12 (4) maintenance or other nonmonetary compensation;
- 13 (5) fringe benefits;
- 14 (6) deferred compensation other than as provided by  
15 Subsection (b)(3);
- 16 (7) compensation that is not made pursuant to a valid  
17 employment agreement;
- 18 (8) payments received by an employee in a school year  
19 that exceed \$5,000 for teaching a driver education and traffic  
20 safety course that is conducted outside regular classroom hours;
- 21 (9) the benefit replacement pay a person earns as a  
22 result of a payment made under Subchapter B or C, Chapter 661;
- 23 (10) stipends paid to teachers in accordance with  
24 Section 42.501(c), Education Code; [~~contributions to a health~~  
25 ~~reimbursement arrangement account received by an employee under~~  
26 ~~Article 3.50-8, Insurance Code, and]~~
- 27 (11) amounts received under the educator excellence

1 incentive program under Subchapter J, Chapter 42, Education Code;  
2 and

3 (12) any compensation not described by Subsection (b).

4 SECTION 3.43. Section 2175.304(c), Government Code, is  
5 amended to read as follows:

6 (c) The procedures established under Subsection (b) must  
7 give preference to transferring the property directly to a public  
8 school or school district or to an assistance organization  
9 designated by the school district before disposing of the property  
10 in another manner. If more than one public school or school  
11 district or assistance organization seeks to acquire the same  
12 property on substantially the same terms, the system, institution,  
13 or agency shall give preference to a public school that is  
14 considered low-performing by the commissioner of education or to a  
15 school district that has a relatively low ~~[taxable]~~ wealth per  
16 student, as determined by the commissioner of education ~~[that~~  
17 ~~entitles the district to an allotment of state funds under~~  
18 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance  
19 organization designated by such a school district.

20 SECTION 3.44. Section 1579.251, Insurance Code, is amended  
21 by amending Subsection (a) and adding Subsection (c) to read as  
22 follows:

23 (a) The state shall assist employees of participating  
24 school districts and charter schools in the purchase of group  
25 health coverage under this chapter by providing for each covered  
26 employee the amount of \$900 each state fiscal year or a greater  
27 amount as provided by the General Appropriations Act. The state

1 contribution shall be distributed through the school finance  
2 formulas under Chapters 41 and 42, Education Code, and used by  
3 school districts and charter schools to pay contributions under a  
4 group health coverage plan for employees [~~as provided by Sections~~  
5 ~~42.2514 and 42.260, Education Code~~].

6 (c) A school district or charter school that does not  
7 participate in the program is entitled to state assistance computed  
8 and distributed as provided by Subsection (a). State funds  
9 received under this subsection must be used to pay for employee  
10 health coverage.

11 SECTION 3.45. Section 1581.702, Insurance Code, is amended  
12 to read as follows:

13 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide  
14 additional support for a school district to which this section  
15 applies in an amount computed by multiplying the total amount of  
16 supplemental compensation that district employees would have  
17 received [~~by district employees~~] under Chapter 1580, as it existed  
18 on January 1, 2005, by 0.062.

19 SECTION 3.46. 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 C, Chapter 41, Education Code, unless:~~

3 ~~[(1) the school district taxes property other than~~  
4 ~~property annexed to the district under Subchapter C or C, 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 C, Chapter 41, Education Code.]~~

9 SECTION 3.47. 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 3.48. Section 39.901(d), Utilities Code, is amended  
2 to read as follows:

3 (d) Not later than May 1 of each year, subject to Section  
4 39.903(b), the commission shall transfer from the system benefit  
5 fund to the Texas education [~~foundation school~~] fund the amount  
6 determined by the Texas Education Agency under Subsection (b) to  
7 the extent that funds are available. Amounts transferred from the  
8 system benefit fund under this section may be appropriated only for  
9 the support of the Foundation School Program and are available, in  
10 addition to any amounts allocated by the General Appropriations  
11 Act, to finance actions under Section 42.307 [~~41.002(b) or~~  
12 ~~42.2521~~], Education Code.

13 ARTICLE 4. REPEALER; APPLICABILITY; EFFECTIVE DATE

14 SECTION 4.01. (a) Sections 1-3 and 57, Chapter 201, Acts of  
15 the 78th Legislature, Regular Session, 2003, are repealed.

16 (b) Chapter 313, Acts of the 78th Legislature, Regular  
17 Session, 2003, is repealed.

18 (c) Section 1.01, Chapter 366, Acts of the 78th Legislature,  
19 Regular Session, 2003, is repealed.

20 (d) The following provisions of the Education Code are  
21 repealed:

- 22 (1) Subchapters B, C, E, F, and G, Chapter 41;  
23 (2) Chapter 42, as it existed on January 1, 2005; and  
24 (3) Sections 21.357, 21.402(b) and (e), 25.0811(b) and  
25 (c), 29.203(c) and (g), 33.002, 39.023(j), 39.024(e), 39.112,  
26 41.001, 41.002, 41.003, 41.0031, 41.004, 41.007, 41.009(b),  
27 41.011, 41.092, 41.099, 41.252(b), 44.004(c) and (d), and

1 105.301(f).

2 (e) Effective September 1, 2006, Section 31.021, Education  
3 Code, is repealed.

4 (f) Sections 403.302(j) and 466.355(c), Government Code,  
5 are repealed.

6 (g) The following provisions of the Insurance Code are  
7 repealed:

8 (1) Section 1579.253(b);

9 (2) Chapter 1580;

10 (3) Section 1581.053(b); and

11 (4) Subchapter C, Chapter 1581.

12 (h) Sections 21.02(b), 26.08, and 313.029, Tax Code, are  
13 repealed.

14 SECTION 4.02. Except as otherwise provided by this Act,  
15 this Act applies beginning with the 2005-2006 school year.

16 SECTION 4.03. Except as otherwise provided by this Act,  
17 this Act takes effect September 1, 2005. This Act takes effect only  
18 if H.B. No. 3, Acts of the 79th Legislature, Regular Session, 2005,  
19 becomes law. If that bill does not become law, this Act has no  
20 effect.