

By: Shapiro

S.B. No. 2

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to public education and public school finance matters;  
3 imposing criminal penalties.

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

5 ARTICLE 1. PUBLIC SCHOOL FINANCE

6 PART A. EDUCATION FUNDING AND SCHOOL PROPERTY TAX RELIEF

7 SECTION 1A.01. Sections 41.002(a) and (e), Education Code,  
8 are amended to read as follows:

9 (a) A school district may not have a wealth per student that  
10 exceeds \$339,000 [~~\$305,000~~].

11 (e) Notwithstanding Subsection (a), and except as provided  
12 by Subsection (g), in accordance with a determination of the  
13 commissioner, the wealth per student that a school district may  
14 have after exercising an option under Section 41.003(2) or (3) may  
15 not be less than the amount needed to maintain state and local  
16 revenue in an amount equal to state and local revenue per weighted  
17 student for maintenance and operation of the district for the  
18 1992-1993 school year less the district's current year distribution  
19 per weighted student from the available school fund, other than  
20 amounts distributed under Chapter 31, if the district imposes an  
21 effective tax rate for maintenance and operation of the district  
22 equal to the greater of the district's current tax rate or the  
23 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~  
24 ~~on the \$100 valuation of taxable property~~].

1 SECTION 1A.02. Section 41.157(d), Education Code, is  
2 amended to read as follows:

3 (d) Notwithstanding Section 45.003, the consolidated taxing  
4 district may levy, assess, and collect a maintenance tax for the  
5 benefit of the component districts at a rate that exceeds the  
6 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~  
7 ~~per \$100 valuation of taxable property~~] to the extent necessary to  
8 pay contracted obligations on the lease purchase of permanent  
9 improvements to real property entered into on or before May 12,  
10 1993. The proposition to impose taxes at the necessary rate must be  
11 submitted to the voters in the manner provided by Section 45.003.

12 SECTION 1A.03. Section 42.005(a), Education Code, is  
13 amended to read as follows:

14 (a) In this chapter, average daily attendance is:

15 (1) the quotient of the sum of attendance for each day  
16 of the minimum number of days of instruction as described under  
17 Section 25.081(a) divided by the minimum number of days of  
18 instruction; [~~or~~]

19 (2) for a district that operates under a flexible year  
20 program under Section 29.0821, the quotient of the sum of  
21 attendance for each actual day of instruction as permitted by  
22 Section 29.0821(b)(1) divided by the number of actual days of  
23 instruction as permitted by Section 29.0821(b)(1); or

24 (3) for a district that operates under a flexible  
25 school day program under Section 29.0822, the quotient of the sum of  
26 attendance for each full-time equivalent day of instruction divided  
27 by the minimum number of days of instruction as described under

1 Section 25.081(a).

2 SECTION 1A.04. Subchapter A, Chapter 42, Education Code, is  
3 amended by adding Section 42.008 to read as follows:

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

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

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

13 SECTION 1A.05. Section 42.2512, Education Code, is amended  
14 by adding Subsection (a-1) to read as follows:

15 (a-1) In addition to any amounts to which a school district  
16 is entitled under Section 42.2541, a school district, including a  
17 school district that is otherwise ineligible for state aid under  
18 this chapter, is entitled to state aid in an amount, as determined  
19 by the commissioner, equal to the product of the following amount,  
20 as applicable, multiplied by the number of classroom teachers,  
21 full-time librarians, full-time counselors certified under  
22 Subchapter B, Chapter 21, and full-time school nurses employed by  
23 the district and entitled to a minimum salary under Section 21.402:

24 (1) \$1,500; or

25 (2) \$2,000, if H.B. No. 3, Acts of the 79th  
26 Legislature, Regular Session, 2005, takes effect immediately.

27 SECTION 1A.06. Section 42.252(a), Education Code, is

1 amended to read as follows:

2 (a) Each school district's share of the Foundation School  
3 Program is determined by the following formula:

4 
$$\text{LFA} = \text{TR} \times \text{DPV}$$

5 where:

6 "LFA" is the school district's local share;

7 "TR" is a tax rate which for each hundred dollars of valuation  
8 is an effective tax rate of \$0.76 [~~\$0.86~~]; and

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

12 SECTION 1A.07. Section 42.253, Education Code, is amended  
13 by adding Subsection (e-2) to read as follows:

14 (e-2) For the 2005-2006 school year, the limit authorized by  
15 Subsection (e) is reduced by \$0.35. This subsection expires  
16 September 1, 2006.

17 SECTION 1A.08. Subchapter E, Chapter 42, Education Code, is  
18 amended by adding Sections 42.2541 and 42.2542 to read as follows:

19 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
20 section, "weighted average daily attendance" has the meaning  
21 assigned by Section 42.302.

22 (b) Notwithstanding Section 42.253, a school district is  
23 entitled to the amount of state revenue necessary to maintain state  
24 and local revenue in an amount equal to the sum of:

25 (1) the amount of state and local revenue per student  
26 in weighted average daily attendance for maintenance and operation  
27 of the district that would have been available to the district if

1 the funding elements under Chapters 41 and 42, including any  
2 amounts the district would have received under Rider 82, page  
3 III-23, Chapter 1330, Acts of the 78th Legislature, Regular  
4 Session, 2003 (the General Appropriations Act), in effect during  
5 the 2004-2005 school year, were in effect for the current school  
6 year; and

7 (2) an amount equal to \$37 per weighted student in  
8 average daily attendance.

9 (c) The commissioner may increase the amount to which a  
10 school district is entitled under Subsection (b) as the  
11 commissioner determines necessary.

12 (d) The commissioner shall determine the amount of state  
13 funds to which a school district is entitled under this section,  
14 including the amount per student in weighted average daily  
15 attendance, and shall make that determination available to the  
16 Legislative Budget Board. The commissioner's determination is  
17 final and may not be appealed.

18 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID. (a)  
19 Notwithstanding any other provision of this subtitle, for the  
20 2005-2006 school year, the commissioner shall withhold from a  
21 school district the amount of state funds necessary to ensure that  
22 the district does not receive an amount of state and local revenue  
23 per student in weighted average daily attendance that is greater  
24 than 103 percent of the amount to which the district is entitled  
25 under Section 42.2541(b)(1).

26 (b) The commissioner shall determine the amount of state  
27 funds required to be withheld under this section. The

1 commissioner's determination is final and may not be appealed.

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

3 SECTION 1A.09. Subchapter E, Chapter 42, Education Code, is  
4 amended by adding Section 42.261 to read as follows:

5 Sec. 42.261. USE OF CERTAIN REVENUE FOR ENHANCED SUPPORT  
6 STAFF COMPENSATION. (a) Beginning with the 2005-2006 school year,  
7 a school district must use state and local maintenance and  
8 operations revenue to provide enhanced compensation to district  
9 support staff.

10 (b) The commissioner shall adopt rules necessary to  
11 implement this section. The rules must ensure compensation provided  
12 to district support staff described by Section 22.007 is increased  
13 by the amounts specified by that section.

14 SECTION 1A.10. Section 42.302, Education Code, is amended  
15 by amending Subsection (a) and adding Subsection (a-1) to read as  
16 follows:

17 (a) Each school district is guaranteed a specified amount  
18 per weighted student in state and local funds for each cent of tax  
19 effort over that required for the district's local fund assignment  
20 up to the maximum level specified in this subchapter. The amount of  
21 state support, subject only to the maximum amount under Section  
22 42.303, is determined by the formula:

23 
$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

24 where:

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

27 "GL" is the dollar amount guaranteed level of state and local

1 funds per weighted student per cent of tax effort, which is the  
2 amount of district tax revenue per weighted student, per cent of tax  
3 effort available to a school district at the 90th percentile in  
4 wealth per student, as determined by the commissioner [~~\$27.14~~] or a  
5 greater amount for any year provided by appropriation;

6 "WADA" is the number of students in weighted average daily  
7 attendance, which is calculated by dividing the sum of the school  
8 district's allotments under Subchapters B and C, less any allotment  
9 to the district for transportation, any allotment under Section  
10 42.158, and 50 percent of the adjustment under Section 42.102, by  
11 the basic allotment for the applicable year;

12 "DTR" is the district [~~enrichment~~] tax rate of the school  
13 district, which is determined by subtracting the amounts specified  
14 by Subsection (b) from the total amount of maintenance and  
15 operations taxes collected by the school district for the  
16 applicable school year and dividing the difference by the quotient  
17 of the district's taxable value of property as determined under  
18 Subchapter M, Chapter 403, Government Code, or, if applicable,  
19 under Section 42.2521, divided by 100; and

20 "LR" is the local revenue, which is determined by multiplying  
21 "DTR" by the quotient of the district's taxable value of property as  
22 determined under Subchapter M, Chapter 403, Government Code, or, if  
23 applicable, under Section 42.2521, divided by 100.

24 (a-1) In this section, "wealth per student" means a school  
25 district's taxable value of property as determined under Subchapter  
26 M, Chapter 403, Government Code, divided by the number of students  
27 in weighted average daily attendance in the district.

1 SECTION 1A.11. Section 42.303, Education Code, is amended  
2 to read as follows:

3 Sec. 42.303. LIMITATION ON [~~ENRICHMENT~~] TAX RATE. The  
4 district [~~enrichment~~] tax rate ("DTR") under Section 42.302 may not  
5 exceed \$0.39 [~~\$0.64~~] per \$100 of valuation, or a greater amount for  
6 any year provided by appropriation.

7 SECTION 1A.12. Section 45.003, Education Code, is amended  
8 by amending Subsection (d) and adding Subsections (e) and (f) to  
9 read as follows:

10 (d) A proposition submitted to authorize the levy of  
11 maintenance taxes must include the question of whether the  
12 governing board or commissioners court may levy, assess, and  
13 collect annual ad valorem taxes for the further maintenance of  
14 public schools, at a rate not to exceed the rate, which may be not  
15 more than \$1.15 [~~\$1.50~~] on the \$100 valuation of taxable property in  
16 the district, stated in the proposition.

17 (e) An election held before January 1, 2005, authorizing a  
18 maintenance tax at a rate of at least \$1.15 on the \$100 valuation of  
19 taxable property in the district is sufficient to authorize a rate  
20 of \$1.15 or less for the 2005 tax year. An election held before  
21 January 1, 2006, authorizing a maintenance tax at a rate of at least  
22 \$1.10 on the \$100 valuation of taxable property in the district is  
23 sufficient to authorize a rate of \$1.10 or less for the 2006 tax  
24 year or a subsequent tax year.

25 (f) Notwithstanding Subsections (d) and (e) if a school  
26 district's maintenance and operations tax rate for the 2004 tax  
27 year exceeded a rate of \$1.50 for each \$100 of taxable value of



1 property, the district is entitled to impose an ad valorem tax under  
2 this section:

3 (1) without authorization at an election held for that  
4 purpose; and

5 (2) at a rate not to exceed the sum of:

6 (A) the rate authorized under this section; and

7 (B) a rate equal to the amount by which the  
8 district's maintenance and operations tax rate for the 2004 tax  
9 year exceeded a rate of \$1.50 for each \$100 of taxable value of  
10 property.

11 SECTION 1A.13. Sections 45.006(b) and (f), Education Code,  
12 are amended to read as follows:

13 (b) Notwithstanding Section 45.003, a school district may  
14 levy, assess, and collect maintenance taxes at a rate that exceeds  
15 the maximum maintenance tax rate permitted under Section 45.003  
16 [\$1.50 per \$100 valuation of taxable property] if:

17 (1) additional ad valorem taxes are necessary to pay a  
18 debt of the district that:

19 (A) resulted from the rendition of a judgment  
20 against the district before May 1, 1995;

21 (B) is greater than \$5 million;

22 (C) decreases a property owner's ad valorem tax  
23 liability;

24 (D) requires the district to refund to the  
25 property owner the difference between the amount of taxes paid by  
26 the property owner and the amount of taxes for which the property  
27 owner is liable; and

1 (E) is payable according to the judgment in more  
2 than one of the district's fiscal years; and

3 (2) the additional taxes are approved by the voters of  
4 the district at an election held for that purpose.

5 (f) The governing body of a school district that adopts a  
6 tax rate that exceeds the maximum maintenance tax rate permitted  
7 under Section 45.003 [~~\$1.50 per \$100 valuation of taxable property~~]  
8 may set the amount of the exemption from taxation authorized by  
9 Section 11.13(n), Tax Code, at any time before the date the  
10 governing body adopts the district's tax rate for the tax year in  
11 which the election approving the additional taxes is held.

12 SECTION 1A.14. Section 403.302, Government Code, is amended  
13 by adding Subsection (c-1) to read as follows:

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

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

1 ratio determined in the immediately preceding study minus four  
2 percentage points;

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

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

12 PART B. EDUCATION FUNDING AND EQUALIZATION

13 SECTION 1B.01. Section 42.002(b), Education Code, is  
14 amended to read as follows:

15 (b) The Foundation School Program consists of:

16 (1) a basic program, as provided by this chapter, that  
17 provides for [~~two tiers that in combination provide for:~~

18 [~~(A)~~] sufficient financing for all school  
19 districts to provide a basic program of education that is rated  
20 academically acceptable or higher under Section 39.072 and meets  
21 other applicable legal standards; [~~and~~

22 (2) an enrichment program, as provided by Subchapter  
23 F, that includes a guaranteed yield component to provide [~~(B)~~]  
24 substantially equal access to funds to provide an enriched program;  
25 and

26 (3) [~~(2)~~] a facilities component as provided by  
27 Chapter 46.

1 SECTION 1B.02. Section 42.007, Education Code, is amended  
2 by amending Subsection (c) and adding Subsection (e) to read as  
3 follows:

4 (c) The funding elements must include:

5 (1) an accreditation [~~a basic~~] allotment for the  
6 purposes of Section 42.101 that [~~when combined with the guaranteed~~  
7 ~~yield component provided by Subchapter F,~~] represents the cost per  
8 student of a regular education program that meets all mandates of  
9 law and regulation;

10 (2) adjustments designed to reflect the variation in  
11 known resource costs and costs of education beyond the control of  
12 school districts;

13 (3) appropriate program cost differentials and other  
14 funding elements for the programs authorized under Subchapter C,  
15 with the program funding level expressed as dollar amounts and as  
16 weights applied to the adjusted accreditation [~~basic~~] allotment for  
17 the appropriate year;

18 (4) the maximum guaranteed level of qualified state  
19 and local funds per student for the purposes of the enrichment  
20 program under Subchapter F;

21 (5) the enrichment [~~and facilities~~] tax rate under  
22 Subchapter F;

23 (6) the computation of students in weighted average  
24 daily attendance under Section 42.302; and

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

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

1 contract for a comprehensive study of the funding elements. The  
2 board shall report the results of the study to the commissioner and  
3 the legislature not later than December 1, 2006. This subsection  
4 expires January 1, 2007.

5 SECTION 1B.03. The heading to Subchapter B, Chapter 42,  
6 Education Code, is amended to read as follows:

7 SUBCHAPTER B. BASIC PROGRAM [~~ENTITLEMENT~~]

8 SECTION 1B.04. Section 42.101, Education Code, is amended  
9 to read as follows:

10 Sec. 42.101. ACCREDITATION [~~BASIC~~] ALLOTMENT. For each  
11 student in average daily attendance, not including the time  
12 students spend each day in special education programs in an  
13 instructional arrangement other than mainstream or career and  
14 technology education programs, for which an additional allotment is  
15 made under Subchapter C, a district is entitled to an accreditation  
16 allotment of \$4,300 [~~\$2,537~~]. A greater amount for any school year  
17 may be provided by appropriation.

18 SECTION 1B.05. Section 42.102, Education Code, is amended  
19 to read as follows:

20 Sec. 42.102. COST OF EDUCATION ADJUSTMENT. (a) The  
21 accreditation [~~basic~~] allotment for each district is adjusted to  
22 reflect the geographic variation in known resource costs and costs  
23 of education due to factors beyond the control of the school  
24 district. The amount of the adjustment is 71 percent of the total  
25 amount that would result from application of the cost of education  
26 index adopted under this section, or a greater amount for any year  
27 provided by appropriation.

1        (a-1) Notwithstanding any other provision of this section,  
2 the initial amount of the cost of education index adjustment is a  
3 percent determined by the Legislative Budget Board that would  
4 result in a total amount of funds delivered under this section that  
5 does not exceed the total amount of funds delivered using the  
6 application of the cost of education index as it existed on January  
7 1, 2005.

8        (a-2) The Legislative Budget Board shall annually increase  
9 the initial adjustment percentage determined under Subsection (a)  
10 so that the percentage:

11            (1) increases at the same rate of growth as the  
12 implementation of the small and mid-sized district adjustments  
13 described by Sections 42.103(c-1) and (d-1); and

14            (2) does not exceed 71 percent.

15        (b) Except as provided by Subsection (c), the [The] cost of  
16 education adjustment is determined using the average of the three  
17 most recent index recomputations and adjustments adopted by the  
18 Legislative Budget Board under Subsection (d) [~~cost of education~~  
19 ~~index adjustment adopted by the foundation school fund budget~~  
20 ~~committee and contained in Chapter 203, Title 19, Texas~~  
21 ~~Administrative Code, as that chapter existed on March 26, 1997].~~

22        (b-1) Except as provided by Subsection (c), the cost of  
23 education index to be used in determining the cost of education  
24 adjustment for the following school years is determined by the  
25 following formulas:

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

27                     $CEI = (TFE + (7 \times PCEI))/8$

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

2                    $CEI = ((2 \times TFE) + (6 \times PCEI))/8$

3           (3) for the 2008-2009 school year:

4                    $CEI = ((2 \times TFE) + (5 \times PCEI) + LBBA)/8$

5           (4) for the 2009-2010 school year:

6                    $CEI = ((2 \times TFE) + (4 \times PCEI) + (2 \times LBBA))/8$

7           (5) for the 2010-2011 school year:

8                    $CEI = ((2 \times TFE) + (3 \times PCEI) + (3 \times LBBA))/8;$

9           (6) for the 2011-2012 school year:

10                   $CEI = ((2 \times TFE) + (2 \times PCEI) + (4 \times LBBA))/8;$

11          (7) for the 2012-2013 school year:

12                   $CEI = ((2 \times TFE) + PCEI + (5 \times LBBC))/8;$  and

13          (8) for the 2013-2014 school year:

14                   $CEI = ((2 \times TFE) + (6 \times LBBC))/8$

15 where:

16           "CEI" is the index to be used;

17           "TFE" is the teacher fixed effects index in the 2004 report  
18 commissioned by the Joint Select Committee on Public School Finance  
19 of the 78th Legislature;

20           "PCEI" is the index applied during the 2005-2006 school year;

21           "LBBA" is the index adopted by the Legislative Budget Board  
22 in accordance with Subsection (d) for the state fiscal biennium  
23 beginning September 1, 2007;

24           "LBBA" is the index adopted by the Legislative Budget Board  
25 in accordance with Subsection (d) for the state fiscal biennium  
26 beginning September 1, 2009; and

27           "LBBC" is the index adopted by the Legislative Budget Board

1 in accordance with Subsection (d) for the state fiscal biennium  
2 beginning September 1, 2011.

3 (c) If the adjustment provided by this section for a school  
4 year is less than the adjustment to which a school district would  
5 have been entitled using the index applied during the 2005-2006  
6 school year, the district's adjustment shall be computed using the  
7 index applied during the 2005-2006 school year.

8 (c-1) The application of the cost of education index under  
9 this section may not result in a greater difference between the  
10 highest adjustment and the lowest adjustment than the difference  
11 that existed between the highest and lowest adjustments under  
12 Chapter 203, Title 19, Texas Administrative Code, as that chapter  
13 existed on January 1, 2005. The Legislative Budget Board shall  
14 increase the amount of the lowest adjustment to satisfy this  
15 subsection.

16 (d) The Legislative Budget Board shall:

17 (1) conduct a study each biennium and recompute the  
18 cost of education index; and

19 (2) adopt adjustments as the board determines are  
20 necessary to ensure that the cost of education index reflects  
21 current variations in known resource costs and costs of education,  
22 including costs related to social security, due to factors beyond  
23 the control of a school district.

24 (d-1) All information relating to the computation and  
25 adoption of the cost of education index under this section,  
26 including underlying data, assumptions, and computations used in  
27 the development of the index, is public information.



1       (e) A school district may appeal a determination of the  
2 Legislative Budget Board under Subsection (d) and request a  
3 contested case hearing before an administrative law judge of the  
4 State Office of Administrative Hearings. A district must pay the  
5 cost of an appeal under this section. An appeal must be limited to  
6 the computation and application of data under this section and may  
7 not include an appeal of the methodology used to compute the teacher  
8 fixed effects index.

9       (f) Subsection (b) applies beginning with the 2014-2015  
10 school year. Subsections (a-1), (a-2), (b-1), and this subsection  
11 expire September 1, 2015.

12       (g) Beginning with the 2007-2008 school year, the amount of  
13 .062 (6.2 percent) is added to the adjustment provided for under  
14 Subsections (b), (b-1), (c), and (d) for any school district that  
15 pays taxes under 26 U.S.C. Section 3111(a), and its subsequent  
16 amendments, for employees covered by the social security retirement  
17 program, if the district covers all employees and did so prior to  
18 January 1, 2005.

19       (h) Beginning with the 2007-2008 school year, the amount of  
20 .031 (3.1 percent) is added to the adjustment provided for under  
21 Subsections (b), (b-1), and (c) for any school district that pays  
22 taxes under 26 U.S.C. Section 3111(a), and its subsequent  
23 amendments, for employees covered by the social security retirement  
24 program, if the district covers at least 25 percent of its employees  
25 and did so prior to January 1, 2005.

26       (i) The commissioner may adopt rules necessary for the  
27 implementation of this section.

1 SECTION 1B.06. Section 42.103, Education Code, is amended  
2 by amending Subsections (a), (c), and (d) and adding Subsections  
3 (c-1), (c-2), (d-1), and (f) to read as follows:

4 (a) The accreditation [~~basic~~] allotment for certain small  
5 and mid-sized districts is adjusted in accordance with this  
6 section. In this section:

7 (1) "SA" [~~"AA"~~] is the district's size-adjusted  
8 accreditation [~~adjusted~~] allotment per student;

9 (2) "ADA" is the number of students in average daily  
10 attendance for which the district is entitled to an allotment under  
11 Section 42.101; and

12 (3) "AA" [~~"ABA"~~] is the adjusted accreditation [~~basic~~]  
13 allotment determined under Section 42.102.

14 (c) The accreditation [~~basic~~] allotment of a school  
15 district that [~~contains less than 300 square miles and~~] has not more  
16 than 1,600 students in average daily attendance is adjusted by  
17 applying the following formula, or the formula under Subsection (d)  
18 if that results in a greater allotment:

19 
$$SA = (1 + ((1,600 - ADA) \times .0004)) \times AA$$

20 
$$[AA = (1 + ((1,600 - ADA) \times .00025)) \times ABA]$$

21 (c-1) Notwithstanding Subsection (c), the accreditation  
22 allotment of a school district that has not more than 1,600 students  
23 in average daily attendance is adjusted for the following school  
24 years by applying the following formulas, or the appropriate  
25 formula under Subsection (d-1) if that results in a greater  
26 allotment:

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

1 SA = (1 + ((1,600 - ADA) X .00026)) X AA

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

3 SA = (1 + ((1,600 - ADA) X .00028)) X AA

4 (3) for the 2008-2009 school year:

5 SA = (1 + ((1,600 - ADA) X .0003)) X AA

6 (4) for the 2009-2010 school year:

7 SA = (1 + ((1,600 - ADA) X .00032)) X AA;

8 (5) for the 2010-2011 school year:

9 SA = (1 + ((1,600 - ADA) X .00034)) X AA;

10 (6) for the 2011-2012 school year:

11 SA = (1 + ((1,600 - ADA) X .00036)) X AA; and

12 (7) for the 2012-2013 school year:

13 SA = (1 + ((1,600 - ADA) X .00038)) X AA

14 (c-2) Notwithstanding Subsection (c-1), for the 2006-2007,  
 15 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, or  
 16 2012-2013 school year, the accreditation allotment of a school  
 17 district that contains at least 300 square miles and has not more  
 18 than 1,600 students in average daily attendance is adjusted by  
 19 applying the following formula, or the appropriate formula under  
 20 Subsection (d-1) if that results in a greater allotment:

21 SA = (1 + ((1,600 - ADA) X .0004)) X AA

22 (d) The accreditation [~~basic~~] allotment of a school  
 23 district that offers a kindergarten through grade 12 program and  
 24 has less than 5,000 students in average daily attendance is  
 25 adjusted by applying the formula, of the following formulas, that  
 26 results in the greatest adjusted allotment:

27 (1) the formula in Subsection [~~(b) or~~] (c) [~~for which~~

1 ~~the district is eligible]; or~~

2 (2) SA = (1 + ((5,000 - ADA) X .00004)) X AA

3 [~~AA = (1 + ((5,000 - ADA) X .000025)) X ABA~~].

4 (d-1) Notwithstanding Subsection (d), the accreditation  
 5 allotment of a school district that offers a kindergarten through  
 6 grade 12 program and has less than 5,000 students in average daily  
 7 attendance is adjusted for the following school years by applying  
 8 the following formulas, or the formula under Subsection (c) if that  
 9 results in a greater allotment:

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

11 SA = (1 + ((5,000 - ADA) X .000026)) X AA

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

13 SA = (1 + ((5,000 - ADA) X .000028)) X AA

14 (3) for the 2008-2009 school year:

15 SA = (1 + ((5,000 - ADA) X .00003)) X AA

16 (4) for the 2009-2010 school year:

17 SA = (1 + ((5,000 - ADA) X .000032)) X AA;

18 (5) for the 2010-2011 school year:

19 SA = (1 + ((5,000 - ADA) X .000034)) X AA;

20 (6) for the 2011-2012 school year:

21 SA = (1 + ((5,000 - ADA) X .000036)) X AA; and

22 (7) for the 2012-2013 school year:

23 SA = (1 + ((5,000 - ADA) X .000038)) X AA

24 (f) Subsections (c) and (d) apply beginning with the  
 25 2013-2014 school year. Subsections (c-1), (c-2), and (d-1) and  
 26 this subsection expire September 1, 2014.

27 SECTION 1B.07. Sections 42.104, 42.105, and 42.106,

1 Education Code, are amended to read as follows:

2           Sec. 42.104. USE OF SMALL OR MID-SIZED DISTRICT ADJUSTMENT  
3 IN CALCULATING SPECIAL ALLOTMENTS. In determining the amount of a  
4 special allotment under Subchapter C for a district to which  
5 Section 42.103 applies, a district's adjusted accreditation  
6 [~~basic~~] allotment is considered to be the district's adjusted  
7 accreditation allotment determined under Section 42.103.

8           Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding  
9 Sections 42.101, 42.102, and 42.103, a school district that has  
10 fewer than 130 students in average daily attendance shall be  
11 provided an adjusted accreditation [~~basic~~] allotment on the basis  
12 of 130 students in average daily attendance if it offers a  
13 kindergarten through grade 12 program and has preceding or current  
14 year's average daily attendance of at least 90 students or is 30  
15 miles or more by bus route from the nearest high school district. A  
16 district offering a kindergarten through grade 8 program whose  
17 preceding or current year's average daily attendance was at least  
18 50 students or which is 30 miles or more by bus route from the  
19 nearest high school district shall be provided an adjusted  
20 accreditation [~~basic~~] allotment on the basis of 75 students in  
21 average daily attendance. An average daily attendance of 60  
22 students shall be the basis of providing the adjusted accreditation  
23 [~~basic~~] allotment if a district offers a kindergarten through grade  
24 6 program and has preceding or current year's average daily  
25 attendance of at least 40 students or is 30 miles or more by bus  
26 route from the nearest high school district.

27           Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT

1 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the  
 2 taxable value of property of a school district that contracts for  
 3 students residing in the district to be educated in another  
 4 district under Section 25.039(a) is adjusted by applying the  
 5 formula:

$$6 \quad \text{ADPV} = \text{DPV} - \frac{\text{TN}}{\text{MTR}} \left[ \frac{\text{TN}}{\text{MTR}} \right]$$

7 where:

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

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

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

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

19 SECTION 1B.08. Sections 42.151(a), (b), (e), (g), and (k),  
 20 Education Code, are amended to read as follows:

21 (a) For each student in average daily attendance in a  
 22 special education program under Subchapter A, Chapter 29, in a  
 23 mainstream instructional arrangement, a school district is  
 24 entitled to an annual allotment equal to the adjusted accreditation  
 25 ~~basic~~ allotment multiplied by 1.1. For each full-time equivalent  
 26 student in average daily attendance in a special education program  
 27 under Subchapter A, Chapter 29, in an instructional arrangement

1 other than a mainstream instructional arrangement, a district is  
2 entitled to an annual allotment equal to the adjusted accreditation  
3 [~~basic~~] allotment multiplied by a weight determined according to  
4 instructional arrangement as follows:

5	Homebound . . . . .	5.0
6	Hospital class . . . . .	3.0
7	Speech therapy . . . . .	5.0
8	Resource room . . . . .	3.0
9	Self-contained, mild and moderate, regular campus . . . . .	3.0
10	Self-contained, severe, regular campus . . . . .	3.0
11	Off home campus . . . . .	2.7
12	Nonpublic day school . . . . .	1.7
13	Vocational adjustment class . . . . .	2.3

14 (b) A special instructional arrangement for students with  
15 disabilities residing in care and treatment facilities, other than  
16 state schools, whose parents or guardians do not reside in the  
17 district providing education services shall be established under  
18 the rules of the commissioner [~~State Board of Education~~]. The  
19 funding weight for this arrangement shall be 4.0 for those students  
20 who receive their education service on a local school district  
21 campus. A special instructional arrangement for students with  
22 disabilities residing in state schools shall be established under  
23 the rules of the commissioner [~~State Board of Education~~] with a  
24 funding weight of 2.8.

25 (e) The commissioner [~~State Board of Education~~] by rule  
26 shall prescribe the qualifications an instructional arrangement  
27 must meet in order to be funded as a particular instructional

1 arrangement under this section. In prescribing the qualifications  
2 that a mainstream instructional arrangement must meet, the  
3 commissioner [~~board~~] shall establish requirements that students  
4 with disabilities and their teachers receive the direct, indirect,  
5 and support services that are necessary to enrich the regular  
6 classroom and enable student success.

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

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

25 SECTION 1B.09. Sections 42.152(a), (e), (h), and (k),  
26 Education Code, are amended to read as follows:

27 (a) For each student who is educationally disadvantaged or



1 who is a student who does not have a disability and resides in a  
2 residential placement facility in a district in which the student's  
3 parent or legal guardian does not reside, a district is entitled to  
4 an annual allotment equal to the adjusted accreditation [~~basic~~]  
5 allotment multiplied by 0.2, and by 2.41 for each full-time  
6 equivalent student who is in a remedial and support program under  
7 Section 29.081 because the student is pregnant.

8 (e) The commissioner may:

9 (1) retain a portion of the total amount allotted  
10 under Subsection (a) that the commissioner considers appropriate to  
11 finance [~~intensive accelerated instruction programs and~~] study  
12 guides provided under Section 39.024(c) [~~Sections 39.024(b) and~~  
13 ~~(c)~~]; and

14 (2) reduce each district's basic program [~~tier one~~]  
15 allotments in the same manner described for a reduction in  
16 allotments under Section 42.253.

17 (h) After deducting the amount withheld under Subsection  
18 (f) from the total amount appropriated for the allotment under  
19 Subsection (a), the commissioner shall reduce each district's basic  
20 program [~~tier one~~] allotments in the same manner described for a  
21 reduction in allotments under Section 42.253 and shall allocate  
22 funds to each district accordingly.

23 (k) After deducting the amount withheld under Subsection  
24 (i) from the total amount appropriated for the allotment under  
25 Subsection (a), the commissioner shall reduce each district's basic  
26 program [~~tier one~~] allotments in the same manner described for a  
27 reduction in allotments under Section 42.253.

1 SECTION 1B.10. Section 42.153, Education Code, is amended  
2 by amending Subsection (a) and adding Subsections (a-1) and (d) to  
3 read as follows:

4 (a) Except as provided by Subsection (a-1), for ~~[For]~~ each  
5 student in average daily attendance in a bilingual education or  
6 special language program under Subchapter B, Chapter 29, a district  
7 is entitled to an annual allotment equal to the adjusted  
8 accreditation ~~[basic]~~ allotment multiplied by 0.1.

9 (a-1) This subsection applies only to funding for students  
10 who have been enrolled in a bilingual education or special language  
11 program for less than three years. The commissioner by rule shall  
12 determine a method for determining whether a student has been  
13 enrolled in a program for less than three years. For each student  
14 in average daily attendance in a bilingual education or special  
15 language program under Subchapter B, Chapter 29, who has been  
16 enrolled in the program for less than three years, a district is  
17 entitled to an annual allotment equal to the adjusted accreditation  
18 allotment multiplied by a weight according to the grade level to  
19 which the student is assigned, as follows:

20	<u>Prekindergarten-Grade 2 . . . . .</u>	<u>0.12</u>
21	<u>Grades 3-5 . . . . .</u>	<u>0.18</u>
22	<u>Grades 6-8 . . . . .</u>	<u>0.24</u>
23	<u>Grades 9-12 . . . . .</u>	<u>0.3</u>

24 (d) A district is not entitled to an allotment under this  
25 section for a student who meets the criteria for transferring out of  
26 the district's bilingual education or special language program but  
27 continues participating in the program under Section 29.056(i).

1 SECTION 1B.11. Sections 42.154(a) and (e), Education Code,  
2 are amended to read as follows:

3 (a) For each full-time equivalent student in average daily  
4 attendance in an approved career and technology education program  
5 in grades nine through 12 or in career and technology education  
6 programs for students with disabilities in grades seven through 12,  
7 a district is entitled to an annual allotment equal to the adjusted  
8 accreditation [~~basic~~] allotment multiplied by a weight of 1.35.

9 (e) Out of the total statewide allotment for career and  
10 technology education under this section, the commissioner shall set  
11 aside an amount specified in the General Appropriations Act, which  
12 may not exceed an amount equal to one percent of the total amount  
13 appropriated, to support regional career and technology education  
14 planning. After deducting the amount set aside under this  
15 subsection from the total amount appropriated for career and  
16 technology education under this section, the commissioner shall  
17 reduce each district's basic program [~~tier one~~] allotments in the  
18 same manner described for a reduction in allotments under Section  
19 42.253.

20 SECTION 1B.12. Section 42.155, Education Code, is amended  
21 by amending Subsection (c) and adding Subsection (c-1) to read as  
22 follows:

23 (c) Each district or county operating a regular  
24 transportation system is entitled to an allotment based on the  
25 daily cost per regular eligible student of operating and  
26 maintaining the regular transportation system and the linear  
27 density of that system. In determining the cost, the commissioner

1 shall give consideration to factors affecting the actual cost of  
2 providing these transportation services in each district or county.  
3 The average actual cost is to be computed by the commissioner and  
4 included for consideration by the legislature in the General  
5 Appropriations Act.

6 (c-1) The allotment per mile of approved route under  
7 Subsection (c) is computed as follows:

<u>Linear Density Grouping</u>	<u>Allocation Per Mile of Approved Route</u>
2.40 and above . . . . .	\$ 1.42
1.65 to 2.40 . . . . .	1.28
1.15 to 1.65 . . . . .	1.11
.90 to 1.15 . . . . .	.97
.65 to .90 . . . . .	.88

14 The allocation per mile of approved route for the bottom linear  
15 density groupings of up to .40 through .65 shall be moved into the  
16 next linear density group of up to .90 ~~[may not exceed the amount~~  
17 ~~set by appropriation].~~

18 SECTION 1B.13. Sections 42.156(a) and (d), Education Code,  
19 are amended to read as follows:

20 (a) For each identified student a school district serves in  
21 a program for gifted and talented students that the district  
22 certifies to the commissioner as complying with Subchapter D,  
23 Chapter 29, a district is entitled to an annual allotment equal to  
24 the district's adjusted accreditation ~~[basic]~~ allotment as  
25 determined under Section 42.102 or Section 42.103, as applicable,  
26 multiplied by .12 for each school year or a greater amount provided  
27 by appropriation.

1 (d) If the amount of state funds for which school districts  
2 are eligible under this section exceeds the amount of state funds  
3 appropriated in any year for the programs, the commissioner shall  
4 reduce each district's basic program [~~tier one~~] allotments in the  
5 same manner described for a reduction in allotments under Section  
6 42.253.

7 SECTION 1B.14. Section 42.157(a), Education Code, is  
8 amended to read as follows:

9 (a) Except as provided by Subsection (b), for each student  
10 in average daily attendance who is using a public education grant  
11 under Subchapter G, Chapter 29, to attend school in a district other  
12 than the district in which the student resides, the district in  
13 which the student attends school is entitled to an annual allotment  
14 equal to the adjusted accreditation [~~basic~~] allotment multiplied by  
15 a weight of 0.1.

16 SECTION 1B.15. Section 42.158, Education Code, is amended  
17 by amending Subsections (b), (d), and (g) and adding Subsection  
18 (b-1) to read as follows:

19 (b) For the first school year in which students attend a new  
20 instructional facility, a school district other than a fast growth  
21 school district is entitled to an allotment of \$250 for each student  
22 in average daily attendance at the facility. For the second and  
23 third school years [~~year~~] in which students attend that  
24 instructional facility, the [~~a school~~] district is entitled to an  
25 allotment of \$250 for each additional student in average daily  
26 attendance at the facility.

27 (b-1) For the first school year in which students attend a

1 new instructional facility, a fast growth school district is  
2 entitled to an allotment of \$500 for each student in average daily  
3 attendance at the facility. For the second and third school years  
4 in which students attend that instructional facility, the district  
5 is entitled to an allotment of \$500 for each additional student in  
6 average daily attendance at the facility.

7 (d) The amount appropriated for allotments under this  
8 section may not exceed \$50 [~~\$25~~] million in a school year. If the  
9 total amount of allotments to which districts are entitled under  
10 this section for a school year exceeds the amount appropriated for  
11 allotments under this section, the commissioner shall reduce each  
12 district's allotment under this section in the manner provided by  
13 Section 42.253(h).

14 (g) In this section:

15 (1) "Fast growth school district" means a school  
16 district that during the preceding five school years has  
17 experienced an increase in enrollment of:

18 (A) greater than 10 percent; or

19 (B) more than 3,500 students.

20 (2) "Instructional [~~,"instructional]~~ facility" has  
21 the meaning assigned by Section 46.001.

22 SECTION 1B.16. Section 42.251, Education Code, is amended  
23 to read as follows:

24 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the  
25 accreditation [~~basic~~] allotment under Subchapter B and the special  
26 allotments under Subchapter C, computed in accordance with this  
27 chapter, constitute the basic program [~~tier one~~] allotments. The

1 sum of the basic program [~~tier one~~] allotments and the enrichment  
2 program [~~guaranteed yield~~] allotments under Subchapter F, computed  
3 in accordance with this chapter, constitute the total cost of the  
4 Foundation School Program.

5 (b) The program shall be financed by:

6 (1) ad valorem tax revenue generated by an equalized  
7 uniform school district effort;

8 (2) ad valorem tax revenue generated by local school  
9 district effort for an enrichment program in accordance with  
10 Subchapter F in excess of the equalized uniform school district  
11 effort;

12 (3) state available school funds distributed in  
13 accordance with law; and

14 (4) state funds appropriated for the purposes of  
15 public school education and allocated to each district in an amount  
16 sufficient to finance the cost of each district's Foundation School  
17 Program not covered by other funds specified in this subsection.

18 SECTION 1B.17. Section 42.2512(a), Education Code, is  
19 amended to read as follows:

20 (a) In addition to any amounts to which a school district is  
21 entitled under Section 42.2541, a [A school] district [~~including~~  
22 ~~a school district that is otherwise ineligible for state aid under~~  
23 ~~this chapter,~~ is entitled to state aid in an amount, as determined  
24 by the commissioner, equal to the [~~difference, if any, between:~~

25 [~~(1) an amount equal to the~~] product of the following  
26 amount, as applicable, [\$3,000] multiplied by the number of  
27 classroom teachers, full-time librarians, full-time counselors

1 certified under Subchapter B, Chapter 21, and full-time school  
2 nurses employed by the district and entitled to a minimum salary  
3 under Section 21.402:

4 (1) \$3,000; or

5 (2) \$3,500, if H.B. No. 3, Acts of the 79th  
6 Legislature, Regular Session, 2005, takes effect immediately [~~and~~

7 ~~(2) an amount equal to 80 percent of the amount of~~  
8 ~~additional funds to which the district is entitled due to the~~  
9 ~~increases made by S.B. No. 4, Acts of the 76th Legislature, Regular~~  
10 ~~Session, 1999, to:~~

11 [~~(A) the equalized wealth level under Section~~  
12 ~~41.002,~~

13 [~~(B) the basic allotment under Section 42.101,~~  
14 ~~and~~

15 [~~(C) the guaranteed level of state and local~~  
16 ~~funds per weighted student per cent of tax effort under Section~~  
17 ~~42.302].~~

18 SECTION 1B.18. Section 42.2515(a), Education Code, is  
19 amended to read as follows:

20 (a) For each school year, a school district [~~, including a~~  
21 ~~school district that is otherwise ineligible for state aid under~~  
22 ~~this chapter,~~] is entitled to state aid in an amount equal to the  
23 amount of all tax credits credited against ad valorem taxes of the  
24 district in that year under Subchapter D, Chapter 313, Tax Code.

25 SECTION 1B.19. The heading to Section 42.252, Education  
26 Code, is amended to read as follows:

27 Sec. 42.252. LOCAL SHARE OF BASIC PROGRAM COST [~~(TIER~~



1 ~~ONE~~).

2 SECTION 1B.20. Section 42.252(a), Education Code, is  
3 amended to read as follows:

4 (a) Each school district's share of the basic program under  
5 the Foundation School Program is determined by the following  
6 formula:

7 
$$\text{LFA} = \text{TR} \times \text{DPV}$$

8 where:

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

10 "TR" is a tax rate which for each hundred dollars of valuation  
11 is an adopted [~~effective~~] tax rate of \$1.10 [~~\$0.86~~]; and

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

15 SECTION 1B.21. Section 42.2521(a), Education Code, is  
16 amended to read as follows:

17 (a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this  
18 chapter, and to the extent money specifically authorized to be used  
19 under this section is available, the commissioner shall adjust the  
20 taxable value of property in a school district that, due to factors  
21 beyond the control of the board of trustees, experiences a rapid  
22 decline in the tax base used in calculating taxable values in excess  
23 of four percent of the tax base used in the preceding year.

24 SECTION 1B.22. Section 42.253, Education Code, is amended  
25 by amending Subsections (a) and (g)-(i) and adding Subsections  
26 (c-1), (e-2), and (m) to read as follows:

27 (a) For each school year the commissioner shall determine:

1 (1) the amount of money to which a school district is  
2 entitled under Subchapters B and C;

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

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

7 (4) the amount of each district's basic program [~~tier~~  
8 ~~one~~] local share under Section 42.252; and

9 (5) the amount of each district's enrichment program  
10 [~~tier two~~] local revenue [~~share~~] under Section 42.302.

11 (c-1) Notwithstanding any other provision of this chapter,  
12 with the approval of the commissioner, a school district in which  
13 the number of students in average daily attendance increases as a  
14 result of enrolling students pursuant to an agreement to provide  
15 education services in cooperation with a public charter district is  
16 entitled to receive state revenue for the additional students in an  
17 amount not less than the district's total state and local revenue  
18 per student, including revenue from accreditation allotments and an  
19 enrichment program under Subchapter F, calculated on the basis of  
20 the district's average daily attendance prior to the enrollment of  
21 the additional students.

22 (e-2) For the 2006-2007 school year, the limit authorized by  
23 Subsection (e) is an amount equal to the sum of the rate described  
24 by Section 42.252 and the rate described by Section 42.303(c)(1).  
25 This subsection expires September 1, 2007.

26 (g) If a school district demonstrates to the satisfaction of  
27 the commissioner that the estimate of the district's tax rate,

1 student enrollment, or taxable value of property used in  
2 determining the amount of state funds to which the district is  
3 entitled are so inaccurate as to result in undue financial hardship  
4 to the district, the commissioner may adjust funding to that  
5 district in that school year to the extent that funds are available  
6 for that year [~~, including funds in the reserve account. Funds in~~  
7 ~~the reserve account may not be used under this subsection until any~~  
8 ~~reserve funds have been used for purposes of Subsection (f)].~~

9 (h) If the total amount appropriated for a year for the  
10 Foundation School Program is less than the amount of money to which  
11 school districts are entitled for that year [~~legislature fails~~  
12 ~~during the regular session to enact the transfer and appropriation~~  
13 ~~proposed under Subsection (f) and there are not funds available~~  
14 ~~under Subsection (j)], the commissioner shall reduce the total  
15 amount of state funds allocated to each district from any source by  
16 an amount determined by a method under which the application of the  
17 same number of cents of increase in enrichment tax rate in all  
18 districts applied to the taxable value of property of each  
19 district, as determined under Subchapter M, Chapter 403, Government  
20 Code, together with any state aid generated by those taxes, results  
21 in a total amount of levy and aid equal to the total reduction. The  
22 following fiscal year, a district's entitlement under this section  
23 is increased by an amount equal to the reduction made under this  
24 subsection.~~

25 (i) Not later than March 1 each year, the commissioner shall  
26 determine the actual amount of state funds to which each school  
27 district is entitled under [~~the allocation formulas in~~] this

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

8 (m) Payments from the foundation school fund to each school  
9 district shall be made as follows:

10 (1) 15 percent of the yearly entitlement of the  
11 district shall be paid in an installment to be made on or before the  
12 25th day of September of a fiscal year;

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

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

22 SECTION 1B.23. Sections 42.2531(a)-(c), Education Code,  
23 are amended to read as follows:

24 (a) The commissioner may make adjustments to amounts due to  
25 a school district under this chapter or Chapter 46, [~~or to amounts~~  
26 ~~necessary for a district to comply with the requirements of Chapter~~  
27 ~~41,~~] as provided by this section.

1 (b) A school district that has a major taxpayer, as  
2 determined by the commissioner, that because of a protest of the  
3 valuation of the taxpayer's property fails to pay all or a portion  
4 of the ad valorem taxes due to the district may apply to the  
5 commissioner to have the district's taxable value of property or ad  
6 valorem tax collections adjusted for purposes of this chapter or  
7 Chapter [~~41-01~~] 46. The commissioner may make the adjustment only  
8 to the extent the commissioner determines that making the  
9 adjustment will not:

10 (1) in the fiscal year in which the adjustment is made,  
11 cause the amount to which school districts are entitled under this  
12 chapter to exceed the amount appropriated for purposes of the  
13 Foundation School Program for that year; and

14 (2) if the adjustment is made in the first year of a  
15 state fiscal biennium, cause the amount to which school districts  
16 are entitled under this chapter for the second year of the biennium  
17 to exceed the amount appropriated for purposes of the Foundation  
18 School Program for that year.

19 (c) The commissioner shall recover the benefit of any  
20 adjustment made under this section by making offsetting adjustments  
21 in the school district's taxable value of property or ad valorem tax  
22 collections for purposes of this chapter or Chapter [~~41-01~~] 46 on a  
23 final determination of the taxable value of property that was the  
24 basis of the original adjustment, or in the second school year  
25 following the year in which the adjustment is made, whichever is  
26 earlier.

27 SECTION 1B.24. Subchapter E, Chapter 42, Education Code, is

1 amended by adding Sections 42.2541 and 42.2542 to read as follows:

2 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
3 section, "weighted average daily attendance" has the meaning  
4 assigned by Section 42.302.

5 (b) Notwithstanding Section 42.253, a school district is  
6 entitled to the amount of state revenue necessary to maintain state  
7 and local revenue in an amount equal to the sum of:

8 (1) the amount of state and local revenue per student  
9 in weighted average daily attendance for maintenance and operation  
10 of the district that the district received for the 2005-2006 school  
11 year; and

12 (2) an amount equal to \$98 per weighted student in  
13 average daily attendance.

14 (c) The commissioner may increase the amount to which a  
15 school district is entitled under Subsection (b) as the  
16 commissioner determines necessary.

17 (d) The commissioner shall:

18 (1) compute and publish the amount of state and local  
19 revenue per student in weighted average daily attendance to which a  
20 district is entitled under Subsection (b) for the 2006-2007 school  
21 year; and

22 (2) use that amount per student in weighted average  
23 daily attendance in determining the amount to which a district is  
24 entitled under this section in subsequent school years.

25 (e) The commissioner shall determine the amount of state  
26 funds to which a school district is entitled under this section,  
27 including the amount per student in weighted average daily

1 attendance, and shall make that determination available to the  
2 Legislative Budget Board. The commissioner's determination is  
3 final and may not be appealed.

4 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID. (a)

5 Notwithstanding any other provision of this subtitle, the  
6 commissioner shall withhold from a school district the amount of  
7 state funds necessary to ensure that the district does not receive  
8 an amount of state and local revenue per student in weighted average  
9 daily attendance that is greater than the following percentage of  
10 the amount to which the district is entitled under Section  
11 42.2541(b)(1):

12 (1) 108 percent for the 2006-2007 school year;

13 (2) 116 percent for the 2007-2008 school year; and

14 (3) 124 percent for the 2008-2009 school year.

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

18 (c) Any amount to which a school district is entitled under  
19 Subchapter F is not included in determining the amount that a  
20 district may receive under this section.

21 (d) This section expires September 1, 2009.

22 SECTION 1B.25. Chapter 42, Education Code, is amended by  
23 adding Subchapter F to read as follows:

24 SUBCHAPTER F. ENRICHMENT PROGRAM

25 Sec. 42.301. PURPOSE. The purpose of the enrichment  
26 program is to provide each school district with the opportunity to  
27 supplement the basic program at a level of its own choice. An

1 allotment under this subchapter may be used for any legal purpose  
2 other than capital outlay or debt service.

3 Sec. 42.302. ALLOTMENT. (a) In this section, "wealth per  
4 student" means a school district's taxable value of property as  
5 determined under Subchapter M, Chapter 403, Government Code,  
6 divided by the number of students in weighted average daily  
7 attendance in the district.

8 (b) Each school district is guaranteed a specified amount  
9 per student in state and local funds for each cent of enrichment tax  
10 effort up to the maximum level specified in this subchapter. The  
11 amount of state support is determined by the formula:

$$\text{EGYA} = (\text{EGL} \times \text{WADA} \times \text{DETR} \times 100) - \text{LR}$$

12 where:

13 "EGYA" is the guaranteed yield amount of state enrichment  
14 funds to be allocated to the district;

15 "EGL" is the dollar amount guaranteed level of state and  
16 local funds per student per cent of tax effort, which is the amount  
17 of district enrichment tax revenue per cent of tax effort available  
18 to a school district at the 98th percentile in wealth per student,  
19 as determined by the commissioner;

20 "WADA" is the number of students in weighted average daily  
21 attendance, which is computed by dividing the sum of the school  
22 district's allotments under Subchapters B and C, less any allotment  
23 to the district for transportation, any allotment to the district  
24 under Section 42.158, and 50 percent of the adjustment under  
25 Section 42.102, by the accreditation allotment for the applicable  
26 year;



1       "DETR" is the district enrichment tax rate of the school  
2 district, which is determined by dividing the total amount of  
3 enrichment taxes collected by the school district for the  
4 applicable school year by the district's taxable value of property  
5 for the preceding year as determined under Subchapter M, Chapter  
6 403, Government Code, divided by 100; and

7       "LR" is the local revenue, which is determined by multiplying  
8 "DETR" by the quotient of the district's taxable value of property  
9 for the preceding year as determined under Subchapter M, Chapter  
10 403, Government Code.

11       (c) The percentile in wealth per student described by  
12 Subsection (b) for purposes of determining the dollar amount  
13 guaranteed level of state and local funds per student per cent of  
14 tax effort ("EGL") applies beginning with the 2014-2015 school  
15 year. For the 2006-2007 through 2013-2014 school years, EGL is  
16 determined as follows:

17               (1) for the 2006-2007 school year, EGL is determined  
18 using the 92nd percentile in wealth per student;

19               (2) for the 2007-2008 school year, EGL is determined  
20 using the 92nd percentile in wealth per student;

21               (3) for the 2008-2009 school year, EGL is determined  
22 using the 93rd percentile in wealth per student;

23               (4) for the 2009-2010 school year, EGL is determined  
24 using the 93rd percentile in wealth per student;

25               (5) for the 2010-2011 school year, EGL is determined  
26 using the 94th percentile in wealth per student;

27               (6) for the 2011-2012 school year, EGL is determined

1 using the 95th percentile in wealth per student;

2 (7) for the 2012-2013 school year, EGL is determined  
3 using the 96th percentile in wealth per student; and

4 (8) for the 2013-2014 school year, EGL is determined  
5 using the 97th percentile in wealth per student.

6 (d) This subsection and Subsection (c) expire September 1,  
7 2013.

8 Sec. 42.303. ENRICHMENT TAX. (a) Subject to Section  
9 42.304, the board of trustees of a school district may impose an  
10 annual ad valorem tax for the further maintenance of the public  
11 schools in the district.

12 (b) Except as provided by Section 42.252(a-1), the district  
13 enrichment tax rate may not exceed \$0.15 for each \$100 of taxable  
14 value of property.

15 (c) Notwithstanding Subsection (b) but subject to Sections  
16 42.252(a-1) and 42.306:

17 (1) for the 2006 tax year, the district enrichment tax  
18 rate may not exceed \$0.05 for each \$100 of taxable value of  
19 property; and

20 (2) for the 2007 and 2008 tax years, the district  
21 enrichment tax rate may not exceed \$0.10 for each \$100 of taxable  
22 value of property.

23 (d) This subsection and Subsection (c) expire January 1,  
24 2009.

25 Sec. 42.304. ENRICHMENT TAX ELECTION. (a) Except as  
26 provided by Section 42.306, a school district may not impose an  
27 enrichment tax under Section 42.303 unless authorized by a majority

1 of the qualified voters of the district voting at an election held  
2 for that purpose.

3 (b) A proposition submitted to authorize the imposition of  
4 an enrichment tax must include the question of whether the board of  
5 trustees may impose annual ad valorem taxes for the further  
6 enrichment of public schools at a rate not to exceed the rate stated  
7 in the proposition.

8 (c) A district may tax at a rate below the rate authorized in  
9 an election under this section and does not need additional  
10 authority to increase the rate up to the rate authorized in the  
11 election.

12 Sec. 42.305. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON  
13 MILITARY RESERVATION OR AT STATE SCHOOL. The amount to which a  
14 school district is entitled under this subchapter in a school  
15 district located on a federal military installation or at Moody  
16 State School is computed using the average district enrichment tax  
17 rate and property value per student of school districts in the  
18 county, as determined by the commissioner.

19 Sec. 42.306. ENRICHMENT TAX AVAILABLE TO CERTAIN DISTRICTS  
20 WITHOUT ELECTION. (a) To the extent consistent with Subsection  
21 (b), if a school district's maintenance and operations tax rate for  
22 the 2004 tax year exceeded a rate of \$1.50 for each \$100 of taxable  
23 value of property, the district is entitled to impose an ad valorem  
24 tax under Section 42.303 without holding an election under Section  
25 42.304.

26 (b) The enrichment tax authorized by this section may not  
27 exceed a rate equal to the lesser of:

1           (1) \$0.15 for each \$100 of taxable value of property;

2 or

3           (2) a rate equal to the amount by which the district's  
4 maintenance and operations tax rate for the 2004 tax year exceeded a  
5 rate of \$1.50 for each \$100 of taxable value of property.

6           (c) The portion of an enrichment tax imposed by a school  
7 district under this section that exceeds the rate permitted by  
8 Subsection (b) is subject to voter approval under Section 42.304.

9           (d) The portion of an enrichment tax imposed by a school  
10 district under this section that exceeds the rate permitted by  
11 Subsection (b) is subject to the limits of Section 42.303(c). This  
12 subsection expires January 1, 2009.

13           SECTION 1B.26. Chapter 42, Education Code, is amended by  
14 adding Subchapter I to read as follows:

15                   SUBCHAPTER I. ADDITIONAL EQUALIZATION

16           Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

17           (a) Except as provided by Subsection (b), a school district in  
18 which the district's local share under Section 42.252 exceeds the  
19 district's basic program allotments under Section 42.251 shall be  
20 consolidated by the commissioner under Subchapter H, Chapter 41.

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

25           SECTION 1B.27. The heading to Chapter 41, Education Code,  
26 is amended to read as follows:

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

1 SECTION 1B.28. Section 41.004, Education Code, is amended  
2 to read as follows:

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

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

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

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

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

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

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

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

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

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

23 SECTION 1B.29. Section 41.006(a), Education Code, is  
24 amended to read as follows:

25 (a) The commissioner may adopt rules necessary for the  
26 implementation of this chapter. The rules may provide for the  
27 commissioner to make necessary adjustments to the provisions of

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

7 SECTION 1B.30. Section 41.008(a), Education Code, is  
8 amended to read as follows:

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

19 SECTION 1B.31. Section 41.009(a), Education Code, is  
20 amended to read as follows:

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

26 SECTION 1B.32. Section 41.010, Education Code, is amended  
27 to read as follows:

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

10           SECTION 1B.33. Section 41.013(a), Education Code, is  
11 amended to read as follows:

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

15           SECTION 1B.34. Section 41.091, Education Code, is amended  
16 to read as follows:

17           Sec. 41.091. AGREEMENT. A school district subject to  
18 Section 42.401 [~~with a wealth per student that exceeds the~~  
19 ~~equalized wealth level~~] may execute an agreement with the  
20 commissioner to purchase attendance credits in an amount equal to  
21 the difference between the district's local share under Section  
22 42.252 and the district's basic program allotments under Section  
23 42.251 [~~sufficient, in combination with any other actions taken~~  
24 ~~under this chapter, to reduce the district's wealth per student to a~~  
25 ~~level that is equal to or less than the equalized wealth level~~].

26           SECTION 1B.35. Section 41.093(a), Education Code, is  
27 amended to read as follows:



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

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

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

11 SECTION 1B.36. Section 41.251, Education Code, is amended  
12 to read as follows:

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

19 SECTION 1B.37. Section 41.252, Education Code, is amended  
20 by amending Subsections (a) and (c) and adding Subsection (d) to  
21 read as follows:

22 (a) In selecting the districts to be consolidated with a  
23 district subject to Section 42.401 ~~[that has a property wealth~~  
24 ~~greater than the equalized wealth level]~~, the commissioner shall  
25 select one or more districts with a local share under Section 42.252  
26 ~~[wealth per student]~~ that, when consolidated, will result in a  
27 consolidated district that is not subject to Section 42.401 ~~[with a~~

1 ~~wealth per student equal to or less than the equalized wealth~~  
2 ~~level].~~ In achieving that result, the commissioner shall give  
3 priority to school districts in the following order:

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

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

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

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

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

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

24 (c) In applying the selection criteria specified by  
25 Subsection (a), if more than two districts are to be consolidated,  
26 the commissioner shall select the third and each subsequent  
27 district to be consolidated by treating the district subject to

1 Section 42.401 [~~that has a property wealth greater than the~~  
2 ~~equalized wealth level~~] and the district or districts previously  
3 selected for consolidation as one district.

4 (d) In this section, "local share percentage" means a  
5 percentage determined by dividing a school district's local share  
6 under Section 42.252 by the district's tier one allotment under  
7 Section 42.251.

8 SECTION 1B.38. This part applies beginning with the  
9 2006-2007 school year, except that Section 42.253(h), Education  
10 Code, as amended in this part, applies beginning with the 2005-2006  
11 school year.

12 PART C. SCHOOL FACILITIES

13 SECTION 1C.01. Subchapter C, Chapter 45, Education Code, is  
14 amended by adding Section 45.0561 to read as follows:

15 Sec. 45.0561. PRIORITY FOR CERTAIN BONDS. (a) In  
16 determining which bonds to approve for guarantee under this  
17 subchapter, the commissioner shall give priority to a school  
18 district that has had bonds refunded and defeased under Subchapter  
19 D, Chapter 46.

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

22 SECTION 1C.02. Section 46.006, Education Code, is amended  
23 by adding Subsection (c-1) and amending Subsection (d) to read as  
24 follows:

25 (c-1) A district's wealth per student is reduced by 25  
26 percent for purposes of this section if the district has had  
27 significant student enrollment growth that, as determined by the

1 commissioner, is substantially related to the enrollment of  
2 children of military personnel transferred to a military base near  
3 the district following the closure or realignment of another  
4 military base under the Defense Base Closure and Realignment Act of  
5 1990 (10 U.S.C. Section 2687). The reduction is in addition to any  
6 reduction under Subsection (a), (b), or (c) and is computed before  
7 the district's wealth per student is reduced under those  
8 subsections, if applicable.

9 (d) The commissioner shall adjust the rankings after making  
10 the reductions in wealth per student required by Subsections (a),  
11 (b), ~~and~~ (c), and (c-1).

12 SECTION 1C.03. Section 46.008, Education Code, is amended  
13 to read as follows:

14 Sec. 46.008. STANDARDS. (a) The commissioner shall  
15 establish standards for adequacy of school facilities. The  
16 standards must include requirements related to space, educational  
17 adequacy, and construction quality. All new facilities constructed  
18 after September 1, 1998, must meet the standards to be eligible to  
19 be financed with state or local tax funds.

20 (b) To be eligible to be financed with state or local tax  
21 funds, any portable, modular building capable of being relocated  
22 that is purchased or leased after September 1, 2005, for use as a  
23 school facility, regardless of whether the building is an  
24 industrialized building as defined by Section 1202.003,  
25 Occupations Code, must be inspected as provided by Subchapter E,  
26 Chapter 1202, Occupations Code, to ensure compliance with the  
27 mandatory building codes or approved designs, plans, and

1 specifications.

2 SECTION 1C.04. Subchapter A, Chapter 46, Education Code, is  
3 amended by adding Section 46.014 to read as follows:

4 Sec. 46.014. STUDY REGARDING INSTRUCTIONAL FACILITIES. (a)  
5 The comptroller in cooperation with the agency shall study:

6 (1) existing instructional facilities in this state;  
7 and

8 (2) the projected need for instructional facilities in  
9 the next 10 to 20 years.

10 (b) The study of instructional facilities must include an  
11 examination of the following objectives and any other objectives  
12 determined appropriate by the comptroller and the agency:

13 (1) a determination as to which of the following needs  
14 of school districts in this state relating to instructional  
15 facilities are the most pressing:

16 (A) the need for new instructional facilities;

17 (B) the need for repairs to existing  
18 instructional facilities;

19 (C) the need for renovations of existing  
20 instructional facilities; and

21 (D) other needs relating to instructional  
22 facilities;

23 (2) an estimate of the total cost of necessary  
24 construction, repair, or renovation of instructional facilities in  
25 the next 10 to 20 years;

26 (3) a determination of the number of school districts  
27 and campuses that have student populations that exceed the maximum

1 capacity of the districts' or campuses' classrooms, cafeterias, or  
2 gymnasiums, including if appropriate a determination of:

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

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

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

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

13 (c) In projecting the need for instructional facilities in  
14 the next 10 to 20 years, the study must determine the facilities  
15 that will need to be constructed, repaired, or renovated in this  
16 state. The study may include:

17 (1) projections as to the date new instructional  
18 facilities will be needed or the date existing instructional  
19 facilities will need to be repaired or renovated;

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

22 (3) information relating to the dates of the most  
23 recent major renovations of existing instructional facilities.

24 (d) The comptroller and the agency shall determine the  
25 appropriate methodology for use in conducting the study required by  
26 this section.

27 (e) Not later than December 1, 2006, the comptroller and the

1 agency shall submit to the legislature a report based on the study  
2 required by this section. This section expires January 15, 2007.

3 SECTION 1C.05. Section 46.033, Education Code, is amended  
4 to read as follows:

5 Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued  
6 under Section 45.006, are eligible to be paid with state and local  
7 funds under this subchapter if:

8 (1) the district made payments on the bonds during the  
9 2004-2005 [~~2002-2003~~] school year or taxes levied to pay the  
10 principal of and interest on the bonds were included in the  
11 district's audited debt service collections for that school year;  
12 and

13 (2) the district does not receive state assistance  
14 under Subchapter A for payment of the principal and interest on the  
15 bonds.

16 SECTION 1C.06. Section 46.034(c), Education Code,  
17 is amended to read as follows:

18 (c) If the amount required to pay the principal of and  
19 interest on eligible bonds in a school year is less than the amount  
20 of payments made by the district on the bonds during the 2004-2005  
21 [~~2002-2003~~] school year or the district's audited debt service  
22 collections for that school year, the district may not receive aid  
23 in excess of the amount that, when added to the district's local  
24 revenue for the school year, equals the amount required to pay the  
25 principal of and interest on the bonds.

26 SECTION 1C.07. Chapter 46, Education Code, is amended by  
27 adding Subchapter D to read as follows:

1 SUBCHAPTER D. REFUNDING TO INCREASE PERMANENT SCHOOL FUND CAPACITY

2 Sec. 46.091. DEFINITIONS. In this subchapter:

3 (1) "Allocated revenue" means that portion of state  
4 assistance under Subchapter A or B equal to the scheduled debt  
5 service payments in effect immediately before the refunding of  
6 eligible bonds being refunded under this subchapter.

7 (2) "Authority" means the Texas Public Finance  
8 Authority.

9 (3) "Authority obligation" means any type of revenue  
10 obligation, including a bond, note, certificate, or other  
11 instrument issued under this subchapter. The term includes an  
12 obligation issued to refund an obligation issued under this  
13 subchapter.

14 (4) "Credit agreement" has the meaning assigned by  
15 Section 1371.001, Government Code.

16 (5) "Obligation administrative expenses" means  
17 expenses incurred in administering authority obligations,  
18 including:

19 (A) administrative expenses incurred by the  
20 commissioner or the authority relating to the administration of  
21 this subchapter; and

22 (B) fees for:

23 (i) paying agents, trustees, and attorneys;  
24 (ii) other professional services necessary  
25 to ensure compliance with applicable state or federal law; and

26 (iii) a school district with eligible bonds  
27 refunded under this subchapter, professional service expenses in an



1 amount approved by the commissioner.

2 Sec. 46.092. ISSUANCE OF AUTHORITY OBLIGATIONS. (a) If the  
3 commissioner determines that it is feasible to refund eligible  
4 school district bonds as provided by this subchapter, the  
5 commissioner may request that the authority issue authority  
6 obligations necessary to accomplish the refunding. On request of  
7 the commissioner, the authority shall issue authority obligations,  
8 in accordance with Title 9, Government Code, in an amount  
9 sufficient to:

- 10 (1) refund eligible bonds;
- 11 (2) pay all obligation administrative expenses;
- 12 (3) pay the costs of issuing the authority  
13 obligations;
- 14 (4) pay the costs of any credit agreement; and
- 15 (5) provide any reserve funds.

16 (b) Authority obligations and any related credit agreements  
17 must be secured by allocated revenue.

18 (c) The commissioner's request for the issuance of  
19 authority obligations must state:

- 20 (1) the maximum principal amount of bonds to be  
21 refunded under this subchapter;
- 22 (2) the maximum term of bonds to be refunded; and
- 23 (3) the amount of state assistance under Subchapter A  
24 or B to support the payment of the bonds to be refunded.

25 (d) To best achieve the economic goals of this subchapter  
26 and accomplish the borrowing at the lowest practicable cost, the  
27 authority may determine:

- 1           (1) the method of sale of authority obligations;
- 2           (2) the type and form of obligation;
- 3           (3) the maximum interest rates and other terms of  
4 authority obligations; and
- 5           (4) the need for related credit agreements.

6           (e) The authority shall certify to the commissioner that  
7 each series of authority obligations issued under this subchapter  
8 will result in an aggregate present value savings.

9           (f) Section 46.007 does not apply to the issuance of  
10 authority obligations under this subchapter.

11           Sec. 46.093. ELIGIBILITY OF BONDS FOR REFUNDING. School  
12 district bonds are eligible for refunding under this subchapter if:

- 13           (1) the district receives state assistance for payment  
14 of the bonds under Subchapter A or B; and
- 15           (2) the principal and interest of the bonds are  
16 guaranteed by the permanent school fund under Subchapter C, Chapter  
17 45.

18           Sec. 46.094. IDENTIFICATION OF ELIGIBLE BONDS; NOTICE TO  
19 SCHOOL DISTRICTS. (a) If the commissioner determines that it is  
20 feasible to refund eligible school district bonds as provided by  
21 this subchapter, the commissioner shall periodically identify  
22 which outstanding school bonds are eligible for refunding under  
23 this subchapter. The commissioner shall notify the school districts  
24 issuing the bonds that:

- 25           (1) the bonds are subject to being refunded and  
26 defeased through the issuance of authority obligations; and
- 27           (2) a school district whose bonds are refunded under

1 this subchapter is entitled to priority in the allocation of  
2 resulting increases in the capacity of the permanent school fund to  
3 guarantee school district bonds under Subchapter C, Chapter 45, as  
4 provided by Section 45.0561.

5 (b) The district may elect to direct the commissioner to  
6 include any of the district's eligible bonds for consideration for  
7 refunding under this subchapter. If the district does not elect to  
8 direct the commissioner to include the district's bonds for  
9 consideration for refunding within the time prescribed by this  
10 subsection, the bonds may not be refunded under this subchapter.

11 (c) Notice under Subsection (a) must:

12 (1) identify the bonds the commissioner proposes to  
13 refund under this subchapter;

14 (2) state that the school district may elect to direct  
15 the commissioner to include any of the district's bonds for  
16 consideration for refunding; and

17 (3) advise the district of:

18 (A) the effect of electing to have the bonds  
19 considered for refunding; and

20 (B) the effect of not electing to have the bonds  
21 considered for refunding.

22 Sec. 46.095. AGREEMENT BETWEEN COMMISSIONER AND AUTHORITY.

23 (a) To permit the authority to pledge allocated revenue to the  
24 payment of authority obligations, the commissioner shall enter into  
25 an agreement with the authority under which:

26 (1) the commissioner, acting on behalf of each school  
27 district whose bonds are being refunded under this subchapter, may

1 pledge the allocated revenue to secure the payment of the principal  
2 of and interest and premium on authority obligations; and

3 (2) each school year, the commissioner shall allocate  
4 and distribute to the authority allocated revenue equal to the  
5 scheduled debt service payments for that year on the bonds being  
6 refunded.

7 (b) An agreement under this section must state that the  
8 funding for allocated revenue is subject to legislative  
9 appropriation. A distribution to the authority under the agreement  
10 is considered to be a distribution for purposes of Section 46.009.  
11 If the commissioner determines that the amount appropriated for any  
12 year for allocated revenue is insufficient, the commissioner may  
13 act under Section 46.009(b) to ensure the sufficiency of allocated  
14 revenue.

15 Sec. 46.096. USE OF PROCEEDS OF AUTHORITY OBLIGATIONS. (a)  
16 The authority shall use the proceeds of authority obligations, less  
17 the cost of issuing those obligations and the cost of  
18 administrative expenses incurred by the commissioner or the  
19 authority relating to the administration of this subchapter, to  
20 refund and defease eligible bonds as requested by the commissioner.  
21 To accomplish the refunding and defeasance:

22 (1) the commissioner, on behalf of the school  
23 districts issuing the bonds, may:

24 (A) exercise any reserved right of optional  
25 redemption; and

26 (B) issue any required notice of redemption and  
27 defeasance; and

1           (2) the authority, on behalf of the districts issuing  
2 the bonds, may enter into escrow agreements and purchase escrow  
3 securities as provided by Chapter 1207, Government Code, with the  
4 same effect under that chapter as if the authority were the issuer  
5 of the bonds being refunded and defeased.

6           (b) The authority shall provide to a school district whose  
7 bonds are refunded under this subchapter appropriate documentation  
8 showing that the bonds have been refunded and defeased.

9           Sec. 46.097. PAYMENT OF OBLIGATION ADMINISTRATIVE  
10 EXPENSES. After paying the current debt service on authority  
11 obligations, the authority may use allocated revenue to pay  
12 obligation administrative expenses.

13           Sec. 46.098. DISTRIBUTION OF ALLOCATED REVENUE IN EXCESS OF  
14 DISTRICT'S ENTITLEMENT TO STATE ASSISTANCE. (a) If the  
15 commissioner allocates and distributes to the authority allocated  
16 revenue for a school district's bonds refunded under this  
17 subchapter in an amount in excess of the state assistance to which  
18 the district is entitled in connection with all of the district's  
19 bonds, the district shall reimburse the commissioner in the amount  
20 of the excess.

21           (b) If a school district elects not to reimburse the  
22 commissioner in the amount of excess state assistance as required  
23 under Subsection (a), the commissioner shall direct the comptroller  
24 to withhold the amount of the excess from the succeeding payment of  
25 state assistance payable to the school district and credit the  
26 amount to the account or accounts from which the excess payment was  
27 made.

1       (c) A school may reimburse the commissioner under this  
2 section from any lawfully available source.

3       Sec. 46.099. REFUNDING OF AUTHORITY OBLIGATIONS. The  
4 authority may issue authority obligations to refund any previously  
5 issued authority obligations if the authority by resolution  
6 determines that the issuance of refunding obligations will result  
7 in the lowest practicable borrowing cost to the state and school  
8 districts with outstanding eligible bonds.

9       Sec. 46.100. AUTHORITY OBLIGATIONS NOT A PLEDGE OF STATE'S  
10 CREDIT. (a) Authority obligations and any related credit  
11 agreements are not:

12           (1) a debt of the state, a state agency, or a political  
13 subdivision of the state; or

14           (2) a pledge of the faith and credit or taxing power of  
15 the state, a state agency, or a political subdivision of the state.

16       (b) Authority obligations and any related credit agreements  
17 are payable solely from allocated revenue pledged to the payment of  
18 those obligations.

19       (c) Subject to the limitations of Subsection (a), as long as  
20 authority obligations are outstanding, the state may not:

21           (1) take any action to limit or restrict the  
22 authority's responsibility to pay the authority obligations; or

23           (2) in any way impair the rights and remedies of the  
24 owners of authority obligations.

25       (d) The reallocation of allocated revenue to secure  
26 authority obligations to refund school district bonds is:

27           (1) consistent with the original authorization,

1 allocation, and application of state assistance under Subchapter A  
2 or B;

3 (2) in furtherance of any covenants, agreements, or  
4 undertakings by school districts or the commissioner to cause  
5 allocated revenue to be credited to debt service funds for school  
6 district bonds; and

7 (3) consistent with all statutory and regulatory  
8 dedications and restrictions on the allocated revenue.

9 ARTICLE 2. EDUCATION EXCELLENCE

10 PART A. EDUCATION EMPLOYEES

11 SECTION 2A.01. Section 11.201, Education Code, is amended  
12 by adding Subsection (e) to read as follows:

13 (e) A superintendent may not receive any financial benefit  
14 for personal services performed by the superintendent for any  
15 business entity that conducts business with or solicits business  
16 from the school district. Any financial benefit received by the  
17 superintendent for performing personal services for any other  
18 entity must be approved by the board of trustees on a case-by-case  
19 basis in an open meeting.

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

22 Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR  
23 PRINCIPALS. (a) The agency shall develop and operate a school  
24 leadership pilot program for principals in accordance with this  
25 section.

26 (b) The agency shall operate the program in cooperation with  
27 a nonprofit corporation that has substantial experience in

1 developing best practices to improve leadership skills, student  
2 achievement, student graduation rates, and teacher retention.

3 (c) The agency shall consult appropriate departments at  
4 institutions of higher education to develop program course work  
5 that focuses on management and business training.

6 (d) A principal or a person interested in becoming a  
7 principal may apply for participation in the program, in a form and  
8 manner determined by the commissioner.

9 (e) A principal of a campus rated academically  
10 unacceptable, as well as any person employed to replace that  
11 principal, shall participate in the program and complete the  
12 program requirements not later than a date determined by the  
13 commissioner.

14 (f) To pay the costs of administering the program, the  
15 commissioner shall retain a portion of the total amount of funds  
16 allotted under the Foundation School Program that the commissioner  
17 considers appropriate to finance activities under this section and  
18 shall reduce the total amount of state funds allocated to each  
19 district from any source in the same manner described for a  
20 reduction in allotments under Section 42.253.

21 (g) To implement and administer the program, the  
22 commissioner may accept grants, gifts, and donations from public  
23 and private entities.

24 (h) The commissioner may adopt rules necessary to  
25 administer this section.

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

27 SECTION 2A.03. Section 21.003(a), Education Code, is



1 amended to read as follows:

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

7 SECTION 2A.04. Section 21.045, Education Code, is amended  
8 by amending Subsections (a) and (b) and adding Subsection (e) to  
9 read as follows:

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

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

16 (2) performance based on the appraisal system for  
17 beginning teachers adopted by the board;

18 (3) performance of students taught by beginning  
19 teachers, as determined on the basis of annual individual student  
20 growth in achievement, as measured under Section 39.034, and any  
21 other factor considered appropriate by the board; and

22 (4) retention rates of beginning teachers in the  
23 profession.

24 (b) Each educator preparation program shall submit data  
25 elements as required by the board for an annual performance report  
26 to ensure access and equity. At a minimum, the annual report must  
27 contain the performance data from Subsection (a), other than the

1 data required for purposes of Subsection (a)(3), and the following  
2 information, disaggregated by sex and ethnicity:

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

11 (e) The agency shall annually submit student performance  
12 data to the board for purposes of Subsection (a)(3). The agency  
13 shall provide the data to the board in a manner that protects the  
14 names of individual students and otherwise complies with the  
15 confidentiality requirements prescribed by Section 39.030.

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

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

20 (1) good cause as determined by the board of trustees;  
21 or

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

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

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

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

15                   (1) be represented by a representative of the  
16 teacher's choice;

17                   (2) hear the evidence supporting the reason for the  
18 discharge;

19                   (3) cross-examine adverse witnesses; and

20                   (4) present evidence.

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

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

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

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

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

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

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

23               (1) be represented by a representative of the  
24 teacher's choice;

25               (2) hear the evidence supporting the reason for the  
26 discharge;

27               (3) cross-examine adverse witnesses; and

1           (4) present evidence.

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

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

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

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

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

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

19           (1) terminate the teacher's continuing contract at any  
20 time;

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

24           (3) suspend the teacher without pay.

25           (b) This subchapter does not apply to:

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

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

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

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

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

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

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

27           SECTION 2A.11. Section 21.402, Education Code, is amended

1 by amending Subsections (a), (c), and (d) and adding Subsections  
2 (a-1), (a-2), (c-1), (c-2), and (d-1) to read as follows:

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

9 
$$MS = SF \times \underline{AA} \text{ [FS]}$$

10 where:

11 "MS" is the minimum monthly salary;

12 "SF" is the applicable salary factor specified by Subsection  
13 (c); and

14 "AA" is the accreditation allotment under Section 42.101  
15 ~~["FS" is the amount, as determined by the commissioner under~~  
16 ~~Subsection (b), of state and local funds per weighted student~~  
17 ~~available to a district eligible to receive state assistance under~~  
18 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~  
19 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~  
20 ~~except that the amount of state and local funds per weighted student~~  
21 ~~does not include the amount attributable to the increase in the~~  
22 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~  
23 ~~Legislature, Regular Session, 2001].~~

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

27 (a-2) A school district is not required to pay the minimum

1 salary determined under Subsection (a) to an educator who does not  
 2 hold a lifetime or standard certificate and who holds a  
 3 probationary, temporary, or emergency educator certificate.

4 (c) The salary factors per step are as follows:

5	Years Experience	0	1	2
6	Salary Factor	<u>.6451</u> [ <del>-.5656</del> ]	<u>.6584</u> [ <del>-.5790</del> ]	<u>.6719</u> [ <del>-.5924</del> ]
7	Years Experience	3	4	5
8	Salary Factor	<u>.6851</u> [ <del>-.6058</del> ]	<u>.7133</u> [ <del>-.6340</del> ]	<u>.7414</u> [ <del>-.6623</del> ]
9	Years Experience	6	7	8
10	Salary Factor	<u>.7695</u> [ <del>-.6906</del> ]	<u>.7958</u> [ <del>-.7168</del> ]	<u>.8205</u> [ <del>-.7416</del> ]
11	Years Experience	9	10	11
12	Salary Factor	<u>.8440</u> [ <del>-.7651</del> ]	<u>.8658</u> [ <del>-.7872</del> ]	<u>.8870</u> [ <del>-.8082</del> ]
13	Years Experience	12	13	14
14	Salary Factor	<u>.9067</u> [ <del>-.8281</del> ]	<u>.9251</u> [ <del>-.8467</del> ]	<u>.9430</u> [ <del>-.8645</del> ]
15	Years Experience	15	16	17
16	Salary Factor	<u>.9595</u> [ <del>-.8811</del> ]	<u>.9753</u> [ <del>-.8970</del> ]	<u>.9902</u> [ <del>-.9119</del> ]
17	Years Experience	18	19	20 and over
18	Salary Factor	<u>1.004</u> [ <del>-.9260</del> ]	<u>1.018</u> [ <del>-.9394</del> ]	<u>1.030</u> [ <del>-.9520</del> ]

19 (c-1) Notwithstanding Subsection (a), for the 2006-2007  
 20 school year, a classroom teacher, full-time librarian, full-time  
 21 counselor certified under Subchapter B, or full-time school nurse  
 22 is entitled to a monthly salary that is at least equal to the sum of:

23 (1) the monthly salary the employee received for the  
 24 2004-2005 school year, including any local supplement and any money  
 25 representing a career ladder supplement the employee would have  
 26 received in the 2005-2006 school year; and

27 (2) \$350.



1       (c-2) Subsections (c) and (c-1) apply beginning with the  
2 2006-2007 school year, but only if H.B. No. 3, Acts of the 79th  
3 Legislature, Regular Session, 2005, takes effect immediately. As  
4 necessary, for the 2005-2006 and 2006-2007 school years, the  
5 commissioner shall compute salary factors under Subsection (c) and  
6 amounts under Subsection (c-1)(2) to reflect the following monthly  
7 salary increases, relative to the preceding school year, for those  
8 employees:

9               (1) for the 2005-2006 school year:

10                       (A) if H.B. No. 3, Acts of the 79th Legislature,  
11 Regular Session, 2005, does not take effect immediately, \$150; and

12                       (B) if H.B. No. 3, Acts of the 79th Legislature,  
13 Regular Session, 2005, takes effect immediately, \$200; and

14               (2) for the 2006-2007 school year, \$150.

15       (d) A classroom teacher, full-time librarian, full-time  
16 counselor certified under Subchapter B, or full-time school nurse  
17 employed by a school district in the 2006-2007 [~~2000-2001~~] school  
18 year is, as long as the employee is employed by the same district,  
19 entitled to a salary that is at least equal to the salary the  
20 employee received for the 2006-2007 [~~2000-2001~~] school year.

21       (d-1) A classroom teacher, full-time librarian, full-time  
22 counselor certified under Subchapter B, or full-time nurse may  
23 elect to receive a portion of the person's annual salary as health  
24 care supplementation as provided by Chapter 1580, Insurance Code.

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

27       Sec. 21.458. MENTORS. (a) Each school district may assign

1 a mentor teacher to each classroom teacher who has less than two  
2 years of teaching experience if the mentor:

- 3 (1) teaches in the same school;  
4 (2) to the extent practicable, teaches the same  
5 subject or grade level, as applicable; and  
6 (3) meets the qualifications prescribed by  
7 commissioner rules adopted under Subsection (b).

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

- 13 (1) complete a research-based mentor and induction  
14 training program approved by the commissioner;  
15 (2) complete a mentor training program provided by the  
16 district; and  
17 (3) have at least three complete years of teaching  
18 experience with a proven record of assisting students, as a whole,  
19 in achieving growth in performance.

20 (c) The commissioner shall develop proposed rules under  
21 Subsection (b) by negotiated rulemaking as provided by Chapter  
22 2008, Government Code.

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

- 1           (1) mentor teacher stipends;  
2           (2) scheduled time for mentor teachers to provide  
3 mentoring to assigned classroom teachers; and  
4           (3) mentoring support through providers of mentor  
5 training.

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

9           (f) If insufficient funds are appropriated to the agency for  
10 purposes of this section, in providing funding under this section  
11 the commissioner shall give preference to a school district:

- 12           (1) that has an unsatisfactory teacher retention rate;  
13           (2) that has an unsatisfactory high school graduation  
14 rate;  
15           (3) that has an unsatisfactory dropout rate; or  
16           (4) in which a high percentage of district students  
17 perform unsatisfactorily on assessment instruments administered  
18 under Section 39.023.

19           (g) The commissioner shall annually evaluate the  
20 effectiveness of school district mentor programs established under  
21 this section. The evaluation must consider:

- 22           (1) the performance of students in districts that  
23 assign mentor teachers under this section on assessment instruments  
24 administered under Section 39.023;  
25           (2) the districts' high school graduation rates; and  
26           (3) the districts' teacher attrition rates.

27           SECTION 2A.13. Chapter 21, Education Code, is amended by

1 adding Subchapter N to read as follows:

2 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

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

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

9 (b) From funds appropriated for the purpose of this  
10 subchapter, the commissioner shall award incentive payments to each  
11 school district with a local incentive plan approved by the  
12 commissioner. The commissioner shall distribute the incentive  
13 payments each year to a qualifying school district on the basis of  
14 the district's actual average daily attendance for the preceding  
15 school year. The total amount of incentive payments made to school  
16 districts from funds appropriated for the incentive program under  
17 this subchapter may not exceed \$100 million each fiscal year.

18 (b-1) The commissioner may not award incentive payments to  
19 school districts under this subchapter before the 2006-2007 school  
20 year. This subsection expires September 1, 2007.

21 (c) Except as provided by Subsections (d) and (e), each year  
22 a school district shall use funds received by the district under  
23 this subchapter to provide campus-based incentive payments in  
24 accordance with this subchapter.

25 (d) A school district with an enrollment of less than 1,600  
26 may use all of the funds received under this subchapter to provide  
27 stipends under Subsection (e).

1       (e) A school district may use an amount not to exceed 50  
2 percent of the funds received under this subchapter to provide  
3 stipends to:

4           (1) teachers who are certified in a curriculum subject  
5 area in which the district is experiencing a shortage of qualified  
6 teachers, as determined by the commissioner;

7           (2) teachers who serve as mentors in accordance with  
8 Section 21.458;

9           (3) teachers who are assigned, during the first three  
10 years of the assignment, to a campus that is difficult to staff,  
11 according to standards established by the board of trustees of the  
12 district, including a rural or academically unacceptable campus;  
13 and

14           (4) teachers who are certified by the National Board  
15 for Professional Teaching Standards or who are seeking that  
16 certification.

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

20           (1) include criteria and guidelines for evaluating  
21 local incentive plans; and

22           (2) encourage local flexibility in designing local  
23 incentive plans that promote student achievement.

24       (g) The commissioner shall annually evaluate the  
25 effectiveness of the educator excellence incentive program for  
26 improving student performance on at-risk campuses established  
27 under this section. The evaluation must consider:

1           (1) the performance of students in districts and  
2 participating campuses under this section on assessment  
3 instruments administered under Section 39.023;

4           (2) the districts' and participating campuses' high  
5 school graduation and completion rates; and

6           (3) the districts' and participating campuses' teacher  
7 attrition rates.

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

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

13           (b) A local incentive plan must be designed to reward  
14 campuses.

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

24           (d) A local incentive plan must:

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

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

1 decision-making committee.

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

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

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

11 Sec. 21.654. DECISION REGARDING INCENTIVE PAYMENTS. A  
12 decision in providing an incentive payment under a local incentive  
13 plan approved under this subchapter is final and may not be  
14 appealed.

15 SECTION 2A.14. Subchapter A, Chapter 22, Education Code, is  
16 amended by adding Section 22.007 to read as follows:

17 Sec. 22.007. WAGE INCREASE FOR SUPPORT STAFF. (a) A school  
18 district each school year shall pay each full-time district  
19 employee, other than an administrator or an employee subject to the  
20 minimum salary schedule under Section 21.402, an amount at least  
21 equal to \$1,000.

22 (b) A school district each school year shall pay each  
23 part-time district employee, other than an administrator, an amount  
24 at least equal to \$500.

25 (c) A school district employee entitled to a wage increase  
26 under this section may elect to receive a portion of the person's  
27 annual wages as health care supplementation as provided by Chapter

1 1580, Insurance Code.

2 (d) A payment under this section is in addition to wages the  
3 district would otherwise pay the employee during the school year.

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

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

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

11 (2) is supervised by a licensed speech-language  
12 pathologist.

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

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

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

25 (2) if the purpose of the committee meeting is to  
26 consider the student's dismissal, unless the supervising  
27 speech-language pathologist has submitted the pathologist's



1 recommendation in writing on or before the date of the meeting.

2 (d) This section:

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

6 (2) is not a waiver of a school district's sovereign  
7 immunity.

8 SECTION 2A.16. Effective September 1, 2006, Subchapter D,  
9 Chapter 54, Education Code, is amended by adding Section 54.220 to  
10 read as follows:

11 Sec. 54.220. CHILDREN OF CLASSROOM TEACHERS. (a) In this  
12 section:

13 (1) "Child" means a child of any age, including an  
14 adult child. The term includes an adopted child.

15 (2) "Classroom teacher" has the meaning assigned by  
16 Section 5.001.

17 (b) For purposes of this section, a person is another  
18 person's child if the other person is the person's natural or  
19 adoptive parent, managing or possessory conservator, or legal  
20 guardian.

21 (c) The governing board of an institution of higher  
22 education shall exempt from the payment of tuition or from the  
23 payment of required fees for an academic year an eligible  
24 undergraduate student who is a child of an eligible classroom  
25 teacher and is designated by the classroom teacher to receive the  
26 exemption.

27 (d) A classroom teacher is eligible to designate the

1 teacher's child to receive an exemption under this section for an  
2 academic year if, at the beginning of the academic year, the teacher  
3 is employed full-time as a classroom teacher by a school district in  
4 this state and maintains that employment throughout the school year  
5 that corresponds to the academic year.

6 (e) An undergraduate student is eligible for an exemption  
7 for an academic year under this section only if the student is a  
8 resident of this state for purposes of Subchapter B or is otherwise  
9 entitled to pay tuition and fees at the rate provided for residents  
10 of this state. A student who receives an exemption for an initial  
11 academic period is eligible for an exemption for a subsequent  
12 academic period only if the student has earned an overall grade  
13 point average of at least 2.5 on a four-point scale or the  
14 equivalent on course work previously attempted at institutions of  
15 higher education.

16 (f) On the completion of a classroom teacher's 15th year of  
17 service, the teacher earns either an exemption from the payment of  
18 tuition or an exemption from the payment of required fees for one  
19 academic year for the benefit of one child. For each year of  
20 service that exceeds 15 years, the classroom teacher earns an  
21 additional tuition exemption or an additional fee exemption for one  
22 academic year for the benefit of one child. The classroom teacher  
23 may elect the type of exemption the child may receive under this  
24 section at the time the teacher designates the child to receive the  
25 exemption. The exemption earned by a classroom teacher for one year  
26 of service may be used for the benefit of only one child. Years of  
27 service as a classroom teacher are not required to be consecutive.

1 A classroom teacher may not designate a child to receive an  
2 exemption under this section for an academic year unless the  
3 teacher's most recent five years of service were in this state.

4 (g) A classroom teacher with at least 19 years of service  
5 may elect to use any earned but unused exemptions toward the payment  
6 of both the tuition and the required fees of one child during an  
7 academic year or to use the unused exemptions toward the payment of  
8 the tuition or the required fees, or both tuition and fees as  
9 permitted by the number of unclaimed exemptions, of more than one  
10 child during an academic year. Two classroom teachers may  
11 aggregate years of service to earn one or more exemptions for the  
12 benefit of one or more of their children in common, but each  
13 classroom teacher must maintain eligibility under Subsection (d)  
14 during the academic period for which the exemption is used.

15 (h) If an undergraduate student fails to meet any  
16 eligibility requirement of Subsection (e) for an academic period,  
17 the student may not receive an exemption under this section for that  
18 academic period. An undergraduate student may become eligible to  
19 receive the exemption in a subsequent academic period of the same  
20 academic year if the student reestablishes eligibility before that  
21 period begins.

22 (i) If a classroom teacher whose child receives an exemption  
23 earned by the teacher under this section does not remain employed as  
24 required by Subsection (d), the student may not receive an  
25 exemption for a subsequent academic period of the same academic  
26 year under this section until the next academic period that begins  
27 after the classroom teacher reestablishes eligibility under

1 Subsection (d).

2 (j) An institution of higher education may require an  
3 undergraduate student to pay prorated tuition or required fees, as  
4 applicable, for an academic period if the student's eligibility for  
5 the exemption under Subsection (e) or the teacher's eligibility for  
6 the exemption under Subsection (d) is lost during that period.

7 (k) An undergraduate student is not eligible to receive an  
8 exemption under this section if the person:

9 (1) subject to Subsection (l), has previously received  
10 an exemption under this section for four academic years at any  
11 institution or institutions of higher education; or

12 (2) has received a baccalaureate degree.

13 (l) An undergraduate student who, for any reason other than  
14 a loss of relevant eligibility of the student or the classroom  
15 teacher, fails to use an exemption from the payment of tuition or an  
16 exemption from the payment of required fees in one or more academic  
17 periods in the academic year for which the student is designated to  
18 receive the exemption may carry forward and use that exemption in an  
19 academic period of substantially similar length in a subsequent  
20 academic year. The student may use only one exemption for each  
21 academic period under this subsection unless the use of more than  
22 one exemption is permitted under Subsection (g).

23 (m) The Texas Higher Education Coordinating Board shall  
24 adopt:

25 (1) rules prescribing procedures by which a classroom  
26 teacher may designate a child to receive an exemption under this  
27 section, including rules relating to the determination of a

1 student's eligibility for an exemption or a classroom teacher's  
2 eligibility to designate a child to receive an exemption;

3 (2) rules to allow an otherwise eligible student to  
4 receive an exemption under this section if the student is unable to  
5 satisfy the grade point average requirement of Subsection (e)  
6 solely as a result of a hardship or other good cause; and

7 (3) a uniform application form for an exemption under  
8 this section.

9 (n) The legislature shall account in the General  
10 Appropriations Act for the exemptions authorized by this section in  
11 a manner that provides a corresponding increase in the general  
12 revenue funds appropriated to the institution granting an  
13 exemption.

14 (o) Notwithstanding any other provision of this section,  
15 only the following undergraduate students who meet the eligibility  
16 requirements of Subsection (e) are eligible to receive an exemption  
17 under this section:

18 (1) in the 2006-2007 academic year, a student who has  
19 completed less than 30 semester credit hours at any institution of  
20 higher education;

21 (2) in the 2007-2008 academic year, a student who has  
22 completed less than 60 semester credit hours at any institution of  
23 higher education; and

24 (3) in the 2008-2009 academic year, a student who has  
25 completed less than 90 semester credit hours at any institution of  
26 higher education.

27 (p) This subsection and Subsection (o) expire September 1,

1 2009.

2 SECTION 2A.17. Section 11.201(e), Education Code, as added  
3 by this Act, applies only to a contract between a superintendent of  
4 a school district and a business entity that is entered into on or  
5 after September 1, 2005. A contract between a superintendent of a  
6 school district and a business entity that is entered into before  
7 September 1, 2005, is governed by the law in effect on the date the  
8 contract is entered into, and the former law is continued in effect  
9 for that purpose.

10 SECTION 2A.18. (a) As soon as possible after September 1,  
11 2005, the State Board for Educator Certification shall review the  
12 rules adopted under Section 21.044, Education Code, relating to  
13 educator training requirements and revise those rules as necessary  
14 to ensure that the training requirements are sufficient to produce  
15 educators capable of:

16 (1) satisfying the increased standards for highly  
17 qualified educators prescribed by the No Child Left Behind Act of  
18 2001 (Pub. L. No. 107-110);

19 (2) complying with certification standards in this  
20 state; and

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

23 (b) In conducting the review required by Subsection (a) of  
24 this section, the State Board for Educator Certification shall give  
25 specific attention to the degree to which educator training  
26 requirements prepare educators to serve students of limited English  
27 proficiency and students with learning disabilities.

1 SECTION 2A.19. Sections 21.104, 21.251, 21.301, and  
2 21.303, Education Code, as amended by this Act, and Sections  
3 21.1041 and 21.2111, Education Code, as added by this Act, apply  
4 only to a discharge under a probationary or term contract for which  
5 written notice of the proposed discharge is given to a teacher on or  
6 after September 1, 2005. A discharge under a probationary or term  
7 contract for which written notice of the proposed discharge is  
8 given to a teacher before September 1, 2005, is governed by the law  
9 in effect when the notice is given, and the former law is continued  
10 in effect for that purpose.

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

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

19 SECTION 2A.22. The Texas Higher Education Coordinating  
20 Board shall adopt rules and forms for the administration of Section  
21 54.220, Education Code, as added by this Act, not later than January  
22 1, 2006.

23 PART B. ADMINISTRATIVE EFFICIENCY

24 SECTION 2B.01. Subchapter A, Chapter 7, Education Code, is  
25 amended by adding Section 7.008 to read as follows:

26 Sec. 7.008. ELECTRONIC STUDENT RECORDS SYSTEM. (a) In this  
27 section, "institution of higher education" has the meaning assigned

1 by Section 61.003.

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

7 (c) The electronic student records system must permit an  
8 authorized state, district, or school official or an authorized  
9 representative of an institution of higher education to  
10 electronically transfer and retrieve student information generally  
11 found in student transcripts, including information concerning a  
12 student's course or grade completion and assessment instrument  
13 results, to and from an educational institution in which the  
14 student is enrolled.

15 (d) The commissioner of education or the commissioner of  
16 higher education may solicit and accept grant funds to maintain the  
17 electronic student records system and to make the system available  
18 to school districts, open-enrollment charter schools, and  
19 institutions of higher education.

20 (e) A private or independent institution of higher  
21 education, as defined by Section 61.003, may participate in the  
22 electronic student records system under this section. If a private  
23 or independent institution of higher education elects to  
24 participate, the institution must provide the funding to  
25 participate in the system.

26 (f) Any person involved in the transfer and retrieval of  
27 student information under this section is subject to any state or



1 federal law governing the release of or providing access to any  
2 confidential information to the same extent as the educational  
3 institution from which the data is collected. A person may not  
4 release or distribute the data to any other person in a form that  
5 contains confidential information.

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

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

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

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

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

25 (1) the amount of an award;

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

1           (3) expenditures related to an award; and

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

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

8           (1) the funds management information system includes:

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

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

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

21           (3) aggregate funding information is readily  
22 available to agency personnel and policy makers, including  
23 aggregate funding information relating to a compensatory,  
24 intensive, or accelerated instruction program under Section  
25 29.081, a disciplinary alternative education program established  
26 under Section 37.008, or a program eligible under Title I of the  
27 Elementary and Secondary Education Act of 1965, as provided by Pub.

1 L. No. 103-382.

2 SECTION 2B.03. Subchapter B, Chapter 7, Education Code, is  
3 amended by adding Section 7.033 to read as follows:

4 Sec. 7.033. QUALITY MANAGEMENT CERTIFICATION PROGRAM. (a)  
5 The commissioner by rule shall adopt a quality management  
6 certification program to encourage school districts and  
7 open-enrollment charter schools to obtain International  
8 Organization for Standardization ISO 9000 quality management  
9 certification.

10 (b) The commissioner by rule shall identify areas of  
11 compliance in which the quality management certification program  
12 would enhance performance, including:

- 13 (1) compliance with federal law and regulations;  
14 (2) financial accountability, including compliance  
15 with grant requirements; and

- 16 (3) data integrity for purposes of:  
17 (A) the Public Education Information Management  
18 System (PEIMS); and

- 19 (B) accountability under Chapter 39.

20 (c) For each school district or open-enrollment charter  
21 school that obtains International Organization for Standardization  
22 ISO 9000 series quality management program certification, the  
23 commissioner by rule shall require specific performance measures  
24 that relate to improvement in:

- 25 (1) student performance;  
26 (2) administrative efficiency;  
27 (3) business processes; and

1           (4) integration and use of educational technology.

2           (d) For purposes of compliance monitoring, discretionary  
3 grant administration, and reporting to the Public Education  
4 Information Management System (PEIMS) and under the Education  
5 Flexibility Partnership Act of 1999 (20 U.S.C. Section 5891a et  
6 seq.), the commissioner by rule shall develop a method for  
7 recognizing a school district or open-enrollment charter school  
8 that receives and maintains International Organization for  
9 Standardization ISO 9000 quality management certification.

10           SECTION 2B.04. 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) Not later  
13 than December 1, 2005, the commissioner shall evaluate the  
14 feasibility of including a uniform indicator under Section  
15 39.202(b) that measures effective administrative management  
16 through the use of cooperative shared service arrangements. If the  
17 commissioner determines that the adoption of a uniform indicator  
18 described by this subsection is feasible, the commissioner by rule  
19 shall include the indicator in the financial accountability rating  
20 system under Subchapter I, Chapter 39, for school districts  
21 beginning with the 2006-2007 school year. This subsection expires  
22 September 1, 2007.

23           (b) Each regional education service center shall:

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

1           (2) evaluate the need for cooperative shared service  
2 arrangements within the center's service area and consider  
3 expanding center-sponsored cooperative shared service  
4 arrangements.

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

12           (d) The commissioner may require a district or an  
13 open-enrollment charter school to enter into an agreement for a  
14 cooperative shared service arrangement if the commissioner  
15 determines that the financial management performance of the  
16 district or school is unsatisfactory.

17           SECTION 2B.05. Subchapter D, Chapter 11, Education Code, is  
18 amended by adding Section 11.168 to read as follows:

19           Sec. 11.168. CERTIFICATION FOR QUALITY MANAGEMENT  
20 STANDARDS. Each school district may apply for International  
21 Organization for Standardization ISO 9000 certification for  
22 quality management standards and apply for renewal of that  
23 certification, as applicable.

24           SECTION 2B.06. Subchapter A, Chapter 28, Education Code, is  
25 amended by adding Section 28.0022 to read as follows:

26           Sec. 28.0022. CURRICULUM MANAGEMENT ASSISTANCE. (a) The  
27 commissioner shall identify available curriculum management

1 materials recommended by school districts that may be used to  
2 assist school districts in:

3 (1) understanding the depth and complexity of the  
4 essential knowledge and skills identified under Section 28.002(c)  
5 for each subject in the foundation curriculum under Section  
6 28.002(a)(1); and

7 (2) based on learning standards:

8 (A) developing model instructional plans and  
9 diagnostic tools;

10 (B) aligning curriculum objectives to district  
11 instructional resources; and

12 (C) differentiating instruction in recognition  
13 of the needs of individual students.

14 (b) Unless otherwise prohibited by law, the commissioner  
15 may use federal funds to implement this section.

16 (c) Not later than January 1, 2007, the commissioner shall  
17 prepare and submit to the legislature a report that describes in  
18 detail:

19 (1) the curriculum management materials identified  
20 under Subsection (a);

21 (2) the costs associated with making the materials  
22 available to school districts; and

23 (3) the manner in which technological applications may  
24 be used to make the materials available and allow school districts  
25 to use the materials.

26 (d) Subsection (c) and this subsection expire January 31,  
27 2007.

1 SECTION 2B.07. Subchapter C, Chapter 29, Education Code, is  
2 amended by adding Sections 29.092, 29.093, and 29.094 to read as  
3 follows:

4 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES  
5 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this  
6 section, "student at risk of dropping out of school" has the meaning  
7 described by Section 29.081.

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

17 (c) The commissioner shall consolidate funding from the  
18 following currently funded programs and types of services,  
19 excluding early childhood care and education programs and  
20 accelerated reading or mathematics initiatives under Section  
21 28.006, 28.007, or 28.0211:

22 (1) an optional extended year program under Section  
23 29.082;

24 (2) a basic skills program for high school students  
25 under Section 29.086;

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

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

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

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

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

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

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

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

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

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

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

27           (8) services or programs promoting school and



1 community collaboration to restructure schools for the successful  
2 achievement of all students, especially students at risk of  
3 dropping out of school.

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

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

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

1 evaluation and statistical analysis of public education data.

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

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

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

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

18 (4) a statistical methodology for:

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

23 (B) disaggregating data by peer groups;

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

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

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

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

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

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

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

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

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

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

2 Sec. 29.094. TEMPORARY PROVISION: COMMISSIONER'S  
3 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a  
4 cost-outcome analysis methodology for use in assessing the  
5 effectiveness of school districts and open-enrollment charter  
6 schools in providing services for students at risk of dropping out  
7 of school, as described by Section 29.081. The commissioner shall  
8 use the adopted methodology until the commissioner determines that  
9 an alternate methodology approved by the agency and the Legislative  
10 Budget Board under Section 29.093(b) more accurately portrays the  
11 cost-effectiveness of the analyzed services.

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

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

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

22 (3) a system for scoring and ranking school districts  
23 and open-enrollment charter schools, including criteria for  
24 establishing school district and open-enrollment charter school  
25 peer groups for comparison purposes.

26 (c) Based on the cost-outcome analysis methodology, the  
27 commissioner shall use the ranking system under Subsection (b)(3)

1 to determine annually the level at which school districts and  
2 open-enrollment charter schools are cost-effective in serving  
3 students at risk of dropping out of school.

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

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

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

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

16 SECTION 2B.08. Subchapter A, Chapter 44, Education Code, is  
17 amended by adding Section 44.011 to read as follows:

18 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL  
19 ACTIVITIES. (a) A school district shall allocate at least 65  
20 percent of the district's total revenue to fund direct  
21 instructional activities in the district.

22 (a-1) Subsection (a) applies beginning with the 2009-2010  
23 school year. For the 2006-2007, 2007-2008, and 2008-2009 school  
24 years, a school district shall allocate the following percentages  
25 of the district's total revenue to fund direct instructional  
26 activities in the district:

27 (1) for the 2006-2007 school year, at least 50

1 percent;

2 (2) for the 2007-2008 school year, at least 55  
3 percent; and

4 (3) for the 2008-2009 school year, at least 60  
5 percent.

6 (a-2) Subsection (a-1) and this subsection expire August 1,  
7 2009.

8 (b) For purposes of this section, expenditures for direct  
9 instructional activities:

10 (1) include expenditures directly related to  
11 classroom instruction for courses in the foundation curriculum  
12 described by Section 28.002(a)(1) and subject to assessment under  
13 Subchapter B, Chapter 39; and

14 (2) do not include expenditures directly related to  
15 programs and services that are provided at the district's  
16 discretion.

17 (c) The commissioner may adopt rules for purposes of this  
18 section in a manner consistent with Subsection (b) and Section  
19 44.0071.

20 SECTION 2B.09. Not later than January 1, 2007, the Texas  
21 Education Agency shall adopt a five-year plan to renovate the  
22 Public Education Information Management System (PEIMS) to provide  
23 for efficient and effective information storage and retrieval for  
24 the purposes of allocating scarce school resources. The renovation  
25 must include a redesign of the records layout.

26 PART C. ACCOUNTABILITY

27 SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is

1 amended by adding Section 7.007 to read as follows:

2 Sec. 7.007. PUBLIC ACCESS TO PEIMS DATA. (a) The  
3 commissioner by rule shall adopt procedures to make available,  
4 through the agency Internet website, all financial information  
5 provided by school districts and campuses through the Public  
6 Education Information Management System (PEIMS), including  
7 campus-level expenditure information.

8 (b) In adopting rules under this section, the commissioner  
9 shall provide a summarized format for reporting financial  
10 information on the agency Internet website.

11 SECTION 2C.02. Section 28.006(j), Education Code, is  
12 amended to read as follows:

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

22 SECTION 2C.03. Effective September 1, 2006, Subchapter B,  
23 Chapter 28, Education Code, is amended by adding Section 28.027 to  
24 read as follows:

25 Sec. 28.027. FUNDING FOR COLLEGE ENTRANCE ASSESSMENTS. (a)  
26 The agency shall pay for any student who chooses to take, on one  
27 occasion, an assessment instrument that is currently accepted by

1 colleges and universities for use in determining admissions. The  
2 agency shall reduce the amount the agency pays for a student to take  
3 the assessment instrument by the amount of any discount or fee  
4 waiver offered by the vendor of the assessment instrument to which  
5 the student is entitled. The agency shall pay the fee for the  
6 administration of the assessment instrument directly to the vendor  
7 of the assessment instrument:

8 (1) from funds appropriated for the purpose; or

9 (2) if funds are not appropriated for the purpose,  
10 from funds allotted under the Foundation School Program, and the  
11 commissioner shall reduce the total amount of state funds allocated  
12 to each district from any source in the same manner described for a  
13 reduction in allotments under Section 42.253.

14 (b) The agency shall ensure that vendors are not paid under  
15 Subsection (a) for the administration of an assessment instrument  
16 to a student to whom the assessment instrument is not actually  
17 administered. The agency may comply with this subsection by any  
18 reasonable means, including by creating a refund system under which  
19 a vendor returns any payment made for a student who registered for  
20 the administration of an assessment instrument but did not appear  
21 for the administration.

22 (c) The agency shall select and approve vendors of the  
23 specific assessment instruments for which funding is provided under  
24 this section.

25 (d) The agency shall compile the results of any assessment  
26 instrument for which funding is provided under this section and  
27 make the results available to the public in a manner that does not



1 identify individual students.

2 SECTION 2C.04. Sections 29.053(b) and (d), Education Code,  
3 are amended to read as follows:

4 (b) Within the first five [~~four~~] weeks following the first  
5 day of school, the language proficiency assessment committee  
6 established under Section 29.063 shall determine and report to the  
7 board of trustees of the district the number of students of limited  
8 English proficiency on each campus and shall classify each student  
9 according to the language in which the student possesses primary  
10 proficiency. The board shall report that information to the agency  
11 before November 1 each year.

12 (d) Each district that is required to offer bilingual  
13 education and special language programs under this section shall  
14 offer the following for students of limited English proficiency:

15 (1) bilingual education in prekindergarten at  
16 campuses that offer prekindergarten classes;

17 (2) bilingual education in kindergarten through the  
18 elementary grades;

19 (3) [~~(2)~~] bilingual education, instruction in English  
20 as a second language, or other transitional language instruction  
21 approved by the agency in post-elementary grades through grade 8;  
22 and

23 (4) [~~(3)~~] instruction in English as a second language  
24 in grades 9 through 12.

25 SECTION 2C.05. Section 29.056, Education Code, is amended  
26 by amending Subsections (a), (d), and (g) and adding Subsections  
27 (g-1) and (i) to read as follows:

1 (a) The agency shall establish standardized criteria for  
2 the identification, assessment, and classification of students of  
3 limited English proficiency eligible for entry into the program or  
4 exit from the program. The student's parent must approve a  
5 student's entry into the program[~~, exit from the program,~~] or  
6 placement in the program. A school district must inform a student's  
7 parent of a student's exit from the program. The school district or  
8 parent may appeal the decision under Section 29.064. The criteria  
9 for identification, assessment, and classification may include:

10 (1) results of a home language survey conducted within  
11 four weeks of each student's enrollment to determine the language  
12 normally used in the home and the language normally used by the  
13 student, conducted in English and the home language, signed by the  
14 student's parents if the student is in kindergarten through grade 8  
15 or by the student if the student is in grades 9 through 12, and kept  
16 in the student's permanent folder by the language proficiency  
17 assessment committee;

18 (2) the results of an agency-approved English language  
19 proficiency test administered to all students identified through  
20 the home survey as normally speaking a language other than English  
21 to determine the level of English language proficiency, with  
22 students in kindergarten or grade 1 being administered an oral  
23 English proficiency test and students in grades 2 through 12 being  
24 administered an oral English proficiency test and, if the oral  
25 English proficiency test demonstrates proficiency, a written  
26 English proficiency test; and

27 (3) the results of an agency-approved proficiency test

1 in the primary language administered to all students identified  
2 under Subdivision (2) as being of limited English proficiency to  
3 determine the level of primary language proficiency, with students  
4 in kindergarten or grade 1 being administered an oral primary  
5 language proficiency test and students in grades 2 through 12 being  
6 administered an oral and written primary language proficiency test.

7 (d) Not later than the 20th [~~10th~~] day after the date of the  
8 student's classification as a student of limited English  
9 proficiency, the language proficiency assessment committee shall  
10 give written notice of the classification to the student's parent.  
11 The notice must be in English and the parent's primary language.  
12 The parents of students eligible to participate in the required  
13 bilingual education program shall be informed of the benefits of  
14 the bilingual education or special language program and that it is  
15 an integral part of the school program.

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

20 (1) agency-approved tests administered at the end of  
21 each school year to determine the extent to which the student has  
22 developed oral and written language proficiency and specific  
23 language skills in [~~both the student's primary language and~~]  
24 English;

25 (2) an achievement score at or above the 40th  
26 percentile in the reading and language arts sections of an English  
27 standardized test approved by the agency; or [~~and~~]

1           (3) agency-approved [~~other indications of a student's~~  
2 ~~overall progress, including~~] criterion-referenced tests and the  
3 results of a [test scores,] subjective teacher evaluation[~~, and~~  
4 ~~parental evaluation~~].

5           (g-1) A school district may transfer a student of limited  
6 English proficiency who is eligible for special education services  
7 under Subchapter A out of a bilingual education or special language  
8 program and into a special education program if the language  
9 proficiency assessment committee and the student's admission,  
10 review, and dismissal committee agree that the student has a  
11 learning disability and would be better served in a special  
12 education program. The student's admission, review, and dismissal  
13 committee must document that the student has a learning disability  
14 that cannot be addressed effectively in a bilingual education or  
15 special language program and that the student's learning disability  
16 is not due to the student's limited English proficiency. The  
17 commissioner by rule shall adopt criteria for a school district to  
18 use in transferring a student under this subsection.

19           (i) On approval of the student's parent, a school district  
20 may allow a student of limited English proficiency who meets the  
21 criteria for being transferred out of a bilingual education or  
22 special language program to continue participating in the program.

23           SECTION 2C.06. Subchapter B, Chapter 29, Education Code, is  
24 amended by adding Section 29.0561 to read as follows:

25           Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;  
26 REENROLLMENT. (a) The language proficiency assessment committee  
27 shall reevaluate a student who is transferred out of a bilingual

1 education or special language program under Section 29.056(g) if  
2 the student earns a failing grade in a subject in the foundation  
3 curriculum under Section 28.002(a)(1) during any grading period in  
4 the first two school years after the student is transferred to  
5 determine whether the student should be reenrolled in a bilingual  
6 education or special language program.

7 (b) During the first two school years after a student is  
8 transferred out of a bilingual education or special language  
9 program under Section 29.056(g), the language proficiency  
10 assessment committee shall review the student's performance and  
11 consider:

12 (1) the total amount of time the student was enrolled  
13 in a bilingual education or special language program;

14 (2) the student's grades each grading period in each  
15 subject in the foundation curriculum under Section 28.002(a)(1);

16 (3) the student's performance on each assessment  
17 instrument administered under Section 39.023(a) or (c);

18 (4) the number of credits the student has earned  
19 toward high school graduation, if applicable; and

20 (5) any disciplinary actions taken against the student  
21 under Subchapter A, Chapter 37.

22 (c) After an evaluation under this section, the language  
23 proficiency assessment committee may require intensive instruction  
24 for the student or reenroll the student in a bilingual education or  
25 special language program.

26 SECTION 2C.07. Subchapter C, Chapter 29, Education Code, is  
27 amended by adding Section 29.0822 to read as follows:

Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)

Notwithstanding Section 25.081 or 25.082, a school district may provide a flexible school day program for students in grades 9 through 12 who have dropped out of school or who are at risk of dropping out of school.

(b) To enable a school district to provide a program under this section that meets the needs of students described by Subsection (a), a school district may:

(1) provide flexibility in the number of hours each day a student attends;

(2) provide flexibility in the number of days each week a student attends; or

(3) allow a student to enroll in less or more than a full course load.

(c) A course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Section 25.081 and the required length of school day under Section 25.082.

(d) The commissioner shall compute average daily attendance for students served under this section for purposes of determining state funding. In computing average daily attendance for purposes of this section, a student may accumulate hours of instruction. Funding under this subsection is determined based on the number of instructional days provided in the district calendar and a seven-hour school day. Hours of attendance under this subsection may be accumulated over the school year, including any summer or

1 vacation sessions, to determine average daily attendance. The  
2 attendance of a student who accumulates less than the number of  
3 attendance hours required under this subsection shall be  
4 proportionately reduced for funding purposes. The commissioner may  
5 set a maximum funding amount for an individual course under this  
6 section.

7 (e) The commissioner may adopt rules for the administration  
8 of this section.

9 SECTION 2C.08. Effective September 1, 2006, Subchapter D,  
10 Chapter 29, Education Code, is amended by adding Section 29.124 to  
11 read as follows:

12 Sec. 29.124. PERFORMANCE STANDARDS; STATE FUNDING. (a)  
13 The commissioner shall adopt the performance standards developed by  
14 the agency under the pilot project required by Rider 52, page  
15 III-17, Chapter 1330, Acts of the 78th Legislature, Regular  
16 Session, 2003 (the General Appropriations Act), for assessing the  
17 performance in English language arts, mathematics, science, and  
18 social studies of students in a program for gifted and talented  
19 students. The commissioner may adopt performance standards for  
20 assessing the performance in other subjects or at other grade  
21 levels of students in a program for gifted and talented students.  
22 The commissioner shall establish the minimum level of student  
23 performance necessary to comply with the performance standards and  
24 may periodically raise the minimum level as the commissioner  
25 determines necessary.

26 (b) A school district is not required to use the performance  
27 standards adopted under Subsection (a).

1       (c) From funds appropriated for that purpose, for each  
2 student who meets the minimum level of performance on the  
3 performance standards adopted under Subsection (a), a school  
4 district is entitled to \$100. A school district must use funds  
5 received under this subsection in providing a program for gifted  
6 and talented students under this subchapter. The amount  
7 appropriated for any fiscal year for purposes of this subsection  
8 may not exceed \$6 million.

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

11       (e) From the funds appropriated under this section, the  
12 commissioner may designate an amount necessary to fund the agency's  
13 administrative costs of implementing this section.

14       SECTION 2C.09. Subchapter Z, Chapter 29, Education Code, is  
15 amended by adding Section 29.913 to read as follows:

16       Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate  
17 middle school, junior high school, and high school students about  
18 the importance of higher education, each school district and each  
19 open-enrollment charter school offering those grades shall  
20 designate one week during the school year as "Education. Go Get It"  
21 Week.

22       (b) During the designated week, each middle school, junior  
23 high school, and high school shall provide students with  
24 comprehensive grade-appropriate information regarding the pursuit  
25 of higher education. The information provided must include  
26 information regarding:

27           (1) higher education options available to students;



1           (2) standard admission requirements for institutions  
2 of higher education, including:

3                   (A) overall high school grade point average;

4                   (B) required curriculum; and

5                   (C) scores necessary on generally recognized  
6 tests or assessments used in admissions determinations, including  
7 the Scholastic Assessment Test and the American College Test;

8           (3) automatic admission of certain students to general  
9 academic teaching institutions as provided by Section 51.803; and

10           (4) financial aid availability and requirements,  
11 including the financial aid information provided by counselors  
12 under Section 33.007(b).

13           (c) In addition to the information provided under  
14 Subsection (b), each middle school, junior high school, and high  
15 school shall provide to the students during the designated week at  
16 least one public speaker to promote the importance of higher  
17 education.

18           SECTION 2C.10. Section 37.008, Education Code, is amended  
19 by adding Subsection (n) to read as follows:

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

25           SECTION 2C.11. Section 39.022, Education Code, is amended  
26 to read as follows:

27           Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of

1 Education by rule shall create and implement a statewide assessment  
2 program that is knowledge- and skills-based to ensure school  
3 accountability for student achievement that achieves the goals  
4 provided under Section 4.002. After adopting rules under this  
5 section, the State Board of Education shall consider the importance  
6 of maintaining stability in the statewide assessment program when  
7 adopting any subsequent modification of the rules.

8 (b) The commissioner by rule shall provide for the  
9 administration of assessment instruments under this subchapter.

10 SECTION 2C.12. Section 39.023, Education Code, is amended  
11 by amending Subsections (a)-(e), (i), (j), and (l)-(n) and adding  
12 Subsections (a-1) and (b-1) to read as follows:

13 (a) The agency shall adopt or develop appropriate  
14 criterion-referenced assessment instruments designed to assess  
15 essential knowledge and skills in reading, writing, mathematics,  
16 social studies, and science. Except as otherwise provided by this  
17 subchapter, all [All] students[, except students assessed under  
18 Subsection (b) or (l) or exempted under Section 39.027,] shall be  
19 assessed in:

20 (1) mathematics, annually in grades three through  
21 seven without the aid of technology and in grades eight through 11  
22 with the aid of technology on any assessment instruments that  
23 include algebra;

24 (2) reading, annually in grades three through nine;

25 (3) writing, including spelling and grammar, in grades  
26 four and seven;

27 (4) English language arts, in grades [~~grade~~] 10 and

1 11;

2 (5) social studies, in grades eight, ~~[and]~~ 10, and 11;

3 (6) science, in grades five, eight, ~~[and]~~ 10, and 11;

4 and

5 (7) any other subject and grade required by federal  
6 law.

7 (a-1) An assessment instrument under this section may  
8 include questions that test a broader range of knowledge and skills  
9 or that are at a higher difficulty level for the purpose of  
10 differentiating student achievement. A student may not be required  
11 to answer a question described by this subsection correctly to  
12 perform satisfactorily on the assessment instrument or to be  
13 promoted to the next grade level. To ensure a valid bank of  
14 questions for use each year, the agency is not required to release a  
15 question that is developed for purposes of this subsection until  
16 after the fifth school year the question is used on an assessment  
17 instrument administered under this section.

18 (b) The agency shall develop or adopt appropriate  
19 criterion-referenced assessment instruments to be administered to  
20 each student in a special education program under Subchapter A,  
21 Chapter 29, who receives modified instruction in the essential  
22 knowledge and skills identified under Section 28.002 for the  
23 assessed subject but for whom an assessment instrument adopted  
24 under Subsection (a), even with allowable accommodations  
25 ~~[modifications]~~, would not provide an appropriate measure of  
26 student achievement, as determined by the student's admission,  
27 review, and dismissal committee. The assessment instruments

1 required under this subsection must assess essential knowledge and  
2 skills [~~and growth~~] in the subjects of reading, mathematics, and  
3 writing and any other subject required by federal law. A student's  
4 admission, review, and dismissal committee shall determine whether  
5 any allowable accommodation [~~modification~~] is necessary in  
6 administering to the student an assessment instrument required  
7 under this subsection or whether an alternate assessment instrument  
8 must be used to measure alternate academic achievement standards.  
9 A student's admission, review, and dismissal committee shall  
10 determine the high school graduation assessment requirements for a  
11 student in a special education program under Subchapter A, Chapter  
12 29, and may use local alternative assessment instruments if  
13 multiple testing opportunities are not available for a student. To  
14 the extent practicable, the [~~The~~] assessment instruments required  
15 under this subsection shall be administered on the same schedule as  
16 the assessment instruments administered under Subsection (a). The  
17 commissioner shall adopt rules to implement this subsection.

18 (b-1) The agency shall adopt or develop appropriate  
19 criterion-referenced instruments as required by federal law  
20 designed to measure alternate academic achievement standards for  
21 students in a special education program under Subchapter A, Chapter  
22 29, with the most significant cognitive disabilities.

23 (c) The [~~agency shall also adopt~~] secondary exit-level  
24 assessment instruments designed to be administered to students in  
25 grade 11 under Subsection (a) must [~~to~~] assess essential knowledge  
26 and skills in mathematics, English language arts, social studies,  
27 and science. The mathematics section must include at least Algebra

1 I and geometry with the aid of technology. The English language  
2 arts section must include at least English III and must include the  
3 assessment of essential knowledge and skills in writing. The social  
4 studies section must include early American and United States  
5 history. The science section must include at least biology and  
6 integrated chemistry and physics. The assessment instruments must  
7 be designed to assess a student's mastery of minimum skills  
8 necessary for high school graduation and readiness to enroll in an  
9 institution of higher education. ~~[If a student is in a special  
10 education program under Subchapter A, Chapter 29, the student's  
11 admission, review, and dismissal committee shall determine whether  
12 any allowable modification is necessary in administering to the  
13 student an assessment instrument required under this subsection or  
14 whether the student should be exempted under Section 39.027(a)(2).  
15 The State Board of Education shall administer the assessment  
16 instruments. The State Board of Education shall adopt a schedule  
17 for the administration of secondary exit-level assessment  
18 instruments.]~~ Each student who did not perform satisfactorily on  
19 any secondary exit-level assessment instrument when initially  
20 tested shall be given multiple opportunities to retake that  
21 assessment instrument. A student who performs at or above a level  
22 established by the Texas Higher Education Coordinating Board on the  
23 secondary exit-level assessment instruments is exempt from the  
24 requirements of Section 51.306.

25 (d) The commissioner may participate in multistate efforts  
26 to develop voluntary standardized end-of-course assessment  
27 instruments. The commissioner by rule may require a school

1 district to administer an end-of-course assessment instrument  
2 developed through the multistate efforts. The admission, review,  
3 and dismissal committee of a student in a special education program  
4 under Subchapter A, Chapter 29, shall determine whether any  
5 allowable accommodation [~~modification~~] is necessary in  
6 administering to the student an end-of-course assessment  
7 instrument or whether the student should be exempted [~~under Section~~  
8 ~~39.027(a)(2)~~].

9 (e) Under rules adopted by the State Board of Education,  
10 [~~every other year,~~] the agency shall release the questions and  
11 answer keys to each assessment instrument administered under  
12 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after  
13 August 1 after the second anniversary of the date [~~after the last~~  
14 ~~time~~] the instrument was [~~is~~] administered [~~for that school year~~].  
15 To ensure a valid bank of questions for use each year, the agency is  
16 not required to release a question that is being field-tested and  
17 was not used to compute the student's score on the instrument. The  
18 agency shall also release, under board rule, each question that is  
19 no longer being field-tested and that was not used to compute a  
20 student's score.

21 (i) The provisions of this section, except Subsection (d),  
22 are subject to modification by rules adopted under Section 39.022.  
23 Each assessment instrument adopted or developed under this section  
24 [~~these rules and each assessment instrument required under~~  
25 ~~Subsection (d)~~] must be reliable and valid and must meet any  
26 applicable federal requirements for measurement of student  
27 progress.

1 (j) The commissioner shall develop a standardized  
2 end-of-course assessment instrument for Algebra I. The  
3 commissioner by rule may require a school district to administer an  
4 end-of-course assessment instrument in Algebra I. The admission,  
5 review, and dismissal committee of a student in a special education  
6 program under Subchapter A, Chapter 29, shall determine whether any  
7 allowable accommodation [~~modification~~] is necessary in  
8 administering to the student an end-of-course assessment  
9 instrument or whether the student should be exempted [~~under Section~~  
10 ~~39.027(a)(2)~~].

11 (l) The agency [~~State Board of Education~~] shall adopt or  
12 develop a Spanish version [~~rules for the administration~~] of the  
13 assessment instruments adopted under Subsection (a) for [~~in Spanish~~  
14 ~~to~~] students in grades three through six who are of limited English  
15 proficiency, as defined by Section 29.052, whose primary language  
16 is Spanish, and who are not otherwise exempt from the  
17 administration of an assessment instrument under Section 39.027  
18 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency  
19 whose primary language is Spanish, other than a student to whom  
20 Subsection (b) or (b-1) applies, may be assessed using assessment  
21 instruments in Spanish under this subsection for up to three years  
22 or assessment instruments in English under Subsection (a). The  
23 language proficiency assessment committee established under  
24 Section 29.063 shall determine which students are administered  
25 assessment instruments in Spanish under this subsection.

26 (m) The commissioner by rule shall develop procedures under  
27 which the language proficiency assessment committee established

1 under Section 29.063 shall determine which students in grades three  
2 through 10 are exempt from the administration of the assessment  
3 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules  
4 adopted under this subsection shall ensure that the language  
5 proficiency assessment committee provides that the exempted  
6 students are administered the assessment instruments under  
7 Subsections (a) and (c) at the earliest practical date. As  
8 necessary to comply with federal requirements, the commissioner by  
9 rule shall develop procedures under which a student who is exempt  
10 from the administration of an assessment instrument under Section  
11 39.027 is administered a linguistically accommodated assessment  
12 instrument.

13 (n) This subsection applies only to a student who is  
14 determined to have dyslexia or a related disorder and who is an  
15 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~  
16 ~~its subsequent amendments~~]. The agency shall adopt or develop  
17 appropriate [~~criterion-referenced~~] assessment administration  
18 procedures, including accommodations for a [~~instruments designed~~  
19 ~~to assess the ability of and to be administered to each~~] student to  
20 whom this subsection applies. The [~~for whom the assessment~~  
21 ~~instruments adopted under Subsection (a), even with allowable~~  
22 ~~modifications, would not provide an appropriate measure of student~~  
23 ~~achievement, as determined by the~~] committee established by the  
24 board of trustees of the district to determine the placement of  
25 students with dyslexia or related disorders [~~The committee~~] shall  
26 determine whether the [~~any~~] allowable accommodations are  
27 [~~modification is~~] necessary in administering to a student an



1 assessment instrument required under this section [~~subsection. The~~  
 2 ~~assessment instruments required under this subsection shall be~~  
 3 ~~administered on the same schedule as the assessment instruments~~  
 4 ~~administered under Subsection (a)].~~

5 SECTION 2C.13. Sections 39.024(a) and (c), Education Code,  
 6 are amended to read as follows:

7 (a) Except as otherwise provided by this subsection, the  
 8 State Board of Education shall determine the level of performance  
 9 considered to be satisfactory on the assessment instruments  
 10 administered under Section 39.023. The commissioner by rule  
 11 [~~admission, review, and dismissal committee of a student being~~  
 12 ~~assessed under Section 39.023(b)] shall determine the level of  
 13 performance considered to be satisfactory on the assessment  
 14 instruments administered under Section 39.023(b) or (b-1) [~~to that~~  
 15 ~~student]~~ in accordance with applicable federal requirements  
 16 [~~criteria established by agency rule].~~~~

17 (c) The agency shall develop study guides for the assessment  
 18 instruments administered under Sections 39.023(a) and (1) [~~(c)~~].  
 19 To assist parents in providing assistance during the period that  
 20 school is recessed for summer, each school district shall  
 21 distribute the study guides to parents of students who do not  
 22 perform satisfactorily on one or more parts of the [~~an~~] assessment  
 23 instrument [~~administered under this subchapter].~~

24 SECTION 2C.14. Section 39.025(a), Education Code, is  
 25 amended to read as follows:

26 (a) A student may not receive a high school diploma until  
 27 the student has performed satisfactorily on the secondary

1 exit-level assessment instruments for English language arts,  
2 mathematics, social studies, and science administered under  
3 Section 39.023(a) [~~39.023(c)~~]. This subsection does not require a  
4 student to demonstrate readiness to enroll in an institution of  
5 higher education.

6 SECTION 2C.15. Effective September 1, 2006, Subchapter B,  
7 Chapter 39, Education Code, is amended by adding Section 39.0261 to  
8 read as follows:

9 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In  
10 addition to the assessment instruments otherwise authorized or  
11 required by this subchapter, a school district may administer to  
12 students in any grade an established, valid, reliable, and  
13 nationally normed college preparation assessment instrument.

14 (b) The agency shall:

15 (1) select and approve vendors of the specific  
16 assessment instruments administered under this section; and

17 (2) subject to the restrictions of Subsection (c), pay  
18 all fees associated with the administration of the assessment  
19 instrument:

20 (A) from funds appropriated for the purpose; or

21 (B) if funds are not appropriated for the  
22 purpose, from funds allotted under the Foundation School Program,  
23 and the commissioner shall reduce the total amount of state funds  
24 allocated to each district from any source in the same manner  
25 described for a reduction in allotments under Section 42.253.

26 (c) The agency may pay only for the administration of the  
27 assessment instrument at two different grade levels in each

1 district each year.

2 (d) A vendor that administers an assessment instrument for a  
3 district under this section shall report the results of the  
4 assessment instrument to the agency.

5 SECTION 2C.16. Sections 39.027(a), (e), and (g), Education  
6 Code, are amended to read as follows:

7 (a) A student in grades three through 10 may be exempted  
8 from the administration of an assessment instrument under:

9 (1) [~~Section 39.023(a) or (b) if the student is~~  
10 ~~eligible for a special education program under Section 29.003 and~~  
11 ~~the student's individualized education program does not include~~  
12 ~~instruction in the essential knowledge and skills under Section~~  
13 ~~28.002 at any grade level;~~

14 [~~(2) Section 39.023(c) or (d) if the student is~~  
15 ~~eligible for a special education program under Section 29.003 and:~~

16 [~~(A) the student's individualized education~~  
17 ~~program does not include instruction in the essential knowledge and~~  
18 ~~skills under Section 28.002 at any grade level; or~~

19 [~~(B) the assessment instrument, even with~~  
20 ~~allowable modifications, would not provide an appropriate measure~~  
21 ~~of the student's achievement as determined by the student's~~  
22 ~~admission, review, and dismissal committee;~~

23 [~~(3)~~] Section 39.023(a), (b), (b-1), or (l) for a  
24 period of up to one year after initial enrollment in a school in the  
25 United States if the student is of limited English proficiency, as  
26 defined by Section 29.052, and has not demonstrated proficiency in  
27 English as determined by the assessment system under Subsection

1 (e); or

2 (2) [~~(4)~~] Section 39.023(a), (b), (b-1), or (1) for a  
3 period of up to two years in addition to the exemption period  
4 authorized by Subdivision (1) [~~(3)~~] if the student has received an  
5 exemption under Subdivision (1) [~~(3)~~] and:

6 (A) is a recent unschooled immigrant; or

7 (B) is in a grade for which no assessment  
8 instrument in the primary language of the student is available.

9 (e) As provided by applicable federal requirements, the  
10 ~~[The]~~ commissioner shall develop an assessment system that shall be  
11 used for evaluating the academic progress toward attaining academic  
12 language proficiency in English, including reading proficiency in  
13 English, of all students of limited English proficiency, as defined  
14 by Section 29.052. A student who has demonstrated the designated  
15 level of [~~is exempt from the administration of an assessment~~  
16 ~~instrument under Subsection (a)(3) or (4) who achieves]~~ reading  
17 proficiency in English as determined by the assessment system  
18 developed under this subsection is not eligible for an exemption  
19 under Subsection (a)(1) or (2). [~~shall be administered the~~  
20 ~~assessment instruments described by Sections 39.023(a) and (c).~~  
21 ~~The performance under the assessment system developed under this~~  
22 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~  
23 ~~shall be included in the academic excellence indicator system under~~  
24 ~~Section 39.051, the performance report under Section 39.053, and~~  
25 ~~the comprehensive annual report under Section 39.182.~~]

26 (g) For purposes of this section, "recent unschooled  
27 immigrant" means an immigrant who initially enrolled in a school in

1 the United States not more than 12 months before the date of the  
2 administration of an assessment instrument under Section 39.023  
3 [~~39.023(a) or (1)~~] and who, as a result of inadequate schooling  
4 outside of the United States, lacks the necessary foundation in the  
5 essential knowledge and skills of the curriculum prescribed under  
6 Section 28.002 as determined by the language proficiency assessment  
7 committee established under Section 29.063. For purposes of this  
8 subsection and to the extent authorized by federal law, a child's  
9 prior enrollment in a school in the United States shall be  
10 determined on the basis of documents and records required under  
11 Section 25.002(a).

12 SECTION 2C.17. Subchapter B, Chapter 39, Education Code, is  
13 amended by adding Sections 39.034 and 39.035 to read as follows:

14 Sec. 39.034. MEASURE OF INDIVIDUAL STUDENT GROWTH ON  
15 ASSESSMENT INSTRUMENTS. (a) The commissioner shall determine a  
16 method by which the agency may measure individual student growth in  
17 achievement from one school year to the next on an assessment  
18 instrument required under this subchapter.

19 (b) The agency shall report to each school district the  
20 comparisons made under Subsection (a). Each school district shall  
21 provide the comparisons to each teacher for all students who were:

22 (1) assessed on an assessment instrument; and

23 (2) taught by that teacher in the subject for which the  
24 assessment instrument was administered.

25 (c) The school a student attends shall provide a record of  
26 the comparison made under this section and provided to the school  
27 under Subsection (b) in a written notice to the student's parents.

1        (d) To the extent practicable, the agency shall combine the  
2 report of the comparisons required under this section with the  
3 report of the student's performance on assessment instruments  
4 administered under Section 39.023.

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

7        Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF  
8 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other  
9 employee, contractor, or volunteer of a school district or public  
10 charter district commits an offense if, for the primary purpose of  
11 influencing the results of an assessment instrument administered  
12 under this subchapter, the person intentionally:

13            (1) discriminates in school admissions based on a  
14 student's academic ability in a manner that is not otherwise  
15 permitted by law;

16            (2) refers a student to a special education program  
17 under Subchapter A, Chapter 29, or a bilingual or special language  
18 program under Subchapter B, Chapter 29, for the purpose of gaining  
19 an exemption for the student from the administration of the  
20 assessment instrument;

21            (3) requires or encourages a student to be absent from  
22 a school campus during the day on which the assessment instrument is  
23 administered at the campus;

24            (4) tampers with the assessment instrument or related  
25 materials to alter the results of the assessment instrument; or

26            (5) engages in any other action designed to alter the  
27 accuracy of the results of the assessment instrument.

1           (b) An offense under this section is a Class A misdemeanor.

2           (c) An offense under Subsection (a)(4) is in addition to any  
3 offense under Section 37.10(c)(2), Penal Code, arising from the  
4 same action.

5           SECTION 2C.18. Section 39.051(b), Education Code, as  
6 amended by Chapters 433 and 805, Acts of the 78th Legislature,  
7 Regular Session, 2003, is reenacted and amended to read as follows:

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

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

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

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

27           (4) student attendance rates;

1           (5) the percentage of graduating students who attain  
2 scores on the secondary exit-level assessment instruments required  
3 under Subchapter B that are equivalent to a passing score on the  
4 assessment [~~test~~] instrument required under Section 51.3062  
5 [~~51.306~~];

6           (6) the percentage of graduating students who meet the  
7 course requirements established for the recommended high school  
8 program by State Board of Education rule;

9           (7) the results of the Scholastic Assessment Test  
10 (SAT), the American College Test (ACT), articulated postsecondary  
11 degree programs described by Section 61.852, and certified  
12 workforce training programs described by Chapter 311, Labor Code;

13           (8) student growth in achievement, as measured under  
14 Section 39.034, aggregated by grade level and subject area;

15           (9) the number and percentage of students at risk of  
16 dropping out of school, the number and percentage of those students  
17 who are administered each assessment instrument required under  
18 Section 39.023, the number and percentage of those students who  
19 perform satisfactorily on the assessment instruments, and the  
20 results of those students, grouped by number and percentage, on the  
21 assessment instruments, disaggregated by subject area and grade  
22 level;

23           (10) the number and percentage of students, aggregated  
24 by grade level, provided accelerated instruction under Section  
25 28.0211(c), the results of assessments administered under that  
26 section, the percentage of students promoted through the grade  
27 placement committee process under Section 28.0211, the subject of



1 the assessment instrument on which each student failed to perform  
2 satisfactorily, and the performance of those students in the school  
3 year following that promotion on the assessment instruments  
4 required under Section 39.023;

5 (11) [~~(9)~~] for students who have failed to perform  
6 satisfactorily on an assessment instrument required under Section  
7 39.023(a) or (c), the numerical progress of those students grouped  
8 by number and percentage on subsequent assessment instruments  
9 required under those sections, aggregated by grade level and  
10 subject area;

11 (12) [~~(10)~~] the percentage of students exempted, by  
12 exemption category, from the assessment program generally  
13 applicable under this chapter; [~~and~~]

14 (13) [~~(11)~~] the percentage of students of limited  
15 English proficiency exempted from the administration of an  
16 assessment instrument under Sections 39.027(a)(3) and (4);

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

20 (15) for students of limited English proficiency, as  
21 defined by Section 29.052, a measure of progress toward English  
22 language proficiency, as determined by the commissioner, including  
23 the student's performance after transferring out of a bilingual  
24 education program or instruction in English as a second language;  
25 and

26 (16) the performance of non-educationally  
27 disadvantaged students on an assessment instrument required under

1 Sections 39.023(a), (b), (c), and (1) and high school dropout and  
2 completion rates.

3 SECTION 2C.19. Section 39.052(b), Education Code, is  
4 amended to read as follows:

5 (b) The report card shall include the following  
6 information:

7 (1) where applicable, the academic excellence  
8 indicators adopted under Sections 39.051(b)(1) through (15) and  
9 specifically including the indicators adopted under Sections  
10 39.051(b)(9) and (10) [~~9~~];

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

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

14 (4) the district's instructional expenditures ratio  
15 and instructional employees ratio computed under Section 44.0071,  
16 and the statewide average of those ratios, as determined by the  
17 commissioner.

18 SECTION 2C.20. Section 39.053(a), Education Code, is  
19 amended to read as follows:

20 (a) Each board of trustees shall publish an annual report  
21 describing the educational performance of the district and of each  
22 campus in the district that includes uniform student performance  
23 and descriptive information as determined under rules adopted by  
24 the commissioner. The annual report must also include:

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

1           (2) the academic performance rating for the district  
2 and each campus in the district as provided under Section 39.072  
3 ~~[39.072(a) and the performance rating of each campus in the~~  
4 ~~district as provided under Section 39.072(c)]~~;

5           (3) the district's current special education  
6 compliance status with the agency;

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

11           (5) information concerning school violence prevention  
12 and violence intervention policies and procedures that the district  
13 is using to protect students; ~~[and]~~

14           (6) the findings that result from evaluations  
15 conducted under the Safe and Drug-Free Schools and Communities Act  
16 of 1994 (20 U.S.C. Section 7101 et seq.) ~~[and its subsequent~~  
17 ~~amendments]~~; ~~[and]~~

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

21           (8) evidence that the district currently holds  
22 International Organization for Standardization ISO 9000  
23 certification for quality management standards or a statement that  
24 the district does not hold that certification.

25           SECTION 2C.21. Section 39.055, Education Code, is amended  
26 to read as follows:

27           Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT.

1 (a) The commissioner shall develop a process for auditing school  
2 district dropout records electronically. The commissioner shall  
3 also develop a system and standards for review of the audit or use  
4 systems already available at the agency. The system must be  
5 designed to identify districts that are at high risk of having  
6 inaccurate dropout records and that, as a result, may be subject to  
7 a special accreditation investigation under Section 39.075  
8 ~~[require on-site monitoring of dropout records. If the electronic~~  
9 ~~audit of a district's dropout records indicates that a district is~~  
10 ~~not at high risk of having inaccurate dropout records, the district~~  
11 ~~may not be subject to on-site monitoring under this subsection. If~~  
12 ~~the risk-based system indicates that a district is at high risk of~~  
13 ~~having inaccurate dropout records, the district is entitled to an~~  
14 ~~opportunity to respond to the commissioner's determination before~~  
15 ~~on-site monitoring may be conducted. The district must respond not~~  
16 ~~later than the 30th day after the date the commissioner notifies the~~  
17 ~~district of the commissioner's determination. If the district's~~  
18 ~~response does not change the commissioner's determination that the~~  
19 ~~district is at high risk of having inaccurate dropout records or if~~  
20 ~~the district does not respond in a timely manner, the commissioner~~  
21 ~~shall order agency staff to conduct on-site monitoring of the~~  
22 ~~district's dropout records].~~

23 (b) ~~[(e)]~~ The commissioner shall notify the superintendent  
24 ~~[board of trustees]~~ of a school district of any objection the  
25 commissioner has to the district's dropout data, any violation of  
26 sound accounting practices or of a law or rule revealed by the data,  
27 or any recommendation by the commissioner concerning the data. If

1 the data reflect that a penal law has been violated, the  
2 commissioner shall notify the county attorney, district attorney,  
3 or criminal district attorney, as appropriate, and the attorney  
4 general. The commissioner is entitled to access to all district  
5 records the commissioner considers necessary or appropriate for the  
6 review, analysis, or approval of district dropout data.

7 SECTION 2C.22. Sections 39.071 and 39.072, Education Code,  
8 are amended to read as follows:

9 Sec. 39.071. ACCREDITATION. (a) Accreditation of a school  
10 district is determined in accordance with this section  
11 ~~[subchapter]~~.

12 (b) Each year, the commissioner shall determine the  
13 accreditation status of each school district. In determining  
14 accreditation status, the commissioner:

15 (1) shall evaluate and consider the performance of the  
16 district under:

17 (A) the academic accountability system under  
18 Section 39.072; and

19 (B) the financial accountability system under  
20 Subchapter I;

21 (2) shall evaluate and consider:

22 (A) the results of any special accreditation  
23 investigation under Section 39.075; and

24 (B) the district's current special education  
25 monitoring or compliance status with the agency; and

26 (3) may consider:

27 (A) the district's compliance with statutory

1 requirements and requirements imposed by rule of the commissioner  
2 or State Board of Education under specific statutory authority that  
3 relate to:

4 (i) reporting data through the Public  
5 Education Information Management System (PEIMS) or other reports  
6 required by state or federal law or court order;

7 (ii) the high school graduation  
8 requirements under Section 28.025; or

9 (iii) an item listed under Sections  
10 7.056(e)(3)(C)-(I) that applies to the district;

11 (B) the effectiveness of the district's programs  
12 for special populations; and

13 (C) the effectiveness of the district's career  
14 and technology program.

15 (c) Based on a school district's performance under  
16 Subsection (b), the commissioner shall:

17 (1) assign a district an accreditation status of:

18 (A) accredited;

19 (B) accredited-warned; or

20 (C) accredited-probation; or

21 (2) revoke the accreditation of the district and order  
22 closure of the district under Section 39.1332.

23 (d) The commissioner shall notify a school district that  
24 receives an accreditation status of accredited-warned or  
25 accredited-probation that the performance of the district is below  
26 a standard required under this section. The commissioner shall  
27 require the district to notify the parents of students enrolled in

1 the district and property owners in the district of the district's  
2 accreditation status and the implications of that accreditation  
3 status.

4 (e) A school district that is not accredited may not  
5 receive funds from the agency or hold itself out as operating a  
6 public school of this state.

7 (f) This chapter may not be construed to invalidate a  
8 diploma awarded, course credit earned, or grade promotion granted  
9 by a school district before the commissioner revoked the district's  
10 accreditation.

11 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~  
12 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall  
13 adopt rules for assigning [~~to evaluate the performance of school~~  
14 ~~districts and to assign~~] to each school district and campus a  
15 performance rating as follows:

16 (1) exemplary (meets or exceeds state exemplary  
17 standards);

18 (2) recognized (meets or exceeds required improvement  
19 or [~~and~~] within 10 percent of state exemplary standards);

20 (3) academically acceptable (below the exemplary and  
21 recognized standards but exceeds the academically unacceptable  
22 standards); or

23 (4) academically unacceptable (below the state  
24 clearly unacceptable performance standard and does not meet  
25 required improvement).

26 (b) The academic excellence indicators adopted under  
27 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~

1 ~~district's current special education compliance status with the~~  
2 ~~agency]~~ shall be the main considerations of the agency in the rating  
3 of a school ~~[the]~~ district or campus under this section.

4 ~~[Additional criteria in the rules may include consideration of:~~

5 ~~(1) compliance with statutory requirements and~~  
6 ~~requirements imposed by rule of the State Board of Education under~~  
7 ~~specific statutory authority that relate to:~~

8 ~~(A) reporting data through the Public Education~~  
9 ~~Information Management System (PEIMS);~~

10 ~~(B) the high school graduation requirements~~  
11 ~~under Section 28.025; or~~

12 ~~(C) an item listed in Sections~~  
13 ~~7.056(e)(3)(C)-(I) that applies to the district;~~

14 ~~(2) the effectiveness of the district's programs for~~  
15 ~~special populations; and~~

16 ~~(3) the effectiveness of the district's career and~~  
17 ~~technology programs.]~~

18 (c) The agency shall evaluate ~~[against state standards]~~ and  
19 ~~[shall]~~, not later than August 1 of each year, report the  
20 performance of each school ~~[campus in a]~~ district and campus. ~~[each~~  
21 ~~open-enrollment charter school on the basis of the campus's~~  
22 ~~performance on the indicators adopted under Sections 39.051(b)(1)~~  
23 ~~through (7). Consideration of the effectiveness of district~~  
24 ~~programs under Subsection (b)(2) or (3) must be based on data~~  
25 ~~collected through the Public Education Information Management~~  
26 ~~System for purposes of accountability under this chapter and~~  
27 ~~include the results of assessments required under Section 39.023.]~~



1           (d) The agency shall annually review the performance of each  
2 school district and campus and determine if a change in the academic  
3 performance rating of the district or campus is warranted.  
4 Notwithstanding any other provision of this code, the commissioner  
5 shall determine how the indicators adopted under Section 39.051(b)  
6 may be used to determine academic performance ratings and to select  
7 districts and campuses for acknowledgment.

8           (e) Each annual review shall include an analysis of the  
9 indicators under Section 39.051(b) to determine district and campus  
10 performance in relation to:

- 11                   (1) state standards established for each indicator;  
12                   (2) required improvement as defined under Section  
13 39.051(c); and  
14                   (3) comparable improvement as determined under  
15 Section 39.051(c).

16           (f) The academic performance rating of a school district may  
17 be raised or lowered based on the district's performance or may be  
18 lowered based on the unacceptable performance of one or more  
19 campuses in the district. The academic performance rating of a  
20 school district may also be lowered based on a determination that  
21 data provided to the agency by the district that is necessary for  
22 conducting an annual review under this section is unreliable.

23           (g) The commissioner shall notify a school district if the  
24 performance of the district or a campus in the district is below a  
25 standard required under this section. The commissioner shall  
26 require the school district to notify the parents of students who  
27 are enrolled in the district and property owners in the district of

1 the academic performance rating and the implications of that  
 2 rating.

3 (h) Notwithstanding any other provision of this code, for  
 4 purposes of determining the performance of a school district or  
 5 open-enrollment charter school under this chapter, including the  
 6 academic performance rating [accreditation status] of the district  
 7 or school, a student attending a campus that is a [confined by court  
 8 order in a residential program or] facility operated by or under  
 9 contract with the Texas Youth Commission, a pre-adjudication secure  
 10 detention facility or a post-adjudication secure correctional  
 11 facility that is registered with the Texas Juvenile Probation  
 12 Commission, or a residential facility is not considered to be a  
 13 student of the school district or open-enrollment charter school  
 14 serving the student [in which the program or facility is physically  
 15 located]. The performance of a student who attends such a campus  
 16 [student] on an assessment instrument or other academic excellence  
 17 indicator adopted under Section 39.051 shall be determined and [7]  
 18 reported, but may not be used to determine the rating of the school  
 19 district or open-enrollment charter school unless the campus is the  
 20 only campus operated by the district or school. [and considered  
 21 separately from the performance of students attending a school of  
 22 the district in which the program or facility is physically  
 23 located.]

24 SECTION 2C.23. Subchapter D, Chapter 39, Education Code, is  
 25 amended by adding Section 39.0722 to read as follows:

26 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)  
 27 In addition to school district performance ratings under Section

1 39.072, the commissioner shall annually rate districts according to  
2 the degree to which the districts prepare students for  
3 postsecondary success, including student performance on the  
4 applicable indicators under Sections 39.051(b) and 39.0721. The  
5 commissioner shall consult with the P-16 Council established under  
6 Section 61.077 when adopting criteria under this section.

7 (b) The commissioner may adopt rules as necessary to  
8 administer this section.

9 SECTION 2C.24. Section 39.073(e), Education Code, is  
10 amended to read as follows:

11 (e) In determining a district's accreditation rating, the  
12 agency shall consider:

13 (1) the district's current special education  
14 compliance status with the agency; ~~and~~

15 (2) the progress of students who have failed to  
16 perform satisfactorily in the preceding school year on an  
17 assessment instrument required under Section 39.023(a) ~~[39.023(a),~~  
18 ~~(c),]~~ or (1); and

19 (3) the district's current certification status under  
20 the International Organization for Standardization ISO 9000 series  
21 quality management program certification as described by Section  
22 7.033.

23 SECTION 2C.25. Section 39.075(a), Education Code, is  
24 amended to read as follows:

25 (a) The commissioner may ~~[shall]~~ authorize special  
26 accreditation investigations to be conducted:

27 (1) when excessive numbers of absences of students

1 eligible to be tested on state assessment instruments are  
2 determined;

3 (2) when excessive numbers of allowable exemptions  
4 from the required state assessment instrument are determined;

5 (3) in response to complaints submitted to the agency  
6 with respect to alleged violations of civil rights or other  
7 requirements imposed on the state by federal law or court order;

8 (4) in response to established monitoring or  
9 compliance reviews of the district's financial accounting  
10 practices and state and federal program requirements;

11 (5) when extraordinary numbers of student placements  
12 in alternative education programs, other than placements under  
13 Sections 37.006 and 37.007, are determined;

14 (6) in response to an allegation involving a conflict  
15 between members of the board of trustees or between the board and  
16 the district administration if it appears that the conflict  
17 involves a violation of a role or duty of the board members or the  
18 administration clearly defined by this code;

19 (7) when excessive numbers of students in special  
20 education programs under Subchapter A, Chapter 29, are assessed  
21 through assessment instruments developed or adopted under Section  
22 39.023(b); [~~or~~]

23 (8) in response to questions concerning a program,  
24 including special education, required by federal law or for which  
25 the district receives federal funds;

26 (9) when an annual review indicates the academically  
27 unacceptable performance under Section 39.072 of one or more

1 campuses in a district, except that the resulting investigation is  
2 limited to those campuses;

3 (10) in response to concerns regarding the integrity  
4 of data submitted to the agency;

5 (11) in response to allegations of a violation of  
6 student assessment procedures for assessment instruments adopted  
7 under Section 39.023; or

8 (12) as the commissioner otherwise determines  
9 necessary.

10 SECTION 2C.26. Section 39.075(c), Education Code, as  
11 amended by Chapters 396 and 931, Acts of the 77th Legislature,  
12 Regular Session, 1999, is reenacted and amended to read as follows:

13 (c) Based on the results of a special accreditation  
14 investigation, the commissioner may:

15 (1) take appropriate action under Subchapter G;

16 (2) raise or lower the district's accreditation status  
17 [rating]; or

18 (3) take action under both Subdivisions (1) and (2).

19 SECTION 2C.27. Section 39.076, Education Code, is amended  
20 by amending Subsection (a) and adding Subsections (a-1), (a-2),  
21 (a-3), and (c) to read as follows:

22 (a) The agency shall adopt written procedures for  
23 conducting [~~on-site~~] investigations under this subchapter. The  
24 agency shall make the procedures available to the complainant, the  
25 alleged violator, and the public. Agency staff must be trained in  
26 the procedures and must follow the procedures in conducting the  
27 investigation.

1       (a-1) An investigation conducted under this subchapter may  
2 be an on-site, desk, or data-based investigation as determined by  
3 the commissioner.

4       (a-2) If conducting an on-site investigation, the  
5 investigators may obtain information from administrators,  
6 teachers, or parents of students enrolled in the school district.  
7 The commissioner shall adopt rules for:

8           (1) obtaining information from parents and using that  
9 information in the investigator's report; and

10          (2) obtaining information from teachers in a manner  
11 that prevents a campus or district from screening the information.

12       (a-3) The agency may give written notice of any impending  
13 on-site investigation to the superintendent and the board of  
14 trustees of a school district.

15       (c) The investigators conducting an on-site investigation  
16 shall report the results of the investigation orally and in writing  
17 to the board of trustees of the district and, as appropriate, to  
18 campus administrators, and shall make recommendations concerning  
19 any necessary improvements or sources of aid, such as regional  
20 education service centers.

21       SECTION 2C.28. Subchapter D, Chapter 39, Education Code, is  
22 amended by adding Sections 39.077 and 39.078 to read as follows:

23       Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A  
24 school district or open-enrollment charter school that wishes to  
25 challenge a decision to assign or lower an accreditation status, an  
26 academic performance rating, or a financial accountability rating  
27 must petition for an informal review as provided by Section 7.0571.

1       (b) A final decision by the commissioner to assign or lower  
2 an accreditation status, an academic performance rating, or a  
3 financial accountability rating following a review under Section  
4 7.0571 is final and may not be appealed.

5       Sec. 39.078. RULES. (a) The commissioner may adopt rules  
6 as necessary to administer this subchapter.

7       (b) Unless a provision of this code clearly specifies  
8 otherwise, any rule adopted under Subsection (a) must apply  
9 accreditation requirements and academic performance ratings under  
10 this subchapter to:

11           (1) an open-enrollment charter school in the same  
12 manner as the requirements and ratings are applied to a school  
13 district; and

14           (2) a campus operated by an open-enrollment charter  
15 school in the same manner as the requirements and ratings are  
16 applied to a campus operated by a school district.

17       SECTION 2C.29. Subchapter F, Chapter 39, Education Code, is  
18 amended by adding Section 39.113 to read as follows:

19       Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT  
20 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt  
21 rules to create an incentive award system for annual growth in  
22 student achievement. A school that achieves incremental growth in  
23 student achievement, as described in Subsection (b), is eligible  
24 for an award if the school:

25           (1) has a student population of at least 65 percent  
26 educationally disadvantaged students;

27           (2) achieves an accreditation performance rating of

1 academically acceptable or better; and

2 (3) demonstrates superior growth in the academic  
3 performance of educationally disadvantaged students.

4 (b) The commissioner by rule shall adopt performance  
5 criteria to measure annual growth in student academic performance.  
6 The commissioner shall consider the following criteria, as  
7 applicable:

8 (1) annual growth in student achievement that  
9 contributes to closing performance gaps among various populations  
10 of students;

11 (2) improvements in student scores on the assessment  
12 instruments required under Section 39.023;

13 (3) growth in high school completion rates;

14 (4) improvement in student scores on college advanced  
15 placement tests; and

16 (5) any other factor that contributes to student  
17 achievement.

18 (c) From funds appropriated for the purposes of this  
19 section, the commissioner shall award grants to campuses that meet  
20 performance criteria adopted under Subsection (b). The  
21 commissioner shall allocate awards to campuses not later than  
22 December 1 of each year, based on growth in student achievement as  
23 measured for the preceding two school years.

24 (c-1) The commissioner shall award grants under this  
25 section beginning September 1, 2006. This subsection expires  
26 January 1, 2007.

27 (d) At least 75 percent of an award under this section must



1 be used for additional teacher compensation at the campus level.  
2 The commissioner by rule shall provide for allocating awards under  
3 this subsection, including providing individual awards of at least  
4 \$3,000 for each teacher at a campus receiving an award under this  
5 subsection.

6 (e) Grants from funds appropriated for the award program may  
7 not exceed \$50 million each year except as expressly authorized by  
8 the General Appropriations Act or other law.

9 (f) A determination of the commissioner under this section  
10 is final and may not be appealed.

11 (g) The commissioner shall annually evaluate the  
12 effectiveness of the state incentive program for improving student  
13 performance on at-risk campuses established under this section.  
14 The evaluation must consider:

15 (1) the performance of students in districts under  
16 this section on assessment instruments administered under Section  
17 39.023;

18 (2) the districts' high school graduation and  
19 completion rates; and

20 (3) the districts' teacher attrition rates.

21 SECTION 2C.30. Section 39.131, Education Code, is amended  
22 to read as follows:

23 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school  
24 district does not satisfy the accreditation criteria under Section  
25 39.071, the academic performance standards under Section 39.072, or  
26 any financial accountability standard as determined by  
27 commissioner rule, the commissioner shall take any of the following

1 actions[~~, listed in order of severity,~~] to the extent the  
2 commissioner determines necessary:

3 (1) issue public notice of the deficiency to the board  
4 of trustees;

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

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

15 (4) 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 of the district and the superintendent shall appear and  
18 explain the district's low performance, lack of improvement, and  
19 plans for improvement;

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

21 (6) appoint an agency monitor to participate in and  
22 report to the agency on the activities of the board of trustees or  
23 the superintendent;

24 (7) appoint a conservator to oversee the operations of  
25 the district;

26 (8) appoint a management team to direct the operations  
27 of the district in areas of unacceptable performance or require the

1 district to obtain certain services under a contract with another  
2 person;

3 (9) if a district has a current accreditation status  
4 of accredited-warned or accredited-probation, is ~~[been]~~ rated ~~[as]~~  
5 academically unacceptable, or fails to satisfy financial  
6 accountability standards as determined by commissioner rule ~~[for a~~  
7 ~~period of one year or more]~~, appoint a board of managers to exercise  
8 the powers and duties of the board of trustees;

9 (10) if for two consecutive school years, including  
10 the current school year, a district has received an accreditation  
11 status of accredited-warned or accredited-probation, has been  
12 rated academically unacceptable, or has failed to satisfy financial  
13 accountability standards as determined by commissioner rule,  
14 revoke the district's accreditation and ~~[been rated as academically~~  
15 ~~unacceptable for a period of two years or more]~~:

16 (A) order closure of the district and annex the  
17 district to one or more adjoining districts under Section 13.054;  
18 or

19 (B) in the case of a home-rule school district or  
20 open-enrollment charter school, order closure of all programs  
21 operated under the district's or school's charter; or

22 (11) if a district has been rated ~~[as]~~ academically  
23 unacceptable for ~~[a period of]~~ two consecutive school years,  
24 including the current school year, ~~[or more]~~ due to the district's  
25 dropout rates, impose sanctions designed to improve high school  
26 completion rates, including:

27 (A) ordering the development of a dropout

1 prevention plan for approval by the commissioner;

2 (B) restructuring the district or appropriate  
3 school campuses to improve identification of and service to  
4 students who are at risk of dropping out of school, as defined by  
5 Section 29.081;

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

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

11 (b) This subsection applies regardless of whether a  
12 district has satisfied the accreditation criteria. If for two  
13 consecutive school years, including the current school year, [~~a~~  
14 ~~period of one year or more~~] a district has had a conservator or  
15 management team assigned, the commissioner may appoint a board of  
16 managers, a majority of whom must be residents of the district, to  
17 exercise the powers and duties of the board of trustees.

18 SECTION 2C.31. Section 39.132, Education Code, is amended  
19 to read as follows:

20 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE  
21 CAMPUSES. (a) If a campus performance is below any standard under  
22 Section 39.072 [~~39.073(b)~~], the campus is considered an  
23 academically unacceptable [~~a low-performing~~] campus. The  
24 commissioner may permit the campus to participate in an innovative  
25 redesign of the campus to improve campus performance or shall [~~may~~]  
26 take any of the other following actions[~~, listed in order of~~  
27 ~~severity~~], to the extent the commissioner determines necessary:

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

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

5 (A) notifying the public of the unacceptable  
6 performance, the improvements in performance expected by the  
7 agency, and the sanctions that may be imposed under this section if  
8 the performance does not improve within a designated period of  
9 time; and

10 (B) soliciting public comment on the initial  
11 steps being taken to improve performance;

12 ~~(3) [order the preparation of a report regarding the~~  
13 ~~parental involvement program at the campus and a plan describing~~  
14 ~~strategies for improving parental involvement at the campus;~~

15 ~~[(4) order the preparation of a report regarding the~~  
16 ~~effectiveness of the district- and campus-level planning and~~  
17 ~~decision-making committees established under Subchapter F, Chapter~~  
18 ~~11, and a plan describing strategies for improving the~~  
19 ~~effectiveness of those committees;~~

20 ~~[(5)]~~ order the preparation of a student achievement  
21 improvement plan that addresses each academic excellence indicator  
22 for which the campus's performance is unacceptable, the submission  
23 of the plan to the commissioner for approval, and implementation of  
24 the plan;

25 (4) ~~[(6)]~~ order a hearing to be held before the  
26 commissioner or the commissioner's designee at which the president  
27 of the board of trustees, the superintendent, and the campus

1 principal shall appear and explain the campus's low performance,  
2 lack of improvement, and plans for improvement; or

3 (5) [~~(7)~~] appoint a special campus intervention team  
4 to:

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

8 (B) recommend actions, including reallocation of  
9 resources and technical assistance, changes in school procedures or  
10 operations, staff development for instructional and administrative  
11 staff, intervention for individual administrators or teachers,  
12 waivers from state statute or rule, or other actions the team  
13 considers appropriate;

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

16 (D) assist the commissioner in monitoring the  
17 progress of the campus in implementing the campus plan for  
18 improvement of student achievement [~~, or~~

19 ~~(8) if a campus has been a low-performing campus for a~~  
20 ~~period of one year or more, appoint a board of managers composed of~~  
21 ~~residents of the district to exercise the powers and duties of the~~  
22 ~~board of trustees of the district in relation to the campus].~~

23 (a-1) Notwithstanding Subsection (a), if a campus has been  
24 identified as academically unacceptable under this section or the  
25 campus is rated academically acceptable for the current school year  
26 but would be rated as academically unacceptable if performance  
27 standards to be used for the following school year were applied to

1 the current school year, the commissioner shall select and assign a  
2 technical assistance team to assist the campus in executing a  
3 school improvement plan and any other school improvement strategies  
4 the commissioner determines appropriate. The commissioner shall  
5 select and assign the technical assistance team not later than:

6 (1) October 1 after identifying the campus as  
7 academically unacceptable or otherwise subject to this subsection;  
8 or

9 (2) the 30th day after the date the campus is provided  
10 notice that the campus's appeal of its performance rating has been  
11 denied.

12 (a-2) A technical intervention team assigned under  
13 Subsection (a-1) to a campus that is academically unacceptable  
14 shall conduct a comprehensive on-site evaluation of the campus to  
15 determine the cause for the campus's low performance and lack of  
16 progress. The team shall have wide latitude to determine what  
17 factors to assess and how to do the assessment. Some factors to be  
18 considered are:

19 (1) an assessment of the staff to determine the  
20 percentage of certified teachers who are teaching in their field,  
21 the number of teachers with less than three years of experience, and  
22 teacher turnover rates;

23 (2) compliance with the appropriate class size rules  
24 and number of class size waivers received;

25 (3) an assessment of the quality, quantity, and  
26 appropriateness of instructional materials, including the  
27 availability of technology-based instructional materials;

1           (4) a report on the parental involvement strategies  
2 and the effectiveness of such strategies;

3           (5) an assessment of the extent and quality of the  
4 mentoring program provided for new teachers on that campus;

5           (6) an assessment of the type and quality of the  
6 professional development provided to the staff;

7           (7) a demographic analysis of the student population,  
8 including student demographics, at-risk populations, and special  
9 education percentages;

10          (8) a report of disciplinary incidents and school  
11 safety information;

12          (9) financial and accounting practices; and

13          (10) an assessment of appropriateness of the  
14 curriculum and teaching strategies.

15          (a-3) Upon completion of the evaluation the intervention  
16 team will recommend actions, including any necessary reallocation  
17 of resources and/or additional funds taken from funds to be set  
18 aside by the agency to assist campuses in meeting the standards  
19 specified in the intervention plan, technical assistance, changes  
20 in school procedures or operations, staff development for  
21 instructional and administrative staff, intervention for  
22 individual administrators or teachers, waivers from state statute  
23 or rule, or other actions the team considers appropriate.

24          (a-4) The commissioner may determine when a technical  
25 assistance team's services are no longer needed at a campus under  
26 this section. If a campus is considered an academically  
27 unacceptable campus under Subsection (a) for the subsequent school



1 year after the campus is reconstituted under this subsection, the  
2 commissioner shall pursue alternative management under Section  
3 39.1321.

4 (b) Notwithstanding Subsection (a), if [~~If~~] a campus has  
5 been identified as academically unacceptable [~~a low-performing~~  
6 ~~campus~~] for three [~~a period of two~~] consecutive school years,  
7 including the current school year [~~or more~~], the commissioner shall  
8 order the reconstitution of [~~closure of the district or charter~~  
9 ~~program on the campus or reconstitute~~] the campus and assign a  
10 special campus intervention team. In reconstituting the campus, a  
11 special campus intervention team shall assist the campus in:

12 (1) developing a school improvement plan;

13 (2) obtaining approval of the plan from the  
14 commissioner; and

15 (3) executing the plan on approval by the  
16 commissioner.

17 (c) The special campus intervention team shall decide [~~be~~  
18 ~~assembled for the purpose of deciding~~] which educators may be  
19 retained at that campus. A principal who has been employed by the  
20 campus in that capacity during the two-year period described by  
21 Subsection (b) may not be retained at that campus. A teacher of a  
22 subject assessed by an assessment instrument under Section 39.023  
23 may be retained only if the special campus intervention team  
24 determines that a pattern exists of significant academic growth by  
25 students taught by the teacher. If an educator is not retained, the  
26 educator may be assigned to another position in the district.

27 (d) In developing and executing a school improvement plan

1 under Subsection (b), the special campus intervention team shall:

2 (1) assist the campus in implementing research-based  
3 practices for curriculum development and classroom instruction,  
4 including bilingual education and special education programs, if  
5 appropriate, and financial management; and

6 (2) provide technical assistance based on  
7 scientifically based research, including data analysis, academic  
8 deficiency identification, intervention implementation, and budget  
9 analysis, to strengthen and improve the instructional program at  
10 the campus.

11 (e) A special campus intervention team assembled under  
12 Subsection (b):

13 (1) shall continue to work with a campus until:

14 (A) the campus is rated academically acceptable  
15 for a two-year period; or

16 (B) the campus is rated academically acceptable  
17 for a one-year period and the commissioner determines that the  
18 campus is operating and will continue to operate in a manner that  
19 improves student achievement; and

20 (2) may continually update the school improvement  
21 plan, with approval from the commissioner, to meet the needs of the  
22 campus.

23 (f) Notwithstanding any other provision of this subchapter,  
24 if the commissioner determines that an intervention under  
25 Subsection (b) or Section 39.1321 cannot reasonably be expected to  
26 achieve timely improvement at a campus that has been identified as  
27 academically unacceptable for three consecutive school years,

1 including the current school year, the commissioner may order the  
2 closure of the campus.

3 (g) For the 2005-2006 school year, the commissioner shall  
4 assign a technical assistance team to a campus under Subsection  
5 (a-1) on the basis of academic performance ratings for the  
6 2004-2005 school year. The commissioner may impose a sanction on a  
7 campus under Subsection (b) or (f) on the basis of academic  
8 performance ratings for the 2003-2004 and 2004-2005 school years.  
9 This subsection expires September 1, 2007.

10 (h) If a campus is considered an academically unacceptable  
11 campus under Subsection (a) for the subsequent school year after  
12 the campus is reconstituted under Subsection (b), the commissioner  
13 shall pursue alternative management under Section 39.1321.

14 SECTION 2C.32. Subchapter G, Chapter 39, Education Code, is  
15 amended by adding Sections 39.1321 and 39.1322 to read as follows:

16 Sec. 39.1321. MANAGEMENT OF CERTAIN ACADEMICALLY  
17 UNACCEPTABLE CAMPUSES. (a) Except as provided by Section  
18 39.132(f), a campus is subject to this section if the campus has  
19 been identified as academically unacceptable under Section  
20 39.132(a) for the subsequent school year after the campus is  
21 reconstituted under Section 39.132(a-4) or (b).

22 (b) The commissioner shall solicit proposals from qualified  
23 entities to assume management of a campus subject to this section.

24 (c) If the commissioner determines that the basis for  
25 identifying a campus as academically unacceptable is limited to a  
26 specific condition that may be remedied with targeted technical  
27 assistance, the commissioner may:

1           (1) provide the campus a one-year waiver under this  
2 section; and

3           (2) require the district to contract for the  
4 appropriate technical assistance.

5           (d) The commissioner may annually solicit proposals under  
6 this section for the management of a campus subject to this section.  
7 The commissioner shall notify a qualified entity that has been  
8 approved as a provider under this section. The district must  
9 execute a contract with an approved provider and relinquish control  
10 of the campus before January 1 of the school year.

11           (e) To qualify for consideration as a managing entity under  
12 this section, the entity must submit a proposal that provides  
13 information relating to the entity's management and leadership team  
14 that will participate in management of the campus under  
15 consideration, including information relating to individuals that  
16 have:

17           (1) documented success in whole school interventions  
18 that increased the educational and performance levels of students  
19 in academically unacceptable campuses;

20           (2) a proven record of effectiveness with programs  
21 assisting low-performing students;

22           (3) a proven ability to apply scientifically based  
23 research to school intervention strategies;

24           (4) a proven record of financial ability to perform  
25 under the management contract; and

26           (5) any other experience or qualifications the  
27 commissioner determines necessary.

1       (e-1) In selecting a managing entity under this section, the  
2 commissioner shall give preference to an entity that:

- 3               (1) meets any qualifications under this section; and  
4               (2) has documented success in educating students from  
5 similar demographic groups and with similar educational needs as  
6 the students who attend the campus that is to be operated by a  
7 managing entity under this section.

8       (f) The school district may negotiate the term of a  
9 management contract for not more than five years with an option to  
10 renew the contract. The management contract must include a  
11 provision describing the district's responsibilities in supporting  
12 the operation of the campus. The commissioner shall approve the  
13 contract before the contract is executed and, as appropriate, may  
14 require the district, as a term of the contract, to support the  
15 campus in the same manner as the district was required to support  
16 the campus before the execution of the management contract.

17       (g) A management contract under this section shall include  
18 provisions approved by the commissioner that require the managing  
19 entity to demonstrate improvement in campus performance, including  
20 negotiated performance measures. The performance measures must be  
21 consistent with the priorities of this chapter. The commissioner  
22 shall evaluate a managing entity's performance on the first and  
23 second anniversaries of the date of the management contract. If the  
24 evaluation fails to demonstrate improvement as negotiated under the  
25 contract by the first anniversary of the date of the management  
26 contract, the district may terminate the management contract, with  
27 the commissioner's consent, for nonperformance or breach of

1 contract and select another provider from an approved list provided  
2 by the commissioner. If the evaluation fails to demonstrate  
3 significant improvement, as determined by the commissioner, by the  
4 second anniversary of the date of the management contract, the  
5 district shall terminate the management contract and select another  
6 provider from an approved list provided by the commissioner or  
7 resume operation of the campus if approved by the commissioner. If  
8 the commissioner approves the district's operation of the campus,  
9 the commissioner shall assign a technical assistance team to assist  
10 the campus.

11 (h) Notwithstanding any other provision of this code, the  
12 funding for a campus operated by a managing entity must be  
13 equivalent to the funding of the other campuses in the district on a  
14 per student basis so that the managing entity receives the same  
15 funding the campus would otherwise have received.

16 (i) Each campus operated by a managing entity under this  
17 section is subject to this chapter in the same manner as any other  
18 campus in the district.

19 (j) The commissioner may adopt rules necessary to implement  
20 this section.

21 (k) With respect to the management of a campus under this  
22 section:

23 (1) a managing entity is considered to be a  
24 governmental body for purposes of Chapters 551 and 552, Government  
25 Code; and

26 (2) any requirement in Chapter 551 or 552, Government  
27 Code, that applies to a school district or the board of trustees of

1 a school district applies to a managing entity.

2 Sec. 39.1322. REVIEW OF SANCTIONS FOR CAMPUSES SERVING  
3 RESIDENTIAL FACILITIES. (a) A school district or public charter  
4 district may petition the commissioner to review an academically  
5 unacceptable rating assigned to a campus if the campus  
6 predominantly served students residing in a residential facility  
7 during the rating period.

8 (b) If the commissioner determines that the basis for  
9 identifying the campus as academically unacceptable was limited to  
10 a condition that was not related to the educational purpose of the  
11 residential facility, the commissioner may take any of the  
12 following actions as the commissioner determines appropriate:

13 (1) change, modify, or suspend the academically  
14 unacceptable rating; or

15 (2) impose any sanction otherwise authorized under  
16 Section 39.131 or 39.132.

17 (c) The commissioner may consider a factor other than a  
18 factor used to assign a rating in evaluating a campus under this  
19 section. The commissioner may assign a special campus intervention  
20 team under Section 39.132(a)(5) at the expense of the school  
21 district or public charter district as provided by Section 39.134  
22 to develop a long-term intervention plan to improve services for  
23 students.

24 (d) On a determination that a campus subject to this section  
25 is appropriately meeting the educational needs of its students, the  
26 commissioner may waive revocation of a public charter district  
27 under Section 11A.107(b) for a period not to exceed two years. A

1 waiver under this subsection may be extended for additional  
2 two-year periods based on subsequent evaluations of the campus.

3 (e) This section does not limit the commissioner's ability  
4 to sanction a public charter district for the performance of a  
5 campus subject to this section under Section 11A.107(a) or any  
6 other law.

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

9 SECTION 2C.33. Section 39.133, Education Code, is amended  
10 to read as follows:

11 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall  
12 review annually the performance of a district or campus subject to a  
13 sanction under this subchapter to determine the appropriate actions  
14 to be implemented under this subchapter. The determination shall  
15 take into account the number, severity, and duration of the  
16 problems identified. [~~The commissioner must review at least~~  
17 ~~annually the performance of a district for which the accreditation~~  
18 ~~rating has been lowered due to unacceptable student performance and~~  
19 ~~may not raise the rating until the district has demonstrated~~  
20 ~~improved student performance.~~] If the review reveals a lack of  
21 improvement, the commissioner shall increase the level of state  
22 intervention and sanction unless the commissioner finds good cause  
23 for maintaining the current status.

24 (b) The commissioner shall review at least annually the  
25 performance of a school district for which the academic performance  
26 rating has been lowered due to unacceptable student performance and  
27 may not raise the rating until the district has demonstrated



1 improved student performance.

2 SECTION 2C.34. Subchapter G, Chapter 39, Education Code, is  
3 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as  
4 follows:

5 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In  
6 addition to other sanctions authorized under Sections 39.131 and  
7 39.132, the commissioner may order a school district or campus to  
8 acquire professional services at the expense of the district or  
9 campus to address the applicable financial, assessment, data  
10 quality, program, or governance deficiency. The commissioner's  
11 order may require the district or campus to:

12 (1) select an external auditor, data quality expert,  
13 professional authorized to monitor district assessment instrument  
14 administration, or curriculum or program expert; or

15 (2) provide for the appropriate training of district  
16 staff or board of trustees members in the case of a district, or  
17 campus staff, in the case of a campus.

18 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a)  
19 The commissioner may revoke the accreditation of a school district  
20 and order the closure of the district or a campus, as appropriate,  
21 under the following circumstances:

22 (1) the commissioner is authorized to close the  
23 district or campus under Section 39.131(a)(10) or 39.132(f);

24 (2) the commissioner determines that the district is  
25 insolvent and unable to complete the school year; or

26 (3) the commissioner determines that the district has  
27 ceased operations for 11 or more instructional days during the

1 current or most recent scheduled school year without the  
2 commissioner's authorization.

3 (b) The commissioner shall issue an order of closure under  
4 this section that includes provisions necessary for the  
5 continuation of the education of students enrolled in the district  
6 or campus, including annexation to one or more adjoining districts  
7 as provided by Section 13.054. An order of closure may:

8 (1) establish an effective date for accreditation  
9 revocation and closure that is not later than the first anniversary  
10 of the date of the order;

11 (2) provide for an interim board of managers to  
12 exercise the duties of the board of trustees of the district as  
13 designated by the commissioner;

14 (3) require enrollment or student services to be  
15 provided by another district as necessary to allow students  
16 enrolled in the closed district to complete a school year, and make  
17 adjustments in the state and federal funding to which the district  
18 would otherwise be entitled as determined by the commissioner; and

19 (4) require the preservation, transfer, or surrender  
20 of all student records and other records required for an audit of  
21 any state and federal funding provided to the district.

22 (c) A person who intentionally destroys, conceals, or  
23 tampers with a record that is required to be preserved,  
24 transferred, or surrendered under Subsection (b)(4) commits an  
25 offense punishable under Section 37.10(c)(2), Penal Code.

26 (d) A board of managers exercising authority under  
27 Subsection (b)(2) may exercise the authority of the board of

1 trustees with regard to financial management of the district and  
2 personnel actions. The board of managers is not required to be  
3 composed of residents of the district.

4 (e) An open-enrollment charter school ordered closed under  
5 this section is not entitled to a separate hearing concerning the  
6 revocation or nonrenewal of the charter under Section 12.116.

7 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A  
8 school district or open-enrollment charter school that wishes to  
9 challenge a decision to impose a sanction under this subchapter,  
10 including a decision to close a district, school, or campus under  
11 Section 39.1332, must petition for an informal review as provided  
12 by Section 7.0571.

13 (b) A final decision by the commissioner to impose a  
14 sanction under this subchapter, including a decision to close a  
15 school district or a campus under Section 39.1332, following a  
16 review under Section 7.0571 is final and may not be appealed.

17 (c) A school district may not collaterally contest an  
18 academic performance rating or other accreditation standard as part  
19 of the review of a sanction under this subchapter if a review  
20 opportunity has already been provided for the academic performance  
21 rating.

22 SECTION 2C.35. Section 39.134, Education Code, is amended  
23 to read as follows:

24 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing  
25 a monitor, conservator, management team, [~~or~~] special campus  
26 intervention team, technical assistance team, managing entity  
27 under Section 39.1321, or service provider under Section 39.1331

1 shall be paid by the district. If the district fails or refuses to  
2 pay the costs in a timely manner, the commissioner may:

3 (1) pay the costs using amounts withheld from any  
4 funds to which the district is otherwise entitled; or

5 (2) recover the amount of the costs in the manner  
6 provided for recovery of an overallocation of state funds under  
7 Section 42.258.

8 SECTION 2C.36. Subchapter G, Chapter 39, Education Code, is  
9 amended by adding Section 39.1371 to read as follows:

10 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is  
11 responsible for managing an intervention of a campus subject to  
12 sanctions under this subchapter.

13 (b) The agency shall:

14 (1) monitor the progress of technical assistance teams  
15 and special campus intervention teams appointed by the commissioner  
16 under this subchapter; and

17 (2) supervise the activities of the management  
18 entities under Section 39.1321.

19 (c) The agency shall:

20 (1) establish by rule and publish school improvement  
21 objectives;

22 (2) advocate for the increased use of research-based  
23 effective practices; and

24 (3) coordinate campus improvement activities of the  
25 agency and regional education service centers.

26 (d) The commissioner may contract for services under this  
27 section.

1 SECTION 2C.37. Section 39.182(a), Education Code, is  
2 amended to read as follows:

3 (a) Not later than December 1 of each year, the agency shall  
4 prepare and deliver to the governor, the lieutenant governor, the  
5 speaker of the house of representatives, each member of the  
6 legislature, the Legislative Budget Board, and the clerks of the  
7 standing committees of the senate and house of representatives with  
8 primary jurisdiction over the public school system a comprehensive  
9 report covering the preceding school year and containing:

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

13 (2) an evaluation of the status of education in the  
14 state as reflected by the academic excellence indicators adopted  
15 under Section 39.051;

16 (3) a summary compilation of overall student  
17 performance on academic skills assessment instruments required by  
18 Section 39.023 with the number and percentage of students exempted  
19 from the administration of those instruments and the basis of the  
20 exemptions, aggregated by grade level, subject area, campus, and  
21 district, with appropriate interpretations and analysis, and  
22 disaggregated by race, ethnicity, gender, and socioeconomic  
23 status;

24 (4) a summary compilation of overall performance of  
25 students placed in a disciplinary [~~an~~] alternative education  
26 program established under Section 37.008 on academic skills  
27 assessment instruments required by Section 39.023 with the number

1 of those students exempted from the administration of those  
2 instruments and the basis of the exemptions, aggregated by  
3 district, grade level, and subject area, with appropriate  
4 interpretations and analysis, and disaggregated by race,  
5 ethnicity, gender, and socioeconomic status;

6 (5) a summary compilation of the progress [~~overall~~  
7 ~~performance~~] of students at risk of dropping out of school, as  
8 defined by Section 29.081(d), including information described by  
9 the academic excellence indicators under Sections  
10 39.051(b)(8)-(11), provided statewide and aggregated by district,  
11 on academic skills assessment instruments required by Section  
12 39.023 and any other assessment instrument required by the  
13 commissioner [~~with the number of those students exempted from the~~  
14 ~~administration of those instruments and the basis of the~~  
15 ~~exemptions, aggregated by district, grade level, and subject area~~],  
16 with appropriate interpretations and analysis, and disaggregated  
17 by race, ethnicity, gender, and socioeconomic status;

18 (6) an evaluation of the correlation between student  
19 grades and student performance on academic skills assessment  
20 instruments required by Section 39.023;

21 (7) a statement of the dropout rate of students in  
22 grade levels 7 through 12, expressed in the aggregate and by grade  
23 level, and a statement of the completion rates of students for grade  
24 levels 9 through 12;

25 (8) a statement of:

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

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

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

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

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

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

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

20 (11) a summary of the information required by Section  
21 29.083 regarding grade level retention of students and information  
22 concerning:

23 (A) the number and percentage of students  
24 retained; and

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

27 (12) information, aggregated by district type and

1 disaggregated by race, ethnicity, gender, and socioeconomic  
2 status, on:

3 (A) the number of students placed in a  
4 disciplinary [~~an~~] alternative education program established under  
5 Section 37.008;

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

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

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

16 (13) a list of each school district or campus that does  
17 not satisfy performance standards, with an explanation of the  
18 actions taken by the commissioner to improve student performance in  
19 the district or campus and an evaluation of the results of those  
20 actions;

21 (14) an evaluation of the status of the curriculum  
22 taught in public schools, with recommendations for legislative  
23 changes necessary to improve or modify the curriculum required by  
24 Section 28.002;

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

27 (16) a summary and analysis of the instructional



1 expenditures ratios and instructional employees ratios of school  
2 districts computed under Section 44.0071;

3 (17) a summary of the effect of deregulation,  
4 including exemptions and waivers granted under Section 7.056 or  
5 39.112;

6 (18) a statement of the total number and length of  
7 reports that school districts and school district employees must  
8 submit to the agency, identifying which reports are required by  
9 federal statute or rule, state statute, or agency rule, and a  
10 summary of the agency's efforts to reduce overall reporting  
11 requirements;

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

14 (A) the period for which the district has not  
15 been in compliance;

16 (B) the manner in which the agency considered the  
17 district's failure to comply in determining the district's  
18 accreditation status; and

19 (C) an explanation of the actions taken by the  
20 commissioner to ensure compliance and an evaluation of the results  
21 of those actions;

22 (20) an evaluation of public charter districts,  
23 including:

24 (A) the academic performance of students  
25 enrolled in public charter districts, disaggregated by race,  
26 ethnicity, gender, and socioeconomic status;

27 (B) the costs of instruction, administration,

1 and transportation incurred by public charter districts; and

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

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

13 SECTION 2C.38. Section 39.202(a), Education Code, is  
14 amended to read as follows:

15 (a) The commissioner shall, in consultation with the  
16 comptroller, develop and implement a financial accountability  
17 rating system for school districts in this state that distinguishes  
18 among districts' varying levels of financial performance.

19 SECTION 2C.39. Section 39.182, Education Code, is amended  
20 by adding Subsections (b-1) and (b-2) to read as follows:

21 (b-1) The report must include an assessment of the impact of  
22 the performance-based grant system developed under Subchapter E,  
23 Chapter 7, on student academic performance, including:

24 (1) an analysis of performance and spending  
25 information relating to grants administered by the agency; and

26 (2) recommendations on any statutory changes needed  
27 for the agency to more effectively administer grant programs,

1 including recommendations on whether to eliminate or modify  
2 inefficient grant programs, expand effective grant programs, or  
3 consolidate similar grant programs to maximize the effectiveness  
4 and efficiencies of those programs.

5 (b-2) Subsection (b-1) applies beginning January 1, 2009.  
6 This subsection expires February 1, 2009.

7 SECTION 2C.40. Subchapter I, Chapter 39, Education Code, is  
8 amended by adding Section 39.205 to read as follows:

9 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than  
10 September 1, 2006, the agency shall submit a report to the  
11 legislature on the status of the financial accountability system  
12 that recommends to the legislature methods for linking school  
13 district financial management performance and academic  
14 performance.

15 (b) This section expires September 2, 2006.

16 SECTION 2C.41. Subchapter A, Chapter 44, Education Code, is  
17 amended by adding Section 44.0073 to read as follows:

18 Sec. 44.0073. INSTRUCTIONAL COSTS. (a) For purposes of  
19 this section:

20 (1) "Direct instructional costs" includes a school  
21 district's expenses related to instruction, instructional  
22 resources and media services, curriculum development,  
23 instructional staff development, instructional leadership, school  
24 leadership, and evaluation and counseling services.

25 (2) "Indirect instructional costs" includes:

26 (A) a school district's expenses related to  
27 social work services, health services, student transportation,

1 food services, facility maintenance and operations, security and  
2 monitoring services, and data processing services; and

3 (B) payments to another district under the public  
4 education grant program under Subchapter G, Chapter 29, payments to  
5 another district that is a member of a shared services arrangement,  
6 payments to a fiscal agent, and payments under Section 37.012 to a  
7 juvenile justice alternative education program.

8 (b) For purposes of school district financial  
9 accountability, the agency shall identify each district's direct  
10 and indirect instructional costs for the preceding fiscal year and  
11 make that information available to the public on the agency's  
12 Internet website.

13 PART D. INSTRUCTIONAL MATERIALS

14 SECTION 2D.01. Section 7.055(b)(28), Education Code, is  
15 amended to read as follows:

16 (28) The commissioner shall perform duties relating to  
17 the funding, adoption, and purchase of instructional materials  
18 [~~textbooks~~] under Chapter 31.

19 SECTION 2D.02. Section 7.056(f), Education Code, is amended  
20 to read as follows:

21 (f) A school district or campus that is required to develop  
22 and implement a student achievement improvement plan under Section  
23 39.131 or 39.132 may receive an exemption or waiver under this  
24 section from any law or rule other than:

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

27 (2) a requirement imposed by federal law or rule;

1 (3) a requirement, restriction, or prohibition  
2 imposed by state law or rule relating to:

3 (A) public school accountability as provided by  
4 Subchapters B, C, D, and G, Chapter 39; or

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

8 (4) [~~textbook~~] selection of instructional materials  
9 under Chapter 31.

10 SECTION 2D.03. Section 7.102(c)(23), Education Code, is  
11 amended to read as follows:

12 (23) The board shall adopt and purchase or license  
13 instructional materials [~~textbooks~~] as provided by Chapter 31 and  
14 adopt rules required by that chapter.

15 SECTION 2D.04. Sections 7.108(a) and (c), Education Code,  
16 are amended to read as follows:

17 (a) A person interested in selling bonds of any type, [~~or~~] a  
18 publisher, or any other person engaged in manufacturing, shipping,  
19 selling, or advertising instructional materials [~~textbooks~~] or  
20 otherwise connected with the instructional material [~~textbook~~]  
21 business commits an offense if the person makes or authorizes a  
22 political contribution to or takes part in, directly or indirectly,  
23 the campaign of any person seeking election to or serving on the  
24 board.

25 (c) In this section:

26 (1) "Instructional material" and "publisher" have the  
27 meanings assigned by Section 31.002.

1           (2) "Political contribution" has the meaning assigned  
2 by Section 251.001, Election Code.

3           ~~[(2) "Textbook" has the meaning assigned by Section~~  
4 ~~31.002.]~~

5           SECTION 2D.05. The heading to Section 7.112, Education  
6 Code, is amended to read as follows:

7           Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF  
8 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

9           SECTION 2D.06. Section 7.112(a), Education Code, is amended  
10 to read as follows:

11           (a) A former member of the State Board of Education who is  
12 employed by or otherwise receives compensation from a [~~textbook~~]  
13 publisher of instructional materials may not, before the second  
14 anniversary of the date on which the person last served as a member  
15 of the State Board of Education:

16           (1) confer with a member of the board of trustees of a  
17 school district concerning instructional materials [~~a textbook~~]  
18 published by that [~~textbook~~] publisher; or

19           (2) appear at a meeting of the board of trustees on  
20 behalf of the [~~textbook~~] publisher.

21           SECTION 2D.07. Section 7.112(c)(2), Education Code, is  
22 amended to read as follows:

23           (2) "Instructional material" and "publisher"  
24 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section  
25 31.002.

26           SECTION 2D.08. Section 11.158(b), Education Code, is  
27 amended to read as follows:

1 (b) The board may not charge fees for:

2 (1) instructional materials [~~textbooks~~], workbooks,  
3 laboratory supplies, or other supplies necessary for participation  
4 in any instructional course except as authorized under this code;

5 (2) field trips required as a part of a basic education  
6 program or course;

7 (3) any specific form of dress necessary for any  
8 required educational program or diplomas;

9 (4) the payment of instructional costs for necessary  
10 school personnel employed in any course or educational program  
11 required for graduation;

12 (5) library materials [~~books~~] required to be used for  
13 any educational course or program, other than fines for lost,  
14 damaged, or overdue materials [~~books~~];

15 (6) admission to any activity the student is required  
16 to attend as a prerequisite to graduation;

17 (7) admission to or examination in any required  
18 educational course or program; or

19 (8) lockers.

20 SECTION 2D.09. Section 11.164(a), Education Code, is  
21 amended to read as follows:

22 (a) The board of trustees of each school district shall  
23 limit redundant requests for information and the number and length  
24 of written reports that a classroom teacher is required to prepare.  
25 A classroom teacher may not be required to prepare any written  
26 information other than:

27 (1) any report concerning the health, safety, or

1 welfare of a student;

2 (2) a report of a student's grade on an assignment or  
3 examination;

4 (3) a report of a student's academic progress in a  
5 class or course;

6 (4) a report of a student's grades at the end of each  
7 grade reporting period;

8 (5) a [~~textbook~~] report on instructional materials;

9 (6) a unit or weekly lesson plan that outlines, in a  
10 brief and general manner, the information to be presented during  
11 each period at the secondary level or in each subject or topic at  
12 the elementary level;

13 (7) an attendance report;

14 (8) any report required for accreditation review;

15 (9) any information required by a school district that  
16 relates to a complaint, grievance, or actual or potential  
17 litigation and that requires the classroom teacher's involvement;  
18 or

19 (10) any information specifically required by law,  
20 rule, or regulation.

21 SECTION 2D.10. Section 19.007(e), Education Code, is  
22 amended to read as follows:

23 (e) The district may participate in the instructional  
24 materials [~~textbook~~] program under Chapter 31.

25 SECTION 2D.11. Sections 26.006(a) and (c), Education Code,  
26 are amended to read as follows:

27 (a) A parent is entitled to:



1 (1) review all teaching materials, instructional  
2 materials [~~textbooks~~], and other teaching aids used in the  
3 classroom of the parent's child; and

4 (2) review each test administered to the parent's  
5 child after the test is administered.

6 (c) A student's parent is entitled to request that the  
7 school district or open-enrollment charter school the student  
8 attends allow the student to take home any instructional materials  
9 [~~textbook~~] used by the student. Subject to the availability of the  
10 instructional materials [~~a textbook~~], the district or school shall  
11 honor the request. A student who takes home instructional  
12 materials [~~a textbook~~] must return the instructional materials  
13 [~~textbook~~] to school at the beginning of the next school day if  
14 requested to do so by the student's teacher. In this subsection,  
15 "instructional material" [~~"textbook"~~] has the meaning assigned by  
16 Section 31.002.

17 SECTION 2D.12. Sections 28.002(c) and (h), Education Code,  
18 are amended to read as follows:

19 (c) The State Board of Education, with the direct  
20 participation of educators, parents, business and industry  
21 representatives, and employers shall by rule identify the essential  
22 knowledge and skills of each subject of the required curriculum  
23 that all students should be able to demonstrate and that will be  
24 used in evaluating instructional materials [~~textbooks~~] under  
25 Chapter 31 and addressed on the assessment instruments required  
26 under Subchapter B, Chapter 39. As a condition of accreditation,  
27 the board shall require each district to provide instruction in the

1 essential knowledge and skills at appropriate grade levels.

2 (h) The State Board of Education and each school district  
3 shall foster the continuation of the tradition of teaching United  
4 States and Texas history and the free enterprise system in regular  
5 subject matter, ~~and~~ in social studies, economics, and reading  
6 courses, and in the adoption of instructional materials  
7 ~~[textbooks]~~. A primary purpose of the public school curriculum is  
8 to prepare thoughtful, active citizens who understand the  
9 importance of patriotism and can function productively in a free  
10 enterprise society with appreciation for the basic democratic  
11 values of our state and national heritage.

12 SECTION 2D.13. The heading to Chapter 31, Education Code,  
13 is amended to read as follows:

14 CHAPTER 31. INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~

15 SECTION 2D.14. Section 31.001, Education Code, is amended  
16 to read as follows:

17 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~.  
18 Instructional materials ~~[Textbooks]~~ selected for use in the public  
19 schools shall be furnished without cost to the students attending  
20 those schools.

21 SECTION 2D.15. Section 31.002, Education Code, is amended  
22 to read as follows:

23 Sec. 31.002. DEFINITIONS. In this chapter:

24 (1) "Instructional material" ~~["Electronic textbook"]~~  
25 means a medium or a combination of media for conveying information  
26 to a student. The term includes a book, supplementary materials, a  
27 combination of a book, workbook, supplementary materials, computer

1 software, [~~interactive videodisc,~~] magnetic media, DVD, CD-ROM,  
2 computer courseware, on-line services, or an electronic medium, or  
3 other means of conveying information to the student or otherwise  
4 contributing to the learning process through electronic means.

5 (2) "Publisher" means a person who prepares,  
6 manufactures, or distributes instructional materials for sale or  
7 distribution to public schools. The term includes an on-line  
8 service or a developer or distributor of [~~an~~] electronic  
9 instructional materials [~~textbook~~].

10 (3) "State-adopted" means adopted by the State Board  
11 of Education under Section 31.024 [~~"Textbook" means a book, a~~  
12 ~~system of instructional materials, or a combination of a book and~~  
13 ~~supplementary instructional materials that conveys information to~~  
14 ~~the student or otherwise contributes to the learning process, or an~~  
15 ~~electronic textbook~~].

16 (4) "Technological equipment" means hardware, a  
17 device, or equipment necessary for:

18 (A) instructional use in the classroom,  
19 including to gain access to or enhance the use of [~~an~~] electronic  
20 instructional materials [~~textbook~~]; or

21 (B) professional use by a classroom teacher.

22 SECTION 2D.16. Section 31.003, Education Code, is amended  
23 to read as follows:

24 Sec. 31.003. RULES. The State Board of Education may adopt  
25 rules, consistent with this chapter, for the adoption, requisition,  
26 distribution, care, use, and disposal of instructional materials  
27 [~~textbooks~~].

1 SECTION 2D.17. Subchapter B, Chapter 31, Education Code, is  
2 amended by amending Sections 31.021-31.024 and 31.026-31.030 and  
3 adding Sections 31.0211, 31.0212, 31.0221, 31.031, and 31.032 to  
4 read as follows:

5 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
6 FUND. (a) The state instructional materials [~~textbook~~] fund  
7 consists of:

8 (1) an amount set aside by the State Board of Education  
9 from the available school fund, computed in accordance with this  
10 section; and

11 [~~(2) [all funds accruing from the state's sale of~~  
12 ~~disused textbooks; and~~

13 [~~(3)]~~ all amounts lawfully paid into the fund from any  
14 other source.

15 (b) The State Board of Education shall annually set aside  
16 out of the available school fund of the state an amount sufficient  
17 for the instructional materials allotment to provide [~~board,~~  
18 school districts~~]~~ and open-enrollment charter schools with the  
19 funds required to purchase and distribute the necessary  
20 state-adopted instructional materials [~~textbooks~~] for the use of  
21 the students of this state for the following school year. The board  
22 shall determine the amount of the available school fund to set aside  
23 for the state instructional materials [~~textbook~~] fund based on the  
24 amount of the allotment under Section 31.0211 and on reports of  
25 maximum attendance and anticipated enrollment growth submitted  
26 under Section 31.103. [~~+~~

27 [~~(1) a report by the commissioner issued on July 1 or,~~

1 ~~if that date is a Saturday or Sunday, on the following Monday,~~  
2 ~~stating the amount of unobligated money in the fund;~~

3 ~~[(2) the commissioner's estimate, based on textbooks~~  
4 ~~selected under Section 31.101 and on attendance reports submitted~~  
5 ~~under Section 31.103 by school districts and open-enrollment~~  
6 ~~charter schools, of the amount of funds, in addition to funds~~  
7 ~~reported under Subdivision (1), that will be necessary for purchase~~  
8 ~~and distribution of textbooks for the following school year; and~~

9 ~~[(3) any amount the board determines should be set~~  
10 ~~aside for emergency purposes caused by unexpected increases in~~  
11 ~~attendance.]~~

12 (d) Money transferred to the state instructional materials  
13 ~~[textbook]~~ fund remains in the fund until spent and does not lapse  
14 to the state at the end of the fiscal year.

15 ~~[(c) All necessary expenses incurred under this chapter~~  
16 ~~shall be paid from the state textbook fund on invoices approved by~~  
17 ~~the commissioner.]~~

18 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) For  
19 the maximum attendance and anticipated enrollment growth reported  
20 under Section 31.103 in a school year, a school district is entitled  
21 to an annual allotment of \$70 for each student or a greater amount  
22 provided by appropriation, to be paid from the state instructional  
23 materials fund. The commissioner may determine for each district  
24 the amount of anticipated enrollment growth for which an allotment  
25 is provided under this subsection.

26 (b) Funds allotted under this section may be used only to  
27 purchase:

1           (1) state-adopted instructional materials; or  
2           (2) instructional materials authorized by  
3 commissioner waiver.

4           (c) This section applies beginning with the 2007-2008  
5 school year. This subsection expires September 1, 2008.

6           Sec. 31.0212. INSTRUCTIONAL MATERIALS ALLOTMENT FOR  
7 JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS. (a)  
8 Notwithstanding any other provision of this chapter, a juvenile  
9 justice alternative education program operating under Section  
10 37.011 is entitled to receive an instructional materials allotment  
11 under Section 31.0211 to be used in purchasing state-adopted  
12 instructional materials as if the program were a school district or  
13 open-enrollment charter school.

14           (b) The State Board of Education, in coordination with the  
15 Texas Juvenile Probation Commission, shall adopt rules as necessary  
16 to administer this section.

17           (c) Notwithstanding Section 31.0211(c), a juvenile justice  
18 alternative education program operating under Section 37.011 is  
19 entitled to the annual allotment described by Section 31.0211(a)  
20 beginning with the 2005-2006 school year. This subsection expires  
21 September 1, 2008.

22           Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND  
23 ADOPTION CYCLE. (a) The State Board of Education shall adopt a  
24 review and adoption cycle for instructional materials [~~textbooks~~]  
25 for elementary grade levels, including prekindergarten, and  
26 secondary grade levels, for each subject in the required curriculum  
27 under Section 28.002.

1 (b) The board shall organize the cycle for subjects in the  
2 foundation curriculum so that not more than one-sixth of the  
3 instructional materials [~~textbooks~~] for subjects in the foundation  
4 curriculum are reviewed each year. The board shall adopt rules to  
5 provide for a full and complete investigation of instructional  
6 materials [~~textbooks~~] for each subject in the foundation curriculum  
7 at least every six years. The adoption of instructional materials  
8 [~~textbooks~~] for a subject in the foundation curriculum may be  
9 extended beyond the six-year period only if the content of  
10 instructional materials [~~textbooks~~] for a subject is sufficiently  
11 current.

12 (c) The board shall adopt rules to provide for a full and  
13 complete investigation of instructional materials [~~textbooks~~] for  
14 each subject in the enrichment curriculum on a cycle the board  
15 considers appropriate, but not less than every eight years.

16 (d) At least 24 months before the beginning of the school  
17 year for which instructional materials [~~textbooks~~] for a particular  
18 subject and grade level will be purchased under the review and  
19 adoption cycle adopted by the board, the board shall publish notice  
20 of the review and adoption cycle for those instructional materials  
21 [~~textbooks~~].

22 (e) In organizing the cycle for review and adoption of  
23 instructional materials, the board shall:

24 (1) generally align the cycle with the schedule for  
25 any revision of the essential knowledge and skills under Section  
26 28.002 of the subjects and grade levels addressed by the  
27 instructional materials;

1           (2) seek advice from the Legislative Budget Board and  
2 the governor's office of budget, planning, and policy before  
3 approving and publishing any notice or amendment of the cycle;

4           (3) review and consider expected average costs of the  
5 instructional materials that will be adopted and the amount of the  
6 instructional materials allotment to ensure that the amount of the  
7 instructional materials that will be adopted over a two-year period  
8 may be purchased within the amount of the instructional material  
9 allotment for that same period; and

10           (4) follow any directive provided in the General  
11 Appropriations Act regarding the organization of the cycle.

12           (f) In addition to organizing a review and adoption cycle,  
13 the board by rule shall allow an instructional material to be  
14 submitted, reviewed, and adopted at a time when the subject or grade  
15 level is not scheduled in the cycle to be considered for at least  
16 two years, in conformance with the procedures for adoption of other  
17 state-adopted instructional materials. The board shall place each  
18 instructional material submitted under this subsection and adopted  
19 under Section 31.024 on an applicable list under Section 31.023.

20           Sec. 31.0221. CORRECTION OF FACTUAL ERRORS. (a) To promote  
21 efficiency in the correction of factual errors during the  
22 instructional materials review and adoption process, the State  
23 Board of Education shall:

24           (1) to the extent practicable, conduct the review of  
25 instructional materials using page proofs or other appropriate  
26 draft versions of the instructional materials; and

27           (2) require the publisher to provide instructional



1 materials, including page proofs, draft versions, or sample  
2 instructional materials, directly to state instructional materials  
3 review panel members in a timely manner before the members meet to  
4 conduct a complete and formal review of the materials.

5 (b) During the instructional materials review and adoption  
6 process, the publisher of instructional materials proposed for  
7 adoption in this state shall promptly correct any factual errors  
8 discovered in the instructional materials. For purposes of this  
9 section, a factual error includes an objectively verifiable  
10 mistake, including an incorrect reference to a date, place, or  
11 person, an incorrect computational process or result, or similar  
12 incorrect provisions. A factual error does not include a  
13 difference in professional opinion, conclusion, emphasis, or  
14 perspective expressed in instructional materials.

15 (c) If the State Board of Education determines that an  
16 instructional material proposed for adoption may contain a factual  
17 error, the State Board of Education may appoint a panel of experts  
18 and scholars to evaluate the material for any factual error.

19 (d) The board shall adopt rules authorizing the imposition  
20 of an administrative penalty in the manner provided by Section  
21 31.151 against a publisher who knowingly violates Subsection (b).  
22 In setting the amount of any penalty to be imposed under this  
23 subsection, the board shall consider the stage of the instructional  
24 materials review and adoption process at which the violation occurs  
25 and set progressively higher penalties for violations that occur  
26 later in the process.

27 Sec. 31.023. [~~TEXTBOOK~~] LISTS OF STATE-ADOPTED

1 INSTRUCTIONAL MATERIALS. (a) For each subject and grade level,  
2 the State Board of Education shall adopt two lists of instructional  
3 materials [~~textbooks~~]. The conforming list includes each  
4 state-adopted instructional material [~~textbook~~] submitted for the  
5 subject and grade level that meets applicable physical  
6 specifications adopted by the State Board of Education and contains  
7 material covering each element of the essential knowledge and  
8 skills of the subject and grade level as determined by the State  
9 Board of Education under Section 28.002 and adopted under Section  
10 31.024. The nonconforming list includes each state-adopted  
11 instructional material [~~textbook~~] submitted for the subject and  
12 grade level that:

13 (1) meets applicable physical specifications adopted  
14 by the State Board of Education;

15 (2) contains material covering at least half, but not  
16 all, of the elements of the essential knowledge and skills of the  
17 subject and grade level; and

18 (3) is adopted under Section 31.024.

19 (b) Each state-adopted instructional material [~~textbook~~] on  
20 a conforming or nonconforming list must be free from factual  
21 errors.

22 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By  
23 majority vote, the State Board of Education shall:

24 (1) place each submitted instructional material  
25 [~~textbook~~] on a conforming or nonconforming list; or

26 (2) reject an instructional material [~~a textbook~~]  
27 submitted for placement on a conforming or nonconforming list.

1 (b) Not later than December 1 of the year preceding the  
2 school year for which the state-adopted instructional materials  
3 ~~[textbooks]~~ for a particular subject and grade level will be  
4 purchased under the cycle adopted by the board under Section  
5 31.022, the board shall make available ~~[provide]~~ the lists of  
6 state-adopted instructional materials, including instructional  
7 materials under Section 31.022(f) ~~[adopted textbooks]~~ to each  
8 school district. Each nonconforming list must include:

9 (1) the reasons an adopted instructional material  
10 ~~[textbook]~~ is not eligible for the conforming list; and

11 (2) a list of the essential knowledge and skills  
12 contained in an adopted instructional material on the nonconforming  
13 list.

14 Sec. 31.026. CONTRACT; PRICE. (a) The commissioner, with  
15 the assistance of the Department of Information Resources, the  
16 State Board of Education, and the office of the attorney general,  
17 shall develop model contracts that may be used by school districts  
18 and open-enrollment charter schools ~~[State Board of Education shall~~  
19 ~~execute a contract:~~

20 ~~[(1)]~~ for the purchase or licensing of instructional  
21 materials under this chapter ~~[each adopted textbook other than an~~  
22 ~~electronic textbook, and~~

23 ~~[(2) for the purchase or licensing of each adopted~~  
24 ~~electronic textbook].~~

25 (b) A contract must require the publisher to provide all of  
26 the instructional materials ~~[the number of textbooks]~~ required by  
27 school districts in this state for the term of the contract ~~[, which~~

1 ~~must coincide with the board's adoption cycle].~~

2 (c) As applicable, a contract must provide for the purchase  
3 or licensing of instructional materials [~~a textbook~~] at a specific  
4 price, which may not exceed the lowest price paid by any other state  
5 or any school or school district. The price must be fixed for the  
6 term of the contract. The price may decrease if the lowest price  
7 paid by another state or another school or school district  
8 decreases during the term of the contract.

9 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; SAMPLE  
10 COPIES. (a) A publisher shall provide each school district and  
11 open-enrollment charter school with information that fully  
12 describes each of the publisher's state-adopted instructional  
13 materials [~~adopted textbooks~~]. On request of a school district, a  
14 publisher shall provide a sample copy of a state-adopted  
15 instructional material [~~an adopted textbook~~].

16 (b) A publisher shall provide at least two sample copies of  
17 each state-adopted instructional material [~~adopted textbook~~] to be  
18 maintained for at least two years at each regional education  
19 service center or an alternate location designated by the  
20 applicable service center.

21 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

22 (a) The State Board of Education may make available [~~purchase~~]  
23 special instructional materials [~~textbooks~~] for the education of  
24 blind and visually impaired students in public schools. In  
25 addition, from funds appropriated for the purpose, for a teacher  
26 who is blind or visually impaired, the board shall provide a  
27 teacher's edition in Braille or large type, as requested by the

1 teacher, for each printed state-adopted instructional material  
2 [~~textbook~~] the teacher uses in the instruction of students. The  
3 teacher edition must be available at the same time the student  
4 instructional materials [~~textbooks~~] become available.

5 (b) The publisher of a printed state-adopted instructional  
6 material [~~an adopted textbook~~] shall provide the agency with  
7 computerized [~~textbook~~] files for the production of Braille  
8 instructional materials [~~textbooks~~] or other versions of  
9 instructional materials [~~textbooks~~] to be used by students with  
10 disabilities, on request of the State Board of Education. A  
11 publisher shall arrange the computerized [~~textbook~~] files in one of  
12 several optional formats specified by the State Board of Education.

13 (c) The board may also enter into agreements providing for  
14 the acceptance, requisition, and distribution of special  
15 instructional materials [~~textbooks and instructional aids~~]  
16 pursuant to 20 U.S.C. Section 101 et seq. for use by students  
17 enrolled in:

- 18 (1) public schools; or  
19 (2) private nonprofit schools, if state funds, other  
20 than for administrative costs, are not involved.

21 (c-1) The board shall require electronic instructional  
22 materials included on the conforming list and nonconforming list  
23 under Section 31.023 to comply with the standards established under  
24 Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section 794d),  
25 if the materials are for use by students enrolled in:

- 26 (1) public schools; or  
27 (2) private nonprofit schools, if state funds, other

1 than for administrative costs, are not involved.

2 (d) In this section:

3 (1) "Blind or visually impaired student" includes any  
4 student whose visual acuity is impaired to the extent that the  
5 student is unable to read the text [~~print~~] in state-adopted  
6 instructional materials [~~a regularly adopted textbook~~] used in the  
7 student's class.

8 (2) "Special instructional materials" [~~textbook~~]  
9 means instructional materials [~~a textbook~~] in Braille, large type,  
10 audiotape, accessible web page, accessible DVD/CD-ROM, or any other  
11 medium or any apparatus that conveys information to a student or  
12 otherwise contributes to the learning process.

13 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS  
14 [~~TEXTBOOKS~~]. The board shall adopt instructional materials  
15 [~~purchase or otherwise acquire textbooks~~] for use in bilingual  
16 education classes.

17 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The  
18 State Board of Education shall adopt rules to ensure that used  
19 instructional materials [~~textbooks~~] sold to school districts and  
20 open-enrollment charter schools are not sample copies that contain  
21 factual errors. The rules may provide for the imposition of an  
22 administrative penalty in accordance with Section 31.151 against a  
23 seller of used instructional materials [~~textbooks~~] who knowingly  
24 violates this section.

25 Sec. 31.031. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL  
26 MATERIALS. The publisher of a state-adopted electronic  
27 instructional material may offer the material to school districts

1 and open-enrollment charter schools on a subscription basis.

2 Sec. 31.032. UPDATES. The publisher of a state-adopted  
3 instructional material may update the instructional material, and a  
4 school district or open-enrollment charter school may purchase the  
5 update. The State Board of Education by rule shall provide for an  
6 expedited review process to determine the extent to which updated  
7 instructional material aligns with the essential knowledge and  
8 skills and does not contain factual errors.

9 SECTION 2D.18. Section 31.101, Education Code, is amended  
10 to read as follows:

11 Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL  
12 MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS. (a) Each year, during  
13 any [~~a~~] period established by the State Board of Education, the  
14 board of trustees of each school district and the governing body of  
15 each open-enrollment charter school shall:

16 (1) [~~for a subject in the foundation curriculum,~~]  
17 notify the State Board of Education of the state-adopted  
18 instructional materials [~~textbooks~~] selected by the board of  
19 trustees or governing body for the following school year from among  
20 the instructional materials [~~textbooks~~] on the appropriate  
21 conforming or nonconforming list; and [~~or~~]

22 (2) provide an accounting of the expenditure of its  
23 instructional materials allotment during that period. [~~for a~~  
24 ~~subject in the enrichment curriculum.~~

25 [~~(A) notify the State Board of Education of each~~  
26 ~~textbook selected by the board of trustees or governing body for the~~  
27 ~~following school year from among the textbooks on the appropriate~~

1 ~~conforming or nonconforming list; or~~

2 ~~[(B) notify the State Board of Education that the~~  
3 ~~board of trustees or governing body has selected a textbook that is~~  
4 ~~not on the conforming or nonconforming list.]~~

5 (b) The board of trustees of each [If a] school district or  
6 the governing body of each open-enrollment charter school shall use  
7 the instructional materials allotment to purchase instructional  
8 materials selected by the board of trustees or the governing body  
9 [selects a textbook] for a [particular] subject in the required  
10 [enrichment] curriculum. ~~[and grade level that is not on the~~  
11 ~~conforming or nonconforming list, the state shall pay to the~~  
12 ~~district or school an amount equal to the lesser of:~~

13 ~~[(1) 70 percent of the cost to the district of the~~  
14 ~~textbook, multiplied by the number of textbooks the district or~~  
15 ~~school needs for that subject and grade level; or~~

16 ~~[(2) 70 percent of the limitation established under~~  
17 ~~Section 31.025 for a textbook for that subject and grade level,~~  
18 ~~multiplied by the number of textbooks the district or school needs~~  
19 ~~for that subject and grade level.]~~

20 (c) A school district or open-enrollment charter school may  
21 purchase an instructional material under Subsection (b) only if the  
22 instructional material is purchased not later than the beginning of  
23 the second school year that begins after the adoption of the  
24 conforming or nonconforming list that includes the instructional  
25 material. This subsection does not apply to:

26 (1) instructional materials under Section 31.022(f);

27 (2) the purchase of replacement instructional



1 materials due to loss or damage; or

2 (3) the purchase of additional instructional  
3 materials needed because of enrollment growth [~~that selects a~~  
4 ~~textbook that is not on the conforming or nonconforming list.~~

5 [~~(1) is responsible for the portion of the cost of the~~  
6 ~~textbook that is not paid by the state under Subsection (b); and~~

7 [~~(2) may use funds received from the state under~~  
8 ~~Subsection (b) only for purchasing the textbook for which the funds~~  
9 ~~were received].~~

10 [~~(d) For a textbook that is not on the conforming or~~  
11 ~~nonconforming list, a school district or open-enrollment charter~~  
12 ~~school must use the textbook for the period of the review and~~  
13 ~~adoption cycle the State Board of Education has established for the~~  
14 ~~subject and grade level for which the textbook is used.]~~

15 SECTION 2D.19. Section 31.102, Education Code, is amended  
16 to read as follows:

17 Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by  
18 this subsection, each instructional material [~~Each textbook~~  
19 purchased by the state as provided by this chapter is the property  
20 of this state. Beginning with the 2007-2008 school year, each  
21 instructional material purchased through the instructional  
22 materials allotment by a school district or open-enrollment charter  
23 school is the property of the district or charter school.

24 (b) Subsection (a) applies to an electronic instructional  
25 material [~~textbook~~] only to the extent of any applicable licensing  
26 agreement.

27 (c) The board of trustees of a school district or the

1 governing body of an open-enrollment charter school is the legal  
 2 custodian of instructional materials [~~textbooks~~] purchased as  
 3 provided by this chapter for or by the district or school. The  
 4 board of trustees or governing body shall distribute instructional  
 5 materials [~~textbooks~~] to students in the manner that the board or  
 6 governing body determines is most effective and economical.

7 (d) An open-enrollment charter school may not transfer  
 8 instructional materials unless the transfer is approved by the  
 9 commissioner. The commissioner may not approve such a transfer  
 10 unless the transfer is to another public school of this state.

11 SECTION 2D.20. Section 31.103, Education Code, is amended  
 12 to read as follows:

13 Sec. 31.103. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
 14 REQUISITIONS. (a) Not later than the seventh day after the first  
 15 school day in April, each principal shall report the maximum  
 16 attendance for the school to the superintendent. Not later than  
 17 April 25, the superintendent of a school district or the chief  
 18 operating officer of an open-enrollment charter school shall report  
 19 to the commissioner the district's or school's maximum attendance  
 20 and anticipated enrollment growth [~~to the commissioner~~].

21 (b) [~~A requisition for textbooks for the following school~~  
 22 ~~year shall be based on the maximum attendance reports under~~  
 23 ~~subsection (a), plus an additional 10 percent, except as otherwise~~  
 24 ~~provided.~~] A school district or open-enrollment charter school  
 25 shall make a requisition for instructional materials [~~a textbook~~]  
 26 on the conforming or nonconforming list [~~through the commissioner~~]  
 27 to the instructional materials [~~state~~] depository designated by the

1 publisher or as provided by State Board of Education rule, as  
2 applicable, not later than June 1 of each year. The designated  
3 instructional materials [~~state~~] depository or, if the publisher [~~or~~  
4 ~~manufacturer~~] does not have a designated instructional materials  
5 [~~textbook~~] depository in this state under Section 31.151(a)(6)(B),  
6 the publisher [~~or manufacturer~~] shall fill a requisition approved  
7 by the agency at any other time in the case of an emergency. [~~As~~  
8 ~~made necessary by available funds, the commissioner shall reduce~~  
9 ~~the additional percentage of attendance for which a district or~~  
10 ~~school may requisition textbooks. The commissioner may, on~~  
11 ~~application of a district or school that is experiencing high~~  
12 ~~enrollment growth, increase the additional percentage of~~  
13 ~~attendance for which the district or school may requisition~~  
14 ~~textbooks.]~~

15 (c) In making a requisition under this section, a school  
16 district or open-enrollment charter school may requisition  
17 instructional materials [~~textbooks~~] on the conforming or  
18 nonconforming list for grades above or below the grade level in  
19 which a student is enrolled[, ~~except that the total quantity of~~  
20 ~~textbooks requisitioned under this section may not exceed the limit~~  
21 ~~prescribed by Subsection (b)].~~

22 SECTION 2D.21. Sections 31.104-31.106, Education Code, are  
23 amended to read as follows:

24 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of  
25 trustees of a school district or the governing body of an  
26 open-enrollment charter school may delegate to an employee the  
27 authority to requisition, purchase, distribute, and manage the

1 inventory of instructional materials [~~textbooks~~] in a manner  
2 consistent with this chapter and rules adopted under this chapter.

3 (b) A school district or open-enrollment charter school may  
4 order replacements for instructional materials [~~textbooks~~] that  
5 have been lost or damaged directly from:

6 (1) the instructional materials [~~textbook~~]  
7 depository; or

8 (2) the [~~textbook~~] publisher of the instructional  
9 materials [~~or manufacturer~~] if the [~~textbook~~] publisher [~~or~~  
10 ~~manufacturer~~] does not have a designated instructional materials  
11 [~~textbook~~] depository in this state under Section 31.151(a)(6)(B).

12 (c) Each instructional material [~~textbook~~] must state that  
13 the instructional material [~~textbook~~] is the property of or is  
14 licensed to this state, school district, or charter school, as  
15 appropriate. Each instructional material [~~textbook~~], other than an  
16 electronic instructional material [~~textbook~~], must be covered by  
17 the student under the direction of the teacher. A student must  
18 return all instructional materials [~~textbooks~~] to the teacher at  
19 the end of the school year or when the student withdraws from  
20 school.

21 (d) Each student, or the student's parent or guardian, is  
22 responsible for each instructional material [~~textbook~~] not  
23 returned by the student. A student who fails to return all  
24 instructional materials [~~textbooks~~] forfeits the right to free  
25 instructional materials [~~textbooks~~] until each instructional  
26 material [~~textbook~~] previously issued but not returned is paid for  
27 by the student, parent, or guardian. As provided by policy of the

1 board of trustees or governing body, a school district or  
 2 open-enrollment charter school may waive or reduce the payment  
 3 requirement if the student is from a low-income family. The  
 4 district or school shall allow the student to use instructional  
 5 materials [~~textbooks~~] at school during each school day. If an  
 6 instructional material [~~a textbook~~] is not returned or paid for,  
 7 the district or school may withhold the student's records. A  
 8 district or school may not, under this subsection, prevent a  
 9 student from graduating, participating in a graduation ceremony, or  
 10 receiving a diploma.

11 (e) The board of trustees of a school district may not  
 12 require an employee of the district to pay for an instructional  
 13 material [~~a textbook~~] or instructional technology that is stolen,  
 14 misplaced, or not returned by a student.

15 Sec. 31.105. SALE OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
 16 The board of trustees of a school district or governing body of an  
 17 open-enrollment charter school may sell instructional materials  
 18 [~~textbooks~~], other than electronic instructional materials  
 19 [~~textbooks~~], to a student or another school [~~at the state contract~~  
 20 ~~price~~]. The district shall use [~~send~~] money received from the sale  
 21 of instructional materials in accordance with uses prescribed by  
 22 Section 31.0211. [~~textbooks to the commissioner as required by the~~  
 23 ~~commissioner. The commissioner shall deposit the money in the~~  
 24 ~~state textbook fund.~~]

25 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
 26 instructional materials [~~textbook~~] selected under this chapter, a  
 27 school district or open-enrollment charter school may use local

1 funds to purchase any instructional materials [~~textbooks~~].

2 SECTION 2D.22. The heading to Section 31.151, Education  
3 Code, is amended to read as follows:

4 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

5 SECTION 2D.23. Sections 31.151(a), (b), and (d), Education  
6 Code, are amended to read as follows:

7 (a) A publisher [~~or manufacturer~~] of instructional  
8 materials [~~textbooks~~]:

9 (1) shall furnish any instructional material  
10 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[7]  
11 at a price that does not exceed the lowest price at which the  
12 publisher offers that instructional material [~~textbook~~] for  
13 adoption or sale to any state, public school, or school district in  
14 the United States;

15 (2) shall automatically reduce the price of an  
16 instructional material [~~a textbook~~] sold for use in a school  
17 district or open-enrollment charter school to the extent that the  
18 price is reduced elsewhere in the United States;

19 (3) shall provide any instructional material  
20 [~~textbook~~] or ancillary item free of charge in this state to the  
21 same extent that the publisher [~~or manufacturer~~] provides the  
22 instructional material [~~textbook~~] or ancillary item free of charge  
23 to any state, public school, or school district in the United  
24 States;

25 (4) shall guarantee that each copy of an instructional  
26 material [~~a textbook~~] sold in this state is at least equal in  
27 quality to copies of that instructional material [~~textbook~~] sold

1 elsewhere in the United States and is free from factual error;

2 (5) may not become associated or connected with,  
3 directly or indirectly, any combination in restraint of trade in  
4 instructional materials [~~textbooks~~] or enter into any  
5 understanding or combination to control prices or restrict  
6 competition in the sale of instructional materials [~~textbooks~~] for  
7 use in this state;

8 (6) shall:

9 (A) maintain a depository in this state or  
10 arrange with a depository in this state to receive and fill orders  
11 for instructional materials [~~textbooks~~], other than electronic  
12 instructional materials or electronic instructional material  
13 [~~on-line textbooks or on-line textbook~~] components, consistent  
14 with State Board of Education rules; or

15 (B) deliver instructional materials [~~textbooks~~]  
16 to a school district or open-enrollment charter school without a  
17 delivery charge to the school district, open-enrollment charter  
18 school, or state, if:

19 (i) the publisher [~~or manufacturer~~] does  
20 not maintain or arrange with a depository in this state under  
21 Paragraph (A) and the publisher's instructional materials [~~or~~  
22 ~~manufacturer's textbooks~~] and related products are warehoused or  
23 otherwise stored less than 300 miles from a border of this state; or

24 (ii) the instructional materials  
25 [~~textbooks~~] are electronic instructional materials or electronic  
26 instructional material [~~on-line textbooks or on-line textbook~~]  
27 components;

1 (7) shall, at the time an order for instructional  
2 materials [~~textbooks~~] is acknowledged, provide to school districts  
3 or open-enrollment charter schools an accurate shipping date for  
4 instructional materials [~~textbooks~~] that are back-ordered;

5 (8) shall guarantee delivery of instructional  
6 materials [~~textbooks~~] at least 10 business days before the opening  
7 day of school of the year for which the instructional materials  
8 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]  
9 are ordered by a date specified in the sales contract; and

10 (9) shall submit to the State Board of Education an  
11 affidavit certifying any instructional material [~~textbook~~] the  
12 publisher [~~or manufacturer~~] offers in this state to be free of  
13 factual errors at the time the publisher executes the contract  
14 required by Section 31.026.

15 (b) The State Board of Education may impose a reasonable  
16 administrative penalty against a publisher [~~or manufacturer~~] who  
17 knowingly violates Subsection (a). The board shall provide for a  
18 hearing to be held to determine whether a penalty is to be imposed  
19 and, if so, the amount of the penalty. The board shall base the  
20 amount of the penalty on:

- 21 (1) the seriousness of the violation;
- 22 (2) any history of a previous violation;
- 23 (3) the amount necessary to deter a future violation;
- 24 (4) any effort to correct the violation; and
- 25 (5) any other matter justice requires.

26 (d) A penalty collected under this section shall be  
27 deposited to the credit of the state instructional materials



1 [~~textbook~~] fund.

2 SECTION 2D.24. The heading to Section 31.152, Education  
3 Code, is amended to read as follows:

4 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS  
5 [~~TEXTBOOKS~~].

6 SECTION 2D.25. Sections 31.152(a), (b), and (d), Education  
7 Code, are amended to read as follows:

8 (a) A school trustee, administrator, or teacher commits an  
9 offense if that person receives any commission or rebate on any  
10 instructional materials [~~textbooks~~] used in the schools with which  
11 the person is associated as a trustee, administrator, or teacher.

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 instructional  
17 materials [~~a textbook~~]; and

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

20 (d) In this section, "gift, favor, or service" does not  
21 include:

22 (1) staff development, in-service, or teacher  
23 training; or

24 (2) instructional materials[~~7~~] such as maps or  
25 worksheets[~~7, that convey information to the student or otherwise~~  
26 ~~contribute to the learning process~~].

27 SECTION 2D.26. The heading to Section 31.153, Education

1 Code, is amended to read as follows:

2 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
3 [~~TEXTBOOK~~] LAW.

4 SECTION 2D.27. Section 31.153(a), Education Code, is  
5 amended to read as follows:

6 (a) A person commits an offense if the person knowingly  
7 violates any law providing for the purchase or distribution of free  
8 instructional materials [~~textbooks~~] for the public schools.

9 SECTION 2D.28. Subchapter E, Chapter 31, Education Code, is  
10 amended to read as follows:

11 SUBCHAPTER E. DISPOSITION OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

12 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS  
13 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State  
14 Board of Education, may provide for the disposition of:

15 (1) instructional materials [~~textbooks~~], other than  
16 electronic instructional materials [~~textbooks~~], that are no longer  
17 in acceptable condition to be used for instructional purposes; or

18 (2) discontinued instructional materials [~~textbooks~~],  
19 other than electronic instructional materials [~~textbooks~~].

20 (b) The commissioner, as provided by rules adopted by the  
21 State Board of Education, shall make available on request copies of  
22 discontinued instructional materials [~~textbooks~~], other than  
23 electronic instructional materials [~~textbooks~~], for use in  
24 libraries maintained in municipal and county jails and facilities  
25 of the institutional division of the Texas Department of Criminal  
26 Justice and other state agencies.

27 (c) The State Board of Education shall adopt rules under

1 which a school district or open-enrollment charter school may  
2 donate discontinued instructional materials [~~textbooks~~], other  
3 than electronic instructional materials [~~textbooks~~], to a student,  
4 to an adult education program, or to a nonprofit organization.

5 SECTION 2D.29. The heading to Section 32.005, Education  
6 Code, is amended to read as follows:

7 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
8 ALLOTMENT.

9 SECTION 2D.30. Sections 32.005(a) and (b), Education Code,  
10 are amended to read as follows:

11 (a) For each student in average daily attendance in a school  
12 year, a [Each] school district or open-enrollment charter school is  
13 entitled to an allotment of \$30 [~~for each student in average daily~~  
14 ~~attendance~~] or a greater [different] amount for any year provided  
15 by appropriation, to be used as provided by Subsection (b).

16 (b) An allotment under this section may be used [~~only~~] to:

17 (1) provide for the purchase by school districts of  
18 systems or components of:

19 (A) wireless electronic mobile computing devices  
20 or other technology devices that convey instruction;

21 (B) productivity hardware or software, including  
22 writing, computation, presentation, and communication tools;

23 (C) electronic learning software aligned with  
24 the essential skills and knowledge adopted by the State Board of  
25 Education under Section 28.002;

26 (D) library and other research tools;

27 (E) electronic assessment tools;

1           (F) electronic learning tools to improve  
2 communications among students, teachers, school administrators,  
3 parents, and the community;

4           (G) classroom and school management systems; and

5           (H) portable electronic instructional material  
6 devices capable of supporting instructional material for each  
7 subject in the foundation and enrichment curriculum [~~electronic~~  
8 ~~textbooks or technological equipment that contributes to student~~  
9 ~~learning]; [and]~~

10           (2) provide professional development for educational  
11 personnel responsible for direct instruction to integrate the tools  
12 and solutions described by Subdivision (1); and

13           (3) acquire additional infrastructure and  
14 technologies necessary to support and enhance the tools and  
15 solutions described by Subdivision (1) [~~pay for training~~  
16 ~~educational personnel directly involved in student learning in the~~  
17 ~~appropriate use of electronic textbooks and for providing for~~  
18 ~~access to technological equipment for instructional use].~~

19           SECTION 2D.31. Section 32.156, Education Code, as added by  
20 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,  
21 is amended to read as follows:

22           Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

23           (a) The agency may develop and adopt strategies for making  
24 instructional materials [~~textbooks~~] available through the portal  
25 or through other means in an electronic format as an alternative or  
26 supplement to traditional instructional materials [~~textbooks~~].

27           (b) In developing and adopting strategies under this

1 section, the agency shall seek to achieve a system under which a  
2 student may, in addition to [~~a~~] traditional instructional materials  
3 [~~textbook~~], be provided with secure Internet access to each  
4 instructional material [~~textbook~~] used by the student.

5 SECTION 2D.32. Section 32.161(b), Education Code, is  
6 amended to read as follows:

7 (b) To the extent possible considering other statutory  
8 requirements, the commissioner and agency shall encourage the use  
9 of instructional materials [~~textbook~~] funds under Section 31.021  
10 and technology allotment funds under Section 32.005 [~~31.021(b)(2)~~]  
11 in a manner that facilitates the development and use of the portal.

12 SECTION 2D.33. Section 31.0221, Education Code, as added by  
13 this part, applies only to instructional materials submitted for  
14 review by the State Board of Education on or after the effective  
15 date of this Act. Instructional materials submitted for review  
16 before the effective date of this Act are governed by the law in  
17 effect when the instructional materials were submitted for review,  
18 and the former law is continued in effect for that purpose.

19 SECTION 2D.34. (a) This section applies to an  
20 instructional material, as that term is defined by Section 31.002,  
21 Education Code, as amended by this part, including an electronic  
22 instructional material, adopted by the State Board of Education  
23 before January 1, 2005.

24 (b) A contract for the purchase or licensing of an  
25 instructional material described by Subsection (a) of this section  
26 continues in effect as a state contract for the contract term, and  
27 the former law is continued in effect for that purpose.

PART E. DUAL LANGUAGE EDUCATION

SECTION 2E.01. Subchapter B, Chapter 21, Education Code, is amended by adding Sections 21.0485 and 21.0486 to read as follows:

Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in a dual language education program, the board shall establish a dual language education teaching certificate.

(b) The board shall propose rules establishing the training requirements, including the minimum academic qualifications, a person must accomplish to obtain a certificate under this section.

(c) The board shall propose rules establishing the requirements for a teacher who receives training in a foreign country to obtain a certificate under this section.

Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student performance in English and other languages, the board shall establish:

(1) a master language teacher certificate to teach bilingual education, dual language instruction, or English as a second language at elementary school grade levels;

(2) a master language teacher certificate to teach bilingual education, dual language instruction, or English as a second language at middle school grade levels; and

(3) a master language teacher certificate to teach dual language instruction at high school grade levels.

1           (b) The board shall issue the appropriate master language  
2 teacher certificate to each eligible person.

3           (c) To be eligible for a master language teacher  
4 certificate, a person must:

5                   (1) hold a teaching certificate issued under this  
6 subchapter;

7                   (2) have at least three years of experience teaching  
8 bilingual education, dual language instruction, or English as a  
9 second language;

10                   (3) satisfactorily complete a knowledge-based course  
11 of instruction on second language acquisition and the science of  
12 teaching children language that includes training in language  
13 instruction and professional peer mentoring techniques that,  
14 through scientific testing, have been proven effective;

15                   (4) perform satisfactorily on the appropriate master  
16 language certification examination prescribed by the board; and

17                   (5) satisfy any other requirements prescribed by the  
18 board.

19           SECTION 2E.02. Section 21.050(b), Education Code, is  
20 amended to read as follows:

21           (b) The board may not require more than 18 semester credit  
22 hours of education courses at the baccalaureate level for the  
23 granting of a teaching certificate. The board shall provide for a  
24 minimum number of semester credit hours of internship to be  
25 included in the hours needed for certification. The board may  
26 propose rules requiring additional credit hours for certification  
27 in bilingual education, dual language instruction, English as a

1 second language, early childhood education, or special education.

2 SECTION 2E.03. Section 21.054, Education Code, is amended  
3 by adding Subsection (c) to read as follows:

4 (c) Rules proposed under Subsection (a) must permit an  
5 educator to fulfill continuing education requirements by acquiring  
6 conversational skills in one or more languages other than English  
7 and academic language development in the subject area for which the  
8 educator provides instruction. The rules must permit educators to  
9 obtain language instruction through a variety of methods, including  
10 attendance at workshops offered by qualified entities and  
11 enrollment on a noncredit basis in courses offered by public or  
12 private colleges and universities.

13 SECTION 2E.04. Subchapter B, Chapter 21, Education Code, is  
14 amended by adding Section 21.060 to read as follows:

15 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.  
16 On issuing an educator certificate to an educational aide or  
17 renewing such a certificate, the board shall notify the person to  
18 whom the certificate is issued of the existence of the educational  
19 aide exemption under Section 54.214.

20 SECTION 2E.05. Section 28.0051, Education Code, is amended  
21 by adding Subsection (d) to read as follows:

22 (d) The State Board for Educator Certification shall  
23 provide for the issuance of teaching certificates appropriate for  
24 dual language instruction to teachers who:

25 (1) possess a speaking, reading, and writing language  
26 ability in a language other than English in which a dual language  
27 immersion program is offered; and



1           (2) meet the general requirements of Subchapter B,  
2 Chapter 21.

3           SECTION 2E.06. Subchapter A, Chapter 28, Education Code, is  
4 amended by adding Section 28.0052 to read as follows:

5           Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)  
6 The commissioner shall establish a pilot project in school  
7 districts selected by the commissioner under which the agency  
8 examines dual language education programs and the effect of those  
9 programs on a student's ability to graduate from high school.

10           (b) In selecting school districts under Subsection (a), the  
11 commissioner shall:

12                   (1) select districts that:

13                           (A) will commit to at least a three-year dual  
14 language education program; and

15                           (B) demonstrate a substantially equal enrollment  
16 of students with limited English proficiency and students whose  
17 primary language is English or, if a district does not have a  
18 sufficient number of limited English proficiency students to meet  
19 the equal enrollment standard, include the enrollment of students  
20 with limited English proficiency, students whose primary language  
21 is English, and bilingual students; and

22                   (2) give preference to a district that:

23                           (A) demonstrates the potential for expanding the  
24 program through middle school; and

25                           (B) will implement the program at the  
26 kindergarten level.

27           (c) The commissioner by rule shall require a district to

1 limit activities of the dual language education program during the  
2 first year of the program to planning activities, including:

3 (1) hiring and training teachers and ensuring teacher  
4 certification;

5 (2) establishing parental and community support for  
6 the program; and

7 (3) acquiring adequate learning materials in both  
8 program languages.

9 (d) From amounts appropriated for the purpose, the  
10 commissioner shall award grants to school districts that  
11 participate in the program. A grant under this section must be in  
12 an amount sufficient to pay the costs to the district of  
13 participating in the program, as determined by the commissioner. A  
14 determination of the commissioner under this subsection is final  
15 and may not be appealed.

16 (e) A school district that applies for the expansion of an  
17 existing dual language education program is eligible for a grant  
18 under Subsection (d).

19 (f) A school district may use a grant awarded under  
20 Subsection (d) for:

21 (1) classroom materials;

22 (2) tuition and textbook expenses for students seeking  
23 teacher certification under Section 21.0485; and

24 (3) other necessary costs of operating the program, as  
25 approved by the commissioner.

26 (g) The agency shall report to the legislature describing  
27 the agency's activities under the pilot project, the effect of the

1 project on grade-level completion, and the recommendations arising  
2 from the project. The agency shall submit an interim report under  
3 this subsection not later than January 1, 2009, and a final report  
4 not later than January 1, 2011.

5 (h) This section expires August 1, 2011.

6 SECTION 2E.07. Not later than January 1, 2006, the State  
7 Board for Educator Certification shall propose rules:

8 (1) establishing requirements and prescribing an  
9 examination for master language teacher certification as required  
10 by Section 21.0486, Education Code, as added by this Act;

11 (2) establishing requirements and prescribing an  
12 examination for dual language instruction teacher certification as  
13 required by Section 21.050(b), Education Code, as amended by this  
14 Act, and Section 28.0051(d), Education Code, as added by this Act;  
15 and

16 (3) permitting an educator to fulfill continuing  
17 education requirements by acquiring conversational skill in a  
18 language other than English as required by Section 21.054(c),  
19 Education Code, as added by this Act.

20 PART F. STATE AND REGIONAL GOVERNANCE

21 SECTION 2F.01. Section 7.004, Education Code, is amended to  
22 read as follows:

23 Sec. 7.004. SUNSET PROVISION. (a) The Texas Education  
24 Agency is subject to Chapter 325, Government Code (Texas Sunset  
25 Act). Unless continued in existence as provided by that chapter,  
26 the agency is abolished September 1, 2017 [~~2005~~].

27 (b) A review conducted under Chapter 325, Government Code

1 (Texas Sunset Act), in accordance with this section must include a  
2 review of the regional education service centers under Chapter 8.

3 SECTION 2F.02. Subchapter A, Chapter 7, Education Code, is  
4 amended by adding Section 7.010 to read as follows:

5 Sec. 7.010. BEST PRACTICES. (a) Using existing funds and  
6 other resources available for the purpose, the agency and the  
7 regional education service centers shall solicit and collect from  
8 exemplary or recognized school districts and open-enrollment  
9 charter schools, as rated under Section 39.072, best practices  
10 information and shall disseminate that information. The agency and  
11 the regional education service centers shall enter into a  
12 memorandum of understanding that establishes the respective duties  
13 of the agency and the regional education service centers in  
14 soliciting, collecting, and disseminating the best practices  
15 information.

16 (b) The best practices information may include:

17 (1) information concerning available programs,  
18 products, and policies that have been successfully adopted or  
19 developed and used by school districts or open-enrollment charter  
20 schools;

21 (2) specific examples of successful best practices;  
22 and

23 (3) resources available to assist school districts and  
24 open-enrollment charter schools in complying with applicable state  
25 or federal education laws.

26 (c) The best practices information must include information  
27 collected by the agency or a regional education service center

1 concerning the effective use of online courses, including:

2 (1) methods for using online courses to provide  
3 curriculum solutions;

4 (2) information to assist school districts and  
5 open-enrollment charter schools in investigating the quality of  
6 online courses; and

7 (3) a list of funding sources available for various  
8 types of online courses.

9 (d) The agency and the regional education service centers  
10 are not required to evaluate and may not endorse the best practices  
11 information collected under this section.

12 (e) The agency and the regional education service centers  
13 shall develop incentives for school districts and open-enrollment  
14 charter schools to implement best practices.

15 SECTION 2F.03. Subchapter B, Chapter 7, Education Code, is  
16 amended by adding Section 7.0211 to read as follows:

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

21 SECTION 2F.04. Section 7.027, Education Code, as added by  
22 Chapter 201, Acts of the 78th Legislature, Regular Session, 2003,  
23 is redesignated as Section 7.028, Education Code, and amended to  
24 read as follows:

25 Sec. 7.028 [~~7.027~~]. LIMITATION ON COMPLIANCE MONITORING.

26 (a) Except as provided by Section 29.001(5), 29.010(a), [~~39.074~~],  
27 or 39.075, the agency may monitor compliance with requirements

1 applicable to a process or program provided by a school district,  
2 campus, program, or school granted charters under Chapter 12,  
3 including the process described by Subchapter F, Chapter 11, or a  
4 program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,  
5 Subchapter A, Chapter 37, or Section 38.003, and the use of funds  
6 provided for such a program under Subchapter C, Chapter 42, only as  
7 necessary to ensure:

8 (1) compliance with federal law and regulations;

9 (2) financial accountability, including compliance  
10 with grant requirements; and

11 (3) data integrity for purposes of:

12 (A) the Public Education Information Management  
13 System (PEIMS); and

14 (B) accountability under Chapter 39.

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

19 SECTION 2F.05. Subchapter B, Chapter 7, Education Code, is  
20 amended by adding Section 7.033 to read as follows:

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

1 charter school, including information relating to:

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

9 SECTION 2F.06. Sections 7.057(a) and (d), Education Code,  
10 are amended to read as follows:

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

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

- 17 (A) the school laws of this state; or
- 18 (B) a provision of a written employment contract  
19 between the school district and a school district employee, if a  
20 violation causes or would cause monetary harm to the employee.

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

1 provided by Section 33.081(g).

2 SECTION 2F.07. Subchapter C, Chapter 7, Education Code, is  
3 amended by adding Section 7.0571 to read as follows:

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

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

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

15 SECTION 2F.08. Chapter 7, Education Code, is amended by  
16 adding Subchapter E to read as follows:

17 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

22 (b) The grant system must:

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

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

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



1 ensure that:

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

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

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

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

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

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

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

25 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The  
26 agency, in coordination with regional education service centers,  
27 shall use data relating to grant programs, including grant spending

1 and performance information, to identify successful grant  
2 programs. Based on the identification of successful grant  
3 programs, each regional education service center shall provide  
4 information concerning those programs to the school districts in  
5 the service center's region.

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

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

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

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

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

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

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

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

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

27 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL

1 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the  
2 agency shall provide the legislature with a status report  
3 concerning the agency's development of the grant system. The  
4 report may suggest any statutory changes needed to facilitate a  
5 full transition to a performance-based grant system.

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

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

10 SECTION 2F.09. Subchapter A, Chapter 8, Education Code, is  
11 amended by adding Section 8.0031 to read as follows:

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

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

16 (1) an overview of this code and any rules adopted  
17 under this code;

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

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

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

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

26 SECTION 2F.10. Sections 8.051(b), (c), and (d), Education  
27 Code, are amended to read as follows:

1 (b) Each regional education service center shall annually  
2 develop and submit to the commissioner for approval a plan for  
3 improvement. Each plan must include the purposes and description  
4 of the services the center will provide to:

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

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

9 (3) other campuses.

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

13 (1) best practices information as provided by Section  
14 7.010; and

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

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

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

22 (2) training and assistance in providing each program  
23 that qualifies for a funding allotment under Section 42.151,  
24 42.152, 42.153, or 42.156;

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

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

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

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

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

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

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

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

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

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

24 (3) a description of any notice requirements;

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

27 (5) an explanation of a resolution session;

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

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

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

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

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

17           SECTION 2F.12. Section 61.076, Education Code, is amended  
18 by adding Subsections (c) and (d) to read as follows:

19           (c) On or before January 1, 2007, the P-16 council shall:

20           (1) review existing school district programs that  
21 provide high school students with the opportunity to enroll in  
22 advanced academic courses offered through dual credit and  
23 concurrent enrollment programs, including reviewing courses  
24 currently approved by districts and offered by institutions of  
25 higher education for dual and concurrent enrollment credit;

26           (2) review the high school curriculum required for the  
27 recommended high school program under Section 28.025 and study the

1 feasibility of offering a revised curriculum that would provide  
2 graduating high school students with at least 12 hours of advanced  
3 academic courses or college level coursework offered through dual  
4 credit and concurrent enrollment programs provided under  
5 agreements between high schools and institutions of higher  
6 education; and

7 (3) prepare and deliver a report based on the review  
8 and study to the governor, the lieutenant governor, the speaker of  
9 the house of representatives, and the presiding officer of the  
10 standing committee of each house of the legislature with primary  
11 jurisdiction over public education.

12 (d) Subsection (c) and this subsection expire January 2,  
13 2007.

14 PART G. SCHOOL DISCIPLINE

15 SECTION 2G.01. Chapter 26, Education Code, is amended by  
16 adding Section 26.0083 to read as follows:

17 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY  
18 ACTION. (a) A parent is entitled to notice from a school district  
19 or open-enrollment charter school as provided by this section if  
20 the parent's child is removed from class under Section 37.006 for  
21 placement in a disciplinary alternative education program or under  
22 Section 37.007 for expulsion or placement in a juvenile justice  
23 alternative education program. A school district or  
24 open-enrollment charter school shall make a good faith effort to  
25 provide the notice required by this subsection on the same day the  
26 parent's child is removed from class. If the district or school  
27 fails to provide the notice on that day, the district or school

1 shall provide or mail the notice not later than 5 p.m. on the first  
2 business day after the day the student is removed from class.

3 (b) A noncustodial parent who has requested notice of  
4 disciplinary actions as provided by Section 37.0091 is entitled to  
5 notice under Subsection (a).

6 SECTION 2G.02. Section 37.008, Education Code, is amended  
7 by amending Subsections (m) and (m-1) and adding Subsection (n) to  
8 read as follows:

9 (m) Notwithstanding Section 7.028, the [The] commissioner  
10 shall adopt rules necessary to evaluate through an annual  
11 monitoring process [annually] the performance of each district's  
12 disciplinary alternative education program established under this  
13 subchapter. The monitoring process [evaluation] required by this  
14 section may be electronic and shall be based on indicators defined  
15 by the commissioner, but must include student performance on  
16 assessment instruments required under Section [Sections] 39.023(a)  
17 and at least one indicator that measures student academic progress  
18 [and (c)]. Academically, the mission of disciplinary alternative  
19 education programs shall be to enable students to perform at grade  
20 level.

21 (m-1) The agency shall integrate the monitoring process  
22 developed under Subsection (m) with the monitoring the agency is  
23 authorized to conduct under Section 7.028(a). The commissioner may  
24 require [shall develop a process for evaluating] a school district  
25 to contract at the district's expense in the manner provided by  
26 Section 39.134 with a public or private service provider for  
27 services determined by the commissioner to be necessary to:



1           (1) improve student performance;

2           (2) improve disciplinary alternative education  
3 program effectiveness; and

4           (3) [electronically. The commissioner shall also  
5 develop a system and standards for review of the evaluation or use  
6 systems already available at the agency. The system must be  
7 designed to identify districts that are at high risk of having  
8 inaccurate disciplinary alternative education program data or of  
9 failing to] comply with disciplinary alternative education program  
10 state and federal requirements.

11           (n) [The commissioner shall notify the board of trustees of  
12 a district of any objection the commissioner has to the district's  
13 disciplinary alternative education program data or of a violation  
14 of a law or rule revealed by the data, including any violation of  
15 disciplinary alternative education program requirements, or of any  
16 recommendation by the commissioner concerning the data. If the  
17 data reflect that a penal law has been violated, the commissioner  
18 shall notify the county attorney, district attorney, or criminal  
19 district attorney, as appropriate, and the attorney general.] The  
20 commissioner is entitled to access to all district records the  
21 commissioner considers necessary or appropriate for the review,  
22 analysis, or approval of disciplinary alternative education  
23 program data.

24           SECTION 2G.03. Sections 37.020(b) and (c), Education Code,  
25 are amended to read as follows:

26           (b) For each placement in a disciplinary alternative  
27 education program established under Section 37.008, the district

1 shall report:

2 (1) information identifying the student, including  
3 the student's race, sex, and date of birth, that will enable the  
4 agency to compare placement data with information collected through  
5 other reports;

6 (2) information indicating whether the student was  
7 enrolled in a special education program under Subchapter A, Chapter  
8 29, at the time of the placement;

9 (3) information indicating whether the placement was  
10 based on:

11 (A) conduct violating the student code of conduct  
12 adopted under Section 37.001;

13 (B) conduct for which a student may be removed  
14 from class under Section 37.002(b);

15 (C) conduct for which placement in a disciplinary  
16 alternative education program is required by Section 37.006; or

17 (D) conduct occurring while a student was  
18 enrolled in another district and for which placement in a  
19 disciplinary alternative education program is permitted by Section  
20 37.008(j);

21 (4) [~~3~~] the number of full or partial days the  
22 student was assigned to the program and the number of full or  
23 partial days the student attended the program; and

24 (5) [~~4~~] the number of placements that were  
25 inconsistent with the guidelines included in the student code of  
26 conduct under Section 37.001(a)(5).

27 (c) For each expulsion under Section 37.007, the district

1 shall report:

2 (1) information identifying the student, including  
3 the student's race, sex, and date of birth, that will enable the  
4 agency to compare placement data with information collected through  
5 other reports;

6 (2) information indicating whether the student was  
7 enrolled in a special education program under Subchapter A, Chapter  
8 29, at the time of the expulsion;

9 (3) information indicating whether the expulsion was  
10 based on:

11 (A) conduct for which expulsion is required under  
12 Section 37.007, including information specifically indicating  
13 whether a student was expelled on the basis of Section 37.007(e); or

14 (B) conduct for which expulsion is permitted  
15 under Section 37.007;

16 (4) [~~3~~] the number of full or partial days the  
17 student was expelled;

18 (5) [~~4~~] information indicating whether:

19 (A) the student was placed in a juvenile justice  
20 alternative education program under Section 37.011;

21 (B) the student was placed in a disciplinary  
22 alternative education program; or

23 (C) the student was not placed in a juvenile  
24 justice or other disciplinary alternative education program; and

25 (6) [~~5~~] the number of expulsions that were  
26 inconsistent with the guidelines included in the student code of  
27 conduct under Section 37.001(a)(5).

PART H. CRIMINAL HISTORY RECORDS INFORMATION

SECTION 2H.01. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0401 to read as follows:

Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The board shall obtain a complete set of fingerprints from:

(1) each applicant for a certificate issued under this subchapter;

(2) each applicant for or holder of a teaching permit issued under this subchapter; and

(3) each person described by Section 11A.153 or Section 21.0032 for whom the board has received information from a public charter district.

SECTION 2H.02. Section 21.041(c), Education Code, is amended to read as follows:

(c) The board shall propose rules [~~a rule~~] adopting fees [~~a fee~~] for:

(1) the issuance and maintenance of each [an] educator certificate that is adequate to cover the cost of administration of this subchapter, including any amount necessary to cover the cost of obtaining fingerprints under Section 21.0401 or conducting a national criminal background review and investigation under Sections 21.0032 and 22.082; and

(2) the cost of obtaining fingerprints from or conducting a national criminal background review of a holder of a teaching permit issued under this subchapter.

SECTION 2H.03. Section 22.082, Education Code, is amended to read as follows:

1           Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
2 BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for Educator  
3 Certification shall obtain from any law enforcement or criminal  
4 justice agency all state and national criminal history record  
5 information that relates to:

6           (1) an applicant for or holder of a certificate or  
7 permit issued under Subchapter B, Chapter 21; or

8           (2) a person described by Section 11A.153 or 21.0032.

9           (b) The board shall require each applicant, holder, and  
10 person described by Subsection (a)(2) to pay any costs to the board  
11 related to obtaining criminal history record information related to  
12 the person under this section.

13           SECTION 2H.04. Section 411.090, Government Code, is amended  
14 to read as follows:

15           Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION  
16 AND FINGERPRINTS: STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The  
17 State Board for Educator Certification is entitled to obtain from  
18 the department any criminal history record information maintained  
19 by the department about:

20           (1) a person who has applied or expressed to the board  
21 an intention to apply [~~to the board~~] for a certificate or permit  
22 under Subchapter B, Chapter 21, Education Code; or

23           (2) a person described by Section 11A.153 or 21.0032,  
24 Education Code.

25           (b) Criminal history record information obtained by the  
26 board under Subsection (a):

27           (1) may be used for any purpose related to the

1 issuance, denial, suspension, or cancellation of a certificate or  
2 permit under Subchapter B, Chapter 21, Education Code, or for any  
3 purpose authorized by Section 11A.153 or 21.0032, Education Code  
4 [issued by the board]; and

5 (2) may not be released to any person except on court  
6 order or with the consent of the subject of the criminal history  
7 record information [applicant for a certificate, and

8 ~~[(3) shall be destroyed by the board after the~~  
9 ~~information is used for the authorized purposes].~~

10 (c) The board may keep on file with the department all  
11 fingerprints obtained by the board under Section 21.0401, Education  
12 Code. The department shall notify the board of the arrest of any  
13 person who has fingerprints on file with the department pursuant to  
14 that section.

15 (d) On receipt of notice from the department of an arrest of  
16 a person described by Section 11A.153 or 21.0032, Education Code,  
17 the board shall notify the public charter district affected.

18 PART I. HEALTH COVERAGE OR COMPENSATION SUPPLEMENTATION

19 SECTION 2I.01. Chapter 1580, Insurance Code, is reenacted  
20 and amended to read as follows:

21 CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE

22 OR COMPENSATION SUPPLEMENTATION

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 1580.001. DEFINITIONS. In this chapter:

25 (1) "Cafeteria plan" means a plan as defined and  
26 authorized by Section 125, Internal Revenue Code of 1986, and its  
27 subsequent amendments.

1 (2) "Employee" means a participating member of the  
2 Teacher Retirement System of Texas who:

3 (A) is employed by a school district, other  
4 educational district whose employees are members of the Teacher  
5 Retirement System of Texas, participating charter school, or  
6 regional education service center; and

7 (B) is not a retiree covered under the program  
8 established under Chapter 1575.

9 (3) "Participating charter school" means an  
10 open-enrollment charter school established under Subchapter D,  
11 Chapter 12, Education Code, that participates in the program  
12 established under Chapter 1579.

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

16 (5) "Trustee" means the Teacher Retirement System of  
17 Texas.

18 Sec. 1580.002. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

19 (a) The trustee may adopt rules to implement this chapter.

20 (b) The trustee may enter into interagency contracts with  
21 any agency of this state for the purpose of assistance in  
22 implementing this chapter.

23 SUBCHAPTER B. DESIGNATION OF COMPENSATION AS HEALTH CARE

24 SUPPLEMENTATION [~~DISTRIBUTION OF STATE FUNDS BY TRUSTEE~~]

25 Sec. 1580.051. DESIGNATION OF COMPENSATION AS HEALTH CARE  
26 SUPPLEMENTATION. (a) As provided by Section 21.402 or 22.007,  
27 Education Code, and subject to Section 1580.102, an employee of a

1 ~~[DISTRIBUTION BY TRUSTEE. Each year, the trustee shall deliver to~~  
 2 ~~each] school district, [including a school district that is~~  
 3 ~~ineligible for state aid under Chapter 42, Education Code, each]~~  
 4 other educational district that is a member of the Teacher  
 5 Retirement System of Texas, ~~[each]~~ participating charter school, or  
 6 ~~[and each]~~ regional education service center may elect to designate  
 7 a portion of the employee's compensation to be used as health care  
 8 supplementation under this chapter. The amount designated under  
 9 this section may not exceed the amount permitted under applicable  
 10 federal law.

11 (b) Notwithstanding Subsection (a), an administrator, as  
 12 defined by the trustee, employed by a school district, another  
 13 educational district, a participating charter school, or a regional  
 14 education service center is not eligible to elect to designate a  
 15 portion of the person's compensation to be used as health care  
 16 supplementation under this chapter ~~[state funds in an amount, as~~  
 17 ~~determined by the trustee, equal to the product of the number of~~  
 18 ~~active employees employed by the district, school, or service~~  
 19 ~~center multiplied by \$1,000 or a greater amount as provided by the~~  
 20 ~~General Appropriations Act for purposes of this chapter].~~

21 ~~[Sec. 1580.052. EQUAL INSTALLMENTS. The trustee shall~~  
 22 ~~distribute funds under this chapter in equal monthly installments.]~~

23 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by  
 24 a school district, other educational district, participating  
 25 charter school, or regional education service center under this  
 26 chapter are held in trust for the benefit of the active employees on  
 27 whose behalf the district, school, or service center received the



1 funds.

2 ~~[Sec. 1580.054. RECOVERY OF DISTRIBUTIONS. The trustee is~~  
3 ~~entitled to recover from a school district, other educational~~  
4 ~~district, participating charter school, or regional education~~  
5 ~~service center any amount distributed under this chapter to which~~  
6 ~~the district, school, or service center was not entitled.]~~

7 ~~[Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A~~  
8 ~~determination by the trustee under this subchapter is final and may~~  
9 ~~not be appealed.]~~

10 SUBCHAPTER C. EMPLOYEE ELECTION

11 Sec. 1580.101. WRITTEN ELECTION REQUIRED. (a) Each school  
12 year, an active employee must elect in writing whether to designate  
13 a portion of the employee's compensation to be used as health care  
14 supplementation under this chapter.

15 (b) This section does not apply to an employee to whom  
16 Section 1580.102 applies.

17 Sec. 1580.1011. EMPLOYEE COVERED BY CAFETERIA PLAN. (a) To  
18 elect to designate a portion of the employee's compensation to be  
19 used as health care supplementation under this chapter, [If] an  
20 active employee must be [is] covered by a cafeteria plan of a school  
21 district, other educational district, participating charter  
22 school, or regional education service center. The employee must  
23 ~~the state contribution under this chapter shall be deposited in the~~  
24 ~~cafeteria plan, and the employee may]~~ elect among the options  
25 provided by the cafeteria plan.

26 (b) A cafeteria plan receiving funds designated as health  
27 care supplementation ~~[state contributions]~~ under this chapter may

1 include a medical savings account option and must include, at a  
2 minimum, the following options:

3 (1) a health care reimbursement account;

4 (2) a benefit or coverage other than that provided  
5 under Chapter 1579, or any employee coverage or dependent coverage  
6 available under Chapter 1579 but not otherwise fully funded by the  
7 state or the employer contributions, any of which must be a  
8 "qualified benefit" under Section 125, Internal Revenue Code of  
9 1986, and its subsequent amendments; or

10 (3) [~~an option for the employee to receive the state~~  
11 ~~contribution as supplemental compensation; or~~

12 [~~(4)~~] an option to divide the funds between [~~state~~  
13 ~~contribution among two or more of~~] the other options provided under  
14 this subsection.

15 Sec. 1580.102. EMPLOYEE NOT COVERED BY CAFETERIA PLAN. If  
16 an active employee is not covered by a cafeteria plan of a school  
17 district, other educational district, participating charter  
18 school, or regional education service center, the employee is not  
19 eligible to elect to designate a portion of the employee's  
20 compensation to be used as health care supplementation under this  
21 chapter [~~state contribution under this chapter shall be paid to the~~  
22 ~~active employee as supplemental compensation~~].

23 [~~Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental~~  
24 ~~compensation under this subchapter must be in addition to the rate~~  
25 ~~of compensation that:~~

26 [~~(1) the school district, other educational district,~~  
27 ~~participating charter school, or regional education service center~~

1 ~~paid the employee in the preceding school year; or~~

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

6 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal  
7 year, an election under this subchapter must be made before the  
8 later of:

9 (1) August 1 of the preceding state fiscal year; or

10 (2) the 31st day after the date the employee is hired.

11 Sec. 1580.105. WRITTEN EXPLANATION; ELECTION  
12 FORM. (a) The trustee shall prescribe and distribute to each  
13 school district, other educational district, participating charter  
14 school, and regional education service center:

15 (1) a model explanation written in English and Spanish  
16 of the options active employees may elect under this section and the  
17 effect of electing each option; and

18 (2) an election form to be completed by active  
19 employees.

20 (b) Each state fiscal year, a school district, other  
21 educational district, participating charter school, or regional  
22 education service center shall prepare and distribute to each  
23 active employee a written explanation in English and Spanish, as  
24 appropriate, of the options the employee may elect under this  
25 section. The explanation must be based on the model explanation  
26 prepared by the trustee under Subsection (a) and must reflect all  
27 available health coverage options available to the employee. The

1 explanation must be distributed to an employee before the later of:

2 (1) July 1 of the preceding state fiscal year; or

3 (2) the fifth day after the date the employee is hired.

4 (c) The written explanation under Subsection (b) must be  
5 accompanied by a copy of the election form prescribed under  
6 Subsection (a)(2).

7 ~~[Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any~~  
8 ~~unencumbered funds that are returned to the school district from~~  
9 ~~accounts established under Section 1580.101 may be used only to~~  
10 ~~provide employee compensation, benefits, or both.]~~

11 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

12 Sec. 1580.151. DEFINITION. In this subchapter, "qualified  
13 health care expense" means an expense paid by an employee for  
14 medical care, as defined by Section 213(d), Internal Revenue Code  
15 of 1986, and its subsequent amendments, for the employee or the  
16 employee's dependents, as defined by Section 152, Internal Revenue  
17 Code of 1986, and its subsequent amendments.

18 Sec. 1580.152. RULES. The trustee, by rule, shall specify  
19 the requirements for a medical savings account established under  
20 this chapter.

21 Sec. 1580.153. QUALIFICATION OF ACCOUNT. (a) The trustee  
22 shall request in writing a ruling or opinion from the Internal  
23 Revenue Service as to whether the medical savings accounts  
24 established under this chapter and the state rules governing those  
25 accounts qualify the accounts for appropriate federal tax  
26 exemptions.

27 (b) Based on the response of the Internal Revenue Service

1 under Subsection (a), the trustee shall:

2 (1) modify the rules, plans, and procedures adopted  
3 under this section as necessary to ensure the qualification of  
4 those accounts for appropriate federal tax exemptions; and

5 (2) certify the information regarding federal tax  
6 qualifications to the comptroller.

7 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects  
8 under Section 1580.101 to have state funds distributed under this  
9 chapter placed in a medical savings account may use the money in  
10 that account only for a qualified health care expense.

11 PART J. SCHOOL SAFETY

12 SECTION 2J.01. Chapter 33, Education Code, is amended by  
13 adding Subchapter F to read as follows:

14 SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR  
15 ACTIVITIES

16 Sec. 33.201. APPLICABILITY. This subchapter applies to  
17 each public school in this state and to any other school in this  
18 state subject to University Interscholastic League regulations.

19 Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The  
20 commissioner by rule shall develop and adopt a safety training  
21 program as provided by this section. In developing the program, the  
22 commissioner may use materials available from the American Red  
23 Cross or another appropriate entity.

24 (b) The following persons must satisfactorily complete the  
25 safety training program:

26 (1) a coach, trainer, or sponsor for an  
27 extracurricular athletic activity;

1           (2) except as provided by Subsection (f), a physician  
2 who is employed by a school or school district or who volunteers to  
3 assist with an extracurricular athletic activity; and

4           (3) a director responsible for a school marching band.

5           (c) The safety training program must include:

6           (1) certification of participants by the American Red  
7 Cross, the American Heart Association, or a similar organization or  
8 the University Interscholastic League, as determined by the  
9 commissioner;

10          (2) annual training in:

11           (A) emergency action planning;

12           (B) cardiopulmonary resuscitation if the person  
13 is not required to obtain certification under Section 33.086;

14           (C) communicating effectively with 9-1-1  
15 emergency service operators and other emergency personnel; and

16           (D) recognizing symptoms of potentially  
17 catastrophic injuries, including head and neck injuries,  
18 concussions, injuries related to second impact syndrome, asthma  
19 attacks, heatstroke, cardiac arrest, and injuries requiring use of  
20 a defibrillator; and

21          (3) at least once each school year, a safety drill that  
22 incorporates the training described by Subdivision (2) and  
23 simulates various injuries described by Subdivision (2)(D).

24          (d) A student participating in an extracurricular athletic  
25 activity must receive training related to:

26           (1) recognizing the symptoms of injuries described by  
27 Subsection (c)(2)(D); and

1           (2) the risks of using supplements designed or  
2 marketed to enhance athletic performance.

3           (e) The safety training program and the training under  
4 Subsection (d) may each be conducted by a school or school district  
5 or by an organization described by Subsection (c)(1).

6           (f) A physician who is employed by a school or school  
7 district or who volunteers to assist with an extracurricular  
8 athletic activity is exempt from the requirements of Subsection (b)  
9 if the physician attends a continuing medical education course that  
10 specifically addresses emergency medicine for athletic team  
11 physicians.

12           Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC  
13 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an  
14 extracurricular athletic activity must complete the University  
15 Interscholastic League forms entitled "Preparticipation Physical  
16 Evaluation--Medical History" and "Acknowledgment of Rules." Each  
17 form must be signed by both the student and the student's parent or  
18 guardian.

19           (b) Each form described by Subsection (a) must clearly state  
20 that failure to accurately and truthfully answer all questions on a  
21 form required by statute or by the University Interscholastic  
22 League as a condition for participation in an extracurricular  
23 athletic activity subjects a signer of the form to penalties  
24 determined by the University Interscholastic League.

25           (c) The "Preparticipation Physical Evaluation--Medical  
26 History" form described by Subsection (a) must contain the  
27 following statement:

1           "An individual answering in the affirmative to  
2           any question relating to a possible cardiovascular  
3           health issue, as identified on the form, should be  
4           restricted from further participation until the  
5           individual is examined by the individual's primary  
6           care physician. Ultimately, the individual may need  
7           to be evaluated by a cardiologist and/or undergo  
8           cardiac testing (including an echocardiogram and/or  
9           other heart-related examination) based on the  
10           assessment by the primary care physician."

11           Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES  
12           PROHIBITED. A coach, trainer, or sponsor for an extracurricular  
13           athletic activity may not encourage or permit a student  
14           participating in the activity to engage in any unreasonably  
15           dangerous athletic technique that unnecessarily endangers the  
16           health of a student, including using a helmet or any other sports  
17           equipment as a weapon.

18           Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A  
19           coach, trainer, or sponsor for an extracurricular athletic activity  
20           shall at each athletic practice or competition ensure that:

21                   (1) each student participating in the activity is  
22                   adequately hydrated;

23                   (2) any prescribed asthma medication for a student  
24                   participating in the activity is readily available to the student;

25                   (3) emergency lanes providing access to the practice  
26                   or competition area are open and clear; and

27                   (4) heatstroke prevention materials are readily



1 available.

2 (b) If a student participating in an extracurricular  
3 athletic activity, including a practice or competition, is rendered  
4 unconscious during the activity, the student may not:

5 (1) return to the practice or competition during which  
6 the student was rendered unconscious; or

7 (2) continue to participate in any extracurricular  
8 athletic activity until the student receives written authorization  
9 from a physician.

10 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a  
11 school shall make available to the public proof of compliance for  
12 each person enrolled in, employed by, or volunteering for the  
13 school who is required to receive safety training described by  
14 Section 33.202.

15 (b) The superintendent of a school district or the director  
16 of a school subject to this subchapter shall maintain complete and  
17 accurate records of the district's or school's compliance with  
18 Section 33.202.

19 (c) A school campus that is determined by the school's  
20 superintendent or director to not be in compliance with Section  
21 33.202, 33.204, or 33.205 shall discontinue all extracurricular  
22 athletic activities offered by the school campus, including all  
23 practices and competitions, until the superintendent or director  
24 determines that the school campus is in compliance.

25 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner  
26 shall maintain an existing telephone number and an electronic mail  
27 address to allow a person to report a violation of this subchapter.

1       (b) Each school that offers an extracurricular athletic  
2 activity shall prominently display at the administrative offices of  
3 the school the telephone number and electronic mail address  
4 maintained under Subsection (a).

5       Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an  
6 extracurricular athletic activity shall provide to each student  
7 participating in an extracurricular athletic activity and to the  
8 student's parent or guardian a copy of the text of Sections  
9 33.201-33.207 and a copy of the University Interscholastic League's  
10 parent information manual.

11       (b) A document required to be provided under this section  
12 may be provided in an electronic format unless otherwise requested  
13 by a student, parent, or guardian.

14       Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The  
15 University Interscholastic League shall incorporate the provisions  
16 of Sections 33.203-33.207 into the league's constitution and  
17 contest rules.

18       Sec. 33.209. LIABILITY. The requirements of this  
19 subchapter are not considered ministerial acts for purposes of  
20 immunity from liability under Section 22.0511.

21       SECTION 2J.02. Subchapter D, Chapter 33, Education Code, is  
22 amended by adding Section 33.087 to read as follows:

23       Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL  
24 DEFIBRILLATORS. (a) Using existing funds and other resources  
25 available for the purpose, the agency and the University  
26 Interscholastic League shall jointly investigate the availability  
27 of federal, state, local, and private funds for purchasing

1 automated external defibrillators, as defined by Section 779.001,  
2 Health and Safety Code, for use by University Interscholastic  
3 League member schools, and the possibility of receiving a bulk  
4 discount on such purchases.

5 (b) The agency and the University Interscholastic League  
6 shall submit a report describing the findings of the investigation  
7 to the legislature not later than June 1, 2006.

8 (c) This section expires July 1, 2006.

9 SECTION 2J.03. Subchapter D, Chapter 37, Education Code, is  
10 amended by adding Section 37.108 to read as follows:

11 Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN;  
12 SECURITY AUDIT. (a) Each school district shall adopt and  
13 implement a multihazard emergency operations plan for use in  
14 district schools. The plan must address mitigation, preparedness,  
15 response, and recovery as recommended by the United States  
16 Department of Homeland Security. The plan must provide for:

17 (1) district employee training in responding to an  
18 emergency;

19 (2) mandatory school drills to prepare district  
20 students and employees for responding to an emergency;

21 (3) measures to ensure coordination with local  
22 emergency management agencies, law enforcement, and fire  
23 departments in the event of an emergency; and

24 (4) the implementation of a security audit as required  
25 by Subsection (b).

26 (b) At least once every three years, a school district shall  
27 conduct a security audit of the district's facilities. To the

1 extent possible, a district shall follow security audit procedures  
2 developed by the Texas School Safety Center or a comparable public  
3 or private entity.

4 (c) A school district shall report the results of the  
5 security audit conducted under Subsection (b) to the district's  
6 board of trustees.

7 SECTION 2J.04. Section 37.203(a), Education Code, is  
8 amended to read as follows:

9 (a) The center is advised [~~governed~~] by a board of directors  
10 composed of:

11 (1) the attorney general, or the attorney general's  
12 designee;

13 (2) the commissioner, or the commissioner's designee;

14 (3) the executive director of the Texas Juvenile  
15 Probation Commission, or the executive director's designee;

16 (4) the executive director of the Texas Youth  
17 Commission, or the executive director's designee;

18 (5) the commissioner of the Texas Department of Mental  
19 Health and Mental Retardation, or the commissioner's designee; and

20 (6) the following members appointed by the governor  
21 with the advice and consent of the senate:

22 (A) a juvenile court judge;

23 (B) a member of a school district's board of  
24 trustees;

25 (C) an administrator of a public primary school;

26 (D) an administrator of a public secondary  
27 school;

1 (E) a member of the state parent-teacher  
2 association;

3 (F) a teacher from a public primary or secondary  
4 school;

5 (G) a public school superintendent who is a  
6 member of the Texas Association of School Administrators;

7 (H) a school district police officer or a peace  
8 officer whose primary duty consists of working in a public school;  
9 and

10 (I) two members of the public.

11 SECTION 2J.05. Section 37.205, Education Code, is amended  
12 to read as follows:

13 Sec. 37.205. SAFETY TRAINING PROGRAMS. The center shall  
14 conduct for school districts a safety training program that  
15 includes:

16 (1) development of a positive school environment and  
17 proactive safety measures designed to address local concerns;

18 (2) school safety courses for law enforcement  
19 officials, with a focus on school district police officers and  
20 school resource officers;

21 (3) discussion of school safety issues with parents  
22 and community members; and

23 (4) assistance in developing a multihazard emergency  
24 operations plan for adoption under Section 37.108 [~~specialized~~  
25 ~~training for the staff of alternative education programs and~~  
26 ~~juvenile justice alternative education programs~~].

27 SECTION 2J.06. Subchapter G, Chapter 37, Education Code, is

1 amended by adding Section 37.2051 to read as follows:

2 Sec. 37.2051. SECURITY CRITERIA FOR INSTRUCTIONAL  
3 FACILITIES. The center shall develop security criteria that school  
4 districts may consider in the design of instructional facilities.

5 SECTION 2J.07. Section 37.208, Education Code, is amended  
6 to read as follows:

7 Sec. 37.208. ON-SITE ASSISTANCE. On request of a school  
8 district, the center may [~~shall~~] provide on-site technical  
9 assistance to the district for:

- 10 (1) school safety and security audits; and  
11 (2) school safety and security information and  
12 presentations.

13 SECTION 2J.08. Section 37.215(b), Education Code, is  
14 amended to read as follows:

15 (b) The center [~~board~~] shall biannually prepare a budget  
16 request [~~for the center~~] for submission to the legislature.

17 SECTION 2J.09. Subchapter A, Chapter 46, Education Code, is  
18 amended by adding Section 46.0081 to read as follows:

19 Sec. 46.0081. SECURITY CRITERIA IN DESIGN OF INSTRUCTIONAL  
20 FACILITIES. A school district that constructs a new instructional  
21 facility or conducts a major renovation of an existing  
22 instructional facility using funds allotted to the district under  
23 this subchapter shall consider, in the design of the instructional  
24 facility, security criteria developed by the Texas School Safety  
25 Center under Section 37.2051.

26 SECTION 2J.10. Sections 37.206 and 37.213, Education Code,  
27 are repealed.

1 SECTION 2J.11. (a) Not later than December 1, 2005, the  
2 Texas School Safety Center shall:

3 (1) develop a school safety program that includes  
4 assistance to school districts in developing a multihazard  
5 emergency operations plan as required by Section 37.205, Education  
6 Code, as amended by this Act; and

7 (2) develop security criteria for the construction and  
8 renovation of school district instructional facilities as required  
9 by Section 37.2051, Education Code, as added by this Act.

10 (b) Not later than March 1, 2006, each school district shall  
11 adopt a multihazard emergency operations plan as required by  
12 Section 37.108, Education Code, as added by this Act.

13 PART K. SCHOOL DISTRICT OPERATIONS

14 SECTION 2K.01. Section 7.056(e), Education Code, is amended  
15 to read as follows:

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

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

21 (2) a requirement imposed by federal law or rule,  
22 including a requirement for special education or bilingual  
23 education programs; or

24 (3) a requirement, restriction, or prohibition  
25 relating to:

26 (A) essential knowledge or skills under Section  
27 28.002 or minimum graduation requirements under Section 28.025;

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

3 (C) extracurricular activities under Section  
4 33.081;

5 (D) health and safety under Chapter 38;

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

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

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

11 (H) at-risk programs under Subchapter C, Chapter  
12 29;

13 (I) prekindergarten programs under Subchapter E,  
14 Chapter 29;

15 (J) educator rights and benefits under  
16 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
17 A, Chapter 22;

18 (K) special education programs under Subchapter  
19 A, Chapter 29; ~~or~~

20 (L) bilingual education programs under  
21 Subchapter B, Chapter 29; or

22 (M) the requirements for the first and last day  
23 of instruction under Section 25.0811, except as provided by that  
24 section.

25 SECTION 2K.02. The heading to Section 25.0811, Education  
26 Code, is amended to read as follows:

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



1 SECTION 2K.03. Section 25.0811(a), Education Code, is  
2 amended to read as follows:

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

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

8 (2) the commissioner grants a waiver to extend the  
9 school year at a campus as the result of a disaster, flood, extreme  
10 weather condition, fuel curtailment, or other calamity that caused  
11 a closure of the campus for a significant period ~~[before the week in~~  
12 ~~which August 21 falls. For purposes of this subsection, Sunday is~~  
13 ~~considered the first day of the week].~~

14 SECTION 2K.04. This part applies beginning with the  
15 2006-2007 school year.

16 PART L. SAFETY OR LAP BELTS IN SCHOOL BUSES

17 SECTION 2L.01. Chapter 34, Education Code, is amended by  
18 adding Section 34.012 to read as follows:

19 Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person  
20 may offer to donate safety or lap belts or money for the purchase of  
21 safety or lap belts for a school district's school buses.

22 (b) The board of trustees of a school district shall  
23 consider any offer made by a person under Subsection (a). The board  
24 of trustees may accept or decline the offer after adequate  
25 consideration.

26 (c) The board of trustees may acknowledge a person who  
27 donates safety or lap belts or money for the purchase of safety or

1 lap belts for a school bus under this section by displaying a small,  
2 discreet sign on the side or back of the bus recognizing the person  
3 who made the donation. The sign may not serve as an advertisement  
4 for the person who made the donation.

5 ARTICLE 4. CHARTER SCHOOLS

6 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,  
7 Chapter 12, Education Code, is repealed.

8 (b) Except as provided by Section 11A.1041, Education Code,  
9 as added by this Act, each open-enrollment charter school operating  
10 or holding a charter to operate on August 1, 2006, shall be  
11 dissolved in accordance with Subchapter J, Chapter 11A, Education  
12 Code, as added by this Act.

13 SECTION 4.02. Subtitle C, Title 2, Education Code, is  
14 amended by adding Chapter 11A to read as follows:

15 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 11A.001. DEFINITIONS. In this chapter:

18 (1) "Charter holder" means the entity to which a  
19 charter is granted under this chapter.

20 (2) "Governing body of a charter holder" means the  
21 board of directors, board of trustees, or other governing body of a  
22 charter holder.

23 (3) "Governing body of a public charter district"  
24 means the board of directors, board of trustees, or other governing  
25 body of a public charter district. The term includes the governing  
26 body of a charter holder if that body acts as the governing body of  
27 the public charter district.

1           (4) "Management company" means a person, other than a  
2 charter holder, who provides management services for a public  
3 charter district.

4           (5) "Management services" means services related to  
5 the management or operation of a public charter district,  
6 including:

7                   (A) planning, operating, supervising, and  
8 evaluating the public charter district's educational programs,  
9 services, and facilities;

10                   (B) making recommendations to the governing body  
11 of the public charter district relating to the selection of school  
12 personnel;

13                   (C) managing the public charter district's  
14 day-to-day operations as its administrative manager;

15                   (D) preparing and submitting to the governing  
16 body of the public charter district a proposed budget;

17                   (E) recommending policies to be adopted by the  
18 governing body of the public charter district, developing  
19 appropriate procedures to implement policies adopted by the  
20 governing body of the public charter district, and overseeing the  
21 implementation of adopted policies; and

22                   (F) providing leadership for the attainment of  
23 student performance at the public charter district based on the  
24 indicators adopted under Section 39.051 or by the governing body of  
25 the public charter district.

26           (6) "Officer of a public charter district" means:

27                   (A) the principal, director, or other chief

1 operating officer of a public charter district or campus; or

2 (B) a person charged with managing the finances  
3 of a public charter district.

4 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this  
5 chapter, the State Board of Education may grant a charter on the  
6 application of an eligible entity for a public charter district to  
7 operate in a facility of a commercial or nonprofit entity, an  
8 eligible entity, or a school district, including a home-rule school  
9 district. In this subsection, "eligible entity" means:

10 (1) an institution of higher education as defined  
11 under Section 61.003;

12 (2) a private or independent institution of higher  
13 education as defined under Section 61.003;

14 (3) an organization that is exempt from federal income  
15 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
16 organization described by Section 501(c)(3) of that code; or

17 (4) a governmental entity in this state.

18 (b) The State Board of Education may grant a charter for a  
19 public charter district only to an applicant that meets all  
20 financial, governing, and operational standards adopted by the  
21 commissioner under this chapter.

22 (c) The State Board of Education may not grant more than a  
23 total of 215 charters for public charter districts.

24 (d) An educator employed by a school district before the  
25 effective date of a charter for a public charter district operated  
26 at a school district facility may not be transferred to or employed  
27 by the public charter district over the educator's objection.

1       Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter  
2 district:

3           (1) shall provide instruction to and assess a number  
4 of students at a number of elementary or secondary grade levels, as  
5 provided by the charter, sufficient to permit the agency to assign  
6 an accountability rating under Chapter 39;

7           (2) is governed under the governing structure required  
8 by this chapter and described by the charter;

9           (3) retains authority to operate under the charter  
10 contingent on satisfactory student performance as provided by the  
11 charter in accordance with Section 11A.103; and

12           (4) does not have authority to impose taxes.

13       Sec. 11A.004. STATUS. A public charter district or campus  
14 is part of the public school system of this state.

15       Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related  
16 to operation of a public charter district, a public charter  
17 district is immune from liability to the same extent as a school  
18 district, and its employees and volunteers are immune from  
19 liability to the same extent as school district employees and  
20 volunteers. Except as provided by Section 11A.154, a member of the  
21 governing body of a public charter district or of a charter holder  
22 is immune from liability to the same extent as a school district  
23 trustee.

24       Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.  
25 A reference in law to an open-enrollment charter school means a  
26 public charter district or public charter campus, as applicable.

27       [Sections 11A.007-11A.050 reserved for expansion]

1           SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

2           Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND  
3 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by  
4 Subsection (b) or (c), a public charter district is subject to  
5 federal and state laws and rules governing public schools and to  
6 municipal zoning ordinances governing public schools.

7           (b) A public charter district is subject to this code and  
8 rules adopted under this code only to the extent the applicability  
9 to a public charter district of a provision of this code or a rule  
10 adopted under this code is specifically provided.

11           (c) Notwithstanding Subsection (a), a campus of a public  
12 charter district located in whole or in part in a municipality with  
13 a population of 20,000 or less is not subject to a municipal zoning  
14 ordinance governing public schools.

15           Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter  
16 district has the powers granted to schools under this title.

17           (b) A public charter district is subject to:

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

20                   (2) a prohibition, restriction, or requirement, as  
21 applicable, imposed by this title or a rule adopted under this  
22 title, relating to:

23                           (A) the Public Education Information Management  
24 System (PEIMS) under Section 42.006;

25                           (B) reporting an educator's misconduct under  
26 Section 21.006;

27                           (C) criminal history records under Subchapter C,

1 Chapter 22;

2 (D) reading instruments and accelerated reading  
3 instruction programs under Section 28.006;

4 (E) satisfactory performance on assessment  
5 instruments and to accelerated instruction under Section 28.0211;

6 (F) intensive programs of instruction under  
7 Section 28.0213;

8 (G) high school graduation under Section 28.025;

9 (H) special education programs under Subchapter  
10 A, Chapter 29, including a requirement that special education  
11 teachers obtain appropriate certification;

12 (I) bilingual education under Subchapter B,  
13 Chapter 29, including a requirement that bilingual education  
14 teachers obtain appropriate certification;

15 (J) prekindergarten programs under Subchapter E,  
16 Chapter 29;

17 (K) extracurricular activities under Section  
18 33.081;

19 (L) discipline management practices or behavior  
20 management techniques under Section 37.0021;

21 (M) health and safety under Chapter 38; and

22 (N) public school accountability under  
23 Subchapters B, C, D, G, and I, Chapter 39.

24 (c) A public charter district is entitled to the same level  
25 of services provided to school districts by regional education  
26 service centers. The commissioner shall adopt rules that provide  
27 for the representation of public charter districts on the boards of

1 directors of regional education service centers.

2 (d) The commissioner may by rule permit a public charter  
3 district to voluntarily participate in any state program available  
4 to school districts, including a purchasing program, if the public  
5 charter district complies with all terms of the program.

6 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC  
7 INFORMATION LAWS. (a) With respect to the operation of a public  
8 charter district, the governing body of a charter holder and the  
9 governing body of a public charter district are considered to be  
10 governmental bodies for purposes of Chapters 551 and 552,  
11 Government Code.

12 (b) With respect to the operation of a public charter  
13 district, any requirement in Chapter 551 or 552, Government Code,  
14 that applies to a school district, the board of trustees of a school  
15 district, or public school students applies to a public charter  
16 district, the governing body of a charter holder, the governing  
17 body of a public charter district, or students in attendance at a  
18 public charter district campus.

19 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL  
20 GOVERNMENT RECORDS. (a) With respect to the operation of a public  
21 charter district, a public charter district is considered to be a  
22 local government for purposes of Subtitle C, Title 6, Local  
23 Government Code, and Subchapter J, Chapter 441, Government Code.

24 (b) Records of a public charter district, a charter holder,  
25 or a management company that relate to a public charter district are  
26 government records for all purposes under state law.

27 (c) Any requirement in Subtitle C, Title 6, Local Government



1 Code, or Subchapter J, Chapter 441, Government Code, that applies  
2 to a school district, the board of trustees of a school district, or  
3 an officer or employee of a school district applies to a public  
4 charter district or management company, the governing body of a  
5 charter holder, the governing body of a public charter district, or  
6 an officer or employee of a public charter district or management  
7 company except that the records of a public charter district or  
8 management company that ceases to operate shall be transferred in  
9 the manner prescribed by Subsection (d).

10 (d) The records of a public charter district or management  
11 company that ceases to operate shall be transferred in the manner  
12 specified by the commissioner to a custodian designated by the  
13 commissioner. The commissioner may designate any appropriate  
14 entity to serve as custodian, including the agency, a regional  
15 education service center, or a school district. In designating a  
16 custodian, the commissioner shall ensure that the transferred  
17 records, including student and personnel records, are transferred  
18 to a custodian capable of:

19 (1) maintaining the records;

20 (2) making the records readily accessible to students,  
21 parents, former school employees, and other persons entitled to  
22 access; and

23 (3) complying with applicable state or federal law  
24 restricting access to the records.

25 (e) If the charter holder of a public charter district that  
26 ceases to operate or an officer or employee of the district or a  
27 management company refuses to transfer school records in the manner

1 specified by the commissioner under Subsection (d), the  
2 commissioner may ask the attorney general to petition a court for  
3 recovery of the records. If the court grants the petition, the  
4 court shall award attorney's fees and court costs to the state.

5 (f) A record described by this section is a public school  
6 record for purposes of Section 37.10(c)(2), Penal Code.

7 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC  
8 PURCHASING AND CONTRACTING. (a) This section applies to a public  
9 charter district unless the district's charter otherwise describes  
10 procedures for purchasing and contracting and the procedures are  
11 approved by the State Board of Education.

12 (b) A public charter district is considered to be:

13 (1) a governmental entity for purposes of:

14 (A) Subchapter D, Chapter 2252, Government Code;

15 and

16 (B) Subchapter B, Chapter 271, Local Government  
17 Code;

18 (2) a political subdivision for purposes of Subchapter  
19 A, Chapter 2254, Government Code; and

20 (3) a local government for purposes of Sections  
21 2256.009-2256.016, Government Code.

22 (c) To the extent consistent with this section, a  
23 requirement in a law listed in this section that applies to a school  
24 district or the board of trustees of a school district applies to a  
25 public charter district, the governing body of a charter holder, or  
26 the governing body of a public charter district.

27 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF

1 INTEREST. (a) A member of the governing body of a charter holder, a  
2 member of the governing body of a public charter district, or an  
3 officer of a public charter district is considered to be a local  
4 public official for purposes of Chapter 171, Local Government Code.  
5 For purposes of that chapter:

6 (1) a member of the governing body of a charter holder  
7 or a member of the governing body or officer of a public charter  
8 district is considered to have a substantial interest in a business  
9 entity if a person related to the member or officer in the third  
10 degree by consanguinity or affinity, as determined under Chapter  
11 573, Government Code, has a substantial interest in the business  
12 entity under Section 171.002, Local Government Code; and

13 (2) a teacher at a public charter district may serve as  
14 a member of the governing body of the charter holder or the  
15 governing body of the public charter district if the teachers  
16 serving on the governing body:

17 (A) do not constitute a quorum of the governing  
18 body or any committee of the governing body; and

19 (B) comply with the requirements of Sections  
20 171.003-171.007, Local Government Code.

21 (b) To the extent consistent with this section, a  
22 requirement of a law listed in this section that applies to a school  
23 district or the board of trustees of a school district applies to a  
24 public charter district, the governing body of a charter holder, or  
25 the governing body of a public charter district.

26 (c) An employee who is not a teacher may serve as a member of  
27 the governing body of a charter holder or the governing body of a

1 public charter district if:

2 (1) the charter holder operating the public charter  
3 district where the individual is employed and serves as a member of  
4 the governing body operated an open-enrollment charter school under  
5 Subchapter D, Chapter 12, on August 31, 2005;

6 (2) the individual was employed by the charter holder  
7 and serving as a member of the governing body on August 31, 2005, in  
8 compliance with former Section 12.1054; and

9 (3) the individual had been continuously so employed  
10 and serving since a date on or before January 1, 2005.

11 (d) If under Subsection (c) an individual continues to be  
12 employed and serve as a member of the governing body, the individual  
13 may not participate in any deliberation or voting on the  
14 appointment, reappointment, confirmation of the appointment or  
15 reappointment, employment, reemployment, change in the status,  
16 compensation, or dismissal of the individual if that action applies  
17 only to the individual and is not taken regarding a bona fide class  
18 or category of employees. In addition, the individual may not hear,  
19 consider, or act on any grievance or complaint concerning the  
20 individual or a matter with which the individual has dealt in the  
21 individual's capacity as an employee.

22 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public  
23 charter district, including the governing body of a public charter  
24 district and any district employee with final authority to hire a  
25 district employee, is subject to a prohibition, restriction, or  
26 requirement, as applicable, imposed by state law or by a rule  
27 adopted under state law, relating to nepotism under Chapter 573,

1 Government Code.

2 (b) Notwithstanding Subsection (a), a member of the  
3 governing body of a charter holder or public charter district may  
4 not be related in the third degree by consanguinity or affinity, as  
5 determined under Chapter 573, Government Code, to another member of  
6 the governing body of the charter holder or public charter  
7 district.

8 (c) This section does not apply to an appointment,  
9 confirmation of an appointment, or vote for an appointment or  
10 confirmation of an appointment of an individual to a position if:

11 (1) the charter holder operating the public charter  
12 district where the individual is employed or serves as a member of  
13 the governing body operated an open-enrollment charter school under  
14 Subchapter D, Chapter 12, on August 31, 2005;

15 (2) the individual was employed or serving in the  
16 position on August 31, 2005, in compliance with former Section  
17 12.1055; and

18 (3) the individual has been continuously employed or  
19 serving since a date on or before January 1, 2005.

20 (d) If, under Subsection (c), an individual continues to be  
21 employed or serve in a position, the public official to whom the  
22 individual is related in a prohibited degree may not participate in  
23 any deliberation or voting on the appointment, reappointment,  
24 confirmation of the appointment or reappointment, employment,  
25 reemployment, change in status, compensation, or dismissal of the  
26 individual if that action applies only to the individual and is not  
27 taken regarding a bona fide class or category of employees.

1 [Sections 11A.058-11A.100 reserved for expansion]

2 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

3 Sec. 11A.101. APPLICATION. (a) The State Board of  
4 Education shall adopt:

5 (1) an application form and a procedure that must be  
6 used to apply for a charter for a public charter district; and

7 (2) criteria to use in selecting a program for which to  
8 grant a charter.

9 (b) The application form must provide for including the  
10 information required under Section 11A.103 to be contained in a  
11 charter.

12 (c) The State Board of Education may approve or deny an  
13 application based on criteria it adopts and on financial,  
14 governing, and operational standards adopted by the commissioner  
15 under this chapter. The criteria the board adopts must include:

16 (1) criteria relating to improving student  
17 performance and encouraging innovative programs; and

18 (2) criteria relating to the educational benefit for  
19 students residing in the geographic area to be served by the  
20 proposed public charter district, as compared to any significant  
21 financial difficulty that a loss in enrollment may have on any  
22 school district whose enrollment is likely to be affected by the  
23 public charter district.

24 (d) A public charter district may not begin operating under  
25 this chapter unless the commissioner has certified that the  
26 applicant has acceptable administrative and accounting systems and  
27 procedures in place for the operation of the proposed public

1 charter district.

2 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The  
3 commissioner by rule shall adopt a procedure for providing notice  
4 to each member of the legislature that represents the geographic  
5 area to be served by the proposed public charter district, as  
6 determined by the commissioner, on receipt by the State Board of  
7 Education of an application for a charter for a public charter  
8 district under Section 11A.101.

9 Sec. 11A.103. CONTENT. (a) Each charter granted under this  
10 chapter must:

11 (1) describe the educational program to be offered,  
12 which must include the required curriculum as provided by Section  
13 28.002;

14 (2) establish educational goals, which must include  
15 acceptable student performance as determined under Chapter 39;

16 (3) specify the grade levels to be offered, which must  
17 be sufficient to permit the agency to assign an accountability  
18 rating under Chapter 39;

19 (4) describe the facilities to be used;

20 (5) describe the geographical area served by the  
21 program, which may not be statewide; and

22 (6) specify any type of enrollment criteria to be  
23 used.

24 (b) A charter holder of a public charter district shall  
25 consider including in the district's charter a requirement that the  
26 district develop and administer personal graduation plans under  
27 Section 28.0212, as added by Chapter 1212, Acts of the 78th

1 Legislature, Regular Session, 2003.

2 (c) The terms of a charter may not include plans for future  
3 increases in student enrollment, grades levels, campuses, or  
4 geographical area, except that:

5 (1) the charter may contain a plan for adding grade  
6 levels as necessary to comply with Section 11A.253(c) or (d); and

7 (2) the commissioner may approve such an increase in a  
8 charter revision request under Section 11A.106.

9 Sec. 11A.104. FORM. A charter for a public charter district  
10 shall be in the form of a license issued by the State Board of  
11 Education to the charter holder.

12 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN  
13 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner  
14 shall immediately grant a charter under this chapter to the  
15 following entities on or before August 1, 2006:

16 (1) an eligible entity holding a charter granted  
17 before September 1, 2002, under Subchapter D, Chapter 12, as that  
18 subchapter existed on January 1, 2005, if:

19 (A) for fiscal years 2004 and 2005, the entity  
20 had total assets that exceeded total liabilities, as determined by  
21 the entity's annual audit report under Section 44.008;

22 (B) at least 25 percent of all students enrolled  
23 at the entity's open-enrollment charter school and administered an  
24 assessment instrument under Section 39.023(a), (c), or (l)  
25 performed satisfactorily on the assessment instrument in  
26 mathematics, as determined by the school's assessment instrument  
27 results for the 2005-2006 school year; and



1           (C) at least 25 percent of all students enrolled  
2 at the entity's open-enrollment charter school and administered an  
3 assessment instrument under Section 39.023(a), (c), or (1)  
4 performed satisfactorily on the assessment instrument in reading or  
5 English language arts, as applicable, as determined by the school's  
6 assessment instrument results for the 2005-2006 school year;

7           (2) a governmental entity holding a charter under  
8 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
9 2005;

10           (3) an eligible entity holding a charter under  
11 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
12 2005, if at least 85 percent of students enrolled in the school  
13 reside in a residential facility; and

14           (4) an eligible entity granted a charter on or after  
15 September 1, 2002, under Subchapter D, Chapter 12, as that  
16 subchapter existed on January 1, 2005.

17           (b) Assessment instrument results for fewer than five  
18 students are not considered for purposes of Subsection (a)(1)(B) or  
19 (C).

20           (c) The commissioner shall determine which entities are  
21 eligible for a charter under this section as soon as practicable.

22           (d) The content and terms of a charter granted to an  
23 eligible entity under this section must be the same as those under  
24 which the entity operated under Subchapter D, Chapter 12, as that  
25 subchapter existed on January 1, 2005, except that where the terms  
26 conflict with this chapter, this chapter prevails.

27           (e) An eligible entity holding multiple charters prior to

1 January 1, 2005, may not combine those charters into one charter for  
2 a public charter district but must retain each of those charters  
3 which count towards the limit imposed under Section 11A.002(c).

4 (f) Section 11A.157 does not apply to an entity granted a  
5 charter under this section.

6 (g) A decision of the commissioner under this section is not  
7 subject to a hearing or an appeal to a district court.

8 (h) This section expires January 1, 2008.

9 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

10 (a) For purposes of Section 11A.1041(a), the commissioner shall  
11 compute the percentage of students who performed satisfactorily on  
12 an assessment instrument in a manner consistent with this section.

13 (b) The commissioner may only consider the performance of a  
14 student who was enrolled as of the date for reporting enrollment for  
15 the fall semester under the Public Education Information Management  
16 System (PEIMS).

17 (c) In computing performance under this section, the  
18 commissioner must:

19 (1) add the results for third through 11th grade  
20 assessment instruments in English and third through sixth grade  
21 assessment instruments in Spanish across grade levels tested at all  
22 campuses operated by the charter holder and evaluate those results  
23 for all students;

24 (2) combine the results for third through ninth grade  
25 assessment instruments in reading and 10th and 11th grade  
26 assessment instruments in English language arts and evaluate those  
27 results as a single subject; and

1           (3) separately determine student performance for  
2 reading and mathematics as a percentage equal to the sum of students  
3 who performed satisfactorily on the specific subject area  
4 assessment instrument in all grade levels tested at all campuses  
5 operated by the charter holder divided by the number of students who  
6 took the specific subject area assessment instrument in grade  
7 levels tested at all campuses operated by the charter holder.

8           (d) To the extent consistent with this section, the  
9 commissioner shall use the methodology used to compute passing  
10 rates for reading and mathematics assessment instruments for  
11 purposes of determining accountability ratings under Chapter 39 for  
12 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

13           (e) This section expires January 1, 2008.

14           Sec. 11A.105. CHARTER GRANTED. Each charter the State  
15 Board of Education grants for a public charter district must:

16                   (1) satisfy this chapter; and

17                   (2) include the information that is required under  
18 Section 11A.103 consistent with the information provided in the  
19 application and any modification the board requires.

20           Sec. 11A.106. REVISION. (a) A revision of a charter of a  
21 public charter district may be made only with the approval of the  
22 commissioner.

23           (b) Not more than once each year, a public charter district  
24 may request approval to revise the maximum student enrollment  
25 described by the district's charter.

26           (c) The commissioner may not approve a charter revision that  
27 increases a public charter district's enrollment, increases the

1 grade levels offered, increases the number of campuses, or changes  
2 the boundaries of the geographic area served by the program unless  
3 the commissioner determines that:

4 (1) the public charter district has operated one or  
5 more campuses for at least three school years;

6 (2) each campus operated by the public charter  
7 district has been rated at least academically acceptable under  
8 Subchapter D, Chapter 39, for each of its most recent three years of  
9 operation;

10 (3) each campus operated by the public charter  
11 district has achieved performance levels that are at least five  
12 percentage points above the applicable accountability standard for  
13 academically acceptable performance on statewide assessments under  
14 Subchapter D, Chapter 39, as determined by the commissioner, for  
15 all tested subjects for each of its most recent two years of  
16 operation;

17 (4) the public charter district has been rated  
18 superior, above standard, standard, or the equivalent, under the  
19 financial accountability system under Subchapter I, Chapter 39;

20 (5) during the three years preceding the proposed  
21 charter revision, the public charter district and its campuses have  
22 not been subject to an intervention or sanction under Subchapter D,  
23 Chapter 39, including an intervention or sanction related to:

24 (A) the quality of data or reports required by  
25 state or federal law or court order;

26 (B) high school graduation requirements under  
27 Section 28.025; or

1                   (C) the effectiveness of programs for special  
2 student populations; and

3                   (6) the charter revision is in the best interest of  
4 students of this state.

5                   (d) In making a determination under Subsection (c)(6), the  
6 commissioner shall review all available information relating to the  
7 charter holder, including the charter holder's:

8                   (1) academic and financial performance;

9                   (2) history of compliance with applicable laws;

10                   (3) staffing, financial, and organizational data; and

11                   (4) any other information regarding the charter  
12 holder's capacity to successfully implement the requested charter  
13 revision.

14                   (e) The commissioner may not approve a charter revision that  
15 proposes an increase in:

16                   (1) a public charter district's enrollment, unless the  
17 charter holder adopts a business plan for implementing the  
18 enrollment increase that includes components identified by the  
19 commissioner; or

20                   (2) the grade levels offered by a public charter  
21 district, unless the charter holder adopts an educational plan for  
22 the additional grade levels that includes components identified by  
23 the commissioner.

24                   (f) The commissioner may approve a charter revision  
25 authorizing a public charter district to serve students in a  
26 geographical area that is not contiguous with the existing  
27 boundaries of the district, but may not approve a statewide

1 geographical boundary.

2 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON  
3 PROBATION, OR REVOCATION. (a) The commissioner may modify, place  
4 on probation, or revoke the charter of a public charter district if  
5 the commissioner determines under Section 11A.108 that the charter  
6 holder:

7 (1) committed a material violation of the charter;

8 (2) failed to satisfy generally accepted accounting  
9 standards of fiscal management;

10 (3) failed to protect the health, safety, welfare, or  
11 best interests of the students enrolled at the public charter  
12 district; or

13 (4) failed to comply with this chapter or another  
14 applicable law or rule.

15 (b) The commissioner shall revoke the charter of a public  
16 charter district without a hearing if:

17 (1) in two consecutive years, the public charter  
18 district:

19 (A) is rated academically unacceptable under  
20 Subchapter D, Chapter 39; or

21 (B) is rated financially unacceptable by the  
22 commissioner under Subchapter I, Chapter 39; or

23 (2) all campuses operated by the public charter  
24 district have been ordered closed under Section 39.131(a) or  
25 39.132(b).

26 (c) A revocation under Subsection (b)(1) is effective on  
27 January 1 following the school year in which the public charter

1 district received a second unacceptable rating.

2 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON  
3 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a  
4 procedure to be used for modifying, placing on probation, or  
5 revoking the charter of a public charter district under Section  
6 11A.107(a).

7 (b) The procedure adopted under Subsection (a) must provide  
8 an opportunity for a hearing to the charter holder.

9 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON  
10 PROBATION, OR REVOCATION. A charter holder may appeal a  
11 modification, placement on probation, or revocation under this  
12 subchapter only in the manner provided by the applicable procedures  
13 adopted by the commissioner under Section 11A.108. The charter  
14 holder may not otherwise appeal to the commissioner and may not  
15 appeal to a district court.

16 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.  
17 If the commissioner revokes a charter of a public charter district,  
18 if a district is ordered closed under Chapter 39, or if a public  
19 charter district surrenders its charter, the district may not:

20 (1) continue to operate under this chapter; or

21 (2) receive state funds under this chapter.

22 [Sections 11A.111-11A.150 reserved for expansion]

23 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF  
24 CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT  
25 COMPANIES

26 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

27 The governing body of a charter holder is responsible for the

1 management, operation, and accountability of the public charter  
2 district, regardless of whether the governing body delegates the  
3 governing body's powers and duties to another person.

4 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER  
5 HOLDER. The governing body of a charter holder must be composed of  
6 at least five members.

7 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF  
8 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS  
9 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a  
10 person may not serve as a member of the governing body of a charter  
11 holder, as a member of the governing body of a public charter  
12 district, or as an officer or employee of a public charter district  
13 if the person:

14 (1) has been convicted of a felony or a misdemeanor  
15 involving moral turpitude;

16 (2) has been convicted of an offense listed in Section  
17 37.007(a);

18 (3) has been convicted of an offense listed in Article  
19 62.01(5), Code of Criminal Procedure; or

20 (4) has a substantial interest in a management  
21 company.

22 (b) A person who has been convicted of an offense described  
23 by Subsection (a)(1), (2), or (3) may serve as a member of the  
24 governing body of a charter holder, as a member of the governing  
25 body of a public charter district, or as an officer or employee of a  
26 public charter district if the commissioner determines that the  
27 person is fit to serve in that capacity. In making a determination



1 under this subsection, the commissioner shall consider:

2 (1) the factors described by Section 53.022,  
3 Occupations Code, for determining the extent to which a conviction  
4 relates to an occupation;

5 (2) the factors described by Section 53.023,  
6 Occupations Code, for determining the fitness of a person to  
7 perform the duties and discharge the responsibilities of an  
8 occupation; and

9 (3) other appropriate factors, as determined by the  
10 commissioner.

11 (c) For purposes of Subsection (a)(4), a person has a  
12 substantial interest in a management company if the person or a  
13 relative within the third degree by consanguinity or affinity, as  
14 determined under Chapter 573, Government Code:

15 (1) has a controlling interest in the company;

16 (2) owns more than 10 percent of the voting interest in  
17 the company;

18 (3) owns more than \$25,000 of the fair market value of  
19 the company;

20 (4) has a direct or indirect participating interest by  
21 shares, stock, or otherwise, regardless of whether voting rights  
22 are included, in more than 10 percent of the profits, proceeds, or  
23 capital gains of the company;

24 (5) is a member of the board of directors or other  
25 governing body of the company;

26 (6) serves as an elected officer of the company; or

27 (7) is an employee of the company.

1       Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF  
2 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit  
3 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil  
4 Statutes), Chapter 22, Business Organizations Code, or other law,  
5 on request of the commissioner, the attorney general shall bring  
6 suit against a member of the governing body of a charter holder for  
7 breach of a fiduciary duty by the member, including misapplication  
8 of public funds.

9       (b) The attorney general may bring suit under Subsection (a)  
10 for:

11           (1) damages;

12           (2) injunctive relief; or

13           (3) any other equitable remedy determined to be  
14 appropriate by the court.

15       (c) This section is cumulative of all other remedies.

16       Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF  
17 CHARTER HOLDER. (a) The commissioner shall adopt rules  
18 prescribing training for members of governing bodies of charter  
19 holders.

20       (b) The rules adopted under Subsection (a) may:

21           (1) specify the minimum amount and frequency of the  
22 training;

23           (2) require the training to be provided by:

24                   (A) the agency and regional education service  
25 centers;

26                   (B) entities other than the agency and service  
27 centers, subject to approval by the commissioner; or

1                   (C) both the agency, service centers, and other  
2 entities; and

3                   (3) require training to be provided concerning:

4                   (A) basic school law, including school finance;

5                   (B) health and safety issues;

6                   (C) accountability requirements related to the  
7 use of public funds; and

8                   (D) other requirements relating to  
9 accountability to the public, such as open meetings requirements  
10 under Chapter 551, Government Code, and public information  
11 requirements under Chapter 552, Government Code.

12                   Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder  
13 shall file with the State Board of Education a copy of its articles  
14 of incorporation and bylaws, or comparable documents if the charter  
15 holder does not have articles of incorporation or bylaws, within  
16 the period and in the manner prescribed by the board.

17                   (b) Each public charter district shall file annually with  
18 the State Board of Education the following information in a form  
19 prescribed by the board:

20                   (1) the name, address, and telephone number of each  
21 officer and member of the governing body of the charter holder; and

22                   (2) the amount of annual compensation the public  
23 charter district pays to each officer and member of the governing  
24 body.

25                   Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During  
26 a public charter district's first year of operation, the charter  
27 holder shall submit quarterly financial reports to the

1 commissioner. The commissioner by rule shall determine the form  
2 and content of the financial reports under this section.

3 Sec. 11A.158. PEIMS INFORMATION. The governing body of a  
4 public charter district shall comply with Section 42.006.

5 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A  
6 management company that provides management services to a public  
7 charter district is liable for damages incurred by the state or a  
8 school district as a result of the failure of the company to comply  
9 with its contractual or other legal obligation to provide services  
10 to the district.

11 (b) On request of the commissioner, the attorney general may  
12 bring suit on behalf of the state against a management company  
13 liable under Subsection (a) for:

14 (1) damages, including any state funding received by  
15 the company and any consequential damages suffered by the state;

16 (2) injunctive relief; or

17 (3) any other equitable remedy determined to be  
18 appropriate by the court.

19 (c) This section is cumulative of all other remedies and  
20 does not affect:

21 (1) the liability of a management company to the  
22 charter holder; or

23 (2) the liability of a charter holder, a member of the  
24 governing body of a charter holder, or a member of the governing  
25 body of a public charter district to the state.

26 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

27 (a) The charter holder or the governing body of a public charter

1 district may not accept a loan from a management company that has a  
2 contract to provide management services to:

3 (1) the district; or

4 (2) another public charter district that operates  
5 under a charter granted to the charter holder.

6 (b) A charter holder or the governing body of a public  
7 charter district that accepts a loan from a management company may  
8 not enter into a contract with that management company to provide  
9 management services to the district.

10 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any  
11 contract, including a contract renewal, between a public charter  
12 district and a management company proposing to provide management  
13 services to the district must require the management company to  
14 maintain all records related to the management services separately  
15 from any other records of the management company.

16 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS  
17 PROHIBITED. The commissioner may prohibit, deny renewal of,  
18 suspend, or revoke a contract between a public charter district and  
19 a management company providing management services to the district  
20 if the commissioner determines that the management company has:

21 (1) failed to provide educational or related services  
22 in compliance with the company's contractual or other legal  
23 obligation to any public charter district in this state or to any  
24 other similar entity in another state;

25 (2) failed to protect the health, safety, or welfare  
26 of the students enrolled at a public charter district served by the  
27 company;

1           (3) violated this chapter or a rule adopted under this  
2 chapter; or

3           (4) otherwise failed to comply with any contractual or  
4 other legal obligation to provide services to the district.

5           [Sections 11A.163-11A.200 reserved for expansion]

6           SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

7           Sec. 11A.201. STATE FUNDING. (a) To the extent consistent  
8 with Subsection (c), a charter holder is entitled to receive for the  
9 public charter district funding under Chapter 42 as if the public  
10 charter district were a school district without a local share for  
11 purposes of Section 42.253 and without any local revenue ("LR") for  
12 purposes of Section 42.302. In determining funding for a public  
13 charter district, adjustments under Sections 42.102, 42.103, and  
14 42.105 and the district enrichment tax rate ("DTR") under Section  
15 42.302 are based on the average adjustment and average district  
16 enrichment tax rate for the state.

17           (a-1) Notwithstanding Subsection (a), an entity granted a  
18 charter under Section 11A.1041 is entitled to receive funding for  
19 each student in weighted average daily attendance in an amount  
20 equal to the greater of the amount determined under Subsection (a)  
21 or the amount to which the entity was entitled for the 2003-2004 or  
22 2004-2005 school year, as determined by the commissioner. A  
23 determination of the commissioner under this subsection is final  
24 and not subject to appeal. This subsection expires September 1,  
25 2013.

26           (b) To the extent consistent with Subsection (c), a public  
27 charter district is entitled to funds that are available to school

1 districts from the agency or the commissioner in the form of grants  
2 or other discretionary funding unless the statute authorizing the  
3 funding explicitly provides that a public charter district is not  
4 entitled to the funding.

5 (c) A charter holder is entitled to receive for a public  
6 charter district funding under this section only if the holder:

7 (1) provides information for the Public Education  
8 Information Management System (PEIMS) as required by this chapter;

9 (2) submits to the commissioner appropriate fiscal and  
10 financial records as required by this chapter and the commissioner;  
11 and

12 (3) receives an annual unqualified opinion in the  
13 standard report filed pursuant to Section 11A.210.

14 (d) The commissioner shall suspend the funding of a charter  
15 holder that fails to comply with Subsection (c) until the  
16 commissioner determines that the charter holder is in compliance or  
17 has cured any noncompliance and has adopted adequate procedures to  
18 prevent future noncompliance.

19 (e) The commissioner may adopt rules to provide and account  
20 for state funding of public charter districts under this section. A  
21 rule adopted under this section may be similar to a provision of  
22 this code that is not similar to Section 11A.052(b) if the  
23 commissioner determines that the rule is related to financing of  
24 public charter districts and is necessary or prudent to provide or  
25 account for state funds.

26 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF  
27 SALARIES. (a) This section applies only to a charter holder that

1 on January 1, 2005:

2 (1) operated an open-enrollment charter school under  
3 former Subchapter D, Chapter 12; and

4 (2) participated in the program under Chapter 1579,  
5 Insurance Code.

6 (b) In addition to any amounts to which a charter holder is  
7 entitled under this chapter, a charter holder is entitled to state  
8 aid in an amount, as determined by the commissioner, equal to the  
9 sum of:

10 (1) the product of \$1,000 multiplied by the number of  
11 the following employees employed by the charter holder at a public  
12 charter district:

13 (A) classroom teachers, full-time librarians,  
14 and full-time counselors certified under Subchapter B, Chapter 21;  
15 and

16 (B) full-time school nurses appropriately  
17 licensed under Chapter 301, Occupations Code;

18 (2) the product of \$500 multiplied by the number of  
19 full-time public charter district employees, other than  
20 administrators or employees described by Subdivision (1); and

21 (3) the product of \$250 multiplied by the number of  
22 part-time public charter district employees.

23 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In  
24 this section, "instructional facility" has the meaning assigned by  
25 Section 46.001.

26 (b) A charter holder is initially eligible for  
27 instructional facilities allotments in accordance with this



1 section if:

2 (1) any campus of a public charter district for which  
3 the charter holder has been granted a license has for two  
4 consecutive school years been rated exemplary or recognized under  
5 Subchapter D, Chapter 39, or has performed at a comparable level, as  
6 determined by the commissioner for purposes of this section; and

7 (2) on the most recent audit of the financial  
8 operations of the district conducted pursuant to Section 11A.210,  
9 the district has satisfied generally accepted accounting standards  
10 of fiscal management as evidenced by an unqualified opinion in the  
11 standard report issued and filed pursuant to Section 11A.210.

12 (c) Once a public charter district satisfies the initial  
13 eligibility requirements under Subsection (b) and receives an  
14 allotment under this section, the district continues to remain  
15 eligible until the district receives an accountability rating of  
16 unacceptable under Subchapter D, Chapter 39, at which point the  
17 district is again subject to the eligibility requirements of  
18 Subsection (b).

19 (d) The commissioner annually shall review the eligibility  
20 of a public charter district campus for purposes of this section.

21 (e) Except as otherwise provided by this section, a charter  
22 holder is entitled to an annual allotment in an amount determined by  
23 the commissioner, not to exceed \$1,000 or a different amount  
24 provided by appropriation, for each student in average daily  
25 attendance during the preceding year at a campus of a public charter  
26 district for which the charter holder has been granted a charter  
27 that is eligible for an allotment under this section.

1       (f) A charter holder who receives funds under this section  
2 may use the funds only to:

3           (1) purchase real property on which to construct an  
4 instructional facility for a public charter district campus for  
5 which the funds were paid under Subsection (e);

6           (2) purchase, lease, construct, expand, or renovate  
7 instructional facilities for a public charter district campus for  
8 which the funds were paid under Subsection (e);

9           (3) pay debt service in connection with instructional  
10 facilities purchased or improved for a campus of the public charter  
11 district that meets the requirements under Subsection (b); or

12           (4) maintain and operate public charter district  
13 instructional facilities.

14       (g) A decision of the commissioner under Subsection (e) is  
15 final and may not be appealed.

16       (h) The commissioner shall by rule establish procedures to  
17 ensure that funds a charter holder claims to be using for purposes  
18 of Subsection (f)(3) are used only for that purpose.

19       Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received  
20 under Section 11A.201 or 11A.202 by a charter holder:

21           (1) are considered to be public funds for all purposes  
22 under state law;

23           (2) are held in trust by the charter holder for the  
24 benefit of this state and the students of the public charter  
25 district;

26           (3) may be used only for a purpose for which a school  
27 may use local funds under Section 45.105(c) in the case of funds

1 received under Section 11A.201, and may be used only for a purpose  
2 specified under Section 11A.202(f) in the case of funds received  
3 under Section 11A.202; and

4 (4) pending their use, must be deposited into a bank,  
5 as defined by Section 45.201, with which the charter holder has  
6 entered into a depository contract under Section 11A.204.

7 (b) Funds deposited under Subsection (a)(4) may be directly  
8 deposited into an account controlled by a bond trustee acting for  
9 the charter holder pursuant to a bond indenture agreement requiring  
10 direct deposit.

11 (c) The commissioner shall adopt rules for identifying  
12 public funds in accordance with Subsection (a).

13 (d) The commissioner may bring an action in district court  
14 in Travis County for injunctive or other relief to enforce this  
15 section. In identifying public funds held by a charter holder, the  
16 court shall use the criteria adopted by the commissioner under  
17 Subsection (c). Except as otherwise provided by this subsection,  
18 the court shall enter any order under this subsection concerning  
19 public funds held by the charter holder necessary to best serve the  
20 interests of the students of a public charter district. In the case  
21 of a public charter district that has ceased to operate, the court  
22 shall enter any order under this subsection concerning public funds  
23 held by the charter holder necessary to best serve the interests of  
24 this state.

25 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank  
26 selected as a school depository and the charter holder shall enter  
27 into a depository contract, bond, or other necessary instrument

1 setting forth the duties and agreements pertaining to the  
2 depository, in a form and with the content prescribed by the State  
3 Board of Education.

4 (b) The depository bank shall attach to the contract and  
5 file with the charter holder a bond in an initial amount equal to  
6 the estimated highest daily balance, determined by the charter  
7 holder, of all deposits that the charter holder will have in the  
8 depository during the term of the contract, less any applicable  
9 Federal Deposit Insurance Corporation insurance. The bond must be  
10 payable to the charter holder and must be signed by the depository  
11 bank and by a surety company authorized to engage in business in  
12 this state. The depository bank shall increase the amount of the  
13 bond if the charter holder determines the increase is necessary to  
14 adequately protect the funds of the charter holder deposited with  
15 the depository bank.

16 (c) The bond shall be conditioned on:

17 (1) the faithful performance of all duties and  
18 obligations imposed by law on the depository;

19 (2) the payment on presentation of all checks or  
20 drafts on order of the charter holder, in accordance with its orders  
21 entered by the charter holder according to law;

22 (3) the payment on demand of any demand deposit in the  
23 depository;

24 (4) the payment, after the expiration of the period of  
25 notice required, of any time deposit in the depository;

26 (5) the faithful keeping of school funds by the  
27 depository and the accounting for the funds according to law; and

1           (6) the faithful paying over to the successor  
2 depository all balances remaining in the accounts.

3           (d) The bond and the surety on the bond must be approved by  
4 the charter holder. A premium on the depository bond may not be  
5 paid out of charter holder funds related to operation of the public  
6 charter district.

7           (e) The charter holder shall file a copy of the depository  
8 contract and bond with the agency.

9           (f) Instead of the bond required under Subsection (b), the  
10 depository bank may deposit or pledge, with the charter holder or  
11 with a trustee designated by the charter holder, approved  
12 securities, as defined by Section 45.201, in an amount sufficient  
13 to adequately protect the funds of the charter holder deposited  
14 with the depository bank. A depository bank may give a bond and  
15 deposit or pledge approved securities in an aggregate amount  
16 sufficient to adequately protect the funds of the charter holder  
17 deposited with the depository bank. The charter holder shall  
18 periodically designate the amount of approved securities or the  
19 aggregate amount of the bond and approved securities necessary to  
20 adequately protect the charter holder. The charter holder may not  
21 designate an amount less than the balance of charter holder funds on  
22 deposit with the depository bank from day to day, less any  
23 applicable Federal Deposit Insurance Corporation insurance. The  
24 depository bank may substitute approved securities on obtaining the  
25 approval of the charter holder. For purposes of this subsection,  
26 the approved securities are valued at their market value.

27           Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter

1 holder who accepts state funds under Section 11A.201 or 11A.202  
2 agrees to be subject to all requirements, prohibitions, and  
3 sanctions authorized under this chapter.

4 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE  
5 FUNDS. (a) Property purchased or leased with funds received by a  
6 charter holder under Section 11A.201 or 11A.202:

7 (1) is considered to be public property for all  
8 purposes under state law;

9 (2) is held in trust by the charter holder for the  
10 benefit of this state and the students of the public charter  
11 district; and

12 (3) may be used only for a purpose for which a school  
13 district may use school district property.

14 (b) The commissioner shall:

15 (1) take possession and assume control of the property  
16 described by Subsection (a) of a public charter district that  
17 ceases to operate; and

18 (2) supervise the disposition of the property in  
19 accordance with law.

20 (c) This section does not affect the priority of a security  
21 interest in or lien on property established by a creditor in  
22 compliance with law if the security interest or lien arose in  
23 connection with the sale or lease of the property to the charter  
24 holder.

25 (d) The commissioner shall adopt rules for identifying  
26 public property in accordance with Subsection (a).

27 (e) The commissioner may bring an action in district court

1 in Travis County for injunctive or other relief to enforce this  
2 section. In identifying public property held by a charter holder,  
3 the court shall use the criteria adopted by the commissioner under  
4 Subsection (d). Except as otherwise provided by this subsection,  
5 the court shall enter any order under this subsection concerning  
6 public property held by the charter holder necessary to best serve  
7 the interests of the students of a public charter district. In the  
8 case of a public charter district that has ceased to operate, the  
9 court shall enter any order under this subsection concerning public  
10 property held by the charter holder necessary to best serve the  
11 interests of this state. The court may order title to real or  
12 personal public property held by the charter holder transferred to  
13 a trust established for the purpose of managing the property or may  
14 make other disposition of the property necessary to best serve the  
15 interests of this state.

16 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER  
17 DISTRICT LAND OR FACILITIES. A municipality to which a charter is  
18 granted under this chapter may borrow funds, issue obligations, or  
19 otherwise spend its funds to acquire land or acquire, construct,  
20 expand, or renovate school buildings or facilities and related  
21 improvements for its public charter district within the city limits  
22 of the municipality in the same manner the municipality is  
23 authorized to borrow funds, issue obligations, or otherwise spend  
24 its funds in connection with any other public works project.

25 Sec. 11A.208. TEXTBOOK FUNDING. A public charter district  
26 is entitled to funding for textbooks under Chapter 31 and is subject  
27 to that chapter as if the public charter district were a school

1 district.

2 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public  
3 charter district shall annually adopt a budget for the district.

4 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public  
5 charter district shall conduct an annual audit in a manner that  
6 complies with Section 44.008.

7 [Sections 11A.211-11A.250 reserved for expansion]

8 SUBCHAPTER F. OPERATION OF PUBLIC SCHOOL CHARTER DISTRICT

9 Sec. 11A.251. ADMISSION POLICY. (a) A public charter  
10 district may not discriminate in admission policy on the basis of  
11 sex, national origin, ethnicity, religion, disability, or  
12 academic, artistic, or athletic ability or the district the child  
13 would otherwise attend in accordance with this code.

14 (b) A public charter district admission policy may provide  
15 for the exclusion of a student who has a documented history of a  
16 criminal offense, a juvenile court adjudication, or discipline  
17 problems under Subchapter A, Chapter 37.

18 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to  
19 a public charter district campus, the governing body of the  
20 district shall:

21 (1) require the applicant to complete and submit an  
22 application not later than a reasonable deadline the district  
23 establishes; and

24 (2) on receipt of more acceptable applications for  
25 admission under this section than available positions in the  
26 school:

27 (A) fill the available positions by lottery; or



1                   (B) subject to Subsection (b), fill the available  
2 positions in the order in which applications received before the  
3 application deadline were received.

4           (b) A public charter district may fill applications for  
5 admission under Subsection (a)(2)(B) only if the district published  
6 a notice of the opportunity to apply for admission to the district.  
7 A notice published under this subsection must:

8                   (1) state the application deadline; and

9                   (2) be published in a newspaper of general circulation  
10 in the community in which the district campus is located not later  
11 than the seventh day before the application deadline.

12           (c) A public charter district may exempt an applicant from  
13 the requirements of Subsection (a)(2) if the applicant is:

14                   (1) the child or grandchild of a member of the  
15 governing body of the charter holder at the time the district's  
16 charter was first granted;

17                   (2) the child of an employee of the district or the  
18 charter holder; or

19                   (3) a sibling of a student who is enrolled in the  
20 district.

21           Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided  
22 by Subsection (b) or as otherwise determined impracticable by the  
23 commissioner, during a public charter district's first year of  
24 operation, the district must have a student enrollment of at least  
25 100 and not more than 500 at any time during the school year.

26           (b) A public charter district may have a student enrollment  
27 of less than 100 if approved by the commissioner.

1       (c) Not later than a public charter district's third year of  
2 operation, at least 25 percent of the district's students must be  
3 enrolled in one or more grade levels for which assessment  
4 instruments are administered under Section 39.023(a).

5       (d) The commissioner may grant a waiver from the  
6 requirements of Subsection (c) for a public charter district that  
7 opens a campus serving prekindergarten or kindergarten students and  
8 agrees to:

9           (1) add at least one higher grade level class each  
10 school year after opening the campus; and

11           (2) until the campus complies with Subsection (c),  
12 adopt accountability measures to assess the performance of the  
13 students not assessed under Section 39.023(a).

14       (e) The commissioner may grant a waiver from the  
15 requirements of Subsection (c) for a public charter district that  
16 was operating an open-enrollment charter school campus on January  
17 1, 2005, serving prekindergarten, kindergarten, and first, second,  
18 and third grade students if the public charter district:

19           (1) adopts one or more nationally norm-referenced  
20 assessment instruments approved by the commissioner;

21           (2) administers the assessment instruments to its  
22 second grade students at intervals and in the manner specified by  
23 commissioner rule; and

24           (3) meets the applicable standards for student  
25 performance on the assessment instruments, as determined by  
26 commissioner rule.

27       (f) The commissioner shall adopt rules necessary to

1 implement this section.

2 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public  
3 charter district may not charge tuition to an eligible student who  
4 applies for admission to the district under this chapter.

5 (b) The governing body of a public charter district may  
6 require a student to pay any fee that the board of trustees of a  
7 school district may charge under Section 11.158(a). The governing  
8 body may not require a student to pay a fee that the board of  
9 trustees of a school district may not charge under Section  
10 11.158(b).

11 Sec. 11A.255. TRANSPORTATION. A public charter district  
12 shall provide transportation to each student attending the school  
13 to the same extent a school district is required by law to provide  
14 transportation to district students.

15 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY  
16 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The  
17 governing body of a public charter district shall adopt a code of  
18 conduct for the district or for each campus in the district.

19 (b) The code of conduct must include:

20 (1) standards for student behavior, including the  
21 types of prohibited behaviors and the possible consequences of  
22 misbehavior; and

23 (2) the district's due process procedures regarding  
24 expulsion of a student.

25 (c) A final decision of the governing body of a public  
26 charter district regarding action taken under the code of conduct  
27 may not be appealed.

1       (d) A public charter district may not expel a student for a  
2 reason that is not authorized by Section 37.007 or specified in the  
3 district's code of conduct as conduct that may result in expulsion.

4       (e) Section 37.002 does not apply to a public charter  
5 district except to the extent specified by the governing body of the  
6 public charter district in the district's code of conduct.

7       [Sections 11A.257-11A.300 reserved for expansion]

8       SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

9       Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except  
10 as otherwise required by this section or chapter, a person employed  
11 as a teacher by a public charter district must hold a high school  
12 diploma.

13       (b) To the extent required by federal law, including 20  
14 U.S.C. 7801(11), a person employed as a teacher by a public charter  
15 district must hold a baccalaureate degree.

16       Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE  
17 QUALIFICATIONS. (a) Each public charter district shall provide to  
18 the parent or guardian of each student enrolled at a campus in the  
19 district written notice of the qualifications of each professional  
20 employee, including each teacher, employed at the campus.

21       (b) The notice must include:

22               (1) any professional or educational degree held by the  
23 employee;

24               (2) a statement of any certification under Subchapter  
25 B, Chapter 21, held by the employee; and

26               (3) any relevant experience of the employee.

27       Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The

1 governing body of a public charter district shall obtain a complete  
2 set of fingerprints from each person described by Section  
3 21.0032(a).

4 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF  
5 CERTAIN APPLICANTS. A public charter district must comply with  
6 Section 21.0032 before employing or otherwise securing the services  
7 of a person as a teacher, teacher intern or trainee, librarian,  
8 educational aide, administrator, or counselor, regardless of  
9 whether the applicant is certified under Subchapter B, Chapter 21.

10 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF  
11 TEXAS. (a) An employee of a public charter district who qualifies  
12 for membership in the Teacher Retirement System of Texas shall be  
13 covered under the system to the same extent a qualified employee of  
14 a school district is covered.

15 (b) For each employee of a public charter district covered  
16 under the system, the public charter district is responsible for  
17 making any contribution that otherwise would be the legal  
18 responsibility of a school district, and the state is responsible  
19 for making contributions to the same extent it would be legally  
20 responsible if the employee were a school district employee.

21 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

22 (a) This section applies only to a charter holder that on January  
23 1, 2005:

24 (1) operated an open-enrollment charter school under  
25 former Subchapter D, Chapter 12; and

26 (2) participated in the program under Chapter 1579,  
27 Insurance Code.

1        (b) Using state funds received by the charter holder for  
2 that purpose under Section 11A.2011, a charter holder each school  
3 year shall pay the following employees employed by the charter  
4 holder at a public charter district an amount at least equal to:

5            (1) \$1,000 for:

6                    (A) classroom teachers, full-time librarians,  
7 and full-time counselors certified under Subchapter B, Chapter 21;  
8 and

9                    (B) full-time school nurses appropriately  
10 licensed under Chapter 301, Occupations Code;

11            (2) \$500 for full-time public charter district  
12 employees, other than administrators or employees described by  
13 Subdivision (1); and

14            (3) \$250 for part-time public charter district  
15 employees.

16        (c) A payment under this section is in addition to wages the  
17 charter holder would otherwise pay the employee during the school  
18 year.

19            [Sections 11A.307-11A.350 reserved for expansion]

20            SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

21            Sec. 11A.351. AUDIT. (a) To the extent consistent with  
22 this section, the commissioner may audit the records of:

23                    (1) a public charter district or campus;

24                    (2) a charter holder; and

25                    (3) a management company.

26        (b) An audit under Subsection (a) must be limited to matters  
27 directly related to the management or operation of a public charter

1 district, including any financial, student, and administrative  
2 records.

3 (c) Unless the commissioner has specific cause to conduct an  
4 additional audit, the commissioner may not conduct more than one  
5 on-site audit of a public charter district under this section  
6 during any fiscal year, including any audit of financial, student,  
7 and administrative records. For purposes of this subsection, an  
8 audit of a charter holder or management company associated with a  
9 public charter district is not considered an audit of the district.

10 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a  
11 subpoena to compel the attendance and testimony of a witness or the  
12 production of materials relevant to an audit or investigation under  
13 this chapter.

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

16 (c) If a person fails to comply with a subpoena issued under  
17 this section, the commissioner, acting through the attorney  
18 general, may file suit to enforce the subpoena in a district court  
19 in Travis County or in the county in which the audit or  
20 investigation is conducted. The court shall order compliance with  
21 the subpoena if the court finds that good cause exists to issue the  
22 subpoena.

23 (d) This section expires September 1, 2007.

24 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take  
25 any of the actions described by Subsection (b) or by Section  
26 39.131(a), to the extent the commissioner determines necessary, if  
27 a public charter district, as determined by a report issued under

1 Section 39.076(b):

2 (1) commits a material violation of the district's  
3 charter;

4 (2) fails to satisfy generally accepted accounting  
5 standards of fiscal management; or

6 (3) fails to comply with this chapter or another  
7 applicable rule or law.

8 (b) The commissioner may temporarily withhold funding,  
9 suspend the authority of a public charter district to operate, or  
10 take any other reasonable action the commissioner determines  
11 necessary to protect the health, safety, or welfare of students  
12 enrolled at a district campus based on evidence that conditions at  
13 the district campus present a danger to the health, safety, or  
14 welfare of the students.

15 (c) After the commissioner acts under Subsection (b), the  
16 public charter district may not receive funding and may not resume  
17 operating until a determination is made that:

18 (1) despite initial evidence, the conditions at the  
19 district campus do not present a danger of material harm to the  
20 health, safety, or welfare of students; or

21 (2) the conditions at the district campus that  
22 presented a danger of material harm to the health, safety, or  
23 welfare of students have been corrected.

24 (d) Not later than the third business day after the date the  
25 commissioner acts under Subsection (b), the commissioner shall  
26 provide the charter holder an opportunity for a hearing. This  
27 subsection does not apply to an action taken by the commissioner



1 under Chapter 39.

2 (e) Immediately after a hearing under Subsection (d), the  
3 commissioner must cease the action under Subsection (b) or initiate  
4 action under Section 11A.108.

5 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN  
6 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the  
7 Foundation School Program, the commissioner shall reduce the total  
8 amount of state funds allocated to each district from any source in  
9 the same manner described for a reduction in allotments under  
10 Section 42.253 and adopt and implement a program for supervising  
11 the administration of assessment instruments under Section 39.023  
12 during the 2005-2006 school year at an open-enrollment charter  
13 school, other than a school operated by an entity described by  
14 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent  
15 of all students enrolled at the school and administered an  
16 assessment instrument under Section 39.023(a), (c), or (l)  
17 performed satisfactorily on:

18 (1) the assessment instrument in mathematics, as  
19 determined by the school's assessment instrument results for the  
20 2004-2005 school year; or

21 (2) the assessment instrument in reading or English  
22 language arts, as applicable, as determined by the school's  
23 assessment instrument results for the 2004-2005 school year.

24 (b) The program adopted under Subsection (a) must be  
25 designed to:

26 (1) ensure that the location at which an assessment  
27 instrument is administered is secure and under the supervision of

1 persons who do not have any interest in the results of the  
2 assessment instrument; and

3 (2) provide direct supervision of:

4 (A) the transportation of the assessment  
5 instrument materials to and from the location at which the  
6 instrument is administered; and

7 (B) the administration of the assessment  
8 instrument to students.

9 (c) The commissioner may adopt rules necessary to  
10 administer this section and may take any action that the  
11 commissioner determines necessary to ensure the integrity of the  
12 results of an assessment instrument administered at an  
13 open-enrollment charter school described by Subsection (a).

14 (d) After deducting the amount withheld under Subsection  
15 (a) from the total amount appropriated for the Foundation School  
16 Program, the commissioner shall reduce the total amount of state  
17 funds allocated to each district from any source in the same manner  
18 described for a reduction in allotments under Section 42.253.

19 (e) An open-enrollment charter school's failure to fully  
20 cooperate with the commissioner under this section is sufficient  
21 grounds for revocation of the district's charter, as determined by  
22 the commissioner.

23 (f) This section expires September 1, 2006.

24 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The  
25 commissioner shall periodically consult with representatives of  
26 charter holders regarding the duties and mission of the agency  
27 relating to the operation of public charter districts. The

1 commissioner shall determine the frequency of the consultations.

2 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing  
3 in this chapter may be construed to limit the commissioner's  
4 authority under Chapter 39.

5 Sec. 11A.356. RULES. The commissioner may adopt rules for  
6 the administration of this chapter.

7 [Sections 11A.357-11A.400 reserved for expansion]

8 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

9 Sec. 11A.401. AUTHORIZATION. (a) In this section,  
10 "eligible entity" means an organization that is exempt from  
11 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
12 organization described by Section 501(c)(3) of that code.

13 (b) In accordance with this subchapter, the commissioner  
14 may authorize not more than three charter holders to grant a charter  
15 to an eligible entity to operate a blue ribbon charter campus if:

16 (1) the charter holder proposes to grant the blue  
17 ribbon charter to replicate a distinctive education program;

18 (2) the charter holder has demonstrated the ability to  
19 replicate the education program;

20 (3) the education program has been implemented by the  
21 charter holder for at least seven school years; and

22 (4) the charter school in which the charter holder has  
23 implemented the program has been rated recognized or exemplary  
24 under Section 39.072 for at least five school years, including the  
25 two school years preceding the proposed issuance of the blue ribbon  
26 charter.

27 (b-1) An eligible entity that assumed operation of an

1 existing charter school program during the seven years preceding  
2 the proposed authorization under Subsection (b) may be authorized  
3 to grant a blue ribbon charter under Subsection (b) if:

4 (1) the performance level of the program at a campus  
5 before and after the entity assumed operation of the program meets  
6 the qualifications described by Subsection (b); and

7 (2) the entity has met the qualifications described by  
8 Subsection (b) since assuming operation of the program.

9 (c) A charter holder may grant a blue ribbon charter only to  
10 an applicant that meets any financial, governing, and operational  
11 standards adopted by the commissioner under this subchapter.

12 (d) A charter holder may grant not more than two blue ribbon  
13 charters under this subchapter.

14 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue  
15 ribbon charter campus is considered a public charter district  
16 campus for purposes of state and federal law.

17 (b) A blue ribbon charter granted under this subchapter is  
18 not considered for purposes of the limit on the number of public  
19 charter districts imposed by Section 11A.002.

20 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE  
21 RIBBON CHARTER CAMPUS. (a) The governing body of the public  
22 charter district authorizing a blue ribbon charter is responsible  
23 for the management and operation of the campus operated under a  
24 blue ribbon charter. A blue ribbon charter campus is subject to the  
25 rules and policies of the governing body of the charter holder that  
26 granted the blue ribbon charter.

27 (b) For purposes of academic and financial accountability

1 and all other purposes under this chapter and Chapter 39, a blue  
2 ribbon charter campus is considered a campus of the public charter  
3 district operated by the charter holder that granted the blue  
4 ribbon charter.

5 (c) A charter holder is entitled to receive funding for a  
6 blue ribbon charter campus as if the blue ribbon charter campus were  
7 a campus of the public charter district operated by the charter  
8 holder.

9 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The  
10 commissioner by rule shall adopt an application form and procedures  
11 for a charter holder to apply for authorization to grant a blue  
12 ribbon charter to an eligible entity under this subchapter.

13 (b) The application must specify:

14 (1) the criteria that will be used to grant blue ribbon  
15 charters;

16 (2) procedures for governance and management of  
17 campuses operating under a blue ribbon charter; and

18 (3) the performance standard by which continuation of  
19 a blue ribbon charter will be determined.

20 (c) A determination by the commissioner regarding an  
21 application under this section is final and may not be appealed.

22 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The  
23 commissioner may revoke a charter holder's authorization to grant a  
24 blue ribbon charter or operate a campus granted a blue ribbon  
25 charter if the commissioner determines that the purposes of this  
26 subchapter are not being satisfied.

27 (b) On revocation of a charter holder's authority under this

1 section, the charter holder shall:

2 (1) operate a campus granted a blue ribbon charter as a  
3 standard campus of the charter holder under this chapter; or

4 (2) close the campus effective at the end of the school  
5 year in which the commissioner revokes the authorization.

6 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter  
7 granted under this subchapter must:

8 (1) describe the educational program to be offered,  
9 which may be a general or specialized education program;

10 (2) provide that continuation of the charter is  
11 contingent on satisfactory student performance under Subchapter B,  
12 Chapter 39, and on compliance with other applicable accountability  
13 provisions under Chapter 39;

14 (3) specify any basis, in addition to a basis  
15 specified by this subchapter, on which the charter may be placed on  
16 probation or revoked;

17 (4) prohibit discrimination in admission on the basis  
18 of national origin, ethnicity, race, religion, or disability;

19 (5) describe the governing structure of the blue  
20 ribbon charter campus;

21 (6) specify any procedure or requirement, in addition  
22 to those under Chapter 38, that the campus will follow to ensure the  
23 health and safety of students and employees; and

24 (7) describe the manner in which the campus and  
25 charter holder granting the blue ribbon charter will comply with  
26 financial and operational requirements, including requirements  
27 related to the Public Education Information Management System

1 (PEIMS) under Section 11A.158 and the audit requirements under  
2 Section 11A.210.

3 (b) A charter holder may reserve the right to approve  
4 contracts, governance alterations, personnel decisions, and other  
5 matters affecting the operation of the blue ribbon charter campus.

6 (c) A blue ribbon charter must specify the basis and  
7 procedure to be used by the charter holder for placing the blue  
8 ribbon charter campus on probation or revoking the charter, which  
9 must include an opportunity for an informal review of the blue  
10 ribbon charter campus and governing body of the campus by the  
11 charter holder. A charter holder's decision to place on probation  
12 or revoke a blue ribbon charter is final and may not be appealed.

13 Sec. 11A.407. FORM. A blue ribbon charter issued under this  
14 subchapter must be in the form and substance of a written contract  
15 signed by the president or equivalent officer of the governing body  
16 of the charter holder granting the blue ribbon charter and the  
17 president or equivalent officer of the governing body of the  
18 eligible entity to which the blue ribbon charter is granted.

19 Sec. 11A.408. REVISION. A blue ribbon charter granted  
20 under this subchapter may be revised with the approval of the  
21 charter holder that granted the charter.

22 [Sections 11A.409-11A.450 reserved for expansion]

23 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER

24 SCHOOLS

25 Sec. 11A.451. DEFINITIONS. In this subchapter:

26 (1) "Assets" means:

27 (A) public funds, as determined under Section

1 12.107, as that section existed on January 1, 2005; and

2 (B) public property, as determined under Section  
3 12.128, as that section existed on January 1, 2005.

4 (2) "Records" means government records, as determined  
5 under Section 12.1052, as that section existed on January 1, 2005.

6 Sec. 11A.452. APPLICABILITY. The commissioner shall  
7 appoint a receiver under this subchapter for each open-enrollment  
8 charter school that on June 1, 2005, was operating under a charter  
9 issued under Subchapter D, Chapter 12, as that subchapter existed  
10 on January 1, 2005, and:

11 (1) is not authorized to operate as a public charter  
12 district under this chapter; or

13 (2) elects not to operate as a public charter district  
14 under this chapter.

15 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)  
16 The commissioner shall appoint a receiver to protect the assets and  
17 direct the dissolution of open-enrollment charter schools subject  
18 to this subchapter.

19 (b) The receiver shall execute a bond in an amount set by the  
20 commissioner to ensure the proper performance of the receiver's  
21 duties.

22 (c) Until discharged by the commissioner, the receiver  
23 shall perform the duties that the commissioner directs to preserve  
24 the assets and direct the dissolution of the open-enrollment  
25 charter school under this subchapter.

26 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After  
27 appointment and execution of bond under Section 11A.453, the



1 receiver shall take possession of:

2 (1) assets and records in the possession of the  
3 open-enrollment charter school specified by the commissioner; and

4 (2) any Foundation School Program funds and any other  
5 public funds received by the school's charter holder.

6 (b) On request of the receiver, the attorney general shall  
7 file a suit for attachment, garnishment, or involuntary bankruptcy  
8 and take any other action necessary for the dissolution of an  
9 open-enrollment charter school under this subchapter.

10 (c) If the charter holder of an open-enrollment charter  
11 school or an officer or employee of such a school refuses to  
12 transfer school assets or records to a receiver under this  
13 subsection, the receiver may ask the attorney general to petition a  
14 court for recovery of the assets or records. If the court grants  
15 the petition, the court shall award attorney's fees and court costs  
16 to the state.

17 (d) A record described by this section is a public school  
18 record for purposes of Section 37.10(c)(2), Penal Code.

19 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall  
20 wind up the affairs of an open-enrollment charter school and,  
21 except as provided by Subsection (b), reduce its assets to cash for  
22 the purpose of discharging all existing liabilities and obligations  
23 of the school. In winding up the affairs of a school, the receiver  
24 shall cooperate in any bankruptcy proceeding affecting the school.  
25 The receiver shall distribute any remaining balance to the  
26 commissioner.

27 (b) A receiver shall offer free of charge any equipment and

1 supplies of an open-enrollment charter school dissolved under this  
2 subchapter to school districts, giving priority to districts based  
3 on the percentage of the charter school's students that reside in  
4 the districts.

5 (c) The commissioner shall use money in the foundation  
6 school fund and money received under this section to pay the costs  
7 described by Section 11A.458 and discharge liabilities and  
8 obligations of open-enrollment charter schools under this  
9 subchapter. The commissioner shall deposit any remaining balance  
10 in the foundation school fund.

11 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of  
12 an open-enrollment charter school subject to this subchapter shall  
13 be transferred in the manner specified by the commissioner to a  
14 custodian designated by the commissioner. The commissioner may  
15 designate any appropriate entity to serve as custodian of records,  
16 including the agency, a regional education service center, or a  
17 school district. In designating a custodian, the commissioner  
18 shall ensure that the transferred records, including student and  
19 personnel records, are transferred to a custodian capable of:

20 (1) maintaining the records;

21 (2) making the records readily accessible to students,  
22 parents, former school employees, and other persons entitled to  
23 access; and

24 (3) complying with applicable state or federal law  
25 restricting access to the records.

26 (b) The commissioner is entitled to access to any records  
27 transferred to a custodian under this section as the commissioner

1 determines necessary for auditing, investigative, or monitoring  
2 purposes.

3 Sec. 11A.457. LIABILITY. A receiver is not personally  
4 liable for actions taken by the receiver under this subchapter.

5 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may  
6 authorize reimbursement of reasonable costs related to the  
7 receivership, including:

8 (1) payment of fees to the receiver for the receiver's  
9 services; and

10 (2) payment of fees to attorneys, accountants, or any  
11 other person that provides goods or services necessary to the  
12 operation of the receivership.

13 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The  
14 competitive bidding requirements of this code and the contracting  
15 requirements of Chapter 2155, Government Code, do not apply to the  
16 appointment of a receiver, attorney, accountant, or other person  
17 appointed under this subchapter.

18 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is  
19 amended by adding Section 12.1058 to read as follows:

20 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT  
21 PROVISIONS. (a) An open-enrollment charter school is subject to  
22 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,  
23 11A.304, 11A.352, 21.0032, and 21.058.

24 (b) The commissioner may bring an action for injunctive or  
25 other relief as provided by Section 11A.203(d) to enforce Section  
26 12.107.

27 (c) For purposes of this section, a reference in a law

1 described by this section to a public charter district means an  
2 open-enrollment charter school.

3 SECTION 4.04. Sections 12.152 and 12.156, Education Code,  
4 are amended to read as follows:

5 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this  
6 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of  
7 Education may grant a charter on the application of a public senior  
8 college or university for a public [~~an open-enrollment~~] charter  
9 district [~~school~~] to operate on the campus of the public senior  
10 college or university or in the same county in which the campus of  
11 the public senior college or university is located.

12 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)  
13 Except as otherwise provided by this subchapter, Chapter 11A  
14 [~~Subchapter D~~] applies to a college or university charter school as  
15 though the college or university charter school were granted a  
16 charter under that chapter [~~subchapter~~].

17 (b) A charter granted under this subchapter is not  
18 considered for purposes of the limit on the number of public  
19 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section  
20 11A.002 [~~12.101(b)~~].

21 (c) A college or university charter school is not subject to  
22 a prohibition, restriction, or requirement relating to:

23 (1) open meetings and public information under Section  
24 11A.053;

25 (2) maintenance of records under Section 11A.054;

26 (3) purchasing and contracting under Section 11A.055;

27 (4) conflict of interest under Section 11A.056;

- 1           (5) nepotism under Section 11A.057;  
2           (6) composition of governing body under Section  
3 11A.152;  
4           (7) restrictions on serving as a member of a governing  
5 body or as an officer or employee under Section 11A.153;  
6           (8) liability of members of governing body under  
7 Section 11A.154;  
8           (9) training for members of governing body under  
9 Section 11A.155;  
10           (10) bylaws and annual reports under Section 11A.156;  
11           (11) quarterly financial reports under Section  
12 11A.157; and  
13           (12) depository bond and security requirements under  
14 Section 11A.204.

15           (d) A college or university charter school and the governing  
16 body of the school are subject to regulations and procedures that  
17 govern a public senior college or university relating to open  
18 meetings, records retention, purchasing, contracting, conflicts of  
19 interest, and nepotism.

20           SECTION 4.05. Section 5.001, Education Code, is amended by  
21 adding Subdivision (5-a) and amending Subdivision (6) to read as  
22 follows:

23           (5-a) "Public charter campus" means a campus operated  
24 by a public charter district.

25           (6) "Public charter district [~~Open-enrollment charter~~  
26 ~~school~~]" means a public school authorized by [~~that has been~~  
27 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

1 SECTION 4.06. Section 7.003, Education Code, is amended to  
2 read as follows:

3 Sec. 7.003. LIMITATION ON AUTHORITY. An educational  
4 function not specifically delegated to the agency or the board  
5 under this code is reserved to and shall be performed by school  
6 districts or ~~[open-enrollment]~~ charter schools.

7 SECTION 4.07. Section 7.027(b), Education Code, as added by  
8 Chapter 201, Acts of the 78th Legislature, Regular Session, 2003,  
9 is amended to read as follows:

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

15 SECTION 4.08. Section 7.055(b)(17), Education Code, is  
16 amended to read as follows:

17 (17) The commissioner shall distribute funds to public  
18 charter districts ~~[open-enrollment charter schools]~~ as required  
19 under Chapter 11A ~~[Subchapter D, Chapter 12]~~.

20 SECTION 4.09. Section 7.102(c)(9), Education Code, is  
21 amended to read as follows:

22 (9) The board may grant a charter for a public charter  
23 district ~~[an open-enrollment charter or approve a charter revision]~~  
24 as provided by Chapter 11A ~~[Subchapter D, Chapter 12]~~.

25 SECTION 4.10. Section 12.002, Education Code, is amended to  
26 read as follows:

27 Sec. 12.002. CLASSES OF CHARTER. The classes of charter

1 under this chapter are:

2 (1) a home-rule school district charter as provided by  
3 Subchapter B;

4 (2) a campus or campus program charter as provided by  
5 Subchapter C; or

6 (3) a college or university [~~an open-enrollment~~]  
7 charter as provided by Subchapter E [D].

8 SECTION 4.11. Subchapter A, Chapter 21, Education Code, is  
9 amended by adding Section 21.0032 to read as follows:

10 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER  
11 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or  
12 serve as a teacher, teacher intern or teacher trainee, librarian,  
13 educational aide, administrator, educational diagnostician, or  
14 counselor for a public charter district unless the person has been  
15 cleared by the State Board for Educator Certification following a  
16 national criminal history record review and investigation under  
17 this section.

18 (b) Before or immediately after employing or securing the  
19 services of a person described by Subsection (a), a public charter  
20 district shall send to the State Board for Educator Certification  
21 the person's fingerprints and social security number. The person  
22 may be employed or serve pending action by the board.

23 (c) The State Board for Educator Certification shall review  
24 and investigate the person's national criminal history record  
25 information, educator certification discipline history in any  
26 state, and other information in the same manner as a review or  
27 investigation conducted regarding an initial application for

1 educator certification. If the board finds the person would not be  
2 eligible for educator certification, the board shall notify the  
3 public charter district in writing that the person may not be  
4 employed or serve in a capacity described by Subsection (a).

5 (d) On receipt of written notice under Subsection (c), a  
6 public charter district may not employ or permit the person to serve  
7 unless the person timely submits a written appeal under this  
8 section. The State Board for Educator Certification shall conduct  
9 an appeal under this subsection in the same manner as an appeal  
10 regarding the denial of an initial application for educator  
11 certification.

12 SECTION 4.12. Sections 21.058(b) and (c), Education Code,  
13 are amended to read as follows:

14 (b) Notwithstanding Section 21.041(b)(7), not later than  
15 the fifth day after the date the board receives notice under Article  
16 42.018, Code of Criminal Procedure, of the conviction of a person  
17 described by Section 21.0032 or who holds a certificate under this  
18 subchapter, the board shall:

19 (1) revoke the certificate or clearance held by the  
20 person; and

21 (2) provide to the person and to any school district or  
22 public charter district [~~open-enrollment charter school~~] employing  
23 the person at the time of revocation written notice of:

24 (A) the revocation; and

25 (B) the basis for the revocation.

26 (c) A school district or public charter district  
27 [~~open-enrollment charter school~~] that receives notice under



1 Subsection (b) of the revocation of a certificate issued under this  
2 subchapter shall:

3 (1) immediately remove the person whose certificate  
4 has been revoked from campus or from an administrative office, as  
5 applicable, to prevent the person from having any contact with a  
6 student; and

7 (2) as soon as practicable, terminate the employment  
8 of the person in accordance with the person's contract and with this  
9 subchapter.

10 SECTION 4.13. Sections 22.083(b)-(d), Education Code, are  
11 amended to read as follows:

12 (b) A public charter district may [~~An open-enrollment~~  
13 ~~charter school shall~~] obtain from the Department of Public Safety  
14 [~~any law enforcement or criminal justice agency~~] all criminal  
15 history record information that relates to:

16 (1) a person whom the district [~~school~~] intends to  
17 employ in any capacity; or

18 (2) a person who has indicated, in writing, an  
19 intention to serve as a volunteer with the district [~~school~~].

20 (c) A school district, public charter district  
21 [~~open-enrollment charter school~~], private school, regional  
22 education service center, or shared services arrangement may obtain  
23 from a federal or state [~~any~~] law enforcement or criminal justice  
24 agency all criminal history record information that relates to:

25 (1) a volunteer or employee of the district, school,  
26 service center, or shared services arrangement; or

27 (2) an employee of or applicant for employment by a

1 person that contracts with the district, school, service center, or  
2 shared services arrangement to provide services, if:

3 (A) the employee or applicant has or will have  
4 continuing duties related to the contracted services; and

5 (B) the duties are or will be performed on school  
6 property or at another location where students are regularly  
7 present.

8 (d) The superintendent of a district or the director of a  
9 public charter district [~~an open-enrollment charter school~~],  
10 private school, regional education service center, or shared  
11 services arrangement shall promptly notify the State Board for  
12 Educator Certification in writing if the person obtains or has  
13 knowledge of information showing that an applicant for or holder of  
14 a certificate issued under Subchapter B, Chapter 21, has a reported  
15 criminal history.

16 SECTION 4.14. Section 22.084, Education Code, is amended to  
17 read as follows:

18 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL  
19 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided  
20 by Subsections (c) and (d), a school district, public charter  
21 district [~~open-enrollment charter school~~], private school,  
22 regional education service center, or shared services arrangement  
23 that contracts with a person for transportation services shall  
24 obtain from the Department of Public Safety [~~any law enforcement or~~  
25 ~~criminal justice agency~~] all criminal history record information  
26 that relates to:

27 (1) a person employed by the person as a bus driver; or

1           (2) a person the person intends to employ as a bus  
2 driver.

3           (b) Except as provided by Subsections (c) and (d), a person  
4 that contracts with a school district, public charter district  
5 [~~open-enrollment charter school~~], private school, regional  
6 education service center, or shared services arrangement to provide  
7 transportation services shall submit to the district, school,  
8 service center, or shared services arrangement the name and other  
9 identification data required to obtain criminal history record  
10 information of each person described by Subsection (a). If the  
11 district, school, service center, or shared services arrangement  
12 obtains information that a person described by Subsection (a) has  
13 been convicted of a felony or a misdemeanor involving moral  
14 turpitude, the district, school, service center, or shared services  
15 arrangement shall inform the chief personnel officer of the person  
16 with whom the district, school, service center, or shared services  
17 arrangement has contracted, and the person may not employ that  
18 person to drive a bus on which students are transported without the  
19 permission of the board of trustees of the district or service  
20 center, the governing body of the public charter district  
21 [~~open-enrollment charter school~~], or the chief executive officer of  
22 the private school or shared services arrangement.

23           (c) A commercial transportation company that contracts with  
24 a school district, public charter district [~~open-enrollment~~  
25 ~~charter school~~], private school, regional education service  
26 center, or shared services arrangement to provide transportation  
27 services may obtain from a federal or state [~~any~~] law enforcement or

1 criminal justice agency all criminal history record information  
2 that relates to:

3 (1) a person employed by the commercial transportation  
4 company as a bus driver, bus monitor, or bus aide; or

5 (2) a person the commercial transportation company  
6 intends to employ as a bus driver, bus monitor, or bus aide.

7 (d) If the commercial transportation company obtains  
8 information that a person employed or to be employed by the company  
9 has been convicted of a felony or a misdemeanor involving moral  
10 turpitude, the company may not employ that person to drive or to  
11 serve as a bus monitor or bus aide on a bus on which students are  
12 transported without the permission of the board of trustees of the  
13 district or service center, the governing body of the public  
14 charter district [~~open-enrollment charter school~~], or the chief  
15 executive officer of the private school or shared services  
16 arrangement. Subsections (a) and (b) do not apply if information is  
17 obtained as provided by Subsection (c).

18 SECTION 4.15. Section 22.085, Education Code, is amended to  
19 read as follows:

20 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.  
21 A school district, public charter district [~~open-enrollment~~  
22 ~~charter school~~], private school, regional education service  
23 center, or shared services arrangement may discharge an employee if  
24 the district or school obtains information of the employee's  
25 conviction of a felony or of a misdemeanor involving moral  
26 turpitude that the employee did not disclose to the State Board for  
27 Educator Certification or the district, school, service center, or

1 shared services arrangement. An employee discharged under this  
2 section is considered to have been discharged for misconduct for  
3 purposes of Section 207.044, Labor Code.

4 SECTION 4.16. Section 22.086, Education Code, is amended to  
5 read as follows:

6 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The State  
7 Board for Educator Certification, a school district, a public  
8 charter district [~~an open-enrollment charter school~~], a private  
9 school, a regional education service center, a shared services  
10 arrangement, or an employee of the board, district, school, service  
11 center, or shared services arrangement is not civilly or criminally  
12 liable for making a report required under this subchapter.

13 SECTION 4.161. Section 25.087, Education Code, is amended  
14 by amending Subsection (b) and adding Subsection (c) to read as  
15 follows:

16 (b) A school district shall excuse a student from attending  
17 school for:

18 (1) the following purposes, including travel for those  
19 purposes:

20 (A) [purpose of] observing religious holy days;

21 (B) appearing at a governmental office to  
22 complete paperwork required in connection with the student's  
23 application for United States citizenship or to take part in a  
24 naturalization oath ceremony;

25 (C) attending an appointment with the student's  
26 probation officer;

27 (D) attending an adoption proceeding involving

1 the student; or

2 (E) attending a required court appearance; or

3 (2) a [~~, including traveling for that purpose. A~~  
4 ~~school district shall excuse a student for~~] temporary absence  
5 resulting from health care professionals if that student commences  
6 classes or returns to school on the same day of the appointment.

7 (c) A student whose absence is excused under Subsection (b)  
8 [~~this subsection~~] may not be penalized for that absence and shall be  
9 counted as if the student attended school for purposes of  
10 calculating the average daily attendance of students in the school  
11 district. A student whose absence is excused under Subsection (b)  
12 [~~this subsection~~] shall be allowed a reasonable time to make up  
13 school work missed on those days. If the student satisfactorily  
14 completes the school work, the day of absence shall be counted as a  
15 day of compulsory attendance.

16 SECTION 4.17. Section 25.088, Education Code, is amended to  
17 read as follows:

18 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school  
19 attendance officer may be selected by:

- 20 (1) the county school trustees of any county;
- 21 (2) the board of trustees of any school district or the  
22 boards of trustees of two or more school districts jointly; or
- 23 (3) the governing body of a public charter district  
24 [~~an open-enrollment charter school~~].

25 SECTION 4.18. Section 25.089(a), Education Code, is amended  
26 to read as follows:

27 (a) An attendance officer may be compensated from the funds

1 of the county, independent school district, or public charter  
2 district [~~open-enrollment charter school~~], as applicable.

3 SECTION 4.19. Section 25.090(b), Education Code, is amended  
4 to read as follows:

5 (b) If the governing body of a public charter district [~~an~~  
6 ~~open-enrollment charter school~~] has not selected an attendance  
7 officer for a district campus, the duties of attendance officer  
8 shall be performed by the peace officers of the county in which the  
9 campus [~~school~~] is located.

10 SECTION 4.20. Sections 25.093(d) and (e), Education Code,  
11 are amended to read as follows:

12 (d) A fine collected under this section shall be deposited  
13 as follows:

14 (1) one-half shall be deposited to the credit of the  
15 operating fund of, as applicable:

16 (A) the school district in which the child  
17 attends school;

18 (B) the public charter district [~~open-enrollment~~  
19 ~~charter school~~] the child attends; or

20 (C) the juvenile justice alternative education  
21 program that the child has been ordered to attend; and

22 (2) one-half shall be deposited to the credit of:

23 (A) the general fund of the county, if the  
24 complaint is filed in the justice court or the constitutional  
25 county court; or

26 (B) the general fund of the municipality, if the  
27 complaint is filed in municipal court.

1 (e) At the trial of any person charged with violating this  
2 section, the attendance records of the child may be presented in  
3 court by any authorized employee of the school district or public  
4 charter district [~~open-enrollment charter school~~], as applicable.

5 SECTION 4.21. Sections 25.095(a) and (b), Education Code,  
6 are amended to read as follows:

7 (a) A school district or public charter district  
8 [~~open-enrollment charter school~~] shall notify a student's parent in  
9 writing at the beginning of the school year that if the student is  
10 absent from school on 10 or more days or parts of days within a  
11 six-month period in the same school year or on three or more days or  
12 parts of days within a four-week period:

13 (1) the student's parent is subject to prosecution  
14 under Section 25.093; and

15 (2) the student is subject to prosecution under  
16 Section 25.094 or to referral to a juvenile court in a county with a  
17 population of less than 100,000 for conduct that violates that  
18 section.

19 (b) A school district or public charter district shall  
20 notify a student's parent if the student has been absent from  
21 school, without excuse under Section 25.087, on three days or parts  
22 of days within a four-week period. The notice must:

23 (1) inform the parent that:

24 (A) it is the parent's duty to monitor the  
25 student's school attendance and require the student to attend  
26 school; and

27 (B) the parent is subject to prosecution under



1 Section 25.093; and

2 (2) request a conference between school officials and  
3 the parent to discuss the absences.

4 SECTION 4.22. Sections 25.0951(a) and (b), Education Code,  
5 are amended to read as follows:

6 (a) If a student fails to attend school without excuse on 10  
7 or more days or parts of days within a six-month period in the same  
8 school year, a school district or public charter district shall:

9 (1) file a complaint against the student or the  
10 student's parent or both in a county, justice, or municipal court  
11 for an offense under Section 25.093 or 25.094, as appropriate, or  
12 refer the student to a juvenile court in a county with a population  
13 of less than 100,000 for conduct that violates Section 25.094; or

14 (2) refer the student to a juvenile court for conduct  
15 indicating a need for supervision under Section 51.03(b)(2), Family  
16 Code.

17 (b) If a student fails to attend school without excuse on  
18 three or more days or parts of days within a four-week period but  
19 does not fail to attend school for the time described by Subsection  
20 (a), the school district or public charter district may:

21 (1) file a complaint against the student or the  
22 student's parent or both in a county, justice, or municipal court  
23 for an offense under Section 25.093 or 25.094, as appropriate, or  
24 refer the student to a juvenile court in a county with a population  
25 of less than 100,000 for conduct that violates Section 25.094; or

26 (2) refer the student to a juvenile court for conduct  
27 indicating a need for supervision under Section 51.03(b)(2), Family

1 Code.

2 SECTION 4.23. Section 26.006(c), Education Code, is amended  
3 to read as follows:

4 (c) A student's parent is entitled to request that the  
5 school district or public charter district [~~open-enrollment~~  
6 ~~charter school~~] the student attends allow the student to take home  
7 any textbook used by the student. Subject to the availability of a  
8 textbook, the school district or public charter district [~~or~~  
9 ~~school~~] shall honor the request. A student who takes home a  
10 textbook must return the textbook to school at the beginning of the  
11 next school day if requested to do so by the student's teacher. In  
12 this subsection, "textbook" has the meaning assigned by Section  
13 31.002.

14 SECTION 4.24. Sections 26.0085(a), (c), (d), and (e),  
15 Education Code, are amended to read as follows:

16 (a) A school district or public charter district  
17 [~~open-enrollment charter school~~] that seeks to withhold  
18 information from a parent who has requested public information  
19 relating to the parent's child under Chapter 552, Government Code,  
20 and that files suit as described by Section 552.324, Government  
21 Code, to challenge a decision by the attorney general issued under  
22 Subchapter G, Chapter 552, Government Code, must bring the suit not  
23 later than the 30th calendar day after the date the school district  
24 or public charter district [~~open-enrollment charter school~~]  
25 receives the decision of the attorney general being challenged.

26 (c) Notwithstanding any other law, a school district or  
27 public charter district [~~open-enrollment charter school~~] may not

1 appeal the decision of a court in a suit filed under Subsection (a).  
2 This subsection does not affect the right of a parent to appeal the  
3 decision.

4 (d) If the school district or public charter district  
5 [~~open-enrollment charter school~~] does not bring suit within the  
6 period established by Subsection (a), the school district or public  
7 charter district [~~open-enrollment charter school~~] shall comply  
8 with the decision of the attorney general.

9 (e) A school district or public charter district  
10 [~~open-enrollment charter school~~] that receives a request from a  
11 parent for public information relating to the parent's child shall  
12 comply with Chapter 552, Government Code. If an earlier deadline  
13 for bringing suit is established under Chapter 552, Government  
14 Code, Subsection (a) does not apply. This section does not affect  
15 the earlier deadline for purposes of Section 552.353(b)(3),  
16 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer  
17 for public information.

18 SECTION 4.25. Section 28.0211(j), Education Code, is  
19 amended to read as follows:

20 (j) A school district [~~or open-enrollment charter school~~]  
21 shall provide students required to attend accelerated programs  
22 under this section with transportation to those programs if the  
23 programs occur outside of regular school hours.

24 SECTION 4.26. Section 29.010(f), Education Code, is amended  
25 to read as follows:

26 (f) This section does not create an obligation for or impose  
27 a requirement on a school district [~~or open-enrollment charter~~

1 ~~school~~] that is not also created or imposed under another state law  
2 or a federal law.

3 SECTION 4.27. Sections 29.012(a) and (c), Education Code,  
4 are amended to read as follows:

5 (a) Except as provided by Subsection (b)(2), not later than  
6 the third day after the date a person 22 years of age or younger is  
7 placed in a residential facility, the residential facility shall:

8 (1) if the person is three years of age or older,  
9 notify the school district in which the facility is located, unless  
10 the facility is a public charter district [~~an open-enrollment~~  
11 ~~charter school~~]; or

12 (2) if the person is younger than three years of age,  
13 notify a local early intervention program in the area in which the  
14 facility is located.

15 (c) For purposes of enrollment in a school, a person who  
16 resides in a residential facility is considered a resident of the  
17 school district or geographical area served by the public charter  
18 district campus [~~open-enrollment charter school~~] in which the  
19 facility is located.

20 SECTION 4.28. Sections 29.062(c)-(e), Education Code, are  
21 amended to read as follows:

22 (c) Not later than the 30th day after the date of an on-site  
23 monitoring inspection, the agency shall report its findings to the  
24 school district [~~or open-enrollment charter school~~] and to the  
25 division of accreditation.

26 (d) The agency shall notify a school district [~~or~~  
27 ~~open-enrollment charter school~~] found in noncompliance in writing,

1 not later than the 30th day after the date of the on-site  
2 monitoring. The district [~~or open-enrollment charter school~~] shall  
3 take immediate corrective action.

4 (e) If a school district [~~or open-enrollment charter~~  
5 ~~school~~] fails to satisfy appropriate standards adopted by the  
6 commissioner for purposes of Subsection (a), the agency shall apply  
7 sanctions, which may include the removal of accreditation, loss of  
8 foundation school funds, or both.

9 SECTION 4.29. Sections 29.087(a)-(c), (e), (k), and (l),  
10 Education Code, are amended to read as follows:

11 (a) The agency shall develop a process by which a school  
12 district or public charter district [~~open-enrollment charter~~  
13 ~~school~~] may apply to the commissioner for authority to operate a  
14 program to prepare eligible students to take a high school  
15 equivalency examination.

16 (b) Any school district or public charter district  
17 [~~open-enrollment charter school~~] may apply for authorization to  
18 operate a program under this section. As part of the application  
19 process, the commissioner shall require a school district or public  
20 charter district [~~or school~~] to provide information regarding the  
21 operation of any similar program during the preceding five years.

22 (b-1) A school district or public charter district  
23 [~~open-enrollment charter school~~] authorized by the commissioner on  
24 or before August 31, 2003, to operate a program under this section  
25 may continue to operate that program in accordance with this  
26 section.

27 (c) A school district or public charter district

1 ~~[open-enrollment charter school]~~ may not increase enrollment of  
2 students in a program authorized by this section by more than five  
3 percent of the number of students enrolled in the similar program  
4 operated by the school district or public charter district ~~[or~~  
5 ~~school]~~ during the 2000-2001 school year.

6 (e) A school district or public charter district  
7 ~~[open-enrollment charter school]~~ shall inform each student who has  
8 completed a program authorized by this section of the time and place  
9 at which the student may take the high school equivalency  
10 examination. Notwithstanding any provision of this section, a  
11 student may not take the high school equivalency examination except  
12 as authorized by Section 7.111.

13 (k) The board of trustees of a school district or the  
14 governing body ~~[board]~~ of a public charter district ~~[an~~  
15 ~~open-enrollment charter school]~~ shall:

16 (1) hold a public hearing concerning the proposed  
17 application of the school district or public charter district ~~[or~~  
18 ~~school]~~ before applying to operate a program authorized by this  
19 section; and

20 (2) subsequently hold a public hearing annually to  
21 review the performance of the program.

22 (l) The commissioner may revoke a school district's or  
23 public charter district's ~~[open-enrollment charter school's]~~  
24 authorization under this section after consideration of relevant  
25 factors, including performance of students participating in the  
26 school district's or public charter district's ~~[or school's]~~  
27 program on assessment instruments required under Chapter 39, the

1 percentage of students participating in the school district's or  
2 public charter district's [~~or school's~~] program who complete the  
3 program and perform successfully on the high school equivalency  
4 examination, and other criteria adopted by the commissioner. A  
5 decision by the commissioner under this subsection is final and may  
6 not be appealed.

7 SECTION 4.30. Sections 29.155(a)-(d), (i), and (j),  
8 Education Code, are amended to read as follows:

9 (a) From amounts appropriated for the purposes of this  
10 section, the commissioner may make grants to school districts and  
11 public charter districts [~~open-enrollment charter schools~~] to  
12 implement or expand kindergarten and prekindergarten programs by:

13 (1) operating an existing half-day kindergarten or  
14 prekindergarten program on a full-day basis; or

15 (2) implementing a prekindergarten program at a campus  
16 that does not have a prekindergarten program.

17 (b) A school district or public charter district  
18 [~~open-enrollment charter school~~] may use funds received under this  
19 section to employ teachers and other personnel for a kindergarten  
20 or prekindergarten program and acquire curriculum materials or  
21 equipment, including computers, for use in kindergarten and  
22 prekindergarten programs.

23 (c) To be eligible for a grant under this section, a school  
24 district or public charter district [~~open-enrollment charter~~  
25 ~~school~~] must apply to the commissioner in the manner and within the  
26 time prescribed by the commissioner.

27 (d) In awarding grants under this section, the commissioner

1 shall give priority to districts and public charter districts  
 2 [~~open-enrollment charter schools~~] in which the level of performance  
 3 of students on the assessment instruments administered under  
 4 Section 39.023 to students in grade three is substantially below  
 5 the average level of performance on those assessment instruments  
 6 for all school districts in the state.

7 (i) In carrying out the purposes of Subsection (g), a school  
 8 district or public charter district [~~open-enrollment charter~~  
 9 ~~school~~] may use funds granted to the school district or public  
 10 charter district [~~or school~~] under this section [~~subsection~~] in  
 11 contracting with another entity, including a private entity.

12 (j) If a school district or public charter district  
 13 [~~open-enrollment charter school~~] returns to the commissioner funds  
 14 granted under this section, the commissioner may grant those funds  
 15 to another entity, including a private entity, for the purposes of  
 16 Subsection (g).

17 SECTION 4.31. Section 29.905(b), Education Code, is amended  
 18 to read as follows:

19 (b) The agency shall make the program available to a school  
 20 on the request of the board of trustees of [~~or~~] the school district  
 21 of which the school is a part, or if the school is a public charter  
 22 district [~~an open-enrollment charter school~~], on the request of the  
 23 governing body of the public charter district [~~school~~].

24 SECTION 4.32. Section 31.021(b), Education Code, is amended  
 25 to read as follows:

26 (b) The State Board of Education shall annually set aside  
 27 out of the available school fund of the state an amount sufficient



1 for the board and[~~7~~] school districts [~~7~~, ~~and open-enrollment charter~~  
2 ~~schools~~] to purchase and distribute the necessary textbooks for the  
3 use of the students of this state for the following school year.  
4 The board shall determine the amount of the available school fund to  
5 set aside for the state textbook fund based on:

6 (1) a report by the commissioner issued on July 1 or,  
7 if that date is a Saturday or Sunday, on the following Monday,  
8 stating the amount of unobligated money in the fund;

9 (2) the commissioner's estimate, based on textbooks  
10 selected under Section 31.101 and on attendance reports submitted  
11 under Section 31.103 by school districts [~~and open-enrollment~~  
12 ~~charter schools~~], of the amount of funds, in addition to funds  
13 reported under Subdivision (1), that will be necessary for purchase  
14 and distribution of textbooks for the following school year; and

15 (3) any amount the board determines should be set  
16 aside for emergency purposes caused by unexpected increases in  
17 attendance.

18 SECTION 4.33. Section 31.027(a), Education Code, is amended  
19 to read as follows:

20 (a) A publisher shall provide each school district [~~and~~  
21 ~~open-enrollment charter school~~] with information that fully  
22 describes each of the publisher's adopted textbooks. On request of  
23 a school district, a publisher shall provide a sample copy of an  
24 adopted textbook.

25 SECTION 4.34. Section 31.030, Education Code, is amended to  
26 read as follows:

27 Sec. 31.030. USED TEXTBOOKS. The State Board of Education

1 shall adopt rules to ensure that used textbooks sold to school  
2 districts [~~and open-enrollment charter schools~~] are not sample  
3 copies that contain factual errors. The rules may provide for the  
4 imposition of an administrative penalty in accordance with Section  
5 31.151 against a seller of used textbooks who knowingly violates  
6 this section.

7 SECTION 4.35. Section 31.101, Education Code, is amended to  
8 read as follows:

9 Sec. 31.101. SELECTION AND PURCHASE OF TEXTBOOKS BY SCHOOL  
10 DISTRICTS. (a) Each year, during a period established by the  
11 State Board of Education, the board of trustees of each school  
12 district [~~and the governing body of each open-enrollment charter~~  
13 ~~school~~] shall:

14 (1) for a subject in the foundation curriculum, notify  
15 the State Board of Education of the textbooks selected by the board  
16 of trustees [~~or governing body~~] for the following school year from  
17 among the textbooks on the appropriate conforming or nonconforming  
18 list; or

19 (2) for a subject in the enrichment curriculum:

20 (A) notify the State Board of Education of each  
21 textbook selected by the board of trustees [~~or governing body~~] for  
22 the following school year from among the textbooks on the  
23 appropriate conforming or nonconforming list; or

24 (B) notify the State Board of Education that the  
25 board of trustees [~~or governing body~~] has selected a textbook that  
26 is not on the conforming or nonconforming list.

27 (b) If a school district [~~or open-enrollment charter~~

1 ~~school~~] selects a textbook for a particular subject in the  
2 enrichment curriculum and grade level that is not on the conforming  
3 or nonconforming list, the state shall pay to the district [~~or~~  
4 ~~school~~] an amount equal to the lesser of:

5 (1) 70 percent of the cost to the district of the  
6 textbook, multiplied by the number of textbooks the district [~~or~~  
7 ~~school~~] needs for that subject and grade level; or

8 (2) 70 percent of the limitation established under  
9 Section 31.025 for a textbook for that subject and grade level,  
10 multiplied by the number of textbooks the district [~~or school~~]  
11 needs for that subject and grade level.

12 (c) A school district [~~or open-enrollment charter school~~]  
13 that selects a textbook that is not on the conforming or  
14 nonconforming list:

15 (1) is responsible for the portion of the cost of the  
16 textbook that is not paid by the state under Subsection (b); and

17 (2) may use funds received from the state under  
18 Subsection (b) only for purchasing the textbook for which the funds  
19 were received.

20 (d) For a textbook that is not on the conforming or  
21 nonconforming list, a school district [~~or open-enrollment charter~~  
22 ~~school~~] must use the textbook for the period of the review and  
23 adoption cycle the State Board of Education has established for the  
24 subject and grade level for which the textbook is used.

25 SECTION 4.36. Section 31.102(c), Education Code, is amended  
26 to read as follows:

27 (c) The board of trustees of a school district [~~or the~~

1 ~~governing body of an open-enrollment charter school~~] is the legal  
2 custodian of textbooks purchased as provided by this chapter for  
3 the district [~~or school~~]. The board of trustees shall distribute  
4 textbooks to students in the manner that the board [~~or governing~~  
5 ~~body~~] determines is most effective and economical.

6 SECTION 4.37. Section 31.103, Education Code, is amended to  
7 read as follows:

8 Sec. 31.103. TEXTBOOK REQUISITIONS. (a) Not later than  
9 the seventh day after the first school day in April, each principal  
10 shall report the maximum attendance for the school to the  
11 superintendent. Not later than April 25, the superintendent of a  
12 school district [~~or the chief operating officer of an~~  
13 ~~open-enrollment charter school~~] shall report the district's [~~or~~  
14 ~~school's~~] maximum attendance to the commissioner.

15 (b) A requisition for textbooks for the following school  
16 year shall be based on the maximum attendance reports under  
17 Subsection (a), plus an additional 10 percent, except as otherwise  
18 provided. A school district [~~or open-enrollment charter school~~]  
19 shall make a requisition for a textbook on the conforming or  
20 nonconforming list through the commissioner to the state depository  
21 designated by the publisher or as provided by State Board of  
22 Education rule, as applicable, not later than June 1 of each year.  
23 The designated state depository or, if the publisher or  
24 manufacturer does not have a designated textbook depository in this  
25 state under Section 31.151(a)(6)(B), the publisher or manufacturer  
26 shall fill a requisition approved by the agency at any other time in  
27 the case of an emergency. As made necessary by available funds, the

1 commissioner shall reduce the additional percentage of attendance  
2 for which a district [~~or school~~] may requisition textbooks. The  
3 commissioner may, on application of a district [~~or school~~] that is  
4 experiencing high enrollment growth, increase the additional  
5 percentage of attendance for which the district [~~or school~~] may  
6 requisition textbooks.

7 (c) In making a requisition under this section, a school  
8 district [~~or open-enrollment charter school~~] may requisition  
9 textbooks on the conforming or nonconforming list for grades above  
10 the grade level in which a student is enrolled, except that the  
11 total quantity of textbooks requisitioned under this section may  
12 not exceed the limit prescribed by Subsection (b).

13 SECTION 4.38. Sections 31.104(a), (b), and (d), Education  
14 Code, are amended to read as follows:

15 (a) The board of trustees of a school district [~~or the~~  
16 ~~governing body of an open-enrollment charter school~~] may delegate  
17 to an employee the authority to requisition, distribute, and manage  
18 the inventory of textbooks in a manner consistent with this chapter  
19 and rules adopted under this chapter.

20 (b) A school district [~~or open-enrollment charter school~~]  
21 may order replacements for textbooks that have been lost or damaged  
22 directly from:

23 (1) the textbook depository; or

24 (2) the textbook publisher or manufacturer if the  
25 textbook publisher or manufacturer does not have a designated  
26 textbook depository in this state under Section 31.151(a)(6)(B).

27 (d) Each student, or the student's parent or guardian, is

1 responsible for each textbook not returned by the student. A  
2 student who fails to return all textbooks forfeits the right to free  
3 textbooks until each textbook previously issued but not returned is  
4 paid for by the student, parent, or guardian. As provided by policy  
5 of the board of trustees [~~or governing body~~], a school district [~~or~~  
6 ~~open-enrollment charter school~~] may waive or reduce the payment  
7 requirement if the student is from a low-income family. The  
8 district [~~or school~~] shall allow the student to use textbooks at  
9 school during each school day. If a textbook is not returned or  
10 paid for, the district [~~or school~~] may withhold the student's  
11 records. A district [~~or school~~] may not, under this subsection,  
12 prevent a student from graduating, participating in a graduation  
13 ceremony, or receiving a diploma.

14 SECTION 4.39. Section 31.105, Education Code, is amended to  
15 read as follows:

16 Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a  
17 school district [~~or governing body of an open-enrollment charter~~  
18 ~~school~~] may sell textbooks, other than electronic textbooks, to a  
19 student or another school at the state contract price. The district  
20 shall send money from the sale of textbooks to the commissioner as  
21 required by the commissioner. The commissioner shall deposit the  
22 money in the state textbook fund.

23 SECTION 4.40. Section 31.106, Education Code, is amended to  
24 read as follows:

25 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
26 textbook selected under this chapter, a school district [~~or~~  
27 ~~open-enrollment charter school~~] may use local funds to purchase any

1 textbooks.

2 SECTION 4.41. Section 31.151(a), Education Code, is amended  
3 to read as follows:

4 (a) A publisher or manufacturer of textbooks:

5 (1) shall furnish any textbook the publisher or  
6 manufacturer offers in this state, at a price that does not exceed  
7 the lowest price at which the publisher offers that textbook for  
8 adoption or sale to any state, public school, or school district in  
9 the United States;

10 (2) shall automatically reduce the price of a textbook  
11 sold for use in a school district [~~or open-enrollment charter~~  
12 ~~school~~] to the extent that the price is reduced elsewhere in the  
13 United States;

14 (3) shall provide any textbook or ancillary item free  
15 of charge in this state to the same extent that the publisher or  
16 manufacturer provides the textbook or ancillary item free of charge  
17 to any state, public school, or school district in the United  
18 States;

19 (4) shall guarantee that each copy of a textbook sold  
20 in this state is at least equal in quality to copies of that  
21 textbook sold elsewhere in the United States and is free from  
22 factual error;

23 (5) may not become associated or connected with,  
24 directly or indirectly, any combination in restraint of trade in  
25 textbooks or enter into any understanding or combination to control  
26 prices or restrict competition in the sale of textbooks for use in  
27 this state;

1 (6) shall:

2 (A) maintain a depository in this state or  
3 arrange with a depository in this state to receive and fill orders  
4 for textbooks, other than on-line textbooks or on-line textbook  
5 components, consistent with State Board of Education rules; or

6 (B) deliver textbooks to a school district [~~or~~  
7 ~~open-enrollment charter school~~] without a delivery charge to the  
8 school district[~~, open-enrollment charter school,~~] or state, if:

9 (i) the publisher or manufacturer does not  
10 maintain or arrange with a depository in this state under Paragraph  
11 (A) and the publisher's or manufacturer's textbooks and related  
12 products are warehoused or otherwise stored less than 300 miles  
13 from a border of this state; or

14 (ii) the textbooks are on-line textbooks or  
15 on-line textbook components;

16 (7) shall, at the time an order for textbooks is  
17 acknowledged, provide to school districts [~~or open-enrollment~~  
18 ~~charter schools~~] an accurate shipping date for textbooks that are  
19 back-ordered;

20 (8) shall guarantee delivery of textbooks at least 10  
21 business days before the opening day of school of the year for which  
22 the textbooks are ordered if the textbooks are ordered by a date  
23 specified in the sales contract; and

24 (9) shall submit to the State Board of Education an  
25 affidavit certifying any textbook the publisher or manufacturer  
26 offers in this state to be free of factual errors at the time the  
27 publisher executes the contract required by Section 31.026.



1 SECTION 4.42. Section 31.201(c), Education Code, is amended  
2 to read as follows:

3 (c) The State Board of Education shall adopt rules under  
4 which a school district [~~or open-enrollment charter school~~] may  
5 donate discontinued textbooks, other than electronic textbooks, to  
6 a student, to an adult education program, or to a nonprofit  
7 organization.

8 SECTION 4.43. Subchapter C, Chapter 32, Education Code, is  
9 amended by adding Section 32.1011 to read as follows:

10 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.  
11 This subchapter applies to a public charter district as if the  
12 public charter district were a school district.

13 SECTION 4.44. Section 32.102, Education Code, is amended to  
14 read as follows:

15 Sec. 32.102. AUTHORITY. (a) As provided by this  
16 subchapter, a school district [~~or open-enrollment charter school~~]  
17 may transfer to a student enrolled in the district [~~or school~~]:

18 (1) any data processing equipment donated to the  
19 district [~~or school~~], including equipment donated by:

- 20 (A) a private donor; or  
21 (B) a state eleemosynary institution or a state  
22 agency under Section 2175.128, Government Code;

23 (2) any equipment purchased by the district [~~or~~  
24 ~~school~~], to the extent consistent with Section 32.105; and

25 (3) any surplus or salvage equipment owned by the  
26 district [~~or school~~].

27 (b) A school district [~~or open-enrollment charter school~~]

1 may accept:

2 (1) donations of data processing equipment for  
3 transfer under this subchapter; and

4 (2) any gifts, grants, or donations of money or  
5 services to purchase, refurbish, or repair data processing  
6 equipment under this subchapter.

7 SECTION 4.45. Section 32.103, Education Code, is amended to  
8 read as follows:

9 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is  
10 eligible to receive data processing equipment under this subchapter  
11 only if the student does not otherwise have home access to data  
12 processing equipment, as determined by the student's school  
13 district [~~or open-enrollment charter school~~].

14 (b) In transferring data processing equipment to students,  
15 a school district [~~or open-enrollment charter school~~] shall give  
16 preference to educationally disadvantaged students.

17 SECTION 4.46. Section 32.104, Education Code, is amended to  
18 read as follows:

19 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before  
20 transferring data processing equipment to a student, a school  
21 district [~~or open-enrollment charter school~~] must:

22 (1) adopt rules governing transfers under this  
23 subchapter, including provisions for technical assistance to the  
24 student by the district [~~or school~~];

25 (2) determine that the transfer serves a public  
26 purpose and benefits the district [~~or school~~]; and

27 (3) remove from the equipment any offensive,

1 confidential, or proprietary information, as determined by the  
2 district [~~or school~~].

3 SECTION 4.47. Section 32.105, Education Code, is amended to  
4 read as follows:

5 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school  
6 district [~~or open-enrollment charter school~~] may spend public funds  
7 to:

8 (1) purchase, refurbish, or repair any data processing  
9 equipment transferred to a student under this subchapter; and

10 (2) store, transport, or transfer data processing  
11 equipment under this subchapter.

12 SECTION 4.48. Section 32.106, Education Code, is amended to  
13 read as follows:

14 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided  
15 by Subsection (b), a student who receives data processing equipment  
16 from a school district [~~or open-enrollment charter school~~] under  
17 this subchapter shall return the equipment to the district [~~or  
18 school~~] not later than the earliest of:

19 (1) five years after the date the student receives the  
20 equipment;

21 (2) the date the student graduates;

22 (3) the date the student transfers to another school  
23 district [~~or open-enrollment charter school~~]; or

24 (4) the date the student withdraws from school.

25 (b) Subsection (a) does not apply if, at the time the  
26 student is required to return the data processing equipment under  
27 that subsection, the district [~~or school~~] determines that the

1 equipment has no marketable value.

2 SECTION 4.49. Section 33.007, Education Code, is amended to  
3 read as follows:

4 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)  
5 Each counselor at an elementary, middle, or junior high school,  
6 including a public charter district [~~an open-enrollment charter~~  
7 ~~school~~] offering those grades, shall advise students and their  
8 parents or guardians regarding the importance of higher education,  
9 coursework designed to prepare students for higher education, and  
10 financial aid availability and requirements.

11 (b) During the first school year a student is enrolled in a  
12 high school or at the high school level in a public charter district  
13 [~~an open-enrollment charter school~~], and again during a student's  
14 senior year, a counselor shall provide information about higher  
15 education to the student and the student's parent or guardian. The  
16 information must include information regarding:

17 (1) the importance of higher education;

18 (2) the advantages of completing the recommended or  
19 advanced high school program adopted under Section 28.025(a);

20 (3) the disadvantages of taking courses to prepare for  
21 a high school equivalency examination relative to the benefits of  
22 taking courses leading to a high school diploma;

23 (4) financial aid eligibility;

24 (5) instruction on how to apply for federal financial  
25 aid;

26 (6) the center for financial aid information  
27 established under Section 61.0776;

1           (7) the automatic admission of certain students to  
2 general academic teaching institutions as provided by Section  
3 51.803; and

4           (8) the eligibility and academic performance  
5 requirements for the TEXAS Grant as provided by Subchapter M,  
6 Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature,~~  
7 ~~Regular Session, 1999~~].

8           SECTION 4.50. Section 33.901, Education Code, is amended to  
9 read as follows:

10          Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of  
11 the students enrolled in one or more schools in a school district or  
12 enrolled in a public charter district campus [~~an open-enrollment~~  
13 ~~charter school~~] are eligible for free or reduced-price breakfasts  
14 under the national school breakfast program provided for by the  
15 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing  
16 body of the district or the public charter district  
17 [~~open-enrollment charter school~~] shall participate in the program  
18 and make the benefits of the program available to all eligible  
19 students in the schools or campus [~~school~~].

20          SECTION 4.51. Section 37.007(e), Education Code, is amended  
21 to read as follows:

22          (e) In accordance with 20 U.S.C. Section 7151, a local  
23 educational agency, including a school district, home-rule school  
24 district, or public charter district [~~open-enrollment charter~~  
25 ~~school~~], shall expel a student who brings a firearm, as defined by  
26 18 U.S.C. Section 921, to school. The student must be expelled from  
27 the student's regular campus for a period of at least one year,

1 except that:

2 (1) the superintendent or other chief administrative  
3 officer of the school district or of the other local educational  
4 agency, as defined by 20 U.S.C. Section 7801, may modify the length  
5 of the expulsion in the case of an individual student;

6 (2) the district or other local educational agency  
7 shall provide educational services to an expelled student in a  
8 disciplinary alternative education program as provided by Section  
9 37.008 if the student is younger than 10 years of age on the date of  
10 expulsion; and

11 (3) the district or other local educational agency may  
12 provide educational services to an expelled student who is 10 years  
13 of age or older in a disciplinary alternative education program as  
14 provided in Section 37.008.

15 SECTION 4.52. Section 37.008(j), Education Code, is amended  
16 to read as follows:

17 (j) If a student placed in a disciplinary alternative  
18 education program enrolls in another school district before the  
19 expiration of the period of placement, the board of trustees of the  
20 district requiring the placement shall provide to the district in  
21 which the student enrolls, at the same time other records of the  
22 student are provided, a copy of the placement order. The district  
23 in which the student enrolls may continue the disciplinary  
24 alternative education program placement under the terms of the  
25 order or may allow the student to attend regular classes without  
26 completing the period of placement. A school district may take any  
27 action permitted by this subsection if:

1           (1) the student was placed in a disciplinary  
2 alternative education program by a public charter district [~~an~~  
3 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and  
4 the public charter district [~~school~~] provides to the school  
5 district a copy of the placement order; or

6           (2) the student was placed in a disciplinary  
7 alternative education program by a school district in another state  
8 and:

9           (A) the out-of-state district provides to the  
10 school district a copy of the placement order; and

11           (B) the grounds for the placement by the  
12 out-of-state district are grounds for placement in the school  
13 district in which the student is enrolling.

14           SECTION 4.53. Section 37.021(a)(2), Education Code, as  
15 added by Chapter 631, Acts of the 78th Legislature, Regular  
16 Session, 2003, is amended to read as follows:

17           (2) "District or school" includes an independent  
18 school district, a home-rule school district, a campus or campus  
19 program charter holder, or a public charter district [~~an~~  
20 ~~open-enrollment charter school~~].

21           SECTION 4.54. Section 39.131(a), Education Code, is amended  
22 to read as follows:

23           (a) If a district does not satisfy the accreditation  
24 criteria, the commissioner shall take any of the following actions,  
25 listed in order of severity, to the extent the commissioner  
26 determines necessary:

27           (1) issue public notice of the deficiency to the board

1 of trustees;

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

7 (3) order the preparation of a student achievement  
8 improvement plan that addresses each academic excellence indicator  
9 for which the district's performance is unacceptable, the  
10 submission of the plan to the commissioner for approval, and  
11 implementation of the plan;

12 (4) order a hearing to be held before the commissioner  
13 or the commissioner's designee at which the president of the board  
14 of trustees of the district and the superintendent shall appear and  
15 explain the district's low performance, lack of improvement, and  
16 plans for improvement;

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

18 (6) appoint an agency monitor to participate in and  
19 report to the agency on the activities of the board of trustees or  
20 the superintendent;

21 (7) appoint a conservator to oversee the operations of  
22 the district;

23 (8) appoint a management team to direct the operations  
24 of the district in areas of unacceptable performance or require the  
25 district to obtain certain services under a contract with another  
26 person;

27 (9) if a district has been rated as academically



1 unacceptable for a period of one year or more, appoint a board of  
2 managers to exercise the powers and duties of the board of trustees;

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

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

7 (B) in the case of a home-rule school district or  
8 public charter district [~~open-enrollment charter school~~], order  
9 closure of all programs operated under the district's [~~or school's~~]  
10 charter; or

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

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

17 (B) restructuring the district or appropriate  
18 school campuses to improve identification of and service to  
19 students who are at risk of dropping out of school, as defined by  
20 Section 29.081;

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

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

26 SECTION 4.55. Section 39.182(a), Education Code, is amended  
27 to read as follows:

1           (a) Not later than December 1 of each year, the agency shall  
2 prepare and deliver to the governor, the lieutenant governor, the  
3 speaker of the house of representatives, each member of the  
4 legislature, the Legislative Budget Board, and the clerks of the  
5 standing committees of the senate and house of representatives with  
6 primary jurisdiction over the public school system a comprehensive  
7 report covering the preceding school year and containing:

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

11           (2) an evaluation of the status of education in the  
12 state as reflected by the academic excellence indicators adopted  
13 under Section 39.051;

14           (3) a summary compilation of overall student  
15 performance on academic skills assessment instruments required by  
16 Section 39.023 with the number and percentage of students exempted  
17 from the administration of those instruments and the basis of the  
18 exemptions, aggregated by grade level, subject area, campus, and  
19 district, with appropriate interpretations and analysis, and  
20 disaggregated by race, ethnicity, gender, and socioeconomic  
21 status;

22           (4) a summary compilation of overall performance of  
23 students placed in an alternative education program established  
24 under Section 37.008 on academic skills assessment instruments  
25 required by Section 39.023 with the number of those students  
26 exempted from the administration of those instruments and the basis  
27 of the exemptions, aggregated by district, grade level, and subject

1 area, with appropriate interpretations and analysis, and  
2 disaggregated by race, ethnicity, gender, and socioeconomic  
3 status;

4 (5) a summary compilation of overall performance of  
5 students at risk of dropping out of school, as defined by Section  
6 29.081(d), on academic skills assessment instruments required by  
7 Section 39.023 with the number of those students exempted from the  
8 administration of those instruments and the basis of the  
9 exemptions, aggregated by district, grade level, and subject area,  
10 with appropriate interpretations and analysis, and disaggregated  
11 by race, ethnicity, gender, and socioeconomic status;

12 (6) an evaluation of the correlation between student  
13 grades and student performance on academic skills assessment  
14 instruments required by Section 39.023;

15 (7) a statement of the dropout rate of students in  
16 grade levels 7 through 12, expressed in the aggregate and by grade  
17 level, and a statement of the completion rates of students for grade  
18 levels 9 through 12;

19 (8) a statement of:

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

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

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

1 (D) the completion rate of students who enter  
2 grade level 9 and receive a high school equivalency certificate,  
3 including students who require more than four years to receive a  
4 certificate; and

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

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

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

14 (11) a summary of the information required by Section  
15 29.083 regarding grade level retention of students and information  
16 concerning:

17 (A) the number and percentage of students  
18 retained; and

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

21 (12) information, aggregated by district type and  
22 disaggregated by race, ethnicity, gender, and socioeconomic  
23 status, on:

24 (A) the number of students placed in a  
25 disciplinary [~~an~~] alternative education program established under  
26 Section 37.008;

27 (B) the average length of a student's placement

1 in a disciplinary [~~an~~] alternative education program established  
2 under Section 37.008;

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

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

10 (13) a list of each school district or campus that does  
11 not satisfy performance standards, with an explanation of the  
12 actions taken by the commissioner to improve student performance in  
13 the district or campus and an evaluation of the results of those  
14 actions;

15 (14) an evaluation of the status of the curriculum  
16 taught in public schools, with recommendations for legislative  
17 changes necessary to improve or modify the curriculum required by  
18 Section 28.002;

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

21 (16) a summary and analysis of the instructional  
22 expenditures ratios and instructional employees ratios of school  
23 districts computed under Section 44.0071;

24 (17) a summary of the effect of deregulation,  
25 including exemptions and waivers granted under Section 7.056 or  
26 39.112;

27 (18) a statement of the total number and length of

1 reports that school districts and school district employees must  
2 submit to the agency, identifying which reports are required by  
3 federal statute or rule, state statute, or agency rule, and a  
4 summary of the agency's efforts to reduce overall reporting  
5 requirements;

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

8 (A) the period for which the district has not  
9 been in compliance;

10 (B) the manner in which the agency considered the  
11 district's failure to comply in determining the district's  
12 accreditation status; and

13 (C) an explanation of the actions taken by the  
14 commissioner to ensure compliance and an evaluation of the results  
15 of those actions;

16 (20) a comparison of the performance of public charter  
17 districts [~~open-enrollment charter schools~~] and school districts  
18 on the academic excellence indicators specified in Section  
19 39.051(b) and accountability measures adopted under Section  
20 39.051(g), with a separately aggregated comparison of the  
21 performance of public charter districts [~~open-enrollment charter~~  
22 ~~schools~~] predominantly serving students at risk of dropping out of  
23 school, as defined by Section 29.081(d), with the performance of  
24 school districts; and

25 (21) any additional information considered important  
26 by the commissioner or the State Board of Education.

27 SECTION 4.56. Section 42.005(f), Education Code, is amended

1 to read as follows:

2 (f) A public charter district [~~An open-enrollment charter~~  
3 ~~school~~] is not entitled to funding based on an adjustment under  
4 Subsection (b)(2).

5 SECTION 4.57. Section 42.152(c), Education Code, is amended  
6 to read as follows:

7 (c) Funds allocated under this section shall be used to fund  
8 supplemental programs and services designed to eliminate any  
9 disparity in performance on assessment instruments administered  
10 under Subchapter B, Chapter 39, or disparity in the rates of high  
11 school completion between students at risk of dropping out of  
12 school, as defined by Section 29.081, and all other students.  
13 Specifically, the funds, other than an indirect cost allotment  
14 established under State Board of Education rule, which may not  
15 exceed 15 percent, may be used to meet the costs of providing a  
16 compensatory, intensive, or accelerated instruction program under  
17 Section 29.081 or an alternative education program established  
18 under Section 37.008 or to support a program eligible under Title I  
19 of the Elementary and Secondary Education Act of 1965, as provided  
20 by Pub. L. No. 103-382 and its subsequent amendments, and by federal  
21 regulations implementing that Act, at a campus at which at least 40  
22 percent of the students are educationally disadvantaged. In  
23 meeting the costs of providing a compensatory, intensive, or  
24 accelerated instruction program under Section 29.081, a district's  
25 compensatory education allotment shall be used for costs  
26 supplementary to the regular education program, such as costs for  
27 program and student evaluation, instructional materials and

1 equipment and other supplies required for quality instruction,  
2 supplemental staff expenses, salary for teachers of at-risk  
3 students, smaller class size, and individualized instruction. A  
4 home-rule school district or a public charter district [~~an~~  
5 ~~open-enrollment charter school~~] must use funds allocated under  
6 Subsection (a) for a purpose authorized in this subsection but is  
7 not otherwise subject to Subchapter C, Chapter 29. Notwithstanding  
8 any other provisions of this section:

9 (1) to ensure that a sufficient amount of the funds  
10 allotted under this section are available to supplement  
11 instructional programs and services, no more than 18 percent of the  
12 funds allotted under this section may be used to fund disciplinary  
13 alternative education programs established under Section 37.008;

14 (2) the commissioner may waive the limitations of  
15 Subdivision (1) upon an annual petition, by a district's board and a  
16 district's site-based decision making committee, presenting the  
17 reason for the need to spend supplemental compensatory education  
18 funds on disciplinary alternative education programs under Section  
19 37.008, provided that:

20 (A) the district in its petition reports the  
21 number of students in each grade level, by demographic subgroup,  
22 not making satisfactory progress under the state's assessment  
23 system; and

24 (B) the commissioner makes the waiver request  
25 information available annually to the public on the agency's  
26 website; and

27 (3) for purposes of this subsection, a program



1 specifically designed to serve students at risk of dropping out of  
2 school, as defined by Section 29.081, is considered to be a program  
3 supplemental to the regular education program, and a district may  
4 use its compensatory education allotment for such a program.

5 SECTION 4.58. Section 44.008(a), Education Code, is amended  
6 to read as follows:

7 (a) The board of school trustees of each school district  
8 shall have its school district fiscal accounts audited annually at  
9 district expense by a certified or public accountant holding a  
10 permit from the Texas State Board of Public Accountancy. Except as  
11 determined impracticable by the commissioner, the accountant must  
12 have completed at least one peer-reviewed audit of a school  
13 district, governmental entity, quasi-governmental entity, or  
14 nonprofit corporation and received an unqualified opinion from the  
15 peer review. The audit must be completed following the close of  
16 each fiscal year.

17 SECTION 4.59. Section 46.012, Education Code, is amended to  
18 read as follows:

19 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
20 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~  
21 ~~open-enrollment charter school~~] is not entitled to an allotment  
22 under this subchapter.

23 SECTION 4.60. Section 46.036, Education Code, is amended to  
24 read as follows:

25 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
26 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~  
27 ~~open-enrollment charter school~~] is not entitled to an allotment

1 under this subchapter.

2 SECTION 4.61. Section 53.02(13), Education Code, is amended  
3 to read as follows:

4 (13) "Authorized charter school" means a public  
5 charter district [~~an open-enrollment charter school~~] that holds a  
6 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

7 SECTION 4.62. The heading to Section 53.351, Education  
8 Code, is amended to read as follows:

9 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN ENROLLMENT~~] CHARTER  
10 SCHOOL FACILITIES.

11 SECTION 4.63. Sections 53.351(a), (c), (d), (f), and (g),  
12 Education Code, are amended to read as follows:

13 (a) The Texas Public Finance Authority shall establish a  
14 nonprofit corporation to issue revenue bonds on behalf of  
15 authorized [~~open-enrollment~~] charter schools for the acquisition,  
16 construction, repair, or renovation of educational facilities of  
17 those schools.

18 (c) The corporation has all powers granted under the Texas  
19 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
20 Texas Civil Statutes) for the purpose of aiding authorized  
21 [~~open-enrollment~~] charter schools in providing educational  
22 facilities. The corporation may make expenditures from the fund  
23 described by Subsection (e) and may solicit and accept grants for  
24 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,  
25 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and  
26 govern the corporation and its procedures and bonds.

27 (d) The corporation shall adopt rules governing the

1 issuance of bonds on behalf of an authorized [~~open-enrollment~~]  
2 charter school.

3 (f) A revenue bond issued under this section is not a debt of  
4 the state or any state agency, political corporation, or political  
5 subdivision of the state and is not a pledge of the faith and credit  
6 of any of these entities. A revenue bond is payable solely from the  
7 revenue of the authorized [~~open-enrollment~~] charter school on whose  
8 behalf the bond is issued. A revenue bond issued under this section  
9 must contain on its face a statement to the effect that:

10 (1) neither the state nor a state agency, political  
11 corporation, or political subdivision of the state is obligated to  
12 pay the principal of or interest on the bond; and

13 (2) neither the faith and credit nor the taxing power  
14 of the state or any state agency, political corporation, or  
15 political subdivision of the state is pledged to the payment of the  
16 principal of or interest on the bond.

17 (g) An educational facility financed in whole or in part  
18 under this section is exempt from taxation if the facility:

19 (1) is owned by an authorized [~~open-enrollment~~]  
20 charter school;

21 (2) is held for the exclusive benefit of the school;  
22 and

23 (3) is held for the exclusive use of the students,  
24 faculty, and staff members of the school.

25 SECTION 4.64. Section 411.097(c), Government Code, is  
26 amended to read as follows:

27 (c) A public charter district [~~An open-enrollment charter~~

1 ~~school~~] is entitled to obtain from the department criminal history  
2 record information maintained by the department that relates to a  
3 person who:

4 (1) is a member of the governing body of the public  
5 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],  
6 Education Code; or

7 (2) has agreed to serve as a member of the governing  
8 body of the public charter district [~~school~~].

9 SECTION 4.65. Sections 2175.128(a) and (b), Government  
10 Code, are amended to read as follows:

11 (a) If a disposition of a state agency's surplus or salvage  
12 data processing equipment is not made under Section 2175.125 or  
13 2175.184, the state agency shall transfer the equipment to:

14 (1) a school district or public charter district  
15 [~~open-enrollment charter school~~] in this state under Subchapter C,  
16 Chapter 32, Education Code;

17 (2) an assistance organization specified by the school  
18 district or public charter district; or

19 (3) the Texas Department of Criminal Justice.

20 (b) If a disposition of the surplus or salvage data  
21 processing equipment of a state eleemosynary institution or an  
22 institution or agency of higher education is not made under other  
23 law, the institution or agency shall transfer the equipment to:

24 (1) a school district or public charter district  
25 [~~open-enrollment charter school~~] in this state under Subchapter C,  
26 Chapter 32, Education Code;

27 (2) an assistance organization specified by the school

1 district or public charter district; or

2 (3) the Texas Department of Criminal Justice.

3 SECTION 4.66. Section 2306.630(a), Government Code, is  
4 amended to read as follows:

5 (a) Subject to Subsection (b), the following entities may  
6 apply to receive a grant for an eligible project under this  
7 subchapter:

8 (1) a private, nonprofit, tax-exempt organization  
9 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26  
10 U.S.C. Section 501(c)(3));

11 (2) a public agency that operates a community-based  
12 youth employment training program;

13 (3) a community housing development organization  
14 certified by the state;

15 (4) an educational facility approved by the Texas  
16 Youth Commission;

17 (5) a corps-based community service organization;

18 (6) a public charter district [~~an open-enrollment~~  
19 ~~charter school~~] approved by the State Board of Education [~~Texas~~  
20 ~~Education Agency~~]; or

21 (7) another entity authorized by board rule.

22 SECTION 4.67. Section 1575.002(6), Insurance Code, is  
23 amended to read as follows:

24 (6) "Public school" means:

25 (A) a school district;

26 (B) another educational district whose employees  
27 are members of the Teacher Retirement System of Texas;

1 (C) a regional education service center  
2 established under Chapter 8, Education Code; or

3 (D) a public charter district [~~an~~  
4 ~~open-enrollment charter school~~] established under Chapter 11A  
5 [~~Subchapter D, Chapter 12~~], Education Code.

6 SECTION 4.68. Section 1579.002(3), Insurance Code, is  
7 amended to read as follows:

8 (3) "Charter school" means a public charter district  
9 [~~an open-enrollment charter school~~] established under Chapter 11A  
10 [~~Subchapter D, Chapter 12~~], Education Code.

11 SECTION 4.69. Section 140.005, Local Government Code, is  
12 amended to read as follows:

13 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,  
14 OR OTHER DISTRICT. The governing body of a school district, public  
15 charter district [~~open-enrollment charter school~~], junior college  
16 district, or a district or authority organized under Article III,  
17 Section 52, or Article XVI, Section 59, of the Texas Constitution,  
18 shall prepare an annual financial statement showing for each fund  
19 subject to the authority of the governing body during the fiscal  
20 year:

21 (1) the total receipts of the fund, itemized by source  
22 of revenue, including taxes, assessments, service charges, grants  
23 of state money, gifts, or other general sources from which funds are  
24 derived;

25 (2) the total disbursements of the fund, itemized by  
26 the nature of the expenditure; and

27 (3) the balance in the fund at the close of the fiscal

1 year.

2 SECTION 4.70. Section 140.006(c), Local Government Code, is  
3 amended to read as follows:

4 (c) The presiding officer of a school district shall submit  
5 a financial statement prepared under Section 140.005 to a daily,  
6 weekly, or biweekly newspaper published within the boundaries of  
7 the district. If a daily, weekly, or biweekly newspaper is not  
8 published within the boundaries of the school district, the  
9 financial statement shall be published in the manner provided by  
10 Subsections (a) and (b). The financial statement of a public  
11 charter district [~~an open-enrollment charter school~~] shall be made  
12 available in the manner provided by Chapter 552, Government Code.

13 SECTION 4.71. Section 375.303(2), Local Government Code, is  
14 amended to read as follows:

15 (2) "Eligible project" means a program authorized by  
16 Section 379A.051 and a project as defined by Sections 2(11) and  
17 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,  
18 Vernon's Texas Civil Statutes). Notwithstanding this definition,  
19 seeking a charter for or operating a public charter district [~~an~~  
20 ~~open-enrollment charter school~~] authorized by Chapter 11A  
21 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an  
22 eligible project.

23 SECTION 4.72. Sections 375.308(b) and (c), Local Government  
24 Code, are amended to read as follows:

25 (b) An authority may not:

26 (1) issue bonds or notes without the prior approval of  
27 the governing body of the municipality that created the authority;

1           (2) seek a charter for or operate, within the  
2 boundaries of the authority, a public charter district [~~an~~  
3 ~~open-enrollment charter school~~] authorized by Chapter 11A  
4 [~~Subchapter D, Chapter 12~~], Education Code; or

5           (3) levy ad valorem property taxes.

6           (c) A municipality may not seek a charter for or operate a  
7 public charter district [~~an open-enrollment charter school~~]  
8 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education  
9 Code, within the boundaries of the authority.

10           SECTION 4.73. Section 541.201(15), Transportation Code, is  
11 amended to read as follows:

12           (15) "School activity bus" means a bus designed to  
13 accommodate more than 15 passengers, including the operator, that  
14 is owned, operated, rented, or leased by a school district, county  
15 school, public charter district [~~open-enrollment charter school~~],  
16 regional education service center, or shared services arrangement  
17 and that is used to transport public school students on a  
18 school-related activity trip, other than on routes to and from  
19 school. The term does not include a chartered bus, a bus operated  
20 by a mass transit authority, or a school bus.

21           SECTION 4.74. Section 57.042(9), Utilities Code, is amended  
22 to read as follows:

23           (9) "Public school" means a public elementary or  
24 secondary school, including a public charter district [~~an~~  
25 ~~open-enrollment charter school~~], a home-rule school district  
26 school, and a school with a campus or campus program charter.

27           SECTION 4.75. Section 4(2), Chapter 22, Acts of the 57th



1 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's  
2 Texas Civil Statutes), is amended to read as follows:

3 (2) "Educational institution" means a school district  
4 or a public charter district [~~an open-enrollment charter school~~].

5 SECTION 4.76. The following laws are repealed:

6 (1) Section 12.106, Education Code; and

7 (2) Section 40, Chapter 1504, Acts of the 77th  
8 Legislature, Regular Session, 2001.

9 SECTION 4.77. Notwithstanding the repeal of Sections 12.107  
10 and 12.128, Education Code, by this Act, those sections continue to  
11 apply to state funds and property received or purchased by an  
12 open-enrollment charter school before September 1, 2006.

13 SECTION 4.78. The changes in law made by Sections 4.04-4.78  
14 of this article apply beginning August 1, 2006, except that  
15 Sections 4.11, 4.12, 4.59, and 4.77 apply beginning September 1,  
16 2005.

17 ARTICLE 5. CONFORMING AMENDMENTS

18 PART A. CONFORMING AMENDMENTS EFFECTIVE

19 SEPTEMBER 1, 2005

20 SECTION 5A.01. Section 22.004(c), Education Code, is  
21 amended to read as follows:

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

1 described by Subchapter F, Chapter 1579 [~~Section 9, Article~~  
2 ~~3.50-7~~], Insurance Code, or by Chapter 1580 [~~Article 3.50-8~~],  
3 Insurance Code.

4 SECTION 5A.02. Section 822.201(c), Government Code, is  
5 amended to read as follows:

6 (c) Excluded from salary and wages are:

- 7 (1) expense payments;
- 8 (2) allowances;
- 9 (3) payments for unused vacation or sick leave;
- 10 (4) maintenance or other nonmonetary compensation;
- 11 (5) fringe benefits;
- 12 (6) deferred compensation other than as provided by  
13 Subsection (b)(3);
- 14 (7) compensation that is not made pursuant to a valid  
15 employment agreement;
- 16 (8) payments received by an employee in a school year  
17 that exceed \$5,000 for teaching a driver education and traffic  
18 safety course that is conducted outside regular classroom hours;
- 19 (9) the benefit replacement pay a person earns as a  
20 result of a payment made under Subchapter B or C, Chapter 661;
- 21 (10) compensation designated [~~contributions to a~~  
22 ~~health reimbursement arrangement account received~~] by an employee  
23 as health care supplementation under Chapter 1580 [~~Article 3.50-8~~],  
24 Insurance Code, subject to the following limits:

25 (A) \$1,000, for an employee entitled to the  
26 minimum salary under Section 21.402, Education Code;

27 (B) \$1,000, for a full-time support staff

1 employee entitled to a wage increase under Section 22.007(a),  
2 Education Code; and

3 (C) \$500, for a part-time support staff employee  
4 entitled to a wage increase under Section 22.007(b), Education  
5 Code; and

6 (11) any compensation not described by Subsection (b).

7 SECTION 5A.03. This part applies beginning with the  
8 2005-2006 school year.

9 PART B. CONFORMING AMENDMENTS

10 RELATED TO EDUCATION FUNDING AND EQUALIZATION

11 SECTION 5B.01. Section 7.055(b)(34), Education Code, is  
12 amended to read as follows:

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

16 SECTION 5B.02. Section 12.013(b), Education Code, is  
17 amended 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 academically unacceptable [~~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 5B.03. Section 21.410(h), Education Code, is  
10 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 5B.04. Section 21.411(h), Education Code, is  
22 amended to read as follows:

23 (h) A grant a school district receives under this section is  
24 in addition to any funding the district receives under Chapter 42.  
25 The commissioner shall distribute funds under this section with the  
26 Foundation School Program payment to which the district is entitled  
27 as soon as practicable after the end of the school year as

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

6 SECTION 5B.05. Section 21.412(h), Education Code, is  
7 amended to read as follows:

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

18 SECTION 5B.06. Section 21.413(h), Education Code, as added  
19 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular  
20 Session, 2003, is amended to read as follows:

21 (h) A grant a school district receives under this section is  
22 in addition to any funding the district receives under Chapter 42.  
23 The commissioner shall distribute funds under this section with the  
24 Foundation School Program payment to which the district is entitled  
25 as soon as practicable after the end of the school year as  
26 determined by the commissioner. A district to which Section 42.401  
27 [~~Chapter 41~~] applies is entitled to the grants paid under this

1 section. The commissioner shall determine the timing of the  
2 distribution of grants to a district that does not receive  
3 Foundation School Program payments.

4 SECTION 5B.07. Section 21.453(b), Education Code, is  
5 amended to read as follows:

6 (b) The commissioner may allocate funds from the account to  
7 regional education service centers to provide staff development  
8 resources to school districts that:

9 (1) are rated academically unacceptable;

10 (2) have one or more campuses rated academically  
11 unacceptable [~~as low-performing~~]; or

12 (3) are otherwise in need of assistance as indicated  
13 by the academic performance of students, as determined by the  
14 commissioner.

15 SECTION 5B.08. Section 29.014(d), Education Code, is  
16 amended to read as follows:

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

19 (1) the cost of education adjustment under Section  
20 42.102 for the school district in which the district is  
21 geographically located; and

22 (2) the weight for a homebound student under Section  
23 42.151(a).

24 SECTION 5B.09. Section 29.087(j), Education Code, is  
25 amended to read as follows:

26 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and  
27 46, a student attending a program authorized by this section may be

1 counted in attendance only for the actual number of hours each  
2 school day the student attends the program, in accordance with  
3 Sections 25.081 and 25.082.

4 SECTION 5B.10. Section 29.202(a), Education Code, is  
5 amended to read as follows:

6 (a) A student is eligible to receive a public education  
7 grant or to attend another public school in the district in which  
8 the student resides under this subchapter if the student is  
9 assigned to attend a public school campus:

10 (1) at which 50 percent or more of the students did not  
11 perform satisfactorily on an assessment instrument administered  
12 under Section 39.023(a) or (c) in any two of the preceding three  
13 years; or

14 (2) that was, at any time in the preceding three years,  
15 considered academically unacceptable [~~low-performing~~] under  
16 Section 39.132.

17 SECTION 5B.11. Section 29.203(b), Education Code, is  
18 amended to read as follows:

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



1 ~~money from the available school fund attributable to the student.]~~

2 SECTION 5B.12. Section 30.003, Education Code, is amended  
3 by adding Subsection (f-1) to read as follows:

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

13 SECTION 5B.13. Section 37.0061, Education Code, is amended  
14 to read as follows:

15 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
16 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
17 education services to pre-adjudicated and post-adjudicated  
18 students who are confined by court order in a juvenile residential  
19 facility operated by a juvenile board is entitled to count such  
20 students in the district's average daily attendance for purposes of  
21 receipt of state funds under the Foundation School Program. [~~If the~~  
22 ~~district has a wealth per student greater than the guaranteed~~  
23 ~~wealth level but less than the equalized wealth level, the district~~  
24 ~~in which the student is enrolled on the date a court orders the~~  
25 ~~student to be confined to a juvenile residential facility shall~~  
26 ~~transfer to the district providing education services an amount~~  
27 ~~equal to the difference between the average Foundation School~~

1 ~~Program costs per student of the district providing education~~  
2 ~~services and the sum of the state aid and the money from the~~  
3 ~~available school fund received by the district that is attributable~~  
4 ~~to the student for the portion of the school year for which the~~  
5 ~~district provides education services to the student.]~~

6 SECTION 5B.14. Section 87.208, Education Code, is amended  
7 to read as follows:

8 Sec. 87.208. SEABORNE CONSERVATION CORPS. If the board of  
9 regents of The Texas A&M University System administers a program  
10 that is substantially similar to the Seaborne Conservation Corps as  
11 it was administered by the board during the 1998-1999 school year,  
12 the program is entitled, for each student enrolled, to allotments  
13 from the Foundation School Program under Chapter 42 as if the  
14 program were a school district, except that:

15 (1) the program has a local share applied that is  
16 equivalent to the local fund assignment of the school district in  
17 which the principal facilities of the program are located; and

18 (2) the district enrichment tax rate under Section  
19 42.302 is the average district enrichment tax rate for the state.

20 SECTION 5B.15. Section 96.707(k), Education Code, is  
21 amended to read as follows:

22 (k) For each student enrolled in the academy, the academy is  
23 entitled to allotments from the Foundation School Program under  
24 Chapter 42 as if the academy were a school district, except that:

25 (1) the academy has a local share applied that is  
26 equivalent to the local fund assignment of the Beaumont Independent  
27 School District; and

1           (2) the district enrichment tax rate under Section  
2 42.302 is the average district enrichment tax rate for the state.

3           SECTION 5B.16. Section 105.301(e), Education Code, is  
4 amended to read as follows:

5           (e) The academy is not subject to the provisions of this  
6 code, or to the rules of the Texas Education Agency, regulating  
7 public schools, except that:

8           (1) professional employees of the academy are entitled  
9 to the limited liability of an employee under Section 22.0511,  
10 22.0512, or 22.052;

11           (2) a student's attendance at the academy satisfies  
12 compulsory school attendance requirements; ~~and~~

13           (3) for each student enrolled, the academy is entitled  
14 to allotments from the foundation school program under Chapter 42  
15 as if the academy were a school district without a basic program  
16 ~~[tier one]~~ local share for purposes of Section 42.253; and

17           (4) in determining funding for the academy:

18           (A) the adjustment under Section 42.102 is the  
19 adjustment of the school district in which the principal facilities  
20 of the academy are located; and

21           (B) the district enrichment tax rate under  
22 Section 42.302 is the average district enrichment tax rate for the  
23 state.

24           SECTION 5B.17. Section 317.005(f), Government Code, is  
25 amended to read as follows:

26           (f) The governor or board may adopt an order under this  
27 section withholding or transferring any portion of the total amount

1 appropriated to finance the foundation school program for a fiscal  
2 year. The governor or board may not adopt such an order if it would  
3 result in an allocation of money between particular programs or  
4 statutory allotments under the foundation school program contrary  
5 to the statutory proration formula provided by Section 42.253(h),  
6 Education Code. The governor or board may transfer an amount to the  
7 total amount appropriated to finance the foundation school program  
8 for a fiscal year and may increase the accreditation [~~basic~~]  
9 allotment. The governor or board may adjust allocations of amounts  
10 between particular programs or statutory allotments under the  
11 foundation school program only for the purpose of conforming the  
12 allocations to actual pupil enrollments or attendance.

13 SECTION 5B.18. Section 2175.304(c), Government Code, is  
14 amended to read as follows:

15 (c) The procedures established under Subsection (b) must  
16 give preference to transferring the property directly to a public  
17 school or school district or to an assistance organization  
18 designated by the school district before disposing of the property  
19 in another manner. If more than one public school or school  
20 district or assistance organization seeks to acquire the same  
21 property on substantially the same terms, the system, institution,  
22 or agency shall give preference to a public school that is  
23 considered academically unacceptable under Section 39.132,  
24 Education Code, [~~low-performing by the commissioner of education~~]  
25 or to a school district that has a relatively low [~~taxable~~]  
26 per student, as determined by the commissioner of education [~~that~~  
27 ~~entitles the district to an allotment of state funds under~~

1 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance  
2 organization designated by such a school district.

3 SECTION 5B.19. Section 1579.251(a), Insurance Code, is  
4 amended to read as follows:

5 (a) The state shall assist employees of participating  
6 school districts and charter schools in the purchase of group  
7 health coverage under this chapter by providing for each covered  
8 employee the amount of \$900 each state fiscal year or a greater  
9 amount as provided by the General Appropriations Act. The state  
10 contribution shall be distributed through the school finance  
11 formulas under Chapter [~~Chapters 41 and~~] 42, Education Code, in a  
12 manner the commissioner of education determines appropriate [~~and~~  
13 ~~used by school districts and charter schools as provided by~~  
14 ~~Sections 42.2514 and 42.260, Education Code]~~.

15 SECTION 5B.20. Section 302.006(c), Labor Code, is amended  
16 to read as follows:

17 (c) To be eligible to receive a scholarship awarded under  
18 this section, a person must:

19 (1) be employed in a child-care facility, as defined  
20 by Section 42.002, Human Resources Code;

21 (2) intend to obtain a credential, certificate, or  
22 degree specified in Subsection (b);

23 (3) agree to work for at least 18 additional months in  
24 a child-care facility, as defined by Section 42.002, Human  
25 Resources Code, that accepts federal Child Care Development Fund  
26 subsidies and that, at the time the person begins to fulfill the  
27 work requirement imposed by this subdivision, is located:

1 (A) within the attendance zone of a public school  
2 campus considered academically unacceptable [~~low-performing~~] under  
3 Section 39.132, Education Code; or

4 (B) in an economically disadvantaged community,  
5 as determined by the commission; and

6 (4) satisfy any other requirements adopted by the  
7 commission.

8 SECTION 5B.21. Section 6.02(b), Tax Code, is amended to  
9 read as follows:

10 (b) A taxing unit that has boundaries extending into two or  
11 more counties may choose to participate in only one of the appraisal  
12 districts. In that event, the boundaries of the district chosen  
13 extend outside the county to the extent of the unit's boundaries.  
14 To be effective, the choice must be approved by resolution of the  
15 board of directors of the district chosen. [~~The choice of a school~~  
16 ~~district to participate in a single appraisal district does not~~  
17 ~~apply to property annexed to the school district under Subchapter C~~  
18 ~~or G, Chapter 41, Education Code, unless:~~

19 [~~(1) the school district taxes property other than~~  
20 ~~property annexed to the district under Subchapter C or G, Chapter~~  
21 ~~41, Education Code, in the same county as the annexed property; or~~

22 [~~(2) the annexed property is contiguous to property in~~  
23 ~~the school district other than property annexed to the district~~  
24 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

25 SECTION 5B.22. Section 21.02(a), Tax Code, is amended to  
26 read as follows:

27 (a) Except as provided by [~~Subsection (b) and~~] Sections

1 21.021, 21.04, and 21.05, tangible personal property is taxable by  
2 a taxing unit if:

3 (1) it is located in the unit on January 1 for more  
4 than a temporary period;

5 (2) it normally is located in the unit, even though it  
6 is outside the unit on January 1, if it is outside the unit only  
7 temporarily;

8 (3) it normally is returned to the unit between uses  
9 elsewhere and is not located in any one place for more than a  
10 temporary period; or

11 (4) the owner resides (for property not used for  
12 business purposes) or maintains the owner's [~~his~~] principal place  
13 of business in this state (for property used for business purposes)  
14 in the unit and the property is taxable in this state but does not  
15 have a taxable situs pursuant to Subdivisions (1) through (3) [~~of~~  
16 ~~this section~~].

17 SECTION 5B.23. Section 39.901(d), Utilities Code, is  
18 amended to read as follows:

19 (d) Not later than May 1 of each year, subject to Section  
20 39.903(b), the commission shall transfer from the system benefit  
21 fund to the foundation school fund the amount determined by the  
22 Texas Education Agency under Subsection (b) to the extent that  
23 funds are available. Amounts transferred from the system benefit  
24 fund under this section may be appropriated only for the support of  
25 the Foundation School Program and are available, in addition to any  
26 amounts allocated by the General Appropriations Act, to finance  
27 actions under Section [~~41.002(b) or~~] 42.2521, Education Code.

1 SECTION 5B.24. This part applies beginning with the  
2 2006-2007 school year.

3 ARTICLE 6. PROPERTY TAX COLLECTIONS

4 SECTION 6.01. Section 31.05(a), Tax Code, is amended to  
5 read as follows:

6 (a) The governing body of a taxing unit [~~that collects its~~  
7 ~~own taxes~~] may adopt the discounts provided by Subsection (b) or  
8 Subsection (c) [~~of this section~~], or both, in the manner required by  
9 law for official action by the body. The discounts, if adopted,  
10 apply only to that taxing unit's taxes [~~for a taxing unit for which~~  
11 ~~the adopting taxing unit collects taxes if the governing body of the~~  
12 ~~other unit, in the manner required by law for official action by the~~  
13 ~~body, adopts the discounts or approves of their application to its~~  
14 ~~taxes by the collecting unit~~]. If a taxing unit adopts both  
15 discounts under Subsections (b) and (c) [~~of this section~~], the  
16 discounts adopted under Subsection (b) apply unless the [~~unit mails~~  
17 ~~its~~] tax bills for the unit are mailed after September 30, in which  
18 case only the discounts under Subsection (c) apply. A taxing unit  
19 that collects taxes for another taxing unit that adopts the  
20 discounts may prepare and mail separate tax bills on behalf of the  
21 adopting taxing unit and may charge an additional fee for preparing  
22 and mailing the separate tax bills and for collecting the taxes  
23 imposed by the adopting taxing unit. If under an intergovernmental  
24 contract a county assessor-collector collects taxes for a taxing  
25 unit that adopts the discounts, the county assessor-collector may  
26 terminate the contract if the county has adopted a discount policy  
27 that is different from the discount policy adopted by the adopting



1 taxing unit.

2 SECTION 6.02. (a) Section 31.05, Tax Code, as amended by  
3 this article, applies to the adoption of a discount by a taxing unit  
4 beginning with the 2005 tax year, except as provided by Subsection  
5 (b) of this section.

6 (b) If a taxing unit's tax bills for the 2005 tax year are  
7 mailed before the effective date of this article, Section 31.05,  
8 Tax Code, as amended by this article, applies to the adoption of a  
9 discount by the taxing unit beginning with the 2006 tax year, and  
10 the law in effect when the tax bills were mailed applies to the 2005  
11 tax year with respect to that taxing unit.

12 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;  
13 TRANSFER OF POWERS AND DUTIES

14 SECTION 7.01. Section 21.0031(a), Education Code, is  
15 amended to read as follows:

16 (a) An employee's probationary, continuing, or term  
17 contract under this chapter is void if the employee:

18 (1) does not hold a certificate or permit issued under  
19 Subchapter B [~~by the State Board for Educator Certification~~]; or

20 (2) fails to fulfill the requirements necessary to  
21 extend the employee's temporary or emergency certificate or permit.

22 SECTION 7.02. Sections 21.004(a)-(e), Education Code, are  
23 amended to read as follows:

24 (a) To the extent that funds are available, the agency [~~the~~  
25 ~~State Board for Educator Certification~~] and the Texas Higher  
26 Education Coordinating Board shall develop and implement programs  
27 to identify talented students and recruit those students and

1 persons, including high school and undergraduate students,  
2 mid-career and retired professionals, honorably discharged and  
3 retired military personnel, and members of underrepresented gender  
4 and ethnic groups, into the teaching profession.

5 (b) From available funds, the agency[~~, the State Board for~~  
6 ~~Educator Certification,~~] and the Texas Higher Education  
7 Coordinating Board shall develop and distribute materials that  
8 emphasize the importance of the teaching profession and inform  
9 individuals about state-funded loan forgiveness and tuition  
10 assistance programs.

11 (c) The commissioner, in cooperation with the commissioner  
12 of higher education [~~and the executive director of the State Board~~  
13 ~~for Educator Certification,~~], shall annually identify the need for  
14 teachers in specific subject areas and geographic regions and among  
15 underrepresented groups. The commissioner shall give priority to  
16 developing and implementing recruitment programs to address those  
17 needs from the agency's discretionary funds.

18 (d) The agency[~~, the State Board for Educator~~  
19 ~~Certification,~~] and the Texas Higher Education Coordinating Board  
20 shall encourage the business community to cooperate with local  
21 schools to develop recruiting programs designed to attract and  
22 retain capable teachers, including programs to provide summer  
23 employment opportunities for teachers.

24 (e) The agency[~~, the State Board for Educator~~  
25 ~~Certification,~~] and the Texas Higher Education Coordinating Board  
26 shall encourage major education associations to cooperate in  
27 developing a long-range program promoting teaching as a career and

1 to assist in identifying local activities and resources that may be  
2 used to promote the teaching profession.

3 SECTION 7.03. Section 21.006, Education Code, is amended by  
4 amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h)  
5 to read as follows:

6 (a) In this section:

7 (1) "Abuse" [~~,"abuse"~~] has the meaning assigned by  
8 Section 261.001, Family Code, and includes any sexual conduct  
9 involving an educator and a student or minor.

10 (2) "Board" means the Educators' Professional  
11 Practices Board.

12 (b) In addition to the reporting requirement under Section  
13 261.101, Family Code, the superintendent or director of a school  
14 district, regional education service center, or shared services  
15 arrangement shall notify the commissioner [~~State Board for Educator~~  
16 ~~Certification~~] if the superintendent or director has reasonable  
17 cause to believe that:

18 (1) an educator employed by or seeking employment by  
19 the district, service center, or shared services arrangement has a  
20 criminal record;

21 (2) an educator's employment at the district, service  
22 center, or shared services arrangement was terminated based on a  
23 determination that the educator:

24 (A) abused or otherwise committed an unlawful act  
25 with a student or minor;

26 (B) possessed, transferred, sold, or distributed  
27 a controlled substance, as defined by Chapter 481, Health and

1 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~7, and its~~  
2 ~~subsequent amendments~~];

3 (C) illegally transferred, appropriated, or  
4 expended funds or other property of the district, service center,  
5 or shared services arrangement;

6 (D) attempted by fraudulent or unauthorized  
7 means to obtain or alter a professional certificate or license for  
8 the purpose of promotion or additional compensation; or

9 (E) committed a criminal offense or any part of a  
10 criminal offense on school property or at a school-sponsored event;  
11 or

12 (3) the educator resigned and reasonable evidence  
13 supports a recommendation by the superintendent or director to  
14 terminate the educator based on a determination that the educator  
15 engaged in misconduct described by Subdivision (2).

16 (c) The superintendent or director must notify the  
17 commissioner [~~State Board for Educator Certification~~] by filing a  
18 report with the commissioner [~~board~~] not later than the seventh day  
19 after the date the superintendent or director first learns about an  
20 alleged incident of misconduct described by Subsection (b). The  
21 report must be:

22 (1) in writing; and

23 (2) in a form prescribed by the board.

24 (e) A superintendent or director who in good faith and while  
25 acting in an official capacity files a report with the commissioner  
26 [~~State Board for Educator Certification~~] under this section is  
27 immune from civil or criminal liability that might otherwise be

1 incurred or imposed.

2 (f) The board, acting on a recommendation of the  
3 commissioner, [State Board for Educator Certification] shall  
4 determine whether to impose sanctions against a superintendent or  
5 director who fails to file a report in violation of Subsection (c).

6 (g) The commissioner [State Board for Educator  
7 Certification] shall propose rules as necessary to implement this  
8 section.

9 (h) The commissioner shall forward a report received under  
10 this section to the board for use as the commissioner determines  
11 appropriate in the execution of the board's duties.

12 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is  
13 amended by adding Section 21.007 to read as follows:

14 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner  
15 shall determine whether to recommend a sanction against an educator  
16 to the board under this chapter. The board shall make a final  
17 determination regarding the imposition of a sanction under this  
18 chapter.

19 SECTION 7.04. Sections 21.031 and 21.032, Education Code,  
20 are amended to read as follows:

21 Sec. 21.031. PURPOSE. (a) The Educators' Professional  
22 Practices [State] Board [for Educator Certification] is  
23 established in the agency to [recognize public school educators as  
24 professionals and to grant educators the authority to govern the  
25 standards of their profession. The board shall] regulate and  
26 oversee [all aspects of] the [certification, continuing education,  
27 and] standards of conduct of public school educators.

1           (b) The commissioner shall adopt rules governing the  
 2 certification of educators and continuing education for educators.  
 3 In adopting [~~In proposing~~] rules under this subchapter, the  
 4 commissioner [~~board~~] shall ensure that all candidates for  
 5 certification or renewal of certification demonstrate the  
 6 knowledge and skills necessary to improve the performance of the  
 7 diverse student population of this state.

8           Sec. 21.032. DEFINITION. In this subchapter, "board" means  
 9 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~  
 10 ~~Certification~~].

11           SECTION 7.05. The heading to Section 21.033, Education  
 12 Code, is amended to read as follows:

13           Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [~~STATE~~]  
 14 BOARD [~~FOR EDUCATOR CERTIFICATION~~].

15           SECTION 7.06. Section 21.033, Education Code, is amended by  
 16 amending Subsection (a) and adding Subsections (a-1), (d), (e), and  
 17 (f) to read as follows:

18           (a) The board [~~State Board for Educator Certification~~] is  
 19 composed of 11 [~~14~~] members[~~. The commissioner of education shall~~  
 20 ~~appoint an employee of the agency to represent the commissioner as a~~  
 21 ~~nonvoting member. The commissioner of higher education shall~~  
 22 ~~appoint an employee of the Texas Higher Education Coordinating~~  
 23 ~~Board to represent the commissioner as a nonvoting member. The~~  
 24 ~~governor shall appoint a dean of a college of education in this~~  
 25 ~~state as a nonvoting member. The remaining 11 members are]~~  
 26 appointed by the commissioner [~~governor with the advice and consent~~  
 27 ~~of the senate,~~] as follows:

1           (1) six [~~four~~] members must be classroom teachers,  
2 appointed as provided by Subsection (a-1) [~~employed in public~~  
3 ~~schools~~];

4           (2) not more than two members of the board may [~~must~~]  
5 be [~~public~~] school administrators; and

6           (3) a number of other members consistent with this  
7 subsection who the commissioner determines are qualified [~~one~~  
8 ~~member must be a public school counselor; and~~

9           [~~(4) four members must be citizens, three of whom are~~  
10 ~~not and have not, in the five years preceding appointment, been~~  
11 ~~employed by a public school district or by an educator preparation~~  
12 ~~program in an institution of higher education and one of whom is not~~  
13 ~~and has not been employed by a public school district or by an~~  
14 ~~educator preparation program in an institution of higher~~  
15 ~~education~~].

16           (a-1) In appointing a board member under Subsection (a)(1),  
17 the commissioner shall request a list of qualified candidates from  
18 each of the four statewide professional educator associations in  
19 this state with the largest membership of classroom teachers and  
20 shall make appointments from the candidates listed. Not later than  
21 the 30th day after the date on which the association receives notice  
22 of the commissioner's request for candidate nominations, the  
23 association shall submit a list of six candidates for membership on  
24 the board. If the commissioner does not receive nominations for at  
25 least 12 candidates the commissioner may appoint classroom teachers  
26 not nominated by an association.

27           (d) The commissioner shall designate a member of the board

1 as the presiding officer of the board to serve in that capacity at  
2 the pleasure of the commissioner.

3 (e) The agency shall provide administrative services for  
4 the board as necessary.

5 (f) A reference in law to the State Board for Educator  
6 Certification means the Educators' Professional Practices Board.

7 SECTION 7.07. Section 21.034, Education Code, is amended to  
8 read as follows:

9 Sec. 21.034. TERMS; VACANCY. (a) The board members  
10 [~~appointed by the governor~~] hold office for staggered terms of six  
11 years with the terms of one-third, or as near to one-third as  
12 possible, of the members expiring on February 1 of each  
13 odd-numbered year. [~~A member appointed by the commissioner of~~  
14 ~~education or the commissioner of higher education serves at the~~  
15 ~~will of the appointing commissioner.~~]

16 (b) In the event of a vacancy during a term of a member  
17 [~~appointed by the governor~~], the commissioner [~~governor~~] shall  
18 appoint a replacement who meets the qualifications of the vacated  
19 office to fill the unexpired portion of the term.

20 (c) A vacancy arises if a member [~~appointed by the governor~~]  
21 no longer qualifies for the office to which the member was  
22 appointed, as determined by the commissioner.

23 SECTION 7.075. Section 21.035(a), Education Code, is  
24 amended to read as follows:

25 [~~(a)~~] The board is subject to Chapter 325, Government Code  
26 (Texas Sunset Act). Unless continued in existence as provided by  
27 that chapter, the board is abolished and this subchapter expires on



1 the date prescribed by Section 7.004 for abolishment of the agency  
2 [September 1, 2005].

3 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is  
4 amended by adding Section 21.0391 to read as follows:

5 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner  
6 shall appoint an advisory committee composed of holders of each  
7 class of educator certificate and stakeholders as required under  
8 Chapter 2008, Government Code.

9 (b) The advisory committee shall recommend educator  
10 certification standards and educator preparation program standards  
11 under Sections 21.044 and 21.045, and propose related rules to the  
12 commissioner through negotiated rulemaking under Chapter 2008,  
13 Government Code. For purposes of that chapter, the advisory  
14 committee is considered to be the negotiated rulemaking committee  
15 described by Section 2008.054.

16 (c) The commissioner may not finally adopt or amend a rule  
17 subject to this section unless the State Board of Education has  
18 failed to reject the rule or amendment by an affirmative vote of  
19 two-thirds of its members. A vote under this subsection may be  
20 conducted by mail ballot, provided that the State Board of  
21 Education has at least 30 days' written notice of the proposed final  
22 rule adoption.

23 (d) Members of the advisory committee serve at the will of  
24 the commissioner.

25 SECTION 7.09. Sections 21.041, 21.044, and 21.045,  
26 Education Code, are amended to read as follows:

27 Sec. 21.041. RULES; FEES. (a) The board may adopt rules as

1 necessary for its own procedures.

2 (a-1) The board shall adopt rules that provide for the  
3 adoption and amendment of an educator's code of ethics.

4 (b) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
5 that:

6 (1) provide for the issuance and renewal of educator  
7 certificates [~~regulation of educators and the general~~  
8 ~~administration of this subchapter~~] in a manner consistent with this  
9 subchapter;

10 (2) specify the classes of educator certificates to be  
11 issued, including emergency certificates;

12 (3) specify the period for which each class of  
13 educator certificate is valid;

14 (4) specify the requirements for the issuance and  
15 renewal of an educator certificate;

16 (5) provide for the issuance of an educator  
17 certificate to a person who holds a similar certificate issued by  
18 another state or foreign country, subject to Section 21.052;

19 (6) provide for special or restricted certification of  
20 educators, including certification of instructors of American Sign  
21 Language;

22 (7) provide for disciplinary proceedings, including  
23 the suspension or revocation of an educator certificate, as  
24 provided by Chapter 2001, Government Code;

25 (8) [~~provide for the adoption, amendment, and~~  
26 ~~enforcement of an educator's code of ethics,~~

27 [~~9~~] provide for continuing education requirements;

1 [and]

2 (9) [~~(10)~~] provide for certification of persons  
3 performing appraisals under Subchapter H; and

4 (10) provide for the regulation of educators in a  
5 manner consistent with this subchapter.

6 (c) The commissioner by rule [~~board~~] shall set [~~propose a~~  
7 ~~rule adopting~~] a fee for the issuance and maintenance of an educator  
8 certificate that is adequate to cover the cost of administration of  
9 this subchapter, including costs related to the operation of the  
10 board.

11 Sec. 21.044. EDUCATOR PREPARATION. The commissioner  
12 [~~board~~] shall adopt [~~propose~~] rules establishing the training  
13 requirements a person must accomplish to obtain a certificate,  
14 enter an internship, or enter an induction-year program. The  
15 commissioner [~~board~~] shall specify the minimum academic  
16 qualifications required for a certificate.

17 Sec. 21.045. ACCOUNTABILITY SYSTEM FOR EDUCATOR  
18 PREPARATION PROGRAMS. (a) The commissioner [~~board~~] shall adopt  
19 [~~propose~~] rules establishing standards to govern the approval and  
20 continuing accountability of all educator preparation programs  
21 based on information that is disaggregated with respect to sex and  
22 ethnicity and that includes:

23 (1) results of the certification examinations  
24 prescribed under Section 21.048(a); and

25 (2) performance based on the appraisal system for  
26 beginning teachers adopted by the commissioner [~~board~~].

27 (b) Each educator preparation program shall submit data

1 elements as required by the commissioner [~~board~~] for an annual  
2 performance report to ensure access and equity. At a minimum, the  
3 annual report must contain the performance data from Subsection (a)  
4 and the following information, disaggregated by sex and ethnicity:

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

13 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
14 establishing performance standards for the Accountability System  
15 for Educator Preparation for accrediting educator preparation  
16 programs. At a minimum, performance standards must be based on  
17 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]  
18 rules for the sanction of educator preparation programs and shall  
19 annually review the accreditation status of each educator  
20 preparation program.

21 (d) The commissioner [~~executive director of the board~~]  
22 shall appoint an oversight team of educators to make  
23 recommendations and provide assistance to educator preparation  
24 programs that do not meet accreditation standards. If, after one  
25 year, an educator preparation program has not fulfilled the  
26 recommendations of the oversight team, the commissioner [~~executive~~  
27 ~~director~~] shall appoint a person to administer and manage the

1 operations of the program. If the program does not improve after  
2 two years, the commissioner [~~board~~] shall revoke the approval of  
3 the program to prepare educators for state certification.

4 SECTION 7.10. Sections 21.046(c) and (d), Education Code,  
5 are amended to read as follows:

6 (c) Because an effective principal is essential to school  
7 improvement, the commissioner [~~board~~] shall ensure that:

8 (1) each candidate for certification as a principal is  
9 of the highest caliber; and

10 (2) multi-level screening processes, validated  
11 comprehensive assessment programs, and flexible internships with  
12 successful mentors exist to determine whether a candidate for  
13 certification as a principal possesses the essential knowledge,  
14 skills, and leadership capabilities necessary for success.

15 (d) In creating the qualifications for certification as a  
16 principal, the commissioner [~~board~~] shall consider the knowledge,  
17 skills, and proficiencies for principals as developed by relevant  
18 national organizations and the State Board of Education.

19 SECTION 7.11. Section 21.048(a), Education Code, is amended  
20 to read as follows:

21 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
22 prescribing comprehensive examinations for each class of  
23 certificate issued by the board.

24 SECTION 7.12. Sections 21.0481, 21.0482, 21.0483, 21.0484,  
25 and 21.049, Education Code, are amended to read as follows:

26 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a)  
27 To ensure that there are teachers with special training to work with

1 other teachers and with students in order to improve student  
2 reading performance, the commissioner [~~board~~] shall establish a  
3 master reading teacher certificate.

4 (b) The board shall issue a master reading teacher  
5 certificate to each eligible person.

6 (c) To be eligible for a master reading teacher certificate,  
7 a person must:

8 (1) hold a reading specialist certificate issued under  
9 this subchapter and satisfactorily complete a course of instruction  
10 as prescribed under Subdivision (2)(B); or

11 (2) hold a teaching certificate issued under this  
12 subchapter and:

13 (A) have at least three years of teaching  
14 experience;

15 (B) satisfactorily complete a knowledge-based  
16 and skills-based course of instruction on the science of teaching  
17 children to read that includes training in:

18 (i) effective reading instruction  
19 techniques, including effective techniques for students whose  
20 primary language is a language other than English;

21 (ii) identification of dyslexia and related  
22 reading disorders and effective reading instruction techniques for  
23 students with those disorders; and

24 (iii) effective professional peer  
25 mentoring techniques;

26 (C) perform satisfactorily on the master reading  
27 teacher certification examination prescribed by the commissioner

1 ~~board~~]; and

2 (D) satisfy any other requirements prescribed by  
3 the commissioner ~~board~~.

4 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

5 (a) To ensure that there are teachers with special training to work  
6 with other teachers and with students in order to improve student  
7 mathematics performance, the commissioner ~~board~~ shall establish:

8 (1) a master mathematics teacher certificate to teach  
9 mathematics at elementary school grade levels;

10 (2) a master mathematics teacher certificate to teach  
11 mathematics at middle school grade levels; and

12 (3) a master mathematics teacher certificate to teach  
13 mathematics at high school grade levels.

14 (b) The board shall issue the appropriate master  
15 mathematics teacher certificate to each eligible person.

16 (c) To be eligible for a master mathematics teacher  
17 certificate, a person must:

18 (1) hold a teaching certificate issued under this  
19 subchapter;

20 (2) have at least three years of teaching experience;

21 (3) satisfactorily complete a knowledge-based course  
22 of instruction on the science of teaching children mathematics that  
23 includes training in mathematics instruction and professional peer  
24 mentoring techniques that, through scientific testing, have been  
25 proven effective;

26 (4) perform satisfactorily on the appropriate master  
27 mathematics teacher certification examination prescribed by the

1 commissioner [~~board~~]; and

2 (5) satisfy any other requirements prescribed by the  
3 commissioner [~~board~~].

4 (d) The course of instruction prescribed under Subsection  
5 (c)(3) shall be developed by the commissioner [~~board~~] in  
6 consultation with mathematics and science faculty members at  
7 institutions of higher education.

8 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a)  
9 To ensure that there are teachers with special training to work with  
10 other teachers and with students in order to increase the use of  
11 technology in each classroom, the commissioner [~~board~~] shall  
12 establish a master technology teacher certificate.

13 (b) The board shall issue a master technology teacher  
14 certificate to each eligible person.

15 (c) To be eligible for a master technology teacher  
16 certificate, a person must:

17 (1) hold a technology applications or Technology  
18 Education certificate issued under this subchapter, satisfactorily  
19 complete the course of instruction prescribed under Subdivision  
20 (2)(B), and satisfactorily perform on the examination prescribed  
21 under Subdivision (2)(C); or

22 (2) hold a teaching certificate issued under this  
23 subchapter and:

24 (A) have at least three years of teaching  
25 experience;

26 (B) satisfactorily complete a knowledge-based  
27 and skills-based course of instruction on interdisciplinary



1 technology applications and the science of teaching technology that  
2 includes training in:

3 (i) effective technology instruction  
4 techniques, including applications designed to meet the  
5 educational needs of students with disabilities;

6 (ii) classroom teaching methodology that  
7 engages student learning through the integration of technology;

8 (iii) digital learning competencies,  
9 including Internet research, graphics, animation, website  
10 mastering, and video technologies;

11 (iv) curriculum models designed to prepare  
12 teachers to facilitate an active student learning environment; and

13 (v) effective professional peer mentoring  
14 techniques;

15 (C) satisfactorily perform on an examination  
16 developed in cooperation with the Telecommunications  
17 Infrastructure Fund Board and administered at the conclusion of the  
18 course of instruction prescribed under Paragraph (B); and

19 (D) satisfy any other requirements prescribed by  
20 the commissioner [~~board~~].

21 (d) The commissioner [~~board~~] may provide technology  
22 applications training courses under Subsection (c)(2)(B) in  
23 cooperation with:

24 (1) regional education service centers; and

25 (2) other public or private entities, including any  
26 state council on technology.

27 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a)

1 To ensure that there are teachers with special training to work with  
2 other teachers and with students in order to improve student  
3 science performance, the commissioner [~~board~~] shall establish:

4 (1) a master science teacher certificate to teach  
5 science at elementary school grade levels;

6 (2) a master science teacher certificate to teach  
7 science at middle school grade levels; and

8 (3) a master science teacher certificate to teach  
9 science at high school grade levels.

10 (b) The board shall issue the appropriate master science  
11 teacher certificate to each eligible person.

12 (c) To be eligible for a master science teacher certificate,  
13 a person must:

14 (1) hold a teaching certificate issued under this  
15 subchapter;

16 (2) have at least three years of teaching experience;

17 (3) satisfactorily complete a knowledge-based course  
18 of instruction on the science of teaching children science that  
19 includes training in science instruction and professional peer  
20 mentoring techniques that, through scientific testing, have been  
21 proven effective;

22 (4) perform satisfactorily on the appropriate master  
23 science teacher certification examination prescribed by the  
24 commissioner [~~board~~]; and

25 (5) satisfy any other requirements prescribed by the  
26 commissioner [~~board~~].

27 (d) The course of instruction prescribed under Subsection

1 (c)(3) shall be developed by the commissioner [~~board~~] in  
2 consultation with science faculty members at institutions of higher  
3 education.

4 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a  
5 continuing additional source of qualified educators, the  
6 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for  
7 educator certification programs as an alternative to traditional  
8 educator preparation programs. The rules may not provide that a  
9 person may be certified under this section only if there is a  
10 demonstrated shortage of educators in a school district or subject  
11 area.

12 (b) The commissioner [~~board~~] may not require a person  
13 employed as a teacher in a disciplinary [~~an~~] alternative education  
14 program under Section 37.008 or a juvenile justice alternative  
15 education program under Section 37.011 for at least three years to  
16 complete an alternative educator certification program adopted  
17 under this section before taking the appropriate certification  
18 examination.

19 SECTION 7.13. Sections 21.050(a) and (b), Education Code,  
20 are amended to read as follows:

21 (a) A person who applies for a teaching certificate for  
22 which commissioner [~~board~~] rules require a bachelor's degree must  
23 possess a bachelor's degree received with an academic major or  
24 interdisciplinary academic major, including reading, other than  
25 education, that is related to the curriculum as prescribed under  
26 Subchapter A, Chapter 28.

27 (b) The commissioner [~~board~~] may not require more than 18

1 semester credit hours of education courses at the baccalaureate  
2 level for the granting of a teaching certificate. The commissioner  
3 [~~board~~] shall provide for a minimum number of semester credit hours  
4 of internship to be included in the hours needed for certification.  
5 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring  
6 additional credit hours for certification in bilingual education,  
7 English as a second language, early childhood education, or special  
8 education.

9 SECTION 7.14. Section 21.051, Education Code, is amended to  
10 read as follows:

11 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.  
12 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing  
13 flexible options for persons for any field experience or internship  
14 required for certification.

15 SECTION 7.15. Section 21.054(a), Education Code, is amended  
16 to read as follows:

17 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
18 establishing a process for identifying continuing education  
19 courses and programs that fulfill educators' continuing education  
20 requirements.

21 SECTION 7.16. Section 21.056, Education Code, is amended to  
22 read as follows:

23 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner  
24 [~~board~~] by rule shall provide for a certified educator to qualify  
25 for additional certification to teach at a grade level or in a  
26 subject area not covered by the educator's certificate upon  
27 satisfactory completion of an examination or other assessment of

1 the educator's qualification.

2 SECTION 7.17. Section 21.057(d), Education Code, is amended  
3 to read as follows:

4 (d) For purposes of this section, "inappropriately  
5 certified or uncertified teacher":

6 (1) includes:

7 (A) an individual serving on an emergency  
8 certificate issued under Section 21.041(b)(2); or

9 (B) an individual who does not hold any  
10 certificate or permit issued under this chapter and is not employed  
11 as specified by Subdivision (2)(E); and

12 (2) does not include an individual:

13 (A) who is a certified teacher assigned to teach  
14 a class or classes outside his or her area of certification, as  
15 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]  
16 in specifying the certificate required for each assignment;

17 (B) serving on a certificate issued due to a  
18 hearing impairment under Section 21.048;

19 (C) serving on a certificate issued pursuant to  
20 enrollment in an approved alternative certification program under  
21 Section 21.049;

22 (D) certified by another state or country and  
23 serving on a certificate issued under Section 21.052;

24 (E) serving on a school district teaching permit  
25 issued under Section 21.055; or

26 (F) employed under a waiver granted by the  
27 commissioner pursuant to Section 7.056.

1 SECTION 7.18. Section 21.058(d), Education Code, is amended  
2 to read as follows:

3 (d) A person whose certificate is revoked under Subsection  
4 (b) may reapply for a certificate in accordance with commissioner  
5 ~~[board]~~ rules.

6 SECTION 7.19. Section 21.105(c), Education Code, is amended  
7 to read as follows:

8 (c) On written complaint by the employing district and  
9 recommendation by the commissioner, the Educators' Professional  
10 Practices [State] Board [~~for Educator Certification~~] may impose  
11 sanctions against a teacher employed under a probationary contract  
12 who:

- 13 (1) resigns;  
14 (2) fails without good cause to comply with Subsection  
15 (a) or (b); and  
16 (3) fails to perform the contract.

17 SECTION 7.20. Section 21.160(c), Education Code, is amended  
18 to read as follows:

19 (c) On written complaint by the employing district and  
20 recommendation by the commissioner, the Educators' Professional  
21 Practices [State] Board [~~for Educator Certification~~] may impose  
22 sanctions against a teacher who is employed under a continuing  
23 contract that obligates the district to employ the person for the  
24 following school year and who:

- 25 (1) resigns;  
26 (2) fails without good cause to comply with Subsection  
27 (a) or (b); and

1 (3) fails to perform the contract.

2 SECTION 7.21. Section 21.210(c), Education Code, is amended  
3 to read as follows:

4 (c) On written complaint by the employing district and  
5 recommendation by the commissioner, the Educators' Professional  
6 Practices [~~State~~] Board [~~for Educator Certification~~] may impose  
7 sanctions against a teacher who is employed under a term contract  
8 that obligates the district to employ the person for the following  
9 school year and who:

10 (1) resigns;

11 (2) fails without good cause to comply with Subsection  
12 (a) or (b); and

13 (3) fails to perform the contract.

14 SECTION 7.22. Section 21.503, Education Code, is amended to  
15 read as follows:

16 Sec. 21.503. ELIGIBILITY. A person is eligible for the  
17 program if the person:

18 (1) has served in the armed forces of the United  
19 States;

20 (2) is honorably discharged, retired, or released from  
21 active duty on or after October 1, 1990, after at least six years of  
22 continuous active duty service immediately before the discharge,  
23 retirement, or release;

24 (3) has received a baccalaureate or advanced degree  
25 from a public or private institution of higher education accredited  
26 by a regional accrediting agency or group that is recognized by a  
27 nationally recognized accreditation board; and

1           (4) satisfies any other criteria for selection  
2 [~~jointly~~] prescribed by the agency [~~and the State Board for~~  
3 ~~Educator Certification~~].

4           SECTION 7.23. Section 21.504(b), Education Code, is amended  
5 to read as follows:

6           (b) The agency [~~and the State Board for Educator~~  
7 ~~Certification~~] shall distribute the applications and information  
8 regarding the program.

9           SECTION 7.24. Section 21.510(c), Education Code, is amended  
10 to read as follows:

11           (c) For purposes of this section, a participant in the  
12 program is not considered to be in violation of an agreement under  
13 Section 21.508 during any period in which the participant:

14           (1) is pursuing a full-time course of study related to  
15 the field of teaching at a public or private institution of higher  
16 education approved by the agency [~~State Board for Educator~~  
17 ~~Certification~~];

18           (2) is serving on active duty as a member of the armed  
19 forces of the United States;

20           (3) is temporarily totally disabled for a period not  
21 to exceed three years as established by sworn affidavit of a  
22 qualified physician;

23           (4) is unable to secure employment for a period not to  
24 exceed one year because of care required by a disabled spouse;

25           (5) is seeking and unable to find full-time employment  
26 as a teacher in a public elementary or secondary school for a single  
27 period not to exceed 27 months; or



1 (6) satisfies the provisions of any additional  
2 reimbursement exception adopted by the agency.

3 SECTION 7.25. Sections 21.551, 21.552, and 21.553,  
4 Education Code, are amended to read as follows:

5 Sec. 21.551. PURPOSES. The purposes of the alternative  
6 certification Teach for Texas Pilot Program are to:

7 (1) attract to the teaching profession persons who  
8 have expressed interest in teaching and to support the  
9 certification of those persons as teachers;

10 (2) recognize the importance of the certification  
11 process governed by the commissioner [~~State Board for Educator~~  
12 ~~Certification~~] under Subchapter B, which requires verification of  
13 competence in subject area and professional knowledge and skills;

14 (3) encourage the creation and expansion of educator  
15 preparation programs that recognize the knowledge and skills gained  
16 through previous educational and work-related experiences and that  
17 are delivered in a manner that recognizes individual circumstances,  
18 including the need to remain employed full-time while enrolled in  
19 the Teach for Texas Pilot Program; and

20 (4) provide annual stipends to postbaccalaureate  
21 teacher certification candidates.

22 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~  
23 ~~Board for Educator Certification~~] by rule shall establish the Teach  
24 for Texas Pilot Program consistent with the purposes provided by  
25 Section 21.551.

26 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program  
27 must offer to participants financial incentives, including tuition

1 assistance and loan forgiveness. In offering a financial  
2 incentive, the commissioner [~~State Board for Educator~~  
3 ~~Certification~~] shall:

4 (1) require a contract between each participant who  
5 accepts a financial incentive and the agency [~~State Board for~~  
6 ~~Educator Certification~~] under which the participant is obligated to  
7 teach in a public school in this state for a stated period after  
8 certification;

9 (2) provide financial incentives in proportion to the  
10 length of the period the participant is obligated by contract to  
11 teach after certification; and

12 (3) give special financial incentives to a participant  
13 who agrees in the contract to teach in an underserved area.

14 (b) Financial incentives may be paid only from funds  
15 appropriated specifically for that purpose and from gifts, grants,  
16 and donations solicited or accepted by the commissioner [~~State~~  
17 ~~Board for Educator Certification~~] for that purpose.

18 (c) The commissioner [~~State Board for Educator~~  
19 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria  
20 for awarding financial incentives under this section, including  
21 criteria for awarding financial incentives if there are more  
22 participants than funds available to provide the financial  
23 incentives.

24 SECTION 7.26. Section 21.604(b), Education Code, is amended  
25 to read as follows:

26 (b) The agency [~~and the State Board for Educator~~  
27 ~~Certification~~] shall distribute the applications and information

1 regarding the program.

2 SECTION 7.27. Section 21.609(c), Education Code, is amended  
3 to read as follows:

4 (c) For purposes of this section, a participant in the  
5 program is not considered to be in violation of an agreement under  
6 Section 21.607 during any period in which the participant:

7 (1) is pursuing a full-time course of study related to  
8 the field of teaching at an institution of higher education  
9 approved by the agency [~~State Board for Educator Certification~~];

10 (2) is serving on active duty as a member of the armed  
11 forces of the United States;

12 (3) is temporarily totally disabled for a period not  
13 to exceed three years as established by affidavit of a qualified  
14 physician;

15 (4) is unable to secure employment for a period not to  
16 exceed one year because of care required by a disabled spouse;

17 (5) is seeking and unable to find full-time employment  
18 as a teacher in a public elementary or secondary school for a single  
19 period not to exceed 27 months; or

20 (6) satisfies the provisions of any additional  
21 reimbursement exception adopted by the agency.

22 SECTION 7.28. Section 22.0512(b), Education Code, is  
23 amended to read as follows:

24 (b) In this section, "disciplinary proceeding" means:

25 (1) an action brought by the school district employing  
26 a professional employee of a school district to discharge or  
27 suspend the employee or terminate or not renew the employee's term

1 contract; or

2 (2) an action brought by the Educators' Professional  
3 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the  
4 educator's code of ethics adopted under Section 21.041(a-1)  
5 [~~21.041(b)(8)~~].

6 SECTION 7.29. Section 22.082, Education Code, is amended to  
7 read as follows:

8 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
9 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The  
10 agency [~~State Board for Educator Certification~~] shall obtain from  
11 any law enforcement or criminal justice agency all criminal history  
12 record information that relates to an applicant for or holder of a  
13 certificate issued under Subchapter B, Chapter 21.

14 (b) The Educators' Professional Practices Board may obtain  
15 from any law enforcement or criminal justice agency all criminal  
16 history record information that relates to a holder of a  
17 certificate issued under Subchapter B, Chapter 21.

18 SECTION 7.30. Section 22.083(d), Education Code, is amended  
19 to read as follows:

20 (d) The superintendent of a district or the director of an  
21 open-enrollment charter school, private school, regional education  
22 service center, or shared services arrangement shall promptly  
23 notify the Educators' Professional Practices [~~State~~] Board [~~for~~  
24 ~~Educator Certification~~] in writing if the person obtains or has  
25 knowledge of information showing that an applicant for or holder of  
26 a certificate issued under Subchapter B, Chapter 21, has a reported  
27 criminal history. The board shall notify the commissioner of the

1 reported criminal history.

2 SECTION 7.31. Sections 22.085 and 22.086, Education Code,  
3 are amended to read as follows:

4 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.

5 A school district, open-enrollment charter school, private school,  
6 regional education service center, or shared services arrangement  
7 may discharge an employee if the district or school obtains  
8 information of the employee's conviction of a felony or of a  
9 misdemeanor involving moral turpitude that the employee did not  
10 disclose to the agency [~~State Board for Educator Certification~~] or  
11 the district, school, service center, or shared services  
12 arrangement. An employee discharged under this section is  
13 considered to have been discharged for misconduct for purposes of  
14 Section 207.044, Labor Code.

15 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,  
16 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~  
17 ~~Certification~~], a school district, an open-enrollment charter  
18 school, a private school, a regional education service center, a  
19 shared services arrangement, or an employee of the agency, board,  
20 district, school, service center, or shared services arrangement is  
21 not civilly or criminally liable for making a report required under  
22 this subchapter.

23 SECTION 7.32. Sections 29.061(a)-(c) and (e), Education  
24 Code, are amended to read as follows:

25 (a) The commissioner [~~State Board for Educator~~  
26 ~~Certification~~] shall provide for the issuance of teaching  
27 certificates appropriate for bilingual education instruction to

1 teachers who possess a speaking, reading, and writing ability in a  
2 language other than English in which bilingual education programs  
3 are offered and who meet the general requirements of Chapter 21.  
4 The commissioner [~~board~~] shall also provide for the issuance of  
5 teaching certificates appropriate for teaching English as a second  
6 language. The commissioner [~~board~~] may issue emergency  
7 endorsements in bilingual education and in teaching English as a  
8 second language.

9 (b) A teacher assigned to a bilingual education program must  
10 be appropriately certified under Subchapter B, Chapter 21, for  
11 bilingual education [~~by the board~~].

12 (c) A teacher assigned to an English as a second language or  
13 other special language program must be appropriately certified  
14 under Subchapter B, Chapter 21, for English as a second language [~~by~~  
15 ~~the board~~].

16 (e) The agency [~~State Board for Educator Certification~~] and  
17 the Texas Higher Education Coordinating Board shall develop a  
18 comprehensive plan for meeting the teacher supply needs created by  
19 the programs outlined in this subchapter.

20 SECTION 7.33. Sections 33.002(b) and (c), Education Code,  
21 are amended to read as follows:

22 (b) A school district with 500 or more students enrolled in  
23 elementary school grades shall employ a counselor certified under  
24 the rules of the commissioner [~~State Board for Educator~~  
25 ~~Certification~~] for each elementary school in the district. A  
26 school district shall employ at least one counselor for every 500  
27 elementary school students in the district.

1 (c) A school district with fewer than 500 students enrolled  
2 in elementary school grades shall provide guidance and counseling  
3 services to elementary school students by:

4 (1) employing a part-time counselor certified under  
5 the rules of the commissioner [~~State Board for Educator~~  
6 ~~Certification~~];

7 (2) employing a part-time teacher certified as a  
8 counselor under the rules of the commissioner [~~State Board for~~  
9 ~~Educator Certification~~]; or

10 (3) entering into a shared services arrangement  
11 agreement with one or more school districts to share a counselor  
12 certified under the rules of the commissioner [~~State Board for~~  
13 ~~Educator Certification~~].

14 SECTION 7.34. Section 37.007(g), Education Code, is amended  
15 to read as follows:

16 (g) A school district shall inform each teacher who has  
17 regular contact with a student through a classroom assignment of  
18 the conduct of a student who has engaged in any violation listed in  
19 this section. A teacher shall keep the information received in this  
20 subsection confidential. The Educators' Professional Practices  
21 [~~State~~] Board on recommendation of the commissioner [~~for Educator~~  
22 ~~Certification~~] may revoke or suspend the certification of a teacher  
23 who intentionally violates this subsection.

24 SECTION 7.35. Section 61.0514, Education Code, is amended  
25 to read as follows:

26 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the  
27 cooperation and advice of the commissioner of education [~~State~~

1 ~~Board for Educator Certification]~~, shall adopt educator  
2 preparation coursework guidelines that promote, to the greatest  
3 extent practicable, the integration of subject matter knowledge  
4 with classroom teaching strategies and techniques in order to  
5 maximize the effectiveness and efficiency of coursework required  
6 for certification under Subchapter B, Chapter 21.

7 SECTION 7.36. Section 61.077, Education Code, as amended by  
8 Chapters 61, 818, and 820, Acts of the 78th Legislature, Regular  
9 Session, 2003, is reenacted and amended to read as follows:

10 Sec. 61.077. P-16 COUNCIL. (a) The P-16 Council shall  
11 advise the Texas Higher Education Coordinating Board and the State  
12 Board of Education in coordinating postsecondary career and  
13 technology activities, career and technology teacher education  
14 programs offered or proposed to be offered in the colleges and  
15 universities of this state, and other relevant matters, including  
16 those listed in Section 61.076.

17 (b) The council is composed of the commissioner of  
18 education, the commissioner of higher education, and the executive  
19 director of the Texas Workforce Commission~~[, and the executive~~  
20 ~~director of the State Board for Educator Certification]~~. Existing  
21 members of the council may appoint additional members as the  
22 members consider necessary. The position of presiding officer  
23 rotates among the members of the council in the order the members  
24 are listed in this subsection, with each member serving as the  
25 presiding officer for one two-year term.

26 (c) The council shall meet at least once each calendar  
27 quarter and may hold other meetings as necessary at the call of the



1 presiding officer. Each member of the council or the member's  
2 designee shall make a report of the council's activities at least  
3 twice annually to the governing body of the member's agency or, in  
4 the case of the commissioner of education, to the State Board of  
5 Education.

6 (d) The purposes of this council shall include the  
7 following:

8 (1) to advise the two boards on the coordination of  
9 postsecondary career and technology education and the articulation  
10 between postsecondary career and technology education and  
11 secondary career and technology education;

12 (2) to facilitate the transfer of responsibilities for  
13 the administration of postsecondary career and technology  
14 education from the State Board of Education to the board in  
15 accordance with Section 111(a)(I) of the Carl D. Perkins Vocational  
16 Education Act, Public Law 98-524;

17 (3) to cooperate with the commissioner of higher  
18 education and the State Board of Education, when it acts as the  
19 State Board for Career and Technology Education, on the following:

20 (A) the transfer of federal funds to the board  
21 for allotment to eligible public postsecondary institutions of  
22 higher education;

23 (B) the career and technology education funding  
24 for projects and institutions as determined by the board when the  
25 State Board for Career and Technology Education is required by  
26 federal law to endorse such determinations;

27 (C) the development and updating of the state

1 plan for career and technology education and the evaluation of  
2 programs, services, and activities of postsecondary career and  
3 technology education and such amendments to the state plan for  
4 career and technology education as may relate to postsecondary  
5 education;

6 (D) other matters related to postsecondary  
7 career and technology education; and

8 (E) the coordination of curricula, instructional  
9 programs, research, and other functions as appropriate, including  
10 areas listed in Section 61.076, school-to-work and  
11 school-to-college transition programs, and professional  
12 development activities;

13 (4) to advise the Texas Workforce Investment Council  
14 on educational policy issues related to workforce preparation; and

15 (5) to examine and make recommendations regarding the  
16 alignment of secondary and postsecondary education:

17 (A) curricula; and

18 (B) testing and assessment.

19 (e) Subsection (d)(5) does not require the council to  
20 establish curriculum or testing or assessment standards.

21 SECTION 7.37. Section 1001.254(a), Education Code, is  
22 amended to read as follows:

23 (a) A temporary driver education instructor license may be  
24 issued authorizing a person to teach or provide classroom driver  
25 education training if the person:

26 (1) has completed the educational requirements  
27 prescribed by Section 1001.253(d)(1);

1           (2) holds a Texas teaching certificate with an  
2 effective date before February 1, 1986;

3           (3) meets all license requirements, other than  
4 successful completion of the examination required under rules  
5 adopted by the commissioner [~~State Board for Educator~~  
6 ~~Certification~~] to revalidate the teaching certificate; and

7           (4) demonstrates, in a manner prescribed by the  
8 commissioner, the intention to comply with the examination  
9 requirement at the first available opportunity.

10           SECTION 7.38. Article 15.27(a), Code of Criminal Procedure,  
11 is amended to read as follows:

12           (a) A law enforcement agency that arrests any person or  
13 refers a child to the office or official designated by the juvenile  
14 board who the agency believes is enrolled as a student in a public  
15 primary or secondary school, for an offense listed in Subsection  
16 (h), shall attempt to ascertain whether the person is so enrolled.  
17 If the law enforcement agency ascertains that the individual is  
18 enrolled as a student in a public primary or secondary school, the  
19 agency shall orally notify the superintendent or a person  
20 designated by the superintendent in the school district in which  
21 the student is enrolled of that arrest or referral within 24 hours  
22 after the arrest or referral is made, or on the next school day. If  
23 the law enforcement agency cannot ascertain whether the individual  
24 is enrolled as a student, the agency shall orally notify the  
25 superintendent or a person designated by the superintendent in the  
26 school district in which the student is believed to be enrolled of  
27 that arrest or detention within 24 hours after the arrest or

1 detention, or on the next school day. If the individual is a  
2 student, the superintendent shall promptly notify all  
3 instructional and support personnel who have responsibility for  
4 supervision of the student. All personnel shall keep the  
5 information received in this subsection confidential. The  
6 Educators' Professional Practices [State] Board [~~for Educator~~  
7 ~~Certification~~] may revoke or suspend the certification of personnel  
8 who intentionally violate this subsection. Within seven days after  
9 the date the oral notice is given, the law enforcement agency shall  
10 mail written notification, marked "PERSONAL and CONFIDENTIAL" on  
11 the mailing envelope, to the superintendent or the person  
12 designated by the superintendent. Both the oral and written notice  
13 shall contain sufficient details of the arrest or referral and the  
14 acts allegedly committed by the student to enable the  
15 superintendent or the superintendent's designee to determine  
16 whether there is a reasonable belief that the student has engaged in  
17 conduct defined as a felony offense by the Penal Code. The  
18 information contained in the notice may be considered by the  
19 superintendent or the superintendent's designee in making such a  
20 determination.

21 SECTION 7.39. Article 42.018(b), Code of Criminal  
22 Procedure, is amended to read as follows:

23 (b) Not later than the fifth day after the date a person who  
24 holds a certificate issued under Subchapter B, Chapter 21,  
25 Education Code, is convicted or granted deferred adjudication on  
26 the basis of an offense, the clerk of the court in which the  
27 conviction or deferred adjudication is entered shall provide to the

1 Texas Education Agency and the Educators' Professional Practices  
2 [State] Board [for Educator Certification] written notice of the  
3 person's conviction or deferred adjudication, including the  
4 offense on which the conviction or deferred adjudication was based.

5 SECTION 7.40. Section 411.090, Government Code, is amended  
6 to read as follows:

7 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD  
8 INFORMATION: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR EDUCATOR~~  
9 ~~CERTIFICATION~~]. (a) The Texas Education Agency [~~State Board for~~  
10 ~~Educator Certification~~] is entitled to obtain from the department  
11 any criminal history record information maintained by the  
12 department about a person who has applied to the commissioner  
13 [~~board~~] for a certificate or holds a certificate under Subchapter  
14 B, Chapter 21, Education Code.

15 (b) Criminal history record information obtained by the  
16 agency [~~board~~] under Subsection (a):

17 (1) may be used for any purpose related to the issuance  
18 or [7] denial [7, suspension, or cancellation] of a certificate issued  
19 under Subchapter B, Chapter 21, Education Code [~~by the board~~];

20 (2) may be provided to the Educators' Professional  
21 Practices Board to be used for any purpose related to the suspension  
22 or revocation of a certificate issued under Subchapter B, Chapter  
23 21, Education Code;

24 (3) may not be released to any other person except on  
25 court order or with the consent of the applicant for a certificate;  
26 and

27 (4) [~~(3)~~] shall be destroyed by the agency [~~board~~]

1 after the information is used for the authorized purposes.

2 (c) The Educators' Professional Practices Board is entitled  
3 to obtain from the department any criminal history record  
4 information maintained by the department about a person who holds a  
5 certificate issued under Subchapter B, Chapter 21, Education Code.

6 (d) Criminal history record information obtained by the  
7 board under Subsection (c):

8 (1) may be used for any purpose related to the  
9 suspension or revocation of a certificate issued under Subchapter  
10 B, Chapter 21, Education Code;

11 (2) may be provided to the Texas Education Agency to be  
12 used for any purpose related to the issuance or denial of a  
13 certificate under Subchapter B, Chapter 21, Education Code;

14 (3) may not be released to any other person except on  
15 court order or with the consent of the holder of the certificate;  
16 and

17 (4) shall be destroyed by the board after the  
18 information is used for the authorized purposes.

19 SECTION 7.41. Section 411.097(d), Government Code, is  
20 amended to read as follows:

21 (d) Criminal history record information obtained by a  
22 school district, charter school, private school, service center,  
23 commercial transportation company, or shared services arrangement  
24 under Subsection (a), (b), or (c) may not be released or disclosed  
25 to any person, other than the individual who is the subject of the  
26 information, the Texas Education Agency, the Educators'  
27 Professional Practices [~~State~~] Board [~~for Educator Certification~~],

1 or the chief personnel officer of the transportation company, if  
2 the information is obtained under Subsection (a)(2).

3 SECTION 7.42. Section 654.011(a), Government Code, is  
4 amended to read as follows:

5 (a) The position classification plan and the salary rates  
6 and provisions in the General Appropriations Act apply to all  
7 hourly, part-time, temporary, and regular, full-time salaried  
8 employments in the state departments, agencies, or judicial  
9 entities specified in the articles of the General Appropriations  
10 Act that appropriate money to:

- 11 (1) general government agencies;
- 12 (2) health and human services agencies;
- 13 (3) the judiciary, except for judges, district  
14 attorneys, and assistant district attorneys;
- 15 (4) public safety and criminal justice agencies;
- 16 (5) natural resources agencies;
- 17 (6) business and economic development agencies;
- 18 (7) regulatory agencies; and
- 19 (8) agencies of public education, but only the Texas  
20 Education Agency, the Texas School for the Blind and Visually  
21 Impaired, [~~the State Board for Educator Certification,~~] the  
22 Telecommunications Infrastructure Fund, and the Texas School for  
23 the Deaf.

24 SECTION 7.43. Section 821.001(7), Government Code, is  
25 amended to read as follows:

26 (7) "Employer" means any agents or agencies in the  
27 state responsible for public education, including the governing

1 board of any school district created under the laws of this state,  
2 any county school board, the board of trustees, the board of regents  
3 of any college or university, or any other legally constituted  
4 board or agency of any public school, but excluding the State Board  
5 of Education and~~[7]~~ the Texas Education Agency~~[7, and the State~~  
6 ~~Board for Educator Certification]~~.

7 SECTION 7.44. Section 821.103, Government Code, is amended  
8 to read as follows:

9 Sec. 821.103. CANCELLATION OF TEACHER CERTIFICATE. (a)  
10 After receiving notice from the board of trustees of an offense  
11 under Section 821.101 and after complying with Chapter 2001 and  
12 rules adopted by the Educators' Professional Practices [~~State~~  
13 ~~Board~~ [~~for Educator Certification~~], the board [~~State Board for~~  
14 ~~Educator Certification~~] may cancel the teacher certificate of a  
15 person if the board [~~State Board for Educator Certification~~]  
16 determines that the person committed the offense.

17 (b) The Educators' Professional Practices [~~executive~~  
18 ~~director of the State~~] Board [~~for Educator Certification~~] may enter  
19 into an agreed sanction.

20 (c) A criminal prosecution of an offender under Section  
21 821.101 is not a prerequisite to action by the Educators'  
22 Professional Practices [~~State~~] Board [~~for Educator Certification~~  
23 ~~or its executive director~~].

24 SECTION 7.45. Section 2054.352(a), Government Code, is  
25 reenacted and amended to conform to Chapters 553, 1216, and 1275,  
26 Acts of the 78th Legislature, Regular Session, 2003, and further  
27 amended to read as follows:



1 (a) The following licensing entities shall participate in  
2 the system established under Section 2054.353[~~, as added by Chapter~~  
3 ~~353, Acts of the 77th Legislature, Regular Session, 2001~~]:

- 4 (1) State Board of Barber Examiners;
- 5 (2) Texas Board of Chiropractic Examiners;
- 6 (3) Texas Cosmetology Commission;
- 7 (4) Court Reporters Certification Board;
- 8 (5) State Board of Dental Examiners;
- 9 (6) Texas Funeral Service Commission;
- 10 (7) Texas Board of Professional Land Surveying;
- 11 (8) Texas State Board of Medical Examiners;
- 12 (9) Board of Nurse Examiners;
- 13 (10) Texas Optometry Board;
- 14 (11) Texas Structural Pest Control Board;
- 15 (12) Texas State Board of Pharmacy;
- 16 (13) Executive Council of Physical Therapy and  
17 Occupational Therapy Examiners;
- 18 (14) Texas State Board of Plumbing Examiners;
- 19 (15) Texas State Board of Podiatric Medical Examiners;
- 20 (16) Board of Tax Professional Examiners;
- 21 (17) Polygraph Examiners Board;
- 22 (18) Texas State Board of Examiners of Psychologists;
- 23 (19) State Board of Veterinary Medical Examiners;
- 24 (20) Texas Real Estate Commission;
- 25 (21) Texas Appraiser Licensing and Certification  
26 Board;
- 27 (22) Texas Department of Licensing and Regulation;

- 1           (23) [~~(24)~~] Texas State Board of Public Accountancy;  
2           (24) Texas Education Agency;  
3           (25) Educators' Professional Practices [~~State~~] Board  
4 [~~for Educator Certification~~];  
5           (26) Texas Board of Professional Engineers;  
6           (27) Texas Department of Health;  
7           (28) Texas Board of Architectural Examiners;  
8           (29) Texas Racing Commission;  
9           (30) Commission on Law Enforcement Officer Standards  
10 and Education; and  
11           (31) Texas Commission on Private Security.

12           SECTION 7.46. Section 2165.104(c), Government Code, is  
13 amended to read as follows:

14           (c) To the extent possible without sacrificing critical  
15 public or client services, the commission may not allocate usable  
16 office space, as defined by the commission, to a state agency under  
17 Article I, II, V, VI, VII, or VIII of the General Appropriations Act  
18 or to the Texas Higher Education Coordinating Board, the Texas  
19 Education Agency, the Educators' Professional Practices [~~State~~]  
20 Board [~~for Educator Certification~~], the Telecommunications  
21 Infrastructure Fund Board, or the Office of Court Administration of  
22 the Texas Judicial System in an amount that exceeds an average of  
23 135 square feet per agency employee for each agency site. To the  
24 extent that any of those agencies allocates its own usable office  
25 space, as defined by the commission, the agency shall allocate the  
26 space to achieve the required ratio. This subsection does not apply  
27 to:

1           (1) an agency site at which there are so few employees  
2 that it is not practical to apply this subsection to that site, as  
3 determined by the commission; and

4           (2) an agency site at which it is not practical to  
5 apply this subsection because of the site's type of space or use of  
6 space, as determined by the commission.

7           SECTION 7.47. Section 504.002(b), Occupations Code, is  
8 amended to read as follows:

9           (b) This chapter does not apply to an activity or service of  
10 a person who:

11           (1) is employed as a counselor by a federal  
12 institution and is providing chemical dependency counseling within  
13 the scope of the person's employment;

14           (2) except as provided by Section 504.057, is a  
15 student, intern, or trainee pursuing a supervised course of study  
16 in counseling at a regionally accredited institution of higher  
17 education or training institution, if the person:

18                   (A) is designated as a "counselor intern"; and

19                   (B) is engaging in the activity or providing the  
20 service as part of the course of study;

21           (3) is not a resident of this state, if the person:

22                   (A) engages in the activity or provides the  
23 service in this state for not more than 30 days during any year; and

24                   (B) is authorized to engage in the activity or  
25 provide the service under the law of the state of the person's  
26 residence;

27           (4) is a licensed physician, psychologist,

1 professional counselor, or social worker;

2 (5) is a religious leader of a congregation providing  
3 pastoral chemical dependency counseling within the scope of the  
4 person's duties;

5 (6) is working for or providing counseling with a  
6 program exempt under Subchapter C, Chapter 464, Health and Safety  
7 Code; or

8 (7) is a school counselor certified under Subchapter  
9 B, Chapter 21, Education Code [~~by the State Board for Educator~~  
10 ~~Certification~~].

11 SECTION 7.48. Sections 21.035(b) and (c), 21.039, 21.040,  
12 and 21.042, Education Code, are repealed.

13 SECTION 7.49. (a) The State Board for Educator  
14 Certification is abolished, and all powers, duties, personnel,  
15 property, assets, and obligations of the board are transferred to  
16 the Educators' Professional Practices Board and the Texas Education  
17 Agency, as determined appropriate by the commissioner of education.  
18 The validity of a prior action of the State Board for Educator  
19 Certification is not affected by the abolishment and any pending  
20 activities of the State Board for Educator Certification shall be  
21 deemed to have continued without interruption or material change.

22 (b) The powers and duties of the Educators' Professional  
23 Practices Board, as created by this Act, shall continue to be  
24 exercised by the State Board for Educator Certification until the  
25 initial appointees of the Educators' Professional Practices Board  
26 assume their offices, which may not be later than January 1, 2006.

27 (c) All rules of the State Board for Educator Certification

1 relating to a transferred power or duty remain in effect as rules of  
2 the Educators' Professional Practices Board or commissioner of  
3 education, as appropriate, until amended or repealed by the board  
4 or commissioner.

5 (d) A contested case, rulemaking procedure, program, test,  
6 fee, contract, review, evaluation, sanction, act, or decision of  
7 the State Board for Educator Certification that is pending,  
8 completed, or in effect on the effective date of this Act shall be  
9 deemed that of the commissioner of education or the Educators'  
10 Professional Practices Board to the extent authorized by Subchapter  
11 B, Chapter 21, Education Code, as amended by this Act, or other law,  
12 until and unless a change is expressly made by the commissioner or  
13 the board, as appropriate.

14 (e) As soon as practicable after the effective date of this  
15 article and not later than November 1, 2005, the commissioner shall  
16 make initial appointments to the Educators' Professional Practices  
17 Board. In making the initial appointments, the commissioner shall  
18 designate four members to serve terms expiring February 1, 2007,  
19 four members to serve terms expiring February 1, 2009, and three  
20 members to serve terms expiring February 1, 2011.

21 (f) A person who holds a certificate issued under Subchapter  
22 B, Chapter 21, Education Code, as it existed on January 1, 2005, may  
23 continue to practice under that certificate until the certificate  
24 is renewed or replaced under Subchapter B, Chapter 21, Education  
25 Code, as amended by this article.

26 (g) The code of ethics adopted under Subchapter B, Chapter  
27 21, Education Code, by the State Board for Educator Certification

1 and in effect on the effective date of this article remains in  
2 effect until superseded by rules of the Educators' Professional  
3 Practices Board.

4 ARTICLE 8. REPEALER; TRANSITION; EFFECTIVE DATE

5 SECTION 8.01. (a) Effective September 1, 2005, the  
6 following laws are repealed:

7 (1) Sections 1-3 and 57, Chapter 201, Acts of the 78th  
8 Legislature, Regular Session, 2003;

9 (2) Chapter 313, Acts of the 78th Legislature, Regular  
10 Session, 2003;

11 (3) Section 1.01, Chapter 366, Acts of the 78th  
12 Legislature, Regular Session, 2003; and

13 (4) Sections 7.006, 8.010, 29.056(h), 37.004(g),  
14 39.027(b), (c), and (f), 39.051(d), 39.073, 39.074, and  
15 42.253(e-1), Education Code.

16 (b) Effective September 1, 2006, Sections 25.0811(b) and  
17 (c), Education Code, are repealed.

18 SECTION 8.02. Effective September 1, 2006, the following  
19 laws are repealed:

20 (1) the following provisions of the Education Code:

21 (A) Subchapters B, C, E, F, and G, Chapter 41;

22 (B) Subchapter F, Chapter 42, as it existed on  
23 November 1, 2005;

24 (C) Sections 21.402(b), 29.203(c) and (g),  
25 31.025, 31.1031, 41.001, 41.002, 41.003, 41.0031, 41.007,  
26 41.009(b), 41.011, 41.092, 41.099, 41.252(b), 42.103(b) and (e),  
27 42.2514, 42.2517, 42.259, 42.260, 42.4101; and

1 (D) Sections 42.2512(a-1) and 42.2541, as added  
2 by Part A, Article 1, of this Act;

3 (2) the following provisions of the Insurance Code:

4 (A) Section 1581.053(b); and

5 (B) Subchapter C, Chapter 1581; and

6 (3) Sections 6.02(g), 6.03(m), 21.02(b), and  
7 25.25(k), Tax Code.

8 SECTION 8.03. A school district maintenance tax rate  
9 imposed under Sections 45.002 and 45.003, Education Code, before  
10 September 1, 2005, is void.

11 SECTION 8.04. (a) Except as provided by Subsection (b) of  
12 this section, if two or more sections of this Act amend the same  
13 provision of law, the sections of the Act should be harmonized, if  
14 possible, so that effect may be given to each section.

15 (b) If a section of this Act repeals a provision of Chapter  
16 12, Education Code, that section prevails over a section of this Act  
17 that amends the same provision.

18 SECTION 8.05. A change in law made by this Act relating to a  
19 school district maintenance tax or enrichment tax under Chapter 41  
20 or Chapter 42, Education Code, prevails over any similar provision  
21 of H.B. No. 3, Acts of the 79th Legislature, Regular Session, 2005.

22 SECTION 8.06. Except as otherwise specifically provided by  
23 this Act, this Act applies beginning with the 2005-2006 school  
24 year.

25 SECTION 8.07. Except as otherwise specifically provided by  
26 this Act, this Act takes effect September 1, 2005, but only if H.B.  
27 No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005,

S.B. No. 2

1 becomes law. If H.B. No. 3 does not become law, this Act has no  
2 effect.