

1-1 By: Shapiro S.B. No. 2  
1-2 (In the Senate - Filed July 21, 2005; July 21, 2005, read  
1-3 first time and referred to Committee on Education; July 21, 2005,  
1-4 reported favorably by the following vote: Yeas 6, Nays 0;  
1-5 July 21, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to public education and public school finance matters;  
1-9 imposing criminal penalties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 ARTICLE 1. PUBLIC SCHOOL FINANCE

1-12 PART A. EDUCATION FUNDING AND SCHOOL PROPERTY TAX RELIEF

1-13 SECTION 1A.01. Subsections (a) and (e), Section 41.002,  
1-14 Education Code, are amended to read as follows:

1-15 (a) A school district may not have a wealth per student that  
1-16 exceeds \$339,000 [~~\$305,000~~].

1-17 (e) Notwithstanding Subsection (a), and except as provided  
1-18 by Subsection (g), in accordance with a determination of the  
1-19 commissioner, the wealth per student that a school district may  
1-20 have after exercising an option under Section 41.003(2) or (3) may  
1-21 not be less than the amount needed to maintain state and local  
1-22 revenue in an amount equal to state and local revenue per weighted  
1-23 student for maintenance and operation of the district for the  
1-24 1992-1993 school year less the district's current year distribution  
1-25 per weighted student from the available school fund, other than  
1-26 amounts distributed under Chapter 31, if the district imposes an  
1-27 effective tax rate for maintenance and operation of the district  
1-28 equal to the greater of the district's current tax rate or the  
1-29 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~  
1-30 ~~on the \$100 valuation of taxable property~~].

1-31 SECTION 1A.02. Subsection (d), Section 41.157, Education  
1-32 Code, is amended to read as follows:

1-33 (d) Notwithstanding Section 45.003, the consolidated taxing  
1-34 district may levy, assess, and collect a maintenance tax for the  
1-35 benefit of the component districts at a rate that exceeds the  
1-36 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~  
1-37 ~~per \$100 valuation of taxable property~~] to the extent necessary to  
1-38 pay contracted obligations on the lease purchase of permanent  
1-39 improvements to real property entered into on or before May 12,  
1-40 1993. The proposition to impose taxes at the necessary rate must be  
1-41 submitted to the voters in the manner provided by Section 45.003.

1-42 SECTION 1A.03. Subsection (a), Section 42.005, Education  
1-43 Code, is amended to read as follows:

1-44 (a) In this chapter, average daily attendance is:

1-45 (1) the quotient of the sum of attendance for each day  
1-46 of the minimum number of days of instruction as described under  
1-47 Section 25.081(a) divided by the minimum number of days of  
1-48 instruction; ~~or~~

1-49 (2) for a district that operates under a flexible year  
1-50 program under Section 29.0821, the quotient of the sum of  
1-51 attendance for each actual day of instruction as permitted by  
1-52 Section 29.0821(b)(1) divided by the number of actual days of  
1-53 instruction as permitted by Section 29.0821(b)(1); or

1-54 (3) for a district that operates under a flexible  
1-55 school day program under Section 29.0822, the quotient of the sum of  
1-56 attendance for each full-time equivalent day of instruction divided  
1-57 by the minimum number of days of instruction as described under  
1-58 Section 25.081(a).

1-59 SECTION 1A.04. Subchapter A, Chapter 42, Education Code, is  
1-60 amended by adding Section 42.008 to read as follows:

1-61 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each  
1-62 regular session of the legislature, the Legislative Budget Board  
1-63 shall submit to the commissioner and the legislature a report that  
1-64 includes:

2-1 (1) a description of the amount of all spending on  
2-2 primary and secondary education in this state, disaggregated by  
2-3 federal, state, and local spending and spending by private  
2-4 entities; and

2-5 (2) an analysis of the state's portion of spending.

2-6 SECTION 1A.05. Section 42.2512, Education Code, is amended  
2-7 by adding Subsection (a-1) to read as follows:

2-8 (a-1) In addition to any amounts to which a school district  
2-9 is entitled under Section 42.2541, a school district, including a  
2-10 school district that is otherwise ineligible for state aid under  
2-11 this chapter, is entitled to state aid in an amount, as determined  
2-12 by the commissioner, equal to the product of the following amount,  
2-13 as applicable, multiplied by the number of classroom teachers,  
2-14 full-time librarians, full-time counselors certified under  
2-15 Subchapter B, Chapter 21, and full-time school nurses employed by  
2-16 the district and entitled to a minimum salary under Section 21.402:

2-17 (1) \$1,500; or

2-18 (2) \$2,000, if H.B. No. 3, Acts of the 79th  
2-19 Legislature, 2nd Called Session, 2005, takes effect immediately.

2-20 SECTION 1A.06. Subsection (a), Section 42.252, Education  
2-21 Code, is amended to read as follows:

2-22 (a) Each school district's share of the Foundation School  
2-23 Program is determined by the following formula:

2-24 
$$LFA = TR \times DPV$$

2-25 where:

2-26 "LFA" is the school district's local share;

2-27 "TR" is a tax rate which for each hundred dollars of valuation  
2-28 is an effective tax rate of \$0.76 [~~\$0.86~~]; and

2-29 "DPV" is the taxable value of property in the school district  
2-30 for the preceding tax year determined under Subchapter M, Chapter  
2-31 403, Government Code.

2-32 SECTION 1A.07. Section 42.253, Education Code, is amended  
2-33 by adding Subsection (e-2) to read as follows:

2-34 (e-2) For the 2005-2006 school year, the limit authorized by  
2-35 Subsection (e) is reduced by \$0.35. This subsection expires  
2-36 September 1, 2006.

2-37 SECTION 1A.08. Subchapter E, Chapter 42, Education Code, is  
2-38 amended by adding Sections 42.2541 and 42.2542 to read as follows:

2-39 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
2-40 section, "weighted average daily attendance" has the meaning  
2-41 assigned by Section 42.302.

2-42 (b) Notwithstanding Section 42.253, a school district is  
2-43 entitled to the amount of state revenue necessary to maintain state  
2-44 and local revenue in an amount equal to the sum of:

2-45 (1) the amount of state and local revenue per student  
2-46 in weighted average daily attendance for maintenance and operation  
2-47 of the district that would have been available to the district if  
2-48 the funding elements under Chapters 41 and 42, including any  
2-49 amounts the district would have received under Rider 82, page  
2-50 III-23, Chapter 1330, Acts of the 78th Legislature, Regular  
2-51 Session, 2003 (the General Appropriations Act), in effect during  
2-52 the 2004-2005 school year, were in effect for the current school  
2-53 year; and

2-54 (2) an amount equal to \$37 per weighted student in  
2-55 average daily attendance.

2-56 (c) The commissioner may increase the amount to which a  
2-57 school district is entitled under Subsection (b) as the  
2-58 commissioner determines necessary.

2-59 (d) The commissioner shall determine the amount of state  
2-60 funds to which a school district is entitled under this section,  
2-61 including the amount per student in weighted average daily  
2-62 attendance, and shall make that determination available to the  
2-63 Legislative Budget Board. The commissioner's determination is  
2-64 final and may not be appealed.

2-65 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID.

2-66 (a) Notwithstanding any other provision of this subtitle, for the  
2-67 2005-2006 school year, the commissioner shall withhold from a  
2-68 school district the amount of state funds necessary to ensure that  
2-69 the district does not receive an amount of state and local revenue

3-1 per student in weighted average daily attendance that is greater  
 3-2 than 103 percent of the amount to which the district is entitled  
 3-3 under Section 42.2541(b)(1).

3-4 (b) The commissioner shall determine the amount of state  
 3-5 funds required to be withheld under this section. The  
 3-6 commissioner's determination is final and may not be appealed.

3-7 (c) This section expires September 1, 2006.

3-8 SECTION 1A.09. Subchapter E, Chapter 42, Education Code, is  
 3-9 amended by adding Section 42.261 to read as follows:

3-10 Sec. 42.261. USE OF CERTAIN REVENUE FOR ENHANCED SUPPORT  
 3-11 STAFF COMPENSATION. (a) Beginning with the 2005-2006 school year,  
 3-12 a school district must use state and local maintenance and  
 3-13 operations revenue to provide enhanced compensation to district  
 3-14 support staff.

3-15 (b) The commissioner shall adopt rules necessary to  
 3-16 implement this section. The rules must ensure compensation  
 3-17 provided to district support staff described by Section 22.008 is  
 3-18 increased by the amounts specified by that section.

3-19 SECTION 1A.10. Section 42.302, Education Code, is amended  
 3-20 by amending Subsection (a) and adding Subsection (a-1) to read as  
 3-21 follows:

3-22 (a) Each school district is guaranteed a specified amount  
 3-23 per weighted student in state and local funds for each cent of tax  
 3-24 effort over that required for the district's local fund assignment  
 3-25 up to the maximum level specified in this subchapter. The amount of  
 3-26 state support, subject only to the maximum amount under Section  
 3-27 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

3-28 where:

3-29 "GYA" is the guaranteed yield amount of state funds to be  
 3-30 allocated to the district;

3-31 "GL" is the dollar amount guaranteed level of state and local  
 3-32 funds per weighted student per cent of tax effort, which is the  
 3-33 amount of district tax revenue per weighted student, per cent of tax  
 3-34 effort available to a school district at the 90th percentile in  
 3-35 wealth per student, as determined by the commissioner [~~\$27.14~~] or a  
 3-36 greater amount for any year provided by appropriation;

3-37 "WADA" is the number of students in weighted average daily  
 3-38 attendance, which is calculated by dividing the sum of the school  
 3-39 district's allotments under Subchapters B and C, less any allotment  
 3-40 to the district for transportation, any allotment under Section  
 3-41 42.158, and 50 percent of the adjustment under Section 42.102, by  
 3-42 the basic allotment for the applicable year;

3-43 "DTR" is the district [~~enrichment~~] tax rate of the school  
 3-44 district, which is determined by subtracting the amounts specified  
 3-45 by Subsection (b) from the total amount of maintenance and  
 3-46 operations taxes collected by the school district for the  
 3-47 applicable school year and dividing the difference by the quotient  
 3-48 of the district's taxable value of property as determined under  
 3-49 Subchapter M, Chapter 403, Government Code, or, if applicable,  
 3-50 under Section 42.2521, divided by 100; and

3-51 "LR" is the local revenue, which is determined by multiplying  
 3-52 "DTR" by the quotient of the district's taxable value of property as  
 3-53 determined under Subchapter M, Chapter 403, Government Code, or, if  
 3-54 applicable, under Section 42.2521, divided by 100.

3-55 (a-1) In this section, "wealth per student" means a school  
 3-56 district's taxable value of property as determined under Subchapter  
 3-57 M, Chapter 403, Government Code, divided by the number of students  
 3-58 in weighted average daily attendance in the district.

3-59 SECTION 1A.11. Section 42.303, Education Code, is amended  
 3-60 to read as follows:

3-61 Sec. 42.303. LIMITATION ON [~~ENRICHMENT~~] TAX RATE. The  
 3-62 district [~~enrichment~~] tax rate ("DTR") under Section 42.302 may not  
 3-63 exceed \$0.39 [~~\$0.64~~] per \$100 of valuation, or a greater amount for  
 3-64 any year provided by appropriation.

3-65 SECTION 1A.12. Section 45.003, Education Code, is amended  
 3-66 by amending Subsection (d) and adding Subsections (e) and (f) to  
 3-67 read as follows:

3-68 (d) A proposition submitted to authorize the levy of  
 3-69

4-1 maintenance taxes must include the question of whether the  
 4-2 governing board or commissioners court may levy, assess, and  
 4-3 collect annual ad valorem taxes for the further maintenance of  
 4-4 public schools, at a rate not to exceed the rate, which may be not  
 4-5 more than \$1.15 [~~\$1.50~~] on the \$100 valuation of taxable property in  
 4-6 the district, stated in the proposition.

4-7 (e) An election held before January 1, 2005, authorizing a  
 4-8 maintenance tax at a rate of at least \$1.15 on the \$100 valuation of  
 4-9 taxable property in the district is sufficient to authorize a rate  
 4-10 of \$1.15 or less for the 2005 tax year. An election held before  
 4-11 January 1, 2006, authorizing a maintenance tax at a rate of at least  
 4-12 \$1.10 on the \$100 valuation of taxable property in the district is  
 4-13 sufficient to authorize a rate of \$1.10 or less for the 2006 tax  
 4-14 year or a subsequent tax year.

4-15 (f) Notwithstanding Subsections (d) and (e) if a school  
 4-16 district's maintenance and operations tax rate for the 2004 tax  
 4-17 year exceeded a rate of \$1.50 for each \$100 of taxable value of  
 4-18 property, the district is entitled to impose an ad valorem tax under  
 4-19 this section:

4-20 (1) without authorization at an election held for that  
 4-21 purpose; and

4-22 (2) at a rate not to exceed the sum of:

4-23 (A) the rate authorized under this section; and

4-24 (B) a rate equal to the amount by which the  
 4-25 district's maintenance and operations tax rate for the 2004 tax  
 4-26 year exceeded a rate of \$1.50 for each \$100 of taxable value of  
 4-27 property.

4-28 SECTION 1A.13. Subsections (b) and (f), Section 45.006,  
 4-29 Education Code, are amended to read as follows:

4-30 (b) Notwithstanding Section 45.003, a school district may  
 4-31 levy, assess, and collect maintenance taxes at a rate that exceeds  
 4-32 the maximum maintenance tax rate permitted under Section 45.003  
 4-33 [~~\$1.50 per \$100 valuation of taxable property~~] if:

4-34 (1) additional ad valorem taxes are necessary to pay a  
 4-35 debt of the district that:

4-36 (A) resulted from the rendition of a judgment  
 4-37 against the district before May 1, 1995;

4-38 (B) is greater than \$5 million;

4-39 (C) decreases a property owner's ad valorem tax  
 4-40 liability;

4-41 (D) requires the district to refund to the  
 4-42 property owner the difference between the amount of taxes paid by  
 4-43 the property owner and the amount of taxes for which the property  
 4-44 owner is liable; and

4-45 (E) is payable according to the judgment in more  
 4-46 than one of the district's fiscal years; and

4-47 (2) the additional taxes are approved by the voters of  
 4-48 the district at an election held for that purpose.

4-49 (f) The governing body of a school district that adopts a  
 4-50 tax rate that exceeds the maximum maintenance tax rate permitted  
 4-51 under Section 45.003 [~~\$1.50 per \$100 valuation of taxable property~~]  
 4-52 may set the amount of the exemption from taxation authorized by  
 4-53 Section 11.13(n), Tax Code, at any time before the date the  
 4-54 governing body adopts the district's tax rate for the tax year in  
 4-55 which the election approving the additional taxes is held.

4-56 SECTION 1A.14. Section 403.302, Government Code, is amended  
 4-57 by adding Subsection (c-1) to read as follows:

4-58 (c-1) This subsection applies only to a school district  
 4-59 whose central administrative office is located in a county with a  
 4-60 population of 9,000 or less and a total area of more than 6,000  
 4-61 square miles. If after conducting the annual study for a tax year  
 4-62 the comptroller determines that the local value for a school  
 4-63 district is not valid, the comptroller shall adjust the taxable  
 4-64 value determined under Subsections (a) and (b) as follows:

4-65 (1) for each category of property sampled and tested  
 4-66 by the comptroller in the school district, the comptroller shall  
 4-67 use the weighted mean appraisal ratio determined by the study,  
 4-68 unless the ratio is more than four percentage points lower than the  
 4-69 weighted mean appraisal ratio determined by the comptroller for

5-1 that category of property in the immediately preceding study, in  
 5-2 which case the comptroller shall use the weighted mean appraisal  
 5-3 ratio determined in the immediately preceding study minus four  
 5-4 percentage points;

5-5 (2) the comptroller shall use the category weighted  
 5-6 mean appraisal ratios as adjusted under Subdivision (1) to  
 5-7 establish a value estimate for each category of property sampled  
 5-8 and tested by the comptroller in the school district; and

5-9 (3) the value estimates established under Subdivision  
 5-10 (2), together with the local tax roll value for any categories not  
 5-11 sampled and tested by the comptroller, less total deductions  
 5-12 determined by the comptroller, determines the taxable value for the  
 5-13 school district.

5-14 PART B. EDUCATION FUNDING AND EQUALIZATION

5-15 SECTION 1B.01. Subsection (b), Section 42.002, Education  
 5-16 Code, is amended to read as follows:

5-17 (b) The Foundation School Program consists of:

5-18 (1) a basic program, as provided by this chapter, that  
 5-19 provides for ~~[two tiers that in combination provide for:~~

5-20 ~~[(A)]~~ sufficient financing for all school  
 5-21 districts to provide a basic program of education that is rated  
 5-22 academically acceptable or higher under Section 39.072 and meets  
 5-23 other applicable legal standards; ~~[and]~~

5-24 (2) an enrichment program, as provided by Subchapter  
 5-25 F, that includes a guaranteed yield component to provide ~~[(B)]~~  
 5-26 substantially equal access to funds to provide an enriched program;  
 5-27 and

5-28 (3) ~~[(2)]~~ a facilities component as provided by  
 5-29 Chapter 46.

5-30 SECTION 1B.02. Section 42.007, Education Code, is amended  
 5-31 by amending Subsection (c) and adding Subsection (e) to read as  
 5-32 follows:

5-33 (c) The funding elements must include:

5-34 (1) an accreditation ~~[a basic]~~ allotment for the  
 5-35 purposes of Section 42.101 that ~~[, when combined with the guaranteed~~  
 5-36 ~~yield component provided by Subchapter F,]~~ represents the cost per  
 5-37 student of a regular education program that meets all mandates of  
 5-38 law and regulation;

5-39 (2) adjustments designed to reflect the variation in  
 5-40 known resource costs and costs of education beyond the control of  
 5-41 school districts;

5-42 (3) appropriate program cost differentials and other  
 5-43 funding elements for the programs authorized under Subchapter C,  
 5-44 with the program funding level expressed as dollar amounts and as  
 5-45 weights applied to the adjusted accreditation ~~[basic]~~ allotment for  
 5-46 the appropriate year;

5-47 (4) the maximum guaranteed level of qualified state  
 5-48 and local funds per student for the purposes of the enrichment  
 5-49 program under Subchapter F;

5-50 (5) the enrichment ~~[and facilities]~~ tax rate under  
 5-51 Subchapter F;

5-52 (6) the computation of students in weighted average  
 5-53 daily attendance under Section 42.302; and

5-54 (7) the amount to be appropriated for the school  
 5-55 facilities assistance program under Chapter 46.

5-56 (e) The board shall contract for a comprehensive study of  
 5-57 the funding elements. The board shall report the results of the  
 5-58 study to the commissioner and the legislature not later than  
 5-59 December 1, 2006. This subsection expires January 1, 2007.

5-60 SECTION 1B.03. The heading to Subchapter B, Chapter 42,  
 5-61 Education Code, is amended to read as follows:

5-62 SUBCHAPTER B. BASIC PROGRAM ~~[ENTITLEMENT]~~

5-63 SECTION 1B.04. Section 42.101, Education Code, is amended  
 5-64 to read as follows:

5-65 Sec. 42.101. ACCREDITATION [BASIC] ALLOTMENT. For each  
 5-66 student in average daily attendance, not including the time  
 5-67 students spend each day in special education programs in an  
 5-68 instructional arrangement other than mainstream or career and  
 5-69 technology education programs, for which an additional allotment is

6-1 made under Subchapter C, a district is entitled to an accreditation  
 6-2 allotment of \$4,300 [~~\$2,537~~]. A greater amount for any school year  
 6-3 may be provided by appropriation.

6-4 SECTION 1B.05. Section 42.102, Education Code, is amended  
 6-5 to read as follows:

6-6 Sec. 42.102. COST OF EDUCATION ADJUSTMENT. (a) The  
 6-7 accreditation [~~basic~~] allotment for each district is adjusted to  
 6-8 reflect the geographic variation in known resource costs and costs  
 6-9 of education due to factors beyond the control of the school  
 6-10 district. The amount of the adjustment is 71 percent of the total  
 6-11 amount that would result from application of the cost of education  
 6-12 index adopted under this section, or a greater amount for any year  
 6-13 provided by appropriation.

6-14 (a-1) Notwithstanding any other provision of this section,  
 6-15 the initial amount of the cost of education index adjustment is a  
 6-16 percent determined by the Legislative Budget Board that would  
 6-17 result in a total amount of funds delivered under this section that  
 6-18 does not exceed the total amount of funds delivered using the  
 6-19 application of the cost of education index as it existed on January  
 6-20 1, 2005.

6-21 (a-2) The Legislative Budget Board shall annually increase  
 6-22 the initial adjustment percentage determined under Subsection (a)  
 6-23 so that the percentage:

6-24 (1) increases at the same rate of growth as the  
 6-25 implementation of the small and mid-sized district adjustments  
 6-26 described by Sections 42.103(c-1) and (d-1); and

6-27 (2) does not exceed 71 percent.

6-28 (b) Except as provided by Subsection (c), the [The] cost of  
 6-29 education adjustment is determined using the average of the three  
 6-30 most recent index recomputations and adjustments adopted by the  
 6-31 Legislative Budget Board under Subsection (d) [cost of education  
 6-32 index adjustment adopted by the foundation school fund budget  
 6-33 committee and contained in Chapter 203, Title 19, Texas  
 6-34 Administrative Code, as that chapter existed on March 26, 1997].

6-35 (b-1) Except as provided by Subsection (c), the cost of  
 6-36 education index to be used in determining the cost of education  
 6-37 adjustment for the following school years is determined by the  
 6-38 following formulas:

6-39 (1) for the 2006-2007 school year:

$$\text{CEI} = (\text{TFE} + (7 \times \text{PCEI})) / 8$$

6-41 (2) for the 2007-2008 school year:

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

6-43 (3) for the 2008-2009 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (5 \times \text{PCEI}) + \text{LBBA}) / 8$$

6-45 (4) for the 2009-2010 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (4 \times \text{PCEI}) + (2 \times \text{LBBA})) / 8$$

6-47 (5) for the 2010-2011 school year:

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

6-49 (6) for the 2011-2012 school year:

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

6-51 (7) for the 2012-2013 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + \text{PCEI} + (5 \times \text{LBBA})) / 8; \text{ and}$$

6-53 (8) for the 2013-2014 school year:

$$\text{CEI} = ((2 \times \text{TFE}) + (6 \times \text{LBBA})) / 8$$

6-55 where:

6-56 "CEI" is the index to be used;

6-57 "TFE" is the teacher fixed effects index in the 2004 report  
 6-58 commissioned by the Joint Select Committee on Public School Finance  
 6-59 of the 78th Legislature;

6-60 "PCEI" is the index applied during the 2005-2006 school year;

6-61 "LBBA" is the index adopted by the Legislative Budget Board  
 6-62 in accordance with Subsection (d) for the state fiscal biennium  
 6-63 beginning September 1, 2007;

6-64 "LBBA" is the index adopted by the Legislative Budget Board  
 6-65 in accordance with Subsection (d) for the state fiscal biennium  
 6-66 beginning September 1, 2009; and

6-67 "LBBA" is the index adopted by the Legislative Budget Board  
 6-68 in accordance with Subsection (d) for the state fiscal biennium  
 6-69 beginning September 1, 2011.

7-1           (c) If the adjustment provided by this section for a school  
 7-2 year is less than the adjustment to which a school district would  
 7-3 have been entitled using the index applied during the 2005-2006  
 7-4 school year, the district's adjustment shall be computed using the  
 7-5 index applied during the 2005-2006 school year.

7-6           (c-1) The application of the cost of education index under  
 7-7 this section may not result in a greater difference between the  
 7-8 highest adjustment and the lowest adjustment than the difference  
 7-9 that existed between the highest and lowest adjustments under  
 7-10 Chapter 203, Title 19, Texas Administrative Code, as that chapter  
 7-11 existed on January 1, 2005. The Legislative Budget Board shall  
 7-12 increase the amount of the lowest adjustment to satisfy this  
 7-13 subsection.

7-14           (d) The Legislative Budget Board shall:

7-15                 (1) conduct a study each biennium and recompute the  
 7-16 cost of education index; and

7-17                 (2) adopt adjustments as the board determines are  
 7-18 necessary to ensure that the cost of education index reflects  
 7-19 current variations in known resource costs and costs of education,  
 7-20 including costs related to social security, due to factors beyond  
 7-21 the control of a school district.

7-22           (d-1) All information relating to the computation and  
 7-23 adoption of the cost of education index under this section,  
 7-24 including underlying data, assumptions, and computations used in  
 7-25 the development of the index, is public information.

7-26           (e) A school district may appeal a determination of the  
 7-27 Legislative Budget Board under Subsection (d) and request a  
 7-28 contested case hearing before an administrative law judge of the  
 7-29 State Office of Administrative Hearings. A district must pay the  
 7-30 cost of an appeal under this section. An appeal must be limited to  
 7-31 the computation and application of data under this section and may  
 7-32 not include an appeal of the methodology used to compute the teacher  
 7-33 fixed effects index.

7-34           (f) Subsection (b) applies beginning with the 2014-2015  
 7-35 school year. Subsections (a-1), (a-2), (b-1), and this subsection  
 7-36 expire September 1, 2015.

7-37           (g) Beginning with the 2007-2008 school year, the amount of  
 7-38 .062 (6.2 percent) is added to the adjustment provided for under  
 7-39 Subsections (b), (b-1), (c), and (d) for any school district that  
 7-40 pays taxes under 26 U.S.C. Section 3111(a), and its subsequent  
 7-41 amendments, for employees covered by the social security retirement  
 7-42 program, if the district covers all employees and did so prior to  
 7-43 January 1, 2005.

7-44           (h) Beginning with the 2007-2008 school year, the amount of  
 7-45 .031 (3.1 percent) is added to the adjustment provided for under  
 7-46 Subsections (b), (b-1), and (c) for any school district that pays  
 7-47 taxes under 26 U.S.C. Section 3111(a), and its subsequent  
 7-48 amendments, for employees covered by the social security retirement  
 7-49 program, if the district covers at least 25 percent of its employees  
 7-50 and did so prior to January 1, 2005.

7-51           (i) The commissioner may adopt rules necessary for the  
 7-52 implementation of this section.

7-53           SECTION 1B.06. Section 42.103, Education Code, is amended  
 7-54 by amending Subsections (a), (c), and (d) and adding Subsections  
 7-55 (c-1), (c-2), (d-1), and (f) to read as follows:

7-56           (a) The accreditation [~~basic~~] allotment for certain small  
 7-57 and mid-sized districts is adjusted in accordance with this  
 7-58 section. In this section:

7-59                 (1) "SA" ["AA"] is the district's size-adjusted  
 7-60 accreditation [~~adjusted~~] allotment per student;

7-61                 (2) "ADA" is the number of students in average daily  
 7-62 attendance for which the district is entitled to an allotment under  
 7-63 Section 42.101; and

7-64                 (3) "AA" ["ABA"] is the adjusted accreditation [~~basic~~]  
 7-65 allotment determined under Section 42.102.

7-66           (c) The accreditation [~~basic~~] allotment of a school  
 7-67 district that [~~contains less than 300 square miles and~~] has not more  
 7-68 than 1,600 students in average daily attendance is adjusted by  
 7-69 applying the following formula, or the formula under Subsection (d)

8-1 if that results in a greater allotment:

8-2 
$$SA = (1 + ((1,600 - ADA) \times .0004)) \times AA$$

8-3 
$$[AA = (1 + ((1,600 - ADA) \times .00025)) \times ABA]$$

8-4 (c-1) Notwithstanding Subsection (c), the accreditation  
 8-5 allotment of a school district that has not more than 1,600 students  
 8-6 in average daily attendance is adjusted for the following school  
 8-7 years by applying the following formulas, or the appropriate  
 8-8 formula under Subsection (d-1) if that results in a greater  
 8-9 allotment:

8-10 (1) for the 2006-2007 school year:

8-11 
$$SA = (1 + ((1,600 - ADA) \times .00026)) \times AA$$

8-12 (2) for the 2007-2008 school year:

8-13 
$$SA = (1 + ((1,600 - ADA) \times .00028)) \times AA$$

8-14 (3) for the 2008-2009 school year:

8-15 
$$SA = (1 + ((1,600 - ADA) \times .0003)) \times AA$$

8-16 (4) for the 2009-2010 school year:

8-17 
$$SA = (1 + ((1,600 - ADA) \times .00032)) \times AA;$$

8-18 (5) for the 2010-2011 school year:

8-19 
$$SA = (1 + ((1,600 - ADA) \times .00034)) \times AA;$$

8-20 (6) for the 2011-2012 school year:

8-21 
$$SA = (1 + ((1,600 - ADA) \times .00036)) \times AA; \text{ and}$$

8-22 (7) for the 2012-2013 school year:

8-23 
$$SA = (1 + ((1,600 - ADA) \times .00038)) \times AA$$

8-24 (c-2) Notwithstanding Subsection (c-1), for the 2006-2007,  
 8-25 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, or  
 8-26 2012-2013 school year, the accreditation allotment of a school  
 8-27 district that contains at least 300 square miles and has not more  
 8-28 than 1,600 students in average daily attendance is adjusted by  
 8-29 applying the following formula, or the appropriate formula under  
 8-30 Subsection (d-1) if that results in a greater allotment:

8-31 
$$SA = (1 + ((1,600 - ADA) \times .0004)) \times AA$$

8-32 (d) The accreditation ~~[basic]~~ allotment of a school  
 8-33 district that offers a kindergarten through grade 12 program and  
 8-34 has less than 5,000 students in average daily attendance is  
 8-35 adjusted by applying the formula, of the following formulas, that  
 8-36 results in the greatest adjusted allotment:

8-37 (1) the formula in Subsection ~~[(b) or]~~ (c) ~~[for which~~  
 8-38 ~~the district is eligible]; or~~

8-39 (2) 
$$SA = (1 + ((5,000 - ADA) \times .00004)) \times AA$$

8-40 
$$[AA = (1 + ((5,000 - ADA) \times .000025)) \times ABA].$$

8-41 (d-1) Notwithstanding Subsection (d), the accreditation  
 8-42 allotment of a school district that offers a kindergarten through  
 8-43 grade 12 program and has less than 5,000 students in average daily  
 8-44 attendance is adjusted for the following school years by applying  
 8-45 the following formulas, or the formula under Subsection (c) if that  
 8-46 results in a greater allotment:

8-47 (1) for the 2006-2007 school year:

8-48 
$$SA = (1 + ((5,000 - ADA) \times .000026)) \times AA$$

8-49 (2) for the 2007-2008 school year:

8-50 
$$SA = (1 + ((5,000 - ADA) \times .000028)) \times AA$$

8-51 (3) for the 2008-2009 school year:

8-52 
$$SA = (1 + ((5,000 - ADA) \times .00003)) \times AA$$

8-53 (4) for the 2009-2010 school year:

8-54 
$$SA = (1 + ((5,000 - ADA) \times .000032)) \times AA;$$

8-55 (5) for the 2010-2011 school year:

8-56 
$$SA = (1 + ((5,000 - ADA) \times .000034)) \times AA;$$

8-57 (6) for the 2011-2012 school year:

8-58 
$$SA = (1 + ((5,000 - ADA) \times .000036)) \times AA; \text{ and}$$

8-59 (7) for the 2012-2013 school year:

8-60 
$$SA = (1 + ((5,000 - ADA) \times .000038)) \times AA$$

8-61 (f) Subsections (c) and (d) apply beginning with the  
 8-62 2013-2014 school year. Subsections (c-1), (c-2), and (d-1) and  
 8-63 this subsection expire September 1, 2014.

8-64 SECTION 1B.07. Sections 42.104, 42.105, and 42.106,  
 8-65 Education Code, are amended to read as follows:

8-66 Sec. 42.104. USE OF SMALL OR MID-SIZED DISTRICT ADJUSTMENT  
 8-67 IN CALCULATING SPECIAL ALLOTMENTS. In determining the amount of a  
 8-68 special allotment under Subchapter C for a district to which  
 8-69 Section 42.103 applies, a district's adjusted accreditation



9-1 [~~basic~~] allotment is considered to be the district's adjusted  
9-2 accreditation allotment determined under Section 42.103.

9-3 Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding  
9-4 Sections 42.101, 42.102, and 42.103, a school district that has  
9-5 fewer than 130 students in average daily attendance shall be  
9-6 provided an adjusted accreditation [~~basic~~] allotment on the basis  
9-7 of 130 students in average daily attendance if it offers a  
9-8 kindergarten through grade 12 program and has preceding or current  
9-9 year's average daily attendance of at least 90 students or is 30  
9-10 miles or more by bus route from the nearest high school district. A  
9-11 district offering a kindergarten through grade 8 program whose  
9-12 preceding or current year's average daily attendance was at least  
9-13 50 students or which is 30 miles or more by bus route from the  
9-14 nearest high school district shall be provided an adjusted  
9-15 accreditation [~~basic~~] allotment on the basis of 75 students in  
9-16 average daily attendance. An average daily attendance of 60  
9-17 students shall be the basis of providing the adjusted accreditation  
9-18 [~~basic~~] allotment if a district offers a kindergarten through grade  
9-19 6 program and has preceding or current year's average daily  
9-20 attendance of at least 40 students or is 30 miles or more by bus  
9-21 route from the nearest high school district.

9-22 Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT  
9-23 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the  
9-24 taxable value of property of a school district that contracts for  
9-25 students residing in the district to be educated in another  
9-26 district under Section 25.039(a) is adjusted by applying the  
9-27 formula:

$$ADPV = DPV - \frac{TN}{MTR} [(\frac{TN}{.015})]$$

9-28 where:

9-29 "ADPV" is the district's adjusted taxable value of property;

9-30 "DPV" is the taxable value of property in the district for the  
9-31 preceding tax year determined under Subchapter M, Chapter 403,  
9-32 Government Code; [~~and~~]

9-33 "TN" is the total amount of tuition required to be paid by the  
9-34 district under Section 25.039 for the school year for which the  
9-35 adjustment is made, not to exceed the amount specified by  
9-36 commissioner rule under Section 25.039(b); and

9-37 "MTR" is the maximum maintenance tax rate permitted under  
9-38 Section 45.003, expressed as a rate to be applied to the total  
9-39 valuation of taxable property.

9-40 SECTION 1B.08. Subsections (a), (b), (e), (g), and (k),  
9-41 Section 42.151, Education Code, are amended to read as follows:

9-42 (a) For each student in average daily attendance in a  
9-43 special education program under Subchapter A, Chapter 29, in a  
9-44 mainstream instructional arrangement, a school district is  
9-45 entitled to an annual allotment equal to the adjusted accreditation  
9-46 [~~basic~~] allotment multiplied by 1.1. For each full-time equivalent  
9-47 student in average daily attendance in a special education program  
9-48 under Subchapter A, Chapter 29, in an instructional arrangement  
9-49 other than a mainstream instructional arrangement, a district is  
9-50 entitled to an annual allotment equal to the adjusted accreditation  
9-51 [~~basic~~] allotment multiplied by a weight determined according to  
9-52 instructional arrangement as follows:

9-54	Homebound . . . . .	5.0
9-55	Hospital class . . . . .	3.0
9-56	Speech therapy . . . . .	5.0
9-57	Resource room . . . . .	3.0
9-58	Self-contained, mild and moderate, regular campus . . . . .	3.0
9-59	Self-contained, severe, regular campus . . . . .	3.0
9-60	Off home campus . . . . .	2.7
9-61	Nonpublic day school . . . . .	1.7
9-62	Vocational adjustment class . . . . .	2.3

9-63 (b) A special instructional arrangement for students with  
9-64 disabilities residing in care and treatment facilities, other than  
9-65 state schools, whose parents or guardians do not reside in the  
9-66 district providing education services shall be established under  
9-67 the rules of the commissioner [~~State Board of Education~~]. The  
9-68 funding weight for this arrangement shall be 4.0 for those students  
9-69 who receive their education service on a local school district

10-1 campus. A special instructional arrangement for students with  
 10-2 disabilities residing in state schools shall be established under  
 10-3 the rules of the commissioner [~~State Board of Education~~] with a  
 10-4 funding weight of 2.8.

10-5 (e) The commissioner [~~State Board of Education~~] by rule  
 10-6 shall prescribe the qualifications an instructional arrangement  
 10-7 must meet in order to be funded as a particular instructional  
 10-8 arrangement under this section. In prescribing the qualifications  
 10-9 that a mainstream instructional arrangement must meet, the  
 10-10 commissioner [~~board~~] shall establish requirements that students  
 10-11 with disabilities and their teachers receive the direct, indirect,  
 10-12 and support services that are necessary to enrich the regular  
 10-13 classroom and enable student success.

10-14 (g) The commissioner [~~State Board of Education~~] shall adopt  
 10-15 rules and procedures governing contracts for residential placement  
 10-16 of special education students. The legislature shall provide by  
 10-17 appropriation for the state's share of the costs of those  
 10-18 placements.

10-19 (k) A school district that provides an extended year program  
 10-20 required by federal law for special education students who may  
 10-21 regress is entitled to receive funds in an amount equal to 75  
 10-22 percent, or a lesser percentage determined by the commissioner, of  
 10-23 the adjusted accreditation [~~basic~~] allotment [~~or adjusted~~  
 10-24 ~~allotment, as applicable,~~] for each full-time equivalent student in  
 10-25 average daily attendance, multiplied by the amount designated for  
 10-26 the student's instructional arrangement under this section, for  
 10-27 each day the program is provided divided by the number of days in  
 10-28 the minimum school year. The total amount of state funding for  
 10-29 extended year services under this section may not exceed \$10  
 10-30 million per year. A school district may use funds received under  
 10-31 this section only in providing an extended year program.

10-32 SECTION 1B.09. Subsections (a), (e), (h), and (k), Section  
 10-33 42.152, Education Code, are amended to read as follows:

10-34 (a) For each student who is educationally disadvantaged or  
 10-35 who is a student who does not have a disability and resides in a  
 10-36 residential placement facility in a district in which the student's  
 10-37 parent or legal guardian does not reside, a district is entitled to  
 10-38 an annual allotment equal to the adjusted accreditation [~~basic~~]  
 10-39 allotment multiplied by 0.2, and by 2.41 for each full-time  
 10-40 equivalent student who is in a remedial and support program under  
 10-41 Section 29.081 because the student is pregnant.

10-42 (e) The commissioner may:

10-43 (1) retain a portion of the total amount allotted  
 10-44 under Subsection (a) that the commissioner considers appropriate to  
 10-45 finance [~~intensive accelerated instruction programs and~~] study  
 10-46 guides provided under Section 39.024(c) [~~Sections 39.024(b) and~~  
 10-47 ~~(c)~~]; and

10-48 (2) reduce each district's basic program [~~tier one~~]  
 10-49 allotments in the same manner described for a reduction in  
 10-50 allotments under Section 42.253.

10-51 (h) After deducting the amount withheld under Subsection  
 10-52 (f) from the total amount appropriated for the allotment under  
 10-53 Subsection (a), the commissioner shall reduce each district's basic  
 10-54 program [~~tier one~~] allotments in the same manner described for a  
 10-55 reduction in allotments under Section 42.253 and shall allocate  
 10-56 funds to each district accordingly.

10-57 (k) After deducting the amount withheld under Subsection  
 10-58 (i) from the total amount appropriated for the allotment under  
 10-59 Subsection (a), the commissioner shall reduce each district's basic  
 10-60 program [~~tier one~~] allotments in the same manner described for a  
 10-61 reduction in allotments under Section 42.253.

10-62 SECTION 1B.10. Section 42.153, Education Code, is amended  
 10-63 by amending Subsection (a) and adding Subsections (a-1) and (d) to  
 10-64 read as follows:

10-65 (a) Except as provided by Subsection (a-1), for [~~For~~] each  
 10-66 student in average daily attendance in a bilingual education or  
 10-67 special language program under Subchapter B, Chapter 29, a district  
 10-68 is entitled to an annual allotment equal to the adjusted  
 10-69 accreditation [~~basic~~] allotment multiplied by 0.1.

11-1 (a-1) This subsection applies only to funding for students  
11-2 who have been enrolled in a bilingual education or special language  
11-3 program for less than three years. The commissioner by rule shall  
11-4 determine a method for determining whether a student has been  
11-5 enrolled in a program for less than three years. For each student  
11-6 in average daily attendance in a bilingual education or special  
11-7 language program under Subchapter B, Chapter 29, who has been  
11-8 enrolled in the program for less than three years, a district is  
11-9 entitled to an annual allotment equal to the adjusted accreditation  
11-10 allotment multiplied by a weight according to the grade level to  
11-11 which the student is assigned, as follows:

11-12	Prekindergarten-Grade 2 . . . . .	0.12
11-13	Grades 3-5 . . . . .	0.18
11-14	Grades 6-8 . . . . .	0.24
11-15	Grades 9-12 . . . . .	0.3

11-16 (d) A district is not entitled to an allotment under this  
11-17 section for a student who meets the criteria for transferring out of  
11-18 the district's bilingual education or special language program but  
11-19 continues participating in the program under Section 29.056(i).

11-20 SECTION 1B.11. Subsections (a) and (e), Section 42.154,  
11-21 Education Code, are amended to read as follows:

11-22 (a) For each full-time equivalent student in average daily  
11-23 attendance in an approved career and technology education program  
11-24 in grades nine through 12 or in career and technology education  
11-25 programs for students with disabilities in grades seven through 12,  
11-26 a district is entitled to an annual allotment equal to the adjusted  
11-27 accreditation [~~basic~~] allotment multiplied by a weight of 1.35.

11-28 (e) Out of the total statewide allotment for career and  
11-29 technology education under this section, the commissioner shall set  
11-30 aside an amount specified in the General Appropriations Act, which  
11-31 may not exceed an amount equal to one percent of the total amount  
11-32 appropriated, to support regional career and technology education  
11-33 planning. After deducting the amount set aside under this  
11-34 subsection from the total amount appropriated for career and  
11-35 technology education under this section, the commissioner shall  
11-36 reduce each district's basic program [~~tier one~~] allotments in the  
11-37 same manner described for a reduction in allotments under Section  
11-38 42.253.

11-39 SECTION 1B.12. Section 42.155, Education Code, is amended  
11-40 by amending Subsection (c) and adding Subsection (c-1) to read as  
11-41 follows:

11-42 (c) Each district or county operating a regular  
11-43 transportation system is entitled to an allotment based on the  
11-44 daily cost per regular eligible student of operating and  
11-45 maintaining the regular transportation system and the linear  
11-46 density of that system. In determining the cost, the commissioner  
11-47 shall give consideration to factors affecting the actual cost of  
11-48 providing these transportation services in each district or county.  
11-49 The average actual cost is to be computed by the commissioner and  
11-50 included for consideration by the legislature in the General  
11-51 Appropriations Act.

11-52 (c-1) The allotment per mile of approved route under  
11-53 Subsection (c) is computed as follows:

11-54	Linear Density Grouping	Allocation Per Mile of Approved Route
11-55	2.40 and above . . . . .	\$ 1.42
11-56	1.65 to 2.40 . . . . .	1.28
11-57	1.15 to 1.65 . . . . .	1.11
11-58	.90 to 1.15 . . . . .	.97
11-59	.65 to .90 . . . . .	.88

11-60 The allocation per mile of approved route for the bottom linear  
11-61 density groupings of up to .40 through .65 shall be moved into the  
11-62 next linear density group of up to .90 [~~may not exceed the amount~~  
11-63 ~~set by appropriation~~].

11-64 SECTION 1B.13. Subsections (a) and (d), Section 42.156,  
11-65 Education Code, are amended to read as follows:

11-66 (a) For each identified student a school district serves in  
11-67 a program for gifted and talented students that the district  
11-68 certifies to the commissioner as complying with Subchapter D,  
11-69 Chapter 29, a district is entitled to an annual allotment equal to

12-1 the district's adjusted accreditation [~~basic~~] allotment as  
 12-2 determined under Section 42.102 or Section 42.103, as applicable,  
 12-3 multiplied by .12 for each school year or a greater amount provided  
 12-4 by appropriation.

12-5 (d) If the amount of state funds for which school districts  
 12-6 are eligible under this section exceeds the amount of state funds  
 12-7 appropriated in any year for the programs, the commissioner shall  
 12-8 reduce each district's basic program [~~tier one~~] allotments in the  
 12-9 same manner described for a reduction in allotments under Section  
 12-10 42.253.

12-11 SECTION 1B.14. Subsection (a), Section 42.157, Education  
 12-12 Code, is amended to read as follows:

12-13 (a) Except as provided by Subsection (b), for each student  
 12-14 in average daily attendance who is using a public education grant  
 12-15 under Subchapter G, Chapter 29, to attend school in a district other  
 12-16 than the district in which the student resides, the district in  
 12-17 which the student attends school is entitled to an annual allotment  
 12-18 equal to the adjusted accreditation [~~basic~~] allotment multiplied by  
 12-19 a weight of 0.1.

12-20 SECTION 1B.15. Section 42.158, Education Code, is amended  
 12-21 by amending Subsections (b), (d), and (g) and adding Subsection  
 12-22 (b-1) to read as follows:

12-23 (b) For the first school year in which students attend a new  
 12-24 instructional facility, a school district other than a fast growth  
 12-25 school district is entitled to an allotment of \$250 for each student  
 12-26 in average daily attendance at the facility. For the second and  
 12-27 third school years [~~year~~] in which students attend that  
 12-28 instructional facility, the [~~a school~~] district is entitled to an  
 12-29 allotment of \$250 for each additional student in average daily  
 12-30 attendance at the facility.

12-31 (b-1) For the first school year in which students attend a  
 12-32 new instructional facility, a fast growth school district is  
 12-33 entitled to an allotment of \$500 for each student in average daily  
 12-34 attendance at the facility. For the second and third school years  
 12-35 in which students attend that instructional facility, the district  
 12-36 is entitled to an allotment of \$500 for each additional student in  
 12-37 average daily attendance at the facility.

12-38 (d) The amount appropriated for allotments under this  
 12-39 section may not exceed \$50 [~~\$25~~] million in a school year. If the  
 12-40 total amount of allotments to which districts are entitled under  
 12-41 this section for a school year exceeds the amount appropriated for  
 12-42 allotments under this section, the commissioner shall reduce each  
 12-43 district's allotment under this section in the manner provided by  
 12-44 Section 42.253(h).

12-45 (g) In this section:

12-46 (1) "Fast growth school district" means a school  
 12-47 district that during the preceding five school years has  
 12-48 experienced an increase in enrollment of:

- 12-49 (A) greater than 10 percent; or
- 12-50 (B) more than 3,500 students.

12-51 (2) "Instructional [~~,"instructional~~] facility" has  
 12-52 the meaning assigned by Section 46.001.

12-53 SECTION 1B.16. Section 42.251, Education Code, is amended  
 12-54 to read as follows:

12-55 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the  
 12-56 accreditation [~~basic~~] allotment under Subchapter B and the special  
 12-57 allotments under Subchapter C, computed in accordance with this  
 12-58 chapter, constitute the basic program [~~tier one~~] allotments. The  
 12-59 sum of the basic program [~~tier one~~] allotments and the enrichment  
 12-60 program [~~guaranteed yield~~] allotments under Subchapter F, computed  
 12-61 in accordance with this chapter, constitute the total cost of the  
 12-62 Foundation School Program.

12-63 (b) The program shall be financed by:

12-64 (1) ad valorem tax revenue generated by an equalized  
 12-65 uniform school district effort;

12-66 (2) ad valorem tax revenue generated by local school  
 12-67 district effort for an enrichment program in accordance with  
 12-68 Subchapter F in excess of the equalized uniform school district  
 12-69 effort;

13-1 (3) state available school funds distributed in  
13-2 accordance with law; and

13-3 (4) state funds appropriated for the purposes of  
13-4 public school education and allocated to each district in an amount  
13-5 sufficient to finance the cost of each district's Foundation School  
13-6 Program not covered by other funds specified in this subsection.

13-7 SECTION 1B.17. Subsection (a), Section 42.2512, Education  
13-8 Code, is amended to read as follows:

13-9 (a) In addition to any amounts to which a school district is  
13-10 entitled under Section 42.2541, a [A school] district [including  
13-11 a school district that is otherwise ineligible for state aid under  
13-12 this chapter,] is entitled to state aid in an amount, as determined  
13-13 by the commissioner, equal to the [difference, if any, between:

13-14 [~~(1) an amount equal to the~~] product of the following  
13-15 amount, as applicable, [\$3,000] multiplied by the number of  
13-16 classroom teachers, full-time librarians, full-time counselors  
13-17 certified under Subchapter B, Chapter 21, and full-time school  
13-18 nurses employed by the district and entitled to a minimum salary  
13-19 under Section 21.402:

13-20 (1) \$3,000; or

13-21 (2) \$3,500, if H.B. No. 3, Acts of the 79th  
13-22 Legislature, 2nd Called Session, 2005, takes effect immediately [+  
13-23 and

13-24 [~~(2) an amount equal to 80 percent of the amount of~~  
13-25 additional funds to which the district is entitled due to the  
13-26 increases made by S.B. No. 4, Acts of the 76th Legislature, Regular  
13-27 Session, 1999, to:

13-28 [~~(A) the equalized wealth level under Section~~  
13-29 41.002,

13-30 [~~(B) the basic allotment under Section 42.101,~~  
13-31 and

13-32 [~~(C) the guaranteed level of state and local~~  
13-33 funds per weighted student per cent of tax effort under Section  
13-34 42.302].

13-35 SECTION 1B.18. Subsection (a), Section 42.2515, Education  
13-36 Code, is amended to read as follows:

13-37 (a) For each school year, a school district [~~including a~~  
13-38 ~~school district that is otherwise ineligible for state aid under~~  
13-39 ~~this chapter,] is entitled to state aid in an amount equal to the  
13-40 amount of all tax credits credited against ad valorem taxes of the  
13-41 district in that year under Subchapter D, Chapter 313, Tax Code.~~

13-42 SECTION 1B.19. The heading to Section 42.252, Education  
13-43 Code, is amended to read as follows:

13-44 Sec. 42.252. LOCAL SHARE OF BASIC PROGRAM COST [~~(TIER~~  
13-45 ~~ONE)]~~.

13-46 SECTION 1B.20. Subsection (a), Section 42.252, Education  
13-47 Code, is amended to read as follows:

13-48 (a) Each school district's share of the basic program under  
13-49 the Foundation School Program is determined by the following  
13-50 formula:

$$13-51 \text{LFA} = \text{TR} \times \text{DPV}$$

13-52 where:

13-53 "LFA" is the school district's local share;

13-54 "TR" is a tax rate which for each hundred dollars of valuation  
13-55 is an adopted [effective] tax rate of \$1.10 [~~\$0.86~~]; and

13-56 "DPV" is the taxable value of property in the school district  
13-57 for the preceding tax year determined under Subchapter M, Chapter  
13-58 403, Government Code.

13-59 SECTION 1B.21. Subsection (a), Section 42.2521, Education  
13-60 Code, is amended to read as follows:

13-61 (a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this  
13-62 chapter, and to the extent money specifically authorized to be used  
13-63 under this section is available, the commissioner shall adjust the  
13-64 taxable value of property in a school district that, due to factors  
13-65 beyond the control of the board of trustees, experiences a rapid  
13-66 decline in the tax base used in calculating taxable values in excess  
13-67 of four percent of the tax base used in the preceding year.

13-68 SECTION 1B.22. Section 42.253, Education Code, is amended  
13-69 by amending Subsections (a), (g), (h), and (i) and adding

14-1 Subsections (c-1), (e-2), and (m) to read as follows:

14-2 (a) For each school year the commissioner shall determine:

14-3 (1) the amount of money to which a school district is  
14-4 entitled under Subchapters B and C;

14-5 (2) the amount of money to which a school district is  
14-6 entitled under Subchapter F;

14-7 (3) the amount of money allocated to the district from  
14-8 the available school fund;

14-9 (4) the amount of each district's basic program [~~tier~~  
14-10 ~~one~~] local share under Section 42.252; and

14-11 (5) the amount of each district's enrichment program  
14-12 [~~tier two~~] local revenue [~~share~~] under Section 42.302.

14-13 (c-1) Notwithstanding any other provision of this chapter,  
14-14 with the approval of the commissioner, a school district in which  
14-15 the number of students in average daily attendance increases as a  
14-16 result of enrolling students pursuant to an agreement to provide  
14-17 education services in cooperation with a public charter district is  
14-18 entitled to receive state revenue for the additional students in an  
14-19 amount not less than the district's total state and local revenue  
14-20 per student, including revenue from accreditation allotments and an  
14-21 enrichment program under Subchapter F, calculated on the basis of  
14-22 the district's average daily attendance prior to the enrollment of  
14-23 the additional students.

14-24 (e-2) For the 2006-2007 school year, the limit authorized by  
14-25 Subsection (e) is an amount equal to the sum of the rate described  
14-26 by Section 42.252 and the rate described by Section 42.303(c)(1).  
14-27 This subsection expires September 1, 2007.

14-28 (g) If a school district demonstrates to the satisfaction of  
14-29 the commissioner that the estimate of the district's tax rate,  
14-30 student enrollment, or taxable value of property used in  
14-31 determining the amount of state funds to which the district is  
14-32 entitled are so inaccurate as to result in undue financial hardship  
14-33 to the district, the commissioner may adjust funding to that  
14-34 district in that school year to the extent that funds are available  
14-35 for that year [~~, including funds in the reserve account. Funds in~~  
14-36 ~~the reserve account may not be used under this subsection until any~~  
14-37 ~~reserve funds have been used for purposes of Subsection (f)].~~

14-38 (h) If the total amount appropriated for a year for the  
14-39 Foundation School Program is less than the amount of money to which  
14-40 school districts are entitled for that year [~~legislature fails~~  
14-41 ~~during the regular session to enact the transfer and appropriation~~  
14-42 ~~proposed under Subsection (f) and there are not funds available~~  
14-43 ~~under Subsection (j)], the commissioner shall reduce the total  
14-44 amount of state funds allocated to each district from any source by  
14-45 an amount determined by a method under which the application of the  
14-46 same number of cents of increase in enrichment tax rate in all  
14-47 districts applied to the taxable value of property of each  
14-48 district, as determined under Subchapter M, Chapter 403, Government  
14-49 Code, together with any state aid generated by those taxes, results  
14-50 in a total amount of levy and aid equal to the total reduction. The  
14-51 following fiscal year, a district's entitlement under this section  
14-52 is increased by an amount equal to the reduction made under this  
14-53 subsection.~~

14-54 (i) Not later than March 1 each year, the commissioner shall  
14-55 determine the actual amount of state funds to which each school  
14-56 district is entitled under [~~the allocation formulas in~~] this  
14-57 chapter for the current school year and shall compare that amount  
14-58 with the amount of the warrants issued to each district for that  
14-59 year. If the amount of the warrants differs from the amount to  
14-60 which a district is entitled because of variations in the  
14-61 district's tax rate, student enrollment, or taxable value of  
14-62 property, the commissioner shall adjust the district's entitlement  
14-63 for the next fiscal year accordingly.

14-64 (m) Payments from the foundation school fund to each school  
14-65 district shall be made as follows:

14-66 (1) 15 percent of the yearly entitlement of the  
14-67 district shall be paid in an installment to be made on or before the  
14-68 25th day of September of a fiscal year;

14-69 (2) 80 percent of the yearly entitlement of the

15-1 district shall be paid in eight equal installments to be made on or  
 15-2 before the 25th day of October, November, December, January, March,  
 15-3 May, June, and July; and

15-4 (3) five percent of the yearly entitlement of the  
 15-5 district shall be paid in an installment to be made after the fifth  
 15-6 day of September and not later than the 10th day of September of the  
 15-7 calendar year following the calendar year of the payment made under  
 15-8 Subdivision (1).

15-9 SECTION 1B.23. Subsections (a), (b), and (c), Section  
 15-10 42.2531, Education Code, are amended to read as follows:

15-11 (a) The commissioner may make adjustments to amounts due to  
 15-12 a school district under this chapter or Chapter 46, [~~or to amounts~~  
 15-13 ~~necessary for a district to comply with the requirements of Chapter~~  
 15-14 ~~41,~~] as provided by this section.

15-15 (b) A school district that has a major taxpayer, as  
 15-16 determined by the commissioner, that because of a protest of the  
 15-17 valuation of the taxpayer's property fails to pay all or a portion  
 15-18 of the ad valorem taxes due to the district may apply to the  
 15-19 commissioner to have the district's taxable value of property or ad  
 15-20 valorem tax collections adjusted for purposes of this chapter or  
 15-21 Chapter [~~41 or~~] 46. The commissioner may make the adjustment only  
 15-22 to the extent the commissioner determines that making the  
 15-23 adjustment will not:

15-24 (1) in the fiscal year in which the adjustment is made,  
 15-25 cause the amount to which school districts are entitled under this  
 15-26 chapter to exceed the amount appropriated for purposes of the  
 15-27 Foundation School Program for that year; and

15-28 (2) if the adjustment is made in the first year of a  
 15-29 state fiscal biennium, cause the amount to which school districts  
 15-30 are entitled under this chapter for the second year of the biennium  
 15-31 to exceed the amount appropriated for purposes of the Foundation  
 15-32 School Program for that year.

15-33 (c) The commissioner shall recover the benefit of any  
 15-34 adjustment made under this section by making offsetting adjustments  
 15-35 in the school district's taxable value of property or ad valorem tax  
 15-36 collections for purposes of this chapter or Chapter [~~41 or~~] 46 on a  
 15-37 final determination of the taxable value of property that was the  
 15-38 basis of the original adjustment, or in the second school year  
 15-39 following the year in which the adjustment is made, whichever is  
 15-40 earlier.

15-41 SECTION 1B.24. Subchapter E, Chapter 42, Education Code, is  
 15-42 amended by adding Sections 42.2541 and 42.2542 to read as follows:

15-43 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
 15-44 section, "weighted average daily attendance" has the meaning  
 15-45 assigned by Section 42.302.

15-46 (b) Notwithstanding Section 42.253, a school district is  
 15-47 entitled to the amount of state revenue necessary to maintain state  
 15-48 and local revenue in an amount equal to the sum of:

15-49 (1) the amount of state and local revenue per student  
 15-50 in weighted average daily attendance for maintenance and operation  
 15-51 of the district that the district received for the 2005-2006 school  
 15-52 year; and

15-53 (2) an amount equal to \$98 per weighted student in  
 15-54 average daily attendance.

15-55 (c) The commissioner may increase the amount to which a  
 15-56 school district is entitled under Subsection (b) as the  
 15-57 commissioner determines necessary.

15-58 (d) The commissioner shall:

15-59 (1) compute and publish the amount of state and local  
 15-60 revenue per student in weighted average daily attendance to which a  
 15-61 district is entitled under Subsection (b) for the 2006-2007 school  
 15-62 year; and

15-63 (2) use that amount per student in weighted average  
 15-64 daily attendance in determining the amount to which a district is  
 15-65 entitled under this section in subsequent school years.

15-66 (e) The commissioner shall determine the amount of state  
 15-67 funds to which a school district is entitled under this section,  
 15-68 including the amount per student in weighted average daily  
 15-69 attendance, and shall make that determination available to the

16-1 Legislative Budget Board. The commissioner's determination is  
 16-2 final and may not be appealed.

16-3 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID.

16-4 (a) Notwithstanding any other provision of this subtitle, the  
 16-5 commissioner shall withhold from a school district the amount of  
 16-6 state funds necessary to ensure that the district does not receive  
 16-7 an amount of state and local revenue per student in weighted average  
 16-8 daily attendance that is greater than the following percentage of  
 16-9 the amount to which the district is entitled under Section  
 16-10 42.2541(b)(1):

16-11 (1) 108 percent for the 2006-2007 school year;

16-12 (2) 116 percent for the 2007-2008 school year; and

16-13 (3) 124 percent for the 2008-2009 school year.

16-14 (b) The commissioner shall determine the amount of state  
 16-15 funds required to be withheld under this section. The  
 16-16 commissioner's determination is final and may not be appealed.

16-17 (c) Any amount to which a school district is entitled under  
 16-18 Subchapter F is not included in determining the amount that a  
 16-19 district may receive under this section.

16-20 (d) This section expires September 1, 2009.

16-21 SECTION 1B.25. Chapter 42, Education Code, is amended by  
 16-22 adding Subchapter F to read as follows:

16-23 SUBCHAPTER F. ENRICHMENT PROGRAM

16-24 Sec. 42.301. PURPOSE. The purpose of the enrichment  
 16-25 program is to provide each school district with the opportunity to  
 16-26 supplement the basic program at a level of its own choice. An  
 16-27 allotment under this subchapter may be used for any legal purpose  
 16-28 other than capital outlay or debt service.

16-29 Sec. 42.302. ALLOTMENT. (a) In this section, "wealth per  
 16-30 student" means a school district's taxable value of property as  
 16-31 determined under Subchapter M, Chapter 403, Government Code,  
 16-32 divided by the number of students in weighted average daily  
 16-33 attendance in the district.

16-34 (b) Each school district is guaranteed a specified amount  
 16-35 per student in state and local funds for each cent of enrichment tax  
 16-36 effort up to the maximum level specified in this subchapter. The  
 16-37 amount of state support is determined by the formula:

$$16-38 \quad \text{EGYA} = (\text{EGL} \times \text{WADA} \times \text{DETR} \times 100) - \text{LR}$$

16-39 where:

16-40 "EGYA" is the guaranteed yield amount of state enrichment  
 16-41 funds to be allocated to the district;

16-42 "EGL" is the dollar amount guaranteed level of state and  
 16-43 local funds per student per cent of tax effort, which is the amount  
 16-44 of district enrichment tax revenue per cent of tax effort available  
 16-45 to a school district at the 98th percentile in wealth per student,  
 16-46 as determined by the commissioner;

16-47 "WADA" is the number of students in weighted average daily  
 16-48 attendance, which is computed by dividing the sum of the school  
 16-49 district's allotments under Subchapters B and C, less any allotment  
 16-50 to the district for transportation, any allotment to the district  
 16-51 under Section 42.158, and 50 percent of the adjustment under  
 16-52 Section 42.102, by the accreditation allotment for the applicable  
 16-53 year;

16-54 "DETR" is the district enrichment tax rate of the school  
 16-55 district, which is determined by dividing the total amount of  
 16-56 enrichment taxes collected by the school district for the  
 16-57 applicable school year by the district's taxable value of property  
 16-58 for the preceding year as determined under Subchapter M, Chapter  
 16-59 403, Government Code, divided by 100; and

16-60 "LR" is the local revenue, which is determined by multiplying  
 16-61 "DETR" by the quotient of the district's taxable value of property  
 16-62 for the preceding year as determined under Subchapter M, Chapter  
 16-63 403, Government Code.

16-64 (c) The percentile in wealth per student described by  
 16-65 Subsection (b) for purposes of determining the dollar amount  
 16-66 guaranteed level of state and local funds per student per cent of  
 16-67 tax effort ("EGL") applies beginning with the 2014-2015 school  
 16-68 year. For the 2006-2007 through 2013-2014 school years, EGL is  
 16-69 determined as follows:



17-1 (1) for the 2006-2007 school year, EGL is determined  
 17-2 using the 92nd percentile in wealth per student;

17-3 (2) for the 2007-2008 school year, EGL is determined  
 17-4 using the 92nd percentile in wealth per student;

17-5 (3) for the 2008-2009 school year, EGL is determined  
 17-6 using the 93rd percentile in wealth per student;

17-7 (4) for the 2009-2010 school year, EGL is determined  
 17-8 using the 93rd percentile in wealth per student;

17-9 (5) for the 2010-2011 school year, EGL is determined  
 17-10 using the 94th percentile in wealth per student;

17-11 (6) for the 2011-2012 school year, EGL is determined  
 17-12 using the 95th percentile in wealth per student;

17-13 (7) for the 2012-2013 school year, EGL is determined  
 17-14 using the 96th percentile in wealth per student; and

17-15 (8) for the 2013-2014 school year, EGL is determined  
 17-16 using the 97th percentile in wealth per student.

17-17 (d) This subsection and Subsection (c) expire September 1,  
 17-18 2013.

17-19 Sec. 42.303. ENRICHMENT TAX. (a) Subject to Section  
 17-20 42.304, the board of trustees of a school district may impose an  
 17-21 annual ad valorem tax for the further maintenance of the public  
 17-22 schools in the district.

17-23 (b) The district enrichment tax rate may not exceed \$0.15  
 17-24 for each \$100 of taxable value of property.

17-25 (c) Notwithstanding Subsection (b) but subject to Section  
 17-26 42.306:

17-27 (1) for the 2006 tax year, the district enrichment tax  
 17-28 rate may not exceed \$0.05 for each \$100 of taxable value of  
 17-29 property; and

17-30 (2) for the 2007 and 2008 tax years, the district  
 17-31 enrichment tax rate may not exceed \$0.10 for each \$100 of taxable  
 17-32 value of property.

17-33 (d) This subsection and Subsection (c) expire January 1,  
 17-34 2009.

17-35 Sec. 42.304. ENRICHMENT TAX ELECTION. (a) Except as  
 17-36 provided by Section 42.306, a school district may not impose an  
 17-37 enrichment tax under Section 42.303 unless authorized by a majority  
 17-38 of the qualified voters of the district voting at an election held  
 17-39 for that purpose.

17-40 (b) A proposition submitted to authorize the imposition of  
 17-41 an enrichment tax must include the question of whether the board of  
 17-42 trustees may impose annual ad valorem taxes for the further  
 17-43 enrichment of public schools at a rate not to exceed the rate stated  
 17-44 in the proposition.

17-45 (c) A district may tax at a rate below the rate authorized in  
 17-46 an election under this section and does not need additional  
 17-47 authority to increase the rate up to the rate authorized in the  
 17-48 election.

17-49 Sec. 42.305. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON  
 17-50 MILITARY RESERVATION OR AT STATE SCHOOL. The amount to which a  
 17-51 school district is entitled under this subchapter in a school  
 17-52 district located on a federal military installation or at Moody  
 17-53 State School is computed using the average district enrichment tax  
 17-54 rate and property value per student of school districts in the  
 17-55 county, as determined by the commissioner.

17-56 Sec. 42.306. ENRICHMENT TAX AVAILABLE TO CERTAIN DISTRICTS  
 17-57 WITHOUT ELECTION. (a) To the extent consistent with Subsection  
 17-58 (b), if a school district's maintenance and operations tax rate for  
 17-59 the 2004 tax year exceeded a rate of \$1.50 for each \$100 of taxable  
 17-60 value of property, the district is entitled to impose an ad valorem  
 17-61 tax under Section 42.303 without holding an election under Section  
 17-62 42.304.

17-63 (b) The enrichment tax authorized by this section may not  
 17-64 exceed a rate equal to the lesser of:

17-65 (1) \$0.15 for each \$100 of taxable value of property;  
 17-66 or

17-67 (2) a rate equal to the amount by which the district's  
 17-68 maintenance and operations tax rate for the 2004 tax year exceeded a  
 17-69 rate of \$1.50 for each \$100 of taxable value of property.

18-1 (c) The portion of an enrichment tax imposed by a school  
 18-2 district under this section that exceeds the rate permitted by  
 18-3 Subsection (b) is subject to voter approval under Section 42.304.

18-4 (d) The portion of an enrichment tax imposed by a school  
 18-5 district under this section that exceeds the rate permitted by  
 18-6 Subsection (b) is subject to the limits of Section 42.303(c). This  
 18-7 subsection expires January 1, 2009.

18-8 SECTION 1B.26. Chapter 42, Education Code, is amended by  
 18-9 adding Subchapter I to read as follows:

18-10 SUBCHAPTER I. ADDITIONAL EQUALIZATION

18-11 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

18-12 (a) Except as provided by Subsection (b), a school district in  
 18-13 which the district's local share under Section 42.252 exceeds the  
 18-14 district's basic program allotments under Section 42.251 shall be  
 18-15 consolidated by the commissioner under Subchapter H, Chapter 41.

18-16 (b) As an alternative to consolidation under Subchapter H,  
 18-17 Chapter 41, a school district described by Subsection (a) may elect  
 18-18 to purchase average daily attendance credit in the manner provided  
 18-19 by Subchapter D, Chapter 41.

18-20 SECTION 1B.27. The heading to Chapter 41, Education Code,  
 18-21 is amended to read as follows:

18-22 CHAPTER 41. EQUALIZATION ACTIONS [~~EQUALIZED WEALTH LEVEL~~]

18-23 SECTION 1B.28. Section 41.004, Education Code, is amended  
 18-24 to read as follows:

18-25 Sec. 41.004. ANNUAL REVIEW OF EQUALIZATION [~~PROPERTY~~  
 18-26 ~~WEALTH~~]. (a) Not later than July 15 of each year, using the  
 18-27 estimate of enrollment under Section 42.254, the commissioner shall  
 18-28 review the local share and basic program allotments [~~wealth per~~  
 18-29 ~~student~~] of each school district [~~districts~~] in the state and shall  
 18-30 notify:

18-31 (1) each district subject to commissioner action under  
 18-32 Section 42.401 [~~with wealth per student exceeding the equalized~~  
 18-33 ~~wealth level~~]; and

18-34 (2) [~~each district to which the commissioner proposes~~  
 18-35 ~~to annex property detached from a district notified under~~  
 18-36 ~~Subdivision (1), if necessary, under Subchapter G; and~~

18-37 [~~(3)~~] each district to which the commissioner proposes  
 18-38 to consolidate a district notified under Subdivision (1), if  
 18-39 necessary, under Subchapter H.

18-40 (b) If, before the dates provided by this subsection, a  
 18-41 district notified under Subsection (a)(1) has not purchased average  
 18-42 daily attendance credit as provided by Subchapter D [~~successfully~~  
 18-43 ~~exercised one or more options under Section 41.003 that reduce the~~  
 18-44 ~~district's wealth per student to a level equal to or less than the~~  
 18-45 ~~equalized wealth level~~], the commissioner [~~shall order the~~  
 18-46 ~~detachment of property from that district as provided by Subchapter~~  
 18-47 ~~G. If that detachment will not reduce the district's wealth per~~  
 18-48 ~~student to a level equal to or less than the equalized wealth level,~~  
 18-49 ~~the commissioner may not detach property under Subchapter G but]~~  
 18-50 shall order the consolidation of the district with one or more other  
 18-51 districts as provided by Subchapter H. [~~An agreement under Section~~  
 18-52 ~~41.003(1) or (2) must be executed not later than September 1~~  
 18-53 ~~immediately following the notice under Subsection (a).]~~ An  
 18-54 election to authorize the purchase of average daily attendance  
 18-55 credit as provided by Subchapter D [~~for an option under Section~~  
 18-56 ~~41.003(3), (4), or (5)] must be ordered before September 1  
 18-57 immediately following the notice under Subsection (a).~~

18-58 (c) A district notified under Subsection (a) may not adopt a  
 18-59 tax rate for the tax year in which the district receives the notice  
 18-60 until the commissioner certifies that the district has entered into  
 18-61 an agreement under Subchapter D to purchase average daily  
 18-62 attendance credit [~~achieved the equalized wealth level~~].

18-63 (d) A [~~detachment and annexation or~~] consolidation under  
 18-64 this chapter:

18-65 (1) is effective for Foundation School Program funding  
 18-66 purposes for the school year that begins in the calendar year in  
 18-67 which the [~~detachment and annexation or~~] consolidation is [~~agreed~~  
 18-68 ~~to or~~] ordered; and

18-69 (2) applies to the ad valorem taxation of property

19-1 beginning with the tax year in which the [~~agreement or~~] order is  
19-2 effective.

19-3 SECTION 1B.29. Subsection (a), Section 41.006, Education  
19-4 Code, is amended to read as follows:

19-5 (a) The commissioner may adopt rules necessary for the  
19-6 implementation of this chapter. The rules may provide for the  
19-7 commissioner to make necessary adjustments to the provisions of  
19-8 Chapter 42, including providing for the commissioner to make an  
19-9 adjustment in the funding element established by Section 42.302, at  
19-10 the earliest date practicable, to the amount the commissioner  
19-11 believes, taking into consideration options exercised by school  
19-12 districts under Section 42.401 [~~this chapter~~] and estimates of  
19-13 student enrollments, will match appropriation levels.

19-14 SECTION 1B.30. Subsection (a), Section 41.008, Education  
19-15 Code, is amended to read as follows:

19-16 (a) The governing board of a school district that results  
19-17 from consolidation under this chapter [~~, including a consolidated~~  
19-18 ~~taxing district under Subchapter F,~~] for the tax year in which the  
19-19 consolidation occurs may determine whether to adopt a homestead  
19-20 exemption provided by Section 11.13, Tax Code, and may set the  
19-21 amount of the exemption, if adopted, at any time before the school  
19-22 district adopts a tax rate for that tax year. This section applies  
19-23 only to an exemption that the governing board of a school district  
19-24 is authorized to adopt or change in amount under Section 11.13, Tax  
19-25 Code.

19-26 SECTION 1B.31. Subsection (a), Section 41.009, Education  
19-27 Code, is amended to read as follows:

19-28 (a) A tax abatement agreement executed by a school district  
19-29 that is involved in consolidation [~~or in detachment and annexation~~  
19-30 ~~of territory~~] under this chapter is not affected and applies to the  
19-31 taxation of the property covered by the agreement as if executed by  
19-32 the district within which the property is included.

19-33 SECTION 1B.32. Section 41.010, Education Code, is amended  
19-34 to read as follows:

19-35 Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax  
19-36 increments under Chapter 311, Tax Code, is not affected by the  
19-37 consolidation of territory [~~or tax bases or by annexation~~] under  
19-38 this chapter. In each tax year a school district paying a tax  
19-39 increment from taxes on property over which the district has  
19-40 assumed taxing power is entitled to retain the same percentage of  
19-41 the tax increment from that property that the district in which the  
19-42 property was located before the consolidation [~~or annexation~~] could  
19-43 have retained for the respective tax year.

19-44 SECTION 1B.33. Subsection (a), Section 41.013, Education  
19-45 Code, is amended to read as follows:

19-46 (a) A [~~Except as provided by Subchapter C, a~~] decision of  
19-47 the commissioner under this chapter is appealable under Section  
19-48 7.057.

19-49 SECTION 1B.34. Section 41.091, Education Code, is amended  
19-50 to read as follows:

19-51 Sec. 41.091. AGREEMENT. A school district subject to  
19-52 Section 42.401 [~~with a wealth per student that exceeds the~~  
19-53 ~~equalized wealth level~~] may execute an agreement with the  
19-54 commissioner to purchase attendance credits in an amount equal to  
19-55 the difference between the district's local share under Section  
19-56 42.252 and the district's basic program allotments under Section  
19-57 42.251 [~~sufficient, in combination with any other actions taken~~  
19-58 ~~under this chapter, to reduce the district's wealth per student to a~~  
19-59 ~~level that is equal to or less than the equalized wealth level~~].

19-60 SECTION 1B.35. Subsection (a), Section 41.093, Education  
19-61 Code, is amended to read as follows:

19-62 (a) The cost of each credit is an amount equal to the greater  
19-63 of:

19-64 (1) the amount of the district's maintenance and  
19-65 operations tax revenue per student in [~~weighted~~] average daily  
19-66 attendance for the school year for which the contract is executed;  
19-67 or

19-68 (2) the amount of the statewide district average of  
19-69 maintenance and operations tax revenue per student in [~~weighted~~]

20-1 average daily attendance for the school year preceding the school  
20-2 year for which the contract is executed.

20-3 SECTION 1B.36. Section 41.251, Education Code, is amended  
20-4 to read as follows:

20-5 Sec. 41.251. COMMISSIONER ORDER. If the commissioner is  
20-6 required under Section 42.401 [~~41.004~~] to order the consolidation  
20-7 of districts, the consolidation is governed by this subchapter.  
20-8 The commissioner's order shall be effective on a date determined by  
20-9 the commissioner, but not later than the earliest practicable date  
20-10 after November 8.

20-11 SECTION 1B.37. Section 41.252, Education Code, is amended  
20-12 by amending Subsections (a) and (c) and adding Subsection (d) to  
20-13 read as follows:

20-14 (a) In selecting the districts to be consolidated with a  
20-15 district subject to Section 42.401 [~~that has a property wealth~~  
20-16 ~~greater than the equalized wealth level~~], the commissioner shall  
20-17 select one or more districts with a local share under Section 42.252  
20-18 [~~wealth per student~~] that, when consolidated, will result in a  
20-19 consolidated district that is not subject to Section 42.401 [~~with a~~  
20-20 ~~wealth per student equal to or less than the equalized wealth~~  
20-21 ~~level~~]. In achieving that result, the commissioner shall give  
20-22 priority to school districts in the following order:

20-23 (1) first, to the contiguous district that has the  
20-24 lowest local share percentage [~~wealth per student~~] and is located  
20-25 in the same county;

20-26 (2) second, to the district that has the lowest local  
20-27 share percentage [~~wealth per student~~] and is located in the same  
20-28 county;

20-29 (3) third, to a contiguous district not subject to  
20-30 Section 42.401 [~~with a property wealth below the equalized wealth~~  
20-31 ~~level~~] that has requested the commissioner to consider [~~that~~]  
20-32 for inclusion [~~be considered~~] in a consolidation plan;

20-33 (4) fourth, to include as few districts as possible  
20-34 that are not subject to Section 42.401 and [~~fall below the equalized~~  
20-35 ~~wealth level within the consolidation order that~~] have not  
20-36 requested the commissioner to be included in a consolidation plan;

20-37 (5) fifth, to the district that has the lowest local  
20-38 share percentage [~~wealth per student~~] and is located in the same  
20-39 regional education service center area; and

20-40 (6) sixth, to a district that has a tax rate similar to  
20-41 that of the district subject to Section 42.401 [~~that has a property~~  
20-42 ~~wealth greater than the equalized wealth level~~].

20-43 (c) In applying the selection criteria specified by  
20-44 Subsection (a), if more than two districts are to be consolidated,  
20-45 the commissioner shall select the third and each subsequent  
20-46 district to be consolidated by treating the district subject to  
20-47 Section 42.401 [~~that has a property wealth greater than the~~  
20-48 ~~equalized wealth level~~] and the district or districts previously  
20-49 selected for consolidation as one district.

20-50 (d) In this section, "local share percentage" means a  
20-51 percentage determined by dividing a school district's local share  
20-52 under Section 42.252 by the district's basic program allotment  
20-53 under Section 42.251.

20-54 SECTION 1B.38. This part applies beginning with the  
20-55 2006-2007 school year, except that Subsection (h), Section 42.253,  
20-56 Education Code, as amended in this part, applies beginning with the  
20-57 2005-2006 school year.

#### 20-58 PART C. SCHOOL FACILITIES

20-59 SECTION 1C.01. Subchapter C, Chapter 45, Education Code, is  
20-60 amended by adding Section 45.0561 to read as follows:

20-61 Sec. 45.0561. PRIORITY FOR CERTAIN BONDS. (a) In  
20-62 determining which bonds to approve for guarantee under this  
20-63 subchapter, the commissioner shall give priority to a school  
20-64 district that has had bonds refunded and defeased under Subchapter  
20-65 D, Chapter 46.

20-66 (b) The commissioner may adopt rules to administer this  
20-67 section.

20-68 SECTION 1C.02. Section 46.006, Education Code, is amended  
20-69 by adding Subsection (c-1) and amending Subsection (d) to read as

21-1 follows:

21-2 (c-1) A district's wealth per student is reduced by 25  
 21-3 percent for purposes of this section if the district has had  
 21-4 significant student enrollment growth that, as determined by the  
 21-5 commissioner, is substantially related to the enrollment of  
 21-6 children of military personnel transferred to a military base near  
 21-7 the district following the closure or realignment of another  
 21-8 military base under the Defense Base Closure and Realignment Act of  
 21-9 1990 (10 U.S.C. Section 2687). The reduction is in addition to any  
 21-10 reduction under Subsection (a), (b), or (c) and is computed before  
 21-11 the district's wealth per student is reduced under those  
 21-12 subsections, if applicable.

21-13 (d) The commissioner shall adjust the rankings after making  
 21-14 the reductions in wealth per student required by Subsections (a),  
 21-15 (b), ~~and~~ (c), and (c-1).

21-16 SECTION 1C.03. Section 46.008, Education Code, is amended  
 21-17 to read as follows:

21-18 Sec. 46.008. STANDARDS. (a) The commissioner shall  
 21-19 establish standards for adequacy of school facilities. The  
 21-20 standards must include requirements related to space, educational  
 21-21 adequacy, and construction quality. All new facilities constructed  
 21-22 after September 1, 1998, must meet the standards to be eligible to  
 21-23 be financed with state or local tax funds.

21-24 (b) To be eligible to be financed with state or local tax  
 21-25 funds, any portable, modular building capable of being relocated  
 21-26 that is purchased or leased after September 1, 2005, for use as a  
 21-27 school facility, regardless of whether the building is an  
 21-28 industrialized building as defined by Section 1202.003,  
 21-29 Occupations Code, must be inspected as provided by Subchapter E,  
 21-30 Chapter 1202, Occupations Code, to ensure compliance with the  
 21-31 mandatory building codes or approved designs, plans, and  
 21-32 specifications.

21-33 SECTION 1C.04. Subchapter A, Chapter 46, Education Code, is  
 21-34 amended by adding Section 46.014 to read as follows:

21-35 Sec. 46.014. STUDY REGARDING INSTRUCTIONAL FACILITIES.

21-36 (a) The comptroller in cooperation with the agency shall study:

21-37 (1) existing instructional facilities in this state;  
 21-38 and

21-39 (2) the projected need for instructional facilities in  
 21-40 the next 10 to 20 years.

21-41 (b) The study of instructional facilities must include an  
 21-42 examination of the following objectives and any other objectives  
 21-43 determined appropriate by the comptroller and the agency:

21-44 (1) a determination as to which of the following needs  
 21-45 of school districts in this state relating to instructional  
 21-46 facilities are the most pressing:

21-47 (A) the need for new instructional facilities;

21-48 (B) the need for repairs to existing  
 21-49 instructional facilities;

21-50 (C) the need for renovations of existing  
 21-51 instructional facilities; and

21-52 (D) other needs relating to instructional  
 21-53 facilities;

21-54 (2) an estimate of the total cost of necessary  
 21-55 construction, repair, or renovation of instructional facilities in  
 21-56 the next 10 to 20 years;

21-57 (3) a determination of the number of school districts  
 21-58 and campuses that have student populations that exceed the maximum  
 21-59 capacity of the districts' or campuses' classrooms, cafeterias, or  
 21-60 gymnasiums, including if appropriate a determination of:

21-61 (A) the number of portable buildings in use by  
 21-62 each school district and campus;

21-63 (B) the square footage of instructional facility  
 21-64 space per student; and

21-65 (C) the number of instructional facilities that  
 21-66 are serving a number of students that exceeds the maximum capacity  
 21-67 of the facility; and

21-68 (4) a determination of the extent to which  
 21-69 instructional facilities in this state are energy and water use

22-1 efficient.

22-2 (c) In projecting the need for instructional facilities in  
 22-3 the next 10 to 20 years, the study must determine the facilities  
 22-4 that will need to be constructed, repaired, or renovated in this  
 22-5 state. The study may include:

22-6 (1) projections as to the date new instructional  
 22-7 facilities will be needed or the date existing instructional  
 22-8 facilities will need to be repaired or renovated;

22-9 (2) information relating to the date of construction  
 22-10 or age of existing instructional facilities; and

22-11 (3) information relating to the dates of the most  
 22-12 recent major renovations of existing instructional facilities.

22-13 (d) The comptroller and the agency shall determine the  
 22-14 appropriate methodology for use in conducting the study required by  
 22-15 this section.

22-16 (e) Not later than December 1, 2006, the comptroller and the  
 22-17 agency shall submit to the legislature a report based on the study  
 22-18 required by this section. This section expires January 15, 2007.

22-19 SECTION 1C.05. Section 46.033, Education Code, is amended  
 22-20 to read as follows:

22-21 Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued  
 22-22 under Section 45.006, are eligible to be paid with state and local  
 22-23 funds under this subchapter if:

22-24 (1) the district made payments on the bonds during the  
 22-25 2004-2005 [~~2002-2003~~] school year or taxes levied to pay the  
 22-26 principal of and interest on the bonds were included in the  
 22-27 district's audited debt service collections for that school year;  
 22-28 and

22-29 (2) the district does not receive state assistance  
 22-30 under Subchapter A for payment of the principal and interest on the  
 22-31 bonds.

22-32 SECTION 1C.06. Subsection (c), Section 46.034, Education  
 22-33 Code, is amended to read as follows:

22-34 (c) If the amount required to pay the principal of and  
 22-35 interest on eligible bonds in a school year is less than the amount  
 22-36 of payments made by the district on the bonds during the 2004-2005  
 22-37 [~~2002-2003~~] school year or the district's audited debt service  
 22-38 collections for that school year, the district may not receive aid  
 22-39 in excess of the amount that, when added to the district's local  
 22-40 revenue for the school year, equals the amount required to pay the  
 22-41 principal of and interest on the bonds.

22-42 SECTION 1C.07. Chapter 46, Education Code, is amended by  
 22-43 adding Subchapter D to read as follows:

22-44 SUBCHAPTER D. REFUNDING TO INCREASE PERMANENT SCHOOL FUND CAPACITY

22-45 Sec. 46.091. DEFINITIONS. In this subchapter:

22-46 (1) "Allocated revenue" means that portion of state  
 22-47 assistance under Subchapter A or B equal to the scheduled debt  
 22-48 service payments in effect immediately before the refunding of  
 22-49 eligible bonds being refunded under this subchapter.

22-50 (2) "Authority" means the Texas Public Finance  
 22-51 Authority.

22-52 (3) "Authority obligation" means any type of revenue  
 22-53 obligation, including a bond, note, certificate, or other  
 22-54 instrument issued under this subchapter. The term includes an  
 22-55 obligation issued to refund an obligation issued under this  
 22-56 subchapter.

22-57 (4) "Credit agreement" has the meaning assigned by  
 22-58 Section 1371.001, Government Code.

22-59 (5) "Obligation administrative expenses" means  
 22-60 expenses incurred in administering authority obligations,  
 22-61 including:

22-62 (A) administrative expenses incurred by the  
 22-63 commissioner or the authority relating to the administration of  
 22-64 this subchapter; and

22-65 (B) fees for:  
 22-66 (i) paying agents, trustees, and attorneys;  
 22-67 (ii) other professional services necessary  
 22-68 to ensure compliance with applicable state or federal law; and  
 22-69 (iii) a school district with eligible bonds

23-1 refunded under this subchapter, professional service expenses in an  
 23-2 amount approved by the commissioner.

23-3 Sec. 46.092. ISSUANCE OF AUTHORITY OBLIGATIONS. (a) If  
 23-4 the commissioner determines that it is feasible to refund eligible  
 23-5 school district bonds as provided by this subchapter, the  
 23-6 commissioner may request that the authority issue authority  
 23-7 obligations necessary to accomplish the refunding. On request of  
 23-8 the commissioner, the authority shall issue authority obligations,  
 23-9 in accordance with Title 9, Government Code, in an amount  
 23-10 sufficient to:

- 23-11 (1) refund eligible bonds;
- 23-12 (2) pay all obligation administrative expenses;
- 23-13 (3) pay the costs of issuing the authority  
 23-14 obligations;
- 23-15 (4) pay the costs of any credit agreement; and
- 23-16 (5) provide any reserve funds.

23-17 (b) Authority obligations and any related credit agreements  
 23-18 must be secured by allocated revenue.

23-19 (c) The commissioner's request for the issuance of  
 23-20 authority obligations must state:

- 23-21 (1) the maximum principal amount of bonds to be  
 23-22 refunded under this subchapter;
- 23-23 (2) the maximum term of bonds to be refunded; and
- 23-24 (3) the amount of state assistance under Subchapter A  
 23-25 or B to support the payment of the bonds to be refunded.

23-26 (d) To best achieve the economic goals of this subchapter  
 23-27 and accomplish the borrowing at the lowest practicable cost, the  
 23-28 authority may determine:

- 23-29 (1) the method of sale of authority obligations;
- 23-30 (2) the type and form of obligation;
- 23-31 (3) the maximum interest rates and other terms of  
 23-32 authority obligations; and
- 23-33 (4) the need for related credit agreements.

23-34 (e) The authority shall certify to the commissioner that  
 23-35 each series of authority obligations issued under this subchapter  
 23-36 will result in an aggregate present value savings.

23-37 (f) Section 46.007 does not apply to the issuance of  
 23-38 authority obligations under this subchapter.

23-39 Sec. 46.093. ELIGIBILITY OF BONDS FOR REFUNDING. School  
 23-40 district bonds are eligible for refunding under this subchapter if:

- 23-41 (1) the district receives state assistance for payment  
 23-42 of the bonds under Subchapter A or B; and
- 23-43 (2) the principal and interest of the bonds are  
 23-44 guaranteed by the permanent school fund under Subchapter C, Chapter  
 23-45 45.

23-46 Sec. 46.094. IDENTIFICATION OF ELIGIBLE BONDS; NOTICE TO  
 23-47 SCHOOL DISTRICTS. (a) If the commissioner determines that it is  
 23-48 feasible to refund eligible school district bonds as provided by  
 23-49 this subchapter, the commissioner shall periodically identify  
 23-50 which outstanding school bonds are eligible for refunding under  
 23-51 this subchapter. The commissioner shall notify the school  
 23-52 districts issuing the bonds that:

- 23-53 (1) the bonds are subject to being refunded and  
 23-54 defeased through the issuance of authority obligations; and
- 23-55 (2) a school district whose bonds are refunded under  
 23-56 this subchapter is entitled to priority in the allocation of  
 23-57 resulting increases in the capacity of the permanent school fund to  
 23-58 guarantee school district bonds under Subchapter C, Chapter 45, as  
 23-59 provided by Section 45.0561.

23-60 (b) The district may elect to direct the commissioner to  
 23-61 include any of the district's eligible bonds for consideration for  
 23-62 refunding under this subchapter. If the district does not elect to  
 23-63 direct the commissioner to include the district's bonds for  
 23-64 consideration for refunding within the time prescribed by this  
 23-65 subsection, the bonds may not be refunded under this subchapter.

23-66 (c) Notice under Subsection (a) must:

- 23-67 (1) identify the bonds the commissioner proposes to  
 23-68 refund under this subchapter;
- 23-69 (2) state that the school district may elect to direct

24-1 the commissioner to include any of the district's bonds for  
 24-2 consideration for refunding; and

24-3 (3) advise the district of:  
 24-4 (A) the effect of electing to have the bonds  
 24-5 considered for refunding; and

24-6 (B) the effect of not electing to have the bonds  
 24-7 considered for refunding.

24-8 Sec. 46.095. AGREEMENT BETWEEN COMMISSIONER AND AUTHORITY.

24-9 (a) To permit the authority to pledge allocated revenue to the  
 24-10 payment of authority obligations, the commissioner shall enter into  
 24-11 an agreement with the authority under which:

24-12 (1) the commissioner, acting on behalf of each school  
 24-13 district whose bonds are being refunded under this subchapter, may  
 24-14 pledge the allocated revenue to secure the payment of the principal  
 24-15 of and interest and premium on authority obligations; and

24-16 (2) each school year, the commissioner shall allocate  
 24-17 and distribute to the authority allocated revenue equal to the  
 24-18 scheduled debt service payments for that year on the bonds being  
 24-19 refunded.

24-20 (b) An agreement under this section must state that the  
 24-21 funding for allocated revenue is subject to legislative  
 24-22 appropriation. A distribution to the authority under the agreement  
 24-23 is considered to be a distribution for purposes of Section 46.009.  
 24-24 If the commissioner determines that the amount appropriated for any  
 24-25 year for allocated revenue is insufficient, the commissioner may  
 24-26 act under Section 46.009(b) to ensure the sufficiency of allocated  
 24-27 revenue.

24-28 Sec. 46.096. USE OF PROCEEDS OF AUTHORITY OBLIGATIONS.

24-29 (a) The authority shall use the proceeds of authority obligations,  
 24-30 less the cost of issuing those obligations and the cost of  
 24-31 administrative expenses incurred by the commissioner or the  
 24-32 authority relating to the administration of this subchapter, to  
 24-33 refund and defease eligible bonds as requested by the commissioner.  
 24-34 To accomplish the refunding and defeasance:

24-35 (1) the commissioner, on behalf of the school  
 24-36 districts issuing the bonds, may:

24-37 (A) exercise any reserved right of optional  
 24-38 redemption; and

24-39 (B) issue any required notice of redemption and  
 24-40 defeasance; and

24-41 (2) the authority, on behalf of the districts issuing  
 24-42 the bonds, may enter into escrow agreements and purchase escrow  
 24-43 securities as provided by Chapter 1207, Government Code, with the  
 24-44 same effect under that chapter as if the authority were the issuer  
 24-45 of the bonds being refunded and defeased.

24-46 (b) The authority shall provide to a school district whose  
 24-47 bonds are refunded under this subchapter appropriate documentation  
 24-48 showing that the bonds have been refunded and defeased.

24-49 Sec. 46.097. PAYMENT OF OBLIGATION ADMINISTRATIVE  
 24-50 EXPENSES. After paying the current debt service on authority  
 24-51 obligations, the authority may use allocated revenue to pay  
 24-52 obligation administrative expenses.

24-53 Sec. 46.098. DISTRIBUTION OF ALLOCATED REVENUE IN EXCESS OF  
 24-54 DISTRICT'S ENTITLEMENT TO STATE ASSISTANCE. (a) If the  
 24-55 commissioner allocates and distributes to the authority allocated  
 24-56 revenue for a school district's bonds refunded under this  
 24-57 subchapter in an amount in excess of the state assistance to which  
 24-58 the district is entitled in connection with all of the district's  
 24-59 bonds, the district shall reimburse the commissioner in the amount  
 24-60 of the excess.

24-61 (b) If a school district elects not to reimburse the  
 24-62 commissioner in the amount of excess state assistance as required  
 24-63 under Subsection (a), the commissioner shall direct the comptroller  
 24-64 to withhold the amount of the excess from the succeeding payment of  
 24-65 state assistance payable to the school district and credit the  
 24-66 amount to the account or accounts from which the excess payment was  
 24-67 made.

24-68 (c) A school may reimburse the commissioner under this  
 24-69 section from any lawfully available source.



25-1 Sec. 46.099. REFUNDING OF AUTHORITY OBLIGATIONS. The  
 25-2 authority may issue authority obligations to refund any previously  
 25-3 issued authority obligations if the authority by resolution  
 25-4 determines that the issuance of refunding obligations will result  
 25-5 in the lowest practicable borrowing cost to the state and school  
 25-6 districts with outstanding eligible bonds.

25-7 Sec. 46.100. AUTHORITY OBLIGATIONS NOT A PLEDGE OF STATE'S  
 25-8 CREDIT. (a) Authority obligations and any related credit  
 25-9 agreements are not:

25-10 (1) a debt of the state, a state agency, or a political  
 25-11 subdivision of the state; or

25-12 (2) a pledge of the faith and credit or taxing power of  
 25-13 the state, a state agency, or a political subdivision of the state.

25-14 (b) Authority obligations and any related credit agreements  
 25-15 are payable solely from allocated revenue pledged to the payment of  
 25-16 those obligations.

25-17 (c) Subject to the limitations of Subsection (a), as long as  
 25-18 authority obligations are outstanding, the state may not:

25-19 (1) take any action to limit or restrict the  
 25-20 authority's responsibility to pay the authority obligations; or

25-21 (2) in any way impair the rights and remedies of the  
 25-22 owners of authority obligations.

25-23 (d) The reallocation of allocated revenue to secure  
 25-24 authority obligations to refund school district bonds is:

25-25 (1) consistent with the original authorization,  
 25-26 allocation, and application of state assistance under Subchapter A  
 25-27 or B;

25-28 (2) in furtherance of any covenants, agreements, or  
 25-29 undertakings by school districts or the commissioner to cause  
 25-30 allocated revenue to be credited to debt service funds for school  
 25-31 district bonds; and

25-32 (3) consistent with all statutory and regulatory  
 25-33 dedications and restrictions on the allocated revenue.

## 25-34 ARTICLE 2. EDUCATION EXCELLENCE

### 25-35 PART A. EDUCATION EMPLOYEES

25-36 SECTION 2A.01. Section 11.201, Education Code, is amended  
 25-37 by adding Subsection (e) to read as follows:

25-38 (e) A superintendent may not receive any financial benefit  
 25-39 for personal services performed by the superintendent for any  
 25-40 business entity that conducts business with or solicits business  
 25-41 from the school district. Any financial benefit received by the  
 25-42 superintendent for performing personal services for any other  
 25-43 entity must be approved by the board of trustees on a case-by-case  
 25-44 basis in an open meeting.

25-45 SECTION 2A.02. Subchapter E, Chapter 11, Education Code, is  
 25-46 amended by adding Section 11.203 to read as follows:

25-47 Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR  
 25-48 PRINCIPALS. (a) The agency shall develop and operate a school  
 25-49 leadership pilot program for principals in accordance with this  
 25-50 section.

25-51 (b) The agency shall operate the program in cooperation with  
 25-52 a nonprofit corporation that has substantial experience in  
 25-53 developing best practices to improve leadership skills, student  
 25-54 achievement, student graduation rates, and teacher retention.

25-55 (c) The agency shall consult appropriate departments at  
 25-56 institutions of higher education to develop program course work  
 25-57 that focuses on management and business training.

25-58 (d) A principal or a person interested in becoming a  
 25-59 principal may apply for participation in the program, in a form and  
 25-60 manner determined by the commissioner.

25-61 (e) A principal of a campus rated academically  
 25-62 unacceptable, as well as any person employed to replace that  
 25-63 principal, shall participate in the program and complete the  
 25-64 program requirements not later than a date determined by the  
 25-65 commissioner.

25-66 (f) To pay the costs of administering the program, the  
 25-67 commissioner shall retain a portion of the total amount of funds  
 25-68 allotted under the Foundation School Program that the commissioner  
 25-69 considers appropriate to finance activities under this section and

26-1 shall reduce the total amount of state funds allocated to each  
 26-2 district from any source in the same manner described for a  
 26-3 reduction in allotments under Section 42.253.

26-4 (g) To implement and administer the program, the  
 26-5 commissioner may accept grants, gifts, and donations from public  
 26-6 and private entities.

26-7 (h) The commissioner may adopt rules necessary to  
 26-8 administer this section.

26-9 (i) This section expires September 1, 2010.

26-10 SECTION 2A.03. Subsection (a), Section 21.003, Education  
 26-11 Code, is amended to read as follows:

26-12 (a) A person may not be employed as a teacher, teacher  
 26-13 intern or teacher trainee, librarian, educational aide,  
 26-14 administrator, educational diagnostician, or counselor by a school  
 26-15 district unless the person holds an appropriate certificate or  
 26-16 permit issued as provided by Subchapter B.

26-17 SECTION 2A.04. Section 21.045, Education Code, is amended  
 26-18 by amending Subsections (a) and (b) and adding Subsection (e) to  
 26-19 read as follows:

26-20 (a) The board shall propose rules establishing standards to  
 26-21 govern the approval and continuing accountability of all educator  
 26-22 preparation programs based on information that is disaggregated  
 26-23 with respect to sex and ethnicity and that includes:

26-24 (1) results of the certification examinations  
 26-25 prescribed under Section 21.048(a); ~~and~~

26-26 (2) performance based on the appraisal system for  
 26-27 beginning teachers adopted by the board;

26-28 (3) performance of students taught by beginning  
 26-29 teachers, as determined on the basis of annual individual student  
 26-30 growth in achievement, as measured under Section 39.034, and any  
 26-31 other factor considered appropriate by the board; and

26-32 (4) retention rates of beginning teachers in the  
 26-33 profession.

26-34 (b) Each educator preparation program shall submit data  
 26-35 elements as required by the board for an annual performance report  
 26-36 to ensure access and equity. At a minimum, the annual report must  
 26-37 contain the performance data from Subsection (a), other than the  
 26-38 data required for purposes of Subsection (a)(3), and the following  
 26-39 information, disaggregated by sex and ethnicity:

26-40 (1) the number of candidates who apply;

26-41 (2) the number of candidates admitted;

26-42 (3) the number of candidates retained;

26-43 (4) the number of candidates completing the program;

26-44 (5) the number of candidates employed in the  
 26-45 profession after completing the program; and

26-46 (6) the number of candidates retained in the  
 26-47 profession.

26-48 (e) The agency shall annually submit student performance  
 26-49 data to the board for purposes of Subsection (a)(3). The agency  
 26-50 shall provide the data to the board in a manner that protects the  
 26-51 names of individual students and otherwise complies with the  
 26-52 confidentiality requirements prescribed by Section 39.030.

26-53 SECTION 2A.05. Subsection (a), Section 21.104, Education  
 26-54 Code, is amended to read as follows:

26-55 (a) A teacher employed under a probationary contract may be  
 26-56 discharged at any time for:

26-57 (1) good cause as determined by the board of trustees;  
 26-58 or

26-59 (2) a financial exigency that requires a reduction in  
 26-60 personnel [~~good cause being the failure to meet the accepted~~  
 26-61 ~~standards of conduct for the profession as generally recognized and~~  
 26-62 ~~applied in similarly situated school districts in this state].~~

26-63 SECTION 2A.06. Subchapter C, Chapter 21, Education Code, is  
 26-64 amended by adding Section 21.1041 to read as follows:

26-65 Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER  
 26-66 PROBATIONARY CONTRACT. (a) If the board of trustees proposes to  
 26-67 discharge a teacher under Section 21.104(a)(2), the board shall  
 26-68 give written notice of the proposed action to the teacher.

26-69 (b) If the teacher desires a hearing after receiving notice

27-1 of the proposed discharge, the teacher shall notify the board of  
 27-2 trustees in writing, not later than the 15th day after the date the  
 27-3 teacher receives the notice of the proposed action. The board shall  
 27-4 provide for a hearing to be held not later than the 15th day after  
 27-5 the date the board receives the request for a hearing unless the  
 27-6 parties agree in writing to a different date. The hearing must be  
 27-7 closed unless the teacher requests an open hearing. The hearing  
 27-8 must be conducted in accordance with rules adopted by the board. At  
 27-9 the hearing, the teacher may:

27-10 (1) be represented by a representative of the  
 27-11 teacher's choice;

27-12 (2) hear the evidence supporting the reason for the  
 27-13 discharge;

27-14 (3) cross-examine adverse witnesses; and

27-15 (4) present evidence.

27-16 (c) After a hearing held under Subsection (b), the board of  
 27-17 trustees shall:

27-18 (1) take the appropriate action to discharge the  
 27-19 teacher or allow the teacher to complete the probationary contract  
 27-20 term; and

27-21 (2) notify the teacher in writing of its decision not  
 27-22 later than the 15th day after the date of the hearing.

27-23 (d) If the teacher does not request a hearing under  
 27-24 Subsection (b), the board of trustees shall take the appropriate  
 27-25 action to discharge the teacher and shall notify the teacher in  
 27-26 writing of that action not later than the 30th day after the date  
 27-27 the notice of proposed discharge for a financial exigency that  
 27-28 requires a reduction in personnel was sent to the teacher.

27-29 SECTION 2A.07. Subchapter E, Chapter 21, Education Code, is  
 27-30 amended by adding Section 21.2111 to read as follows:

27-31 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM  
 27-32 CONTRACT. (a) If the board of trustees proposes to discharge a  
 27-33 teacher under Section 21.211(a)(2), the board shall give written  
 27-34 notice of the proposed action to the teacher.

27-35 (b) If the teacher desires a hearing after receiving notice  
 27-36 of the proposed discharge, the teacher shall notify the board of  
 27-37 trustees in writing, not later than the 15th day after the date the  
 27-38 teacher receives the notice of the proposed action. The board shall  
 27-39 provide for a hearing to be held not later than the 15th day after  
 27-40 the date the board receives the request for a hearing unless the  
 27-41 parties agree in writing to a different date. The hearing must be  
 27-42 closed unless the teacher requests an open hearing. The hearing  
 27-43 must be conducted in accordance with rules adopted by the board. At  
 27-44 the hearing, the teacher may:

27-45 (1) be represented by a representative of the  
 27-46 teacher's choice;

27-47 (2) hear the evidence supporting the reason for the  
 27-48 discharge;

27-49 (3) cross-examine adverse witnesses; and

27-50 (4) present evidence.

27-51 (c) After the hearing, the board of trustees shall:

27-52 (1) take the appropriate action to discharge the  
 27-53 teacher or allow the teacher to complete the current contract term;  
 27-54 and

27-55 (2) notify the teacher in writing of its decision not  
 27-56 later than the 15th day after the date of the hearing.

27-57 (d) If the teacher does not request a hearing under  
 27-58 Subsection (b), the board of trustees shall take the appropriate  
 27-59 action to discharge the teacher and shall notify the teacher in  
 27-60 writing of that action not later than the 30th day after the date  
 27-61 the notice of proposed discharge for a financial exigency that  
 27-62 requires a reduction in personnel was sent to the teacher.

27-63 SECTION 2A.08. Section 21.251, Education Code, is amended  
 27-64 to read as follows:

27-65 Sec. 21.251. APPLICABILITY. (a) This subchapter applies  
 27-66 if a teacher requests a hearing after receiving notice of the  
 27-67 proposed decision to:

27-68 (1) terminate the teacher's continuing contract at any  
 27-69 time;

28-1 (2) except as provided by Subsection (b)(3), terminate  
28-2 the teacher's probationary or term contract before the end of the  
28-3 contract period; or

28-4 (3) suspend the teacher without pay.

28-5 (b) This subchapter does not apply to:

28-6 (1) a decision to terminate a teacher's employment at  
28-7 the end of a probationary contract; [~~or~~]

28-8 (2) a decision not to renew a teacher's term contract,  
28-9 unless the board of trustees of the employing district has decided  
28-10 to use the process prescribed by this subchapter for that purpose;  
28-11 or

28-12 (3) a decision to terminate a teacher's probationary  
28-13 contract or term contract before the end of the contract period for  
28-14 a financial exigency that requires a reduction in personnel.

28-15 SECTION 2A.09. Subsection (a), Section 21.301, Education  
28-16 Code, is amended to read as follows:

28-17 (a) Not later than the 20th day after the date the board of  
28-18 trustees or board subcommittee announces its decision under Section  
28-19 21.259, [~~or~~] the board advises the teacher of its decision not to  
28-20 renew the teacher's contract under Section 21.208, or the board  
28-21 advises the teacher of its decision to terminate the teacher's  
28-22 probationary contract under Section 21.1041(c) or (d) or term  
28-23 contract under Section 21.2111(c) or (d), the teacher may appeal  
28-24 the decision by filing a petition for review with the commissioner.

28-25 SECTION 2A.10. Subsection (a), Section 21.303, Education  
28-26 Code, is amended to read as follows:

28-27 (a) If the board of trustees decided not to renew a  
28-28 teacher's term contract or decided to terminate a teacher's  
28-29 probationary contract under Section 21.1041(c) or (d) or term  
28-30 contract under Section 21.2111(c) or (d), the commissioner may not  
28-31 substitute the commissioner's judgment for that of the board of  
28-32 trustees unless the decision was arbitrary, capricious, or unlawful  
28-33 or is not supported by substantial evidence.

28-34 SECTION 2A.11. Section 21.402, Education Code, is amended  
28-35 by amending Subsections (a), (c), and (d) and adding Subsections  
28-36 (a-1), (a-2), (c-1), (c-2), and (d-1) to read as follows:

28-37 (a) Except as provided by Subsection (a-1), (a-2), (d), (e),  
28-38 or (f), a school district must pay each classroom teacher,  
28-39 full-time librarian, full-time counselor certified under  
28-40 Subchapter B, or full-time school nurse not less than the minimum  
28-41 monthly salary, based on the employee's level of experience,  
28-42 determined by the following formula:

28-43 
$$MS = SF \times \underline{AA} \text{ [~~FS~~]}$$

28-44 where:

28-45 "MS" is the minimum monthly salary;

28-46 "SF" is the applicable salary factor specified by Subsection  
28-47 (c); and

28-48 "AA" is the accreditation allotment under Section 42.101  
28-49 [~~"FS" is the amount, as determined by the commissioner under~~  
28-50 ~~Subsection (b), of state and local funds per weighted student~~  
28-51 ~~available to a district eligible to receive state assistance under~~  
28-52 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~  
28-53 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~  
28-54 ~~except that the amount of state and local funds per weighted student~~  
28-55 ~~does not include the amount attributable to the increase in the~~  
28-56 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~  
28-57 ~~Legislature, Regular Session, 2001].~~

28-58 (a-1) A school district is not required to pay the minimum  
28-59 salary determined under Subsection (a) to an educator who receives  
28-60 a service retirement annuity under Chapter 824, Government Code.

28-61 (a-2) A school district is not required to pay the minimum  
28-62 salary determined under Subsection (a) to an educator who does not  
28-63 hold a lifetime or standard certificate and who holds a  
28-64 probationary, temporary, or emergency educator certificate.

28-65 (c) The salary factors per step are as follows:

28-66	Years Experience	0	1	2
28-67	Salary Factor	<u>.6451</u> [ <del>+.5656</del> ]	<u>.6584</u> [ <del>+.5790</del> ]	<u>.6719</u> [ <del>+.5924</del> ]
28-68	Years Experience	3	4	5
28-69	Salary Factor	<u>.6851</u> [ <del>+.6058</del> ]	<u>.7133</u> [ <del>+.6340</del> ]	<u>.7414</u> [ <del>+.6623</del> ]

29-1	Years Experience	6	7	8
29-2	Salary Factor	<u>.7695</u> [ <del>.6906</del> ]	<u>.7958</u> [ <del>.7168</del> ]	<u>.8205</u> [ <del>.7416</del> ]
29-3	Years Experience	9	10	11
29-4	Salary Factor	<u>.8440</u> [ <del>.7651</del> ]	<u>.8658</u> [ <del>.7872</del> ]	<u>.8870</u> [ <del>.8082</del> ]
29-5	Years Experience	12	13	14
29-6	Salary Factor	<u>.9067</u> [ <del>.8281</del> ]	<u>.9251</u> [ <del>.8467</del> ]	<u>.9430</u> [ <del>.8645</del> ]
29-7	Years Experience	15	16	17
29-8	Salary Factor	<u>.9595</u> [ <del>.8811</del> ]	<u>.9753</u> [ <del>.8970</del> ]	<u>.9902</u> [ <del>.9119</del> ]
29-9	Years Experience	18	19	20 and over
29-10	Salary Factor	<u>1.004</u> [ <del>.9260</del> ]	<u>1.018</u> [ <del>.9394</del> ]	<u>1.030</u> [ <del>.9520</del> ]
29-11	<u>(c-1) Notwithstanding Subsection (a), for the 2006-2007</u>			
29-12	<u>school year, a classroom teacher, full-time librarian, full-time</u>			
29-13	<u>counselor certified under Subchapter B, or full-time school nurse</u>			
29-14	<u>is entitled to a monthly salary that is at least equal to the sum of:</u>			
29-15	<u>(1) the monthly salary the employee received for the</u>			
29-16	<u>2004-2005 school year, including any local supplement and any money</u>			
29-17	<u>representing a career ladder supplement the employee would have</u>			
29-18	<u>received in the 2005-2006 school year; and</u>			
29-19	<u>(2) \$350.</u>			
29-20	<u>(c-2) Subsections (c) and (c-1) apply beginning with the</u>			
29-21	<u>2006-2007 school year, but only if H.B. No. 3, Acts of the 79th</u>			
29-22	<u>Legislature, 2nd Called Session, 2005, takes effect immediately.</u>			
29-23	<u>As necessary, for the 2005-2006 and 2006-2007 school years, the</u>			
29-24	<u>commissioner shall compute salary factors under Subsection (c) and</u>			
29-25	<u>amounts under Subsection (c-1)(2) to reflect the following monthly</u>			
29-26	<u>salary increases, relative to the preceding school year, for those</u>			
29-27	<u>employees:</u>			
29-28	<u>(1) for the 2005-2006 school year:</u>			
29-29	<u>(A) if H.B. No. 3, Acts of the 79th Legislature,</u>			
29-30	<u>2nd Called Session, 2005, does not take effect immediately, \$150;</u>			
29-31	<u>and</u>			
29-32	<u>(B) if H.B. No. 3, Acts of the 79th Legislature,</u>			
29-33	<u>2nd Called Session, 2005, takes effect immediately, \$200; and</u>			
29-34	<u>(2) for the 2006-2007 school year, \$150.</u>			
29-35	<u>(d) A classroom teacher, full-time librarian, full-time</u>			
29-36	<u>counselor certified under Subchapter B, or full-time school nurse</u>			
29-37	<u>employed by a school district in the 2006-2007 [<del>2000-2001</del>] school</u>			
29-38	<u>year is, as long as the employee is employed by the same district,</u>			
29-39	<u>entitled to a salary that is at least equal to the salary the</u>			
29-40	<u>employee received for the 2006-2007 [<del>2000-2001</del>] school year.</u>			
29-41	<u>(d-1) A classroom teacher, full-time librarian, full-time</u>			
29-42	<u>counselor certified under Subchapter B, or full-time nurse may</u>			
29-43	<u>elect to receive a portion of the person's annual salary as health</u>			
29-44	<u>care supplementation as provided by Chapter 1580, Insurance Code.</u>			
29-45	<u>SECTION 2A.12. Subchapter J, Chapter 21, Education Code, is</u>			
29-46	<u>amended by adding Section 21.458 to read as follows:</u>			
29-47	<u>Sec. 21.458. MENTORS. (a) Each school district may assign</u>			
29-48	<u>a mentor teacher to each classroom teacher who has less than two</u>			
29-49	<u>years of teaching experience if the mentor:</u>			
29-50	<u>(1) teaches in the same school;</u>			
29-51	<u>(2) to the extent practicable, teaches the same</u>			
29-52	<u>subject or grade level, as applicable; and</u>			
29-53	<u>(3) meets the qualifications prescribed by</u>			
29-54	<u>commissioner rules adopted under Subsection (b).</u>			
29-55	<u>(b) The commissioner shall adopt rules necessary to</u>			
29-56	<u>administer this section, including rules concerning the duties and</u>			
29-57	<u>qualifications of a teacher who serves as a mentor. The rules</u>			
29-58	<u>concerning qualifications must require that to serve as a mentor a</u>			
29-59	<u>teacher must:</u>			
29-60	<u>(1) complete a research-based mentor and induction</u>			
29-61	<u>training program approved by the commissioner;</u>			
29-62	<u>(2) complete a mentor training program provided by the</u>			
29-63	<u>district; and</u>			
29-64	<u>(3) have at least three complete years of teaching</u>			
29-65	<u>experience with a proven record of assisting students, as a whole,</u>			
29-66	<u>in achieving growth in performance.</u>			
29-67	<u>(c) The commissioner shall develop proposed rules under</u>			
29-68	<u>Subsection (b) by negotiated rulemaking as provided by Chapter</u>			
29-69	<u>2008, Government Code.</u>			

30-1 (d) From the funds appropriated to the agency for purposes  
 30-2 of this section, the commissioner shall adopt rules and provide  
 30-3 funding to school districts that assign mentor teachers under this  
 30-4 section. Funding provided to districts under this subsection may  
 30-5 be used only for providing:

30-6 (1) mentor teacher stipends;  
 30-7 (2) scheduled time for mentor teachers to provide  
 30-8 mentoring to assigned classroom teachers; and  
 30-9 (3) mentoring support through providers of mentor  
 30-10 training.

30-11 (e) In adopting rules under Subsection (d), the  
 30-12 commissioner shall rely on research-based mentoring programs that,  
 30-13 through external evaluation, have demonstrated success.

30-14 (f) If insufficient funds are appropriated to the agency for  
 30-15 purposes of this section, in providing funding under this section  
 30-16 the commissioner shall give preference to a school district:

30-17 (1) that has an unsatisfactory teacher retention rate;  
 30-18 (2) that has an unsatisfactory high school graduation  
 30-19 rate;

30-20 (3) that has an unsatisfactory dropout rate; or  
 30-21 (4) in which a high percentage of district students  
 30-22 perform unsatisfactorily on assessment instruments administered  
 30-23 under Section 39.023.

30-24 (g) The commissioner shall annually evaluate the  
 30-25 effectiveness of school district mentor programs established under  
 30-26 this section. The evaluation must consider:

30-27 (1) the performance of students in districts that  
 30-28 assign mentor teachers under this section on assessment instruments  
 30-29 administered under Section 39.023;

30-30 (2) the districts' high school graduation rates; and

30-31 (3) the districts' teacher attrition rates.

30-32 SECTION 2A.13. Chapter 21, Education Code, is amended by  
 30-33 adding Subchapter N to read as follows:

30-34 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

30-35 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM.

30-36 (a) The commissioner shall establish an educator excellence  
 30-37 incentive program under which school districts, in accordance with  
 30-38 locally developed plans approved by the commissioner, provide  
 30-39 incentive payments to employees whose students demonstrate  
 30-40 successful annual individual student growth in achievement.

30-41 (b) From funds appropriated for the purpose of this  
 30-42 subchapter, the commissioner shall award incentive payments to each  
 30-43 school district with a local incentive plan approved by the  
 30-44 commissioner. The commissioner shall distribute the incentive  
 30-45 payments each year to a qualifying school district on the basis of  
 30-46 the district's actual average daily attendance for the preceding  
 30-47 school year. The total amount of incentive payments made to school  
 30-48 districts from funds appropriated for the incentive program under  
 30-49 this subchapter may not exceed \$100 million each fiscal year.

30-50 (b-1) The commissioner may not award incentive payments to  
 30-51 school districts under this subchapter before the 2006-2007 school  
 30-52 year. This subsection expires September 1, 2007.

30-53 (c) Except as provided by Subsections (d) and (e), each year  
 30-54 a school district shall use funds received by the district under  
 30-55 this subchapter to provide campus-based incentive payments in  
 30-56 accordance with this subchapter.

30-57 (d) A school district with an enrollment of less than 1,600  
 30-58 may use all of the funds received under this subchapter to provide  
 30-59 stipends under Subsection (e).

30-60 (e) A school district may use an amount not to exceed 50  
 30-61 percent of the funds received under this subchapter to provide  
 30-62 stipends to:

30-63 (1) teachers who are certified in a curriculum subject  
 30-64 area in which the district is experiencing a shortage of qualified  
 30-65 teachers, as determined by the commissioner;

30-66 (2) teachers who serve as mentors in accordance with  
 30-67 Section 21.458;

30-68 (3) teachers who are assigned, during the first three  
 30-69 years of the assignment, to a campus that is difficult to staff,

31-1 according to standards established by the board of trustees of the  
 31-2 district, including a rural or academically unacceptable campus;  
 31-3 and

31-4 (4) teachers who are certified by the National Board  
 31-5 for Professional Teaching Standards or who are seeking that  
 31-6 certification.

31-7 (f) The commissioner shall adopt rules necessary to  
 31-8 implement this subchapter. In adopting rules, the commissioner  
 31-9 shall:

31-10 (1) include criteria and guidelines for evaluating  
 31-11 local incentive plans; and

31-12 (2) encourage local flexibility in designing local  
 31-13 incentive plans that promote student achievement.

31-14 (g) The commissioner shall annually evaluate the  
 31-15 effectiveness of the educator excellence incentive program for  
 31-16 improving student performance on at-risk campuses established  
 31-17 under this section. The evaluation must consider:

31-18 (1) the performance of students in districts and  
 31-19 participating campuses under this section on assessment  
 31-20 instruments administered under Section 39.023;

31-21 (2) the districts' and participating campuses' high  
 31-22 school graduation and completion rates; and

31-23 (3) the districts' and participating campuses' teacher  
 31-24 attrition rates.

31-25 Sec. 21.652. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

31-26 (a) A school district shall develop a local incentive plan for  
 31-27 rewarding successful annual individual student growth in  
 31-28 achievement in the district and submit the plan to the commissioner  
 31-29 for approval.

31-30 (b) A local incentive plan must be designed to reward  
 31-31 campuses.

31-32 (c) The primary criteria for making incentive payments to  
 31-33 employees under a local incentive plan must be based on objective  
 31-34 measures of student achievement, including a measure of annual  
 31-35 individual student growth in achievement under Section 39.034, and  
 31-36 the plan must provide for incentive payments to be awarded on the  
 31-37 basis of high achievement, incremental growth in achievement, or  
 31-38 both. A local incentive plan may also consider other indicators of  
 31-39 employee performance, such as teacher evaluations conducted by  
 31-40 principals or parents.

31-41 (d) A local incentive plan must:

31-42 (1) be developed through a process that includes  
 31-43 participation of classroom teachers in the school district; and

31-44 (2) be approved by the district-level planning and  
 31-45 decision-making committee.

31-46 (e) The campus-level planning and decision-making committee  
 31-47 shall determine the appropriate distribution of funds received by a  
 31-48 campus under this subchapter.

31-49 Sec. 21.653. EMPLOYMENT CONTRACTS.

31-50 (a) A school district shall provide in employment contracts that qualifying employees may  
 31-51 receive an incentive payment under the local incentive plan.

31-52 (b) The school district shall indicate that any incentive  
 31-53 payment distributed is considered a bonus for performance and not  
 31-54 an entitlement as part of an employee's salary.

31-55 Sec. 21.654. DECISION REGARDING INCENTIVE PAYMENTS.

31-56 A decision in providing an incentive payment under a local incentive  
 31-57 plan approved under this subchapter is final and may not be  
 31-58 appealed.

31-59 SECTION 2A.14. Subchapter A, Chapter 22, Education Code, is  
 31-60 amended by adding Section 22.008 to read as follows:

31-61 Sec. 22.008. WAGE INCREASE FOR SUPPORT STAFF.

31-62 (a) A school district each school year shall pay each full-time district  
 31-63 employee, other than an administrator or an employee subject to the  
 31-64 minimum salary schedule under Section 21.402, an amount at least  
 31-65 equal to \$1,000.

31-66 (b) A school district each school year shall pay each  
 31-67 part-time district employee, other than an administrator, an amount  
 31-68 at least equal to \$500.

31-69 (c) A school district employee entitled to a wage increase

32-1 under this section may elect to receive a portion of the person's  
32-2 annual wages as health care supplementation as provided by Chapter  
32-3 1580, Insurance Code.

32-4 (d) A payment under this section is in addition to wages the  
32-5 district would otherwise pay the employee during the school year.

32-6 SECTION 2A.15. Subchapter A, Chapter 29, Education Code, is  
32-7 amended by adding Section 29.019 to read as follows:

32-8 Sec. 29.019. SPEECH-LANGUAGE INSTRUCTION: ASSISTANTS.

32-9 (a) This section applies to an assistant who:

32-10 (1) has at least three years of experience in speech  
32-11 therapy, as determined by the State Board of Examiners for  
32-12 Speech-Language Pathology and Audiology; and

32-13 (2) is supervised by a licensed speech-language  
32-14 pathologist.

32-15 (b) An assistant described by Subsection (a) may attend, as  
32-16 related services personnel, a student admission, review, and  
32-17 dismissal committee meeting if the meeting involves a student for  
32-18 whom the assistant provides services. If an assistant attends a  
32-19 meeting as provided by this section, the supervising  
32-20 speech-language pathologist is not required to attend the meeting,  
32-21 except as provided by Subsection (c).

32-22 (c) A supervising speech-language pathologist must attend a  
32-23 committee meeting under Subsection (b):

32-24 (1) if the purpose of the committee meeting is to  
32-25 develop a student's initial individualized education program under  
32-26 Section 29.005; or

32-27 (2) if the purpose of the committee meeting is to  
32-28 consider the student's dismissal, unless the supervising  
32-29 speech-language pathologist has submitted the pathologist's  
32-30 recommendation in writing on or before the date of the meeting.

32-31 (d) This section:

32-32 (1) does not create, increase, decrease, or otherwise  
32-33 affect a supervising speech-language pathologist's liability for  
32-34 actions taken by an assistant; and

32-35 (2) is not a waiver of a school district's sovereign  
32-36 immunity.

32-37 SECTION 2A.16. Effective September 1, 2006, Subchapter D,  
32-38 Chapter 54, Education Code, is amended by adding Section 54.220 to  
32-39 read as follows:

32-40 Sec. 54.220. CHILDREN OF CLASSROOM TEACHERS. (a) In this  
32-41 section:

32-42 (1) "Child" means a child of any age, including an  
32-43 adult child. The term includes an adopted child.

32-44 (2) "Classroom teacher" has the meaning assigned by  
32-45 Section 5.001.

32-46 (b) For purposes of this section, a person is another  
32-47 person's child if the other person is the person's natural or  
32-48 adoptive parent, managing or possessory conservator, or legal  
32-49 guardian.

32-50 (c) The governing board of an institution of higher  
32-51 education shall exempt from the payment of tuition or from the  
32-52 payment of required fees for an academic year an eligible  
32-53 undergraduate student who is a child of an eligible classroom  
32-54 teacher and is designated by the classroom teacher to receive the  
32-55 exemption.

32-56 (d) A classroom teacher is eligible to designate the  
32-57 teacher's child to receive an exemption under this section for an  
32-58 academic year if, at the beginning of the academic year, the teacher  
32-59 is employed full-time as a classroom teacher by a school district in  
32-60 this state and maintains that employment throughout the school year  
32-61 that corresponds to the academic year.

32-62 (e) An undergraduate student is eligible for an exemption  
32-63 for an academic year under this section only if the student is a  
32-64 resident of this state for purposes of Subchapter B or is otherwise  
32-65 entitled to pay tuition and fees at the rate provided for residents  
32-66 of this state. A student who receives an exemption for an initial  
32-67 academic period is eligible for an exemption for a subsequent  
32-68 academic period only if the student has earned an overall grade  
32-69 point average of at least 2.5 on a four-point scale or the



33-1 equivalent on course work previously attempted at institutions of  
 33-2 higher education.

33-3 (f) On the completion of a classroom teacher's 15th year of  
 33-4 service, the teacher earns either an exemption from the payment of  
 33-5 tuition or an exemption from the payment of required fees for one  
 33-6 academic year for the benefit of one child. For each year of  
 33-7 service that exceeds 15 years, the classroom teacher earns an  
 33-8 additional tuition exemption or an additional fee exemption for one  
 33-9 academic year for the benefit of one child. The classroom teacher  
 33-10 may elect the type of exemption the child may receive under this  
 33-11 section at the time the teacher designates the child to receive the  
 33-12 exemption. The exemption earned by a classroom teacher for one year  
 33-13 of service may be used for the benefit of only one child. Years of  
 33-14 service as a classroom teacher are not required to be consecutive.  
 33-15 A classroom teacher may not designate a child to receive an  
 33-16 exemption under this section for an academic year unless the  
 33-17 teacher's most recent five years of service were in this state.

33-18 (g) A classroom teacher with at least 19 years of service  
 33-19 may elect to use any earned but unused exemptions toward the payment  
 33-20 of both the tuition and the required fees of one child during an  
 33-21 academic year or to use the unused exemptions toward the payment of  
 33-22 the tuition or the required fees, or both tuition and fees as  
 33-23 permitted by the number of unclaimed exemptions, of more than one  
 33-24 child during an academic year. Two classroom teachers may  
 33-25 aggregate years of service to earn one or more exemptions for the  
 33-26 benefit of one or more of their children in common, but each  
 33-27 classroom teacher must maintain eligibility under Subsection (d)  
 33-28 during the academic period for which the exemption is used.

33-29 (h) If an undergraduate student fails to meet any  
 33-30 eligibility requirement of Subsection (e) for an academic period,  
 33-31 the student may not receive an exemption under this section for that  
 33-32 academic period. An undergraduate student may become eligible to  
 33-33 receive the exemption in a subsequent academic period of the same  
 33-34 academic year if the student reestablishes eligibility before that  
 33-35 period begins.

33-36 (i) If a classroom teacher whose child receives an exemption  
 33-37 earned by the teacher under this section does not remain employed as  
 33-38 required by Subsection (d), the student may not receive an  
 33-39 exemption for a subsequent academic period of the same academic  
 33-40 year under this section until the next academic period that begins  
 33-41 after the classroom teacher reestablishes eligibility under  
 33-42 Subsection (d).

33-43 (j) An institution of higher education may require an  
 33-44 undergraduate student to pay prorated tuition or required fees, as  
 33-45 applicable, for an academic period if the student's eligibility for  
 33-46 the exemption under Subsection (e) or the teacher's eligibility for  
 33-47 the exemption under Subsection (d) is lost during that period.

33-48 (k) An undergraduate student is not eligible to receive an  
 33-49 exemption under this section if the person:

33-50 (1) subject to Subsection (l), has previously received  
 33-51 an exemption under this section for four academic years at any  
 33-52 institution or institutions of higher education; or

33-53 (2) has received a baccalaureate degree.

33-54 (l) An undergraduate student who, for any reason other than  
 33-55 a loss of relevant eligibility of the student or the classroom  
 33-56 teacher, fails to use an exemption from the payment of tuition or an  
 33-57 exemption from the payment of required fees in one or more academic  
 33-58 periods in the academic year for which the student is designated to  
 33-59 receive the exemption may carry forward and use that exemption in an  
 33-60 academic period of substantially similar length in a subsequent  
 33-61 academic year. The student may use only one exemption for each  
 33-62 academic period under this subsection unless the use of more than  
 33-63 one exemption is permitted under Subsection (g).

33-64 (m) The Texas Higher Education Coordinating Board shall  
 33-65 adopt:

33-66 (1) rules prescribing procedures by which a classroom  
 33-67 teacher may designate a child to receive an exemption under this  
 33-68 section, including rules relating to the determination of a  
 33-69 student's eligibility for an exemption or a classroom teacher's

34-1 eligibility to designate a child to receive an exemption;

34-2 (2) rules to allow an otherwise eligible student to  
 34-3 receive an exemption under this section if the student is unable to  
 34-4 satisfy the grade point average requirement of Subsection (e)  
 34-5 solely as a result of a hardship or other good cause; and

34-6 (3) a uniform application form for an exemption under  
 34-7 this section.

34-8 (n) The legislature shall account in the General  
 34-9 Appropriations Act for the exemptions authorized by this section in  
 34-10 a manner that provides a corresponding increase in the general  
 34-11 revenue funds appropriated to the institution granting an  
 34-12 exemption.

34-13 (o) Notwithstanding any other provision of this section,  
 34-14 only the following undergraduate students who meet the eligibility  
 34-15 requirements of Subsection (e) are eligible to receive an exemption  
 34-16 under this section:

34-17 (1) in the 2006-2007 academic year, a student who has  
 34-18 completed less than 30 semester credit hours at any institution of  
 34-19 higher education;

34-20 (2) in the 2007-2008 academic year, a student who has  
 34-21 completed less than 60 semester credit hours at any institution of  
 34-22 higher education; and

34-23 (3) in the 2008-2009 academic year, a student who has  
 34-24 completed less than 90 semester credit hours at any institution of  
 34-25 higher education.

34-26 (p) This subsection and Subsection (o) expire September 1,  
 34-27 2009.

34-28 SECTION 2A.17. Subsection (e), Section 11.201, Education  
 34-29 Code, as added by this Act, applies only to a contract between a  
 34-30 superintendent of a school district and a business entity that is  
 34-31 entered into on or after September 1, 2005. A contract between a  
 34-32 superintendent of a school district and a business entity that is  
 34-33 entered into before September 1, 2005, is governed by the law in  
 34-34 effect on the date the contract is entered into, and the former law  
 34-35 is continued in effect for that purpose.

34-36 SECTION 2A.18. (a) As soon as possible after September 1,  
 34-37 2005, the State Board for Educator Certification shall review the  
 34-38 rules adopted under Section 21.044, Education Code, relating to  
 34-39 educator training requirements and revise those rules as necessary  
 34-40 to ensure that the training requirements are sufficient to produce  
 34-41 educators capable of:

34-42 (1) satisfying the increased standards for highly  
 34-43 qualified educators prescribed by the No Child Left Behind Act of  
 34-44 2001 (Pub. L. No. 107-110);

34-45 (2) complying with certification standards in this  
 34-46 state; and

34-47 (3) teaching students in a manner that results in the  
 34-48 highest level of student performance.

34-49 (b) In conducting the review required by Subsection (a) of  
 34-50 this section, the State Board for Educator Certification shall give  
 34-51 specific attention to the degree to which educator training  
 34-52 requirements prepare educators to serve students of limited English  
 34-53 proficiency and students with learning disabilities.

34-54 SECTION 2A.19. Sections 21.104, 21.251, 21.301, and 21.303,  
 34-55 Education Code, as amended by this Act, and Sections 21.1041 and  
 34-56 21.2111, Education Code, as added by this Act, apply only to a  
 34-57 discharge under a probationary or term contract for which written  
 34-58 notice of the proposed discharge is given to a teacher on or after  
 34-59 September 1, 2005. A discharge under a probationary or term  
 34-60 contract for which written notice of the proposed discharge is  
 34-61 given to a teacher before September 1, 2005, is governed by the law  
 34-62 in effect when the notice is given, and the former law is continued  
 34-63 in effect for that purpose.

34-64 SECTION 2A.20. Subsection (a-1), Section 21.402, Education  
 34-65 Code, as added by this Act, does not apply to the salary of an  
 34-66 educator employed under a contract entered into before the  
 34-67 effective date of this Act.

34-68 SECTION 2A.21. Subsection (a-2), Section 21.402, Education  
 34-69 Code, as added by this Act, does not apply to the salary of an

educator employed under a contract entered into before the effective date of this Act.

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

PART B. ADMINISTRATIVE EFFICIENCY

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

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

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

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

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

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

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

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

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

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

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

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

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

36-1 (d) The commissioner shall adopt rules as necessary to  
 36-2 administer this section. The rules adopted under this subsection  
 36-3 must ensure that:

36-4 (1) the funds management information system includes:  
 36-5 (A) the information described by Subsection (c)  
 36-6 for all funding sources for services described by Section 29.092  
 36-7 for students at risk of dropping out of school, excluding funding  
 36-8 information relating to a compensatory, intensive, or accelerated  
 36-9 instruction program under Section 29.081, a disciplinary  
 36-10 alternative education program established under Section 37.008, or  
 36-11 a program eligible under Title I of the Elementary and Secondary  
 36-12 Education Act of 1965, as provided by Pub. L. No. 103-382; and

36-13 (B) all state funds and federal pass-through  
 36-14 funds targeting students at risk of dropping out of school;

36-15 (2) the system is compatible with and is regularly  
 36-16 reconciled with the agency's central accounting system; and

36-17 (3) aggregate funding information is readily  
 36-18 available to agency personnel and policy makers, including  
 36-19 aggregate funding information relating to a compensatory,  
 36-20 intensive, or accelerated instruction program under Section  
 36-21 29.081, a disciplinary alternative education program established  
 36-22 under Section 37.008, or a program eligible under Title I of the  
 36-23 Elementary and Secondary Education Act of 1965, as provided by Pub.  
 36-24 L. No. 103-382.

36-25 SECTION 2B.03. Subchapter B, Chapter 7, Education Code, is  
 36-26 amended by adding Section 7.033 to read as follows:

36-27 Sec. 7.033. QUALITY MANAGEMENT CERTIFICATION PROGRAM.

36-28 (a) The commissioner by rule shall adopt a quality management  
 36-29 certification program to encourage school districts and  
 36-30 open-enrollment charter schools to obtain International  
 36-31 Organization for Standardization ISO 9000 quality management  
 36-32 certification.

36-33 (b) The commissioner by rule shall identify areas of  
 36-34 compliance in which the quality management certification program  
 36-35 would enhance performance, including:

36-36 (1) compliance with federal law and regulations;  
 36-37 (2) financial accountability, including compliance  
 36-38 with grant requirements; and

36-39 (3) data integrity for purposes of:  
 36-40 (A) the Public Education Information Management  
 36-41 System (PEIMS); and

36-42 (B) accountability under Chapter 39.

36-43 (c) For each school district or open-enrollment charter  
 36-44 school that obtains International Organization for Standardization  
 36-45 ISO 9000 series quality management program certification, the  
 36-46 commissioner by rule shall require specific performance measures  
 36-47 that relate to improvement in:

36-48 (1) student performance;  
 36-49 (2) administrative efficiency;  
 36-50 (3) business processes; and  
 36-51 (4) integration and use of educational technology.

36-52 (d) For purposes of compliance monitoring, discretionary  
 36-53 grant administration, and reporting to the Public Education  
 36-54 Information Management System (PEIMS) and under the Education  
 36-55 Flexibility Partnership Act of 1999 (20 U.S.C. Section 5891a et  
 36-56 seq.), the commissioner by rule shall develop a method for  
 36-57 recognizing a school district or open-enrollment charter school  
 36-58 that receives and maintains International Organization for  
 36-59 Standardization ISO 9000 quality management certification.

36-60 SECTION 2B.04. Subchapter A, Chapter 11, Education Code, is  
 36-61 amended by adding Section 11.003 to read as follows:

36-62 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later  
 36-63 than December 1, 2005, the commissioner shall evaluate the  
 36-64 feasibility of including a uniform indicator under Section  
 36-65 39.202(b) that measures effective administrative management  
 36-66 through the use of cooperative shared service arrangements. If the  
 36-67 commissioner determines that the adoption of a uniform indicator  
 36-68 described by this subsection is feasible, the commissioner by rule  
 36-69 shall include the indicator in the financial accountability rating

37-1 system under Subchapter I, Chapter 39, for school districts  
 37-2 beginning with the 2006-2007 school year. This subsection expires  
 37-3 September 1, 2007.

37-4 (b) Each regional education service center shall:

37-5 (1) notify each school district served by the center  
 37-6 regarding the opportunities available through the center for  
 37-7 cooperative shared service arrangements within the center's  
 37-8 service area; and

37-9 (2) evaluate the need for cooperative shared service  
 37-10 arrangements within the center's service area and consider  
 37-11 expanding center-sponsored cooperative shared service  
 37-12 arrangements.

37-13 (c) Each regional education service center shall assist a  
 37-14 school district board of trustees in entering into an agreement  
 37-15 with another district or political subdivision, a regional  
 37-16 education service center, or an institution of higher education as  
 37-17 defined by Section 61.003, for a cooperative shared service  
 37-18 arrangement regarding administrative services, including  
 37-19 transportation, food service, purchasing, and payroll functions.

37-20 (d) The commissioner may require a district or an  
 37-21 open-enrollment charter school to enter into an agreement for a  
 37-22 cooperative shared service arrangement if the commissioner  
 37-23 determines that the financial management performance of the  
 37-24 district or school is unsatisfactory.

37-25 SECTION 2B.05. Subchapter D, Chapter 11, Education Code, is  
 37-26 amended by adding Section 11.169 to read as follows:

37-27 Sec. 11.169. CERTIFICATION FOR QUALITY MANAGEMENT  
 37-28 STANDARDS. Each school district may apply for International  
 37-29 Organization for Standardization ISO 9000 certification for  
 37-30 quality management standards and apply for renewal of that  
 37-31 certification, as applicable.

37-32 SECTION 2B.06. Subchapter A, Chapter 28, Education Code, is  
 37-33 amended by adding Section 28.0022 to read as follows:

37-34 Sec. 28.0022. CURRICULUM MANAGEMENT ASSISTANCE. (a) The  
 37-35 commissioner shall identify available curriculum management  
 37-36 materials recommended by school districts that may be used to  
 37-37 assist school districts in:

37-38 (1) understanding the depth and complexity of the  
 37-39 essential knowledge and skills identified under Section 28.002(c)  
 37-40 for each subject in the foundation curriculum under Section  
 37-41 28.002(a)(1); and

37-42 (2) based on learning standards:

37-43 (A) developing model instructional plans and  
 37-44 diagnostic tools;

37-45 (B) aligning curriculum objectives to district  
 37-46 instructional resources; and

37-47 (C) differentiating instruction in recognition  
 37-48 of the needs of individual students.

37-49 (b) Unless otherwise prohibited by law, the commissioner  
 37-50 may use federal funds to implement this section.

37-51 (c) Not later than January 1, 2007, the commissioner shall  
 37-52 prepare and submit to the legislature a report that describes in  
 37-53 detail:

37-54 (1) the curriculum management materials identified  
 37-55 under Subsection (a);

37-56 (2) the costs associated with making the materials  
 37-57 available to school districts; and

37-58 (3) the manner in which technological applications may  
 37-59 be used to make the materials available and allow school districts  
 37-60 to use the materials.

37-61 (d) Subsection (c) and this subsection expire January 31,  
 37-62 2007.

37-63 SECTION 2B.07. Subchapter C, Chapter 29, Education Code, is  
 37-64 amended by adding Sections 29.092, 29.093, and 29.094 to read as  
 37-65 follows:

37-66 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES  
 37-67 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this  
 37-68 section, "student at risk of dropping out of school" has the meaning  
 37-69 described by Section 29.081.

38-1 (b) To enable school districts and open-enrollment charter  
 38-2 schools to provide supplemental programs and services for the  
 38-3 benefit of students at risk of dropping out of school, the  
 38-4 commissioner each school year shall award funds to a school  
 38-5 district or open-enrollment charter school in accordance with a  
 38-6 streamlined and simplified grant process developed by the  
 38-7 commissioner. To the extent practicable, the grant process  
 38-8 developed by the commissioner under this subsection must comply  
 38-9 with Subchapter E, Chapter 7.

38-10 (c) The commissioner shall consolidate funding from the  
 38-11 following currently funded programs and types of services,  
 38-12 excluding early childhood care and education programs and  
 38-13 accelerated reading or mathematics initiatives under Section  
 38-14 28.006, 28.007, or 28.0211:

38-15 (1) an optional extended year program under Section  
 38-16 29.082;

38-17 (2) a basic skills program for high school students  
 38-18 under Section 29.086;

38-19 (3) a summer school program of instruction for  
 38-20 students of limited English proficiency; and

38-21 (4) a grant for pregnancy-related services, including  
 38-22 a pregnancy, education, and parenting program.

38-23 (d) The commissioner may redistribute the funding of  
 38-24 programs described under Subsection (c) as necessary to accomplish  
 38-25 the purpose of improving the achievement of students at risk of  
 38-26 dropping out of school.

38-27 (e) A school district or open-enrollment charter school  
 38-28 that receives an award of funds under this section may use the funds  
 38-29 to provide academic and support services to students at risk of  
 38-30 dropping out of school, including:

38-31 (1) services designed to provide intensive academic  
 38-32 instruction to increase student success and high school completion;

38-33 (2) services designed to provide intensive academic  
 38-34 instruction for and reduce the dropout rate of students at risk of  
 38-35 dropping out of school;

38-36 (3) after-school academic and support services;

38-37 (4) intensive instruction for preschool and  
 38-38 school-age students of limited English proficiency;

38-39 (5) any academic or support services for pregnant or  
 38-40 parenting students, including basic instruction and health and life  
 38-41 skills training and support for pregnant or parenting students;

38-42 (6) community-based services designed to address the  
 38-43 needs of students at risk of dropping out of school;

38-44 (7) programs or services designed to promote the  
 38-45 involvement of parents of students at risk of dropping out of  
 38-46 school; and

38-47 (8) services or programs promoting school and  
 38-48 community collaboration to restructure schools for the successful  
 38-49 achievement of all students, especially students at risk of  
 38-50 dropping out of school.

38-51 (f) The agency shall make available research-based guidance  
 38-52 to districts and open-enrollment charter schools to enable  
 38-53 successful implementation of the academic and support services  
 38-54 described by Subsection (e) that assist students at risk of  
 38-55 dropping out of school to succeed in school.

38-56 (g) Not later than November 1 of each year, a school  
 38-57 district or open-enrollment charter school may submit an  
 38-58 application for funding for programs or services under this  
 38-59 section. The school district or open-enrollment charter school  
 38-60 must include an assessment of needs for students at risk of dropping  
 38-61 out of school, a comprehensive plan for providing services for  
 38-62 those students based on the agency's research-based implementation  
 38-63 guidance provided under Subsection (f), and a report of all sources  
 38-64 of funding for providing services for those students. The  
 38-65 commissioner shall distribute an award of funds in the form of a  
 38-66 block grant not later than March 15 of each year.

38-67 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and  
 38-68 the Legislative Budget Board shall jointly develop a request for  
 38-69 proposals for a qualified third party to conduct a comprehensive

39-1 cost-outcome analysis of federal and state funding for programs  
 39-2 targeting students at risk of dropping out of school, as described  
 39-3 by Section 29.081, and the impact of those programs on student  
 39-4 achievement outcomes. In order to be qualified under this section,  
 39-5 a party must at a minimum have experience in educational program  
 39-6 evaluation and statistical analysis of public education data.

39-7 (b) The cost-outcome methodology developed by the  
 39-8 contractor under this section is subject to joint review and  
 39-9 approval by the agency and the Legislative Budget Board. The  
 39-10 cost-outcome analysis at a minimum must consist of the following  
 39-11 components:

39-12 (1) a methodology for assessing the  
 39-13 cost-effectiveness of individual school districts and  
 39-14 open-enrollment charter schools in providing services to students  
 39-15 at risk of dropping out of school;

39-16 (2) performance measures that can be used to assess  
 39-17 the effectiveness of school districts and open-enrollment charter  
 39-18 schools in administering academic and social service programs for  
 39-19 students at risk of dropping out of school;

39-20 (3) a methodology for evaluating best practices in  
 39-21 providing effective services for students at risk of dropping out  
 39-22 of school;

39-23 (4) a statistical methodology for:

39-24 (A) controlling for differences among individual  
 39-25 school districts and open-enrollment charter schools that are not  
 39-26 related to funding streams included in the cost-outcome analysis;  
 39-27 and

39-28 (B) disaggregating data by peer groups;

39-29 (5) a methodology for computing the relative impact of  
 39-30 funding sources on student achievement outcomes; and

39-31 (6) a methodology for reporting disaggregated results  
 39-32 for students at risk of dropping out of school.

39-33 (c) The agency and the Legislative Budget Board shall:

39-34 (1) not later than December 1 of each year:

39-35 (A) report findings from the cost-outcome  
 39-36 analysis to the lieutenant governor, the speaker of the house of  
 39-37 representatives, and the presiding officer of the standing  
 39-38 committee of each house of the legislature with primary  
 39-39 jurisdiction over public education, including data related to the  
 39-40 feasibility of constructing a cost-effectiveness measure for  
 39-41 school districts and open-enrollment charter schools;

39-42 (B) make recommendations for the potential use of  
 39-43 the data, including the best methods to disseminate the information  
 39-44 to parents and school districts and open-enrollment charter  
 39-45 schools; and

39-46 (C) make the report and recommendations  
 39-47 described by Paragraphs (A) and (B) available to the public; and

39-48 (2) during the 2006-2007 school year, develop a plan  
 39-49 to implement the cost-outcome methodology to assess the  
 39-50 effectiveness of school districts and open-enrollment charter  
 39-51 schools in providing services during the 2007-2008 school year to  
 39-52 students at risk of dropping out of school.

39-53 (d) During the state fiscal biennium beginning September 1,  
 39-54 2005, the commissioner shall retain an amount not to exceed  
 39-55 \$500,000 from the total amount of funds allotted under the  
 39-56 Foundation School Program to finance the comprehensive  
 39-57 cost-outcome analysis and shall reduce the total amount of state  
 39-58 funds allocated to each district from any source in the same manner  
 39-59 described for a reduction in allotments under Section 42.253.

39-60 (e) This section expires September 1, 2010.

39-61 Sec. 29.094. TEMPORARY PROVISION: COMMISSIONER'S  
 39-62 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a  
 39-63 cost-outcome analysis methodology for use in assessing the  
 39-64 effectiveness of school districts and open-enrollment charter  
 39-65 schools in providing services for students at risk of dropping out  
 39-66 of school, as described by Section 29.081. The commissioner shall  
 39-67 use the adopted methodology until the commissioner determines that  
 39-68 an alternate methodology approved by the agency and the Legislative  
 39-69 Budget Board under Section 29.093(b) more accurately portrays the

40-1 cost-effectiveness of the analyzed services.

40-2 (b) The methodology adopted by the commissioner must  
40-3 include the following components:

40-4 (1) a composite performance measure that combines key  
40-5 indicators of student performance, disaggregated for students at  
40-6 risk of dropping out of school;

40-7 (2) a format for reporting all state, federal, local,  
40-8 and private sources of funding and total expenditures for  
40-9 supplemental services for students at risk of dropping out of  
40-10 school, reported by school district, by open-enrollment charter  
40-11 school, and statewide; and

40-12 (3) a system for scoring and ranking school districts  
40-13 and open-enrollment charter schools, including criteria for  
40-14 establishing school district and open-enrollment charter school  
40-15 peer groups for comparison purposes.

40-16 (c) Based on the cost-outcome analysis methodology, the  
40-17 commissioner shall use the ranking system under Subsection (b)(3)  
40-18 to determine annually the level at which school districts and  
40-19 open-enrollment charter schools are cost-effective in serving  
40-20 students at risk of dropping out of school.

40-21 (d) Not later than December 1 of each year, the commissioner  
40-22 shall:

40-23 (1) report the methodology and the results of the  
40-24 cost-outcome analysis to the lieutenant governor, the speaker of  
40-25 the house of representatives, and the presiding officer of the  
40-26 standing committee of each house of the legislature with primary  
40-27 jurisdiction over public education; and

40-28 (2) make the report under Subdivision (1) available to  
40-29 the public.

40-30 (e) This section expires on the earlier of the approval of a  
40-31 cost-outcome methodology by the agency and the Legislative Budget  
40-32 Board under Section 29.093(b) or September 1, 2010.

40-33 SECTION 2B.08. Subchapter A, Chapter 44, Education Code, is  
40-34 amended by adding Section 44.011 to read as follows:

40-35 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL  
40-36 ACTIVITIES. (a) A school district shall allocate at least 65  
40-37 percent of the district's total revenue to fund direct  
40-38 instructional activities in the district.

40-39 (a-1) Subsection (a) applies beginning with the 2009-2010  
40-40 school year. For the 2006-2007, 2007-2008, and 2008-2009 school  
40-41 years, a school district shall allocate the following percentages  
40-42 of the district's total revenue to fund direct instructional  
40-43 activities in the district:

40-44 (1) for the 2006-2007 school year, at least 50  
40-45 percent;

40-46 (2) for the 2007-2008 school year, at least 55  
40-47 percent; and

40-48 (3) for the 2008-2009 school year, at least 60  
40-49 percent.

40-50 (a-2) Subsection (a-1) and this subsection expire August 1,  
40-51 2009.

40-52 (b) For purposes of this section, expenditures for direct  
40-53 instructional activities:

40-54 (1) include expenditures directly related to  
40-55 classroom instruction for courses in the foundation curriculum  
40-56 described by Section 28.002(a)(1) and subject to assessment under  
40-57 Subchapter B, Chapter 39; and

40-58 (2) do not include expenditures directly related to  
40-59 programs and services that are provided at the district's  
40-60 discretion.

40-61 (c) The commissioner may adopt rules for purposes of this  
40-62 section in a manner consistent with Subsection (b) and Section  
40-63 44.0071.

40-64 SECTION 2B.09. Not later than January 1, 2007, the Texas  
40-65 Education Agency shall adopt a five-year plan to renovate the  
40-66 Public Education Information Management System (PEIMS) to provide  
40-67 for efficient and effective information storage and retrieval for  
40-68 the purposes of allocating scarce school resources. The renovation  
40-69 must include a redesign of the records layout.



## PART C. ACCOUNTABILITY

SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.007 to read as follows:

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

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

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

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

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

Sec. 28.027. FUNDING FOR COLLEGE ENTRANCE ASSESSMENTS.

(a) The agency shall pay for any student who chooses to take, on one occasion, an assessment instrument that is currently accepted by colleges and universities for use in determining admissions. The agency shall reduce the amount the agency pays for a student to take the assessment instrument by the amount of any discount or fee waiver offered by the vendor of the assessment instrument to which the student is entitled. The agency shall pay the fee for the administration of the assessment instrument directly to the vendor of the assessment instrument:

(1) from funds appropriated for the purpose; or

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

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

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

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

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

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

(d) Each district that is required to offer bilingual education and special language programs under this section shall

offer the following for students of limited English proficiency:

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) agency-approved ~~[other indications of a student's~~

43-1 ~~overall progress, including]~~ criterion-referenced tests and the  
 43-2 results of a ~~[test scores,]~~ subjective teacher evaluation~~[-, and~~  
 43-3 ~~parental evaluation]~~.

43-4 (g-1) A school district may transfer a student of limited  
 43-5 English proficiency who is eligible for special education services  
 43-6 under Subchapter A out of a bilingual education or special language  
 43-7 program and into a special education program if the language  
 43-8 proficiency assessment committee and the student's admission,  
 43-9 review, and dismissal committee agree that the student has a  
 43-10 learning disability and would be better served in a special  
 43-11 education program. The student's admission, review, and dismissal  
 43-12 committee must document that the student has a learning disability  
 43-13 that cannot be addressed effectively in a bilingual education or  
 43-14 special language program and that the student's learning disability  
 43-15 is not due to the student's limited English proficiency. The  
 43-16 commissioner by rule shall adopt criteria for a school district to  
 43-17 use in transferring a student under this subsection.

43-18 (i) On approval of the student's parent, a school district  
 43-19 may allow a student of limited English proficiency who meets the  
 43-20 criteria for being transferred out of a bilingual education or  
 43-21 special language program to continue participating in the program.

43-22 SECTION 2C.06. Subchapter B, Chapter 29, Education Code, is  
 43-23 amended by adding Section 29.0561 to read as follows:

43-24 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;  
 43-25 REENROLLMENT. (a) The language proficiency assessment committee  
 43-26 shall reevaluate a student who is transferred out of a bilingual  
 43-27 education or special language program under Section 29.056(g) if  
 43-28 the student earns a failing grade in a subject in the foundation  
 43-29 curriculum under Section 28.002(a)(1) during any grading period in  
 43-30 the first two school years after the student is transferred to  
 43-31 determine whether the student should be reenrolled in a bilingual  
 43-32 education or special language program.

43-33 (b) During the first two school years after a student is  
 43-34 transferred out of a bilingual education or special language  
 43-35 program under Section 29.056(g), the language proficiency  
 43-36 assessment committee shall review the student's performance and  
 43-37 consider:

43-38 (1) the total amount of time the student was enrolled  
 43-39 in a bilingual education or special language program;

43-40 (2) the student's grades each grading period in each  
 43-41 subject in the foundation curriculum under Section 28.002(a)(1);

43-42 (3) the student's performance on each assessment  
 43-43 instrument administered under Section 39.023(a) or (c);

43-44 (4) the number of credits the student has earned  
 43-45 toward high school graduation, if applicable; and

43-46 (5) any disciplinary actions taken against the student  
 43-47 under Subchapter A, Chapter 37.

43-48 (c) After an evaluation under this section, the language  
 43-49 proficiency assessment committee may require intensive instruction  
 43-50 for the student or reenroll the student in a bilingual education or  
 43-51 special language program.

43-52 SECTION 2C.07. Subchapter C, Chapter 29, Education Code, is  
 43-53 amended by adding Section 29.0822 to read as follows:

43-54 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM.  
 43-55 (a) Notwithstanding Section 25.081 or 25.082, a school district  
 43-56 may provide a flexible school day program for students in grades 9  
 43-57 through 12 who have dropped out of school or who are at risk of  
 43-58 dropping out of school.

43-59 (b) To enable a school district to provide a program under  
 43-60 this section that meets the needs of students described by  
 43-61 Subsection (a), a school district may:

43-62 (1) provide flexibility in the number of hours each  
 43-63 day a student attends;

43-64 (2) provide flexibility in the number of days each  
 43-65 week a student attends; or

43-66 (3) allow a student to enroll in less or more than a  
 43-67 full course load.

43-68 (c) A course offered in a program under this section must  
 43-69 provide for at least the same number of instructional hours as

44-1 required for a course offered in a program that meets the required  
 44-2 minimum number of instructional days under Section 25.081 and the  
 44-3 required length of school day under Section 25.082.

44-4 (d) The commissioner shall compute average daily attendance  
 44-5 for students served under this section for purposes of determining  
 44-6 state funding. In computing average daily attendance for purposes  
 44-7 of this section, a student may accumulate hours of instruction.  
 44-8 Funding under this subsection is determined based on the number of  
 44-9 instructional days provided in the district calendar and a  
 44-10 seven-hour school day. Hours of attendance under this subsection  
 44-11 may be accumulated over the school year, including any summer or  
 44-12 vacation sessions, to determine average daily attendance. The  
 44-13 attendance of a student who accumulates less than the number of  
 44-14 attendance hours required under this subsection shall be  
 44-15 proportionately reduced for funding purposes. The commissioner may  
 44-16 set a maximum funding amount for an individual course under this  
 44-17 section.

44-18 (e) The commissioner may adopt rules for the administration  
 44-19 of this section.

44-20 SECTION 2C.08. Effective September 1, 2006, Subchapter D,  
 44-21 Chapter 29, Education Code, is amended by adding Section 29.124 to  
 44-22 read as follows:

44-23 Sec. 29.124. PERFORMANCE STANDARDS; STATE FUNDING.

44-24 (a) The commissioner shall adopt the performance standards  
 44-25 developed by the agency under the pilot project required by Rider  
 44-26 52, page III-17, Chapter 1330, Acts of the 78th Legislature,  
 44-27 Regular Session, 2003 (the General Appropriations Act), for  
 44-28 assessing the performance in English language arts, mathematics,  
 44-29 science, and social studies of students in a program for gifted and  
 44-30 talented students. The commissioner may adopt performance  
 44-31 standards for assessing the performance in other subjects or at  
 44-32 other grade levels of students in a program for gifted and talented  
 44-33 students. The commissioner shall establish the minimum level of  
 44-34 student performance necessary to comply with the performance  
 44-35 standards and may periodically raise the minimum level as the  
 44-36 commissioner determines necessary.

44-37 (b) A school district is not required to use the performance  
 44-38 standards adopted under Subsection (a).

44-39 (c) From funds appropriated for that purpose, for each  
 44-40 student who meets the minimum level of performance on the  
 44-41 performance standards adopted under Subsection (a), a school  
 44-42 district is entitled to \$100. A school district must use funds  
 44-43 received under this subsection in providing a program for gifted  
 44-44 and talented students under this subchapter. The amount  
 44-45 appropriated for any fiscal year for purposes of this subsection  
 44-46 may not exceed \$6 million.

44-47 (d) The commissioner may adopt rules necessary to  
 44-48 administer this section.

44-49 (e) From the funds appropriated under this section, the  
 44-50 commissioner may designate an amount necessary to fund the agency's  
 44-51 administrative costs of implementing this section.

44-52 SECTION 2C.09. Subchapter Z, Chapter 29, Education Code, is  
 44-53 amended by adding Section 29.913 to read as follows:

44-54 Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate  
 44-55 middle school, junior high school, and high school students about  
 44-56 the importance of higher education, each school district and each  
 44-57 open-enrollment charter school offering those grades shall  
 44-58 designate one week during the school year as "Education. Go Get It"  
 44-59 Week.

44-60 (b) During the designated week, each middle school, junior  
 44-61 high school, and high school shall provide students with  
 44-62 comprehensive grade-appropriate information regarding the pursuit  
 44-63 of higher education. The information provided must include  
 44-64 information regarding:

- 44-65 (1) higher education options available to students;  
 44-66 (2) standard admission requirements for institutions  
 44-67 of higher education, including:  
 44-68 (A) overall high school grade point average;  
 44-69 (B) required curriculum; and

45-1 (C) scores necessary on generally recognized  
 45-2 tests or assessments used in admissions determinations, including  
 45-3 the Scholastic Assessment Test and the American College Test;

45-4 (3) automatic admission of certain students to general  
 45-5 academic teaching institutions as provided by Section 51.803; and

45-6 (4) financial aid availability and requirements,  
 45-7 including the financial aid information provided by counselors  
 45-8 under Section 33.007(b).

45-9 (c) In addition to the information provided under  
 45-10 Subsection (b), each middle school, junior high school, and high  
 45-11 school shall provide to the students during the designated week at  
 45-12 least one public speaker to promote the importance of higher  
 45-13 education.

45-14 SECTION 2C.10. Section 37.008, Education Code, is amended  
 45-15 by adding Subsection (n) to read as follows:

45-16 (n) For purposes of accountability under Chapter 39, a  
 45-17 student placed in a disciplinary alternative education program is  
 45-18 reported as if the student were enrolled at the student's assigned  
 45-19 campus in the student's regularly assigned education program,  
 45-20 including a special education program.

45-21 SECTION 2C.11. Section 39.022, Education Code, is amended  
 45-22 to read as follows:

45-23 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of  
 45-24 Education by rule shall create and implement a statewide assessment  
 45-25 program that is knowledge- and skills-based to ensure school  
 45-26 accountability for student achievement that achieves the goals  
 45-27 provided under Section 4.002. After adopting rules under this  
 45-28 section, the State Board of Education shall consider the importance  
 45-29 of maintaining stability in the statewide assessment program when  
 45-30 adopting any subsequent modification of the rules.

45-31 (b) The commissioner by rule shall provide for the  
 45-32 administration of assessment instruments under this subchapter.

45-33 SECTION 2C.12. Section 39.023, Education Code, is amended  
 45-34 by amending Subsections (a) through (e), (i), (j), (l), (m), and (n)  
 45-35 and adding Subsections (a-1) and (b-1) to read as follows:

45-36 (a) The agency shall adopt or develop appropriate  
 45-37 criterion-referenced assessment instruments designed to assess  
 45-38 essential knowledge and skills in reading, writing, mathematics,  
 45-39 social studies, and science. Except as otherwise provided by this  
 45-40 subchapter, all ~~[All]~~ students~~[, except students assessed under~~  
 45-41 ~~Subsection (b) or (l) or exempted under Section 39.027,~~ shall be  
 45-42 assessed in:

45-43 (1) mathematics, annually in grades three through  
 45-44 seven without the aid of technology and in grades eight through 11  
 45-45 with the aid of technology on any assessment instruments that  
 45-46 include algebra;

45-47 (2) reading, annually in grades three through nine;

45-48 (3) writing, including spelling and grammar, in grades  
 45-49 four and seven;

45-50 (4) English language arts, in grades ~~[grade]~~ 10 and  
 45-51 11;

45-52 (5) social studies, in grades eight, ~~[and]~~ 10, and 11;

45-53 (6) science, in grades five, eight, ~~[and]~~ 10, and 11;

45-54 and

45-55 (7) any other subject and grade required by federal  
 45-56 law.

45-57 (a-1) An assessment instrument under this section may  
 45-58 include questions that test a broader range of knowledge and skills  
 45-59 or that are at a higher difficulty level for the purpose of  
 45-60 differentiating student achievement. A student may not be required  
 45-61 to answer a question described by this subsection correctly to  
 45-62 perform satisfactorily on the assessment instrument or to be  
 45-63 promoted to the next grade level. To ensure a valid bank of  
 45-64 questions for use each year, the agency is not required to release a  
 45-65 question that is developed for purposes of this subsection until  
 45-66 after the fifth school year the question is used on an assessment  
 45-67 instrument administered under this section.

45-68 (b) The agency shall develop or adopt appropriate  
 45-69 criterion-referenced assessment instruments to be administered to

46-1 each student in a special education program under Subchapter A,  
 46-2 Chapter 29, who receives modified instruction in the essential  
 46-3 knowledge and skills identified under Section 28.002 for the  
 46-4 assessed subject but for whom an assessment instrument adopted  
 46-5 under Subsection (a), even with allowable accommodations  
 46-6 [~~modifications~~], would not provide an appropriate measure of  
 46-7 student achievement, as determined by the student's admission,  
 46-8 review, and dismissal committee. The assessment instruments  
 46-9 required under this subsection must assess essential knowledge and  
 46-10 skills [~~and growth~~] in the subjects of reading, mathematics, and  
 46-11 writing and any other subject required by federal law. A student's  
 46-12 admission, review, and dismissal committee shall determine whether  
 46-13 any allowable accommodation [~~modification~~] is necessary in  
 46-14 administering to the student an assessment instrument required  
 46-15 under this subsection or whether an alternate assessment instrument  
 46-16 must be used to measure alternate academic achievement standards.  
 46-17 A student's admission, review, and dismissal committee shall  
 46-18 determine the high school graduation assessment requirements for a  
 46-19 student in a special education program under Subchapter A, Chapter  
 46-20 29, and may use local alternative assessment instruments if  
 46-21 multiple testing opportunities are not available for a student. To  
 46-22 the extent practicable, the [~~The~~] assessment instruments required  
 46-23 under this subsection shall be administered on the same schedule as  
 46-24 the assessment instruments administered under Subsection (a). The  
 46-25 commissioner shall adopt rules to implement this subsection.

46-26 (b-1) The agency shall adopt or develop appropriate  
 46-27 criterion-referenced instruments as required by federal law  
 46-28 designed to measure alternate academic achievement standards for  
 46-29 students in a special education program under Subchapter A, Chapter  
 46-30 29, with the most significant cognitive disabilities.

46-31 (c) ~~The [agency shall also adopt]~~ secondary exit-level  
 46-32 assessment instruments designed to be administered to students in  
 46-33 grade 11 under Subsection (a) must [~~to~~] assess essential knowledge  
 46-34 and skills in mathematics, English language arts, social studies,  
 46-35 and science. The mathematics section must include at least Algebra  
 46-36 I and geometry with the aid of technology. The English language  
 46-37 arts section must include at least English III and must include the  
 46-38 assessment of essential knowledge and skills in writing. The  
 46-39 social studies section must include early American and United  
 46-40 States history. The science section must include at least biology  
 46-41 and integrated chemistry and physics. The assessment instruments  
 46-42 must be designed to assess a student's mastery of minimum skills  
 46-43 necessary for high school graduation and readiness to enroll in an  
 46-44 institution of higher education. [If a student is in a special  
 46-45 education program under Subchapter A, Chapter 29, the student's  
 46-46 admission, review, and dismissal committee shall determine whether  
 46-47 any allowable modification is necessary in administering to the  
 46-48 student an assessment instrument required under this subsection or  
 46-49 whether the student should be exempted under Section 39.027(a)(2).  
 46-50 The State Board of Education shall administer the assessment  
 46-51 instruments. The State Board of Education shall adopt a schedule  
 46-52 for the administration of secondary exit-level assessment  
 46-53 instruments.] Each student who did not perform satisfactorily on  
 46-54 any secondary exit-level assessment instrument when initially  
 46-55 tested shall be given multiple opportunities to retake that  
 46-56 assessment instrument. A student who performs at or above a level  
 46-57 established by the Texas Higher Education Coordinating Board on the  
 46-58 secondary exit-level assessment instruments is exempt from the  
 46-59 requirements of Section 51.306.

46-60 (d) The commissioner may participate in multistate efforts  
 46-61 to develop voluntary standardized end-of-course assessment  
 46-62 instruments. The commissioner by rule may require a school  
 46-63 district to administer an end-of-course assessment instrument  
 46-64 developed through the multistate efforts. The admission, review,  
 46-65 and dismissal committee of a student in a special education program  
 46-66 under Subchapter A, Chapter 29, shall determine whether any  
 46-67 allowable accommodation [~~modification~~] is necessary in  
 46-68 administering to the student an end-of-course assessment  
 46-69 instrument or whether the student should be exempted [~~under Section~~]

47-1 ~~39.027(a)(2)]~~.

47-2 (e) Under rules adopted by the State Board of Education,  
 47-3 ~~[every other year,]~~ the agency shall release the questions and  
 47-4 answer keys to each assessment instrument administered under  
 47-5 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after  
 47-6 August 1 after the second anniversary of the date [after the last  
 47-7 ~~time] the instrument was [is] administered [for that school year]~~.  
 47-8 To ensure a valid bank of questions for use each year, the agency is  
 47-9 not required to release a question that is being field-tested and  
 47-10 was not used to compute the student's score on the instrument. The  
 47-11 agency shall also release, under board rule, each question that is  
 47-12 no longer being field-tested and that was not used to compute a  
 47-13 student's score.

47-14 (i) The provisions of this section, except Subsection (d),  
 47-15 are subject to modification by rules adopted under Section 39.022.  
 47-16 Each assessment instrument adopted or developed under this section  
 47-17 ~~[those rules and each assessment instrument required under~~  
 47-18 ~~Subsection (d)]~~ must be reliable and valid and must meet any  
 47-19 applicable federal requirements for measurement of student  
 47-20 progress.

47-21 (j) The commissioner shall develop a standardized  
 47-22 end-of-course assessment instrument for Algebra I. The  
 47-23 commissioner by rule may require a school district to administer an  
 47-24 end-of-course assessment instrument in Algebra I. The admission,  
 47-25 review, and dismissal committee of a student in a special education  
 47-26 program under Subchapter A, Chapter 29, shall determine whether any  
 47-27 allowable accommodation [modification] is necessary in  
 47-28 administering to the student an end-of-course assessment  
 47-29 instrument or whether the student should be exempted ~~[under Section~~  
 47-30 ~~39.027(a)(2)]~~.

47-31 (l) The agency [State Board of Education] shall adopt or  
 47-32 develop a Spanish version [rules for the administration] of the  
 47-33 assessment instruments adopted under Subsection (a) for [in Spanish  
 47-34 ~~to] students in grades three through six who are of limited English~~  
 47-35 ~~proficiency, as defined by Section 29.052, whose primary language~~  
 47-36 ~~is Spanish, and who are not otherwise exempt from the~~  
 47-37 ~~administration of an assessment instrument under Section 39.027~~  
 47-38 ~~[39.027(a)(3) or (4)]~~. Each student of limited English proficiency  
 47-39 whose primary language is Spanish, other than a student to whom  
 47-40 Subsection (b) or (b-1) applies, may be assessed using assessment  
 47-41 instruments in Spanish under this subsection for up to three years  
 47-42 or assessment instruments in English under Subsection (a). The  
 47-43 language proficiency assessment committee established under  
 47-44 Section 29.063 shall determine which students are administered  
 47-45 assessment instruments in Spanish under this subsection.

47-46 (m) The commissioner by rule shall develop procedures under  
 47-47 which the language proficiency assessment committee established  
 47-48 under Section 29.063 shall determine which students in grades three  
 47-49 through 10 are exempt from the administration of the assessment  
 47-50 instruments under Section 39.027 ~~[39.027(a)(3) and (4)]~~. The rules  
 47-51 adopted under this subsection shall ensure that the language  
 47-52 proficiency assessment committee provides that the exempted  
 47-53 students are administered the assessment instruments under  
 47-54 Subsections (a) and (c) at the earliest practical date. As  
 47-55 necessary to comply with federal requirements, the commissioner by  
 47-56 rule shall develop procedures under which a student who is exempt  
 47-57 from the administration of an assessment instrument under Section  
 47-58 39.027 is administered a linguistically accommodated assessment  
 47-59 instrument.

47-60 (n) This subsection applies only to a student who is  
 47-61 determined to have dyslexia or a related disorder and who is an  
 47-62 individual with a disability under 29 U.S.C. Section 705(20) ~~[and~~  
 47-63 ~~its subsequent amendments]~~. The agency shall adopt or develop  
 47-64 appropriate ~~[criterion-referenced]~~ assessment administration  
 47-65 procedures, including accommodations for a [instruments designed  
 47-66 ~~to assess the ability of and to be administered to each]~~ student to  
 47-67 whom this subsection applies. The [for whom the assessment  
 47-68 ~~instruments adopted under Subsection (a), even with allowable~~  
 47-69 ~~modifications, would not provide an appropriate measure of student~~

48-1 ~~achievement, as determined by the] committee established by the~~  
 48-2 ~~board of trustees of the district to determine the placement of~~  
 48-3 ~~students with dyslexia or related disorders[. The committee] shall~~  
 48-4 ~~determine whether the [any] allowable accommodations are~~  
 48-5 ~~[modification is] necessary in administering to a student an~~  
 48-6 ~~assessment instrument required under this section [subsection. The~~  
 48-7 ~~assessment instruments required under this subsection shall be~~  
 48-8 ~~administered on the same schedule as the assessment instruments~~  
 48-9 ~~administered under Subsection (a)].~~

48-10 SECTION 2C.13. Subsections (a) and (c), Section 39.024,  
 48-11 Education Code, are amended to read as follows:

48-12 (a) Except as otherwise provided by this subsection, the  
 48-13 State Board of Education shall determine the level of performance  
 48-14 considered to be satisfactory on the assessment instruments  
 48-15 administered under Section 39.023. The commissioner by rule  
 48-16 [admission, review, and dismissal committee of a student being  
 48-17 assessed under Section 39.023(b)] shall determine the level of  
 48-18 performance considered to be satisfactory on the assessment  
 48-19 instruments administered under Section 39.023(b) or (b-1) [to that  
 48-20 student] in accordance with applicable federal requirements  
 48-21 [criteria established by agency rule].

48-22 (c) The agency shall develop study guides for the assessment  
 48-23 instruments administered under Sections 39.023(a) and (1) ~~[(c)]~~.  
 48-24 To assist parents in providing assistance during the period that  
 48-25 school is recessed for summer, each school district shall  
 48-26 distribute the study guides to parents of students who do not  
 48-27 perform satisfactorily on one or more parts of the ~~[an]~~ assessment  
 48-28 instrument ~~[administered under this subchapter].~~

48-29 SECTION 2C.14. Subsection (a), Section 39.025, Education  
 48-30 Code, is amended to read as follows:

48-31 (a) A student may not receive a high school diploma until  
 48-32 the student has performed satisfactorily on the secondary  
 48-33 exit-level assessment instruments for English language arts,  
 48-34 mathematics, social studies, and science administered under  
 48-35 Section 39.023(a) ~~[39.023(c)]~~. This subsection does not require a  
 48-36 student to demonstrate readiness to enroll in an institution of  
 48-37 higher education.

48-38 SECTION 2C.15. Effective September 1, 2006, Subchapter B,  
 48-39 Chapter 39, Education Code, is amended by adding Section 39.0261 to  
 48-40 read as follows:

48-41 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In  
 48-42 addition to the assessment instruments otherwise authorized or  
 48-43 required by this subchapter, a school district may administer to  
 48-44 students in any grade an established, valid, reliable, and  
 48-45 nationally normed college preparation assessment instrument.

48-46 (b) The agency shall:

48-47 (1) select and approve vendors of the specific  
 48-48 assessment instruments administered under this section; and

48-49 (2) subject to the restrictions of Subsection (c), pay  
 48-50 all fees associated with the administration of the assessment  
 48-51 instrument:

48-52 (A) from funds appropriated for the purpose; or  
 48-53 (B) if funds are not appropriated for the  
 48-54 purpose, from funds allotted under the Foundation School Program,  
 48-55 and the commissioner shall reduce the total amount of state funds  
 48-56 allocated to each district from any source in the same manner  
 48-57 described for a reduction in allotments under Section 42.253.

48-58 (c) The agency may pay only for the administration of the  
 48-59 assessment instrument at two different grade levels in each  
 48-60 district each year.

48-61 (d) A vendor that administers an assessment instrument for a  
 48-62 district under this section shall report the results of the  
 48-63 assessment instrument to the agency.

48-64 SECTION 2C.16. Subsections (a), (e), and (g), Section  
 48-65 39.027, Education Code, are amended to read as follows:

48-66 (a) A student in grades three through 10 may be exempted  
 48-67 from the administration of an assessment instrument under:

48-68 (1) ~~[Section 39.023(a) or (b) if the student is~~  
 48-69 ~~eligible for a special education program under Section 29.003 and~~



~~the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level;~~

~~[(2) Section 39.023(c) or (d) if the student is eligible for a special education program under Section 29.003 and:~~

~~[(A) the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level; or~~

~~[(B) the assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's admission, review, and dismissal committee;~~

~~[(3)] Section 39.023(a), (b), (b-1), or (l) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e); or~~

~~(2) [(4)] Section 39.023(a), (b), (b-1), or (l) for a period of up to two years in addition to the exemption period authorized by Subdivision (1) [(3)] if the student has received an exemption under Subdivision (1) [(3)] and:~~

~~(A) is a recent unschooled immigrant; or~~

~~(B) is in a grade for which no assessment instrument in the primary language of the student is available.~~

~~(e) As provided by applicable federal requirements, the [The] commissioner shall develop an assessment system that shall be used for evaluating the academic progress toward attaining academic language proficiency in English, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who has demonstrated the designated level of [is exempt from the administration of an assessment instrument under Subsection (a)(3) or (4) who achieves] reading proficiency in English as determined by the assessment system developed under this subsection is not eligible for an exemption under Subsection (a)(1) or (2). [shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(3) or (4) applies shall be included in the academic excellence indicator system under Section 39.051, the performance report under Section 39.053, and the comprehensive annual report under Section 39.182.]~~

~~(g) For purposes of this section, "recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment instrument under Section 39.023 [39.023(a) or (1)] and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002 as determined by the language proficiency assessment committee established under Section 29.063. For purposes of this subsection and to the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required under Section 25.002(a).~~

~~SECTION 2C.17. Subchapter B, Chapter 39, Education Code, is amended by adding Sections 39.034 and 39.035 to read as follows:~~

~~Sec. 39.034. MEASURE OF INDIVIDUAL STUDENT GROWTH ON ASSESSMENT INSTRUMENTS. (a) The commissioner shall determine a method by which the agency may measure individual student growth in achievement from one school year to the next on an assessment instrument required under this subchapter.~~

~~(b) The agency shall report to each school district the comparisons made under Subsection (a). Each school district shall provide the comparisons to each teacher for all students who were:~~

~~(1) assessed on an assessment instrument; and~~

~~(2) taught by that teacher in the subject for which the assessment instrument was administered.~~

~~(c) The school a student attends shall provide a record of~~

50-1 the comparison made under this section and provided to the school  
50-2 under Subsection (b) in a written notice to the student's parents.

50-3 (d) To the extent practicable, the agency shall combine the  
50-4 report of the comparisons required under this section with the  
50-5 report of the student's performance on assessment instruments  
50-6 administered under Section 39.023.

50-7 (e) The commissioner shall implement this section not later  
50-8 than September 1, 2006. This subsection expires January 1, 2008.

50-9 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF  
50-10 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other  
50-11 employee, contractor, or volunteer of a school district or public  
50-12 charter district commits an offense if, for the primary purpose of  
50-13 influencing the results of an assessment instrument administered  
50-14 under this subchapter, the person intentionally:

50-15 (1) discriminates in school admissions based on a  
50-16 student's academic ability in a manner that is not otherwise  
50-17 permitted by law;

50-18 (2) refers a student to a special education program  
50-19 under Subchapter A, Chapter 29, or a bilingual or special language  
50-20 program under Subchapter B, Chapter 29, for the purpose of gaining  
50-21 an exemption for the student from the administration of the  
50-22 assessment instrument;

50-23 (3) requires or encourages a student to be absent from  
50-24 a school campus during the day on which the assessment instrument is  
50-25 administered at the campus;

50-26 (4) tampers with the assessment instrument or related  
50-27 materials to alter the results of the assessment instrument; or

50-28 (5) engages in any other action designed to alter the  
50-29 accuracy of the results of the assessment instrument.

50-30 (b) An offense under this section is a Class A misdemeanor.

50-31 (c) An offense under Subsection (a)(4) is in addition to any  
50-32 offense under Section 37.10(c)(2), Penal Code, arising from the  
50-33 same action.

50-34 SECTION 2C.18. Subsection (b), Section 39.051, Education  
50-35 Code, as amended by Chapters 433 and 805, Acts of the 78th  
50-36 Legislature, Regular Session, 2003, is reenacted and amended to  
50-37 read as follows:

50-38 (b) Performance on the indicators adopted under this  
50-39 section shall be compared to state-established standards. The  
50-40 degree of change from one school year to the next in performance on  
50-41 each indicator adopted under this section shall also be considered.  
50-42 The indicators must be based on information that is disaggregated  
50-43 by race, ethnicity, gender, and socioeconomic status and must  
50-44 include:

50-45 (1) the results of assessment instruments required  
50-46 under Sections 39.023(a), (c), and (l), aggregated by grade level  
50-47 and subject area;

50-48 (2) dropout rates, including dropout rates and  
50-49 district completion rates for grade levels 9 through 12, computed  
50-50 in accordance with standards and definitions adopted by the  
50-51 National Center for Education Statistics of the United States  
50-52 Department of Education;

50-53 (3) high school graduation rates, computed in  
50-54 accordance with standards and definitions adopted in compliance  
50-55 with the ~~[federal]~~ No Child Left Behind Act of 2001 (Pub. L. No.  
50-56 107-110);

50-57 (4) student attendance rates;

50-58 (5) the percentage of graduating students who attain  
50-59 scores on the secondary exit-level assessment instruments required  
50-60 under Subchapter B that are equivalent to a passing score on the  
50-61 assessment ~~[test]~~ instrument required under Section 51.3062  
50-62 [51.306];

50-63 (6) the percentage of graduating students who meet the  
50-64 course requirements established for the recommended high school  
50-65 program by State Board of Education rule;

50-66 (7) the results of the Scholastic Assessment Test  
50-67 (SAT), the American College Test (ACT), articulated postsecondary  
50-68 degree programs described by Section 61.852, and certified  
50-69 workforce training programs described by Chapter 311, Labor Code;

51-1 (8) student growth in achievement, as measured under  
 51-2 Section 39.034, aggregated by grade level and subject area;

51-3 (9) the number and percentage of students at risk of  
 51-4 dropping out of school, the number and percentage of those students  
 51-5 who are administered each assessment instrument required under  
 51-6 Section 39.023, the number and percentage of those students who  
 51-7 perform satisfactorily on the assessment instruments, and the  
 51-8 results of those students, grouped by number and percentage, on the  
 51-9 assessment instruments, disaggregated by subject area and grade  
 51-10 level;

51-11 (10) the number and percentage of students, aggregated  
 51-12 by grade level, provided accelerated instruction under Section  
 51-13 28.0211(c), the results of assessments administered under that  
 51-14 section, the percentage of students promoted through the grade  
 51-15 placement committee process under Section 28.0211, the subject of  
 51-16 the assessment instrument on which each student failed to perform  
 51-17 satisfactorily, and the performance of those students in the school  
 51-18 year following that promotion on the assessment instruments  
 51-19 required under Section 39.023;

51-20 (11) [~~(9)~~] for students who have failed to perform  
 51-21 satisfactorily on an assessment instrument required under Section  
 51-22 39.023(a) or (c), the numerical progress of those students grouped  
 51-23 by number and percentage on subsequent assessment instruments  
 51-24 required under those sections, aggregated by grade level and  
 51-25 subject area;

51-26 (12) [~~(10)~~] the percentage of students exempted, by  
 51-27 exemption category, from the assessment program generally  
 51-28 applicable under this chapter; [~~and~~]

51-29 (13) [~~(11)~~] the percentage of students of limited  
 51-30 English proficiency exempted from the administration of an  
 51-31 assessment instrument under Sections 39.027(a)(3) and (4);

51-32 (14) the percentage of students in a special education  
 51-33 program under Subchapter A, Chapter 29, assessed through assessment  
 51-34 instruments developed or adopted under Section 39.023(b);

51-35 (15) for students of limited English proficiency, as  
 51-36 defined by Section 29.052, a measure of progress toward English  
 51-37 language proficiency, as determined by the commissioner, including  
 51-38 the student's performance after transferring out of a bilingual  
 51-39 education program or instruction in English as a second language;  
 51-40 and

51-41 (16) the performance of non-educationally  
 51-42 disadvantaged students on an assessment instrument required under  
 51-43 Sections 39.023(a), (b), (c), and (l) and high school dropout and  
 51-44 completion rates.

51-45 SECTION 2C.19. Subsection (b), Section 39.052, Education  
 51-46 Code, is amended to read as follows:

51-47 (b) The report card shall include the following  
 51-48 information:

51-49 (1) where applicable, the academic excellence  
 51-50 indicators adopted under Sections 39.051(b)(1) through (15) and  
 51-51 specifically including the indicators adopted under Sections  
 51-52 39.051(b)(9) and (10) [~~(9)~~];

51-53 (2) average class size by grade level and subject;

51-54 (3) the administrative and instructional costs per  
 51-55 student, computed in a manner consistent with Section 44.0071; and

51-56 (4) the district's instructional expenditures ratio  
 51-57 and instructional employees ratio computed under Section 44.0071,  
 51-58 and the statewide average of those ratios, as determined by the  
 51-59 commissioner.

51-60 SECTION 2C.20. Subsection (a), Section 39.053, Education  
 51-61 Code, is amended to read as follows:

51-62 (a) Each board of trustees shall publish an annual report  
 51-63 describing the educational performance of the district and of each  
 51-64 campus in the district that includes uniform student performance  
 51-65 and descriptive information as determined under rules adopted by  
 51-66 the commissioner. The annual report must also include:

51-67 (1) campus performance objectives established under  
 51-68 Section 11.253 and the progress of each campus toward those  
 51-69 objectives, which shall be available to the public;

52-1 (2) the academic performance rating for the district  
 52-2 and each campus in the district as provided under Section 39.072  
 52-3 [39.072(a) and the performance rating of each campus in the  
 52-4 district as provided under Section 39.072(c)];

52-5 (3) the district's current special education  
 52-6 compliance status with the agency;

52-7 (4) a statement of the number, rate, and type of  
 52-8 violent or criminal incidents that occurred on each district  
 52-9 campus, to the extent permitted under the Family Educational Rights  
 52-10 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

52-11 (5) information concerning school violence prevention  
 52-12 and violence intervention policies and procedures that the district  
 52-13 is using to protect students; ~~[and]~~

52-14 (6) the findings that result from evaluations  
 52-15 conducted under the Safe and Drug-Free Schools and Communities Act  
 52-16 of 1994 (20 U.S.C. Section 7101 et seq.) ~~[and its subsequent~~  
 52-17 ~~amendments]~~; ~~[and]~~

52-18 (7) information received under Section 51.403(e) for  
 52-19 each high school campus in the district, presented in a form  
 52-20 determined by the commissioner; and

52-21 (8) evidence that the district currently holds  
 52-22 International Organization for Standardization ISO 9000  
 52-23 certification for quality management standards or a statement that  
 52-24 the district does not hold that certification.

52-25 SECTION 2C.21. Section 39.055, Education Code, is amended  
 52-26 to read as follows:

52-27 Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT.

52-28 (a) The commissioner shall develop a process for auditing school  
 52-29 district dropout records electronically. The commissioner shall  
 52-30 also develop a system and standards for review of the audit or use  
 52-31 systems already available at the agency. The system must be  
 52-32 designed to identify districts that are at high risk of having  
 52-33 inaccurate dropout records and that, as a result, may be subject to  
 52-34 a special accreditation investigation under Section 39.075  
 52-35 [require on-site monitoring of dropout records. If the electronic  
 52-36 audit of a district's dropout records indicates that a district is  
 52-37 not at high risk of having inaccurate dropout records, the district  
 52-38 may not be subject to on-site monitoring under this subsection. If  
 52-39 the risk-based system indicates that a district is at high risk of  
 52-40 having inaccurate dropout records, the district is entitled to an  
 52-41 opportunity to respond to the commissioner's determination before  
 52-42 on-site monitoring may be conducted. The district must respond not  
 52-43 later than the 30th day after the date the commissioner notifies the  
 52-44 district of the commissioner's determination. If the district's  
 52-45 response does not change the commissioner's determination that the  
 52-46 district is at high risk of having inaccurate dropout records or if  
 52-47 the district does not respond in a timely manner, the commissioner  
 52-48 shall order agency staff to conduct on-site monitoring of the  
 52-49 district's dropout records].

52-50 (b) ~~[(c)]~~ The commissioner shall notify the superintendent  
 52-51 [board of trustees] of a school district of any objection the  
 52-52 commissioner has to the district's dropout data, any violation of  
 52-53 sound accounting practices or of a law or rule revealed by the data,  
 52-54 or any recommendation by the commissioner concerning the data. If  
 52-55 the data reflect that a penal law has been violated, the  
 52-56 commissioner shall notify the county attorney, district attorney,  
 52-57 or criminal district attorney, as appropriate, and the attorney  
 52-58 general. The commissioner is entitled to access to all district  
 52-59 records the commissioner considers necessary or appropriate for the  
 52-60 review, analysis, or approval of district dropout data.

52-61 SECTION 2C.22. Sections 39.071 and 39.072, Education Code,  
 52-62 are amended to read as follows:

52-63 Sec. 39.071. ACCREDITATION. (a) Accreditation of a school  
 52-64 district is determined in accordance with this section  
 52-65 [subchapter].

52-66 (b) Each year, the commissioner shall determine the  
 52-67 accreditation status of each school district. In determining  
 52-68 accreditation status, the commissioner:

52-69 (1) shall evaluate and consider the performance of the

53-1 district under:  
53-2 (A) the academic accountability system under  
53-3 Section 39.072; and  
53-4 (B) the financial accountability system under  
53-5 Subchapter I;  
53-6 (2) shall evaluate and consider:  
53-7 (A) the results of any special accreditation  
53-8 investigation under Section 39.075; and  
53-9 (B) the district's current special education  
53-10 monitoring or compliance status with the agency; and  
53-11 (3) may consider:  
53-12 (A) the district's compliance with statutory  
53-13 requirements and requirements imposed by rule of the commissioner  
53-14 or State Board of Education under specific statutory authority that  
53-15 relate to:  
53-16 (i) reporting data through the Public  
53-17 Education Information Management System (PEIMS) or other reports  
53-18 required by state or federal law or court order;  
53-19 (ii) the high school graduation  
53-20 requirements under Section 28.025; or  
53-21 (iii) an item listed under Sections  
53-22 7.056(e)(3)(C)-(I) that applies to the district;  
53-23 (B) the effectiveness of the district's programs  
53-24 for special populations; and  
53-25 (C) the effectiveness of the district's career  
53-26 and technology program.  
53-27 (c) Based on a school district's performance under  
53-28 Subsection (b), the commissioner shall:  
53-29 (1) assign a district an accreditation status of:  
53-30 (A) accredited;  
53-31 (B) accredited-warned; or  
53-32 (C) accredited-probation; or  
53-33 (2) revoke the accreditation of the district and order  
53-34 closure of the district under Section 39.1332.  
53-35 (d) The commissioner shall notify a school district that  
53-36 receives an accreditation status of accredited-warned or  
53-37 accredited-probation that the performance of the district is below  
53-38 a standard required under this section. The commissioner shall  
53-39 require the district to notify the parents of students enrolled in  
53-40 the district and property owners in the district of the district's  
53-41 accreditation status and the implications of that accreditation  
53-42 status.  
53-43 (e) A school district that is not accredited may not  
53-44 receive funds from the agency or hold itself out as operating a  
53-45 public school of this state.  
53-46 (f) This chapter may not be construed to invalidate a  
53-47 diploma awarded, course credit earned, or grade promotion granted  
53-48 by a school district before the commissioner revoked the district's  
53-49 accreditation.  
53-50 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [ACCREDITATION  
53-51 STANDARDS]. (a) The commissioner [State Board of Education] shall  
53-52 adopt rules for assigning [to evaluate the performance of school  
53-53 districts and to assign] to each school district and campus a  
53-54 performance rating as follows:  
53-55 (1) exemplary (meets or exceeds state exemplary  
53-56 standards);  
53-57 (2) recognized (meets or exceeds required improvement  
53-58 or [and] within 10 percent of state exemplary standards);  
53-59 (3) academically acceptable (below the exemplary and  
53-60 recognized standards but exceeds the academically unacceptable  
53-61 standards); or  
53-62 (4) academically unacceptable (below the state  
53-63 clearly unacceptable performance standard and does not meet  
53-64 required improvement).  
53-65 (b) The academic excellence indicators adopted under  
53-66 Section 39.051(b) [Sections 39.051(b)(1) through (7) and the  
53-67 district's current special education compliance status with the  
53-68 agency] shall be the main considerations of the agency in the rating  
53-69 of a school [the] district or campus under this section.

54-1 ~~[Additional criteria in the rules may include consideration of:~~  
 54-2 ~~(1) compliance with statutory requirements and~~  
 54-3 ~~requirements imposed by rule of the State Board of Education under~~  
 54-4 ~~specific statutory authority that relate to:~~

54-5 ~~(A) reporting data through the Public Education~~  
 54-6 ~~Information Management System (PEIMS);~~

54-7 ~~(B) the high school graduation requirements~~  
 54-8 ~~under Section 28.025; or~~

54-9 ~~(C) an item listed in Sections~~  
 54-10 ~~7.056(e)(3)(C)-(I) that applies to the district;~~

54-11 ~~(2) the effectiveness of the district's programs for~~  
 54-12 ~~special populations; and~~

54-13 ~~(3) the effectiveness of the district's career and~~  
 54-14 ~~technology programs.]~~

54-15 (c) The agency shall evaluate ~~[against state standards]~~ and  
 54-16 ~~[shall]~~, not later than August 1 of each year, report the  
 54-17 performance of each school ~~[campus in a]~~ district and campus. ~~[each~~  
 54-18 ~~open-enrollment charter school on the basis of the campus's~~  
 54-19 ~~performance on the indicators adopted under Sections 39.051(b)(1)~~  
 54-20 ~~through (7). Consideration of the effectiveness of district~~  
 54-21 ~~programs under Subsection (b)(2) or (3) must be based on data~~  
 54-22 ~~collected through the Public Education Information Management~~  
 54-23 ~~System for purposes of accountability under this chapter and~~  
 54-24 ~~include the results of assessments required under Section 39.023.]~~

54-25 (d) The agency shall annually review the performance of each  
 54-26 school district and campus and determine if a change in the academic  
 54-27 performance rating of the district or campus is warranted.  
 54-28 Notwithstanding any other provision of this code, the commissioner  
 54-29 shall determine how the indicators adopted under Section 39.051(b)  
 54-30 may be used to determine academic performance ratings and to select  
 54-31 districts and campuses for acknowledgment.

54-32 (e) Each annual review shall include an analysis of the  
 54-33 indicators under Section 39.051(b) to determine district and campus  
 54-34 performance in relation to:

54-35     (1) state standards established for each indicator;

54-36     (2) required improvement as defined under Section  
 54-37 39.051(c); and

54-38     (3) comparable improvement as determined under  
 54-39 Section 39.051(c).

54-40 (f) The academic performance rating of a school district may  
 54-41 be raised or lowered based on the district's performance or may be  
 54-42 lowered based on the unacceptable performance of one or more  
 54-43 campuses in the district. The academic performance rating of a  
 54-44 school district may also be lowered based on a determination that  
 54-45 data provided to the agency by the district that is necessary for  
 54-46 conducting an annual review under this section is unreliable.

54-47 (g) The commissioner shall notify a school district if the  
 54-48 performance of the district or a campus in the district is below a  
 54-49 standard required under this section. The commissioner shall  
 54-50 require the school district to notify the parents of students who  
 54-51 are enrolled in the district and property owners in the district of  
 54-52 the academic performance rating and the implications of that  
 54-53 rating.

54-54 (h) Notwithstanding any other provision of this code, for  
 54-55 purposes of determining the performance of a school district or  
 54-56 open-enrollment charter school under this chapter, including the  
 54-57 academic performance rating [accreditation status] of the district  
 54-58 or school, a student attending a campus that is a [confined by court  
 54-59 order in a residential program or] facility operated by or under  
 54-60 contract with the Texas Youth Commission, a pre-adjudication secure  
 54-61 detention facility or a post-adjudication secure correctional  
 54-62 facility that is registered with the Texas Juvenile Probation  
 54-63 Commission, or a residential facility is not considered to be a  
 54-64 student of the school district or open-enrollment charter school  
 54-65 serving the student [in which the program or facility is physically  
 54-66 located]. The performance of a student who attends such a campus  
 54-67 [student] on an assessment instrument or other academic excellence  
 54-68 indicator adopted under Section 39.051 shall be determined and[7]  
 54-69 reported, but may not be used to determine the rating of the school

55-1 district or open-enrollment charter school unless the campus is the  
 55-2 only campus operated by the district or school [and considered  
 55-3 separately from the performance of students attending a school of  
 55-4 the district in which the program or facility is physically  
 55-5 located].

55-6 SECTION 2C.23. Subchapter D, Chapter 39, Education Code, is  
 55-7 amended by adding Section 39.0722 to read as follows:

55-8 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION.

55-9 (a) In addition to school district performance ratings under  
 55-10 Section 39.072, the commissioner shall annually rate districts  
 55-11 according to the degree to which the districts prepare students for  
 55-12 postsecondary success, including student performance on the  
 55-13 applicable indicators under Sections 39.051(b) and 39.0721. The  
 55-14 commissioner shall consult with the P-16 Council established under  
 55-15 Section 61.077 when adopting criteria under this section.

55-16 (b) The commissioner may adopt rules as necessary to  
 55-17 administer this section.

55-18 SECTION 2C.24. Subsection (e), Section 39.073, Education  
 55-19 Code, is amended to read as follows:

55-20 (e) In determining a district's accreditation rating, the  
 55-21 agency shall consider:

55-22 (1) the district's current special education  
 55-23 compliance status with the agency; [and]

55-24 (2) the progress of students who have failed to  
 55-25 perform satisfactorily in the preceding school year on an  
 55-26 assessment instrument required under Section 39.023(a) [39.023(a),  
 55-27 (c),] or (1); and

55-28 (3) the district's current certification status under  
 55-29 the International Organization for Standardization ISO 9000 series  
 55-30 quality management program certification as described by Section  
 55-31 7.033.

55-32 SECTION 2C.25. Subsection (a), Section 39.075, Education  
 55-33 Code, is amended to read as follows:

55-34 (a) The commissioner may [~~shall~~] authorize special  
 55-35 accreditation investigations to be conducted:

55-36 (1) when excessive numbers of absences of students  
 55-37 eligible to be tested on state assessment instruments are  
 55-38 determined;

55-39 (2) when excessive numbers of allowable exemptions  
 55-40 from the required state assessment instrument are determined;

55-41 (3) in response to complaints submitted to the agency  
 55-42 with respect to alleged violations of civil rights or other  
 55-43 requirements imposed on the state by federal law or court order;

55-44 (4) in response to established monitoring or  
 55-45 compliance reviews of the district's financial accounting  
 55-46 practices and state and federal program requirements;

55-47 (5) when extraordinary numbers of student placements  
 55-48 in alternative education programs, other than placements under  
 55-49 Sections 37.006 and 37.007, are determined;

55-50 (6) in response to an allegation involving a conflict  
 55-51 between members of the board of trustees or between the board and  
 55-52 the district administration if it appears that the conflict  
 55-53 involves a violation of a role or duty of the board members or the  
 55-54 administration clearly defined by this code;

55-55 (7) when excessive numbers of students in special  
 55-56 education programs under Subchapter A, Chapter 29, are assessed  
 55-57 through assessment instruments developed or adopted under Section  
 55-58 39.023(b); [or]

55-59 (8) in response to questions concerning a program,  
 55-60 including special education, required by federal law or for which  
 55-61 the district receives federal funds;

55-62 (9) when an annual review indicates the academically  
 55-63 unacceptable performance under Section 39.072 of one or more  
 55-64 campuses in a district, except that the resulting investigation is  
 55-65 limited to those campuses;

55-66 (10) in response to concerns regarding the integrity  
 55-67 of data submitted to the agency;

55-68 (11) in response to allegations of a violation of  
 55-69 student assessment procedures for assessment instruments adopted

56-1 under Section 39.023; or  
 56-2 (12) as the commissioner otherwise determines  
 56-3 necessary.

56-4 SECTION 2C.26. Subsection (c), Section 39.075, Education  
 56-5 Code, as amended by Chapters 396 and 931, Acts of the 77th  
 56-6 Legislature, Regular Session, 1999, is reenacted and amended to  
 56-7 read as follows:

56-8 (c) Based on the results of a special accreditation  
 56-9 investigation, the commissioner may:

56-10 (1) take appropriate action under Subchapter G;

56-11 (2) raise or lower the district's accreditation status  
 56-12 [rating]; or

56-13 (3) take action under both Subdivisions (1) and (2).

56-14 SECTION 2C.27. Section 39.076, Education Code, is amended  
 56-15 by amending Subsection (a) and adding Subsections (a-1), (a-2),  
 56-16 (a-3), and (c) to read as follows:

56-17 (a) The agency shall adopt written procedures for  
 56-18 conducting ~~[on-site]~~ investigations under this subchapter. The  
 56-19 agency shall make the procedures available to the complainant, the  
 56-20 alleged violator, and the public. Agency staff must be trained in  
 56-21 the procedures and must follow the procedures in conducting the  
 56-22 investigation.

56-23 (a-1) An investigation conducted under this subchapter may  
 56-24 be an on-site, desk, or data-based investigation as determined by  
 56-25 the commissioner.

56-26 (a-2) If conducting an on-site investigation, the  
 56-27 investigators may obtain information from administrators,  
 56-28 teachers, or parents of students enrolled in the school district.  
 56-29 The commissioner shall adopt rules for:

56-30 (1) obtaining information from parents and using that  
 56-31 information in the investigator's report; and

56-32 (2) obtaining information from teachers in a manner  
 56-33 that prevents a campus or district from screening the information.

56-34 (a-3) The agency may give written notice of any impending  
 56-35 on-site investigation to the superintendent and the board of  
 56-36 trustees of a school district.

56-37 (c) The investigators conducting an on-site investigation  
 56-38 shall report the results of the investigation orally and in writing  
 56-39 to the board of trustees of the district and, as appropriate, to  
 56-40 campus administrators, and shall make recommendations concerning  
 56-41 any necessary improvements or sources of aid, such as regional  
 56-42 education service centers.

56-43 SECTION 2C.28. Subchapter D, Chapter 39, Education Code, is  
 56-44 amended by adding Sections 39.077 and 39.078 to read as follows:

56-45 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A  
 56-46 school district or open-enrollment charter school that wishes to  
 56-47 challenge a decision to assign or lower an accreditation status, an  
 56-48 academic performance rating, or a financial accountability rating  
 56-49 must petition for an informal review as provided by Section 7.0571.

56-50 (b) A final decision by the commissioner to assign or lower  
 56-51 an accreditation status, an academic performance rating, or a  
 56-52 financial accountability rating following a review under Section  
 56-53 7.0571 is final and may not be appealed.

56-54 Sec. 39.078. RULES. (a) The commissioner may adopt rules  
 56-55 as necessary to administer this subchapter.

56-56 (b) Unless a provision of this code clearly specifies  
 56-57 otherwise, any rule adopted under Subsection (a) must apply  
 56-58 accreditation requirements and academic performance ratings under  
 56-59 this subchapter to:

56-60 (1) an open-enrollment charter school in the same  
 56-61 manner as the requirements and ratings are applied to a school  
 56-62 district; and

56-63 (2) a campus operated by an open-enrollment charter  
 56-64 school in the same manner as the requirements and ratings are  
 56-65 applied to a campus operated by a school district.

56-66 SECTION 2C.29. Subchapter F, Chapter 39, Education Code, is  
 56-67 amended by adding Section 39.113 to read as follows:

56-68 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT  
 56-69 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt



57-1 rules to create an incentive award system for annual growth in  
 57-2 student achievement. A school that achieves incremental growth in  
 57-3 student achievement, as described in Subsection (b), is eligible  
 57-4 for an award if the school:

57-5 (1) has a student population of at least 65 percent  
 57-6 educationally disadvantaged students;

57-7 (2) achieves an accreditation performance rating of  
 57-8 academically acceptable or better; and

57-9 (3) demonstrates superior growth in the academic  
 57-10 performance of educationally disadvantaged students.

57-11 (b) The commissioner by rule shall adopt performance  
 57-12 criteria to measure annual growth in student academic performance.  
 57-13 The commissioner shall consider the following criteria, as  
 57-14 applicable:

57-15 (1) annual growth in student achievement that  
 57-16 contributes to closing performance gaps among various populations  
 57-17 of students;

57-18 (2) improvements in student scores on the assessment  
 57-19 instruments required under Section 39.023;

57-20 (3) growth in high school completion rates;

57-21 (4) improvement in student scores on college advanced  
 57-22 placement tests; and

57-23 (5) any other factor that contributes to student  
 57-24 achievement.

57-25 (c) From funds appropriated for the purposes of this  
 57-26 section, the commissioner shall award grants to campuses that meet  
 57-27 performance criteria adopted under Subsection (b). The  
 57-28 commissioner shall allocate awards to campuses not later than  
 57-29 December 1 of each year, based on growth in student achievement as  
 57-30 measured for the preceding two school years.

57-31 (c-1) The commissioner shall award grants under this  
 57-32 section beginning September 1, 2006. This subsection expires  
 57-33 January 1, 2007.

57-34 (d) At least 75 percent of an award under this section must  
 57-35 be used for additional teacher compensation at the campus level.  
 57-36 The commissioner by rule shall provide for allocating awards under  
 57-37 this subsection, including providing individual awards of at least  
 57-38 \$3,000 for each teacher at a campus receiving an award under this  
 57-39 subsection.

57-40 (e) Grants from funds appropriated for the award program may  
 57-41 not exceed \$50 million each year except as expressly authorized by  
 57-42 the General Appropriations Act or other law.

57-43 (f) A determination of the commissioner under this section  
 57-44 is final and may not be appealed.

57-45 (g) The commissioner shall annually evaluate the  
 57-46 effectiveness of the state incentive program for improving student  
 57-47 performance on at-risk campuses established under this section.  
 57-48 The evaluation must consider:

57-49 (1) the performance of students in districts under  
 57-50 this section on assessment instruments administered under Section  
 57-51 39.023;

57-52 (2) the districts' high school graduation and  
 57-53 completion rates; and

57-54 (3) the districts' teacher attrition rates.

57-55 SECTION 2C.30. Section 39.131, Education Code, is amended  
 57-56 to read as follows:

57-57 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school  
 57-58 district does not satisfy the accreditation criteria under Section  
 57-59 39.071, the academic performance standards under Section 39.072, or  
 57-60 any financial accountability standard as determined by  
 57-61 commissioner rule, the commissioner shall take any of the following  
 57-62 actions[~~, listed in order of severity,~~] to the extent the  
 57-63 commissioner determines necessary:

57-64 (1) issue public notice of the deficiency to the board  
 57-65 of trustees;

57-66 (2) order a hearing conducted by the board of trustees  
 57-67 of the district for the purpose of notifying the public of the  
 57-68 unacceptable performance, the improvements in performance expected  
 57-69 by the agency, and the sanctions that may be imposed under this

58-1 section if the performance does not improve;

58-2 (3) order the preparation of a student achievement  
58-3 improvement plan that addresses each academic excellence indicator  
58-4 for which the district's performance is unacceptable, the  
58-5 submission of the plan to the commissioner for approval, and  
58-6 implementation of the plan;

58-7 (4) order a hearing to be held before the commissioner  
58-8 or the commissioner's designee at which the president of the board  
58-9 of trustees of the district and the superintendent shall appear and  
58-10 explain the district's low performance, lack of improvement, and  
58-11 plans for improvement;

58-12 (5) arrange an on-site investigation of the district;

58-13 (6) appoint an agency monitor to participate in and  
58-14 report to the agency on the activities of the board of trustees or  
58-15 the superintendent;

58-16 (7) appoint a conservator to oversee the operations of  
58-17 the district;

58-18 (8) appoint a management team to direct the operations  
58-19 of the district in areas of unacceptable performance or require the  
58-20 district to obtain certain services under a contract with another  
58-21 person;

58-22 (9) if a district has a current accreditation status  
58-23 of accredited-warned or accredited-probation, is [been] rated [as]  
58-24 academically unacceptable, or fails to satisfy financial  
58-25 accountability standards as determined by commissioner rule [for a  
58-26 period of one year or more], appoint a board of managers to exercise  
58-27 the powers and duties of the board of trustees;

58-28 (10) if for two consecutive school years, including  
58-29 the current school year, a district has received an accreditation  
58-30 status of accredited-warned or accredited-probation, has been  
58-31 rated academically unacceptable, or has failed to satisfy financial  
58-32 accountability standards as determined by commissioner rule,  
58-33 revoke the district's accreditation and [been rated as academically  
58-34 unacceptable for a period of two years or more]:

58-35 (A) order closure of the district and annex the  
58-36 district to one or more adjoining districts under Section 13.054;  
58-37 or

58-38 (B) in the case of a home-rule school district or  
58-39 open-enrollment charter school, order closure of all programs  
58-40 operated under the district's or school's charter; or

58-41 (11) if a district has been rated [as] academically  
58-42 unacceptable for [a period of] two consecutive school years,  
58-43 including the current school year, [or more] due to the district's  
58-44 dropout rates, impose sanctions designed to improve high school  
58-45 completion rates, including:

58-46 (A) ordering the development of a dropout  
58-47 prevention plan for approval by the commissioner;

58-48 (B) restructuring the district or appropriate  
58-49 school campuses to improve identification of and service to  
58-50 students who are at risk of dropping out of school, as defined by  
58-51 Section 29.081;

58-52 (C) ordering lower student-to-counselor ratios  
58-53 on school campuses with high dropout rates; and

58-54 (D) ordering the use of any other intervention  
58-55 strategy effective in reducing dropout rates, including mentor  
58-56 programs and flexible class scheduling.

58-57 (b) This subsection applies regardless of whether a  
58-58 district has satisfied the accreditation criteria. If for two  
58-59 consecutive school years, including the current school year, [a  
58-60 period of one year or more] a district has had a conservator or  
58-61 management team assigned, the commissioner may appoint a board of  
58-62 managers, a majority of whom must be residents of the district, to  
58-63 exercise the powers and duties of the board of trustees.

58-64 SECTION 2C.31. Section 39.132, Education Code, is amended  
58-65 to read as follows:

58-66 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE  
58-67 CAMPUSES. (a) If a campus performance is below any standard under  
58-68 Section 39.072 [39.073(b)], the campus is considered an  
58-69 academically unacceptable [a low-performing] campus. The

59-1 commissioner may permit the campus to participate in an innovative  
 59-2 redesign of the campus to improve campus performance or shall ~~may~~  
 59-3 take any of the other following actions~~[, listed in order of~~  
 59-4 ~~severity]~~, to the extent the commissioner determines necessary:

59-5 (1) issue public notice of the deficiency to the board  
 59-6 of trustees;

59-7 (2) order a hearing conducted by the board of trustees  
 59-8 at the campus for the purpose of:

59-9 (A) notifying the public of the unacceptable  
 59-10 performance, the improvements in performance expected by the  
 59-11 agency, and the sanctions that may be imposed under this section if  
 59-12 the performance does not improve within a designated period of  
 59-13 time; and

59-14 (B) soliciting public comment on the initial  
 59-15 steps being taken to improve performance;

59-16 (3) ~~[order the preparation of a report regarding the~~  
 59-17 ~~parental involvement program at the campus and a plan describing~~  
 59-18 ~~strategies for improving parental involvement at the campus;~~

59-19 ~~[(4) order the preparation of a report regarding the~~  
 59-20 ~~effectiveness of the district- and campus-level planning and~~  
 59-21 ~~decision-making committees established under Subchapter F, Chapter~~  
 59-22 ~~11, and a plan describing strategies for improving the~~  
 59-23 ~~effectiveness of those committees;~~

59-24 ~~[(5)]~~ order the preparation of a student achievement  
 59-25 improvement plan that addresses each academic excellence indicator  
 59-26 for which the campus's performance is unacceptable, the submission  
 59-27 of the plan to the commissioner for approval, and implementation of  
 59-28 the plan;

59-29 (4) ~~[(6)]~~ order a hearing to be held before the  
 59-30 commissioner or the commissioner's designee at which the president  
 59-31 of the board of trustees, the superintendent, and the campus  
 59-32 principal shall appear and explain the campus's low performance,  
 59-33 lack of improvement, and plans for improvement; or

59-34 (5) ~~[(7)]~~ appoint a special campus intervention team  
 59-35 to:

59-36 (A) conduct a comprehensive on-site evaluation  
 59-37 of the campus to determine the cause for the campus's low  
 59-38 performance and lack of progress;

59-39 (B) recommend actions, including reallocation of  
 59-40 resources and technical assistance, changes in school procedures or  
 59-41 operations, staff development for instructional and administrative  
 59-42 staff, intervention for individual administrators or teachers,  
 59-43 waivers from state statute or rule, or other actions the team  
 59-44 considers appropriate;

59-45 (C) assist in the development of a campus plan  
 59-46 for student achievement; and

59-47 (D) assist the commissioner in monitoring the  
 59-48 progress of the campus in implementing the campus plan for  
 59-49 improvement of student achievement~~[, or~~

59-50 ~~[(8) if a campus has been a low-performing campus for a~~  
 59-51 ~~period of one year or more, appoint a board of managers composed of~~  
 59-52 ~~residents of the district to exercise the powers and duties of the~~  
 59-53 ~~board of trustees of the district in relation to the campus].~~

59-54 (a-1) Notwithstanding Subsection (a), if a campus has been  
 59-55 identified as academically unacceptable under this section or the  
 59-56 campus is rated academically acceptable for the current school year  
 59-57 but would be rated as academically unacceptable if performance  
 59-58 standards to be used for the following school year were applied to  
 59-59 the current school year, the commissioner shall select and assign a  
 59-60 technical assistance team to assist the campus in executing a  
 59-61 school improvement plan and any other school improvement strategies  
 59-62 the commissioner determines appropriate. The commissioner shall  
 59-63 select and assign the technical assistance team not later than:

59-64 (1) October 1 after identifying the campus as  
 59-65 academically unacceptable or otherwise subject to this subsection;  
 59-66 or

59-67 (2) the 30th day after the date the campus is provided  
 59-68 notice that the campus's appeal of its performance rating has been  
 59-69 denied.

60-1 (a-2) A technical assistance team assigned under Subsection  
 60-2 (a-1) to a campus that is academically unacceptable shall conduct a  
 60-3 comprehensive on-site evaluation of the campus to determine the  
 60-4 cause for the campus's low performance and lack of progress. The  
 60-5 team shall have wide latitude to determine what factors to assess  
 60-6 and how to do the assessment. Some factors to be considered are:

60-7 (1) an assessment of the staff to determine the  
 60-8 percentage of certified teachers who are teaching in their field,  
 60-9 the number of teachers with less than three years of experience, and  
 60-10 teacher turnover rates;

60-11 (2) compliance with the appropriate class size rules  
 60-12 and number of class size waivers received;

60-13 (3) an assessment of the quality, quantity, and  
 60-14 appropriateness of instructional materials, including the  
 60-15 availability of technology-based instructional materials;

60-16 (4) a report on the parental involvement strategies  
 60-17 and the effectiveness of such strategies;

60-18 (5) an assessment of the extent and quality of the  
 60-19 mentoring program provided for new teachers on that campus;

60-20 (6) an assessment of the type and quality of the  
 60-21 professional development provided to the staff;

60-22 (7) a demographic analysis of the student population,  
 60-23 including student demographics, at-risk populations, and special  
 60-24 education percentages;

60-25 (8) a report of disciplinary incidents and school  
 60-26 safety information;

60-27 (9) financial and accounting practices; and

60-28 (10) an assessment of appropriateness of the  
 60-29 curriculum and teaching strategies.

60-30 (a-3) Upon completion of the evaluation the assistance team  
 60-31 will recommend actions, including any necessary reallocation of  
 60-32 resources and/or additional funds taken from funds to be set aside  
 60-33 by the agency to assist campuses in meeting the standards specified  
 60-34 in the intervention plan, technical assistance, changes in school  
 60-35 procedures or operations, staff development for instructional and  
 60-36 administrative staff, intervention for individual administrators  
 60-37 or teachers, waivers from state statute or rule, or other actions  
 60-38 the team considers appropriate.

60-39 (a-4) The commissioner may determine when a technical  
 60-40 assistance team's services are no longer needed at a campus under  
 60-41 this section. If a campus is considered an academically  
 60-42 unacceptable campus under Subsection (a) for the subsequent school  
 60-43 year after the campus is reconstituted under this section, the  
 60-44 commissioner shall pursue alternative management under Section  
 60-45 39.1321.

60-46 (b) Notwithstanding Subsection (a), if [~~If~~] a campus has  
 60-47 been identified as academically unacceptable [~~a low-performing~~  
 60-48 ~~campus~~] for three [~~a period of two~~] consecutive school years,  
 60-49 including the current school year [~~or more~~], the commissioner shall  
 60-50 order the reconstitution of [~~closure of the district or charter~~  
 60-51 ~~program on the campus or reconstitute~~] the campus and assign a  
 60-52 special campus intervention team. In reconstituting the campus, a  
 60-53 special campus intervention team shall assist the campus in:

60-54 (1) developing a school improvement plan;

60-55 (2) obtaining approval of the plan from the  
 60-56 commissioner; and

60-57 (3) executing the plan on approval by the  
 60-58 commissioner.

60-59 (c) The special campus intervention team shall decide [~~be~~  
 60-60 ~~assembled for the purpose of deciding~~] which educators may be  
 60-61 retained at that campus. A principal who has been employed by the  
 60-62 campus in that capacity during the three-year period described by  
 60-63 Subsection (b) may not be retained at that campus. A teacher of a  
 60-64 subject assessed by an assessment instrument under Section 39.023  
 60-65 may be retained only if the special campus intervention team  
 60-66 determines that a pattern exists of significant academic growth by  
 60-67 students taught by the teacher. If an educator is not retained, the  
 60-68 educator may be assigned to another position in the district.

60-69 (d) In developing and executing a school improvement plan

61-1 under Subsection (b), the special campus intervention team shall:

61-2 (1) assist the campus in implementing research-based  
 61-3 practices for curriculum development and classroom instruction,  
 61-4 including bilingual education and special education programs, if  
 61-5 appropriate, and financial management; and

61-6 (2) provide technical assistance based on  
 61-7 scientifically based research, including data analysis, academic  
 61-8 deficiency identification, intervention implementation, and budget  
 61-9 analysis, to strengthen and improve the instructional program at  
 61-10 the campus.

61-11 (e) A special campus intervention team assembled under  
 61-12 Subsection (b):

61-13 (1) shall continue to work with a campus until:

61-14 (A) the campus is rated academically acceptable  
 61-15 for a two-year period; or

61-16 (B) the campus is rated academically acceptable  
 61-17 for a one-year period and the commissioner determines that the  
 61-18 campus is operating and will continue to operate in a manner that  
 61-19 improves student achievement; and

61-20 (2) may continually update the school improvement  
 61-21 plan, with approval from the commissioner, to meet the needs of the  
 61-22 campus.

61-23 (f) Notwithstanding any other provision of this subchapter,  
 61-24 if the commissioner determines that an intervention under  
 61-25 Subsection (b) or Section 39.1321 cannot reasonably be expected to  
 61-26 achieve timely improvement at a campus that has been identified as  
 61-27 academically unacceptable for three consecutive school years,  
 61-28 including the current school year, the commissioner may order the  
 61-29 closure of the campus.

61-30 (g) For the 2005-2006 school year, the commissioner shall  
 61-31 assign a technical assistance team to a campus under Subsection  
 61-32 (a-1) on the basis of academic performance ratings for the  
 61-33 2004-2005 school year. The commissioner may impose a sanction on a  
 61-34 campus under Subsection (b) or (f) on the basis of academic  
 61-35 performance ratings for the 2003-2004 and 2004-2005 school years.  
 61-36 This subsection expires September 1, 2007.

61-37 (h) If a campus is considered an academically unacceptable  
 61-38 campus under Subsection (a) for the subsequent school year after  
 61-39 the campus is reconstituted under Subsection (b), the commissioner  
 61-40 shall pursue alternative management under Section 39.1321.

61-41 SECTION 2C.32. Subchapter G, Chapter 39, Education Code, is  
 61-42 amended by adding Sections 39.1321 and 39.1322 to read as follows:

61-43 Sec. 39.1321. MANAGEMENT OF CERTAIN ACADEMICALLY  
 61-44 UNACCEPTABLE CAMPUSES. (a) Except as provided by Section  
 61-45 39.132(f), a campus is subject to this section if the campus has  
 61-46 been identified as academically unacceptable under Section  
 61-47 39.132(a) for the subsequent school year after the campus is  
 61-48 reconstituted under Section 39.132(b).

61-49 (b) The commissioner shall solicit proposals from qualified  
 61-50 entities to assume management of a campus subject to this section.

61-51 (c) If the commissioner determines that the basis for  
 61-52 identifying a campus as academically unacceptable is limited to a  
 61-53 specific condition that may be remedied with targeted technical  
 61-54 assistance, the commissioner may:

61-55 (1) provide the campus a one-year waiver under this  
 61-56 section; and

61-57 (2) require the district to contract for the  
 61-58 appropriate technical assistance.

61-59 (d) The commissioner may annually solicit proposals under  
 61-60 this section for the management of a campus subject to this section.  
 61-61 The commissioner shall notify a qualified entity that has been  
 61-62 approved as a provider under this section. The district must  
 61-63 execute a contract with an approved provider and relinquish control  
 61-64 of the campus before January 1 of the school year.

61-65 (e) To qualify for consideration as a managing entity under  
 61-66 this section, the entity must submit a proposal that provides  
 61-67 information relating to the entity's management and leadership team  
 61-68 that will participate in management of the campus under  
 61-69 consideration, including information relating to individuals that

62-1 have:

62-2 (1) documented success in whole school interventions  
62-3 that increased the educational and performance levels of students  
62-4 in academically unacceptable campuses;

62-5 (2) a proven record of effectiveness with programs  
62-6 assisting low-performing students;

62-7 (3) a proven ability to apply scientifically based  
62-8 research to school intervention strategies;

62-9 (4) a proven record of financial ability to perform  
62-10 under the management contract; and

62-11 (5) any other experience or qualifications the  
62-12 commissioner determines necessary.

62-13 (e-1) In selecting a managing entity under this section, the  
62-14 commissioner shall give preference to an entity that:

62-15 (1) meets any qualifications under this section; and

62-16 (2) has documented success in educating students from  
62-17 similar demographic groups and with similar educational needs as  
62-18 the students who attend the campus that is to be operated by a  
62-19 managing entity under this section.

62-20 (f) The school district may negotiate the term of a  
62-21 management contract for not more than five years with an option to  
62-22 renew the contract. The management contract must include a  
62-23 provision describing the district's responsibilities in supporting  
62-24 the operation of the campus. The commissioner shall approve the  
62-25 contract before the contract is executed and, as appropriate, may  
62-26 require the district, as a term of the contract, to support the  
62-27 campus in the same manner as the district was required to support  
62-28 the campus before the execution of the management contract.

62-29 (g) A management contract under this section shall include  
62-30 provisions approved by the commissioner that require the managing  
62-31 entity to demonstrate improvement in campus performance, including  
62-32 negotiated performance measures. The performance measures must be  
62-33 consistent with the priorities of this chapter. The commissioner  
62-34 shall evaluate a managing entity's performance on the first and  
62-35 second anniversaries of the date of the management contract. If the  
62-36 evaluation fails to demonstrate improvement as negotiated under the  
62-37 contract by the first anniversary of the date of the management  
62-38 contract, the district may terminate the management contract, with  
62-39 the commissioner's consent, for nonperformance or breach of  
62-40 contract and select another provider from an approved list provided  
62-41 by the commissioner. If the evaluation fails to demonstrate  
62-42 significant improvement, as determined by the commissioner, by the  
62-43 second anniversary of the date of the management contract, the  
62-44 district shall terminate the management contract and select another  
62-45 provider from an approved list provided by the commissioner or  
62-46 resume operation of the campus if approved by the commissioner. If  
62-47 the commissioner approves the district's operation of the campus,  
62-48 the commissioner shall assign a technical assistance team to assist  
62-49 the campus.

62-50 (h) Notwithstanding any other provision of this code, the  
62-51 funding for a campus operated by a managing entity must be  
62-52 equivalent to the funding of the other campuses in the district on a  
62-53 per student basis so that the managing entity receives the same  
62-54 funding the campus would otherwise have received.

62-55 (i) Each campus operated by a managing entity under this  
62-56 section is subject to this chapter in the same manner as any other  
62-57 campus in the district.

62-58 (j) The commissioner may adopt rules necessary to implement  
62-59 this section.

62-60 (k) With respect to the management of a campus under this  
62-61 section:

62-62 (1) a managing entity is considered to be a  
62-63 governmental body for purposes of Chapters 551 and 552, Government  
62-64 Code; and

62-65 (2) any requirement in Chapter 551 or 552, Government  
62-66 Code, that applies to a school district or the board of trustees of  
62-67 a school district applies to a managing entity.

62-68 Sec. 39.1322. REVIEW OF SANCTIONS FOR CAMPUSES SERVING  
62-69 RESIDENTIAL FACILITIES. (a) A school district or public charter

63-1 district may petition the commissioner to review an academically  
 63-2 unacceptable rating assigned to a campus if the campus  
 63-3 predominantly served students residing in a residential facility  
 63-4 during the rating period.

63-5 (b) If the commissioner determines that the basis for  
 63-6 identifying the campus as academically unacceptable was limited to  
 63-7 a condition that was not related to the educational purpose of the  
 63-8 residential facility, the commissioner may take any of the  
 63-9 following actions as the commissioner determines appropriate:

63-10 (1) change, modify, or suspend the academically  
 63-11 unacceptable rating; or

63-12 (2) impose any sanction otherwise authorized under  
 63-13 Section 39.131 or 39.132.

63-14 (c) The commissioner may consider a factor other than a  
 63-15 factor used to assign a rating in evaluating a campus under this  
 63-16 section. The commissioner may assign a special campus intervention  
 63-17 team under Section 39.132(a)(5) at the expense of the school  
 63-18 district or public charter district as provided by Section 39.134  
 63-19 to develop a long-term intervention plan to improve services for  
 63-20 students.

63-21 (d) On a determination that a campus subject to this section  
 63-22 is appropriately meeting the educational needs of its students, the  
 63-23 commissioner may waive revocation of a public charter district  
 63-24 under Section 11A.107(b) for a period not to exceed two years. A  
 63-25 waiver under this subsection may be extended for additional  
 63-26 two-year periods based on subsequent evaluations of the campus.

63-27 (e) This section does not limit the commissioner's ability  
 63-28 to sanction a public charter district for the performance of a  
 63-29 campus subject to this section under Section 11A.107(a) or any  
 63-30 other law.

63-31 (f) A decision by the commissioner under this section is  
 63-32 final and may not be appealed.

63-33 SECTION 2C.33. Section 39.133, Education Code, is amended  
 63-34 to read as follows:

63-35 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall  
 63-36 review annually the performance of a district or campus subject to a  
 63-37 sanction under this subchapter to determine the appropriate actions  
 63-38 to be implemented under this subchapter. The determination shall  
 63-39 take into account the number, severity, and duration of the  
 63-40 problems identified [~~commissioner must review at least annually the~~  
 63-41 ~~performance of a district for which the accreditation rating has~~  
 63-42 ~~been lowered due to unacceptable student performance and may not~~  
 63-43 ~~raise the rating until the district has demonstrated improved~~  
 63-44 ~~student performance].~~ If the review reveals a lack of improvement,  
 63-45 the commissioner shall increase the level of state intervention and  
 63-46 sanction unless the commissioner finds good cause for maintaining  
 63-47 the current status.

63-48 (b) The commissioner shall review at least annually the  
 63-49 performance of a school district for which the academic performance  
 63-50 rating has been lowered due to unacceptable student performance and  
 63-51 may not raise the rating until the district has demonstrated  
 63-52 improved student performance.

63-53 SECTION 2C.34. Subchapter G, Chapter 39, Education Code, is  
 63-54 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as  
 63-55 follows:

63-56 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In  
 63-57 addition to other sanctions authorized under Sections 39.131 and  
 63-58 39.132, the commissioner may order a school district or campus to  
 63-59 acquire professional services at the expense of the district or  
 63-60 campus to address the applicable financial, assessment, data  
 63-61 quality, program, or governance deficiency. The commissioner's  
 63-62 order may require the district or campus to:

63-63 (1) select an external auditor, data quality expert,  
 63-64 professional authorized to monitor district assessment instrument  
 63-65 administration, or curriculum or program expert; or

63-66 (2) provide for the appropriate training of district  
 63-67 staff or board of trustees members in the case of a district, or  
 63-68 campus staff, in the case of a campus.

63-69 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS.

64-1 (a) The commissioner may revoke the accreditation of a school  
 64-2 district and order the closure of the district or a campus, as  
 64-3 appropriate, under the following circumstances:

64-4 (1) the commissioner is authorized to close the  
 64-5 district or campus under Section 39.131(a)(10) or 39.132(f);

64-6 (2) the commissioner determines that the district is  
 64-7 insolvent and unable to complete the school year; or

64-8 (3) the commissioner determines that the district has  
 64-9 ceased operations for 11 or more instructional days during the  
 64-10 current or most recent scheduled school year without the  
 64-11 commissioner's authorization.

64-12 (b) The commissioner shall issue an order of closure under  
 64-13 this section that includes provisions necessary for the  
 64-14 continuation of the education of students enrolled in the district  
 64-15 or campus, including annexation to one or more adjoining districts  
 64-16 as provided by Section 13.054. An order of closure may:

64-17 (1) establish an effective date for accreditation  
 64-18 revocation and closure that is not later than the first anniversary  
 64-19 of the date of the order;

64-20 (2) provide for an interim board of managers to  
 64-21 exercise the duties of the board of trustees of the district as  
 64-22 designated by the commissioner;

64-23 (3) require enrollment or student services to be  
 64-24 provided by another district as necessary to allow students  
 64-25 enrolled in the closed district to complete a school year, and make  
 64-26 adjustments in the state and federal funding to which the district  
 64-27 would otherwise be entitled as determined by the commissioner; and

64-28 (4) require the preservation, transfer, or surrender  
 64-29 of all student records and other records required for an audit of  
 64-30 any state and federal funding provided to the district.

64-31 (c) A person who intentionally destroys, conceals, or  
 64-32 tampers with a record that is required to be preserved,  
 64-33 transferred, or surrendered under Subsection (b)(4) commits an  
 64-34 offense punishable under Section 37.10(c)(2), Penal Code.

64-35 (d) A board of managers exercising authority under  
 64-36 Subsection (b)(2) may exercise the authority of the board of  
 64-37 trustees with regard to financial management of the district and  
 64-38 personnel actions. The board of managers is not required to be  
 64-39 composed of residents of the district.

64-40 (e) An open-enrollment charter school ordered closed under  
 64-41 this section is not entitled to a separate hearing concerning the  
 64-42 revocation or nonrenewal of the charter under Section 12.116.

64-43 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A  
 64-44 school district or open-enrollment charter school that wishes to  
 64-45 challenge a decision to impose a sanction under this subchapter,  
 64-46 including a decision to close a district, school, or campus under  
 64-47 Section 39.1332, must petition for an informal review as provided  
 64-48 by Section 7.0571.

64-49 (b) A final decision by the commissioner to impose a  
 64-50 sanction under this subchapter, including a decision to close a  
 64-51 school district or a campus under Section 39.1332, following a  
 64-52 review under Section 7.0571 is final and may not be appealed.

64-53 (c) A school district may not collaterally contest an  
 64-54 academic performance rating or other accreditation standard as part  
 64-55 of the review of a sanction under this subchapter if a review  
 64-56 opportunity has already been provided for the academic performance  
 64-57 rating.

64-58 SECTION 2C.35. Section 39.134, Education Code, is amended  
 64-59 to read as follows:

64-60 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing  
 64-61 a monitor, conservator, management team, ~~or~~ special campus  
 64-62 intervention team, technical assistance team, managing entity  
 64-63 under Section 39.1321, or service provider under Section 39.1331  
 64-64 shall be paid by the district. If the district fails or refuses to  
 64-65 pay the costs in a timely manner, the commissioner may:

64-66 (1) pay the costs using amounts withheld from any  
 64-67 funds to which the district is otherwise entitled; or

64-68 (2) recover the amount of the costs in the manner  
 64-69 provided for recovery of an overallocation of state funds under



65-1 Section 42.258.

65-2 SECTION 2C.36. Subchapter G, Chapter 39, Education Code, is  
65-3 amended by adding Section 39.1371 to read as follows:

65-4 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is  
65-5 responsible for managing an intervention of a campus subject to  
65-6 sanctions under this subchapter.

65-7 (b) The agency shall:

65-8 (1) monitor the progress of technical assistance teams  
65-9 and special campus intervention teams appointed by the commissioner  
65-10 under this subchapter; and

65-11 (2) supervise the activities of the management  
65-12 entities under Section 39.1321.

65-13 (c) The agency shall:

65-14 (1) establish by rule and publish school improvement  
65-15 objectives;

65-16 (2) advocate for the increased use of research-based  
65-17 effective practices; and

65-18 (3) coordinate campus improvement activities of the  
65-19 agency and regional education service centers.

65-20 (d) The commissioner may contract for services under this  
65-21 section.

65-22 SECTION 2C.37. Subsection (a), Section 39.182, Education  
65-23 Code, as amended by S.B. No. 42, Acts of the 79th Legislature, 2005,  
65-24 is amended to read as follows:

65-25 (a) Not later than December 1 of each year, the agency shall  
65-26 prepare and deliver to the governor, the lieutenant governor, the  
65-27 speaker of the house of representatives, each member of the  
65-28 legislature, the Legislative Budget Board, and the clerks of the  
65-29 standing committees of the senate and house of representatives with  
65-30 primary jurisdiction over the public school system a comprehensive  
65-31 report covering the preceding school year and containing:

65-32 (1) an evaluation of the achievements of the state  
65-33 educational program in relation to the statutory goals for the  
65-34 public education system under Section 4.002;

65-35 (2) an evaluation of the status of education in the  
65-36 state as reflected by the academic excellence indicators adopted  
65-37 under Section 39.051;

65-38 (3) a summary compilation of overall student  
65-39 performance on academic skills assessment instruments required by  
65-40 Section 39.023 with the number and percentage of students exempted  
65-41 from the administration of those instruments and the basis of the  
65-42 exemptions, aggregated by grade level, subject area, campus, and  
65-43 district, with appropriate interpretations and analysis, and  
65-44 disaggregated by race, ethnicity, gender, and socioeconomic  
65-45 status;

65-46 (4) a summary compilation of overall performance of  
65-47 students placed in a disciplinary alternative education program  
65-48 established under Section 37.008 on academic skills assessment  
65-49 instruments required by Section 39.023 with the number of those  
65-50 students exempted from the administration of those instruments and  
65-51 the basis of the exemptions, aggregated by district, grade level,  
65-52 and subject area, with appropriate interpretations and analysis,  
65-53 and disaggregated by race, ethnicity, gender, and socioeconomic  
65-54 status;

65-55 (5) a summary compilation of the progress [~~overall~~  
65-56 ~~performance~~] of students at risk of dropping out of school, as  
65-57 defined by Section 29.081(d), including information described by  
65-58 the academic excellence indicators under Sections  
65-59 39.051(b)(8)-(11), provided statewide and aggregated by district,  
65-60 on academic skills assessment instruments required by Section  
65-61 39.023 and any other assessment instrument required by the  
65-62 commissioner [~~with the number of those students exempted from the~~  
65-63 ~~administration of those instruments and the basis of the~~  
65-64 ~~exemptions, aggregated by district, grade level, and subject area],  
65-65 with appropriate interpretations and analysis, and disaggregated  
65-66 by race, ethnicity, gender, and socioeconomic status;~~

65-67 (6) an evaluation of the correlation between student  
65-68 grades and student performance on academic skills assessment  
65-69 instruments required by Section 39.023;

66-1 (7) a statement of the dropout rate of students in  
66-2 grade levels 7 through 12, expressed in the aggregate and by grade  
66-3 level, and a statement of the completion rates of students for grade  
66-4 levels 9 through 12;

66-5 (8) a statement of:

66-6 (A) the completion rate of students who enter  
66-7 grade level 9 and graduate not more than four years later;

66-8 (B) the completion rate of students who enter  
66-9 grade level 9 and graduate, including students who require more  
66-10 than four years to graduate;

66-11 (C) the completion rate of students who enter  
66-12 grade level 9 and not more than four years later receive a high  
66-13 school equivalency certificate;

66-14 (D) the completion rate of students who enter  
66-15 grade level 9 and receive a high school equivalency certificate,  
66-16 including students who require more than four years to receive a  
66-17 certificate; and

66-18 (E) the number and percentage of all students who  
66-19 have not been accounted for under Paragraph (A), (B), (C), or (D);

66-20 (9) a statement of the projected cross-sectional and  
66-21 longitudinal dropout rates for grade levels 9 through 12 for the  
66-22 next five years, assuming no state action is taken to reduce the  
66-23 dropout rate;

66-24 (10) a description of a systematic, measurable plan  
66-25 for reducing the projected cross-sectional and longitudinal  
66-26 dropout rates to five percent or less for the 1997-1998 school year;

66-27 (11) a summary of the information required by Section  
66-28 29.083 regarding grade level retention of students and information  
66-29 concerning:

66-30 (A) the number and percentage of students  
66-31 retained; and

66-32 (B) the performance of retained students on  
66-33 assessment instruments required under Section 39.023(a);

66-34 (12) information, aggregated by district type and  
66-35 disaggregated by race, ethnicity, gender, and socioeconomic  
66-36 status, on:

66-37 (A) the number of students placed in a  
66-38 disciplinary alternative education program established under  
66-39 Section 37.008;

66-40 (B) the average length of a student's placement  
66-41 in a disciplinary alternative education program established under  
66-42 Section 37.008;

66-43 (C) the academic performance of students on  
66-44 assessment instruments required under Section 39.023(a) during the  
66-45 year preceding and during the year following placement in a  
66-46 disciplinary alternative education program; and

66-47 (D) the dropout rates of students who have been  
66-48 placed in a disciplinary alternative education program established  
66-49 under Section 37.008;

66-50 (13) a list of each school district or campus that does  
66-51 not satisfy performance standards, with an explanation of the  
66-52 actions taken by the commissioner to improve student performance in  
66-53 the district or campus and an evaluation of the results of those  
66-54 actions;

66-55 (14) an evaluation of the status of the curriculum  
66-56 taught in public schools, with recommendations for legislative  
66-57 changes necessary to improve or modify the curriculum required by  
66-58 Section 28.002;

66-59 (15) a description of all funds received by and each  
66-60 activity and expenditure of the agency;

66-61 (16) a summary and analysis of the instructional  
66-62 expenditures ratios and instructional employees ratios of school  
66-63 districts computed under Section 44.0071;

66-64 (17) a summary of the effect of deregulation,  
66-65 including exemptions and waivers granted under Section 7.056 or  
66-66 39.112;

66-67 (18) a statement of the total number and length of  
66-68 reports that school districts and school district employees must  
66-69 submit to the agency, identifying which reports are required by

67-1 federal statute or rule, state statute, or agency rule, and a  
67-2 summary of the agency's efforts to reduce overall reporting  
67-3 requirements;

67-4 (19) a list of each school district that is not in  
67-5 compliance with state special education requirements, including:

67-6 (A) the period for which the district has not  
67-7 been in compliance;

67-8 (B) the manner in which the agency considered the  
67-9 district's failure to comply in determining the district's  
67-10 accreditation status; and

67-11 (C) an explanation of the actions taken by the  
67-12 commissioner to ensure compliance and an evaluation of the results  
67-13 of those actions;

67-14 (20) an evaluation of public charter districts,  
67-15 including:

67-16 (A) the academic performance of students  
67-17 enrolled in public charter districts, disaggregated by race,  
67-18 ethnicity, gender, and socioeconomic status;

67-19 (B) the costs of instruction, administration,  
67-20 and transportation incurred by public charter districts; and

67-21 (C) other issues, as determined by the  
67-22 commissioner [~~a comparison of the performance of open-enrollment~~  
67-23 ~~charter schools and school districts on the academic excellence~~  
67-24 ~~indicators specified in Section 39.051(b) and accountability~~  
67-25 ~~measures adopted under Section 39.051(g), with a separately~~  
67-26 ~~aggregated comparison of the performance of open-enrollment~~  
67-27 ~~charter schools predominantly serving students at risk of dropping~~  
67-28 ~~out of school, as defined by Section 29.081(d), with the~~  
67-29 ~~performance of school districts];~~

67-30 (21) a summary of the information required by Section  
67-31 38.0141 regarding student health and physical activity from each  
67-32 school district; and

67-33 (22) any additional information considered important  
67-34 by the commissioner or the State Board of Education.

67-35 SECTION 2C.38. Subsection (a), Section 39.202, Education  
67-36 Code, is amended to read as follows:

67-37 (a) The commissioner shall, in consultation with the  
67-38 comptroller, develop and implement a financial accountability  
67-39 rating system for school districts in this state that distinguishes  
67-40 among districts' varying levels of financial performance.

67-41 SECTION 2C.39. Section 39.182, Education Code, is amended  
67-42 by adding Subsections (b-1) and (b-2) to read as follows:

67-43 (b-1) The report must include an assessment of the impact of  
67-44 the performance-based grant system developed under Subchapter E,  
67-45 Chapter 7, on student academic performance, including:

67-46 (1) an analysis of performance and spending  
67-47 information relating to grants administered by the agency; and

67-48 (2) recommendations on any statutory changes needed  
67-49 for the agency to more effectively administer grant programs,  
67-50 including recommendations on whether to eliminate or modify  
67-51 inefficient grant programs, expand effective grant programs, or  
67-52 consolidate similar grant programs to maximize the effectiveness  
67-53 and efficiencies of those programs.

67-54 (b-2) Subsection (b-1) applies beginning January 1, 2009.  
67-55 This subsection expires February 1, 2009.

67-56 SECTION 2C.40. Subchapter I, Chapter 39, Education Code, is  
67-57 amended by adding Section 39.205 to read as follows:

67-58 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than  
67-59 September 1, 2006, the agency shall submit a report to the  
67-60 legislature on the status of the financial accountability system  
67-61 that recommends to the legislature methods for linking school  
67-62 district financial management performance and academic  
67-63 performance.

67-64 (b) This section expires September 2, 2006.

67-65 SECTION 2C.41. Subchapter A, Chapter 44, Education Code, is  
67-66 amended by adding Section 44.0073 to read as follows:

67-67 Sec. 44.0073. INSTRUCTIONAL COSTS. (a) For purposes of  
67-68 this section:

67-69 (1) "Direct instructional costs" includes a school

68-1 district's expenses related to instruction, instructional  
68-2 resources and media services, curriculum development,  
68-3 instructional staff development, instructional leadership, school  
68-4 leadership, and evaluation and counseling services.

68-5 (2) "Indirect instructional costs" includes:

68-6 (A) a school district's expenses related to  
68-7 social work services, health services, student transportation,  
68-8 food services, facility maintenance and operations, security and  
68-9 monitoring services, and data processing services; and

68-10 (B) payments to another district under the public  
68-11 education grant program under Subchapter G, Chapter 29, payments to  
68-12 another district that is a member of a shared services arrangement,  
68-13 payments to a fiscal agent, and payments under Section 37.012 to a  
68-14 juvenile justice alternative education program.

68-15 (b) For purposes of school district financial  
68-16 accountability, the agency shall identify each district's direct  
68-17 and indirect instructional costs for the preceding fiscal year and  
68-18 make that information available to the public on the agency's  
68-19 Internet website.

68-20 PART D. INSTRUCTIONAL MATERIALS

68-21 SECTION 2D.01. Subdivision (28), Subsection (b), Section  
68-22 7.055, Education Code, is amended to read as follows:

68-23 (28) The commissioner shall perform duties relating to  
68-24 the funding, adoption, and purchase of instructional materials  
68-25 ~~[textbooks]~~ under Chapter 31.

68-26 SECTION 2D.02. Subsection (f), Section 7.056, Education  
68-27 Code, is amended to read as follows:

68-28 (f) A school district or campus that is required to develop  
68-29 and implement a student achievement improvement plan under Section  
68-30 39.131 or 39.132 may receive an exemption or waiver under this  
68-31 section from any law or rule other than:

68-32 (1) a prohibition on conduct that constitutes a  
68-33 criminal offense;

68-34 (2) a requirement imposed by federal law or rule;

68-35 (3) a requirement, restriction, or prohibition  
68-36 imposed by state law or rule relating to:

68-37 (A) public school accountability as provided by  
68-38 Subchapters B, C, D, and G, Chapter 39; or

68-39 (B) educator rights and benefits under  
68-40 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
68-41 A, Chapter 22; or

68-42 (4) ~~[textbook]~~ selection of instructional materials  
68-43 under Chapter 31.

68-44 SECTION 2D.03. Subdivision (23), Subsection (c), Section  
68-45 7.102, Education Code, is amended to read as follows:

68-46 (23) The board shall adopt and purchase or license  
68-47 instructional materials ~~[textbooks]~~ as provided by Chapter 31 and  
68-48 adopt rules required by that chapter.

68-49 SECTION 2D.04. Subsections (a) and (c), Section 7.108,  
68-50 Education Code, are amended to read as follows:

68-51 (a) A person interested in selling bonds of any type, ~~[or]~~ a  
68-52 publisher, or any other person engaged in manufacturing, shipping,  
68-53 selling, or advertising instructional materials ~~[textbooks]~~ or  
68-54 otherwise connected with the instructional material ~~[textbook]~~  
68-55 business commits an offense if the person makes or authorizes a  
68-56 political contribution to or takes part in, directly or indirectly,  
68-57 the campaign of any person seeking election to or serving on the  
68-58 board.

68-59 (c) In this section:

68-60 (1) "Instructional material" and "publisher" have the  
68-61 meanings assigned by Section 31.002.

68-62 (2) "Political contribution" has the meaning assigned  
68-63 by Section 251.001, Election Code.

68-64 ~~[(2) "Textbook" has the meaning assigned by Section~~  
68-65 ~~31.002.]~~

68-66 SECTION 2D.05. The heading to Section 7.112, Education  
68-67 Code, is amended to read as follows:

68-68 Sec. 7.112. REPRESENTATION OF ~~[TEXTBOOK]~~ PUBLISHER OF  
68-69 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

69-1 SECTION 2D.06. Subsection (a), Section 7.112, Education  
69-2 Code, is amended to read as follows:

69-3 (a) A former member of the State Board of Education who is  
69-4 employed by or otherwise receives compensation from a [~~textbook~~]  
69-5 publisher of instructional materials may not, before the second  
69-6 anniversary of the date on which the person last served as a member  
69-7 of the State Board of Education:

69-8 (1) confer with a member of the board of trustees of a  
69-9 school district concerning instructional materials [~~a textbook~~]  
69-10 published by that [~~textbook~~] publisher; or

69-11 (2) appear at a meeting of the board of trustees on  
69-12 behalf of the [~~textbook~~] publisher.

69-13 SECTION 2D.07. Subdivision (2), Subsection (c), Section  
69-14 7.112, Education Code, is amended to read as follows:

69-15 (2) "Instructional material" and "publisher"  
69-16 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section  
69-17 31.002.

69-18 SECTION 2D.08. Subsection (b), Section 11.158, Education  
69-19 Code, is amended to read as follows:

69-20 (b) The board may not charge fees for:

69-21 (1) instructional materials [~~textbooks~~], workbooks,  
69-22 laboratory supplies, or other supplies necessary for participation  
69-23 in any instructional course except as authorized under this code;

69-24 (2) field trips required as a part of a basic education  
69-25 program or course;

69-26 (3) any specific form of dress necessary for any  
69-27 required educational program or diplomas;

69-28 (4) the payment of instructional costs for necessary  
69-29 school personnel employed in any course or educational program  
69-30 required for graduation;

69-31 (5) library materials [~~books~~] required to be used for  
69-32 any educational course or program, other than fines for lost,  
69-33 damaged, or overdue materials [~~books~~];

69-34 (6) admission to any activity the student is required  
69-35 to attend as a prerequisite to graduation;

69-36 (7) admission to or examination in any required  
69-37 educational course or program; or

69-38 (8) lockers.

69-39 SECTION 2D.09. Subsection (a), Section 11.164, Education  
69-40 Code, is amended to read as follows:

69-41 (a) The board of trustees of each school district shall  
69-42 limit redundant requests for information and the number and length  
69-43 of written reports that a classroom teacher is required to prepare.  
69-44 A classroom teacher may not be required to prepare any written  
69-45 information other than:

69-46 (1) any report concerning the health, safety, or  
69-47 welfare of a student;

69-48 (2) a report of a student's grade on an assignment or  
69-49 examination;

69-50 (3) a report of a student's academic progress in a  
69-51 class or course;

69-52 (4) a report of a student's grades at the end of each  
69-53 grade reporting period;

69-54 (5) a [~~textbook~~] report on instructional materials;

69-55 (6) a unit or weekly lesson plan that outlines, in a  
69-56 brief and general manner, the information to be presented during  
69-57 each period at the secondary level or in each subject or topic at  
69-58 the elementary level;

69-59 (7) an attendance report;

69-60 (8) any report required for accreditation review;

69-61 (9) any information required by a school district that  
69-62 relates to a complaint, grievance, or actual or potential  
69-63 litigation and that requires the classroom teacher's involvement;  
69-64 or

69-65 (10) any information specifically required by law,  
69-66 rule, or regulation.

69-67 SECTION 2D.10. Subsection (e), Section 19.007, Education  
69-68 Code, is amended to read as follows:

69-69 (e) The district may participate in the instructional

70-1 materials [~~textbook~~] program under Chapter 31.

70-2 SECTION 2D.11. Subsections (a) and (c), Section 26.006,  
70-3 Education Code, are amended to read as follows:

70-4 (a) A parent is entitled to:

70-5 (1) review all teaching materials, instructional  
70-6 materials [~~textbooks~~], and other teaching aids used in the  
70-7 classroom of the parent's child; and

70-8 (2) review each test administered to the parent's  
70-9 child after the test is administered.

70-10 (c) A student's parent is entitled to request that the  
70-11 school district or open-enrollment charter school the student  
70-12 attends allow the student to take home any instructional materials  
70-13 [~~textbook~~] used by the student. Subject to the availability of the  
70-14 instructional materials [~~a textbook~~], the district or school shall  
70-15 honor the request. A student who takes home instructional  
70-16 materials [~~a textbook~~] must return the instructional materials  
70-17 [~~textbook~~] to school at the beginning of the next school day if  
70-18 requested to do so by the student's teacher. In this subsection,  
70-19 "instructional material" [~~"textbook"~~] has the meaning assigned by  
70-20 Section 31.002.

70-21 SECTION 2D.12. Subsections (c) and (h), Section 28.002,  
70-22 Education Code, are amended to read as follows:

70-23 (c) The State Board of Education, with the direct  
70-24 participation of educators, parents, business and industry  
70-25 representatives, and employers shall by rule identify the essential  
70-26 knowledge and skills of each subject of the required curriculum  
70-27 that all students should be able to demonstrate and that will be  
70-28 used in evaluating instructional materials [~~textbooks~~] under  
70-29 Chapter 31 and addressed on the assessment instruments required  
70-30 under Subchapter B, Chapter 39. As a condition of accreditation,  
70-31 the board shall require each district to provide instruction in the  
70-32 essential knowledge and skills at appropriate grade levels.

70-33 (h) The State Board of Education and each school district  
70-34 shall foster the continuation of the tradition of teaching United  
70-35 States and Texas history and the free enterprise system in regular  
70-36 subject matter, [~~and~~] in social studies, economics, and reading  
70-37 courses, and in the adoption of instructional materials  
70-38 [~~textbooks~~]. A primary purpose of the public school curriculum is  
70-39 to prepare thoughtful, active citizens who understand the  
70-40 importance of patriotism and can function productively in a free  
70-41 enterprise society with appreciation for the basic democratic  
70-42 values of our state and national heritage.

70-43 SECTION 2D.13. The heading to Chapter 31, Education Code,  
70-44 is amended to read as follows:

70-45 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

70-46 SECTION 2D.14. Section 31.001, Education Code, is amended  
70-47 to read as follows:

70-48 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
70-49 Instructional materials [~~Textbooks~~] selected for use in the public  
70-50 schools shall be furnished without cost to the students attending  
70-51 those schools.

70-52 SECTION 2D.15. Section 31.002, Education Code, is amended  
70-53 to read as follows:

70-54 Sec. 31.002. DEFINITIONS. In this chapter:

70-55 (1) "Instructional material" [~~"Electronic textbook"~~]  
70-56 means a medium or a combination of media for conveying information  
70-57 to a student. The term includes a book, supplementary materials, a  
70-58 combination of a book, workbook, supplementary materials, computer  
70-59 software, [~~interactive videodisc,~~ magnetic media, DVD, CD-ROM,  
70-60 computer courseware, on-line services, or an electronic medium, or  
70-61 other means of conveying information to the student or otherwise  
70-62 contributing to the learning process through electronic means.

70-63 (2) "Publisher" means a person who prepares,  
70-64 manufactures, or distributes instructional materials for sale or  
70-65 distribution to public schools. The term includes an on-line  
70-66 service or a developer or distributor of [~~an~~] electronic  
70-67 instructional materials [~~textbook~~].

70-68 (3) "State-adopted" means adopted by the State Board  
70-69 of Education under Section 31.024 [~~"Textbook" means a book, a~~

71-1 ~~system of instructional materials, or a combination of a book and~~  
 71-2 ~~supplementary instructional materials that conveys information to~~  
 71-3 ~~the student or otherwise contributes to the learning process, or an~~  
 71-4 ~~electronic textbook].~~

71-5 (4) "Technological equipment" means hardware, a  
 71-6 device, or equipment necessary for:

71-7 (A) instructional use in the classroom,  
 71-8 including to gain access to or enhance the use of ~~[an]~~ electronic  
 71-9 instructional materials ~~[textbook]~~; or

71-10 (B) professional use by a classroom teacher.

71-11 SECTION 2D.16. Section 31.003, Education Code, is amended  
 71-12 to read as follows:

71-13 Sec. 31.003. RULES. The State Board of Education may adopt  
 71-14 rules, consistent with this chapter, for the adoption, requisition,  
 71-15 distribution, care, use, and disposal of instructional materials  
 71-16 ~~[textbooks]~~.

71-17 SECTION 2D.17. Subchapter B, Chapter 31, Education Code, is  
 71-18 amended by amending Section 31.021 as amended by S.B. No. 151, Acts  
 71-19 of the 79th Legislature, Regular Session, 2005, and Sections  
 71-20 31.022, 31.023, 31.024, and 31.026 through 31.030 and adding  
 71-21 Sections 31.0211, 31.0212, 31.0221, 31.032, and 31.033 to read as  
 71-22 follows:

71-23 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS ~~[TEXTBOOK]~~  
 71-24 FUND. (a) The state instructional materials ~~[textbook]~~ fund  
 71-25 consists of:

71-26 (1) an amount set aside by the State Board of Education  
 71-27 from the available school fund, computed in accordance with this  
 71-28 section; and

71-29 ~~(2) [all funds accruing from the state's sale of~~  
 71-30 ~~disused textbooks; and~~

71-31 ~~[(3)]~~ all amounts lawfully paid into the fund from any  
 71-32 other source.

71-33 (b) The State Board of Education shall annually set aside  
 71-34 out of the available school fund of the state an amount sufficient  
 71-35 for the instructional materials allotment to provide ~~[board,~~  
 71-36 ~~school districts,~~] and open-enrollment charter schools with the  
 71-37 funds required to purchase and distribute the necessary  
 71-38 state-adopted instructional materials ~~[textbooks]~~ for the use of  
 71-39 the students of this state for the following school year. The board  
 71-40 shall determine the amount of the available school fund to set aside  
 71-41 for the state instructional materials ~~[textbook]~~ fund based on the  
 71-42 amount of the allotment under Section 31.0211 and on reports of  
 71-43 maximum attendance and anticipated enrollment growth submitted  
 71-44 under Section 31.103 ~~[+]~~

71-45 ~~[(1) a report by the commissioner issued on July 1 or,~~  
 71-46 ~~if that date is a Saturday or Sunday, on the following Monday,~~  
 71-47 ~~stating the amount of unobligated money in the fund;~~

71-48 ~~[(2) the commissioner's estimate, based on textbooks~~  
 71-49 ~~selected under Section 31.101 and on attendance reports submitted~~  
 71-50 ~~under Section 31.103 by school districts and open-enrollment~~  
 71-51 ~~charter schools, of the amount of funds, in addition to funds~~  
 71-52 ~~reported under Subdivision (1), that will be necessary for purchase~~  
 71-53 ~~and distribution of textbooks for the following school year; and~~

71-54 ~~[(3) any amount the board determines should be set~~  
 71-55 ~~aside for emergency purposes caused by unexpected increases in~~  
 71-56 ~~attendance].~~

71-57 (c) This subsection applies only if the pilot project  
 71-58 established under Section 54.2161 is implemented, and expires  
 71-59 August 15, 2009. In addition to the amount set aside under  
 71-60 Subsection (b), the State Board of Education shall annually set  
 71-61 aside out of the available school fund an amount sufficient for each  
 71-62 school district with one or more students entitled to free  
 71-63 textbooks under the pilot project established under Section 54.2161  
 71-64 to pay the costs of those textbooks as required by Section 31.031  
 71-65 for the following school year. The board shall determine the amount  
 71-66 of the available school fund to set aside for the state textbook  
 71-67 fund for purposes of this subsection based on the commissioner's  
 71-68 estimate of the amount that will be necessary to pay the costs of  
 71-69 textbooks as required under Section 31.031.

72-1 (d) Money transferred to the state instructional materials  
 72-2 [~~textbook~~] fund remains in the fund until spent and does not lapse  
 72-3 to the state at the end of the fiscal year.

72-4 [~~(e) All necessary expenses incurred under this chapter~~  
 72-5 ~~shall be paid from the state textbook fund on invoices approved by~~  
 72-6 ~~the commissioner.~~]

72-7 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) For  
 72-8 the maximum attendance and anticipated enrollment growth reported  
 72-9 under Section 31.103 in a school year, a school district is entitled  
 72-10 to an annual allotment of \$70 for each student or a greater amount  
 72-11 provided by appropriation, to be paid from the state instructional  
 72-12 materials fund. The commissioner may determine for each district  
 72-13 the amount of anticipated enrollment growth for which an allotment  
 72-14 is provided under this subsection.

72-15 (b) Funds allotted under this section may be used only to  
 72-16 purchase:

72-17 (1) state-adopted instructional materials; or  
 72-18 (2) instructional materials authorized by  
 72-19 commissioner waiver.

72-20 (c) This section applies beginning with the 2007-2008  
 72-21 school year. This subsection expires September 1, 2008.

72-22 Sec. 31.0212. INSTRUCTIONAL MATERIALS ALLOTMENT FOR  
 72-23 JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS.

72-24 (a) Notwithstanding any other provision of this chapter, a  
 72-25 juvenile justice alternative education program operating under  
 72-26 Section 37.011 is entitled to receive an instructional materials  
 72-27 allotment under Section 31.0211 to be used in purchasing  
 72-28 state-adopted instructional materials as if the program were a  
 72-29 school district or open-enrollment charter school.

72-30 (b) The State Board of Education, in coordination with the  
 72-31 Texas Juvenile Probation Commission, shall adopt rules as necessary  
 72-32 to administer this section.

72-33 (c) Notwithstanding Section 31.0211(c), a juvenile justice  
 72-34 alternative education program operating under Section 37.011 is  
 72-35 entitled to the annual allotment described by Section 31.0211(a)  
 72-36 beginning with the 2005-2006 school year. This subsection expires  
 72-37 September 1, 2008.

72-38 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND  
 72-39 ADOPTION CYCLE. (a) The State Board of Education shall adopt a  
 72-40 review and adoption cycle for instructional materials [~~textbooks~~]  
 72-41 for elementary grade levels, including prekindergarten, and  
 72-42 secondary grade levels, for each subject in the required curriculum  
 72-43 under Section 28.002.

72-44 (b) The board shall organize the cycle for subjects in the  
 72-45 foundation curriculum so that not more than one-sixth of the  
 72-46 instructional materials [~~textbooks~~] for subjects in the foundation  
 72-47 curriculum are reviewed each year. The board shall adopt rules to  
 72-48 provide for a full and complete investigation of instructional  
 72-49 materials [~~textbooks~~] for each subject in the foundation curriculum  
 72-50 at least every six years. The adoption of instructional materials  
 72-51 [~~textbooks~~] for a subject in the foundation curriculum may be  
 72-52 extended beyond the six-year period only if the content of  
 72-53 instructional materials [~~textbooks~~] for a subject is sufficiently  
 72-54 current.

72-55 (c) The board shall adopt rules to provide for a full and  
 72-56 complete investigation of instructional materials [~~textbooks~~] for  
 72-57 each subject in the enrichment curriculum on a cycle the board  
 72-58 considers appropriate, but not less than every eight years.

72-59 (d) At least 24 months before the beginning of the school  
 72-60 year for which instructional materials [~~textbooks~~] for a particular  
 72-61 subject and grade level will be purchased under the review and  
 72-62 adoption cycle adopted by the board, the board shall publish notice  
 72-63 of the review and adoption cycle for those instructional materials  
 72-64 [~~textbooks~~].

72-65 (e) In organizing the cycle for review and adoption of  
 72-66 instructional materials, the board shall:

72-67 (1) generally align the cycle with the schedule for  
 72-68 any revision of the essential knowledge and skills under Section  
 72-69 28.002 of the subjects and grade levels addressed by the



73-1 instructional materials;

73-2 (2) seek advice from the Legislative Budget Board and  
73-3 the governor's office of budget, planning, and policy before  
73-4 approving and publishing any notice or amendment of the cycle;

73-5 (3) review and consider expected average costs of the  
73-6 instructional materials that will be adopted and the amount of the  
73-7 instructional materials allotment to ensure that the amount of the  
73-8 instructional materials that will be adopted over a two-year period  
73-9 may be purchased within the amount of the instructional material  
73-10 allotment for that same period; and

73-11 (4) follow any directive provided in the General  
73-12 Appropriations Act regarding the organization of the cycle.

73-13 (f) In addition to organizing a review and adoption cycle,  
73-14 the board by rule shall allow an instructional material to be  
73-15 submitted, reviewed, and adopted at a time when the subject or grade  
73-16 level is not scheduled in the cycle to be considered for at least  
73-17 two years, in conformance with the procedures for adoption of other  
73-18 state-adopted instructional materials. The board shall place each  
73-19 instructional material submitted under this subsection and adopted  
73-20 under Section 31.024 on an applicable list under Section 31.023.

73-21 Sec. 31.0221. CORRECTION OF FACTUAL ERRORS. (a) To  
73-22 promote efficiency in the correction of factual errors during the  
73-23 instructional materials review and adoption process, the State  
73-24 Board of Education shall:

73-25 (1) to the extent practicable, conduct the review of  
73-26 instructional materials using page proofs or other appropriate  
73-27 draft versions of the instructional materials; and

73-28 (2) require the publisher to provide instructional  
73-29 materials, including page proofs, draft versions, or sample  
73-30 instructional materials, directly to state instructional materials  
73-31 review panel members in a timely manner before the members meet to  
73-32 conduct a complete and formal review of the materials.

73-33 (b) During the instructional materials review and adoption  
73-34 process, the publisher of instructional materials proposed for  
73-35 adoption in this state shall promptly correct any factual errors  
73-36 discovered in the instructional materials. For purposes of this  
73-37 section, a factual error includes an objectively verifiable  
73-38 mistake, including an incorrect reference to a date, place, or  
73-39 person, an incorrect computational process or result, or similar  
73-40 incorrect provisions. A factual error does not include a  
73-41 difference in professional opinion, conclusion, emphasis, or  
73-42 perspective expressed in instructional materials.

73-43 (c) If the State Board of Education determines that an  
73-44 instructional material proposed for adoption may contain a factual  
73-45 error, the State Board of Education may appoint a panel of experts  
73-46 and scholars to evaluate the material for any factual error.

73-47 (d) The board shall adopt rules authorizing the imposition  
73-48 of an administrative penalty in the manner provided by Section  
73-49 31.151 against a publisher who knowingly violates Subsection (b).  
73-50 In setting the amount of any penalty to be imposed under this  
73-51 subsection, the board shall consider the stage of the instructional  
73-52 materials review and adoption process at which the violation occurs  
73-53 and set progressively higher penalties for violations that occur  
73-54 later in the process.

73-55 Sec. 31.023. [TEXTBOOK] LISTS OF STATE-ADOPTED INSTRUCTIONAL  
73-56 MATERIALS. (a) For each subject and grade level, the State Board  
73-57 of Education shall adopt two lists of instructional materials  
73-58 [textbooks]. The conforming list includes each state-adopted  
73-59 instructional material [textbook] submitted for the subject and  
73-60 grade level that meets applicable physical specifications adopted  
73-61 by the State Board of Education and contains material covering each  
73-62 element of the essential knowledge and skills of the subject and  
73-63 grade level as determined by the State Board of Education under  
73-64 Section 28.002 and adopted under Section 31.024. The nonconforming  
73-65 list includes each state-adopted instructional material [textbook]  
73-66 submitted for the subject and grade level that:

73-67 (1) meets applicable physical specifications adopted  
73-68 by the State Board of Education;

73-69 (2) contains material covering at least half, but not

74-1 all, of the elements of the essential knowledge and skills of the  
74-2 subject and grade level; and

74-3 (3) is adopted under Section 31.024.  
74-4 (b) Each state-adopted instructional material [~~textbook~~] on  
74-5 a conforming or nonconforming list must be free from factual  
74-6 errors.

74-7 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By  
74-8 majority vote, the State Board of Education shall:

74-9 (1) place each submitted instructional material  
74-10 [~~textbook~~] on a conforming or nonconforming list; or

74-11 (2) reject an instructional material [~~a textbook~~]  
74-12 submitted for placement on a conforming or nonconforming list.

74-13 (b) Not later than December 1 of the year preceding the  
74-14 school year for which the state-adopted instructional materials  
74-15 [~~textbooks~~] for a particular subject and grade level will be  
74-16 purchased under the cycle adopted by the board under Section  
74-17 31.022, the board shall make available [~~provide~~] the lists of  
74-18 state-adopted instructional materials, including instructional  
74-19 materials under Section 31.022(f) [~~adopted textbooks~~] to each  
74-20 school district. Each nonconforming list must include:

74-21 (1) the reasons an adopted instructional material  
74-22 [~~textbook~~] is not eligible for the conforming list; and

74-23 (2) a list of the essential knowledge and skills  
74-24 contained in an adopted instructional material on the nonconforming  
74-25 list.

74-26 Sec. 31.026. CONTRACT; PRICE. (a) The commissioner, with  
74-27 the assistance of the Department of Information Resources, the  
74-28 State Board of Education, and the office of the attorney general,  
74-29 shall develop model contracts that may be used by school districts  
74-30 and open-enrollment charter schools [~~State Board of Education shall~~  
74-31 ~~execute a contract.~~

74-32 [~~(1)~~] for the purchase or licensing of instructional  
74-33 materials under this chapter [~~each adopted textbook other than an~~  
74-34 ~~electronic textbook; and~~

74-35 [~~(2)~~] for the purchase or licensing of each adopted  
74-36 electronic textbook].

74-37 (b) A contract must require the publisher to provide all of  
74-38 the instructional materials [~~the number of textbooks~~] required by  
74-39 school districts in this state for the term of the contract [~~, which~~  
74-40 ~~must coincide with the board's adoption cycle~~].

74-41 (c) As applicable, a contract must provide for the purchase  
74-42 or licensing of instructional materials [~~a textbook~~] at a specific  
74-43 price, which may not exceed the lowest price paid by any other state  
74-44 or any school or school district. The price must be fixed for the  
74-45 term of the contract. The price may decrease if the lowest price  
74-46 paid by another state or another school or school district  
74-47 decreases during the term of the contract.

74-48 Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; SAMPLE  
74-49 COPIES. (a) A publisher shall provide each school district and  
74-50 open-enrollment charter school with information that fully  
74-51 describes each of the publisher's state-adopted instructional  
74-52 materials [~~adopted textbooks~~]. On request of a school district, a  
74-53 publisher shall provide a sample copy of a state-adopted  
74-54 instructional material [~~an adopted textbook~~].

74-55 (b) A publisher shall provide at least two sample copies of  
74-56 each state-adopted instructional material [~~adopted textbook~~] to be  
74-57 maintained for at least two years at each regional education  
74-58 service center or an alternate location designated by the  
74-59 applicable service center.

74-60 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
74-61 (a) The State Board of Education may make available [~~purchase~~]  
74-62 special instructional materials [~~textbooks~~] for the education of  
74-63 blind and visually impaired students in public schools. In  
74-64 addition, from funds appropriated for the purpose, for a teacher  
74-65 who is blind or visually impaired, the board shall provide a  
74-66 teacher's edition in Braille or large type, as requested by the  
74-67 teacher, for each printed state-adopted instructional material  
74-68 [~~textbook~~] the teacher uses in the instruction of students. The  
74-69 teacher edition must be available at the same time the student

75-1 instructional materials [~~textbooks~~] become available.

75-2 (b) The publisher of a printed state-adopted instructional  
75-3 material [~~an adopted textbook~~] shall provide the agency with  
75-4 computerized [~~textbook~~] files for the production of Braille  
75-5 instructional materials [~~textbooks~~] or other versions of  
75-6 instructional materials [~~textbooks~~] to be used by students with  
75-7 disabilities, on request of the State Board of Education. A  
75-8 publisher shall arrange the computerized [~~textbook~~] files in one of  
75-9 several optional formats specified by the State Board of Education.

75-10 (c) The board may also enter into agreements providing for  
75-11 the acceptance, requisition, and distribution of special  
75-12 instructional materials [~~textbooks and instructional aids~~]  
75-13 pursuant to 20 U.S.C. Section 101 et seq. for use by students  
75-14 enrolled in:

75-15 (1) public schools; or

75-16 (2) private nonprofit schools, if state funds, other  
75-17 than for administrative costs, are not involved.

75-18 (c-1) The board shall require electronic instructional  
75-19 materials included on the conforming list and nonconforming list  
75-20 under Section 31.023 to comply with the standards established under  
75-21 Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section 794d),  
75-22 if the materials are for use by students enrolled in:

75-23 (1) public schools; or

75-24 (2) private nonprofit schools, if state funds, other  
75-25 than for administrative costs, are not involved.

75-26 (d) In this section:

75-27 (1) "Blind or visually impaired student" includes any  
75-28 student whose visual acuity is impaired to the extent that the  
75-29 student is unable to read the text [~~print~~] in state-adopted  
75-30 instructional materials [~~a regularly adopted textbook~~] used in the  
75-31 student's class.

75-32 (2) "Special instructional materials" [~~textbook~~]  
75-33 means instructional materials [~~a textbook~~] in Braille, large type,  
75-34 audiotape, accessible web page, accessible DVD/CD-ROM, or any other  
75-35 medium or any apparatus that conveys information to a student or  
75-36 otherwise contributes to the learning process.

75-37 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS  
75-38 [~~TEXTBOOKS~~]. The board shall adopt instructional materials  
75-39 [~~purchase or otherwise acquire textbooks~~] for use in bilingual  
75-40 education classes.

75-41 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The  
75-42 State Board of Education shall adopt rules to ensure that used  
75-43 instructional materials [~~textbooks~~] sold to school districts and  
75-44 open-enrollment charter schools are not sample copies that contain  
75-45 factual errors. The rules may provide for the imposition of an  
75-46 administrative penalty in accordance with Section 31.151 against a  
75-47 seller of used instructional materials [~~textbooks~~] who knowingly  
75-48 violates this section.

75-49 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL  
75-50 MATERIALS. The publisher of a state-adopted electronic  
75-51 instructional material may offer the material to school districts  
75-52 and open-enrollment charter schools on a subscription basis.

75-53 Sec. 31.033. UPDATES. The publisher of a state-adopted  
75-54 instructional material may update the instructional material, and a  
75-55 school district or open-enrollment charter school may purchase the  
75-56 update. The State Board of Education by rule shall provide for an  
75-57 expedited review process to determine the extent to which updated  
75-58 instructional material aligns with the essential knowledge and  
75-59 skills and does not contain factual errors.

75-60 SECTION 2D.18. Section 31.101, Education Code, is amended  
75-61 to read as follows:

75-62 Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL  
75-63 MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS. (a) Each year, during  
75-64 any [~~a~~] period established by the State Board of Education, the  
75-65 board of trustees of each school district and the governing body of  
75-66 each open-enrollment charter school shall:

75-67 (1) [~~for a subject in the foundation curriculum,~~]  
75-68 notify the State Board of Education of the state-adopted  
75-69 instructional materials [~~textbooks~~] selected by the board of

76-1 trustees or governing body for the following school year from among  
 76-2 the instructional materials [~~textbooks~~] on the appropriate  
 76-3 conforming or nonconforming list; and [~~or~~]

76-4 (2) provide an accounting of the expenditure of its  
 76-5 instructional materials allotment during that period [~~for a subject~~  
 76-6 ~~in the enrichment curriculum~~];

76-7 [~~(A) notify the State Board of Education of each~~  
 76-8 ~~textbook selected by the board of trustees or governing body for the~~  
 76-9 ~~following school year from among the textbooks on the appropriate~~  
 76-10 ~~conforming or nonconforming list; or~~

76-11 [~~(B) notify the State Board of Education that the~~  
 76-12 ~~board of trustees or governing body has selected a textbook that is~~  
 76-13 ~~not on the conforming or nonconforming list~~].

76-14 (b) The board of trustees of each [~~if a~~] school district or  
 76-15 the governing body of each open-enrollment charter school shall use  
 76-16 the instructional materials allotment to purchase instructional  
 76-17 materials selected by the board of trustees or the governing body  
 76-18 [~~selects a textbook~~] for a [~~particular~~] subject in the required  
 76-19 [~~enrichment~~] curriculum [~~and grade level that is not on the~~  
 76-20 ~~conforming or nonconforming list, the state shall pay to the~~  
 76-21 ~~district or school an amount equal to the lesser of:~~

76-22 [~~(1) 70 percent of the cost to the district of the~~  
 76-23 ~~textbook, multiplied by the number of textbooks the district or~~  
 76-24 ~~school needs for that subject and grade level; or~~

76-25 [~~(2) 70 percent of the limitation established under~~  
 76-26 ~~Section 31.025 for a textbook for that subject and grade level,~~  
 76-27 ~~multiplied by the number of textbooks the district or school needs~~  
 76-28 ~~for that subject and grade level~~].

76-29 (c) A school district or open-enrollment charter school may  
 76-30 purchase an instructional material under Subsection (b) only if the  
 76-31 instructional material is purchased not later than the beginning of  
 76-32 the second school year that begins after the adoption of the  
 76-33 conforming or nonconforming list that includes the instructional  
 76-34 material. This subsection does not apply to:

76-35 (1) instructional materials under Section 31.022(f);

76-36 (2) the purchase of replacement instructional  
 76-37 materials due to loss or damage; or

76-38 (3) the purchase of additional instructional  
 76-39 materials needed because of enrollment growth [~~that selects a~~  
 76-40 ~~textbook that is not on the conforming or nonconforming list~~];

76-41 (1) is responsible for the portion of the cost of the  
 76-42 textbook that is not paid by the state under Subsection (b); and

76-43 (2) may use funds received from the state under  
 76-44 Subsection (b) only for purchasing the textbook for which the funds  
 76-45 were received].

76-46 (d) For a textbook that is not on the conforming or  
 76-47 nonconforming list, a school district or open-enrollment charter  
 76-48 school must use the textbook for the period of the review and  
 76-49 adoption cycle the State Board of Education has established for the  
 76-50 subject and grade level for which the textbook is used.]

76-51 SECTION 2D.19. Section 31.102, Education Code, is amended  
 76-52 to read as follows:

76-53 Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by  
 76-54 this subsection, each instructional material [~~Each textbook~~]  
 76-55 purchased by the state as provided by this chapter is the property  
 76-56 of this state. Beginning with the 2007-2008 school year, each  
 76-57 instructional material purchased through the instructional  
 76-58 materials allotment by a school district or open-enrollment charter  
 76-59 school is the property of the district or charter school.

76-60 (b) Subsection (a) applies to an electronic instructional  
 76-61 material [~~textbook~~] only to the extent of any applicable licensing  
 76-62 agreement.

76-63 (c) The board of trustees of a school district or the  
 76-64 governing body of an open-enrollment charter school is the legal  
 76-65 custodian of instructional materials [~~textbooks~~] purchased as  
 76-66 provided by this chapter for or by the district or school. The  
 76-67 board of trustees or governing body shall distribute instructional  
 76-68 materials [~~textbooks~~] to students in the manner that the board or  
 76-69 governing body determines is most effective and economical.

77-1 (d) An open-enrollment charter school may not transfer  
 77-2 instructional materials unless the transfer is approved by the  
 77-3 commissioner. The commissioner may not approve such a transfer  
 77-4 unless the transfer is to another public school of this state.

77-5 SECTION 2D.20. Section 31.103, Education Code, is amended  
 77-6 to read as follows:

77-7 Sec. 31.103. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REQUISITIONS.

77-8 (a) Not later than the seventh day after the first school day in  
 77-9 April, each principal shall report the maximum attendance for the  
 77-10 school to the superintendent. Not later than April 25, the  
 77-11 superintendent of a school district or the chief operating officer  
 77-12 of an open-enrollment charter school shall report to the  
 77-13 commissioner the district's or school's maximum attendance and  
 77-14 anticipated enrollment growth [~~to the commissioner~~].

77-15 (b) [~~A requisition for textbooks for the following school~~  
 77-16 ~~year shall be based on the maximum attendance reports under~~  
 77-17 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~  
 77-18 ~~provided.] A school district or open-enrollment charter school~~  
 77-19 ~~shall make a requisition for instructional materials [a textbook]~~  
 77-20 ~~on the conforming or nonconforming list [through the commissioner]~~  
 77-21 ~~to the instructional materials [state] depository designated by the~~  
 77-22 ~~publisher or as provided by State Board of Education rule, as~~  
 77-23 ~~applicable, not later than June 1 of each year. The designated~~  
 77-24 ~~instructional materials [state] depository or, if the publisher [or~~  
 77-25 ~~manufacturer] does not have a designated instructional materials~~  
 77-26 ~~[textbook] depository in this state under Section 31.151(a)(6)(B),~~  
 77-27 ~~the publisher [or manufacturer] shall fill a requisition approved~~  
 77-28 ~~by the agency at any other time in the case of an emergency. [As~~  
 77-29 ~~made necessary by available funds, the commissioner shall reduce~~  
 77-30 ~~the additional percentage of attendance for which a district or~~  
 77-31 ~~school may requisition textbooks. The commissioner may, on~~  
 77-32 ~~application of a district or school that is experiencing high~~  
 77-33 ~~enrollment growth, increase the additional percentage of~~  
 77-34 ~~attendance for which the district or school may requisition~~  
 77-35 ~~textbooks.]~~

77-36 (c) In making a requisition under this section, a school  
 77-37 district or open-enrollment charter school may requisition  
 77-38 instructional materials [~~textbooks~~] on the conforming or  
 77-39 nonconforming list for grades above or below the grade level in  
 77-40 which a student is enrolled [~~, except that the total quantity of~~  
 77-41 ~~textbooks requisitioned under this section may not exceed the limit~~  
 77-42 ~~prescribed by Subsection (b)].~~

77-43 SECTION 2D.21. Sections 31.104, 31.105, and 31.106,  
 77-44 Education Code, are amended to read as follows:

77-45 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of  
 77-46 trustees of a school district or the governing body of an  
 77-47 open-enrollment charter school may delegate to an employee the  
 77-48 authority to requisition, purchase, distribute, and manage the  
 77-49 inventory of instructional materials [~~textbooks~~] in a manner  
 77-50 consistent with this chapter and rules adopted under this chapter.

77-51 (b) A school district or open-enrollment charter school may  
 77-52 order replacements for instructional materials [~~textbooks~~] that  
 77-53 have been lost or damaged directly from:

77-54 (1) the instructional materials [~~textbook~~] depository;  
 77-55 or

77-56 (2) the [~~textbook~~] publisher of the instructional  
 77-57 materials [~~or manufacturer~~] if the [~~textbook~~] publisher [~~or~~  
 77-58 ~~manufacturer~~] does not have a designated instructional materials  
 77-59 [~~textbook~~] depository in this state under Section 31.151(a)(6)(B).

77-60 (c) Each instructional material [~~textbook~~] must state that  
 77-61 the instructional material [~~textbook~~] is the property of or is  
 77-62 licensed to this state, school district, or charter school, as  
 77-63 appropriate. Each instructional material [~~textbook~~], other than an  
 77-64 electronic instructional material [~~textbook~~], must be covered by  
 77-65 the student under the direction of the teacher. A student must  
 77-66 return all instructional materials [~~textbooks~~] to the teacher at  
 77-67 the end of the school year or when the student withdraws from  
 77-68 school.

77-69 (d) Each student, or the student's parent or guardian, is

78-1 responsible for each instructional material [~~textbook~~] not  
 78-2 returned by the student. A student who fails to return all  
 78-3 instructional materials [~~textbooks~~] forfeits the right to free  
 78-4 instructional materials [~~textbooks~~] until each instructional  
 78-5 material [~~textbook~~] previously issued but not returned is paid for  
 78-6 by the student, parent, or guardian. As provided by policy of the  
 78-7 board of trustees or governing body, a school district or  
 78-8 open-enrollment charter school may waive or reduce the payment  
 78-9 requirement if the student is from a low-income family. The  
 78-10 district or school shall allow the student to use instructional  
 78-11 materials [~~textbooks~~] at school during each school day. If an  
 78-12 instructional material [~~a textbook~~] is not returned or paid for,  
 78-13 the district or school may withhold the student's records. A  
 78-14 district or school may not, under this subsection, prevent a  
 78-15 student from graduating, participating in a graduation ceremony, or  
 78-16 receiving a diploma.

78-17 (e) The board of trustees of a school district may not  
 78-18 require an employee of the district to pay for an instructional  
 78-19 material [~~a textbook~~] or instructional technology that is stolen,  
 78-20 misplaced, or not returned by a student.

78-21 Sec. 31.105. SALE OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
 78-22 The board of trustees of a school district or governing body of an  
 78-23 open-enrollment charter school may sell instructional materials  
 78-24 [~~textbooks~~], other than electronic instructional materials  
 78-25 [~~textbooks~~], to a student or another school [~~at the state contract~~  
 78-26 ~~price~~]. The district shall use [~~and~~] money received from the sale  
 78-27 of instructional materials in accordance with uses prescribed by  
 78-28 Section 31.0211 [~~textbooks to the commissioner as required by the~~  
 78-29 ~~commissioner. The commissioner shall deposit the money in the~~  
 78-30 ~~state textbook fund~~].

78-31 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
 78-32 instructional materials [~~textbook~~] selected under this chapter, a  
 78-33 school district or open-enrollment charter school may use local  
 78-34 funds to purchase any instructional materials [~~textbooks~~].

78-35 SECTION 2D.22. The heading to Section 31.151, Education  
 78-36 Code, is amended to read as follows:

78-37 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

78-38 SECTION 2D.23. Subsection (a), (b), and (d), Section  
 78-39 31.151, Education Code, are amended to read as follows:

78-40 (a) A publisher [~~or manufacturer~~] of instructional  
 78-41 materials [~~textbooks~~]:

78-42 (1) shall furnish any instructional material  
 78-43 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state<sup>7</sup>  
 78-44 at a price that does not exceed the lowest price at which the  
 78-45 publisher offers that instructional material [~~textbook~~] for  
 78-46 adoption or sale to any state, public school, or school district in  
 78-47 the United States;

78-48 (2) shall automatically reduce the price of an  
 78-49 instructional material [~~a textbook~~] sold for use in a school  
 78-50 district or open-enrollment charter school to the extent that the  
 78-51 price is reduced elsewhere in the United States;

78-52 (3) shall provide any instructional material  
 78-53 [~~textbook~~] or ancillary item free of charge in this state to the  
 78-54 same extent that the publisher [~~or manufacturer~~] provides the  
 78-55 instructional material [~~textbook~~] or ancillary item free of charge  
 78-56 to any state, public school, or school district in the United  
 78-57 States;

78-58 (4) shall guarantee that each copy of an instructional  
 78-59 material [~~a textbook~~] sold in this state is at least equal in  
 78-60 quality to copies of that instructional material [~~textbook~~] sold  
 78-61 elsewhere in the United States and is free from factual error;

78-62 (5) may not become associated or connected with,  
 78-63 directly or indirectly, any combination in restraint of trade in  
 78-64 instructional materials [~~textbooks~~] or enter into any  
 78-65 understanding or combination to control prices or restrict  
 78-66 competition in the sale of instructional materials [~~textbooks~~] for  
 78-67 use in this state;

78-68 (6) shall:

78-69 (A) maintain a depository in this state or

79-1 arrange with a depository in this state to receive and fill orders  
 79-2 for instructional materials [~~textbooks~~], other than electronic  
 79-3 instructional materials or electronic instructional material  
 79-4 [~~on-line textbooks or on-line textbook~~] components, consistent  
 79-5 with State Board of Education rules; or

79-6 (B) deliver instructional materials [~~textbooks~~]  
 79-7 to a school district or open-enrollment charter school without a  
 79-8 delivery charge to the school district, open-enrollment charter  
 79-9 school, or state, if:

79-10 (i) the publisher [~~or manufacturer~~] does  
 79-11 not maintain or arrange with a depository in this state under  
 79-12 Paragraph (A) and the publisher's instructional materials [~~or~~  
 79-13 ~~manufacturer's textbooks~~] and related products are warehoused or  
 79-14 otherwise stored less than 300 miles from a border of this state; or

79-15 (ii) the instructional materials  
 79-16 [~~textbooks~~] are electronic instructional materials or electronic  
 79-17 instructional material [~~on-line textbooks or on-line textbook~~]  
 79-18 components;

79-19 (7) shall, at the time an order for instructional  
 79-20 materials [~~textbooks~~] is acknowledged, provide to school districts  
 79-21 or open-enrollment charter schools an accurate shipping date for  
 79-22 instructional materials [~~textbooks~~] that are back-ordered;

79-23 (8) shall guarantee delivery of instructional  
 79-24 materials [~~textbooks~~] at least 10 business days before the opening  
 79-25 day of school of the year for which the instructional materials  
 79-26 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]  
 79-27 are ordered by a date specified in the sales contract; and

79-28 (9) shall submit to the State Board of Education an  
 79-29 affidavit certifying any instructional material [~~textbook~~] the  
 79-30 publisher [~~or manufacturer~~] offers in this state to be free of  
 79-31 factual errors at the time the publisher executes the contract  
 79-32 required by Section 31.026.

79-33 (b) The State Board of Education may impose a reasonable  
 79-34 administrative penalty against a publisher [~~or manufacturer~~] who  
 79-35 knowingly violates Subsection (a). The board shall provide for a  
 79-36 hearing to be held to determine whether a penalty is to be imposed  
 79-37 and, if so, the amount of the penalty. The board shall base the  
 79-38 amount of the penalty on:

- 79-39 (1) the seriousness of the violation;
- 79-40 (2) any history of a previous violation;
- 79-41 (3) the amount necessary to deter a future violation;
- 79-42 (4) any effort to correct the violation; and
- 79-43 (5) any other matter justice requires.

79-44 (d) A penalty collected under this section shall be  
 79-45 deposited to the credit of the state instructional materials  
 79-46 [~~textbook~~] fund.

79-47 SECTION 2D.24. The heading to Section 31.152, Education  
 79-48 Code, is amended to read as follows:

79-49 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS  
 79-50 [~~TEXTBOOKS~~].

79-51 SECTION 2D.25. Subsections (a), (b), and (d), Section  
 79-52 31.152, Education Code, are amended to read as follows:

79-53 (a) A school trustee, administrator, or teacher commits an  
 79-54 offense if that person receives any commission or rebate on any  
 79-55 instructional materials [~~textbooks~~] used in the schools with which  
 79-56 the person is associated as a trustee, administrator, or teacher.

79-57 (b) A school trustee, administrator, or teacher commits an  
 79-58 offense if the person accepts a gift, favor, or service that:

- 79-59 (1) is given to the person or the person's school;
- 79-60 (2) might reasonably tend to influence a trustee,  
 79-61 administrator, or teacher in the selection of instructional  
 79-62 materials [~~a textbook~~]; and

79-63 (3) could not be lawfully purchased with funds from  
 79-64 the state instructional materials [~~textbook~~] fund.

79-65 (d) In this section, "gift, favor, or service" does not  
 79-66 include:

- 79-67 (1) staff development, in-service, or teacher  
 79-68 training; or
- 79-69 (2) instructional materials[~~7~~] such as maps or

80-1 worksheets[, ~~that convey information to the student or otherwise~~  
80-2 ~~contribute to the learning process~~].

80-3 SECTION 2D.26. The heading to Section 31.153, Education  
80-4 Code, is amended to read as follows:

80-5 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
80-6 [~~TEXTBOOK~~] LAW.

80-7 SECTION 2D.27. Subsection (a), Section 31.153, Education  
80-8 Code, is amended to read as follows:

80-9 (a) A person commits an offense if the person knowingly  
80-10 violates any law providing for the purchase or distribution of free  
80-11 instructional materials [~~textbooks~~] for the public schools.

80-12 SECTION 2D.28. Subchapter E, Chapter 31, Education Code, is  
80-13 amended to read as follows:

80-14 SUBCHAPTER E. DISPOSITION OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

80-15 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS  
80-16 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State  
80-17 Board of Education, may provide for the disposition of:

80-18 (1) instructional materials [~~textbooks~~], other than  
80-19 electronic instructional materials [~~textbooks~~], that are no longer  
80-20 in acceptable condition to be used for instructional purposes; or

80-21 (2) discontinued instructional materials [~~textbooks~~],  
80-22 other than electronic instructional materials [~~textbooks~~].

80-23 (b) The commissioner, as provided by rules adopted by the  
80-24 State Board of Education, shall make available on request copies of  
80-25 discontinued instructional materials [~~textbooks~~], other than  
80-26 electronic instructional materials [~~textbooks~~], for use in  
80-27 libraries maintained in municipal and county jails and facilities  
80-28 of the institutional division of the Texas Department of Criminal  
80-29 Justice and other state agencies.

80-30 (c) The State Board of Education shall adopt rules under  
80-31 which a school district or open-enrollment charter school may  
80-32 donate discontinued instructional materials [~~textbooks~~], other  
80-33 than electronic instructional materials [~~textbooks~~], to a student,  
80-34 to an adult education program, or to a nonprofit organization.

80-35 SECTION 2D.29. The heading to Section 32.005, Education  
80-36 Code, is amended to read as follows:

80-37 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
80-38 ALLOTMENT.

80-39 SECTION 2D.30. Subsection (a) and (b), Section 32.005,  
80-40 Education Code, are amended to read as follows:

80-41 (a) For each student in average daily attendance in a school  
80-42 year, a [Each] school district or open-enrollment charter school is  
80-43 entitled to an allotment of \$30 [for each student in average daily  
80-44 attendance] or a greater [different] amount for any year provided  
80-45 by appropriation, to be used as provided by Subsection (b).

80-46 (b) An allotment under this section may be used [~~only~~] to:

80-47 (1) provide for the purchase by school districts of  
80-48 systems or components of:

80-49 (A) wireless electronic mobile computing devices  
80-50 or other technology devices that convey instruction;

80-51 (B) productivity hardware or software, including  
80-52 writing, computation, presentation, and communication tools;

80-53 (C) electronic learning software aligned with  
80-54 the essential skills and knowledge adopted by the State Board of  
80-55 Education under Section 28.002;

80-56 (D) library and other research tools;

80-57 (E) electronic assessment tools;

80-58 (F) electronic learning tools to improve  
80-59 communications among students, teachers, school administrators,  
80-60 parents, and the community;

80-61 (G) classroom and school management systems; and

80-62 (H) portable electronic instructional material  
80-63 devices capable of supporting instructional material for each  
80-64 subject in the foundation and enrichment curriculum [electronic  
80-65 textbooks or technological equipment that contributes to student  
80-66 learning]; [and]

80-67 (2) provide professional development for educational  
80-68 personnel responsible for direct instruction to integrate the tools  
80-69 and solutions described by Subdivision (1); and



81-1 (3) acquire additional infrastructure and  
 81-2 technologies necessary to support and enhance the tools and  
 81-3 solutions described by Subdivision (1) [pay for training  
 81-4 educational personnel directly involved in student learning in the  
 81-5 appropriate use of electronic textbooks and for providing for  
 81-6 access to technological equipment for instructional use].

81-7 SECTION 2D.31. Section 32.156, Education Code, as added by  
 81-8 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,  
 81-9 is amended to read as follows:

81-10 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [TEXTBOOKS].  
 81-11 (a) The agency may develop and adopt strategies for making  
 81-12 instructional materials [textbooks] available through the portal  
 81-13 or through other means in an electronic format as an alternative or  
 81-14 supplement to traditional instructional materials [textbooks].

81-15 (b) In developing and adopting strategies under this  
 81-16 section, the agency shall seek to achieve a system under which a  
 81-17 student may, in addition to [a] traditional instructional materials  
 81-18 [textbook], be provided with secure Internet access to each  
 81-19 instructional material [textbook] used by the student.

81-20 SECTION 2D.32. Subsection (b), Section 32.161, Education  
 81-21 Code, is amended to read as follows:

81-22 (b) To the extent possible considering other statutory  
 81-23 requirements, the commissioner and agency shall encourage the use  
 81-24 of instructional materials [textbook] funds under Section 31.021  
 81-25 and technology allotment funds under Section 32.005 [31.021(b)(2)]  
 81-26 in a manner that facilitates the development and use of the portal.

81-27 SECTION 2D.33. Section 31.0221, Education Code, as added by  
 81-28 this part, applies only to instructional materials submitted for  
 81-29 review by the State Board of Education on or after the effective  
 81-30 date of this Act. Instructional materials submitted for review  
 81-31 before the effective date of this Act are governed by the law in  
 81-32 effect when the instructional materials were submitted for review,  
 81-33 and the former law is continued in effect for that purpose.

81-34 SECTION 2D.34. (a) This section applies to an  
 81-35 instructional material, as that term is defined by Section 31.002,  
 81-36 Education Code, as amended by this part, including an electronic  
 81-37 instructional material, adopted by the State Board of Education  
 81-38 before January 1, 2005.

81-39 (b) A contract for the purchase or licensing of an  
 81-40 instructional material described by Subsection (a) of this section  
 81-41 continues in effect as a state contract for the contract term, and  
 81-42 the former law is continued in effect for that purpose.

#### 81-43 PART E. DUAL LANGUAGE EDUCATION

81-44 SECTION 2E.01. Subchapter B, Chapter 21, Education Code, is  
 81-45 amended by adding Sections 21.0485 and 21.0486 to read as follows:

81-46 Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER  
 81-47 CERTIFICATION. (a) To ensure that there are teachers with special  
 81-48 training to work with other teachers and with students in a dual  
 81-49 language education program, the board shall establish a dual  
 81-50 language education teaching certificate.

81-51 (b) The board shall propose rules establishing the training  
 81-52 requirements, including the minimum academic qualifications, a  
 81-53 person must accomplish to obtain a certificate under this section.

81-54 (c) The board shall propose rules establishing the  
 81-55 requirements for a teacher who receives training in a foreign  
 81-56 country to obtain a certificate under this section.

81-57 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.  
 81-58 (a) To ensure that there are teachers with special training to  
 81-59 work with other teachers and with students in order to improve  
 81-60 student performance in English and other languages, the board shall  
 81-61 establish:

81-62 (1) a master language teacher certificate to teach  
 81-63 bilingual education, dual language instruction, or English as a  
 81-64 second language at elementary school grade levels;

81-65 (2) a master language teacher certificate to teach  
 81-66 bilingual education, dual language instruction, or English as a  
 81-67 second language at middle school grade levels; and

81-68 (3) a master language teacher certificate to teach  
 81-69 dual language instruction at high school grade levels.

82-1 (b) The board shall issue the appropriate master language  
 82-2 teacher certificate to each eligible person.

82-3 (c) To be eligible for a master language teacher  
 82-4 certificate, a person must:

82-5 (1) hold a teaching certificate issued under this  
 82-6 subchapter;

82-7 (2) have at least three years of experience teaching  
 82-8 bilingual education, dual language instruction, or English as a  
 82-9 second language;

82-10 (3) satisfactorily complete a knowledge-based course  
 82-11 of instruction on second language acquisition and the science of  
 82-12 teaching children language that includes training in language  
 82-13 instruction and professional peer mentoring techniques that,  
 82-14 through scientific testing, have been proven effective;

82-15 (4) perform satisfactorily on the appropriate master  
 82-16 language certification examination prescribed by the board; and

82-17 (5) satisfy any other requirements prescribed by the  
 82-18 board.

82-19 SECTION 2E.02. Subsection (b), Section 21.050, Education  
 82-20 Code, is amended to read as follows:

82-21 (b) The board may not require more than 18 semester credit  
 82-22 hours of education courses at the baccalaureate level for the  
 82-23 granting of a teaching certificate. The board shall provide for a  
 82-24 minimum number of semester credit hours of internship to be  
 82-25 included in the hours needed for certification. The board may  
 82-26 propose rules requiring additional credit hours for certification  
 82-27 in bilingual education, dual language instruction, English as a  
 82-28 second language, early childhood education, or special education.

82-29 SECTION 2E.03. Section 21.054, Education Code, is amended  
 82-30 by adding Subsection (c) to read as follows:

82-31 (c) Rules proposed under Subsection (a) must permit an  
 82-32 educator to fulfill continuing education requirements by acquiring  
 82-33 conversational skills in one or more languages other than English  
 82-34 and academic language development in the subject area for which the  
 82-35 educator provides instruction. The rules must permit educators to  
 82-36 obtain language instruction through a variety of methods, including  
 82-37 attendance at workshops offered by qualified entities and  
 82-38 enrollment on a noncredit basis in courses offered by public or  
 82-39 private colleges and universities.

82-40 SECTION 2E.04. Subchapter B, Chapter 21, Education Code, is  
 82-41 amended by adding Section 21.060 to read as follows:

82-42 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.  
 82-43 On issuing an educator certificate to an educational aide or  
 82-44 renewing such a certificate, the board shall notify the person to  
 82-45 whom the certificate is issued of the existence of the educational  
 82-46 aide exemption under Section 54.214.

82-47 SECTION 2E.05. Section 28.0051, Education Code, is amended  
 82-48 by adding Subsection (d) to read as follows:

82-49 (d) The State Board for Educator Certification shall  
 82-50 provide for the issuance of teaching certificates appropriate for  
 82-51 dual language instruction to teachers who:

82-52 (1) possess a speaking, reading, and writing language  
 82-53 ability in a language other than English in which a dual language  
 82-54 immersion program is offered; and

82-55 (2) meet the general requirements of Subchapter B,  
 82-56 Chapter 21.

82-57 SECTION 2E.06. Subchapter A, Chapter 28, Education Code, is  
 82-58 amended by adding Section 28.0052 to read as follows:

82-59 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT.

82-60 (a) The commissioner shall establish a pilot project in school  
 82-61 districts selected by the commissioner under which the agency  
 82-62 examines dual language education programs and the effect of those  
 82-63 programs on a student's ability to graduate from high school.

82-64 (b) In selecting school districts under Subsection (a), the  
 82-65 commissioner shall:

82-66 (1) select districts that:

82-67 (A) will commit to at least a three-year dual  
 82-68 language education program; and

82-69 (B) demonstrate a substantially equal enrollment

83-1 of students with limited English proficiency and students whose  
 83-2 primary language is English or, if a district does not have a  
 83-3 sufficient number of limited English proficiency students to meet  
 83-4 the equal enrollment standard, include the enrollment of students  
 83-5 with limited English proficiency, students whose primary language  
 83-6 is English, and bilingual students; and

83-7 (2) give preference to a district that:

83-8 (A) demonstrates the potential for expanding the  
 83-9 program through middle school; and

83-10 (B) will implement the program at the  
 83-11 kindergarten level.

83-12 (c) The commissioner by rule shall require a district to  
 83-13 limit activities of the dual language education program during the  
 83-14 first year of the program to planning activities, including:

83-15 (1) hiring and training teachers and ensuring teacher  
 83-16 certification;

83-17 (2) establishing parental and community support for  
 83-18 the program; and

83-19 (3) acquiring adequate learning materials in both  
 83-20 program languages.

83-21 (d) From amounts appropriated for the purpose, the  
 83-22 commissioner shall award grants to school districts that  
 83-23 participate in the program. A grant under this section must be in  
 83-24 an amount sufficient to pay the costs to the district of  
 83-25 participating in the program, as determined by the commissioner. A  
 83-26 determination of the commissioner under this subsection is final  
 83-27 and may not be appealed.

83-28 (e) A school district that applies for the expansion of an  
 83-29 existing dual language education program is eligible for a grant  
 83-30 under Subsection (d).

83-31 (f) A school district may use a grant awarded under  
 83-32 Subsection (d) for:

83-33 (1) classroom materials;

83-34 (2) tuition and textbook expenses for students seeking  
 83-35 teacher certification under Section 21.0485; and

83-36 (3) other necessary costs of operating the program, as  
 83-37 approved by the commissioner.

83-38 (g) The agency shall report to the legislature describing  
 83-39 the agency's activities under the pilot project, the effect of the  
 83-40 project on grade-level completion, and the recommendations arising  
 83-41 from the project. The agency shall submit an interim report under  
 83-42 this subsection not later than January 1, 2009, and a final report  
 83-43 not later than January 1, 2011.

83-44 (h) This section expires August 1, 2011.

83-45 SECTION 2E.07. Not later than January 1, 2006, the State  
 83-46 Board for Educator Certification shall propose rules:

83-47 (1) establishing requirements and prescribing an  
 83-48 examination for master language teacher certification as required  
 83-49 by Section 21.0486, Education Code, as added by this Act;

83-50 (2) establishing requirements and prescribing an  
 83-51 examination for dual language instruction teacher certification as  
 83-52 required by Subsection (b), Section 21.050, Education Code, as  
 83-53 amended by this Act, and Subsection (d), Section 28.0051, Education  
 83-54 Code, as added by this Act; and

83-55 (3) permitting an educator to fulfill continuing  
 83-56 education requirements by acquiring conversational skill in a  
 83-57 language other than English as required by Subsection (c), Section  
 83-58 21.054, Education Code, as added by this Act.

#### 83-59 PART F. STATE AND REGIONAL GOVERNANCE

83-60 SECTION 2F.01. Section 7.004, Education Code, is amended to  
 83-61 read as follows:

83-62 Sec. 7.004. SUNSET PROVISION. (a) The Texas Education  
 83-63 Agency is subject to Chapter 325, Government Code (Texas Sunset  
 83-64 Act). Unless continued in existence as provided by that chapter,  
 83-65 the agency is abolished September 1, 2017 [2005].

83-66 (b) A review conducted under Chapter 325, Government Code  
 83-67 (Texas Sunset Act), in accordance with this section must include a  
 83-68 review of the regional education service centers under Chapter 8.

83-69 SECTION 2F.02. Subchapter A, Chapter 7, Education Code, is

84-1 amended by adding Section 7.010 to read as follows:

84-2 Sec. 7.010. BEST PRACTICES. (a) Using existing funds and  
 84-3 other resources available for the purpose, the agency and the  
 84-4 regional education service centers shall solicit and collect from  
 84-5 exemplary or recognized school districts and open-enrollment  
 84-6 charter schools, as rated under Section 39.072, best practices  
 84-7 information and shall disseminate that information. The agency and  
 84-8 the regional education service centers shall enter into a  
 84-9 memorandum of understanding that establishes the respective duties  
 84-10 of the agency and the regional education service centers in  
 84-11 soliciting, collecting, and disseminating the best practices  
 84-12 information.

84-13 (b) The best practices information may include:

84-14 (1) information concerning available programs,  
 84-15 products, and policies that have been successfully adopted or  
 84-16 developed and used by school districts or open-enrollment charter  
 84-17 schools;

84-18 (2) specific examples of successful best practices;  
 84-19 and

84-20 (3) resources available to assist school districts and  
 84-21 open-enrollment charter schools in complying with applicable state  
 84-22 or federal education laws.

84-23 (c) The best practices information must include information  
 84-24 collected by the agency or a regional education service center  
 84-25 concerning the effective use of online courses, including:

84-26 (1) methods for using online courses to provide  
 84-27 curriculum solutions;

84-28 (2) information to assist school districts and  
 84-29 open-enrollment charter schools in investigating the quality of  
 84-30 online courses; and

84-31 (3) a list of funding sources available for various  
 84-32 types of online courses.

84-33 (d) The agency and the regional education service centers  
 84-34 are not required to evaluate and may not endorse the best practices  
 84-35 information collected under this section.

84-36 (e) The agency and the regional education service centers  
 84-37 shall develop incentives for school districts and open-enrollment  
 84-38 charter schools to implement best practices.

84-39 SECTION 2F.03. Subchapter B, Chapter 7, Education Code, is  
 84-40 amended by adding Section 7.0211 to read as follows:

84-41 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may  
 84-42 receive gifts, grants, or donations from any public or private  
 84-43 source to perform any educational function the agency is authorized  
 84-44 to perform by law.

84-45 SECTION 2F.04. Section 7.027, Education Code, as added by  
 84-46 Chapter 201, Acts of the 78th Legislature, Regular Session, 2003,  
 84-47 is redesignated as Section 7.028, Education Code, and amended to  
 84-48 read as follows:

84-49 Sec. 7.028 [7.027]. LIMITATION ON COMPLIANCE MONITORING.

84-50 (a) Except as provided by Section 29.001(5), 29.010(a), [39.074,  
 84-51 or 39.075, the agency may monitor compliance with requirements  
 84-52 applicable to a process or program provided by a school district,  
 84-53 campus, program, or school granted charters under Chapter 12,  
 84-54 including the process described by Subchapter F, Chapter 11, or a  
 84-55 program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,  
 84-56 Subchapter A, Chapter 37, or Section 38.003, and the use of funds  
 84-57 provided for such a program under Subchapter C, Chapter 42, only as  
 84-58 necessary to ensure:

84-59 (1) compliance with federal law and regulations;

84-60 (2) financial accountability, including compliance  
 84-61 with grant requirements; and

84-62 (3) data integrity for purposes of:

84-63 (A) the Public Education Information Management  
 84-64 System (PEIMS); and

84-65 (B) accountability under Chapter 39.

84-66 (b) The board of trustees of a school district or the  
 84-67 governing body of an open-enrollment charter school has primary  
 84-68 responsibility for ensuring that the district or school complies  
 84-69 with all applicable requirements of state educational programs.

SECTION 2F.05. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.033 to read as follows:

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

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

SECTION 2F.06. Subsection (a) and (d), Section 7.057, Education Code, are amended to read as follows:

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

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

- (A) the school laws of this state; or
- (B) a provision of a written employment contract between the school district and a school district employee, if a violation causes or would cause monetary harm to the employee.

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

SECTION 2F.07. Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.0571 to read as follows:

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

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

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

SECTION 2F.08. Chapter 7, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

(b) The grant system must:

- (1) connect grant activities and funding to student academic performance; and
- (2) provide for efficient grant application and reporting procedures for grant programs administered by the agency.

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

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

86-1 grant programs administered by the agency;

86-2 (3) grant programs with similar objectives have common  
86-3 performance measures; and

86-4 (4) the most efficient methods for coordinating grant  
86-5 objectives, grant activities, academic performance measures, and  
86-6 funding are used in the agency's grant application and reporting  
86-7 systems.

86-8 Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may  
86-9 use existing data to identify and notify an eligible school  
86-10 district or charter school of the opportunity to apply for a  
86-11 state-funded discretionary grant.

86-12 Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.  
86-13 The agency shall develop one or more consolidated applications to  
86-14 be used by school districts and charter schools in applying for any  
86-15 state-funded formula grant administered by the agency.

86-16 Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency  
86-17 shall ensure that information relating to the grant system is  
86-18 available to the legislature and the public.

86-19 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The  
86-20 agency, in coordination with regional education service centers,  
86-21 shall use data relating to grant programs, including grant spending  
86-22 and performance information, to identify successful grant  
86-23 programs. Based on the identification of successful grant  
86-24 programs, each regional education service center shall provide  
86-25 information concerning those programs to the school districts in  
86-26 the service center's region.

86-27 (b) This section applies beginning with the 2009-2010  
86-28 school year. This subsection expires June 1, 2010.

86-29 Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. (a) In  
86-30 developing the performance-based grant system, the agency shall:

86-31 (1) identify each area of data collected for grant  
86-32 programs and the method in which the agency collects the data;

86-33 (2) determine whether grant data that a school  
86-34 district or charter school is required to collect is useful and  
86-35 supports:

86-36 (A) a grant program's objectives; and  
86-37 (B) the goals for academic performance and  
86-38 accountability or another public education mission, objective, or  
86-39 goal;

86-40 (3) determine whether grant data is analyzed and  
86-41 disseminated efficiently; and

86-42 (4) review the agency's policies, procedures, and  
86-43 reporting requirements relating to grant programs administered by  
86-44 the agency to simplify and make more efficient the grant  
86-45 application, award, and reporting processes for school districts  
86-46 and charter schools.

86-47 (b) This section expires June 1, 2010.

86-48 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL  
86-49 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the  
86-50 agency shall provide the legislature with a status report  
86-51 concerning the agency's development of the grant system. The  
86-52 report may suggest any statutory changes needed to facilitate a  
86-53 full transition to a performance-based grant system.

86-54 (b) Beginning with the 2009-2010 school year, the agency  
86-55 shall make the performance-based grant system fully available to  
86-56 school districts and charter schools.

86-57 (c) This section expires June 1, 2010.

86-58 SECTION 2F.09. Subchapter A, Chapter 8, Education Code, is  
86-59 amended by adding Section 8.0031 to read as follows:

86-60 Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS.

86-61 (a) The commissioner shall adopt rules prescribing training for  
86-62 members of regional education service center boards of directors.  
86-63 The training curriculum may include:

86-64 (1) an overview of this code and any rules adopted  
86-65 under this code;

86-66 (2) a review of recent state and federal education  
86-67 legislation, rules, and regulations;

86-68 (3) a review of the powers and duties of a regional  
86-69 education service center board of directors; and

87-1 (4) a review of any statewide or regional strategic  
 87-2 planning applicable to regional education service centers.

87-3 (b) A member of a regional education service center board of  
 87-4 directors must complete any training required by commissioner rule.

87-5 SECTION 2F.10. Subsections (b), (c), and (d), Section  
 87-6 8.051, Education Code, are amended to read as follows:

87-7 (b) Each regional education service center shall annually  
 87-8 develop and submit to the commissioner for approval a plan for  
 87-9 improvement. Each plan must include the purposes and description  
 87-10 of the services the center will provide to:

87-11 (1) campuses rated academically unacceptable  
 87-12 [identified as low-performing based on the indicators adopted]  
 87-13 under Section 39.072 [39.051];

87-14 (2) the lowest-performing campuses in the region; and  
 87-15 (3) other campuses.

87-16 (c) Each regional education service center shall provide  
 87-17 services that enable school districts to operate more efficiently  
 87-18 and economically, including collecting and disseminating:

87-19 (1) best practices information as provided by Section  
 87-20 7.010; and

87-21 (2) information concerning successful grant programs  
 87-22 to school districts as provided by Section 7.156.

87-23 (d) Each regional education service center shall maintain  
 87-24 core services for purchase by school districts and campuses. The  
 87-25 core services are:

87-26 (1) training and assistance in teaching each subject  
 87-27 area assessed under Section 39.023;

87-28 (2) training and assistance in providing each program  
 87-29 that qualifies for a funding allotment under Section 42.151,  
 87-30 42.152, 42.153, or 42.156;

87-31 (3) assistance specifically designed for a school  
 87-32 district or campus rated academically unacceptable under Section  
 87-33 39.072 [39.072(a) or a campus whose performance is considered  
 87-34 unacceptable based on the indicators adopted under Section 39.051];

87-35 (4) training and assistance to teachers,  
 87-36 administrators, members of district boards of trustees, and members  
 87-37 of site-based decision-making committees;

87-38 (5) assistance specifically designed for a school  
 87-39 district that is considered out of compliance with state or federal  
 87-40 special education requirements, based on the agency's most recent  
 87-41 compliance review of the district's special education programs; and

87-42 (6) assistance in complying with state laws and rules.

87-43 SECTION 2F.11. Subchapter A, Chapter 29, Education Code, is  
 87-44 amended by adding Sections 29.0162 and 29.0163 to read as follows:

87-45 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE  
 87-46 PROCESS HEARINGS. (a) The agency shall make available to a  
 87-47 parent, student, school district, attorney, or other interested  
 87-48 person, and shall place on the agency's Internet website,  
 87-49 comprehensive, easily understood information concerning the  
 87-50 special education due process hearing process.

87-51 (b) The information described by Subsection (a) must  
 87-52 include:

87-53 (1) a description of the steps in the due process  
 87-54 hearing process;

87-55 (2) the text of any applicable administrative,  
 87-56 procedural, or evidentiary rule;

87-57 (3) a description of any notice requirements;

87-58 (4) an explanation of options for alternative dispute  
 87-59 resolution, including mediation;

87-60 (5) an explanation of a resolution session;

87-61 (6) answers to frequently asked questions; and

87-62 (7) other sources of information, including  
 87-63 electronic sources of information, such as special education case  
 87-64 law available on the Internet.

87-65 Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION  
 87-66 CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency  
 87-67 shall collect and at least biennially analyze any information,  
 87-68 including complaint information, relating to the performance of a  
 87-69 special education hearing officer for use in assessing:

88-1 (1) the effectiveness of the due process hearing  
 88-2 process; and  
 88-3 (2) the performance of a special education hearing  
 88-4 officer.

88-5 (b) The agency shall use the information described by  
 88-6 Subsection (a) in determining whether to renew a contract with a  
 88-7 special education hearing officer.

88-8 SECTION 2F.12. Section 61.076, Education Code, is amended  
 88-9 by adding Subsections (c) and (d) to read as follows:

88-10 (c) On or before January 1, 2007, the P-16 council shall:

88-11 (1) review existing school district programs that  
 88-12 provide high school students with the opportunity to enroll in  
 88-13 advanced academic courses offered through dual credit and  
 88-14 concurrent enrollment programs, including reviewing courses  
 88-15 currently approved by districts and offered by institutions of  
 88-16 higher education for dual and concurrent enrollment credit;

88-17 (2) review the high school curriculum required for the  
 88-18 recommended high school program under Section 28.025 and study the  
 88-19 feasibility of offering a revised curriculum that would provide  
 88-20 graduating high school students with at least 12 hours of advanced  
 88-21 academic courses or college level coursework offered through dual  
 88-22 credit and concurrent enrollment programs provided under  
 88-23 agreements between high schools and institutions of higher  
 88-24 education; and

88-25 (3) prepare and deliver a report based on the review  
 88-26 and study to the governor, the lieutenant governor, the speaker of  
 88-27 the house of representatives, and the presiding officer of the  
 88-28 standing committee of each house of the legislature with primary  
 88-29 jurisdiction over public education.

88-30 (d) Subsection (c) and this subsection expire January 2,  
 88-31 2007.

#### 88-32 PART G. SCHOOL DISCIPLINE

88-33 SECTION 2G.01. Chapter 26, Education Code, is amended by  
 88-34 adding Section 26.0083 to read as follows:

88-35 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY  
 88-36 ACTION. (a) A parent is entitled to notice from a school district  
 88-37 or open-enrollment charter school as provided by this section if  
 88-38 the parent's child is removed from class under Section 37.006 for  
 88-39 placement in a disciplinary alternative education program or under  
 88-40 Section 37.007 for expulsion or placement in a juvenile justice  
 88-41 alternative education program. A school district or  
 88-42 open-enrollment charter school shall make a good faith effort to  
 88-43 provide the notice required by this subsection on the same day the  
 88-44 parent's child is removed from class. If the district or school  
 88-45 fails to provide the notice on that day, the district or school  
 88-46 shall provide or mail the notice not later than 5 p.m. on the first  
 88-47 business day after the day the student is removed from class.

88-48 (b) A noncustodial parent who has requested notice of  
 88-49 disciplinary actions as provided by Section 37.0091 is entitled to  
 88-50 notice under Subsection (a).

88-51 SECTION 2G.02. Section 37.008, Education Code, is amended  
 88-52 by amending Subsections (m) and (m-1) and adding Subsection (n) to  
 88-53 read as follows:

88-54 (m) Notwithstanding Section 7.028, the [The] commissioner  
 88-55 shall adopt rules necessary to evaluate through an annual  
 88-56 monitoring process [annually] the performance of each district's  
 88-57 disciplinary alternative education program established under this  
 88-58 subchapter. The monitoring process [evaluation] required by this  
 88-59 section may be electronic and shall be based on indicators defined  
 88-60 by the commissioner, but must include student performance on  
 88-61 assessment instruments required under Section [Sections] 39.023(a)  
 88-62 and at least one indicator that measures student academic progress  
 88-63 [and (c)]. Academically, the mission of disciplinary alternative  
 88-64 education programs shall be to enable students to perform at grade  
 88-65 level.

88-66 (m-1) The agency shall integrate the monitoring process  
 88-67 developed under Subsection (m) with the monitoring the agency is  
 88-68 authorized to conduct under Section 7.028(a). The commissioner may  
 88-69 require [shall develop a process for evaluating] a school district



89-1 to contract at the district's expense in the manner provided by  
 89-2 Section 39.134 with a public or private service provider for  
 89-3 services determined by the commissioner to be necessary to:

89-4 (1) improve student performance;  
 89-5 (2) improve disciplinary alternative education  
 89-6 program effectiveness; and

89-7 (3) [electronically. The commissioner shall also  
 89-8 develop a system and standards for review of the evaluation or use  
 89-9 systems already available at the agency. The system must be  
 89-10 designed to identify districts that are at high risk of having  
 89-11 inaccurate disciplinary alternative education program data or of  
 89-12 failing to] comply with disciplinary alternative education program  
 89-13 state and federal requirements.

89-14 (n) [The commissioner shall notify the board of trustees of  
 89-15 a district of any objection the commissioner has to the district's  
 89-16 disciplinary alternative education program data or of a violation  
 89-17 of a law or rule revealed by the data, including any violation of  
 89-18 disciplinary alternative education program requirements, or of any  
 89-19 recommendation by the commissioner concerning the data. If the  
 89-20 data reflect that a penal law has been violated, the commissioner  
 89-21 shall notify the county attorney, district attorney, or criminal  
 89-22 district attorney, as appropriate, and the attorney general.] The  
 89-23 commissioner is entitled to access to all district records the  
 89-24 commissioner considers necessary or appropriate for the review,  
 89-25 analysis, or approval of disciplinary alternative education  
 89-26 program data.

89-27 SECTION 2G.03. Subsections (b) and (c), Section 37.020,  
 89-28 Education Code, are amended to read as follows:

89-29 (b) For each placement in a disciplinary alternative  
 89-30 education program established under Section 37.008, the district  
 89-31 shall report:

89-32 (1) information identifying the student, including  
 89-33 the student's race, sex, and date of birth, that will enable the  
 89-34 agency to compare placement data with information collected through  
 89-35 other reports;

89-36 (2) information indicating whether the student was  
 89-37 enrolled in a special education program under Subchapter A, Chapter  
 89-38 29, at the time of the placement;

89-39 (3) information indicating whether the placement was  
 89-40 based on:

89-41 (A) conduct violating the student code of conduct  
 89-42 adopted under Section 37.001;

89-43 (B) conduct for which a student may be removed  
 89-44 from class under Section 37.002(b);

89-45 (C) conduct for which placement in a disciplinary  
 89-46 alternative education program is required by Section 37.006; or

89-47 (D) conduct occurring while a student was  
 89-48 enrolled in another district and for which placement in a  
 89-49 disciplinary alternative education program is permitted by Section  
 89-50 37.008(j);

89-51 (4) ~~(3)~~ the number of full or partial days the  
 89-52 student was assigned to the program and the number of full or  
 89-53 partial days the student attended the program; and

89-54 (5) ~~(4)~~ the number of placements that were  
 89-55 inconsistent with the guidelines included in the student code of  
 89-56 conduct under Section 37.001(a)(5).

89-57 (c) For each expulsion under Section 37.007, the district  
 89-58 shall report:

89-59 (1) information identifying the student, including  
 89-60 the student's race, sex, and date of birth, that will enable the  
 89-61 agency to compare placement data with information collected through  
 89-62 other reports;

89-63 (2) information indicating whether the student was  
 89-64 enrolled in a special education program under Subchapter A, Chapter  
 89-65 29, at the time of the expulsion;

89-66 (3) information indicating whether the expulsion was  
 89-67 based on:

89-68 (A) conduct for which expulsion is required under  
 89-69 Section 37.007, including information specifically indicating

90-1 whether a student was expelled on the basis of Section 37.007(e); or  
 90-2 (B) conduct for which expulsion is permitted  
 90-3 under Section 37.007;  
 90-4 (4) [~~3~~] the number of full or partial days the  
 90-5 student was expelled;  
 90-6 (5) [~~4~~] information indicating whether:  
 90-7 (A) the student was placed in a juvenile justice  
 90-8 alternative education program under Section 37.011;  
 90-9 (B) the student was placed in a disciplinary  
 90-10 alternative education program; or  
 90-11 (C) the student was not placed in a juvenile  
 90-12 justice or other disciplinary alternative education program; and  
 90-13 (6) [~~5~~] the number of expulsions that were  
 90-14 inconsistent with the guidelines included in the student code of  
 90-15 conduct under Section 37.001(a)(5).

90-16 PART H. CRIMINAL HISTORY RECORDS INFORMATION

90-17 SECTION 2H.01. Subchapter B, Chapter 21, Education Code, is  
 90-18 amended by adding Section 21.0401 to read as follows:

90-19 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The  
 90-20 board shall obtain a complete set of fingerprints from:

- 90-21 (1) each applicant for a certificate issued under this  
 90-22 subchapter;
- 90-23 (2) each applicant for or holder of a teaching permit  
 90-24 issued under this subchapter; and
- 90-25 (3) each person described by Section 11A.153 or  
 90-26 Section 21.0032 for whom the board has received information from a  
 90-27 public charter district.

90-28 SECTION 2H.02. Subsection (c), Section 21.041, Education  
 90-29 Code, is amended to read as follows:

90-30 (c) The board shall propose rules [~~a rule~~] adopting fees [~~a~~  
 90-31 ~~fee~~] for:

- 90-32 (1) the issuance and maintenance of each [an] educator  
 90-33 certificate that is adequate to cover the cost of administration of  
 90-34 this subchapter, including any amount necessary to cover the cost  
 90-35 of obtaining fingerprints under Section 21.0401 or conducting a  
 90-36 national criminal background review and investigation under  
 90-37 Sections 21.0032 and 22.082; and
- 90-38 (2) the cost of obtaining fingerprints from or  
 90-39 conducting a national criminal background review of a holder of a  
 90-40 teaching permit issued under this subchapter.

90-41 SECTION 2H.03. Section 22.082, Education Code, is amended  
 90-42 to read as follows:

90-43 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
 90-44 BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for  
 90-45 Educator Certification shall obtain from any law enforcement or  
 90-46 criminal justice agency all state and national criminal history  
 90-47 record information that relates to:

- 90-48 (1) an applicant for or holder of a certificate or  
 90-49 permit issued under Subchapter B, Chapter 21; or
- 90-50 (2) a person described by Section 11A.153 or 21.0032.

90-51 (b) The board shall require each applicant, holder, and  
 90-52 person described by Subsection (a)(2) to pay any costs to the board  
 90-53 related to obtaining criminal history record information related to  
 90-54 the person under this section.

90-55 SECTION 2H.04. Section 411.090, Government Code, is amended  
 90-56 to read as follows:

90-57 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION  
 90-58 AND FINGERPRINTS: STATE BOARD FOR EDUCATOR CERTIFICATION.

90-59 (a) The State Board for Educator Certification is entitled to  
 90-60 obtain from the department any criminal history record information  
 90-61 maintained by the department about:

- 90-62 (1) a person who has applied or expressed to the board  
 90-63 an intention to apply [to the board] for a certificate or permit  
 90-64 under Subchapter B, Chapter 21, Education Code; or
- 90-65 (2) a person described by Section 11A.153 or 21.0032,  
 90-66 Education Code.

90-67 (b) Criminal history record information obtained by the  
 90-68 board under Subsection (a):

- 90-69 (1) may be used for any purpose related to the

91-1 issuance, denial, suspension, or cancellation of a certificate or  
91-2 permit under Subchapter B, Chapter 21, Education Code, or for any  
91-3 purpose authorized by Section 11A.153 or 21.0032, Education Code  
91-4 [issued by the board]; and

91-5 (2) may not be released to any person except on court  
91-6 order or with the consent of the subject of the criminal history  
91-7 record information [applicant for a certificate, and

91-8 [(3) shall be destroyed by the board after the  
91-9 information is used for the authorized purposes].

91-10 (c) The board may keep on file with the department all  
91-11 fingerprints obtained by the board under Section 21.0401, Education  
91-12 Code. The department shall notify the board of the arrest of any  
91-13 person who has fingerprints on file with the department pursuant to  
91-14 that section.

91-15 (d) On receipt of notice from the department of an arrest of  
91-16 a person described by Section 11A.153 or 21.0032, Education Code,  
91-17 the board shall notify the public charter district affected.

91-18 PART I. HEALTH COVERAGE OR COMPENSATION SUPPLEMENTATION

91-19 SECTION 21.01. Chapter 1580, Insurance Code, is reenacted  
91-20 and amended to read as follows:

91-21 CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE

91-22 OR COMPENSATION SUPPLEMENTATION

91-23 SUBCHAPTER A. GENERAL PROVISIONS

91-24 Sec. 1580.001. DEFINITIONS. In this chapter:

91-25 (1) "Cafeteria plan" means a plan as defined and  
91-26 authorized by Section 125, Internal Revenue Code of 1986, and its  
91-27 subsequent amendments.

91-28 (2) "Employee" means a participating member of the  
91-29 Teacher Retirement System of Texas who:

91-30 (A) is employed by a school district, other  
91-31 educational district whose employees are members of the Teacher  
91-32 Retirement System of Texas, participating charter school, or  
91-33 regional education service center; and

91-34 (B) is not a retiree covered under the program  
91-35 established under Chapter 1575.

91-36 (3) "Participating charter school" means an  
91-37 open-enrollment charter school established under Subchapter D,  
91-38 Chapter 12, Education Code, that participates in the program  
91-39 established under Chapter 1579.

91-40 (4) "Regional education service center" means a  
91-41 regional education service center established under Chapter 8,  
91-42 Education Code.

91-43 (5) "Trustee" means the Teacher Retirement System of  
91-44 Texas.

91-45 Sec. 1580.002. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

91-46 (a) The trustee may adopt rules to implement this chapter.

91-47 (b) The trustee may enter into interagency contracts with  
91-48 any agency of this state for the purpose of assistance in  
91-49 implementing this chapter.

91-50 SUBCHAPTER B. DESIGNATION OF COMPENSATION AS HEALTH CARE

91-51 SUPPLEMENTATION [DISTRIBUTION OF STATE FUNDS BY TRUSTEE]

91-52 Sec. 1580.051. DESIGNATION OF COMPENSATION AS HEALTH CARE  
91-53 SUPPLEMENTATION. (a) As provided by Section 21.402 or 22.008,

91-54 Education Code, and subject to Section 1580.102, an employee of a  
91-55 [DISTRIBUTION BY TRUSTEE. Each year, the trustee shall deliver to  
91-56 each] school district, [including a school district that is  
91-57 ineligible for state aid under Chapter 42, Education Code, each]

91-58 other educational district that is a member of the Teacher  
91-59 Retirement System of Texas, [each] participating charter school, or  
91-60 [and each] regional education service center may elect to designate

91-61 a portion of the employee's compensation to be used as health care  
91-62 supplementation under this chapter. The amount designated under  
91-63 this section may not exceed the amount permitted under applicable

91-64 federal law.

91-65 (b) Notwithstanding Subsection (a), an administrator, as  
91-66 defined by the trustee, employed by a school district, another  
91-67 educational district, a participating charter school, or a regional

91-68 education service center is not eligible to elect to designate a  
91-69 portion of the person's compensation to be used as health care

92-1 supplementation under this chapter ~~[state funds in an amount, as~~  
 92-2 ~~determined by the trustee, equal to the product of the number of~~  
 92-3 ~~active employees employed by the district, school, or service~~  
 92-4 ~~center multiplied by \$1,000 or a greater amount as provided by the~~  
 92-5 ~~General Appropriations Act for purposes of this chapter].~~

92-6 ~~[Sec. 1580.052. EQUAL INSTALLMENTS. The trustee shall~~  
 92-7 ~~distribute funds under this chapter in equal monthly installments.]~~

92-8 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by  
 92-9 a school district, other educational district, participating  
 92-10 charter school, or regional education service center under this  
 92-11 chapter are held in trust for the benefit of the active employees on  
 92-12 whose behalf the district, school, or service center received the  
 92-13 funds.

92-14 ~~[Sec. 1580.054. RECOVERY OF DISTRIBUTIONS. The trustee is~~  
 92-15 ~~entitled to recover from a school district, other educational~~  
 92-16 ~~district, participating charter school, or regional education~~  
 92-17 ~~service center any amount distributed under this chapter to which~~  
 92-18 ~~the district, school, or service center was not entitled.~~

92-19 ~~[Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A~~  
 92-20 ~~determination by the trustee under this subchapter is final and may~~  
 92-21 ~~not be appealed.]~~

#### 92-22 SUBCHAPTER C. EMPLOYEE ELECTION

92-23 Sec. 1580.101. WRITTEN ELECTION REQUIRED. (a) Each school  
 92-24 year, an active employee must elect in writing whether to designate  
 92-25 a portion of the employee's compensation to be used as health care  
 92-26 supplementation under this chapter.

92-27 (b) This section does not apply to an employee to whom  
 92-28 Section 1580.102 applies.

92-29 Sec. 1580.1011. EMPLOYEE COVERED BY CAFETERIA PLAN.  
 92-30 (a) To elect to designate a portion of the employee's compensation  
 92-31 to be used as health care supplementation under this chapter, [If]  
 92-32 an active employee must be [is] covered by a cafeteria plan of a  
 92-33 school district, other educational district, participating charter  
 92-34 school, or regional education service center. The employee must[,  
 92-35 the state contribution under this chapter shall be deposited in the  
 92-36 cafeteria plan, and the employee may] elect among the options  
 92-37 provided by the cafeteria plan.

92-38 (b) A cafeteria plan receiving funds designated as health  
 92-39 care supplementation [state contributions] under this chapter may  
 92-40 include a medical savings account option and must include, at a  
 92-41 minimum, the following options:

92-42 (1) a health care reimbursement account;  
 92-43 (2) a benefit or coverage other than that provided  
 92-44 under Chapter 1579, or any employee coverage or dependent coverage  
 92-45 available under Chapter 1579 but not otherwise fully funded by the  
 92-46 state or the employer contributions, any of which must be a  
 92-47 "qualified benefit" under Section 125, Internal Revenue Code of  
 92-48 1986, and its subsequent amendments; or

92-49 (3) ~~[an option for the employee to receive the state~~  
 92-50 ~~contribution as supplemental compensation, or~~

92-51 ~~[(4)] an option to divide the funds between [state~~  
 92-52 ~~contribution among two or more of] the other options provided under~~  
 92-53 ~~this subsection.~~

92-54 Sec. 1580.102. EMPLOYEE NOT COVERED BY CAFETERIA PLAN. If  
 92-55 an active employee is not covered by a cafeteria plan of a school  
 92-56 district, other educational district, participating charter  
 92-57 school, or regional education service center, the employee is not  
 92-58 eligible to elect to designate a portion of the employee's  
 92-59 compensation to be used as health care supplementation under this  
 92-60 chapter [state contribution under this chapter shall be paid to the  
 92-61 active employee as supplemental compensation].

92-62 ~~[Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental~~  
 92-63 ~~compensation under this subchapter must be in addition to the rate~~  
 92-64 ~~of compensation that:~~

92-65 ~~[(1) the school district, other educational district,~~  
 92-66 ~~participating charter school, or regional education service center~~  
 92-67 ~~paid the employee in the preceding school year, or~~

92-68 ~~[(2) the district, school, or service center would~~  
 92-69 ~~have paid the employee in the preceding school year if the employee~~

93-1 ~~had been employed by the district, school, or service center in the~~  
93-2 ~~same capacity in the preceding school year.]~~

93-3 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal  
93-4 year, an election under this subchapter must be made before the  
93-5 later of:

- 93-6 (1) August 1 of the preceding state fiscal year; or
- 93-7 (2) the 31st day after the date the employee is hired.

93-8 Sec. 1580.105. WRITTEN EXPLANATION; ELECTION FORM.  
93-9 (a) The trustee shall prescribe and distribute to each school  
93-10 district, other educational district, participating charter  
93-11 school, and regional education service center:

93-12 (1) a model explanation written in English and Spanish  
93-13 of the options active employees may elect under this section and the  
93-14 effect of electing each option; and

93-15 (2) an election form to be completed by active  
93-16 employees.

93-17 (b) Each state fiscal year, a school district, other  
93-18 educational district, participating charter school, or regional  
93-19 education service center shall prepare and distribute to each  
93-20 active employee a written explanation in English and Spanish, as  
93-21 appropriate, of the options the employee may elect under this  
93-22 section. The explanation must be based on the model explanation  
93-23 prepared by the trustee under Subsection (a) and must reflect all  
93-24 available health coverage options available to the employee. The  
93-25 explanation must be distributed to an employee before the later of:

- 93-26 (1) July 1 of the preceding state fiscal year; or
- 93-27 (2) the fifth day after the date the employee is hired.

93-28 (c) The written explanation under Subsection (b) must be  
93-29 accompanied by a copy of the election form prescribed under  
93-30 Subsection (a)(2).

93-31 ~~[Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any~~  
93-32 ~~unencumbered funds that are returned to the school district from~~  
93-33 ~~accounts established under Section 1580.101 may be used only to~~  
93-34 ~~provide employee compensation, benefits, or both.]~~

93-35 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

93-36 Sec. 1580.151. DEFINITION. In this subchapter, "qualified  
93-37 health care expense" means an expense paid by an employee for  
93-38 medical care, as defined by Section 213(d), Internal Revenue Code  
93-39 of 1986, and its subsequent amendments, for the employee or the  
93-40 employee's dependents, as defined by Section 152, Internal Revenue  
93-41 Code of 1986, and its subsequent amendments.

93-42 Sec. 1580.152. RULES. The trustee, by rule, shall specify  
93-43 the requirements for a medical savings account established under  
93-44 this chapter.

93-45 Sec. 1580.153. QUALIFICATION OF ACCOUNT. (a) The trustee  
93-46 shall request in writing a ruling or opinion from the Internal  
93-47 Revenue Service as to whether the medical savings accounts  
93-48 established under this chapter and the state rules governing those  
93-49 accounts qualify the accounts for appropriate federal tax  
93-50 exemptions.

93-51 (b) Based on the response of the Internal Revenue Service  
93-52 under Subsection (a), the trustee shall:

93-53 (1) modify the rules, plans, and procedures adopted  
93-54 under this section as necessary to ensure the qualification of  
93-55 those accounts for appropriate federal tax exemptions; and

93-56 (2) certify the information regarding federal tax  
93-57 qualifications to the comptroller.

93-58 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects  
93-59 under Section 1580.101 to have state funds distributed under this  
93-60 chapter placed in a medical savings account may use the money in  
93-61 that account only for a qualified health care expense.

93-62 PART J. SCHOOL SAFETY

93-63 SECTION 2J.01. Chapter 33, Education Code, is amended by  
93-64 adding Subchapter F to read as follows:

93-65 SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR  
93-66 ACTIVITIES

93-67 Sec. 33.201. APPLICABILITY. This subchapter applies to  
93-68 each public school in this state and to any other school in this  
93-69 state subject to University Interscholastic League regulations.

Sec. 33.202. SAFETY TRAINING REQUIRED.

94-1 (a) The  
 94-2 commissioner by rule shall develop and adopt a safety training  
 94-3 program as provided by this section. In developing the program, the  
 94-4 commissioner may use materials available from the American Red  
 94-5 Cross or another appropriate entity.

94-6 (b) The following persons must satisfactorily complete the  
 94-7 safety training program:

94-8 (1) a coach, trainer, or sponsor for an  
 94-9 extracurricular athletic activity;

94-10 (2) except as provided by Subsection (f), a physician  
 94-11 who is employed by a school or school district or who volunteers to  
 94-12 assist with an extracurricular athletic activity; and

94-13 (3) a director responsible for a school marching band.

94-14 (c) The safety training program must include:

94-15 (1) certification of participants by the American Red  
 94-16 Cross, the American Heart Association, or a similar organization or  
 94-17 the University Interscholastic League, as determined by the  
 94-18 commissioner;

94-19 (2) annual training in:  
 94-20 (A) emergency action planning;  
 94-21 (B) cardiopulmonary resuscitation if the person  
 94-22 is not required to obtain certification under Section 33.086;  
 94-23 (C) communicating effectively with 9-1-1  
 94-24 emergency service operators and other emergency personnel; and

94-25 (D) recognizing symptoms of potentially  
 94-26 catastrophic injuries, including head and neck injuries,  
 94-27 concussions, injuries related to second impact syndrome, asthma  
 94-28 attacks, heatstroke, cardiac arrest, and injuries requiring use of  
 94-29 a defibrillator; and

94-30 (3) at least once each school year, a safety drill that  
 94-31 incorporates the training described by Subdivision (2) and  
 94-32 simulates various injuries described by Subdivision (2)(D).

94-33 (d) A student participating in an extracurricular athletic  
 94-34 activity must receive training related to:

94-35 (1) recognizing the symptoms of injuries described by  
 94-36 Subsection (c)(2)(D); and

94-37 (2) the risks of using supplements designed or  
 94-38 marketed to enhance athletic performance.

94-39 (e) The safety training program and the training under  
 94-40 Subsection (d) may each be conducted by a school or school district  
 94-41 or by an organization described by Subsection (c)(1).

94-42 (f) A physician who is employed by a school or school  
 94-43 district or who volunteers to assist with an extracurricular  
 94-44 athletic activity is exempt from the requirements of Subsection (b)  
 94-45 if the physician attends a continuing medical education course that  
 94-46 specifically addresses emergency medicine for athletic team  
 94-47 physicians.

94-48 Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC  
 94-49 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an  
 94-50 extracurricular athletic activity must complete the University  
 94-51 Interscholastic League forms entitled "Preparticipation Physical  
 94-52 Evaluation--Medical History" and "Acknowledgment of Rules." Each  
 94-53 form must be signed by both the student and the student's parent or  
 94-54 guardian.

94-55 (b) Each form described by Subsection (a) must clearly state  
 94-56 that failure to accurately and truthfully answer all questions on a  
 94-57 form required by statute or by the University Interscholastic  
 94-58 League as a condition for participation in an extracurricular  
 94-59 athletic activity subjects a signer of the form to penalties  
 94-60 determined by the University Interscholastic League.

94-61 (c) The "Preparticipation Physical Evaluation--Medical  
 94-62 History" form described by Subsection (a) must contain the  
 94-63 following statement:

94-64 "An individual answering in the affirmative to  
 94-65 any question relating to a possible cardiovascular  
 94-66 health issue, as identified on the form, should be  
 94-67 restricted from further participation until the  
 94-68 individual is examined by the individual's primary  
 94-69 care physician. Ultimately, the individual may need

95-1 to be evaluated by a cardiologist and/or undergo  
 95-2 cardiac testing (including an echocardiogram and/or  
 95-3 other heart-related examination) based on the  
 95-4 assessment by the primary care physician."

95-5 Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES  
 95-6 PROHIBITED. A coach, trainer, or sponsor for an extracurricular  
 95-7 athletic activity may not encourage or permit a student  
 95-8 participating in the activity to engage in any unreasonably  
 95-9 dangerous athletic technique that unnecessarily endangers the  
 95-10 health of a student, including using a helmet or any other sports  
 95-11 equipment as a weapon.

95-12 Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A  
 95-13 coach, trainer, or sponsor for an extracurricular athletic activity  
 95-14 shall at each athletic practice or competition ensure that:

95-15 (1) each student participating in the activity is  
 95-16 adequately hydrated;

95-17 (2) any prescribed asthma medication for a student  
 95-18 participating in the activity is readily available to the student;

95-19 (3) emergency lanes providing access to the practice  
 95-20 or competition area are open and clear; and

95-21 (4) heatstroke prevention materials are readily  
 95-22 available.

95-23 (b) If a student participating in an extracurricular  
 95-24 athletic activity, including a practice or competition, is rendered  
 95-25 unconscious during the activity, the student may not:

95-26 (1) return to the practice or competition during which  
 95-27 the student was rendered unconscious; or

95-28 (2) continue to participate in any extracurricular  
 95-29 athletic activity until the student receives written authorization  
 95-30 from a physician.

95-31 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a  
 95-32 school shall make available to the public proof of compliance for  
 95-33 each person enrolled in, employed by, or volunteering for the  
 95-34 school who is required to receive safety training described by  
 95-35 Section 33.202.

95-36 (b) The superintendent of a school district or the director  
 95-37 of a school subject to this subchapter shall maintain complete and  
 95-38 accurate records of the district's or school's compliance with  
 95-39 Section 33.202.

95-40 (c) A school campus that is determined by the school's  
 95-41 superintendent or director to not be in compliance with Section  
 95-42 33.202, 33.203, or 33.204 shall discontinue all extracurricular  
 95-43 athletic activities offered by the school campus, including all  
 95-44 practices and competitions, until the superintendent or director  
 95-45 determines that the school campus is in compliance.

95-46 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner  
 95-47 shall maintain an existing telephone number and an electronic mail  
 95-48 address to allow a person to report a violation of this subchapter.

95-49 (b) Each school that offers an extracurricular athletic  
 95-50 activity shall prominently display at the administrative offices of  
 95-51 the school the telephone number and electronic mail address  
 95-52 maintained under Subsection (a).

95-53 Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an  
 95-54 extracurricular athletic activity shall provide to each student  
 95-55 participating in an extracurricular athletic activity and to the  
 95-56 student's parent or guardian a copy of the text of Sections  
 95-57 33.201-33.206 and a copy of the University Interscholastic League's  
 95-58 parent information manual.

95-59 (b) A document required to be provided under this section  
 95-60 may be provided in an electronic format unless otherwise requested  
 95-61 by a student, parent, or guardian.

95-62 Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The  
 95-63 University Interscholastic League shall incorporate the provisions  
 95-64 of Sections 33.203-33.206 into the league's constitution and  
 95-65 contest rules.

95-66 Sec. 33.209. LIABILITY. The requirements of this  
 95-67 subchapter are not considered ministerial acts for purposes of  
 95-68 immunity from liability under Section 22.0511.

95-69 SECTION 2J.02. Subchapter D, Chapter 33, Education Code, is

96-1 amended by adding Section 33.087 to read as follows:

96-2 Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL  
 96-3 DEFIBRILLATORS. (a) Using existing funds and other resources  
 96-4 available for the purpose, the agency and the University  
 96-5 Interscholastic League shall jointly investigate the availability  
 96-6 of federal, state, local, and private funds for purchasing  
 96-7 automated external defibrillators, as defined by Section 779.001,  
 96-8 Health and Safety Code, for use by University Interscholastic  
 96-9 League member schools, and the possibility of receiving a bulk  
 96-10 discount on such purchases.

96-11 (b) The agency and the University Interscholastic League  
 96-12 shall submit a report describing the findings of the investigation  
 96-13 to the legislature not later than June 1, 2006.

96-14 (c) This section expires July 1, 2006.

96-15 SECTION 2J.03. Subchapter D, Chapter 37, Education Code, is  
 96-16 amended by adding Section 37.108 to read as follows:

96-17 Sec. 37.108. MULTHAZARD EMERGENCY OPERATIONS PLAN;  
 96-18 SECURITY AUDIT. (a) Each school district shall adopt and  
 96-19 implement a multihazard emergency operations plan for use in  
 96-20 district schools. The plan must address mitigation, preparedness,  
 96-21 response, and recovery as recommended by the United States  
 96-22 Department of Homeland Security. The plan must provide for:

96-23 (1) district employee training in responding to an  
 96-24 emergency;

96-25 (2) mandatory school drills to prepare district  
 96-26 students and employees for responding to an emergency;

96-27 (3) measures to ensure coordination with local  
 96-28 emergency management agencies, law enforcement, and fire  
 96-29 departments in the event of an emergency; and

96-30 (4) the implementation of a security audit as required  
 96-31 by Subsection (b).

96-32 (b) At least once every three years, a school district shall  
 96-33 conduct a security audit of the district's facilities. To the  
 96-34 extent possible, a district shall follow security audit procedures  
 96-35 developed by the Texas School Safety Center or a comparable public  
 96-36 or private entity.

96-37 (c) A school district shall report the results of the  
 96-38 security audit conducted under Subsection (b) to the district's  
 96-39 board of trustees.

96-40 SECTION 2J.04. Subsection (a), Section 37.203, Education  
 96-41 Code, is amended to read as follows:

96-42 (a) The center is ~~advised~~ [governed] by a board of directors  
 96-43 composed of:

96-44 (1) the attorney general, or the attorney general's  
 96-45 designee;

96-46 (2) the commissioner, or the commissioner's designee;

96-47 (3) the executive director of the Texas Juvenile  
 96-48 Probation Commission, or the executive director's designee;

96-49 (4) the executive director of the Texas Youth  
 96-50 Commission, or the executive director's designee;

96-51 (5) the commissioner of the Texas Department of Mental  
 96-52 Health and Mental Retardation, or the commissioner's designee; and

96-53 (6) the following members appointed by the governor  
 96-54 with the advice and consent of the senate:

96-55 (A) a juvenile court judge;

96-56 (B) a member of a school district's board of  
 96-57 trustees;

96-58 (C) an administrator of a public primary school;

96-59 (D) an administrator of a public secondary  
 96-60 school;

96-61 (E) a member of the state parent-teacher  
 96-62 association;

96-63 (F) a teacher from a public primary or secondary  
 96-64 school;

96-65 (G) a public school superintendent who is a  
 96-66 member of the Texas Association of School Administrators;

96-67 (H) a school district police officer or a peace  
 96-68 officer whose primary duty consists of working in a public school;  
 96-69 and



97-1 (I) two members of the public.

97-2 SECTION 2J.05. Section 37.205, Education Code, is amended  
97-3 to read as follows:

97-4 Sec. 37.205. SAFETY TRAINING PROGRAMS. The center shall  
97-5 conduct for school districts a safety training program that  
97-6 includes:

97-7 (1) development of a positive school environment and  
97-8 proactive safety measures designed to address local concerns;

97-9 (2) school safety courses for law enforcement  
97-10 officials, with a focus on school district police officers and  
97-11 school resource officers;

97-12 (3) discussion of school safety issues with parents  
97-13 and community members; and

97-14 (4) assistance in developing a multihazard emergency  
97-15 operations plan for adoption under Section 37.108 [~~specialized~~  
97-16 ~~training for the staff of alternative education programs and~~  
97-17 ~~juvenile justice alternative education programs~~].

97-18 SECTION 2J.06. Subchapter G, Chapter 37, Education Code, is  
97-19 amended by adding Section 37.2051 to read as follows:

97-20 Sec. 37.2051. SECURITY CRITERIA FOR INSTRUCTIONAL  
97-21 FACILITIES. The center shall develop security criteria that school  
97-22 districts may consider in the design of instructional facilities.

97-23 SECTION 2J.07. Section 37.208, Education Code, is amended  
97-24 to read as follows:

97-25 Sec. 37.208. ON-SITE ASSISTANCE. On request of a school  
97-26 district, the center may [~~shall~~] provide on-site technical  
97-27 assistance to the district for:

97-28 (1) school safety and security audits; and

97-29 (2) school safety and security information and  
97-30 presentations.

97-31 SECTION 2J.08. Subsection (b), Section 37.215, Education  
97-32 Code, is amended to read as follows:

97-33 (b) The center [~~board~~] shall biannually prepare a budget  
97-34 request [~~for the center~~] for submission to the legislature.

97-35 SECTION 2J.09. Subchapter A, Chapter 46, Education Code, is  
97-36 amended by adding Section 46.0081 to read as follows:

97-37 Sec. 46.0081. SECURITY CRITERIA IN DESIGN OF INSTRUCTIONAL  
97-38 FACILITIES. A school district that constructs a new instructional  
97-39 facility or conducts a major renovation of an existing  
97-40 instructional facility using funds allotted to the district under  
97-41 this subchapter shall consider, in the design of the instructional  
97-42 facility, security criteria developed by the Texas School Safety  
97-43 Center under Section 37.2051.

97-44 SECTION 2J.10. Sections 37.206 and 37.213, Education Code,  
97-45 are repealed.

97-46 SECTION 2J.11. (a) Not later than December 1, 2005, the  
97-47 Texas School Safety Center shall:

97-48 (1) develop a school safety program that includes  
97-49 assistance to school districts in developing a multihazard  
97-50 emergency operations plan as required by Section 37.205, Education  
97-51 Code, as amended by this Act; and

97-52 (2) develop security criteria for the construction and  
97-53 renovation of school district instructional facilities as required  
97-54 by Section 37.2051, Education Code, as added by this Act.

97-55 (b) Not later than March 1, 2006, each school district shall  
97-56 adopt a multihazard emergency operations plan as required by  
97-57 Section 37.108, Education Code, as added by this Act.

97-58 PART K. SCHOOL DISTRICT OPERATIONS

97-59 SECTION 2K.01. Subsection (e), Section 7.056, Education  
97-60 Code, as amended by S.B. No. 658, Acts of the 79th Legislature,  
97-61 Regular Session, 2005, is amended to read as follows:

97-62 (e) Except as provided by Subsection (f), a school campus or  
97-63 district may not receive an exemption or waiver under this section  
97-64 from:

97-65 (1) a prohibition on conduct that constitutes a  
97-66 criminal offense;

97-67 (2) a requirement imposed by federal law or rule,  
97-68 including a requirement for special education or bilingual  
97-69 education programs; or

98-1 (3) a requirement, restriction, or prohibition  
 98-2 relating to:

98-3 (A) essential knowledge or skills under Section  
 98-4 28.002 or minimum graduation requirements under Section 28.025;

98-5 (B) public school accountability as provided by  
 98-6 Subchapters B, C, D, and G, Chapter 39;

98-7 (C) extracurricular activities under Section  
 98-8 33.0812 or participation in a University Interscholastic League  
 98-9 area, regional, or state competition under Section 33.082;

98-10 (D) health and safety under Chapter 38;

98-11 (E) purchasing under Subchapter B, Chapter 44;

98-12 (F) elementary school class size limits, except  
 98-13 as provided by Section 25.112;

98-14 (G) removal of a disruptive student from the  
 98-15 classroom under Subchapter A, Chapter 37;

98-16 (H) at-risk programs under Subchapter C, Chapter  
 98-17 29;

98-18 (I) prekindergarten programs under Subchapter E,  
 98-19 Chapter 29;

98-20 (J) educator rights and benefits under  
 98-21 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
 98-22 A, Chapter 22;

98-23 (K) special education programs under Subchapter  
 98-24 A, Chapter 29; ~~or~~

98-25 (L) bilingual education programs under  
 98-26 Subchapter B, Chapter 29; or

98-27 (M) the requirements for the first and last day  
 98-28 of instruction under Section 25.0811, except as provided by that  
 98-29 section.

98-30 SECTION 2K.02. The heading to Section 25.0811, Education  
 98-31 Code, is amended to read as follows:

98-32 Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

98-33 SECTION 2K.03. Subsection (a), Section 25.0811, Education  
 98-34 Code, is amended to read as follows:

98-35 ~~[(a)]~~ A school district shall ~~[may not]~~ begin instruction  
 98-36 for students for a school year on the first Tuesday after Labor Day.  
 98-37 The school year must end not later than June 7 unless:

98-38 (1) the district operates a year-round system under  
 98-39 Section 25.084; or

98-40 (2) the commissioner grants a waiver to extend the  
 98-41 school year at a campus as the result of a disaster, flood, extreme  
 98-42 weather condition, fuel curtailment, or other calamity that caused  
 98-43 a closure of the campus for a significant period ~~[before the week in~~  
 98-44 ~~which August 21 falls. For purposes of this subsection, Sunday is~~  
 98-45 ~~considered the first day of the week].~~

98-46 SECTION 2K.04. This part applies beginning with the  
 98-47 2006-2007 school year.

98-48 PART L. SAFETY OR LAP BELTS IN SCHOOL BUSES

98-49 SECTION 2L.01. Chapter 34, Education Code, is amended by  
 98-50 adding Section 34.012 to read as follows:

98-51 Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person  
 98-52 may offer to donate safety or lap belts or money for the purchase of  
 98-53 safety or lap belts for a school district's school buses.

98-54 (b) The board of trustees of a school district shall  
 98-55 consider any offer made by a person under Subsection (a). The board  
 98-56 of trustees may accept or decline the offer after adequate  
 98-57 consideration.

98-58 (c) The board of trustees may acknowledge a person who  
 98-59 donates safety or lap belts or money for the purchase of safety or  
 98-60 lap belts for a school bus under this section by displaying a small,  
 98-61 discreet sign on the side or back of the bus recognizing the person  
 98-62 who made the donation. The sign may not serve as an advertisement  
 98-63 for the person who made the donation.

98-64 ARTICLE 4. CHARTER SCHOOLS

98-65 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,  
 98-66 Chapter 12, Education Code, is repealed.

98-67 (b) Except as provided by Section 11A.1041, Education Code,  
 98-68 as added by this Act, each open-enrollment charter school operating  
 98-69 or holding a charter to operate on August 1, 2006, shall be

dissolved in accordance with Subchapter J, Chapter 11A, Education Code, as added by this Act.

SECTION 4.02. Subtitle C, Title 2, Education Code, is amended by adding Chapter 11A to read as follows:

CHAPTER 11A. PUBLIC CHARTER DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11A.001. DEFINITIONS. In this chapter:

(1) "Charter holder" means the entity to which a charter is granted under this chapter.

(2) "Governing body of a charter holder" means the board of directors, board of trustees, or other governing body of a charter holder.

(3) "Governing body of a public charter district" means the board of directors, board of trustees, or other governing body of a public charter district. The term includes the governing body of a charter holder if that body acts as the governing body of the public charter district.

(4) "Management company" means a person, other than a charter holder, who provides management services for a public charter district.

(5) "Management services" means services related to the management or operation of a public charter district, including:

(A) planning, operating, supervising, and evaluating the public charter district's educational programs, services, and facilities;

(B) making recommendations to the governing body of the public charter district relating to the selection of school personnel;

(C) managing the public charter district's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the public charter district a proposed budget;

(E) recommending policies to be adopted by the governing body of the public charter district, developing appropriate procedures to implement policies adopted by the governing body of the public charter district, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the public charter district based on the indicators adopted under Section 39.051 or by the governing body of the public charter district.

(6) "Officer of a public charter district" means:

(A) the principal, director, or other chief operating officer of a public charter district or campus; or

(B) a person charged with managing the finances of a public charter district.

Sec. 11A.002. AUTHORIZATION. (a) In accordance with this chapter, the State Board of Education may grant a charter on the application of an eligible entity for a public charter district to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; or

(4) a governmental entity in this state.

(b) The State Board of Education may grant a charter for a public charter district only to an applicant that meets all financial, governing, and operational standards adopted by the commissioner under this chapter.

(c) The State Board of Education may not grant more than a total of 215 charters for public charter districts.

(d) An educator employed by a school district before the effective date of a charter for a public charter district operated

at a school district facility may not be transferred to or employed by the public charter district over the educator's objection.

Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter district:

(1) shall provide instruction to and assess a number of students at a number of elementary or secondary grade levels, as provided by the charter, sufficient to permit the agency to assign an accountability rating under Chapter 39;

(2) is governed under the governing structure required by this chapter and described by the charter;

(3) retains authority to operate under the charter contingent on satisfactory student performance as provided by the charter in accordance with Section 11A.103; and

(4) does not have authority to impose taxes.

Sec. 11A.004. STATUS. A public charter district or campus is part of the public school system of this state.

Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related to operation of a public charter district, a public charter district is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers. Except as provided by Section 11A.154, a member of the governing body of a public charter district or of a charter holder is immune from liability to the same extent as a school district trustee.

Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL. A reference in law to an open-enrollment charter school means a public charter district or public charter campus, as applicable.

[Sections 11A.007-11A.050 reserved for expansion]

SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by Subsection (b) or (c), a public charter district is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) A public charter district is subject to this code and rules adopted under this code only to the extent the applicability to a public charter district of a provision of this code or a rule adopted under this code is specifically provided.

(c) Notwithstanding Subsection (a), a campus of a public charter district located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter district has the powers granted to schools under this title.

(b) A public charter district is subject to:

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

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

(A) the Public Education Information Management System (PEIMS) under Section 42.006;

(B) reporting an educator's misconduct under Section 21.006;

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

(D) reading instruments and accelerated reading instruction programs under Section 28.006;

(E) satisfactory performance on assessment instruments and to accelerated instruction under Section 28.0211;

(F) intensive programs of instruction under Section 28.0213;

(G) high school graduation under Section 28.025;

(H) special education programs under Subchapter A, Chapter 29, including a requirement that special education teachers obtain appropriate certification;

(I) bilingual education under Subchapter B,

101-1 Chapter 29, including a requirement that bilingual education  
 101-2 teachers obtain appropriate certification;  
 101-3 (J) prekindergarten programs under Subchapter E,  
 101-4 Chapter 29;  
 101-5 (K) extracurricular activities under Section  
 101-6 33.081;  
 101-7 (L) discipline management practices or behavior  
 101-8 management techniques under Section 37.0021;  
 101-9 (M) health and safety under Chapter 38; and  
 101-10 (N) public school accountability under  
 101-11 Subchapters B, C, D, G, and I, Chapter 39.

101-12 (c) A public charter district is entitled to the same level  
 101-13 of services provided to school districts by regional education  
 101-14 service centers. The commissioner shall adopt rules that provide  
 101-15 for the representation of public charter districts on the boards of  
 101-16 directors of regional education service centers.

101-17 (d) The commissioner may by rule permit a public charter  
 101-18 district to voluntarily participate in any state program available  
 101-19 to school districts, including a purchasing program, if the public  
 101-20 charter district complies with all terms of the program.

101-21 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC  
 101-22 INFORMATION LAWS. (a) With respect to the operation of a public  
 101-23 charter district, the governing body of a charter holder and the  
 101-24 governing body of a public charter district are considered to be  
 101-25 governmental bodies for purposes of Chapters 551 and 552,  
 101-26 Government Code.

101-27 (b) With respect to the operation of a public charter  
 101-28 district, any requirement in Chapter 551 or 552, Government Code,  
 101-29 that applies to a school district, the board of trustees of a school  
 101-30 district, or public school students applies to a public charter  
 101-31 district, the governing body of a charter holder, the governing  
 101-32 body of a public charter district, or students in attendance at a  
 101-33 public charter district campus.

101-34 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL  
 101-35 GOVERNMENT RECORDS. (a) With respect to the operation of a public  
 101-36 charter district, a public charter district is considered to be a  
 101-37 local government for purposes of Subtitle C, Title 6, Local  
 101-38 Government Code, and Subchapter J, Chapter 441, Government Code.

101-39 (b) Records of a public charter district, a charter holder,  
 101-40 or a management company that relate to a public charter district are  
 101-41 government records for all purposes under state law.

101-42 (c) Any requirement in Subtitle C, Title 6, Local Government  
 101-43 Code, or Subchapter J, Chapter 441, Government Code, that applies  
 101-44 to a school district, the board of trustees of a school district, or  
 101-45 an officer or employee of a school district applies to a public  
 101-46 charter district or management company, the governing body of a  
 101-47 charter holder, the governing body of a public charter district, or  
 101-48 an officer or employee of a public charter district or management  
 101-49 company except that the records of a public charter district or  
 101-50 management company that ceases to operate shall be transferred in  
 101-51 the manner prescribed by Subsection (d).

101-52 (d) The records of a public charter district or management  
 101-53 company that ceases to operate shall be transferred in the manner  
 101-54 specified by the commissioner to a custodian designated by the  
 101-55 commissioner. The commissioner may designate any appropriate  
 101-56 entity to serve as custodian, including the agency, a regional  
 101-57 education service center, or a school district. In designating a  
 101-58 custodian, the commissioner shall ensure that the transferred  
 101-59 records, including student and personnel records, are transferred  
 101-60 to a custodian capable of:

- 101-61 (1) maintaining the records;
- 101-62 (2) making the records readily accessible to students,  
 101-63 parents, former school employees, and other persons entitled to  
 101-64 access; and
- 101-65 (3) complying with applicable state or federal law  
 101-66 restricting access to the records.

101-67 (e) If the charter holder of a public charter district that  
 101-68 ceases to operate or an officer or employee of the district or a  
 101-69 management company refuses to transfer school records in the manner

102-1 specified by the commissioner under Subsection (d), the  
 102-2 commissioner may ask the attorney general to petition a court for  
 102-3 recovery of the records. If the court grants the petition, the  
 102-4 court shall award attorney's fees and court costs to the state.

102-5 (f) A record described by this section is a public school  
 102-6 record for purposes of Section 37.10(c)(2), Penal Code.

102-7 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC  
 102-8 PURCHASING AND CONTRACTING. (a) This section applies to a public  
 102-9 charter district unless the district's charter otherwise describes  
 102-10 procedures for purchasing and contracting and the procedures are  
 102-11 approved by the State Board of Education.

102-12 (b) A public charter district is considered to be:

102-13 (1) a governmental entity for purposes of:

102-14 (A) Subchapter D, Chapter 2252, Government Code;  
 102-15 and

102-16 (B) Subchapter B, Chapter 271, Local Government  
 102-17 Code;

102-18 (2) a political subdivision for purposes of Subchapter  
 102-19 A, Chapter 2254, Government Code; and

102-20 (3) a local government for purposes of Sections  
 102-21 2256.009-2256.016, Government Code.

102-22 (c) To the extent consistent with this section, a  
 102-23 requirement in a law listed in this section that applies to a school  
 102-24 district or the board of trustees of a school district applies to a  
 102-25 public charter district, the governing body of a charter holder, or  
 102-26 the governing body of a public charter district.

102-27 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF  
 102-28 INTEREST. (a) A member of the governing body of a charter holder,  
 102-29 a member of the governing body of a public charter district, or an  
 102-30 officer of a public charter district is considered to be a local  
 102-31 public official for purposes of Chapter 171, Local Government Code.  
 102-32 For purposes of that chapter:

102-33 (1) a member of the governing body of a charter holder  
 102-34 or a member of the governing body or officer of a public charter  
 102-35 district is considered to have a substantial interest in a business  
 102-36 entity if a person related to the member or officer in the third  
 102-37 degree by consanguinity or affinity, as determined under Chapter  
 102-38 573, Government Code, has a substantial interest in the business  
 102-39 entity under Section 171.002, Local Government Code; and

102-40 (2) a teacher at a public charter district may serve as  
 102-41 a member of the governing body of the charter holder or the  
 102-42 governing body of the public charter district if the teachers  
 102-43 serving on the governing body:

102-44 (A) do not constitute a quorum of the governing  
 102-45 body or any committee of the governing body; and

102-46 (B) comply with the requirements of Sections  
 102-47 171.003-171.007, Local Government Code.

102-48 (b) To the extent consistent with this section, a  
 102-49 requirement of a law listed in this section that applies to a school  
 102-50 district or the board of trustees of a school district applies to a  
 102-51 public charter district, the governing body of a charter holder, or  
 102-52 the governing body of a public charter district.

102-53 (c) An employee who is not a teacher may serve as a member of  
 102-54 the governing body of a charter holder or the governing body of a  
 102-55 public charter district if:

102-56 (1) the charter holder operating the public charter  
 102-57 district where the individual is employed and serves as a member of  
 102-58 the governing body operated an open-enrollment charter school under  
 102-59 Subchapter D, Chapter 12, on August 31, 2005;

102-60 (2) the individual was employed by the charter holder  
 102-61 and serving as a member of the governing body on August 31, 2005, in  
 102-62 compliance with former Section 12.1054; and

102-63 (3) the individual had been continuously so employed  
 102-64 and serving since a date on or before January 1, 2005.

102-65 (d) If under Subsection (c) an individual continues to be  
 102-66 employed and serve as a member of the governing body, the individual  
 102-67 may not participate in any deliberation or voting on the  
 102-68 appointment, reappointment, confirmation of the appointment or  
 102-69 reappointment, employment, reemployment, change in the status,

103-1 compensation, or dismissal of the individual if that action applies  
 103-2 only to the individual and is not taken regarding a bona fide class  
 103-3 or category of employees. In addition, the individual may not hear,  
 103-4 consider, or act on any grievance or complaint concerning the  
 103-5 individual or a matter with which the individual has dealt in the  
 103-6 individual's capacity as an employee.

103-7 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A  
 103-8 public charter district, including the governing body of a public  
 103-9 charter district and any district employee with final authority to  
 103-10 hire a district employee, is subject to a prohibition, restriction,  
 103-11 or requirement, as applicable, imposed by state law or by a rule  
 103-12 adopted under state law, relating to nepotism under Chapter 573,  
 103-13 Government Code.

103-14 (b) Notwithstanding Subsection (a), a member of the  
 103-15 governing body of a charter holder or public charter district may  
 103-16 not be related in the third degree by consanguinity or affinity, as  
 103-17 determined under Chapter 573, Government Code, to another member of  
 103-18 the governing body of the charter holder or public charter  
 103-19 district.

103-20 (c) This section does not apply to an appointment,  
 103-21 confirmation of an appointment, or vote for an appointment or  
 103-22 confirmation of an appointment of an individual to a position if:

103-23 (1) the charter holder operating the public charter  
 103-24 district where the individual is employed or serves as a member of  
 103-25 the governing body operated an open-enrollment charter school under  
 103-26 Subchapter D, Chapter 12, on August 31, 2005;

103-27 (2) the individual was employed or serving in the  
 103-28 position on August 31, 2005, in compliance with former Section  
 103-29 12.1055; and

103-30 (3) the individual has been continuously employed or  
 103-31 serving since a date on or before January 1, 2005.

103-32 (d) If, under Subsection (c), an individual continues to be  
 103-33 employed or serve in a position, the public official to whom the  
 103-34 individual is related in a prohibited degree may not participate in  
 103-35 any deliberation or voting on the appointment, reappointment,  
 103-36 confirmation of the appointment or reappointment, employment,  
 103-37 reemployment, change in status, compensation, or dismissal of the  
 103-38 individual if that action applies only to the individual and is not  
 103-39 taken regarding a bona fide class or category of employees.

103-40 [Sections 11A.058-11A.100 reserved for expansion]

103-41 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

103-42 Sec. 11A.101. APPLICATION. (a) The State Board of  
 103-43 Education shall adopt:

103-44 (1) an application form and a procedure that must be  
 103-45 used to apply for a charter for a public charter district; and

103-46 (2) criteria to use in selecting a program for which to  
 103-47 grant a charter.

103-48 (b) The application form must provide for including the  
 103-49 information required under Section 11A.103 to be contained in a  
 103-50 charter.

103-51 (c) The State Board of Education may approve or deny an  
 103-52 application based on criteria it adopts and on financial,  
 103-53 governing, and operational standards adopted by the commissioner  
 103-54 under this chapter. The criteria the board adopts must include:

103-55 (1) criteria relating to improving student  
 103-56 performance and encouraging innovative programs; and

103-57 (2) criteria relating to the educational benefit for  
 103-58 students residing in the geographic area to be served by the  
 103-59 proposed public charter district, as compared to any significant  
 103-60 financial difficulty that a loss in enrollment may have on any  
 103-61 school district whose enrollment is likely to be affected by the  
 103-62 public charter district.

103-63 (d) A public charter district may not begin operating under  
 103-64 this chapter unless the commissioner has certified that the  
 103-65 applicant has acceptable administrative and accounting systems and  
 103-66 procedures in place for the operation of the proposed public  
 103-67 charter district.

103-68 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The  
 103-69 commissioner by rule shall adopt a procedure for providing notice

104-1 to each member of the legislature that represents the geographic  
 104-2 area to be served by the proposed public charter district, as  
 104-3 determined by the commissioner, on receipt by the State Board of  
 104-4 Education of an application for a charter for a public charter  
 104-5 district under Section 11A.101.

104-6 Sec. 11A.103. CONTENT. (a) Each charter granted under  
 104-7 this chapter must:

104-8 (1) describe the educational program to be offered,  
 104-9 which must include the required curriculum as provided by Section  
 104-10 28.002;

104-11 (2) establish educational goals, which must include  
 104-12 acceptable student performance as determined under Chapter 39;

104-13 (3) specify the grade levels to be offered, which must  
 104-14 be sufficient to permit the agency to assign an accountability  
 104-15 rating under Chapter 39;

104-16 (4) describe the facilities to be used;

104-17 (5) describe the geographical area served by the  
 104-18 program, which may not be statewide; and

104-19 (6) specify any type of enrollment criteria to be  
 104-20 used.

104-21 (b) A charter holder of a public charter district shall  
 104-22 consider including in the district's charter a requirement that the  
 104-23 district develop and administer personal graduation plans under  
 104-24 Section 28.0212.

104-25 (c) The terms of a charter may not include plans for future  
 104-26 increases in student enrollment, grades levels, campuses, or  
 104-27 geographical area, except that:

104-28 (1) the charter may contain a plan for adding grade  
 104-29 levels as necessary to comply with Section 11A.253(c) or (d); and

104-30 (2) the commissioner may approve such an increase in a  
 104-31 charter revision request under Section 11A.106.

104-32 Sec. 11A.104. FORM. A charter for a public charter district  
 104-33 shall be in the form of a license issued by the State Board of  
 104-34 Education to the charter holder.

104-35 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN  
 104-36 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner  
 104-37 shall immediately grant a charter under this chapter to the  
 104-38 following entities on or before August 1, 2006:

104-39 (1) an eligible entity holding a charter granted  
 104-40 before September 1, 2002, under Subchapter D, Chapter 12, as that  
 104-41 subchapter existed on January 1, 2005, if:

104-42 (A) for fiscal years 2004 and 2005, the entity  
 104-43 had total assets that exceeded total liabilities, as determined by  
 104-44 the entity's annual audit report under Section 44.008;

104-45 (B) at least 25 percent of all students enrolled  
 104-46 at the entity's open-enrollment charter school and administered an  
 104-47 assessment instrument under Section 39.023(a), (c), or (l)  
 104-48 performed satisfactorily on the assessment instrument in  
 104-49 mathematics, as determined by the school's assessment instrument  
 104-50 results for the 2005-2006 school year; and

104-51 (C) at least 25 percent of all students enrolled  
 104-52 at the entity's open-enrollment charter school and administered an  
 104-53 assessment instrument under Section 39.023(a), (c), or (l)  
 104-54 performed satisfactorily on the assessment instrument in reading or  
 104-55 English language arts, as applicable, as determined by the school's  
 104-56 assessment instrument results for the 2005-2006 school year;

104-57 (2) a governmental entity holding a charter under  
 104-58 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
 104-59 2005;

104-60 (3) an eligible entity holding a charter under  
 104-61 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
 104-62 2005, if at least 85 percent of students enrolled in the school  
 104-63 reside in a residential facility; and

104-64 (4) an eligible entity granted a charter on or after  
 104-65 September 1, 2002, under Subchapter D, Chapter 12, as that  
 104-66 subchapter existed on January 1, 2005.

104-67 (b) Assessment instrument results for fewer than five  
 104-68 students are not considered for purposes of Subsection (a)(1)(B) or  
 104-69 (C).



105-1 (c) The commissioner shall determine which entities are  
 105-2 eligible for a charter under this section as soon as practicable.

105-3 (d) The content and terms of a charter granted to an  
 105-4 eligible entity under this section must be the same as those under  
 105-5 which the entity operated under Subchapter D, Chapter 12, as that  
 105-6 subchapter existed on January 1, 2005, except that where the terms  
 105-7 conflict with this chapter, this chapter prevails.

105-8 (e) An eligible entity holding multiple charters prior to  
 105-9 January 1, 2005, may not combine those charters into one charter for  
 105-10 a public charter district but must retain each of those charters  
 105-11 which count towards the limit imposed under Section 11A.002(c).

105-12 (f) Section 11A.157 does not apply to an entity granted a  
 105-13 charter under this section.

105-14 (g) A decision of the commissioner under this section is not  
 105-15 subject to a hearing or an appeal to a district court.

105-16 (h) This section expires January 1, 2008.

105-17 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

105-18 (a) For purposes of Section 11A.1041(a), the commissioner shall  
 105-19 compute the percentage of students who performed satisfactorily on  
 105-20 an assessment instrument in a manner consistent with this section.

105-21 (b) The commissioner may only consider the performance of a  
 105-22 student who was enrolled as of the date for reporting enrollment for  
 105-23 the fall semester under the Public Education Information Management  
 105-24 System (PEIMS).

105-25 (c) In computing performance under this section, the  
 105-26 commissioner must:

105-27 (1) add the results for third through 11th grade  
 105-28 assessment instruments in English and third through sixth grade  
 105-29 assessment instruments in Spanish across grade levels tested at all  
 105-30 campuses operated by the charter holder and evaluate those results  
 105-31 for all students;

105-32 (2) combine the results for third through ninth grade  
 105-33 assessment instruments in reading and 10th and 11th grade  
 105-34 assessment instruments in English language arts and evaluate those  
 105-35 results as a single subject; and

105-36 (3) separately determine student performance for  
 105-37 reading and mathematics as a percentage equal to the sum of students  
 105-38 who performed satisfactorily on the specific subject area  
 105-39 assessment instrument in all grade levels tested at all campuses  
 105-40 operated by the charter holder divided by the number of students who  
 105-41 took the specific subject area assessment instrument in grade  
 105-42 levels tested at all campuses operated by the charter holder.

105-43 (d) To the extent consistent with this section, the  
 105-44 commissioner shall use the methodology used to compute passing  
 105-45 rates for reading and mathematics assessment instruments for  
 105-46 purposes of determining accountability ratings under Chapter 39 for  
 105-47 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

105-48 (e) This section expires January 1, 2008.

105-49 Sec. 11A.105. CHARTER GRANTED. Each charter the State  
 105-50 Board of Education grants for a public charter district must:

105-51 (1) satisfy this chapter; and

105-52 (2) include the information that is required under  
 105-53 Section 11A.103 consistent with the information provided in the  
 105-54 application and any modification the board requires.

105-55 Sec. 11A.106. REVISION. (a) A revision of a charter of a  
 105-56 public charter district may be made only with the approval of the  
 105-57 commissioner.

105-58 (b) Not more than once each year, a public charter district  
 105-59 may request approval to revise the maximum student enrollment  
 105-60 described by the district's charter.

105-61 (c) The commissioner may not approve a charter revision that  
 105-62 increases a public charter district's enrollment, increases the  
 105-63 grade levels offered, increases the number of campuses, or changes  
 105-64 the boundaries of the geographic area served by the program unless  
 105-65 the commissioner determines that:

105-66 (1) the public charter district has operated one or  
 105-67 more campuses for at least three school years;

105-68 (2) each campus operated by the public charter  
 105-69 district has been rated at least academically acceptable under

106-1 Subchapter D, Chapter 39, for each of its most recent three years of  
 106-2 operation;

106-3 (3) each campus operated by the public charter  
 106-4 district has achieved performance levels that are at least five  
 106-5 percentage points above the applicable accountability standard for  
 106-6 academically acceptable performance on statewide assessments under  
 106-7 Subchapter D, Chapter 39, as determined by the commissioner, for  
 106-8 all tested subjects for each of its most recent two years of  
 106-9 operation;

106-10 (4) the public charter district has been rated  
 106-11 superior, above standard, standard, or the equivalent, under the  
 106-12 financial accountability system under Subchapter I, Chapter 39;

106-13 (5) during the three years preceding the proposed  
 106-14 charter revision, the public charter district and its campuses have  
 106-15 not been subject to an intervention or sanction under Subchapter D,  
 106-16 Chapter 39, including an intervention or sanction related to:

106-17 (A) the quality of data or reports required by  
 106-18 state or federal law or court order;

106-19 (B) high school graduation requirements under  
 106-20 Section 28.025; or

106-21 (C) the effectiveness of programs for special  
 106-22 student populations; and

106-23 (6) the charter revision is in the best interest of  
 106-24 students of this state.

106-25 (d) In making a determination under Subsection (c)(6), the  
 106-26 commissioner shall review all available information relating to the  
 106-27 charter holder, including the charter holder's:

106-28 (1) academic and financial performance;

106-29 (2) history of compliance with applicable laws;

106-30 (3) staffing, financial, and organizational data; and

106-31 (4) any other information regarding the charter  
 106-32 holder's capacity to successfully implement the requested charter  
 106-33 revision.

106-34 (e) The commissioner may not approve a charter revision that  
 106-35 proposes an increase in:

106-36 (1) a public charter district's enrollment, unless the  
 106-37 charter holder adopts a business plan for implementing the  
 106-38 enrollment increase that includes components identified by the  
 106-39 commissioner; or

106-40 (2) the grade levels offered by a public charter  
 106-41 district, unless the charter holder adopts an educational plan for  
 106-42 the additional grade levels that includes components identified by  
 106-43 the commissioner.

106-44 (f) The commissioner may approve a charter revision  
 106-45 authorizing a public charter district to serve students in a  
 106-46 geographical area that is not contiguous with the existing  
 106-47 boundaries of the district, but may not approve a statewide  
 106-48 geographical boundary.

106-49 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON  
 106-50 PROBATION, OR REVOCATION. (a) The commissioner may modify, place  
 106-51 on probation, or revoke the charter of a public charter district if  
 106-52 the commissioner determines under Section 11A.108 that the charter  
 106-53 holder:

106-54 (1) committed a material violation of the charter;

106-55 (2) failed to satisfy generally accepted accounting  
 106-56 standards of fiscal management;

106-57 (3) failed to protect the health, safety, welfare, or  
 106-58 best interests of the students enrolled at the public charter  
 106-59 district; or

106-60 (4) failed to comply with this chapter or another  
 106-61 applicable law or rule.

106-62 (b) The commissioner shall revoke the charter of a public  
 106-63 charter district without a hearing if:

106-64 (1) in two consecutive years, the public charter  
 106-65 district:

106-66 (A) is rated academically unacceptable under  
 106-67 Subchapter D, Chapter 39; or

106-68 (B) is rated financially unacceptable by the  
 106-69 commissioner under Subchapter I, Chapter 39; or

107-1 (2) all campuses operated by the public charter  
 107-2 district have been ordered closed under Section 39.131(a) or  
 107-3 39.132(b).

107-4 (c) A revocation under Subsection (b)(1) is effective on  
 107-5 January 1 following the school year in which the public charter  
 107-6 district received a second unacceptable rating.

107-7 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON  
 107-8 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a  
 107-9 procedure to be used for modifying, placing on probation, or  
 107-10 revoking the charter of a public charter district under Section  
 107-11 11A.107(a).

107-12 (b) The procedure adopted under Subsection (a) must provide  
 107-13 an opportunity for a hearing to the charter holder.

107-14 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON  
 107-15 PROBATION, OR REVOCATION. A charter holder may appeal a  
 107-16 modification, placement on probation, or revocation under this  
 107-17 subchapter only in the manner provided by the applicable procedures  
 107-18 adopted by the commissioner under Section 11A.108. The charter  
 107-19 holder may not otherwise appeal to the commissioner and may not  
 107-20 appeal to a district court.

107-21 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.  
 107-22 If the commissioner revokes a charter of a public charter district,  
 107-23 if a district is ordered closed under Chapter 39, or if a public  
 107-24 charter district surrenders its charter, the district may not:

107-25 (1) continue to operate under this chapter; or

107-26 (2) receive state funds under this chapter.

107-27 [Sections 11A.111-11A.150 reserved for expansion]

107-28 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF  
 107-29 CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT  
 107-30 COMPANIES

107-31 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.  
 107-32 The governing body of a charter holder is responsible for the  
 107-33 management, operation, and accountability of the public charter  
 107-34 district, regardless of whether the governing body delegates the  
 107-35 governing body's powers and duties to another person.

107-36 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER  
 107-37 HOLDER. The governing body of a charter holder must be composed of  
 107-38 at least five members.

107-39 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF  
 107-40 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS  
 107-41 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a  
 107-42 person may not serve as a member of the governing body of a charter  
 107-43 holder, as a member of the governing body of a public charter  
 107-44 district, or as an officer or employee of a public charter district  
 107-45 if the person:

107-46 (1) has been convicted of a felony or a misdemeanor  
 107-47 involving moral turpitude;

107-48 (2) has been convicted of an offense listed in Section  
 107-49 37.007(a);

107-50 (3) has been convicted of an offense listed in Article  
 107-51 62.01(5), Code of Criminal Procedure; or

107-52 (4) has a substantial interest in a management  
 107-53 company.

107-54 (b) A person who has been convicted of an offense described  
 107-55 by Subsection (a)(1), (2), or (3) may serve as a member of the  
 107-56 governing body of a charter holder, as a member of the governing  
 107-57 body of a public charter district, or as an officer or employee of a  
 107-58 public charter district if the commissioner determines that the  
 107-59 person is fit to serve in that capacity. In making a determination  
 107-60 under this subsection, the commissioner shall consider:

107-61 (1) the factors described by Section 53.022,  
 107-62 Occupations Code, for determining the extent to which a conviction  
 107-63 relates to an occupation;

107-64 (2) the factors described by Section 53.023,  
 107-65 Occupations Code, for determining the fitness of a person to  
 107-66 perform the duties and discharge the responsibilities of an  
 107-67 occupation; and

107-68 (3) other appropriate factors, as determined by the  
 107-69 commissioner.

108-1 (c) For purposes of Subsection (a)(4), a person has a  
 108-2 substantial interest in a management company if the person or a  
 108-3 relative within the third degree by consanguinity or affinity, as  
 108-4 determined under Chapter 573, Government Code:

- 108-5 (1) has a controlling interest in the company;  
 108-6 (2) owns more than 10 percent of the voting interest in  
 108-7 the company;  
 108-8 (3) owns more than \$25,000 of the fair market value of  
 108-9 the company;  
 108-10 (4) has a direct or indirect participating interest by  
 108-11 shares, stock, or otherwise, regardless of whether voting rights  
 108-12 are included, in more than 10 percent of the profits, proceeds, or  
 108-13 capital gains of the company;  
 108-14 (5) is a member of the board of directors or other  
 108-15 governing body of the company;  
 108-16 (6) serves as an elected officer of the company; or  
 108-17 (7) is an employee of the company.

108-18 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF  
 108-19 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit  
 108-20 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil  
 108-21 Statutes), Chapter 22, Business Organizations Code, or other law,  
 108-22 on request of the commissioner, the attorney general shall bring  
 108-23 suit against a member of the governing body of a charter holder for  
 108-24 breach of a fiduciary duty by the member, including misapplication  
 108-25 of public funds.

108-26 (b) The attorney general may bring suit under Subsection (a)  
 108-27 for:

- 108-28 (1) damages;  
 108-29 (2) injunctive relief; or  
 108-30 (3) any other equitable remedy determined to be  
 108-31 appropriate by the court.

108-32 (c) This section is cumulative of all other remedies.

108-33 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF  
 108-34 CHARTER HOLDER. (a) The commissioner shall adopt rules  
 108-35 prescribing training for members of governing bodies of charter  
 108-36 holders.

108-37 (b) The rules adopted under Subsection (a) may:  
 108-38 (1) specify the minimum amount and frequency of the  
 108-39 training;

- 108-40 (2) require the training to be provided by:  
 108-41 (A) the agency and regional education service  
 108-42 centers;  
 108-43 (B) entities other than the agency and service  
 108-44 centers, subject to approval by the commissioner; or  
 108-45 (C) both the agency, service centers, and other  
 108-46 entities; and

108-47 (3) require training to be provided concerning:  
 108-48 (A) basic school law, including school finance;  
 108-49 (B) health and safety issues;  
 108-50 (C) accountability requirements related to the  
 108-51 use of public funds; and

108-52 (D) other requirements relating to  
 108-53 accountability to the public, such as open meetings requirements  
 108-54 under Chapter 551, Government Code, and public information  
 108-55 requirements under Chapter 552, Government Code.

108-56 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder  
 108-57 shall file with the State Board of Education a copy of its articles  
 108-58 of incorporation and bylaws, or comparable documents if the charter  
 108-59 holder does not have articles of incorporation or bylaws, within  
 108-60 the period and in the manner prescribed by the board.

108-61 (b) Each public charter district shall file annually with  
 108-62 the State Board of Education the following information in a form  
 108-63 prescribed by the board:

- 108-64 (1) the name, address, and telephone number of each  
 108-65 officer and member of the governing body of the charter holder; and  
 108-66 (2) the amount of annual compensation the public  
 108-67 charter district pays to each officer and member of the governing  
 108-68 body.

108-69 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During

109-1 a public charter district's first year of operation, the charter  
 109-2 holder shall submit quarterly financial reports to the  
 109-3 commissioner. The commissioner by rule shall determine the form  
 109-4 and content of the financial reports under this section.

109-5 Sec. 11A.158. PEIMS INFORMATION. The governing body of a  
 109-6 public charter district shall comply with Section 42.006.

109-7 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A  
 109-8 management company that provides management services to a public  
 109-9 charter district is liable for damages incurred by the state or a  
 109-10 school district as a result of the failure of the company to comply  
 109-11 with its contractual or other legal obligation to provide services  
 109-12 to the district.

109-13 (b) On request of the commissioner, the attorney general may  
 109-14 bring suit on behalf of the state against a management company  
 109-15 liable under Subsection (a) for:

109-16 (1) damages, including any state funding received by  
 109-17 the company and any consequential damages suffered by the state;

109-18 (2) injunctive relief; or

109-19 (3) any other equitable remedy determined to be  
 109-20 appropriate by the court.

109-21 (c) This section is cumulative of all other remedies and  
 109-22 does not affect:

109-23 (1) the liability of a management company to the  
 109-24 charter holder; or

109-25 (2) the liability of a charter holder, a member of the  
 109-26 governing body of a charter holder, or a member of the governing  
 109-27 body of a public charter district to the state.

109-28 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

109-29 (a) The charter holder or the governing body of a public charter  
 109-30 district may not accept a loan from a management company that has a  
 109-31 contract to provide management services to:

109-32 (1) the district; or

109-33 (2) another public charter district that operates  
 109-34 under a charter granted to the charter holder.

109-35 (b) A charter holder or the governing body of a public  
 109-36 charter district that accepts a loan from a management company may  
 109-37 not enter into a contract with that management company to provide  
 109-38 management services to the district.

109-39 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any  
 109-40 contract, including a contract renewal, between a public charter  
 109-41 district and a management company proposing to provide management  
 109-42 services to the district must require the management company to  
 109-43 maintain all records related to the management services separately  
 109-44 from any other records of the management company.

109-45 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS  
 109-46 PROHIBITED. The commissioner may prohibit, deny renewal of,  
 109-47 suspend, or revoke a contract between a public charter district and  
 109-48 a management company providing management services to the district  
 109-49 if the commissioner determines that the management company has:

109-50 (1) failed to provide educational or related services  
 109-51 in compliance with the company's contractual or other legal  
 109-52 obligation to any public charter district in this state or to any  
 109-53 other similar entity in another state;

109-54 (2) failed to protect the health, safety, or welfare  
 109-55 of the students enrolled at a public charter district served by the  
 109-56 company;

109-57 (3) violated this chapter or a rule adopted under this  
 109-58 chapter; or

109-59 (4) otherwise failed to comply with any contractual or  
 109-60 other legal obligation to provide services to the district.

109-61 [Sections 11A.163-11A.200 reserved for expansion]

109-62 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

109-63 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent  
 109-64 with Subsection (c), a charter holder is entitled to receive for the  
 109-65 public charter district funding under Chapter 42 as if the public  
 109-66 charter district were a school district without a local share for  
 109-67 purposes of Section 42.253 and without any local revenue ("LR") for  
 109-68 purposes of Section 42.302. In determining funding for a public  
 109-69 charter district, adjustments under Sections 42.102, 42.103, and

110-1 42.105 and the district enrichment tax rate ("DTR") under Section  
 110-2 42.302 are based on the average adjustment and average district  
 110-3 enrichment tax rate for the state.

110-4 (a-1) Notwithstanding Subsection (a), an entity granted a  
 110-5 charter under Section 11A.1041 is entitled to receive funding for  
 110-6 each student in weighted average daily attendance in an amount  
 110-7 equal to the greater of the amount determined under Subsection (a)  
 110-8 or the amount to which the entity was entitled for the 2003-2004 or  
 110-9 2004-2005 school year, as determined by the commissioner. A  
 110-10 determination of the commissioner under this subsection is final  
 110-11 and not subject to appeal. This subsection expires September 1,  
 110-12 2013.

110-13 (b) To the extent consistent with Subsection (c), a public  
 110-14 charter district is entitled to funds that are available to school  
 110-15 districts from the agency or the commissioner in the form of grants  
 110-16 or other discretionary funding unless the statute authorizing the  
 110-17 funding explicitly provides that a public charter district is not  
 110-18 entitled to the funding.

110-19 (c) A charter holder is entitled to receive for a public  
 110-20 charter district funding under this section only if the holder:

110-21 (1) provides information for the Public Education  
 110-22 Information Management System (PEIMS) as required by this chapter;

110-23 (2) submits to the commissioner appropriate fiscal and  
 110-24 financial records as required by this chapter and the commissioner;  
 110-25 and

110-26 (3) receives an annual unqualified opinion in the  
 110-27 standard report filed pursuant to Section 11A.210.

110-28 (d) The commissioner shall suspend the funding of a charter  
 110-29 holder that fails to comply with Subsection (c) until the  
 110-30 commissioner determines that the charter holder is in compliance or  
 110-31 has cured any noncompliance and has adopted adequate procedures to  
 110-32 prevent future noncompliance.

110-33 (e) The commissioner may adopt rules to provide and account  
 110-34 for state funding of public charter districts under this section. A  
 110-35 rule adopted under this section may be similar to a provision of  
 110-36 this code that is not similar to Section 11A.052(b) if the  
 110-37 commissioner determines that the rule is related to financing of  
 110-38 public charter districts and is necessary or prudent to provide or  
 110-39 account for state funds.

110-40 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF  
 110-41 SALARIES. (a) This section applies only to a charter holder that  
 110-42 on January 1, 2005:

110-43 (1) operated an open-enrollment charter school under  
 110-44 former Subchapter D, Chapter 12; and

110-45 (2) participated in the program under Chapter 1579,  
 110-46 Insurance Code.

110-47 (b) In addition to any amounts to which a charter holder is  
 110-48 entitled under this chapter, a charter holder is entitled to state  
 110-49 aid in an amount, as determined by the commissioner, equal to the  
 110-50 sum of:

110-51 (1) the product of \$1,000 multiplied by the number of  
 110-52 the following employees employed by the charter holder at a public  
 110-53 charter district:

110-54 (A) classroom teachers, full-time librarians,  
 110-55 and full-time counselors certified under Subchapter B, Chapter 21;  
 110-56 and

110-57 (B) full-time school nurses appropriately  
 110-58 licensed under Chapter 301, Occupations Code;

110-59 (2) the product of \$500 multiplied by the number of  
 110-60 full-time public charter district employees, other than  
 110-61 administrators or employees described by Subdivision (1); and

110-62 (3) the product of \$250 multiplied by the number of  
 110-63 part-time public charter district employees.

110-64 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS.  
 110-65 (a) In this section, "instructional facility" has the meaning  
 110-66 assigned by Section 46.001.

110-67 (b) A charter holder is initially eligible for  
 110-68 instructional facilities allotments in accordance with this  
 110-69 section if:

111-1 (1) any campus of a public charter district for which  
 111-2 the charter holder has been granted a license has for two  
 111-3 consecutive school years been rated exemplary or recognized under  
 111-4 Subchapter D, Chapter 39, or has performed at a comparable level, as  
 111-5 determined by the commissioner for purposes of this section; and

111-6 (2) on the most recent audit of the financial  
 111-7 operations of the district conducted pursuant to Section 11A.210,  
 111-8 the district has satisfied generally accepted accounting standards  
 111-9 of fiscal management as evidenced by an unqualified opinion in the  
 111-10 standard report issued and filed pursuant to Section 11A.210.

111-11 (c) Once a public charter district satisfies the initial  
 111-12 eligibility requirements under Subsection (b) and receives an  
 111-13 allotment under this section, the district continues to remain  
 111-14 eligible until the district receives an accountability rating of  
 111-15 unacceptable under Subchapter D, Chapter 39, at which point the  
 111-16 district is again subject to the eligibility requirements of  
 111-17 Subsection (b).

111-18 (d) The commissioner annually shall review the eligibility  
 111-19 of a public charter district campus for purposes of this section.

111-20 (e) Except as otherwise provided by this section, a charter  
 111-21 holder is entitled to an annual allotment in an amount determined by  
 111-22 the commissioner, not to exceed \$1,000 or a different amount  
 111-23 provided by appropriation, for each student in average daily  
 111-24 attendance during the preceding year at a campus of a public charter  
 111-25 district for which the charter holder has been granted a charter  
 111-26 that is eligible for an allotment under this section.

111-27 (f) A charter holder who receives funds under this section  
 111-28 may use the funds only to:

111-29 (1) purchase real property on which to construct an  
 111-30 instructional facility for a public charter district campus for  
 111-31 which the funds were paid under Subsection (e);

111-32 (2) purchase, lease, construct, expand, or renovate  
 111-33 instructional facilities for a public charter district campus for  
 111-34 which the funds were paid under Subsection (e);

111-35 (3) pay debt service in connection with instructional  
 111-36 facilities purchased or improved for a campus of the public charter  
 111-37 district that meets the requirements under Subsection (b); or

111-38 (4) maintain and operate public charter district  
 111-39 instructional facilities.

111-40 (g) A decision of the commissioner under Subsection (e) is  
 111-41 final and may not be appealed.

111-42 (h) The commissioner shall by rule establish procedures to  
 111-43 ensure that funds a charter holder claims to be using for purposes  
 111-44 of Subsection (f)(3) are used only for that purpose.

111-45 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received  
 111-46 under Section 11A.201 or 11A.202 by a charter holder:

111-47 (1) are considered to be public funds for all purposes  
 111-48 under state law;

111-49 (2) are held in trust by the charter holder for the  
 111-50 benefit of this state and the students of the public charter  
 111-51 district;

111-52 (3) may be used only for a purpose for which a school  
 111-53 may use local funds under Section 45.105(c) in the case of funds  
 111-54 received under Section 11A.201, and may be used only for a purpose  
 111-55 specified under Section 11A.202(f) in the case of funds received  
 111-56 under Section 11A.202; and

111-57 (4) pending their use, must be deposited into a bank,  
 111-58 as defined by Section 45.201, with which the charter holder has  
 111-59 entered into a depository contract under Section 11A.204.

111-60 (b) Funds deposited under Subsection (a)(4) may be directly  
 111-61 deposited into an account controlled by a bond trustee acting for  
 111-62 the charter holder pursuant to a bond indenture agreement requiring  
 111-63 direct deposit.

111-64 (c) The commissioner shall adopt rules for identifying  
 111-65 public funds in accordance with Subsection (a).

111-66 (d) The commissioner may bring an action in district court  
 111-67 in Travis County for injunctive or other relief to enforce this  
 111-68 section. In identifying public funds held by a charter holder, the  
 111-69 court shall use the criteria adopted by the commissioner under

112-1 Subsection (c). Except as otherwise provided by this subsection,  
 112-2 the court shall enter any order under this subsection concerning  
 112-3 public funds held by the charter holder necessary to best serve the  
 112-4 interests of the students of a public charter district. In the case  
 112-5 of a public charter district that has ceased to operate, the court  
 112-6 shall enter any order under this subsection concerning public funds  
 112-7 held by the charter holder necessary to best serve the interests of  
 112-8 this state.

112-9 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank  
 112-10 selected as a school depository and the charter holder shall enter  
 112-11 into a depository contract, bond, or other necessary instrument  
 112-12 setting forth the duties and agreements pertaining to the  
 112-13 depository, in a form and with the content prescribed by the State  
 112-14 Board of Education.

112-15 (b) The depository bank shall attach to the contract and  
 112-16 file with the charter holder a bond in an initial amount equal to  
 112-17 the estimated highest daily balance, determined by the charter  
 112-18 holder, of all deposits that the charter holder will have in the  
 112-19 depository during the term of the contract, less any applicable  
 112-20 Federal Deposit Insurance Corporation insurance. The bond must be  
 112-21 payable to the charter holder and must be signed by the depository  
 112-22 bank and by a surety company authorized to engage in business in  
 112-23 this state. The depository bank shall increase the amount of the  
 112-24 bond if the charter holder determines the increase is necessary to  
 112-25 adequately protect the funds of the charter holder deposited with  
 112-26 the depository bank.

112-27 (c) The bond shall be conditioned on:

112-28 (1) the faithful performance of all duties and  
 112-29 obligations imposed by law on the depository;

112-30 (2) the payment on presentation of all checks or  
 112-31 drafts on order of the charter holder, in accordance with its orders  
 112-32 entered by the charter holder according to law;

112-33 (3) the payment on demand of any demand deposit in the  
 112-34 depository;

112-35 (4) the payment, after the expiration of the period of  
 112-36 notice required, of any time deposit in the depository;

112-37 (5) the faithful keeping of school funds by the  
 112-38 depository and the accounting for the funds according to law; and

112-39 (6) the faithful paying over to the successor  
 112-40 depository all balances remaining in the accounts.

112-41 (d) The bond and the surety on the bond must be approved by  
 112-42 the charter holder. A premium on the depository bond may not be  
 112-43 paid out of charter holder funds related to operation of the public  
 112-44 charter district.

112-45 (e) The charter holder shall file a copy of the depository  
 112-46 contract and bond with the agency.

112-47 (f) Instead of the bond required under Subsection (b), the  
 112-48 depository bank may deposit or pledge, with the charter holder or  
 112-49 with a trustee designated by the charter holder, approved  
 112-50 securities, as defined by Section 45.201, in an amount sufficient  
 112-51 to adequately protect the funds of the charter holder deposited  
 112-52 with the depository bank. A depository bank may give a bond and  
 112-53 deposit or pledge approved securities in an aggregate amount  
 112-54 sufficient to adequately protect the funds of the charter holder  
 112-55 deposited with the depository bank. The charter holder shall  
 112-56 periodically designate the amount of approved securities or the  
 112-57 aggregate amount of the bond and approved securities necessary to  
 112-58 adequately protect the charter holder. The charter holder may not  
 112-59 designate an amount less than the balance of charter holder funds on  
 112-60 deposit with the depository bank from day to day, less any  
 112-61 applicable Federal Deposit Insurance Corporation insurance. The  
 112-62 depository bank may substitute approved securities on obtaining the  
 112-63 approval of the charter holder. For purposes of this subsection,  
 112-64 the approved securities are valued at their market value.

112-65 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter  
 112-66 holder who accepts state funds under Section 11A.201 or 11A.202  
 112-67 agrees to be subject to all requirements, prohibitions, and  
 112-68 sanctions authorized under this chapter.

112-69 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE



113-1 FUNDS. (a) Property purchased or leased with funds received by a  
 113-2 charter holder under Section 11A.201 or 11A.202:

113-3 (1) is considered to be public property for all  
 113-4 purposes under state law;

113-5 (2) is held in trust by the charter holder for the  
 113-6 benefit of this state and the students of the public charter  
 113-7 district; and

113-8 (3) may be used only for a purpose for which a school  
 113-9 district may use school district property.

113-10 (b) The commissioner shall:

113-11 (1) take possession and assume control of the property  
 113-12 described by Subsection (a) of a public charter district that  
 113-13 ceases to operate; and

113-14 (2) supervise the disposition of the property in  
 113-15 accordance with law.

113-16 (c) This section does not affect the priority of a security  
 113-17 interest in or lien on property established by a creditor in  
 113-18 compliance with law if the security interest or lien arose in  
 113-19 connection with the sale or lease of the property to the charter  
 113-20 holder.

113-21 (d) The commissioner shall adopt rules for identifying  
 113-22 public property in accordance with Subsection (a).

113-23 (e) The commissioner may bring an action in district court  
 113-24 in Travis County for injunctive or other relief to enforce this  
 113-25 section. In identifying public property held by a charter holder,  
 113-26 the court shall use the criteria adopted by the commissioner under  
 113-27 Subsection (d). Except as otherwise provided by this subsection,  
 113-28 the court shall enter any order under this subsection concerning  
 113-29 public property held by the charter holder necessary to best serve  
 113-30 the interests of the students of a public charter district. In the  
 113-31 case of a public charter district that has ceased to operate, the  
 113-32 court shall enter any order under this subsection concerning public  
 113-33 property held by the charter holder necessary to best serve the  
 113-34 interests of this state. The court may order title to real or  
 113-35 personal public property held by the charter holder transferred to  
 113-36 a trust established for the purpose of managing the property or may  
 113-37 make other disposition of the property necessary to best serve the  
 113-38 interests of this state.

113-39 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER  
 113-40 DISTRICT LAND OR FACILITIES. A municipality to which a charter is  
 113-41 granted under this chapter may borrow funds, issue obligations, or  
 113-42 otherwise spend its funds to acquire land or acquire, construct,  
 113-43 expand, or renovate school buildings or facilities and related  
 113-44 improvements for its public charter district within the city limits  
 113-45 of the municipality in the same manner the municipality is  
 113-46 authorized to borrow funds, issue obligations, or otherwise spend  
 113-47 its funds in connection with any other public works project.

113-48 Sec. 11A.208. TEXTBOOK FUNDING. A public charter district  
 113-49 is entitled to funding for textbooks under Chapter 31 and is subject  
 113-50 to that chapter as if the public charter district were a school  
 113-51 district.

113-52 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public  
 113-53 charter district shall annually adopt a budget for the district.

113-54 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public  
 113-55 charter district shall conduct an annual audit in a manner that  
 113-56 complies with Section 44.008.

113-57 [Sections 11A.211-11A.250 reserved for expansion]

#### 113-58 SUBCHAPTER F. OPERATION OF PUBLIC SCHOOL CHARTER DISTRICT

113-59 Sec. 11A.251. ADMISSION POLICY. (a) A public charter  
 113-60 district may not discriminate in admission policy on the basis of  
 113-61 sex, national origin, ethnicity, religion, disability, or  
 113-62 academic, artistic, or athletic ability or the district the child  
 113-63 would otherwise attend in accordance with this code.

113-64 (b) A public charter district admission policy may provide  
 113-65 for the exclusion of a student who has a documented history of a  
 113-66 criminal offense, a juvenile court adjudication, or discipline  
 113-67 problems under Subchapter A, Chapter 37.

113-68 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to  
 113-69 a public charter district campus, the governing body of the

114-1 district shall:

114-2 (1) require the applicant to complete and submit an  
 114-3 application not later than a reasonable deadline the district  
 114-4 establishes; and

114-5 (2) on receipt of more acceptable applications for  
 114-6 admission under this section than available positions in the  
 114-7 school:

114-8 (A) fill the available positions by lottery; or  
 114-9 (B) subject to Subsection (b), fill the available  
 114-10 positions in the order in which applications received before the  
 114-11 application deadline were received.

114-12 (b) A public charter district may fill applications for  
 114-13 admission under Subsection (a)(2)(B) only if the district published  
 114-14 a notice of the opportunity to apply for admission to the district.  
 114-15 A notice published under this subsection must:

114-16 (1) state the application deadline; and  
 114-17 (2) be published in a newspaper of general circulation  
 114-18 in the community in which the district campus is located not later  
 114-19 than the seventh day before the application deadline.

114-20 (c) A public charter district may exempt an applicant from  
 114-21 the requirements of Subsection (a)(2) if the applicant is:

114-22 (1) the child or grandchild of a member of the  
 114-23 governing body of the charter holder at the time the district's  
 114-24 charter was first granted;

114-25 (2) the child of an employee of the district or the  
 114-26 charter holder; or

114-27 (3) a sibling of a student who is enrolled in the  
 114-28 district.

114-29 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided  
 114-30 by Subsection (b) or as otherwise determined impracticable by the  
 114-31 commissioner, during a public charter district's first year of  
 114-32 operation, the district must have a student enrollment of at least  
 114-33 100 and not more than 500 at any time during the school year.

114-34 (b) A public charter district may have a student enrollment  
 114-35 of less than 100 if approved by the commissioner.

114-36 (c) Not later than a public charter district's third year of  
 114-37 operation, at least 25 percent of the district's students must be  
 114-38 enrolled in one or more grade levels for which assessment  
 114-39 instruments are administered under Section 39.023(a).

114-40 (d) The commissioner may grant a waiver from the  
 114-41 requirements of Subsection (c) for a public charter district that  
 114-42 opens a campus serving prekindergarten or kindergarten students and  
 114-43 agrees to:

114-44 (1) add at least one higher grade level class each  
 114-45 school year after opening the campus; and

114-46 (2) until the campus complies with Subsection (c),  
 114-47 adopt accountability measures to assess the performance of the  
 114-48 students not assessed under Section 39.023(a).

114-49 (e) The commissioner may grant a waiver from the  
 114-50 requirements of Subsection (c) for a public charter district that  
 114-51 was operating an open-enrollment charter school campus on January  
 114-52 1, 2005, serving prekindergarten, kindergarten, and first, second,  
 114-53 and third grade students if the public charter district:

114-54 (1) adopts one or more nationally norm-referenced  
 114-55 assessment instruments approved by the commissioner;

114-56 (2) administers the assessment instruments to its  
 114-57 second grade students at intervals and in the manner specified by  
 114-58 commissioner rule; and

114-59 (3) meets the applicable standards for student  
 114-60 performance on the assessment instruments, as determined by  
 114-61 commissioner rule.

114-62 (f) The commissioner shall adopt rules necessary to  
 114-63 implement this section.

114-64 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public  
 114-65 charter district may not charge tuition to an eligible student who  
 114-66 applies for admission to the district under this chapter.

114-67 (b) The governing body of a public charter district may  
 114-68 require a student to pay any fee that the board of trustees of a  
 114-69 school district may charge under Section 11.158(a). The governing

115-1 body may not require a student to pay a fee that the board of  
 115-2 trustees of a school district may not charge under Section  
 115-3 11.158(b).

115-4 Sec. 11A.255. TRANSPORTATION. A public charter district  
 115-5 shall provide transportation to each student attending the school  
 115-6 to the same extent a school district is required by law to provide  
 115-7 transportation to district students.

115-8 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY  
 115-9 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The  
 115-10 governing body of a public charter district shall adopt a code of  
 115-11 conduct for the district or for each campus in the district.

115-12 (b) The code of conduct must include:

115-13 (1) standards for student behavior, including the  
 115-14 types of prohibited behaviors and the possible consequences of  
 115-15 misbehavior; and

115-16 (2) the district's due process procedures regarding  
 115-17 expulsion of a student.

115-18 (c) A final decision of the governing body of a public  
 115-19 charter district regarding action taken under the code of conduct  
 115-20 may not be appealed.

115-21 (d) A public charter district may not expel a student for a  
 115-22 reason that is not authorized by Section 37.007 or specified in the  
 115-23 district's code of conduct as conduct that may result in expulsion.

115-24 (e) Section 37.002 does not apply to a public charter  
 115-25 district except to the extent specified by the governing body of the  
 115-26 public charter district in the district's code of conduct.

115-27 [Sections 11A.257-11A.300 reserved for expansion]

#### 115-28 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

115-29 Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except  
 115-30 as otherwise required by this section or chapter, a person employed  
 115-31 as a teacher by a public charter district must hold a high school  
 115-32 diploma.

115-33 (b) To the extent required by federal law, including 20  
 115-34 U.S.C. 7801(11), a person employed as a teacher by a public charter  
 115-35 district must hold a baccalaureate degree.

115-36 Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE  
 115-37 QUALIFICATIONS. (a) Each public charter district shall provide to  
 115-38 the parent or guardian of each student enrolled at a campus in the  
 115-39 district written notice of the qualifications of each professional  
 115-40 employee, including each teacher, employed at the campus.

115-41 (b) The notice must include:

115-42 (1) any professional or educational degree held by the  
 115-43 employee;

115-44 (2) a statement of any certification under Subchapter  
 115-45 B, Chapter 21, held by the employee; and

115-46 (3) any relevant experience of the employee.

115-47 Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The  
 115-48 governing body of a public charter district shall obtain a complete  
 115-49 set of fingerprints from each person described by Section  
 115-50 21.0032(a).

115-51 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF  
 115-52 CERTAIN APPLICANTS. A public charter district must comply with  
 115-53 Section 21.0032 before employing or otherwise securing the services  
 115-54 of a person as a teacher, teacher intern or trainee, librarian,  
 115-55 educational aide, administrator, or counselor, regardless of  
 115-56 whether the applicant is certified under Subchapter B, Chapter 21.

115-57 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF  
 115-58 TEXAS. (a) An employee of a public charter district who qualifies  
 115-59 for membership in the Teacher Retirement System of Texas shall be  
 115-60 covered under the system to the same extent a qualified employee of  
 115-61 a school district is covered.

115-62 (b) For each employee of a public charter district covered  
 115-63 under the system, the public charter district is responsible for  
 115-64 making any contribution that otherwise would be the legal  
 115-65 responsibility of a school district, and the state is responsible  
 115-66 for making contributions to the same extent it would be legally  
 115-67 responsible if the employee were a school district employee.

115-68 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

115-69 (a) This section applies only to a charter holder that on January

116-1 1, 2005:  
 116-2 (1) operated an open-enrollment charter school under  
 116-3 former Subchapter D, Chapter 12; and

116-4 (2) participated in the program under Chapter 1579,  
 116-5 Insurance Code.

116-6 (b) Using state funds received by the charter holder for  
 116-7 that purpose under Section 11A.2011, a charter holder each school  
 116-8 year shall pay the following employees employed by the charter  
 116-9 holder at a public charter district an amount at least equal to:

116-10 (1) \$1,000 for:

116-11 (A) classroom teachers, full-time librarians,  
 116-12 and full-time counselors certified under Subchapter B, Chapter 21;  
 116-13 and

116-14 (B) full-time school nurses appropriately  
 116-15 licensed under Chapter 301, Occupations Code;

116-16 (2) \$500 for full-time public charter district  
 116-17 employees, other than administrators or employees described by  
 116-18 Subdivision (1); and

116-19 (3) \$250 for part-time public charter district  
 116-20 employees.

116-21 (c) A payment under this section is in addition to wages the  
 116-22 charter holder would otherwise pay the employee during the school  
 116-23 year.

116-24 [Sections 11A.307-11A.350 reserved for expansion]

116-25 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

116-26 Sec. 11A.351. AUDIT. (a) To the extent consistent with  
 116-27 this section, the commissioner may audit the records of:

116-28 (1) a public charter district or campus;

116-29 (2) a charter holder; and

116-30 (3) a management company.

116-31 (b) An audit under Subsection (a) must be limited to matters  
 116-32 directly related to the management or operation of a public charter  
 116-33 district, including any financial, student, and administrative  
 116-34 records.

116-35 (c) Unless the commissioner has specific cause to conduct an  
 116-36 additional audit, the commissioner may not conduct more than one  
 116-37 on-site audit of a public charter district under this section  
 116-38 during any fiscal year, including any audit of financial, student,  
 116-39 and administrative records. For purposes of this subsection, an  
 116-40 audit of a charter holder or management company associated with a  
 116-41 public charter district is not considered an audit of the district.

116-42 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a  
 116-43 subpoena to compel the attendance and testimony of a witness or the  
 116-44 production of materials relevant to an audit or investigation under  
 116-45 this chapter.

116-46 (b) A subpoena may be issued throughout the state and may be  
 116-47 served by any person designated by the commissioner.

116-48 (c) If a person fails to comply with a subpoena issued under  
 116-49 this section, the commissioner, acting through the attorney  
 116-50 general, may file suit to enforce the subpoena in a district court  
 116-51 in Travis County or in the county in which the audit or  
 116-52 investigation is conducted. The court shall order compliance with  
 116-53 the subpoena if the court finds that good cause exists to issue the  
 116-54 subpoena.

116-55 (d) This section expires September 1, 2007.

116-56 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take  
 116-57 any of the actions described by Subsection (b) or by Section  
 116-58 39.131(a), to the extent the commissioner determines necessary, if  
 116-59 a public charter district, as determined by a report issued under  
 116-60 Section 39.076(b):

116-61 (1) commits a material violation of the district's  
 116-62 charter;

116-63 (2) fails to satisfy generally accepted accounting  
 116-64 standards of fiscal management; or

116-65 (3) fails to comply with this chapter or another  
 116-66 applicable rule or law.

116-67 (b) The commissioner may temporarily withhold funding,  
 116-68 suspend the authority of a public charter district to operate, or  
 116-69 take any other reasonable action the commissioner determines

117-1 necessary to protect the health, safety, or welfare of students  
 117-2 enrolled at a district campus based on evidence that conditions at  
 117-3 the district campus present a danger to the health, safety, or  
 117-4 welfare of the students.

117-5 (c) After the commissioner acts under Subsection (b), the  
 117-6 public charter district may not receive funding and may not resume  
 117-7 operating until a determination is made that:

117-8 (1) despite initial evidence, the conditions at the  
 117-9 district campus do not present a danger of material harm to the  
 117-10 health, safety, or welfare of students; or

117-11 (2) the conditions at the district campus that  
 117-12 presented a danger of material harm to the health, safety, or  
 117-13 welfare of students have been corrected.

117-14 (d) Not later than the third business day after the date the  
 117-15 commissioner acts under Subsection (b), the commissioner shall  
 117-16 provide the charter holder an opportunity for a hearing. This  
 117-17 subsection does not apply to an action taken by the commissioner  
 117-18 under Chapter 39.

117-19 (e) Immediately after a hearing under Subsection (d), the  
 117-20 commissioner must cease the action under Subsection (b) or initiate  
 117-21 action under Section 11A.108.

117-22 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN  
 117-23 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the  
 117-24 Foundation School Program, the commissioner shall reduce the total  
 117-25 amount of state funds allocated to each district from any source in  
 117-26 the same manner described for a reduction in allotments under  
 117-27 Section 42.253 and adopt and implement a program for supervising  
 117-28 the administration of assessment instruments under Section 39.023  
 117-29 during the 2005-2006 school year at an open-enrollment charter  
 117-30 school, other than a school operated by an entity described by  
 117-31 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent  
 117-32 of all students enrolled at the school and administered an  
 117-33 assessment instrument under Section 39.023(a), (c), or (l)  
 117-34 performed satisfactorily on:

117-35 (1) the assessment instrument in mathematics, as  
 117-36 determined by the school's assessment instrument results for the  
 117-37 2004-2005 school year; or

117-38 (2) the assessment instrument in reading or English  
 117-39 language arts, as applicable, as determined by the school's  
 117-40 assessment instrument results for the 2004-2005 school year.

117-41 (b) The program adopted under Subsection (a) must be  
 117-42 designed to:

117-43 (1) ensure that the location at which an assessment  
 117-44 instrument is administered is secure and under the supervision of  
 117-45 persons who do not have any interest in the results of the  
 117-46 assessment instrument; and

117-47 (2) provide direct supervision of:

117-48 (A) the transportation of the assessment  
 117-49 instrument materials to and from the location at which the  
 117-50 instrument is administered; and

117-51 (B) the administration of the assessment  
 117-52 instrument to students.

117-53 (c) The commissioner may adopt rules necessary to  
 117-54 administer this section and may take any action that the  
 117-55 commissioner determines necessary to ensure the integrity of the  
 117-56 results of an assessment instrument administered at an  
 117-57 open-enrollment charter school described by Subsection (a).

117-58 (d) After deducting the amount withheld under Subsection  
 117-59 (a) from the total amount appropriated for the Foundation School  
 117-60 Program, the commissioner shall reduce the total amount of state  
 117-61 funds allocated to each district from any source in the same manner  
 117-62 described for a reduction in allotments under Section 42.253.

117-63 (e) An open-enrollment charter school's failure to fully  
 117-64 cooperate with the commissioner under this section is sufficient  
 117-65 grounds for revocation of the district's charter, as determined by  
 117-66 the commissioner.

117-67 (f) This section expires September 1, 2006.

117-68 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The  
 117-69 commissioner shall periodically consult with representatives of

118-1 charter holders regarding the duties and mission of the agency  
 118-2 relating to the operation of public charter districts. The  
 118-3 commissioner shall determine the frequency of the consultations.

118-4 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing  
 118-5 in this chapter may be construed to limit the commissioner's  
 118-6 authority under Chapter 39.

118-7 Sec. 11A.356. RULES. The commissioner may adopt rules for  
 118-8 the administration of this chapter.

118-9 [Sections 11A.357-11A.400 reserved for expansion]

118-10 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

118-11 Sec. 11A.401. AUTHORIZATION. (a) In this section,  
 118-12 "eligible entity" means an organization that is exempt from  
 118-13 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
 118-14 organization described by Section 501(c)(3) of that code.

118-15 (b) In accordance with this subchapter, the commissioner  
 118-16 may authorize not more than three charter holders to grant a charter  
 118-17 to an eligible entity to operate a blue ribbon charter campus if:

118-18 (1) the charter holder proposes to grant the blue  
 118-19 ribbon charter to replicate a distinctive education program;

118-20 (2) the charter holder has demonstrated the ability to  
 118-21 replicate the education program;

118-22 (3) the education program has been implemented by the  
 118-23 charter holder for at least seven school years; and

118-24 (4) the charter school in which the charter holder has  
 118-25 implemented the program has been rated recognized or exemplary  
 118-26 under Section 39.072 for at least five school years, including the  
 118-27 two school years preceding the proposed issuance of the blue ribbon  
 118-28 charter.

118-29 (b-1) An eligible entity that assumed operation of an  
 118-30 existing charter school program during the seven years preceding  
 118-31 the proposed authorization under Subsection (b) may be authorized  
 118-32 to grant a blue ribbon charter under Subsection (b) if:

118-33 (1) the performance level of the program at a campus  
 118-34 before and after the entity assumed operation of the program meets  
 118-35 the qualifications described by Subsection (b); and

118-36 (2) the entity has met the qualifications described by  
 118-37 Subsection (b) since assuming operation of the program.

118-38 (c) A charter holder may grant a blue ribbon charter only to  
 118-39 an applicant that meets any financial, governing, and operational  
 118-40 standards adopted by the commissioner under this subchapter.

118-41 (d) A charter holder may grant not more than two blue ribbon  
 118-42 charters under this subchapter.

118-43 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue  
 118-44 ribbon charter campus is considered a public charter district  
 118-45 campus for purposes of state and federal law.

118-46 (b) A blue ribbon charter granted under this subchapter is  
 118-47 not considered for purposes of the limit on the number of public  
 118-48 charter districts imposed by Section 11A.002.

118-49 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE  
 118-50 RIBBON CHARTER CAMPUS. (a) The governing body of the public  
 118-51 charter district authorizing a blue ribbon charter is responsible  
 118-52 for the management and operation of the campus operated under a blue  
 118-53 ribbon charter. A blue ribbon charter campus is subject to the  
 118-54 rules and policies of the governing body of the charter holder that  
 118-55 granted the blue ribbon charter.

118-56 (b) For purposes of academic and financial accountability  
 118-57 and all other purposes under this chapter and Chapter 39, a blue  
 118-58 ribbon charter campus is considered a campus of the public charter  
 118-59 district operated by the charter holder that granted the blue  
 118-60 ribbon charter.

118-61 (c) A charter holder is entitled to receive funding for a  
 118-62 blue ribbon charter campus as if the blue ribbon charter campus were  
 118-63 a campus of the public charter district operated by the charter  
 118-64 holder.

118-65 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The  
 118-66 commissioner by rule shall adopt an application form and procedures  
 118-67 for a charter holder to apply for authorization to grant a blue  
 118-68 ribbon charter to an eligible entity under this subchapter.

118-69 (b) The application must specify:

119-1 (1) the criteria that will be used to grant blue ribbon  
 119-2 charters;

119-3 (2) procedures for governance and management of  
 119-4 campuses operating under a blue ribbon charter; and

119-5 (3) the performance standard by which continuation of  
 119-6 a blue ribbon charter will be determined.

119-7 (c) A determination by the commissioner regarding an  
 119-8 application under this section is final and may not be appealed.

119-9 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The  
 119-10 commissioner may revoke a charter holder's authorization to grant a  
 119-11 blue ribbon charter or operate a campus granted a blue ribbon  
 119-12 charter if the commissioner determines that the purposes of this  
 119-13 subchapter are not being satisfied.

119-14 (b) On revocation of a charter holder's authority under this  
 119-15 section, the charter holder shall:

119-16 (1) operate a campus granted a blue ribbon charter as a  
 119-17 standard campus of the charter holder under this chapter; or

119-18 (2) close the campus effective at the end of the school  
 119-19 year in which the commissioner revokes the authorization.

119-20 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter  
 119-21 granted under this subchapter must:

119-22 (1) describe the educational program to be offered,  
 119-23 which may be a general or specialized education program;

119-24 (2) provide that continuation of the charter is  
 119-25 contingent on satisfactory student performance under Subchapter B,  
 119-26 Chapter 39, and on compliance with other applicable accountability  
 119-27 provisions under Chapter 39;

119-28 (3) specify any basis, in addition to a basis  
 119-29 specified by this subchapter, on which the charter may be placed on  
 119-30 probation or revoked;

119-31 (4) prohibit discrimination in admission on the basis  
 119-32 of national origin, ethnicity, race, religion, or disability;

119-33 (5) describe the governing structure of the blue  
 119-34 ribbon charter campus;

119-35 (6) specify any procedure or requirement, in addition  
 119-36 to those under Chapter 38, that the campus will follow to ensure the  
 119-37 health and safety of students and employees; and

119-38 (7) describe the manner in which the campus and  
 119-39 charter holder granting the blue ribbon charter will comply with  
 119-40 financial and operational requirements, including requirements  
 119-41 related to the Public Education Information Management System  
 119-42 (PEIMS) under Section 11A.158 and the audit requirements under  
 119-43 Section 11A.210.

119-44 (b) A charter holder may reserve the right to approve  
 119-45 contracts, governance alterations, personnel decisions, and other  
 119-46 matters affecting the operation of the blue ribbon charter campus.

119-47 (c) A blue ribbon charter must specify the basis and  
 119-48 procedure to be used by the charter holder for placing the blue  
 119-49 ribbon charter campus on probation or revoking the charter, which  
 119-50 must include an opportunity for an informal review of the blue  
 119-51 ribbon charter campus and governing body of the campus by the  
 119-52 charter holder. A charter holder's decision to place on probation  
 119-53 or revoke a blue ribbon charter is final and may not be appealed.

119-54 Sec. 11A.407. FORM. A blue ribbon charter issued under this  
 119-55 subchapter must be in the form and substance of a written contract  
 119-56 signed by the president or equivalent officer of the governing body  
 119-57 of the charter holder granting the blue ribbon charter and the  
 119-58 president or equivalent officer of the governing body of the  
 119-59 eligible entity to which the blue ribbon charter is granted.

119-60 Sec. 11A.408. REVISION. A blue ribbon charter granted  
 119-61 under this subchapter may be revised with the approval of the  
 119-62 charter holder that granted the charter.

119-63 [Sections 11A.409-11A.450 reserved for expansion]

119-64 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER  
 119-65 SCHOOLS

119-66 Sec. 11A.451. DEFINITIONS. In this subchapter:

119-67 (1) "Assets" means:

119-68 (A) public funds, as determined under Section  
 119-69 12.107, as that section existed on January 1, 2005; and

120-1 (B) public property, as determined under Section  
 120-2 12.128, as that section existed on January 1, 2005.

120-3 (2) "Records" means government records, as determined  
 120-4 under Section 12.1052, as that section existed on January 1, 2005.

120-5 Sec. 11A.452. APPLICABILITY. The commissioner shall  
 120-6 appoint a receiver under this subchapter for each open-enrollment  
 120-7 charter school that on June 1, 2005, was operating under a charter  
 120-8 issued under Subchapter D, Chapter 12, as that subchapter existed  
 120-9 on January 1, 2005, and:

120-10 (1) is not authorized to operate as a public charter  
 120-11 district under this chapter; or

120-12 (2) elects not to operate as a public charter district  
 120-13 under this chapter.

120-14 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED.

120-15 (a) The commissioner shall appoint a receiver to protect the  
 120-16 assets and direct the dissolution of open-enrollment charter  
 120-17 schools subject to this subchapter.

120-18 (b) The receiver shall execute a bond in an amount set by the  
 120-19 commissioner to ensure the proper performance of the receiver's  
 120-20 duties.

120-21 (c) Until discharged by the commissioner, the receiver  
 120-22 shall perform the duties that the commissioner directs to preserve  
 120-23 the assets and direct the dissolution of the open-enrollment  
 120-24 charter school under this subchapter.

120-25 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After  
 120-26 appointment and execution of bond under Section 11A.453, the  
 120-27 receiver shall take possession of:

120-28 (1) assets and records in the possession of the  
 120-29 open-enrollment charter school specified by the commissioner; and

120-30 (2) any Foundation School Program funds and any other  
 120-31 public funds received by the school's charter holder.

120-32 (b) On request of the receiver, the attorney general shall  
 120-33 file a suit for attachment, garnishment, or involuntary bankruptcy  
 120-34 and take any other action necessary for the dissolution of an  
 120-35 open-enrollment charter school under this subchapter.

120-36 (c) If the charter holder of an open-enrollment charter  
 120-37 school or an officer or employee of such a school refuses to  
 120-38 transfer school assets or records to a receiver under this  
 120-39 subsection, the receiver may ask the attorney general to petition a  
 120-40 court for recovery of the assets or records. If the court grants  
 120-41 the petition, the court shall award attorney's fees and court costs  
 120-42 to the state.

120-43 (d) A record described by this section is a public school  
 120-44 record for purposes of Section 37.10(c)(2), Penal Code.

120-45 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall  
 120-46 wind up the affairs of an open-enrollment charter school and,  
 120-47 except as provided by Subsection (b), reduce its assets to cash for  
 120-48 the purpose of discharging all existing liabilities and obligations  
 120-49 of the school. In winding up the affairs of a school, the receiver  
 120-50 shall cooperate in any bankruptcy proceeding affecting the school.  
 120-51 The receiver shall distribute any remaining balance to the  
 120-52 commissioner.

120-53 (b) A receiver shall offer free of charge any equipment and  
 120-54 supplies of an open-enrollment charter school dissolved under this  
 120-55 subchapter to school districts, giving priority to districts based  
 120-56 on the percentage of the charter school's students that reside in  
 120-57 the districts.

120-58 (c) The commissioner shall use money in the foundation  
 120-59 school fund and money received under this section to pay the costs  
 120-60 described by Section 11A.458 and discharge liabilities and  
 120-61 obligations of open-enrollment charter schools under this  
 120-62 subchapter. The commissioner shall deposit any remaining balance  
 120-63 in the foundation school fund.

120-64 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of  
 120-65 an open-enrollment charter school subject to this subchapter shall  
 120-66 be transferred in the manner specified by the commissioner to a  
 120-67 custodian designated by the commissioner. The commissioner may  
 120-68 designate any appropriate entity to serve as custodian of records,  
 120-69 including the agency, a regional education service center, or a



121-1 school district. In designating a custodian, the commissioner  
 121-2 shall ensure that the transferred records, including student and  
 121-3 personnel records, are transferred to a custodian capable of:

- 121-4 (1) maintaining the records;  
 121-5 (2) making the records readily accessible to students,  
 121-6 parents, former school employees, and other persons entitled to  
 121-7 access; and  
 121-8 (3) complying with applicable state or federal law  
 121-9 restricting access to the records.

121-10 (b) The commissioner is entitled to access to any records  
 121-11 transferred to a custodian under this section as the commissioner  
 121-12 determines necessary for auditing, investigative, or monitoring  
 121-13 purposes.

121-14 Sec. 11A.457. LIABILITY. A receiver is not personally  
 121-15 liable for actions taken by the receiver under this subchapter.

121-16 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may  
 121-17 authorize reimbursement of reasonable costs related to the  
 121-18 receivership, including:

- 121-19 (1) payment of fees to the receiver for the receiver's  
 121-20 services; and  
 121-21 (2) payment of fees to attorneys, accountants, or any  
 121-22 other person that provides goods or services necessary to the  
 121-23 operation of the receivership.

121-24 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The  
 121-25 competitive bidding requirements of this code and the contracting  
 121-26 requirements of Chapter 2155, Government Code, do not apply to the  
 121-27 appointment of a receiver, attorney, accountant, or other person  
 121-28 appointed under this subchapter.

121-29 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is  
 121-30 amended by adding Section 12.1058 to read as follows:

121-31 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT  
 121-32 PROVISIONS. (a) An open-enrollment charter school is subject to  
 121-33 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,  
 121-34 11A.304, 11A.352, 21.0032, and 21.058.

121-35 (b) The commissioner may bring an action for injunctive or  
 121-36 other relief as provided by Section 11A.203(d) to enforce Section  
 121-37 12.107.

121-38 (c) For purposes of this section, a reference in a law  
 121-39 described by this section to a public charter district means an  
 121-40 open-enrollment charter school.

121-41 SECTION 4.04. Sections 12.152 and 12.156, Education Code,  
 121-42 are amended to read as follows:

121-43 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this  
 121-44 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of  
 121-45 Education may grant a charter on the application of a public senior  
 121-46 college or university for a public [~~an open-enrollment~~] charter  
 121-47 district [~~school~~] to operate on the campus of the public senior  
 121-48 college or university or in the same county in which the campus of  
 121-49 the public senior college or university is located.

121-50 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS.  
 121-51 (a) Except as otherwise provided by this subchapter, Chapter 11A  
 121-52 [~~Subchapter D~~] applies to a college or university charter school as  
 121-53 though the college or university charter school were granted a  
 121-54 charter under that chapter [~~subchapter~~].

121-55 (b) A charter granted under this subchapter is not  
 121-56 considered for purposes of the limit on the number of public  
 121-57 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section  
 121-58 11A.002 [~~12.101(b)~~].

121-59 (c) A college or university charter school is not subject to  
 121-60 a prohibition, restriction, or requirement relating to:

- 121-61 (1) open meetings and public information under Section  
 121-62 11A.053;  
 121-63 (2) maintenance of records under Section 11A.054;  
 121-64 (3) purchasing and contracting under Section 11A.055;  
 121-65 (4) conflict of interest under Section 11A.056;  
 121-66 (5) nepotism under Section 11A.057;  
 121-67 (6) composition of governing body under Section  
 121-68 11A.152;  
 121-69 (7) restrictions on serving as a member of a governing

122-1 body or as an officer or employee under Section 11A.153;

122-2 (8) liability of members of governing body under

122-3 Section 11A.154;

122-4 (9) training for members of governing body under

122-5 Section 11A.155;

122-6 (10) bylaws and annual reports under Section 11A.156;

122-7 (11) quarterly financial reports under Section

122-8 11A.157; and

122-9 (12) depository bond and security requirements under

122-10 Section 11A.204.

122-11 (d) A college or university charter school and the governing

122-12 body of the school are subject to regulations and procedures that

122-13 govern a public senior college or university relating to open

122-14 meetings, records retention, purchasing, contracting, conflicts of

122-15 interest, and nepotism.

122-16 SECTION 4.05. Section 5.001, Education Code, is amended by

122-17 adding Subdivision (5-a) and amending Subdivision (6) to read as

122-18 follows:

122-19 (5-a) "Public charter campus" means a campus operated

122-20 by a public charter district.

122-21 (6) "Public charter district [~~Open-enrollment charter~~

122-22 ~~school]~~" means a public school authorized by [~~that has been~~

122-23 ~~granted]~~ a charter under Chapter 11A [~~Subchapter D, Chapter 12].~~

122-24 SECTION 4.06. Section 7.003, Education Code, is amended to

122-25 read as follows:

122-26 Sec. 7.003. LIMITATION ON AUTHORITY. An educational

122-27 function not specifically delegated to the agency or the board

122-28 under this code is reserved to and shall be performed by school

122-29 districts or [~~open-enrollment]~~ charter schools.

122-30 SECTION 4.07. Subsection (b), Section 7.028, Education

122-31 Code, as renumbered by H.B. No. 2018, Acts of the 79th Legislature,

122-32 Regular Session, 2005, effective September 1, 2005, is amended to

122-33 read as follows:

122-34 (b) The board of trustees of a school district or the

122-35 governing body of a public charter district [~~an open-enrollment~~

122-36 ~~charter school]~~ has primary responsibility for ensuring that the

122-37 district [~~or school]~~ complies with all applicable requirements of

122-38 state educational programs.

122-39 SECTION 4.08. Subdivision (17), Subsection (b), Section

122-40 7.055, Education Code, is amended to read as follows:

122-41 (17) The commissioner shall distribute funds to public

122-42 charter districts [~~open-enrollment charter schools]~~ as required

122-43 under Chapter 11A [~~Subchapter D, Chapter 12].~~

122-44 SECTION 4.09. Subdivision (9), Subsection (c), Section

122-45 7.102, Education Code, is amended to read as follows:

122-46 (9) The board may grant a charter for a public charter

122-47 district [~~an open-enrollment charter or approve a charter revision]~~

122-48 as provided by Chapter 11A [~~Subchapter D, Chapter 12].~~

122-49 SECTION 4.10. Section 12.002, Education Code, is amended to

122-50 read as follows:

122-51 Sec. 12.002. CLASSES OF CHARTER. The classes of charter

122-52 under this chapter are:

122-53 (1) a home-rule school district charter as provided by

122-54 Subchapter B;

122-55 (2) a campus or campus program charter as provided by

122-56 Subchapter C; or

122-57 (3) a college or university [~~an open-enrollment]~~

122-58 charter as provided by Subchapter E [~~D].~~

122-59 SECTION 4.11. Subchapter A, Chapter 21, Education Code, is

122-60 amended by adding Section 21.0032 to read as follows:

122-61 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER

122-62 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or

122-63 serve as a teacher, teacher intern or teacher trainee, librarian,

122-64 educational aide, administrator, educational diagnostician, or

122-65 counselor for a public charter district unless the person has been

122-66 cleared by the State Board for Educator Certification following a

122-67 national criminal history record review and investigation under

122-68 this section.

122-69 (b) Before or immediately after employing or securing the

123-1 services of a person described by Subsection (a), a public charter  
 123-2 district shall send to the State Board for Educator Certification  
 123-3 the person's fingerprints and social security number. The person  
 123-4 may be employed or serve pending action by the board.

123-5 (c) The State Board for Educator Certification shall review  
 123-6 and investigate the person's national criminal history record  
 123-7 information, educator certification discipline history in any  
 123-8 state, and other information in the same manner as a review or  
 123-9 investigation conducted regarding an initial application for  
 123-10 educator certification. If the board finds the person would not be  
 123-11 eligible for educator certification, the board shall notify the  
 123-12 public charter district in writing that the person may not be  
 123-13 employed or serve in a capacity described by Subsection (a).

123-14 (d) On receipt of written notice under Subsection (c), a  
 123-15 public charter district may not employ or permit the person to serve  
 123-16 unless the person timely submits a written appeal under this  
 123-17 section. The State Board for Educator Certification shall conduct  
 123-18 an appeal under this subsection in the same manner as an appeal  
 123-19 regarding the denial of an initial application for educator  
 123-20 certification.

123-21 SECTION 4.12. Subsections (b) and (c), Section 21.058,  
 123-22 Education Code, are amended to read as follows:

123-23 (b) Notwithstanding Section 21.041(b)(7), not later than  
 123-24 the fifth day after the date the board receives notice under Article  
 123-25 42.018, Code of Criminal Procedure, of the conviction of a person  
 123-26 described by Section 21.0032 or who holds a certificate under this  
 123-27 subchapter, the board shall:

123-28 (1) revoke the certificate or clearance held by the  
 123-29 person; and

123-30 (2) provide to the person and to any school district or  
 123-31 public charter district ~~[open-enrollment charter school]~~ employing  
 123-32 the person at the time of revocation written notice of:

123-33 (A) the revocation; and

123-34 (B) the basis for the revocation.

123-35 (c) A school district or public charter district  
 123-36 ~~[open-enrollment charter school]~~ that receives notice under  
 123-37 Subsection (b) of the revocation of a certificate issued under this  
 123-38 subchapter shall:

123-39 (1) immediately remove the person whose certificate  
 123-40 has been revoked from campus or from an administrative office, as  
 123-41 applicable, to prevent the person from having any contact with a  
 123-42 student; and

123-43 (2) as soon as practicable, terminate the employment  
 123-44 of the person in accordance with the person's contract and with this  
 123-45 subchapter.

123-46 SECTION 4.13. Subsections (b), (c), and (d), Section  
 123-47 22.083, Education Code, are amended to read as follows:

123-48 (b) A public charter district may ~~[An open-enrollment~~  
 123-49 ~~charter school shall]~~ obtain from the Department of Public Safety  
 123-50 ~~[any law enforcement or criminal justice agency]~~ all criminal  
 123-51 history record information that relates to:

123-52 (1) a person whom the district ~~[school]~~ intends to  
 123-53 employ in any capacity; or

123-54 (2) a person who has indicated, in writing, an  
 123-55 intention to serve as a volunteer with the district ~~[school]~~.

123-56 (c) A school district, public charter district  
 123-57 ~~[open-enrollment charter school]~~, private school, regional  
 123-58 education service center, or shared services arrangement may obtain  
 123-59 from a federal or state ~~[any]~~ law enforcement or criminal justice  
 123-60 agency all criminal history record information that relates to:

123-61 (1) a volunteer or employee of the district, school,  
 123-62 service center, or shared services arrangement; or

123-63 (2) an employee of or applicant for employment by a  
 123-64 person that contracts with the district, school, service center, or  
 123-65 shared services arrangement to provide services, if:

123-66 (A) the employee or applicant has or will have  
 123-67 continuing duties related to the contracted services; and

123-68 (B) the duties are or will be performed on school  
 123-69 property or at another location where students are regularly

124-1 present.

124-2 (d) The superintendent of a district or the director of a  
124-3 public charter district [~~an open-enrollment charter school~~],  
124-4 private school, regional education service center, or shared  
124-5 services arrangement shall promptly notify the State Board for  
124-6 Educator Certification in writing if the person obtains or has  
124-7 knowledge of information showing that an applicant for or holder of  
124-8 a certificate issued under Subchapter B, Chapter 21, has a reported  
124-9 criminal history.

124-10 SECTION 4.14. Section 22.084, Education Code, is amended to  
124-11 read as follows:

124-12 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL  
124-13 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided  
124-14 by Subsections (c) and (d), a school district, public charter  
124-15 district [~~open-enrollment charter school~~], private school,  
124-16 regional education service center, or shared services arrangement  
124-17 that contracts with a person for transportation services shall  
124-18 obtain from the Department of Public Safety [~~any law enforcement or~~  
124-19 ~~criminal justice agency~~] all criminal history record information  
124-20 that relates to:

124-21 (1) a person employed by the person as a bus driver; or

124-22 (2) a person the person intends to employ as a bus  
124-23 driver.

124-24 (b) Except as provided by Subsections (c) and (d), a person  
124-25 that contracts with a school district, public charter district  
124-26 [~~open-enrollment charter school~~], private school, regional  
124-27 education service center, or shared services arrangement to provide  
124-28 transportation services shall submit to the district, school,  
124-29 service center, or shared services arrangement the name and other  
124-30 identification data required to obtain criminal history record  
124-31 information of each person described by Subsection (a). If the  
124-32 district, school, service center, or shared services arrangement  
124-33 obtains information that a person described by Subsection (a) has  
124-34 been convicted of a felony or a misdemeanor involving moral  
124-35 turpitude, the district, school, service center, or shared services  
124-36 arrangement shall inform the chief personnel officer of the person  
124-37 with whom the district, school, service center, or shared services  
124-38 arrangement has contracted, and the person may not employ that  
124-39 person to drive a bus on which students are transported without the  
124-40 permission of the board of trustees of the district or service  
124-41 center, the governing body of the public charter district  
124-42 [~~open-enrollment charter school~~], or the chief executive officer of  
124-43 the private school or shared services arrangement.

124-44 (c) A commercial transportation company that contracts with  
124-45 a school district, public charter district [~~open-enrollment~~  
124-46 ~~charter school~~], private school, regional education service  
124-47 center, or shared services arrangement to provide transportation  
124-48 services may obtain from a federal or state [~~any~~] law enforcement or  
124-49 criminal justice agency all criminal history record information  
124-50 that relates to:

124-51 (1) a person employed by the commercial transportation  
124-52 company as a bus driver, bus monitor, or bus aide; or

124-53 (2) a person the commercial transportation company  
124-54 intends to employ as a bus driver, bus monitor, or bus aide.

124-55 (d) If the commercial transportation company obtains  
124-56 information that a person employed or to be employed by the company  
124-57 has been convicted of a felony or a misdemeanor involving moral  
124-58 turpitude, the company may not employ that person to drive or to  
124-59 serve as a bus monitor or bus aide on a bus on which students are  
124-60 transported without the permission of the board of trustees of the  
124-61 district or service center, the governing body of the public  
124-62 charter district [~~open-enrollment charter school~~], or the chief  
124-63 executive officer of the private school or shared services  
124-64 arrangement. Subsections (a) and (b) do not apply if information is  
124-65 obtained as provided by Subsection (c).

124-66 SECTION 4.15. Section 22.085, Education Code, is amended to  
124-67 read as follows:

124-68 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.  
124-69 A school district, public charter district [~~open-enrollment~~

125-1 ~~charter school~~], private school, regional education service  
 125-2 center, or shared services arrangement may discharge an employee if  
 125-3 the district or school obtains information of the employee's  
 125-4 conviction of a felony or of a misdemeanor involving moral  
 125-5 turpitude that the employee did not disclose to the State Board for  
 125-6 Educator Certification or the district, school, service center, or  
 125-7 shared services arrangement. An employee discharged under this  
 125-8 section is considered to have been discharged for misconduct for  
 125-9 purposes of Section 207.044, Labor Code.

125-10 SECTION 4.16. Section 22.086, Education Code, is amended to  
 125-11 read as follows:

125-12 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The State  
 125-13 Board for Educator Certification, a school district, a public  
 125-14 charter district [~~an open-enrollment charter school~~], a private  
 125-15 school, a regional education service center, a shared services  
 125-16 arrangement, or an employee of the board, district, school, service  
 125-17 center, or shared services arrangement is not civilly or criminally  
 125-18 liable for making a report required under this subchapter.

125-19 SECTION 4.161. Section 25.087, Education Code, is amended  
 125-20 by amending Subsection (b) and adding Subsection (c) to read as  
 125-21 follows:

125-22 (b) A school district shall excuse a student from attending  
 125-23 school for:

125-24 (1) the following purposes, including travel for those  
 125-25 purposes:

125-26 (A) [purpose of] observing religious holy days;  
 125-27 (B) appearing at a governmental office to  
 125-28 complete paperwork required in connection with the student's  
 125-29 application for United States citizenship or to take part in a  
 125-30 naturalization oath ceremony;

125-31 (C) attending an appointment with the student's  
 125-32 probation officer;

125-33 (D) attending an adoption proceeding involving  
 125-34 the student; or

125-35 (E) attending a required court appearance; or  
 125-36 (2) a [~~including traveling for that purpose. A~~  
 125-37 ~~school district shall excuse a student for~~] temporary absence  
 125-38 resulting from health care professionals if that student commences  
 125-39 classes or returns to school on the same day of the appointment.

125-40 (c) A student whose absence is excused under Subsection (b)  
 125-41 [~~this subsection~~] may not be penalized for that absence and shall be  
 125-42 counted as if the student attended school for purposes of  
 125-43 calculating the average daily attendance of students in the school  
 125-44 district. A student whose absence is excused under Subsection (b)  
 125-45 [~~this subsection~~] shall be allowed a reasonable time to make up  
 125-46 school work missed on those days. If the student satisfactorily  
 125-47 completes the school work, the day of absence shall be counted as a  
 125-48 day of compulsory attendance.

125-49 SECTION 4.17. Section 25.088, Education Code, is amended to  
 125-50 read as follows:

125-51 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school  
 125-52 attendance officer may be selected by:

125-53 (1) the county school trustees of any county;  
 125-54 (2) the board of trustees of any school district or the  
 125-55 boards of trustees of two or more school districts jointly; or  
 125-56 (3) the governing body of a public charter district  
 125-57 [~~an open-enrollment charter school~~].

125-58 SECTION 4.18. Subsection (a), Section 25.089, Education  
 125-59 Code, is amended to read as follows:

125-60 (a) An attendance officer may be compensated from the funds  
 125-61 of the county, independent school district, or public charter  
 125-62 district [~~open-enrollment charter school~~], as applicable.

125-63 SECTION 4.19. Subsection (b), Section 25.090, Education  
 125-64 Code, is amended to read as follows:

125-65 (b) If the governing body of a public charter district [~~an~~  
 125-66 ~~open-enrollment charter school~~] has not selected an attendance  
 125-67 officer for a district campus, the duties of attendance officer  
 125-68 shall be performed by the peace officers of the county in which the  
 125-69 campus [~~school~~] is located.

126-1 SECTION 4.20. Subsections (d) and (e), Section 25.093,  
126-2 Education Code, are amended to read as follows:

126-3 (d) A fine collected under this section shall be deposited  
126-4 as follows:

126-5 (1) one-half shall be deposited to the credit of the  
126-6 operating fund of, as applicable:

126-7 (A) the school district in which the child  
126-8 attends school;

126-9 (B) the public charter district [~~open-enrollment~~  
126-10 ~~charter school~~] the child attends; or

126-11 (C) the juvenile justice alternative education  
126-12 program that the child has been ordered to attend; and

126-13 (2) one-half shall be deposited to the credit of:

126-14 (A) the general fund of the county, if the  
126-15 complaint is filed in the justice court or the constitutional  
126-16 county court; or

126-17 (B) the general fund of the municipality, if the  
126-18 complaint is filed in municipal court.

126-19 (e) At the trial of any person charged with violating this  
126-20 section, the attendance records of the child may be presented in  
126-21 court by any authorized employee of the school district or public  
126-22 charter district [~~open-enrollment charter school~~], as applicable.

126-23 SECTION 4.21. Subsections (a) and (b), Section 25.095,  
126-24 Education Code, are amended to read as follows:

126-25 (a) A school district or public charter district  
126-26 [~~open-enrollment charter school~~] shall notify a student's parent in  
126-27 writing at the beginning of the school year that if the student is  
126-28 absent from school on 10 or more days or parts of days within a  
126-29 six-month period in the same school year or on three or more days or  
126-30 parts of days within a four-week period:

126-31 (1) the student's parent is subject to prosecution  
126-32 under Section 25.093; and

126-33 (2) the student is subject to prosecution under  
126-34 Section 25.094 or to referral to a juvenile court in a county with a  
126-35 population of less than 100,000 for conduct that violates that  
126-36 section.

126-37 (b) A school district or public charter district shall  
126-38 notify a student's parent if the student has been absent from  
126-39 school, without excuse under Section 25.087, on three days or parts  
126-40 of days within a four-week period. The notice must:

126-41 (1) inform the parent that:

126-42 (A) it is the parent's duty to monitor the  
126-43 student's school attendance and require the student to attend  
126-44 school; and

126-45 (B) the parent is subject to prosecution under  
126-46 Section 25.093; and

126-47 (2) request a conference between school officials and  
126-48 the parent to discuss the absences.

126-49 SECTION 4.22. Subsection (a), Section 25.0951, Education  
126-50 Code, as amended by H.B. No. 1575, Acts of the 79th Legislature,  
126-51 Regular Session, 2005, effective September 1, 2005, and Subsection  
126-52 (b), Section 25.0951, Education Code, are amended to read as  
126-53 follows:

126-54 (a) If a student fails to attend school without excuse on 10  
126-55 or more days or parts of days within a six-month period in the same  
126-56 school year, a school district or public charter district shall  
126-57 within seven school days of the student's last absence:

126-58 (1) file a complaint against the student or the  
126-59 student's parent or both in a county, justice, or municipal court  
126-60 for an offense under Section 25.093 or 25.094, as appropriate, or  
126-61 refer the student to a juvenile court in a county with a population  
126-62 of less than 100,000 for conduct that violates Section 25.094; or

126-63 (2) refer the student to a juvenile court for conduct  
126-64 indicating a need for supervision under Section 51.03(b)(2), Family  
126-65 Code.

126-66 (b) If a student fails to attend school without excuse on  
126-67 three or more days or parts of days within a four-week period but  
126-68 does not fail to attend school for the time described by Subsection  
126-69 (a), the school district or public charter district may:

127-1 (1) file a complaint against the student or the  
 127-2 student's parent or both in a county, justice, or municipal court  
 127-3 for an offense under Section 25.093 or 25.094, as appropriate, or  
 127-4 refer the student to a juvenile court in a county with a population  
 127-5 of less than 100,000 for conduct that violates Section 25.094; or

127-6 (2) refer the student to a juvenile court for conduct  
 127-7 indicating a need for supervision under Section 51.03(b)(2), Family  
 127-8 Code.

127-9 SECTION 4.23. Subsection (c), Section 26.006, Education  
 127-10 Code, is amended to read as follows:

127-11 (c) A student's parent is entitled to request that the  
 127-12 school district or public charter district [~~open-enrollment~~  
 127-13 ~~charter school~~] the student attends allow the student to take home  
 127-14 any textbook used by the student. Subject to the availability of a  
 127-15 textbook, the school district or public charter district [~~or~~  
 127-16 ~~school~~] shall honor the request. A student who takes home a  
 127-17 textbook must return the textbook to school at the beginning of the  
 127-18 next school day if requested to do so by the student's teacher. In  
 127-19 this subsection, "textbook" has the meaning assigned by Section  
 127-20 31.002.

127-21 SECTION 4.24. Subsections (a), (c), (d), and (e), Section  
 127-22 26.0085, Education Code, are amended to read as follows:

127-23 (a) A school district or public charter district  
 127-24 [~~open-enrollment charter school~~] that seeks to withhold  
 127-25 information from a parent who has requested public information  
 127-26 relating to the parent's child under Chapter 552, Government Code,  
 127-27 and that files suit as described by Section 552.324, Government  
 127-28 Code, to challenge a decision by the attorney general issued under  
 127-29 Subchapter G, Chapter 552, Government Code, must bring the suit not  
 127-30 later than the 30th calendar day after the date the school district  
 127-31 or public charter district [~~open-enrollment charter school~~]  
 127-32 receives the decision of the attorney general being challenged.

127-33 (c) Notwithstanding any other law, a school district or  
 127-34 public charter district [~~open-enrollment charter school~~] may not  
 127-35 appeal the decision of a court in a suit filed under Subsection (a).  
 127-36 This subsection does not affect the right of a parent to appeal the  
 127-37 decision.

127-38 (d) If the school district or public charter district  
 127-39 [~~open-enrollment charter school~~] does not bring suit within the  
 127-40 period established by Subsection (a), the school district or public  
 127-41 charter district [~~open-enrollment charter school~~] shall comply  
 127-42 with the decision of the attorney general.

127-43 (e) A school district or public charter district  
 127-44 [~~open-enrollment charter school~~] that receives a request from a  
 127-45 parent for public information relating to the parent's child shall  
 127-46 comply with Chapter 552, Government Code. If an earlier deadline  
 127-47 for bringing suit is established under Chapter 552, Government  
 127-48 Code, Subsection (a) does not apply. This section does not affect  
 127-49 the earlier deadline for purposes of Section 552.353(b)(3),  
 127-50 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer  
 127-51 for public information.

127-52 SECTION 4.25. Subsection (j), Section 28.0211, Education  
 127-53 Code, is amended to read as follows:

127-54 (j) A school district [~~or open-enrollment charter school~~]  
 127-55 shall provide students required to attend accelerated programs  
 127-56 under this section with transportation to those programs if the  
 127-57 programs occur outside of regular school hours.

127-58 SECTION 4.26. Subsection (f), Section 29.010, Education  
 127-59 Code, is amended to read as follows:

127-60 (f) This section does not create an obligation for or impose  
 127-61 a requirement on a school district [~~or open-enrollment charter~~  
 127-62 ~~school~~] that is not also created or imposed under another state law  
 127-63 or a federal law.

127-64 SECTION 4.27. Subsections (a) and (c), Section 29.012,  
 127-65 Education Code, are amended to read as follows:

127-66 (a) Except as provided by Subsection (b)(2), not later than  
 127-67 the third day after the date a person 22 years of age or younger is  
 127-68 placed in a residential facility, the residential facility shall:

127-69 (1) if the person is three years of age or older,

128-1 notify the school district in which the facility is located, unless  
 128-2 the facility is a public charter district [~~an open-enrollment~~  
 128-3 ~~charter school~~]; or

128-4 (2) if the person is younger than three years of age,  
 128-5 notify a local early intervention program in the area in which the  
 128-6 facility is located.

128-7 (c) For purposes of enrollment in a school, a person who  
 128-8 resides in a residential facility is considered a resident of the  
 128-9 school district or geographical area served by the public charter  
 128-10 district campus [~~open-enrollment charter school~~] in which the  
 128-11 facility is located.

128-12 SECTION 4.28. Subsections (c), (d), and (e), Section  
 128-13 29.062, Education Code, are amended to read as follows:

128-14 (c) Not later than the 30th day after the date of an on-site  
 128-15 monitoring inspection, the agency shall report its findings to the  
 128-16 school district [~~or open-enrollment charter school~~] and to the  
 128-17 division of accreditation.

128-18 (d) The agency shall notify a school district [~~or~~  
 128-19 ~~open-enrollment charter school~~] found in noncompliance in writing,  
 128-20 not later than the 30th day after the date of the on-site  
 128-21 monitoring. The district [~~or open-enrollment charter school~~] shall  
 128-22 take immediate corrective action.

128-23 (e) If a school district [~~or open-enrollment charter~~  
 128-24 ~~school~~] fails to satisfy appropriate standards adopted by the  
 128-25 commissioner for purposes of Subsection (a), the agency shall apply  
 128-26 sanctions, which may include the removal of accreditation, loss of  
 128-27 foundation school funds, or both.

128-28 SECTION 4.29. Subsections (a), (b), (b-1), (c), (e), (k),  
 128-29 and (l), Section 29.087, Education Code, are amended to read as  
 128-30 follows:

128-31 (a) The agency shall develop a process by which a school  
 128-32 district or public charter district [~~open-enrollment charter~~  
 128-33 ~~school~~] may apply to the commissioner for authority to operate a  
 128-34 program to prepare eligible students to take a high school  
 128-35 equivalency examination.

128-36 (b) Any school district or public charter district  
 128-37 [~~open-enrollment charter school~~] may apply for authorization to  
 128-38 operate a program under this section. As part of the application  
 128-39 process, the commissioner shall require a school district or public  
 128-40 charter district [~~or school~~] to provide information regarding the  
 128-41 operation of any similar program during the preceding five years.

128-42 (b-1) A school district or public charter district  
 128-43 [~~open-enrollment charter school~~] authorized by the commissioner on  
 128-44 or before August 31, 2003, to operate a program under this section  
 128-45 may continue to operate that program in accordance with this  
 128-46 section.

128-47 (c) A school district or public charter district  
 128-48 [~~open-enrollment charter school~~] may not increase enrollment of  
 128-49 students in a program authorized by this section by more than five  
 128-50 percent of the number of students enrolled in the similar program  
 128-51 operated by the school district or public charter district [~~or~~  
 128-52 ~~school~~] during the 2000-2001 school year.

128-53 (e) A school district or public charter district  
 128-54 [~~open-enrollment charter school~~] shall inform each student who has  
 128-55 completed a program authorized by this section of the time and place  
 128-56 at which the student may take the high school equivalency  
 128-57 examination. Notwithstanding any provision of this section, a  
 128-58 student may not take the high school equivalency examination except  
 128-59 as authorized by Section 7.111.

128-60 (k) The board of trustees of a school district or the  
 128-61 governing body [~~board~~] of a public charter district [~~an~~  
 128-62 ~~open-enrollment charter school~~] shall:

128-63 (1) hold a public hearing concerning the proposed  
 128-64 application of the school district or public charter district [~~or~~  
 128-65 ~~school~~] before applying to operate a program authorized by this  
 128-66 section; and

128-67 (2) subsequently hold a public hearing annually to  
 128-68 review the performance of the program.

128-69 (l) The commissioner may revoke a school district's or



129-1 public charter district's [~~open-enrollment charter school's~~]  
 129-2 authorization under this section after consideration of relevant  
 129-3 factors, including performance of students participating in the  
 129-4 school district's or public charter district's [~~or school's~~]  
 129-5 program on assessment instruments required under Chapter 39, the  
 129-6 percentage of students participating in the school district's or  
 129-7 public charter district's [~~or school's~~] program who complete the  
 129-8 program and perform successfully on the high school equivalency  
 129-9 examination, and other criteria adopted by the commissioner. A  
 129-10 decision by the commissioner under this subsection is final and may  
 129-11 not be appealed.

129-12 SECTION 4.30. Subsections (a) through (d), (i), and (j),  
 129-13 Section 29.155, Education Code, are amended to read as follows:

129-14 (a) From amounts appropriated for the purposes of this  
 129-15 section, the commissioner may make grants to school districts and  
 129-16 public charter districts [~~open-enrollment charter schools~~] to  
 129-17 implement or expand kindergarten and prekindergarten programs by:

129-18 (1) operating an existing half-day kindergarten or  
 129-19 prekindergarten program on a full-day basis; or

129-20 (2) implementing a prekindergarten program at a campus  
 129-21 that does not have a prekindergarten program.

129-22 (b) A school district or public charter district  
 129-23 [~~open-enrollment charter school~~] may use funds received under this  
 129-24 section to employ teachers and other personnel for a kindergarten  
 129-25 or prekindergarten program and acquire curriculum materials or  
 129-26 equipment, including computers, for use in kindergarten and  
 129-27 prekindergarten programs.

129-28 (c) To be eligible for a grant under this section, a school  
 129-29 district or public charter district [~~open-enrollment charter~~  
 129-30 ~~school~~] must apply to the commissioner in the manner and within the  
 129-31 time prescribed by the commissioner.

129-32 (d) In awarding grants under this section, the commissioner  
 129-33 shall give priority to districts and public charter districts  
 129-34 [~~open-enrollment charter schools~~] in which the level of performance  
 129-35 of students on the assessment instruments administered under  
 129-36 Section 39.023 to students in grade three is substantially below  
 129-37 the average level of performance on those assessment instruments  
 129-38 for all school districts in the state.

129-39 (i) In carrying out the purposes of Subsection (g), a school  
 129-40 district or public charter district [~~open-enrollment charter~~  
 129-41 ~~school~~] may use funds granted to the school district or public  
 129-42 charter district [~~or school~~] under this section [~~subsection~~] in  
 129-43 contracting with another entity, including a private entity.

129-44 (j) If a school district or public charter district  
 129-45 [~~open-enrollment charter school~~] returns to the commissioner funds  
 129-46 granted under this section, the commissioner may grant those funds  
 129-47 to another entity, including a private entity, for the purposes of  
 129-48 Subsection (g).

129-49 SECTION 4.31. Subsection (b), Section 29.905, Education  
 129-50 Code, is amended to read as follows:

129-51 (b) The agency shall make the program available to a school  
 129-52 on the request of the board of trustees of [~~or~~] the school district  
 129-53 of which the school is a part, or if the school is a public charter  
 129-54 district [~~an open-enrollment charter school~~], on the request of the  
 129-55 governing body of the public charter district [~~school~~].

129-56 SECTION 4.32. Subsection (b), Section 31.021, Education  
 129-57 Code, is amended to read as follows:

129-58 (b) The State Board of Education shall annually set aside  
 129-59 out of the available school fund of the state an amount sufficient  
 129-60 for the board and [~~7~~] school districts [~~and open-enrollment charter~~  
 129-61 ~~schools~~] to purchase and distribute the necessary textbooks for the  
 129-62 use of the students of this state for the following school year.  
 129-63 The board shall determine the amount of the available school fund to  
 129-64 set aside for the state textbook fund based on:

129-65 (1) a report by the commissioner issued on July 1 or,  
 129-66 if that date is a Saturday or Sunday, on the following Monday,  
 129-67 stating the amount of unobligated money in the fund;

129-68 (2) the commissioner's estimate, based on textbooks  
 129-69 selected under Section 31.101 and on attendance reports submitted

130-1 under Section 31.103 by school districts [~~and open-enrollment~~  
130-2 ~~charter schools~~], of the amount of funds, in addition to funds  
130-3 reported under Subdivision (1), that will be necessary for purchase  
130-4 and distribution of textbooks for the following school year; and

130-5 (3) any amount the board determines should be set  
130-6 aside for emergency purposes caused by unexpected increases in  
130-7 attendance.

130-8 SECTION 4.33. Subsection (a), Section 31.027, Education  
130-9 Code, is amended to read as follows:

130-10 (a) A publisher shall provide each school district [~~and~~  
130-11 ~~open-enrollment charter school~~] with information that fully  
130-12 describes each of the publisher's adopted textbooks. On request of  
130-13 a school district, a publisher shall provide a sample copy of an  
130-14 adopted textbook.

130-15 SECTION 4.34. Section 31.030, Education Code, is amended to  
130-16 read as follows:

130-17 Sec. 31.030. USED TEXTBOOKS. The State Board of Education  
130-18 shall adopt rules to ensure that used textbooks sold to school  
130-19 districts [~~and open-enrollment charter schools~~] are not sample  
130-20 copies that contain factual errors. The rules may provide for the  
130-21 imposition of an administrative penalty in accordance with Section  
130-22 31.151 against a seller of used textbooks who knowingly violates  
130-23 this section.

130-24 SECTION 4.35. Section 31.101, Education Code, is amended to  
130-25 read as follows:

130-26 Sec. 31.101. SELECTION AND PURCHASE OF TEXTBOOKS BY SCHOOL  
130-27 DISTRICTS. (a) Each year, during a period established by the  
130-28 State Board of Education, the board of trustees of each school  
130-29 district [~~and the governing body of each open-enrollment charter~~  
130-30 ~~school~~] shall:

130-31 (1) for a subject in the foundation curriculum, notify  
130-32 the State Board of Education of the textbooks selected by the board  
130-33 of trustees [~~or governing body~~] for the following school year from  
130-34 among the textbooks on the appropriate conforming or nonconforming  
130-35 list; or

130-36 (2) for a subject in the enrichment curriculum:

130-37 (A) notify the State Board of Education of each  
130-38 textbook selected by the board of trustees [~~or governing body~~] for  
130-39 the following school year from among the textbooks on the  
130-40 appropriate conforming or nonconforming list; or

130-41 (B) notify the State Board of Education that the  
130-42 board of trustees [~~or governing body~~] has selected a textbook that  
130-43 is not on the conforming or nonconforming list.

130-44 (b) If a school district [~~or open-enrollment charter~~  
130-45 ~~school~~] selects a textbook for a particular subject in the  
130-46 enrichment curriculum and grade level that is not on the conforming  
130-47 or nonconforming list, the state shall pay to the district [~~or~~  
130-48 ~~school~~] an amount equal to the lesser of:

130-49 (1) 70 percent of the cost to the district of the  
130-50 textbook, multiplied by the number of textbooks the district [~~or~~  
130-51 ~~school~~] needs for that subject and grade level; or

130-52 (2) 70 percent of the limitation established under  
130-53 Section 31.025 for a textbook for that subject and grade level,  
130-54 multiplied by the number of textbooks the district [~~or school~~]  
130-55 needs for that subject and grade level.

130-56 (c) A school district [~~or open-enrollment charter school~~]  
130-57 that selects a textbook that is not on the conforming or  
130-58 nonconforming list:

130-59 (1) is responsible for the portion of the cost of the  
130-60 textbook that is not paid by the state under Subsection (b); and

130-61 (2) may use funds received from the state under  
130-62 Subsection (b) only for purchasing the textbook for which the funds  
130-63 were received.

130-64 (d) For a textbook that is not on the conforming or  
130-65 nonconforming list, a school district [~~or open-enrollment charter~~  
130-66 ~~school~~] must use the textbook for the period of the review and  
130-67 adoption cycle the State Board of Education has established for the  
130-68 subject and grade level for which the textbook is used.

130-69 SECTION 4.36. Subsection (c), Section 31.102, Education

Code, is amended to read as follows:

(c) The board of trustees of a school district ~~[or the governing body of an open-enrollment charter school]~~ is the legal custodian of textbooks purchased as provided by this chapter for the district ~~[or school]~~. The board of trustees shall distribute textbooks to students in the manner that the board ~~[or governing body]~~ determines is most effective and economical.

SECTION 4.37. Section 31.103, Education Code, is amended to read as follows:

Sec. 31.103. TEXTBOOK REQUISITIONS. (a) Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for the school to the superintendent. Not later than April 25, the superintendent of a school district ~~[or the chief operating officer of an open-enrollment charter school]~~ shall report the district's ~~[or school's]~~ maximum attendance to the commissioner.

(b) A requisition for textbooks for the following school year shall be based on the maximum attendance reports under Subsection (a), plus an additional 10 percent, except as otherwise provided. A school district ~~[or open-enrollment charter school]~~ shall make a requisition for a textbook on the conforming or nonconforming list through the commissioner to the state depository designated by the publisher or as provided by State Board of Education rule, as applicable, not later than June 1 of each year. The designated state depository or, if the publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B), the publisher or manufacturer shall fill a requisition approved by the agency at any other time in the case of an emergency. As made necessary by available funds, the commissioner shall reduce the additional percentage of attendance for which a district ~~[or school]~~ may requisition textbooks. The commissioner may, on application of a district ~~[or school]~~ that is experiencing high enrollment growth, increase the additional percentage of attendance for which the district ~~[or school]~~ may requisition textbooks.

(c) In making a requisition under this section, a school district ~~[or open-enrollment charter school]~~ may requisition textbooks on the conforming or nonconforming list for grades above the grade level in which a student is enrolled, except that the total quantity of textbooks requisitioned under this section may not exceed the limit prescribed by Subsection (b).

SECTION 4.38. Subsections (a), (b), and (d), Section 31.104, Education Code, are amended to read as follows:

(a) The board of trustees of a school district ~~[or the governing body of an open-enrollment charter school]~~ may delegate to an employee the authority to requisition, distribute, and manage the inventory of textbooks in a manner consistent with this chapter and rules adopted under this chapter.

(b) A school district ~~[or open-enrollment charter school]~~ may order replacements for textbooks that have been lost or damaged directly from:

(1) the textbook depository; or

(2) the textbook publisher or manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B).

(d) Each student, or the student's parent or guardian, is responsible for each textbook not returned by the student. A student who fails to return all textbooks forfeits the right to free textbooks until each textbook previously issued but not returned is paid for by the student, parent, or guardian. As provided by policy of the board of trustees ~~[or governing body]~~, a school district ~~[or open-enrollment charter school]~~ may waive or reduce the payment requirement if the student is from a low-income family. The district ~~[or school]~~ shall allow the student to use textbooks at school during each school day. If a textbook is not returned or paid for, the district ~~[or school]~~ may withhold the student's records. A district ~~[or school]~~ may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma.

132-1 SECTION 4.39. Section 31.105, Education Code, is amended to  
132-2 read as follows:

132-3 Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a  
132-4 school district [~~or governing body of an open-enrollment charter~~  
132-5 ~~school~~] may sell textbooks, other than electronic textbooks, to a  
132-6 student or another school at the state contract price. The district  
132-7 shall send money from the sale of textbooks to the commissioner as  
132-8 required by the commissioner. The commissioner shall deposit the  
132-9 money in the state textbook fund.

132-10 SECTION 4.40. Section 31.106, Education Code, is amended to  
132-11 read as follows:

132-12 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
132-13 textbook selected under this chapter, a school district [~~or~~  
132-14 ~~open-enrollment charter school~~] may use local funds to purchase any  
132-15 textbooks.

132-16 SECTION 4.41. Subsection (a), Section 31.151, Education  
132-17 Code, is amended to read as follows:

132-18 (a) A publisher or manufacturer of textbooks:

132-19 (1) shall furnish any textbook the publisher or  
132-20 manufacturer offers in this state, at a price that does not exceed  
132-21 the lowest price at which the publisher offers that textbook for  
132-22 adoption or sale to any state, public school, or school district in  
132-23 the United States;

132-24 (2) shall automatically reduce the price of a textbook  
132-25 sold for use in a school district [~~or open-enrollment charter~~  
132-26 ~~school~~] to the extent that the price is reduced elsewhere in the  
132-27 United States;

132-28 (3) shall provide any textbook or ancillary item free  
132-29 of charge in this state to the same extent that the publisher or  
132-30 manufacturer provides the textbook or ancillary item free of charge  
132-31 to any state, public school, or school district in the United  
132-32 States;

132-33 (4) shall guarantee that each copy of a textbook sold  
132-34 in this state is at least equal in quality to copies of that  
132-35 textbook sold elsewhere in the United States and is free from  
132-36 factual error;

132-37 (5) may not become associated or connected with,  
132-38 directly or indirectly, any combination in restraint of trade in  
132-39 textbooks or enter into any understanding or combination to control  
132-40 prices or restrict competition in the sale of textbooks for use in  
132-41 this state;

132-42 (6) shall:

132-43 (A) maintain a depository in this state or  
132-44 arrange with a depository in this state to receive and fill orders  
132-45 for textbooks, other than on-line textbooks or on-line textbook  
132-46 components, consistent with State Board of Education rules; or

132-47 (B) deliver textbooks to a school district [~~or~~  
132-48 ~~open-enrollment charter school~~] without a delivery charge to the  
132-49 school district [~~, open-enrollment charter school,~~] or state, if:

132-50 (i) the publisher or manufacturer does not  
132-51 maintain or arrange with a depository in this state under Paragraph  
132-52 (A) and the publisher's or manufacturer's textbooks and related  
132-53 products are warehoused or otherwise stored less than 300 miles  
132-54 from a border of this state; or

132-55 (ii) the textbooks are on-line textbooks or  
132-56 on-line textbook components;

132-57 (7) shall, at the time an order for textbooks is  
132-58 acknowledged, provide to school districts [~~or open-enrollment~~  
132-59 ~~charter schools~~] an accurate shipping date for textbooks that are  
132-60 back-ordered;

132-61 (8) shall guarantee delivery of textbooks at least 10  
132-62 business days before the opening day of school of the year for which  
132-63 the textbooks are ordered if the textbooks are ordered by a date  
132-64 specified in the sales contract; and

132-65 (9) shall submit to the State Board of Education an  
132-66 affidavit certifying any textbook the publisher or manufacturer  
132-67 offers in this state to be free of factual errors at the time the  
132-68 publisher executes the contract required by Section 31.026.

132-69 SECTION 4.42. Subsection (c), Section 31.201, Education

Code, is amended to read as follows:

(c) The State Board of Education shall adopt rules under which a school district ~~[or open-enrollment charter school]~~ may donate discontinued textbooks, other than electronic textbooks, to a student, to an adult education program, or to a nonprofit organization.

SECTION 4.43. Subchapter C, Chapter 32, Education Code, is amended by adding Section 32.1011 to read as follows:

Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS. This subchapter applies to a public charter district as if the public charter district were a school district.

SECTION 4.44. Section 32.102, Education Code, is amended to read as follows:

Sec. 32.102. AUTHORITY. (a) As provided by this subchapter, a school district ~~[or open-enrollment charter school]~~ may transfer to a student enrolled in the district ~~[or school]~~:

(1) any data processing equipment donated to the district ~~[or school]~~, including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.128, Government Code;

(2) any equipment purchased by the district ~~[or school]~~, to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district ~~[or school]~~.

(b) A school district ~~[or open-enrollment charter school]~~ may accept:

(1) donations of data processing equipment for transfer under this subchapter; and

(2) any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under this subchapter.

SECTION 4.45. Section 32.103, Education Code, is amended to read as follows:

Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is eligible to receive data processing equipment under this subchapter only if the student does not otherwise have home access to data processing equipment, as determined by the student's school district ~~[or open-enrollment charter school]~~.

(b) In transferring data processing equipment to students, a school district ~~[or open-enrollment charter school]~~ shall give preference to educationally disadvantaged students.

SECTION 4.46. Section 32.104, Education Code, is amended to read as follows:

Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before transferring data processing equipment to a student, a school district ~~[or open-enrollment charter school]~~ must:

(1) adopt rules governing transfers under this subchapter, including provisions for technical assistance to the student by the district ~~[or school]~~;

(2) determine that the transfer serves a public purpose and benefits the district ~~[or school]~~; and

(3) remove from the equipment any offensive, confidential, or proprietary information, as determined by the district ~~[or school]~~.

SECTION 4.47. Section 32.105, Education Code, is amended to read as follows:

Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school district ~~[or open-enrollment charter school]~~ may spend public funds to:

(1) purchase, refurbish, or repair any data processing equipment transferred to a student under this subchapter; and

(2) store, transport, or transfer data processing equipment under this subchapter.

SECTION 4.48. Section 32.106, Education Code, is amended to read as follows:

Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided by Subsection (b), a student who receives data processing equipment from a school district ~~[or open-enrollment charter school]~~ under

134-1 this subchapter shall return the equipment to the district [~~or~~  
134-2 ~~school~~] not later than the earliest of:

- 134-3 (1) five years after the date the student receives the  
134-4 equipment;  
134-5 (2) the date the student graduates;  
134-6 (3) the date the student transfers to another school  
134-7 district [~~or open-enrollment charter school~~]; or  
134-8 (4) the date the student withdraws from school.

134-9 (b) Subsection (a) does not apply if, at the time the  
134-10 student is required to return the data processing equipment under  
134-11 that subsection, the district [~~or school~~] determines that the  
134-12 equipment has no marketable value.

134-13 SECTION 4.49. Section 33.007, Education Code, is amended to  
134-14 read as follows:

134-15 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION.

134-16 (a) Each counselor at an elementary, middle, or junior high  
134-17 school, including a public charter district [~~an open-enrollment~~  
134-18 ~~charter school~~] offering those grades, shall advise students and  
134-19 their parents or guardians regarding the importance of higher  
134-20 education, coursework designed to prepare students for higher  
134-21 education, and financial aid availability and requirements.

134-22 (b) During the first school year a student is enrolled in a  
134-23 high school or at the high school level in a public charter district  
134-24 [~~an open-enrollment charter school~~], and again during a student's  
134-25 senior year, a counselor shall provide information about higher  
134-26 education to the student and the student's parent or guardian. The  
134-27 information must include information regarding:

- 134-28 (1) the importance of higher education;  
134-29 (2) the advantages of completing the recommended or  
134-30 advanced high school program adopted under Section 28.025(a);  
134-31 (3) the disadvantages of taking courses to prepare for  
134-32 a high school equivalency examination relative to the benefits of  
134-33 taking courses leading to a high school diploma;  
134-34 (4) financial aid eligibility;  
134-35 (5) instruction on how to apply for federal financial  
134-36 aid;  
134-37 (6) the center for financial aid information  
134-38 established under Section 61.0776;  
134-39 (7) the automatic admission of certain students to  
134-40 general academic teaching institutions as provided by Section  
134-41 51.803; and

134-42 (8) the eligibility and academic performance  
134-43 requirements for the TEXAS Grant as provided by Subchapter M,  
134-44 Chapter 56 [~~, as added by Chapter 1590, Acts of the 76th Legislature,~~  
134-45 ~~Regular Session, 1999~~].

134-46 SECTION 4.50. Section 33.901, Education Code, is amended to  
134-47 read as follows:

134-48 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of  
134-49 the students enrolled in one or more schools in a school district or  
134-50 enrolled in a public charter district campus [~~an open-enrollment~~  
134-51 ~~charter school~~] are eligible for free or reduced-price breakfasts  
134-52 under the national school breakfast program provided for by the  
134-53 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing  
134-54 body of the district or the public charter district  
134-55 [~~open-enrollment charter school~~] shall participate in the program  
134-56 and make the benefits of the program available to all eligible  
134-57 students in the schools or campus [~~school~~].

134-58 SECTION 4.51. Subsection (e), Section 37.007, Education  
134-59 Code, is amended to read as follows:

134-60 (e) In accordance with 20 U.S.C. Section 7151, a local  
134-61 educational agency, including a school district, home-rule school  
134-62 district, or public charter district [~~open-enrollment charter~~  
134-63 ~~school~~], shall expel a student who brings a firearm, as defined by  
134-64 18 U.S.C. Section 921, to school. The student must be expelled from  
134-65 the student's regular campus for a period of at least one year,  
134-66 except that:

- 134-67 (1) the superintendent or other chief administrative  
134-68 officer of the school district or of the other local educational  
134-69 agency, as defined by 20 U.S.C. Section 7801, may modify the length

135-1 of the expulsion in the case of an individual student;

135-2 (2) the district or other local educational agency  
135-3 shall provide educational services to an expelled student in a  
135-4 disciplinary alternative education program as provided by Section  
135-5 37.008 if the student is younger than 10 years of age on the date of  
135-6 expulsion; and

135-7 (3) the district or other local educational agency may  
135-8 provide educational services to an expelled student who is 10 years  
135-9 of age or older in a disciplinary alternative education program as  
135-10 provided in Section 37.008.

135-11 SECTION 4.52. Subsection (j), Section 37.008, Education  
135-12 Code, as amended by H.B. No. 603, Acts of the 79th Legislature,  
135-13 Regular Session, 2005, is amended to read as follows:

135-14 (j) If a student placed in a disciplinary alternative  
135-15 education program enrolls in another school district before the  
135-16 expiration of the period of placement, the board of trustees of the  
135-17 district requiring the placement shall provide to the district in  
135-18 which the student enrolls, at the same time other records of the  
135-19 student are provided, a copy of the placement order. The district  
135-20 in which the student enrolls shall inform each educator who will  
135-21 have responsibility for, or will be under the direction and  
135-22 supervision of an educator who will have responsibility for, the  
135-23 instruction of the student of the contents of the placement order.  
135-24 Each educator shall keep the information received under this  
135-25 subsection confidential from any person not entitled to the  
135-26 information under this subsection, except that the educator may  
135-27 share the information with the student's parent or guardian as  
135-28 provided for by state or federal law. The district in which the  
135-29 student enrolls may continue the disciplinary alternative  
135-30 education program placement under the terms of the order or may  
135-31 allow the student to attend regular classes without completing the  
135-32 period of placement. A school district may take any action  
135-33 permitted by this subsection if:

135-34 (1) the student was placed in a disciplinary  
135-35 alternative education program by a public charter district [~~an~~  
135-36 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and  
135-37 the public charter district [~~school~~] provides to the school  
135-38 district a copy of the placement order; or

135-39 (2) the student was placed in a disciplinary  
135-40 alternative education program by a school district in another state  
135-41 and:

135-42 (A) the out-of-state district provides to the  
135-43 school district a copy of the placement order; and

135-44 (B) the grounds for the placement by the  
135-45 out-of-state district are grounds for placement in the school  
135-46 district in which the student is enrolling.

135-47 SECTION 4.53. Subdivision (2), Subsection (a), Section  
135-48 37.022, Education Code, as renumbered by H.B. No. 2018, Acts of the  
135-49 79th Legislature, Regular Session, 2005, effective September 1,  
135-50 2005, is amended to read as follows:

135-51 (2) "District or school" includes an independent  
135-52 school district, a home-rule school district, a campus or campus  
135-53 program charter holder, or a public charter district [~~an~~  
135-54 ~~open-enrollment charter school~~].

135-55 SECTION 4.54. Subsection (a), Section 39.131, Education  
135-56 Code, is amended to read as follows:

135-57 (a) If a district does not satisfy the accreditation  
135-58 criteria, the commissioner shall take any of the following actions,  
135-59 listed in order of severity, to the extent the commissioner  
135-60 determines necessary:

135-61 (1) issue public notice of the deficiency to the board  
135-62 of trustees;

135-63 (2) order a hearing conducted by the board of trustees  
135-64 of the district for the purpose of notifying the public of the  
135-65 unacceptable performance, the improvements in performance expected  
135-66 by the agency, and the sanctions that may be imposed under this  
135-67 section if the performance does not improve;

135-68 (3) order the preparation of a student achievement  
135-69 improvement plan that addresses each academic excellence indicator

136-1 for which the district's performance is unacceptable, the  
 136-2 submission of the plan to the commissioner for approval, and  
 136-3 implementation of the plan;

136-4 (4) order a hearing to be held before the commissioner  
 136-5 or the commissioner's designee at which the president of the board  
 136-6 of trustees of the district and the superintendent shall appear and  
 136-7 explain the district's low performance, lack of improvement, and  
 136-8 plans for improvement;

136-9 (5) arrange an on-site investigation of the district;

136-10 (6) appoint an agency monitor to participate in and  
 136-11 report to the agency on the activities of the board of trustees or  
 136-12 the superintendent;

136-13 (7) appoint a conservator to oversee the operations of  
 136-14 the district;

136-15 (8) appoint a management team to direct the operations  
 136-16 of the district in areas of unacceptable performance or require the  
 136-17 district to obtain certain services under a contract with another  
 136-18 person;

136-19 (9) if a district has been rated as academically  
 136-20 unacceptable for a period of one year or more, appoint a board of  
 136-21 managers to exercise the powers and duties of the board of trustees;

136-22 (10) if a district has been rated as academically  
 136-23 unacceptable for a period of two years or more:

136-24 (A) annex the district to one or more adjoining  
 136-25 districts under Section 13.054; or

136-26 (B) in the case of a home-rule school district or  
 136-27 public charter district [~~open-enrollment charter school~~], order  
 136-28 closure of all programs operated under the district's [~~or school's~~]  
 136-29 charter; or

136-30 (11) if a district has been rated as academically  
 136-31 unacceptable for a period of two years or more due to the district's  
 136-32 dropout rates, impose sanctions designed to improve high school  
 136-33 completion rates, including:

136-34 (A) ordering the development of a dropout  
 136-35 prevention plan for approval by the commissioner;

136-36 (B) restructuring the district or appropriate  
 136-37 school campuses to improve identification of and service to  
 136-38 students who are at risk of dropping out of school, as defined by  
 136-39 Section 29.081;

136-40 (C) ordering lower student-to-counselor ratios  
 136-41 on school campuses with high dropout rates; and

136-42 (D) ordering the use of any other intervention  
 136-43 strategy effective in reducing dropout rates, including mentor  
 136-44 programs and flexible class scheduling.

136-45 SECTION 4.55. Subsection (a), Section 39.182, Education  
 136-46 Code, as amended by S.B. No. 42, Acts of the 79th Legislature,  
 136-47 Regular Session, 2005, is amended to read as follows:

136-48 (a) Not later than December 1 of each year, the agency shall  
 136-49 prepare and deliver to the governor, the lieutenant governor, the  
 136-50 speaker of the house of representatives, each member of the  
 136-51 legislature, the Legislative Budget Board, and the clerks of the  
 136-52 standing committees of the senate and house of representatives with  
 136-53 primary jurisdiction over the public school system a comprehensive  
 136-54 report covering the preceding school year and containing:

136-55 (1) an evaluation of the achievements of the state  
 136-56 educational program in relation to the statutory goals for the  
 136-57 public education system under Section 4.002;

136-58 (2) an evaluation of the status of education in the  
 136-59 state as reflected by the academic excellence indicators adopted  
 136-60 under Section 39.051;

136-61 (3) a summary compilation of overall student  
 136-62 performance on academic skills assessment instruments required by  
 136-63 Section 39.023 with the number and percentage of students exempted  
 136-64 from the administration of those instruments and the basis of the  
 136-65 exemptions, aggregated by grade level, subject area, campus, and  
 136-66 district, with appropriate interpretations and analysis, and  
 136-67 disaggregated by race, ethnicity, gender, and socioeconomic  
 136-68 status;

136-69 (4) a summary compilation of overall performance of



137-1 students placed in a disciplinary alternative education program  
 137-2 established under Section 37.008 on academic skills assessment  
 137-3 instruments required by Section 39.023 with the number of those  
 137-4 students exempted from the administration of those instruments and  
 137-5 the basis of the exemptions, aggregated by district, grade level,  
 137-6 and subject area, with appropriate interpretations and analysis,  
 137-7 and disaggregated by race, ethnicity, gender, and socioeconomic  
 137-8 status;

137-9 (5) a summary compilation of overall performance of  
 137-10 students at risk of dropping out of school, as defined by Section  
 137-11 29.081(d), on academic skills assessment instruments required by  
 137-12 Section 39.023 with the number of those students exempted from the  
 137-13 administration of those instruments and the basis of the  
 137-14 exemptions, aggregated by district, grade level, and subject area,  
 137-15 with appropriate interpretations and analysis, and disaggregated  
 137-16 by race, ethnicity, gender, and socioeconomic status;

137-17 (6) an evaluation of the correlation between student  
 137-18 grades and student performance on academic skills assessment  
 137-19 instruments required by Section 39.023;

137-20 (7) a statement of the dropout rate of students in  
 137-21 grade levels 7 through 12, expressed in the aggregate and by grade  
 137-22 level, and a statement of the completion rates of students for grade  
 137-23 levels 9 through 12;

137-24 (8) a statement of:

137-25 (A) the completion rate of students who enter  
 137-26 grade level 9 and graduate not more than four years later;

137-27 (B) the completion rate of students who enter  
 137-28 grade level 9 and graduate, including students who require more  
 137-29 than four years to graduate;

137-30 (C) the completion rate of students who enter  
 137-31 grade level 9 and not more than four years later receive a high  
 137-32 school equivalency certificate;

137-33 (D) the completion rate of students who enter  
 137-34 grade level 9 and receive a high school equivalency certificate,  
 137-35 including students who require more than four years to receive a  
 137-36 certificate; and

137-37 (E) the number and percentage of all students who  
 137-38 have not been accounted for under Paragraph (A), (B), (C), or (D);

137-39 (9) a statement of the projected cross-sectional and  
 137-40 longitudinal dropout rates for grade levels 9 through 12 for the  
 137-41 next five years, assuming no state action is taken to reduce the  
 137-42 dropout rate;

137-43 (10) a description of a systematic, measurable plan  
 137-44 for reducing the projected cross-sectional and longitudinal  
 137-45 dropout rates to five percent or less for the 1997-1998 school year;

137-46 (11) a summary of the information required by Section  
 137-47 29.083 regarding grade level retention of students and information  
 137-48 concerning:

137-49 (A) the number and percentage of students  
 137-50 retained; and

137-51 (B) the performance of retained students on  
 137-52 assessment instruments required under Section 39.023(a);

137-53 (12) information, aggregated by district type and  
 137-54 disaggregated by race, ethnicity, gender, and socioeconomic  
 137-55 status, on:

137-56 (A) the number of students placed in a  
 137-57 disciplinary alternative education program established under  
 137-58 Section 37.008;

137-59 (B) the average length of a student's placement  
 137-60 in a disciplinary alternative education program established under  
 137-61 Section 37.008;

137-62 (C) the academic performance of students on  
 137-63 assessment instruments required under Section 39.023(a) during the  
 137-64 year preceding and during the year following placement in a  
 137-65 disciplinary alternative education program; and

137-66 (D) the dropout rates of students who have been  
 137-67 placed in a disciplinary alternative education program established  
 137-68 under Section 37.008;

137-69 (13) a list of each school district or campus that does

138-1 not satisfy performance standards, with an explanation of the  
 138-2 actions taken by the commissioner to improve student performance in  
 138-3 the district or campus and an evaluation of the results of those  
 138-4 actions;

138-5 (14) an evaluation of the status of the curriculum  
 138-6 taught in public schools, with recommendations for legislative  
 138-7 changes necessary to improve or modify the curriculum required by  
 138-8 Section 28.002;

138-9 (15) a description of all funds received by and each  
 138-10 activity and expenditure of the agency;

138-11 (16) a summary and analysis of the instructional  
 138-12 expenditures ratios and instructional employees ratios of school  
 138-13 districts computed under Section 44.0071;

138-14 (17) a summary of the effect of deregulation,  
 138-15 including exemptions and waivers granted under Section 7.056 or  
 138-16 39.112;

138-17 (18) a statement of the total number and length of  
 138-18 reports that school districts and school district employees must  
 138-19 submit to the agency, identifying which reports are required by  
 138-20 federal statute or rule, state statute, or agency rule, and a  
 138-21 summary of the agency's efforts to reduce overall reporting  
 138-22 requirements;

138-23 (19) a list of each school district that is not in  
 138-24 compliance with state special education requirements, including:

138-25 (A) the period for which the district has not  
 138-26 been in compliance;

138-27 (B) the manner in which the agency considered the  
 138-28 district's failure to comply in determining the district's  
 138-29 accreditation status; and

138-30 (C) an explanation of the actions taken by the  
 138-31 commissioner to ensure compliance and an evaluation of the results  
 138-32 of those actions;

138-33 (20) a comparison of the performance of public charter  
 138-34 districts [~~open-enrollment charter schools~~] and school districts  
 138-35 on the academic excellence indicators specified in Section  
 138-36 39.051(b) and accountability measures adopted under Section  
 138-37 39.051(g), with a separately aggregated comparison of the  
 138-38 performance of public charter districts [~~open-enrollment charter~~  
 138-39 ~~schools~~] predominantly serving students at risk of dropping out of  
 138-40 school, as defined by Section 29.081(d), with the performance of  
 138-41 school districts;

138-42 (21) a summary of the information required by Section  
 138-43 38.0141 regarding student health and physical activity from each  
 138-44 school district; and

138-45 (22) any additional information considered important  
 138-46 by the commissioner or the State Board of Education.

138-47 SECTION 4.56. Subsection (f), Section 42.005, Education  
 138-48 Code, is amended to read as follows:

138-49 (f) A public charter district [~~An open-enrollment charter~~  
 138-50 ~~school~~] is not entitled to funding based on an adjustment under  
 138-51 Subsection (b)(2).

138-52 SECTION 4.57. Subsection (c), Section 42.152, Education  
 138-53 Code, is amended to read as follows:

138-54 (c) Funds allocated under this section shall be used to fund  
 138-55 supplemental programs and services designed to eliminate any  
 138-56 disparity in performance on assessment instruments administered  
 138-57 under Subchapter B, Chapter 39, or disparity in the rates of high  
 138-58 school completion between students at risk of dropping out of  
 138-59 school, as defined by Section 29.081, and all other students.  
 138-60 Specifically, the funds, other than an indirect cost allotment  
 138-61 established under State Board of Education rule, which may not  
 138-62 exceed 15 percent, may be used to meet the costs of providing a  
 138-63 compensatory, intensive, or accelerated instruction program under  
 138-64 Section 29.081 or an alternative education program established  
 138-65 under Section 37.008 or to support a program eligible under Title I  
 138-66 of the Elementary and Secondary Education Act of 1965, as provided  
 138-67 by Pub. L. No. 103-382 and its subsequent amendments, and by federal  
 138-68 regulations implementing that Act, at a campus at which at least 40  
 138-69 percent of the students are educationally disadvantaged. In

139-1 meeting the costs of providing a compensatory, intensive, or  
 139-2 accelerated instruction program under Section 29.081, a district's  
 139-3 compensatory education allotment shall be used for costs  
 139-4 supplementary to the regular education program, such as costs for  
 139-5 program and student evaluation, instructional materials and  
 139-6 equipment and other supplies required for quality instruction,  
 139-7 supplemental staff expenses, salary for teachers of at-risk  
 139-8 students, smaller class size, and individualized instruction. A  
 139-9 home-rule school district or a public charter district [~~an~~  
 139-10 ~~open-enrollment charter school~~] must use funds allocated under  
 139-11 Subsection (a) for a purpose authorized in this subsection but is  
 139-12 not otherwise subject to Subchapter C, Chapter 29. Notwithstanding  
 139-13 any other provisions of this section:

139-14 (1) to ensure that a sufficient amount of the funds  
 139-15 allotted under this section are available to supplement  
 139-16 instructional programs and services, no more than 18 percent of the  
 139-17 funds allotted under this section may be used to fund disciplinary  
 139-18 alternative education programs established under Section 37.008;

139-19 (2) the commissioner may waive the limitations of  
 139-20 Subdivision (1) upon an annual petition, by a district's board and a  
 139-21 district's site-based decision making committee, presenting the  
 139-22 reason for the need to spend supplemental compensatory education  
 139-23 funds on disciplinary alternative education programs under Section  
 139-24 37.008, provided that:

139-25 (A) the district in its petition reports the  
 139-26 number of students in each grade level, by demographic subgroup,  
 139-27 not making satisfactory progress under the state's assessment  
 139-28 system; and

139-29 (B) the commissioner makes the waiver request  
 139-30 information available annually to the public on the agency's  
 139-31 website; and

139-32 (3) for purposes of this subsection, a program  
 139-33 specifically designed to serve students at risk of dropping out of  
 139-34 school, as defined by Section 29.081, is considered to be a program  
 139-35 supplemental to the regular education program, and a district may  
 139-36 use its compensatory education allotment for such a program.

139-37 SECTION 4.58. Subsection (a), Section 44.008, Education  
 139-38 Code, is amended to read as follows:

139-39 (a) The board of school trustees of each school district  
 139-40 shall have its school district fiscal accounts audited annually at  
 139-41 district expense by a certified or public accountant holding a  
 139-42 permit from the Texas State Board of Public Accountancy. Except as  
 139-43 determined impracticable by the commissioner, the accountant must  
 139-44 have completed at least one peer-reviewed audit of a school  
 139-45 district, governmental entity, quasi-governmental entity, or  
 139-46 nonprofit corporation and received an unqualified opinion from the  
 139-47 peer review. The audit must be completed following the close of  
 139-48 each fiscal year.

139-49 SECTION 4.59. Section 46.012, Education Code, is amended to  
 139-50 read as follows:

139-51 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
 139-52 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~  
 139-53 ~~open-enrollment charter school~~] is not entitled to an allotment  
 139-54 under this subchapter.

139-55 SECTION 4.60. Section 46.036, Education Code, is amended to  
 139-56 read as follows:

139-57 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
 139-58 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~  
 139-59 ~~open-enrollment charter school~~] is not entitled to an allotment  
 139-60 under this subchapter.

139-61 SECTION 4.61. Subdivision (10), Section 53.02, Education  
 139-62 Code, as renumbered by H.B. No. 2701, Acts of the 79th Legislature,  
 139-63 Regular Session, 2005, effective September 1, 2005, is amended to  
 139-64 read as follows:

139-65 (10) "Authorized charter school" means a public  
 139-66 charter district [~~an open-enrollment charter school~~] that holds a  
 139-67 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

139-68 SECTION 4.62. The heading to Section 53.351, Education  
 139-69 Code, is amended to read as follows:

140-1 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN ENROLLMENT~~] CHARTER  
 140-2 SCHOOL FACILITIES.

140-3 SECTION 4.63. Subsections (a), (c), (d), (f), and (g),  
 140-4 Section 53.351, Education Code, are amended to read as follows:

140-5 (a) The Texas Public Finance Authority shall establish a  
 140-6 nonprofit corporation to issue revenue bonds on behalf of  
 140-7 authorized [~~open-enrollment~~] charter schools for the acquisition,  
 140-8 construction, repair, or renovation of educational facilities of  
 140-9 those schools.

140-10 (c) The corporation has all powers granted under the Texas  
 140-11 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
 140-12 Texas Civil Statutes) for the purpose of aiding authorized  
 140-13 [~~open-enrollment~~] charter schools in providing educational  
 140-14 facilities. The corporation may make expenditures from the fund  
 140-15 described by Subsection (e) and may solicit and accept grants for  
 140-16 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,  
 140-17 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and  
 140-18 govern the corporation and its procedures and bonds.

140-19 (d) The corporation shall adopt rules governing the  
 140-20 issuance of bonds on behalf of an authorized [~~open-enrollment~~]  
 140-21 charter school.

140-22 (f) A revenue bond issued under this section is not a debt of  
 140-23 the state or any state agency, political corporation, or political  
 140-24 subdivision of the state and is not a pledge of the faith and credit  
 140-25 of any of these entities. A revenue bond is payable solely from the  
 140-26 revenue of the authorized [~~open-enrollment~~] charter school on whose  
 140-27 behalf the bond is issued. A revenue bond issued under this section  
 140-28 must contain on its face a statement to the effect that:

140-29 (1) neither the state nor a state agency, political  
 140-30 corporation, or political subdivision of the state is obligated to  
 140-31 pay the principal of or interest on the bond; and

140-32 (2) neither the faith and credit nor the taxing power  
 140-33 of the state or any state agency, political corporation, or  
 140-34 political subdivision of the state is pledged to the payment of the  
 140-35 principal of or interest on the bond.

140-36 (g) An educational facility financed in whole or in part  
 140-37 under this section is exempt from taxation if the facility:

140-38 (1) is owned by an authorized [~~open-enrollment~~]  
 140-39 charter school;

140-40 (2) is held for the exclusive benefit of the school;  
 140-41 and

140-42 (3) is held for the exclusive use of the students,  
 140-43 faculty, and staff members of the school.

140-44 SECTION 4.64. Subsection (c), Section 411.097, Government  
 140-45 Code, is amended to read as follows:

140-46 (c) A public charter district [~~An open-enrollment charter~~  
 140-47 ~~school~~] is entitled to obtain from the department criminal history  
 140-48 record information maintained by the department that relates to a  
 140-49 person who:

140-50 (1) is a member of the governing body of the public  
 140-51 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],  
 140-52 Education Code; or

140-53 (2) has agreed to serve as a member of the governing  
 140-54 body of the public charter district [~~school~~].

140-55 SECTION 4.65. Subsections (a) and (b), Section 2175.128,  
 140-56 Government Code, are amended to read as follows:

140-57 (a) If a disposition of a state agency's surplus or salvage  
 140-58 data processing equipment is not made under Section 2175.125 or  
 140-59 2175.184, the state agency shall transfer the equipment to:

140-60 (1) a school district or public charter district  
 140-61 [~~open-enrollment charter school~~] in this state under Subchapter C,  
 140-62 Chapter 32, Education Code;

140-63 (2) an assistance organization specified by the school  
 140-64 district or public charter district; or

140-65 (3) the Texas Department of Criminal Justice.

140-66 (b) If a disposition of the surplus or salvage data  
 140-67 processing equipment of a state eleemosynary institution or an  
 140-68 institution or agency of higher education is not made under other  
 140-69 law, the institution or agency shall transfer the equipment to:

141-1 (1) a school district or public charter district  
 141-2 [~~open-enrollment charter school~~] in this state under Subchapter C,  
 141-3 Chapter 32, Education Code;

141-4 (2) an assistance organization specified by the school  
 141-5 district or public charter district; or

141-6 (3) the Texas Department of Criminal Justice.  
 141-7 SECTION 4.66. Subsection (a), Section 2306.630, Government  
 141-8 Code, is amended to read as follows:

141-9 (a) Subject to Subsection (b), the following entities may  
 141-10 apply to receive a grant for an eligible project under this  
 141-11 subchapter:

141-12 (1) a private, nonprofit, tax-exempt organization  
 141-13 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26  
 141-14 U.S.C. Section 501(c)(3));

141-15 (2) a public agency that operates a community-based  
 141-16 youth employment training program;

141-17 (3) a community housing development organization  
 141-18 certified by the state;

141-19 (4) an educational facility approved by the Texas  
 141-20 Youth Commission;

141-21 (5) a corps-based community service organization;

141-22 (6) a public charter district [~~an open-enrollment~~  
 141-23 ~~charter school~~] approved by the State Board of Education [~~Texas~~  
 141-24 ~~Education Agency~~]; or

141-25 (7) another entity authorized by board rule.

141-26 SECTION 4.67. Subdivision (6), Section 1575.002, Insurance  
 141-27 Code, is amended to read as follows:

141-28 (6) "Public school" means:

141-29 (A) a school district;

141-30 (B) another educational district whose employees  
 141-31 are members of the Teacher Retirement System of Texas;

141-32 (C) a regional education service center  
 141-33 established under Chapter 8, Education Code; or

141-34 (D) a public charter district [~~an~~  
 141-35 ~~open-enrollment charter school~~] established under Chapter 11A  
 141-36 [~~Subchapter D, Chapter 12~~], Education Code.

141-37 SECTION 4.68. Subdivision (3), Section 1579.002, Insurance  
 141-38 Code, is amended to read as follows:

141-39 (3) "Charter school" means a public charter district  
 141-40 [~~an open-enrollment charter school~~] established under Chapter 11A  
 141-41 [~~Subchapter D, Chapter 12~~], Education Code.

141-42 SECTION 4.69. Section 140.005, Local Government Code, is  
 141-43 amended to read as follows:

141-44 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,  
 141-45 OR OTHER DISTRICT. The governing body of a school district, public  
 141-46 charter district [~~open-enrollment charter school~~], junior college  
 141-47 district, or a district or authority organized under Article III,  
 141-48 Section 52, or Article XVI, Section 59, of the Texas Constitution,  
 141-49 shall prepare an annual financial statement showing for each fund  
 141-50 subject to the authority of the governing body during the fiscal  
 141-51 year:

141-52 (1) the total receipts of the fund, itemized by source  
 141-53 of revenue, including taxes, assessments, service charges, grants  
 141-54 of state money, gifts, or other general sources from which funds are  
 141-55 derived;

141-56 (2) the total disbursements of the fund, itemized by  
 141-57 the nature of the expenditure; and

141-58 (3) the balance in the fund at the close of the fiscal  
 141-59 year.

141-60 SECTION 4.70. Subsection (c), Section 140.006, Local  
 141-61 Government Code, is amended to read as follows:

141-62 (c) The presiding officer of a school district shall submit  
 141-63 a financial statement prepared under Section 140.005 to a daily,  
 141-64 weekly, or biweekly newspaper published within the boundaries of  
 141-65 the district. If a daily, weekly, or biweekly newspaper is not  
 141-66 published within the boundaries of the school district, the  
 141-67 financial statement shall be published in the manner provided by  
 141-68 Subsections (a) and (b). The financial statement of a public  
 141-69 charter district [~~an open-enrollment charter school~~] shall be made

142-1 available in the manner provided by Chapter 552, Government Code.  
 142-2 SECTION 4.71. Subdivision (2), Section 375.303, Local  
 142-3 Government Code, is amended to read as follows:

142-4 (2) "Eligible project" means a program authorized by  
 142-5 Section 379A.051 and a project as defined by Sections 2(11) and  
 142-6 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,  
 142-7 Vernon's Texas Civil Statutes). Notwithstanding this definition,  
 142-8 seeking a charter for or operating a public charter district [~~an~~  
 142-9 ~~open-enrollment charter school~~] authorized by Chapter 11A  
 142-10 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an  
 142-11 eligible project.

142-12 SECTION 4.72. Subsections (b) and (c), Section 375.308,  
 142-13 Local Government Code, are amended to read as follows:

142-14 (b) An authority may not:

142-15 (1) issue bonds or notes without the prior approval of  
 142-16 the governing body of the municipality that created the authority;

142-17 (2) seek a charter for or operate, within the  
 142-18 boundaries of the authority, a public charter district [~~an~~  
 142-19 ~~open-enrollment charter school~~] authorized by Chapter 11A  
 142-20 [~~Subchapter D, Chapter 12~~], Education Code; or

142-21 (3) levy ad valorem property taxes.

142-22 (c) A municipality may not seek a charter for or operate a  
 142-23 public charter district [~~an open-enrollment charter school~~]  
 142-24 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education  
 142-25 Code, within the boundaries of the authority.

142-26 SECTION 4.73. Subdivision (15), Section 541.201,  
 142-27 Transportation Code, is amended to read as follows:

142-28 (15) "School activity bus" means a bus designed to  
 142-29 accommodate more than 15 passengers, including the operator, that  
 142-30 is owned, operated, rented, or leased by a school district, county  
 142-31 school, public charter district [~~open-enrollment charter school~~],  
 142-32 regional education service center, or shared services arrangement  
 142-33 and that is used to transport public school students on a  
 142-34 school-related activity trip, other than on routes to and from  
 142-35 school. The term does not include a chartered bus, a bus operated  
 142-36 by a mass transit authority, or a school bus.

142-37 SECTION 4.74. Subdivision (9), Section 57.042, Utilities  
 142-38 Code, is amended to read as follows:

142-39 (9) "Public school" means a public elementary or  
 142-40 secondary school, including a public charter district [~~an~~  
 142-41 ~~open-enrollment charter school~~], a home-rule school district  
 142-42 school, and a school with a campus or campus program charter.

142-43 SECTION 4.75. Subdivision (2), Section 4, Chapter 22, Acts  
 142-44 of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,  
 142-45 Vernon's Texas Civil Statutes), is amended to read as follows:

142-46 (2) "Educational institution" means a school district  
 142-47 or a public charter district [~~an open-enrollment charter school~~].

142-48 SECTION 4.76. The following laws are repealed:

142-49 (1) Section 12.106, Education Code; and

142-50 (2) Section 40, Chapter 1504, Acts of the 77th  
 142-51 Legislature, Regular Session, 2001.

142-52 SECTION 4.77. Notwithstanding the repeal of Sections 12.107  
 142-53 and 12.128, Education Code, by this Act, those sections continue to  
 142-54 apply to state funds and property received or purchased by an  
 142-55 open-enrollment charter school before September 1, 2006.

142-56 SECTION 4.78. The changes in law made by Sections 4.04  
 142-57 through 4.78 of this article apply beginning August 1, 2006, except  
 142-58 that Sections 4.11, 4.12, 4.59, and 4.77 apply beginning September  
 142-59 1, 2005.

## 142-60 ARTICLE 5. CONFORMING AMENDMENTS

### 142-61 PART A. CONFORMING AMENDMENTS EFFECTIVE

142-62 SEPTEMBER 1, 2005

142-63 SECTION 5A.01. Subsection (c), Section 22.004, Education  
 142-64 Code, is amended to read as follows:

142-65 (c) The cost of the coverage provided under the program  
 142-66 described by Subsection (a) shall be paid by the state, the  
 142-67 district, and the employees in the manner provided by Chapter 1579  
 142-68 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided  
 142-69 under a plan adopted under Subsection (b) shall be shared by the

143-1 employees and the district using the contributions by the state  
143-2 described by Subchapter F, Chapter 1579 [~~Section 9, Article~~  
143-3 ~~3.50-7~~], Insurance Code, or by Chapter 1580 [~~Article 3.50-8~~],  
143-4 Insurance Code.

143-5 SECTION 5A.02. Subsection (c), Section 822.201, Government  
143-6 Code, is amended to read as follows:

143-7 (c) Excluded from salary and wages are:

- 143-8 (1) expense payments;
- 143-9 (2) allowances;
- 143-10 (3) payments for unused vacation or sick leave;
- 143-11 (4) maintenance or other nonmonetary compensation;
- 143-12 (5) fringe benefits;
- 143-13 (6) deferred compensation other than as provided by  
143-14 Subsection (b)(3);

143-15 (7) compensation that is not made pursuant to a valid  
143-16 employment agreement;

143-17 (8) payments received by an employee in a school year  
143-18 that exceed \$5,000 for teaching a driver education and traffic  
143-19 safety course that is conducted outside regular classroom hours;

143-20 (9) the benefit replacement pay a person earns as a  
143-21 result of a payment made under Subchapter B or C, Chapter 661;

143-22 (10) compensation designated [~~contributions to a~~  
143-23 ~~health reimbursement arrangement account received~~] by an employee  
143-24 as health care supplementation under Chapter 1580 [~~Article 3.50-8~~],  
143-25 Insurance Code, subject to the following limits:

143-26 (A) \$1,000, for an employee entitled to the  
143-27 minimum salary under Section 21.402, Education Code;

143-28 (B) \$1,000, for a full-time support staff  
143-29 employee entitled to a wage increase under Section 22.008(a),  
143-30 Education Code; and

143-31 (C) \$500, for a part-time support staff employee  
143-32 entitled to a wage increase under Section 22.008(b), Education  
143-33 Code; and

143-34 (11) any compensation not described by Subsection (b).

143-35 SECTION 5A.03. This part applies beginning with the  
143-36 2005-2006 school year.

143-37 PART B. CONFORMING AMENDMENTS

143-38 RELATED TO EDUCATION FUNDING AND EQUALIZATION

143-39 SECTION 5B.01. Subdivision (34), Subsection (b), Section  
143-40 7.055, Education Code, is amended to read as follows:

143-41 (34) The commissioner shall perform duties in  
143-42 connection with equalization actions [~~the equalized wealth level~~]  
143-43 under Chapter 41.

143-44 SECTION 5B.02. Subsection (b), Section 12.013, Education  
143-45 Code, is amended to read as follows:

143-46 (b) A home-rule school district is subject to:

143-47 (1) a provision of this title establishing a criminal  
143-48 offense;

143-49 (2) a provision of this title relating to limitations  
143-50 on liability; and

143-51 (3) a prohibition, restriction, or requirement, as  
143-52 applicable, imposed by this title or a rule adopted under this  
143-53 title, relating to:

143-54 (A) the Public Education Information Management  
143-55 System (PEIMS) to the extent necessary to monitor compliance with  
143-56 this subchapter as determined by the commissioner;

143-57 (B) educator certification under Chapter 21 and  
143-58 educator rights under Sections 21.407, 21.408, and 22.001;

143-59 (C) criminal history records under Subchapter C,  
143-60 Chapter 22;

143-61 (D) student admissions under Section 25.001;

143-62 (E) school attendance under Sections 25.085,  
143-63 25.086, and 25.087;

143-64 (F) inter-district or inter-county transfers of  
143-65 students under Subchapter B, Chapter 25;

143-66 (G) elementary class size limits under Section  
143-67 25.112, in the case of any campus in the district that is considered  
143-68 academically unacceptable [~~low-performing~~] under Section 39.132;

143-69 (H) high school graduation under Section 28.025;

- 144-1 (I) special education programs under Subchapter  
 144-2 A, Chapter 29;  
 144-3 (J) bilingual education under Subchapter B,  
 144-4 Chapter 29;  
 144-5 (K) prekindergarten programs under Subchapter E,  
 144-6 Chapter 29;  
 144-7 (L) safety provisions relating to the  
 144-8 transportation of students under Sections 34.002, 34.003, 34.004,  
 144-9 and 34.008;  
 144-10 (M) computation and distribution of state aid  
 144-11 under Chapters 31, 42, and 43;  
 144-12 (N) extracurricular activities under Section  
 144-13 33.081;  
 144-14 (O) health and safety under Chapter 38;  
 144-15 (P) public school accountability under  
 144-16 Subchapters B, C, D, and G, Chapter 39;  
 144-17 (Q) equalization [~~equalized wealth~~] under  
 144-18 Section 42.401 [~~Chapter 41~~];  
 144-19 (R) a bond or other obligation or tax rate under  
 144-20 Chapters 42, 43, and 45; and  
 144-21 (S) purchasing under Chapter 44.

144-22 SECTION 5B.03. Subsection (h), Section 21.410, Education  
 144-23 Code, is amended to read as follows:

144-24 (h) A grant a school district receives under this section is  
 144-25 in addition to any funding the district receives under Chapter 42.  
 144-26 The commissioner shall distribute funds under this section with the  
 144-27 Foundation School Program payment to which the district is entitled  
 144-28 as soon as practicable after the end of the school year as  
 144-29 determined by the commissioner. A district to which Section 42.401  
 144-30 [~~Chapter 41~~] applies is entitled to the grants paid under this  
 144-31 section. The commissioner shall determine the timing of the  
 144-32 distribution of grants to a district that does not receive  
 144-33 Foundation School Program payments.

144-34 SECTION 5B.04. Subsection (h), Section 21.411, Education  
 144-35 Code, is amended to read as follows:

144-36 (h) A grant a school district receives under this section is  
 144-37 in addition to any funding the district receives under Chapter 42.  
 144-38 The commissioner shall distribute funds under this section with the  
 144-39 Foundation School Program payment to which the district is entitled  
 144-40 as soon as practicable after the end of the school year as  
 144-41 determined by the commissioner. A district to which Section 42.401  
 144-42 [~~Chapter 41~~] applies is entitled to the grants paid under this  
 144-43 section. The commissioner shall determine the timing of the  
 144-44 distribution of grants to a district that does not receive  
 144-45 Foundation School Program payments.

144-46 SECTION 5B.05. Subsection (h), Section 21.412, Education  
 144-47 Code, is amended to read as follows:

144-48 (h) A grant a school district receives under this section is  
 144-49 in addition to any funding the district receives under Chapter 42.  
 144-50 The commissioner shall distribute funds under this section with the  
 144-51 Foundation School Program payment to which the district is entitled  
 144-52 as soon as practicable after the end of the school year as  
 144-53 determined by the commissioner. A district to which Section 42.401  
 144-54 [~~Chapter 41~~] applies is entitled to the grants paid under this  
 144-55 section. The commissioner shall determine the timing of the  
 144-56 distribution of grants to a district that does not receive  
 144-57 Foundation School Program payments.

144-58 SECTION 5B.06. Subsection (h), Section 21.413, Education  
 144-59 Code, as added by Section 2, Chapter 430, Acts of the 78th  
 144-60 Legislature, Regular Session, 2003, is amended to read as follows:

144-61 (h) A grant a school district receives under this section is  
 144-62 in addition to any funding the district receives under Chapter 42.  
 144-63 The commissioner shall distribute funds under this section with the  
 144-64 Foundation School Program payment to which the district is entitled  
 144-65 as soon as practicable after the end of the school year as  
 144-66 determined by the commissioner. A district to which Section 42.401  
 144-67 [~~Chapter 41~~] applies is entitled to the grants paid under this  
 144-68 section. The commissioner shall determine the timing of the  
 144-69 distribution of grants to a district that does not receive



145-1 Foundation School Program payments.

145-2 SECTION 5B.07. Subsection (b), Section 21.453, Education  
145-3 Code, is amended to read as follows:

145-4 (b) The commissioner may allocate funds from the account to  
145-5 regional education service centers to provide staff development  
145-6 resources to school districts that:

145-7 (1) are rated academically unacceptable;  
145-8 (2) have one or more campuses rated academically  
145-9 unacceptable [~~as low-performing~~]; or

145-10 (3) are otherwise in need of assistance as indicated  
145-11 by the academic performance of students, as determined by the  
145-12 commissioner.

145-13 SECTION 5B.08. Subsection (d), Section 29.014, Education  
145-14 Code, is amended to read as follows:

145-15 (d) The accreditation [~~basic~~] allotment for a student  
145-16 enrolled in a district to which this section applies is adjusted by:

145-17 (1) the cost of education adjustment under Section  
145-18 42.102 for the school district in which the district is  
145-19 geographically located; and

145-20 (2) the weight for a homebound student under Section  
145-21 42.151(a).

145-22 SECTION 5B.09. Subsection (j), Section 29.087, Education  
145-23 Code, is amended to read as follows:

145-24 (j) For purposes of funding under Chapters [~~41~~], 42[~~7~~] and  
145-25 46, a student attending a program authorized by this section may be  
145-26 counted in attendance only for the actual number of hours each  
145-27 school day the student attends the program, in accordance with  
145-28 Sections 25.081 and 25.082.

145-29 SECTION 5B.10. Subsection (a), Section 29.202, Education  
145-30 Code, is amended to read as follows:

145-31 (a) A student is eligible to receive a public education  
145-32 grant or to attend another public school in the district in which  
145-33 the student resides under this subchapter if the student is  
145-34 assigned to attend a public school campus:

145-35 (1) at which 50 percent or more of the students did not  
145-36 perform satisfactorily on an assessment instrument administered  
145-37 under Section 39.023(a) or (c) in any two of the preceding three  
145-38 years; or

145-39 (2) that was, at any time in the preceding three years,  
145-40 considered academically unacceptable [~~low-performing~~] under  
145-41 Section 39.132.

145-42 SECTION 5B.11. Subsection (b), Section 29.203, Education  
145-43 Code, is amended to read as follows:

145-44 (b) A school district is entitled to the allotment provided  
145-45 by Section 42.157 for each eligible student using a public  
145-46 education grant. [~~If the district has a wealth per student greater  
145-47 than the guaranteed wealth level but less than the equalized wealth  
145-48 level, a school district is entitled under rules adopted by the  
145-49 commissioner to additional state aid in an amount equal to the  
145-50 difference between the cost to the district of providing services  
145-51 to a student using a public education grant and the sum of the state  
145-52 aid received because of the allotment under Section 42.157 and  
145-53 money from the available school fund attributable to the student.]~~

145-54 SECTION 5B.12. Section 30.003, Education Code, is amended  
145-55 by adding Subsection (f-1) to read as follows:

145-56 (f-1) The commissioner shall determine the total amount  
145-57 that the Texas School for the Blind and Visually Impaired and the  
145-58 Texas School for the Deaf would have received from school districts  
145-59 pursuant to this section if S.B. No. 2, Acts of the 79th  
145-60 Legislature, 2nd Called Session, 2005, had not reduced the  
145-61 districts' share of the cost of providing education services. That  
145-62 amount, minus any amount the schools do receive from school  
145-63 districts, shall be set apart as a separate account in the  
145-64 foundation school fund and appropriated to those schools for  
145-65 educational purposes.

145-66 SECTION 5B.13. Section 37.0061, Education Code, is amended  
145-67 to read as follows:

145-68 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
145-69 JUVENILE RESIDENTIAL FACILITIES. A school district that provides

146-1 education services to pre-adjudicated and post-adjudicated  
 146-2 students who are confined by court order in a juvenile residential  
 146-3 facility operated by a juvenile board is entitled to count such  
 146-4 students in the district's average daily attendance for purposes of  
 146-5 receipt of state funds under the Foundation School Program. [~~If the~~  
 146-6 ~~district has a wealth per student greater than the guaranteed~~  
 146-7 ~~wealth level but less than the equalized wealth level, the district~~  
 146-8 ~~in which the student is enrolled on the date a court orders the~~  
 146-9 ~~student to be confined to a juvenile residential facility shall~~  
 146-10 ~~transfer to the district providing education services an amount~~  
 146-11 ~~equal to the difference between the average Foundation School~~  
 146-12 ~~Program costs per student of the district providing education~~  
 146-13 ~~services and the sum of the state aid and the money from the~~  
 146-14 ~~available school fund received by the district that is attributable~~  
 146-15 ~~to the student for the portion of the school year for which the~~  
 146-16 ~~district provides education services to the student.]~~

146-17 SECTION 5B.14. Section 87.208, Education Code, is amended  
 146-18 to read as follows:

146-19 Sec. 87.208. SEABORNE CONSERVATION CORPS. If the board of  
 146-20 regents of The Texas A&M University System administers a program  
 146-21 that is substantially similar to the Seaborne Conservation Corps as  
 146-22 it was administered by the board during the 1998-1999 school year,  
 146-23 the program is entitled, for each student enrolled, to allotments  
 146-24 from the Foundation School Program under Chapter 42 as if the  
 146-25 program were a school district, except that:

146-26 (1) the program has a local share applied that is  
 146-27 equivalent to the local fund assignment of the school district in  
 146-28 which the principal facilities of the program are located; and

146-29 (2) the district enrichment tax rate under Section  
 146-30 42.302 is the average district enrichment tax rate for the state.

146-31 SECTION 5B.15. Subsection (k), Section 96.707, Education  
 146-32 Code, is amended to read as follows:

146-33 (k) For each student enrolled in the academy, the academy is  
 146-34 entitled to allotments from the Foundation School Program under  
 146-35 Chapter 42 as if the academy were a school district, except that:

146-36 (1) the academy has a local share applied that is  
 146-37 equivalent to the local fund assignment of the Beaumont Independent  
 146-38 School District; and

146-39 (2) the district enrichment tax rate under Section  
 146-40 42.302 is the average district enrichment tax rate for the state.

146-41 SECTION 5B.16. Subsection (e), Section 105.301, Education  
 146-42 Code, is amended to read as follows:

146-43 (e) The academy is not subject to the provisions of this  
 146-44 code, or to the rules of the Texas Education Agency, regulating  
 146-45 public schools, except that:

146-46 (1) professional employees of the academy are entitled  
 146-47 to the limited liability of an employee under Section 22.0511,  
 146-48 22.0512, or 22.052;

146-49 (2) a student's attendance at the academy satisfies  
 146-50 compulsory school attendance requirements; ~~and~~

146-51 (3) for each student enrolled, the academy is entitled  
 146-52 to allotments from the foundation school program under Chapter 42  
 146-53 as if the academy were a school district without a basic program  
 146-54 [tier one] local share for purposes of Section 42.253; and

146-55 (4) in determining funding for the academy:

146-56 (A) the adjustment under Section 42.102 is the  
 146-57 adjustment of the school district in which the principal facilities  
 146-58 of the academy are located; and

146-59 (B) the district enrichment tax rate under  
 146-60 Section 42.302 is the average district enrichment tax rate for the  
 146-61 state.

146-62 SECTION 5B.17. Subsection (f), Section 317.005, Government  
 146-63 Code, is amended to read as follows:

146-64 (f) The governor or board may adopt an order under this  
 146-65 section withholding or transferring any portion of the total amount  
 146-66 appropriated to finance the foundation school program for a fiscal  
 146-67 year. The governor or board may not adopt such an order if it would  
 146-68 result in an allocation of money between particular programs or  
 146-69 statutory allotments under the foundation school program contrary

147-1 to the statutory proration formula provided by Section 42.253(h),  
 147-2 Education Code. The governor or board may transfer an amount to the  
 147-3 total amount appropriated to finance the foundation school program  
 147-4 for a fiscal year and may increase the accreditation [~~basic~~]  
 147-5 allotment. The governor or board may adjust allocations of amounts  
 147-6 between particular programs or statutory allotments under the  
 147-7 foundation school program only for the purpose of conforming the  
 147-8 allocations to actual pupil enrollments or attendance.

147-9 SECTION 5B.18. Subsection (c), Section 2175.304,  
 147-10 Government Code, is amended to read as follows:

147-11 (c) The procedures established under Subsection (b) must  
 147-12 give preference to transferring the property directly to a public  
 147-13 school or school district or to an assistance organization  
 147-14 designated by the school district before disposing of the property  
 147-15 in another manner. If more than one public school or school  
 147-16 district or assistance organization seeks to acquire the same  
 147-17 property on substantially the same terms, the system, institution,  
 147-18 or agency shall give preference to a public school that is  
 147-19 considered academically unacceptable under Section 39.132,  
 147-20 Education Code, [~~low-performing by the commissioner of education~~]  
 147-21 or to a school district that has a relatively low [~~taxable~~]  
 147-22 wealth per student, as determined by the commissioner of education [~~that~~  
 147-23 ~~entitles the district to an allotment of state funds under~~  
 147-24 ~~Subchapter F, Chapter 42, Education Code~~], or to the assistance  
 147-25 organization designated by such a school district.

147-26 SECTION 5B.19. Subsection (a), Section 1579.251, Insurance  
 147-27 Code, is amended to read as follows:

147-28 (a) The state shall assist employees of participating  
 147-29 school districts and charter schools in the purchase of group  
 147-30 health coverage under this chapter by providing for each covered  
 147-31 employee the amount of \$900 each state fiscal year or a greater  
 147-32 amount as provided by the General Appropriations Act. The state  
 147-33 contribution shall be distributed through the school finance  
 147-34 formulas under Chapter [~~Chapters 41 and~~] 42, Education Code, in a  
 147-35 manner the commissioner of education determines appropriate [~~and~~  
 147-36 ~~used by school districts and charter schools as provided by~~  
 147-37 ~~Sections 42.2514 and 42.260, Education Code~~].

147-38 SECTION 5B.20. Subsection (c), Section 302.006, Labor Code,  
 147-39 is amended to read as follows:

147-40 (c) To be eligible to receive a scholarship awarded under  
 147-41 this section, a person must:

147-42 (1) be employed in a child-care facility, as defined  
 147-43 by Section 42.002, Human Resources Code;

147-44 (2) intend to obtain a credential, certificate, or  
 147-45 degree specified in Subsection (b);

147-46 (3) agree to work for at least 18 additional months in  
 147-47 a child-care facility, as defined by Section 42.002, Human  
 147-48 Resources Code, that accepts federal Child Care Development Fund  
 147-49 subsidies and that, at the time the person begins to fulfill the  
 147-50 work requirement imposed by this subdivision, is located:

147-51 (A) within the attendance zone of a public school  
 147-52 campus considered academically unacceptable [~~low-performing~~] under  
 147-53 Section 39.132, Education Code; or

147-54 (B) in an economically disadvantaged community,  
 147-55 as determined by the commission; and

147-56 (4) satisfy any other requirements adopted by the  
 147-57 commission.

147-58 SECTION 5B.21. Subsection (b), Section 6.02, Tax Code, is  
 147-59 amended to read as follows:

147-60 (b) A taxing unit that has boundaries extending into two or  
 147-61 more counties may choose to participate in only one of the appraisal  
 147-62 districts. In that event, the boundaries of the district chosen  
 147-63 extend outside the county to the extent of the unit's boundaries.  
 147-64 To be effective, the choice must be approved by resolution of the  
 147-65 board of directors of the district chosen. [~~The choice of a school~~  
 147-66 ~~district to participate in a single appraisal district does not~~  
 147-67 ~~apply to property annexed to the school district under Subchapter C~~  
 147-68 ~~or G, Chapter 41, Education Code, unless:~~

147-69 [~~(1) the school district taxes property other than~~

148-1 ~~property annexed to the district under Subchapter C or G, Chapter~~  
 148-2 ~~41, Education Code, in the same county as the annexed property, or~~  
 148-3 ~~[(2) the annexed property is contiguous to property in~~  
 148-4 ~~the school district other than property annexed to the district~~  
 148-5 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

148-6 SECTION 5B.22. Subsection (a), Section 21.02, Tax Code, is  
 148-7 amended to read as follows:

148-8 (a) Except as provided by ~~[Subsection (b) and]~~ Sections  
 148-9 21.021, 21.04, and 21.05, tangible personal property is taxable by  
 148-10 a taxing unit if:

148-11 (1) it is located in the unit on January 1 for more  
 148-12 than a temporary period;

148-13 (2) it normally is located in the unit, even though it  
 148-14 is outside the unit on January 1, if it is outside the unit only  
 148-15 temporarily;

148-16 (3) it normally is returned to the unit between uses  
 148-17 elsewhere and is not located in any one place for more than a  
 148-18 temporary period; or

148-19 (4) the owner resides (for property not used for  
 148-20 business purposes) or maintains the owner's ~~[his]~~ principal place  
 148-21 of business in this state (for property used for business purposes)  
 148-22 in the unit and the property is taxable in this state but does not  
 148-23 have a taxable situs pursuant to Subdivisions (1) through (3) ~~[of~~  
 148-24 ~~this section]~~.

148-25 SECTION 5B.23. Subsection (d), Section 39.901, Utilities  
 148-26 Code, is amended to read as follows:

148-27 (d) Not later than May 1 of each year, subject to Section  
 148-28 39.903(b), the commission shall transfer from the system benefit  
 148-29 fund to the foundation school fund the amount determined by the  
 148-30 Texas Education Agency under Subsection (b) to the extent that  
 148-31 funds are available. Amounts transferred from the system benefit  
 148-32 fund under this section may be appropriated only for the support of  
 148-33 the Foundation School Program and are available, in addition to any  
 148-34 amounts allocated by the General Appropriations Act, to finance  
 148-35 actions under Section ~~[41.002(b) or]~~ 42.2521, Education Code.

148-36 SECTION 5B.24. This part applies beginning with the  
 148-37 2006-2007 school year.

#### 148-38 ARTICLE 6. PROPERTY TAX COLLECTIONS

148-39 SECTION 6.01. Subsection (a), Section 31.05, Tax Code, is  
 148-40 amended to read as follows:

148-41 (a) The governing body of a taxing unit ~~[that collects its~~  
 148-42 ~~own taxes]~~ may adopt the discounts provided by Subsection (b) or  
 148-43 Subsection (c) ~~[of this section]~~, or both, in the manner required by  
 148-44 law for official action by the body. The discounts, if adopted,  
 148-45 apply only to that taxing unit's taxes ~~[for a taxing unit for which~~  
 148-46 ~~the adopting taxing unit collects taxes if the governing body of the~~  
 148-47 ~~other unit, in the manner required by law for official action by the~~  
 148-48 ~~body, adopts the discounts or approves of their application to its~~  
 148-49 ~~taxes by the collecting unit]~~. If a taxing unit adopts both  
 148-50 discounts under Subsections (b) and (c) ~~[of this section]~~, the  
 148-51 discounts adopted under Subsection (b) apply unless the ~~[unit mails~~  
 148-52 ~~its]~~ tax bills for the unit are mailed after September 30, in which  
 148-53 case only the discounts under Subsection (c) apply. A taxing unit  
 148-54 that collects taxes for another taxing unit that adopts the  
 148-55 discounts may prepare and mail separate tax bills on behalf of the  
 148-56 adopting taxing unit and may charge an additional fee for preparing  
 148-57 and mailing the separate tax bills and for collecting the taxes  
 148-58 imposed by the adopting taxing unit. If under an intergovernmental  
 148-59 contract a county assessor-collector collects taxes for a taxing  
 148-60 unit that adopts the discounts, the county assessor-collector may  
 148-61 terminate the contract if the county has adopted a discount policy  
 148-62 that is different from the discount policy adopted by the adopting  
 148-63 taxing unit.

148-64 SECTION 6.02. (a) Section 31.05, Tax Code, as amended by  
 148-65 this article, applies to the adoption of a discount by a taxing unit  
 148-66 beginning with the 2005 tax year, except as provided by Subsection  
 148-67 (b) of this section.

148-68 (b) If a taxing unit's tax bills for the 2005 tax year are  
 148-69 mailed before the effective date of this article, Section 31.05,

149-1 Tax Code, as amended by this article, applies to the adoption of a  
 149-2 discount by the taxing unit beginning with the 2006 tax year, and  
 149-3 the law in effect when the tax bills were mailed applies to the 2005  
 149-4 tax year with respect to that taxing unit.

149-5 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;  
 149-6 TRANSFER OF POWERS AND DUTIES

149-7 SECTION 7.01. Subsection (a), Section 21.0031, Education  
 149-8 Code, is amended to read as follows:

149-9 (a) An employee's probationary, continuing, or term  
 149-10 contract under this chapter is void if the employee:

149-11 (1) does not hold a certificate or permit issued under  
 149-12 Subchapter B [~~by the State Board for Educator Certification~~]; or

149-13 (2) fails to fulfill the requirements necessary to  
 149-14 extend the employee's temporary or emergency certificate or permit.

149-15 SECTION 7.02. Subsections (a) through (e), Section 21.004,  
 149-16 Education Code, are amended to read as follows:

149-17 (a) To the extent that funds are available, the agency [~~the~~  
 149-18 ~~State Board for Educator Certification,~~] and the Texas Higher  
 149-19 Education Coordinating Board shall develop and implement programs  
 149-20 to identify talented students and recruit those students and  
 149-21 persons, including high school and undergraduate students,  
 149-22 mid-career and retired professionals, honorably discharged and  
 149-23 retired military personnel, and members of underrepresented gender  
 149-24 and ethnic groups, into the teaching profession.

149-25 (b) From available funds, the agency [~~the State Board for~~  
 149-26 ~~Educator Certification,~~] and the Texas Higher Education  
 149-27 Coordinating Board shall develop and distribute materials that  
 149-28 emphasize the importance of the teaching profession and inform  
 149-29 individuals about state-funded loan forgiveness and tuition  
 149-30 assistance programs.

149-31 (c) The commissioner, in cooperation with the commissioner  
 149-32 of higher education [~~and the executive director of the State Board~~  
 149-33 ~~for Educator Certification,~~] shall annually identify the need for  
 149-34 teachers in specific subject areas and geographic regions and among  
 149-35 underrepresented groups. The commissioner shall give priority to  
 149-36 developing and implementing recruitment programs to address those  
 149-37 needs from the agency's discretionary funds.

149-38 (d) The agency [~~the State Board for Educator~~  
 149-39 ~~Certification,~~] and the Texas Higher Education Coordinating Board  
 149-40 shall encourage the business community to cooperate with local  
 149-41 schools to develop recruiting programs designed to attract and  
 149-42 retain capable teachers, including programs to provide summer  
 149-43 employment opportunities for teachers.

149-44 (e) The agency [~~the State Board for Educator~~  
 149-45 ~~Certification,~~] and the Texas Higher Education Coordinating Board  
 149-46 shall encourage major education associations to cooperate in  
 149-47 developing a long-range program promoting teaching as a career and  
 149-48 to assist in identifying local activities and resources that may be  
 149-49 used to promote the teaching profession.

149-50 SECTION 7.03. Section 21.006, Education Code, is amended by  
 149-51 amending Subsections (a), (b), (c), (e), (f), and (g) and adding  
 149-52 Subsection (h) to read as follows:

149-53 (a) In this section:

149-54 (1) "Abuse" [~~"abuse"~~] has the meaning assigned by  
 149-55 Section 261.001, Family Code, and includes any sexual conduct  
 149-56 involving an educator and a student or minor.

149-57 (2) "Board" means the Educators' Professional  
 149-58 Practices Board.

149-59 (b) In addition to the reporting requirement under Section  
 149-60 261.101, Family Code, the superintendent or director of a school  
 149-61 district, regional education service center, or shared services  
 149-62 arrangement shall notify the commissioner [~~State Board for Educator~~  
 149-63 ~~Certification~~] if the superintendent or director has reasonable  
 149-64 cause to believe that:

149-65 (1) an educator employed by or seeking employment by  
 149-66 the district, service center, or shared services arrangement has a  
 149-67 criminal record;

149-68 (2) an educator's employment at the district, service  
 149-69 center, or shared services arrangement was terminated based on a

determination that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq. ~~and its subsequent amendments~~;

(C) illegally transferred, appropriated, or expended funds or other property of the district, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or

(3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to terminate the educator based on a determination that the educator engaged in misconduct described by Subdivision (2).

(c) The superintendent or director must notify the commissioner ~~[State Board for Educator Certification]~~ by filing a report with the commissioner ~~[board]~~ not later than the seventh day after the date the superintendent or director first learns about an alleged incident of misconduct described by Subsection (b). The report must be:

(1) in writing; and

(2) in a form prescribed by the board.

(e) A superintendent or director who in good faith and while acting in an official capacity files a report with the commissioner ~~[State Board for Educator Certification]~~ under this section is immune from civil or criminal liability that might otherwise be incurred or imposed.

(f) The board, acting on a recommendation of the commissioner, [State Board for Educator Certification] shall determine whether to impose sanctions against a superintendent or director who fails to file a report in violation of Subsection (c).

(g) The commissioner [State Board for Educator Certification] shall propose rules as necessary to implement this section.

(h) The commissioner shall forward a report received under this section to the board for use as the commissioner determines appropriate in the execution of the board's duties.

SECTION 7.035. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.007 to read as follows:

Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner shall determine whether to recommend a sanction against an educator to the board under this chapter. The board shall make a final determination regarding the imposition of a sanction under this chapter.

SECTION 7.04. Sections 21.031 and 21.032, Education Code, are amended to read as follows:

Sec. 21.031. PURPOSE. (a) The Educators' Professional Practices [State] Board [for Educator Certification] is established in the agency to [recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall] regulate and oversee [all aspects of] the [certification, continuing education, and] standards of conduct of public school educators.

(b) The commissioner shall adopt rules governing the certification of educators and continuing education for educators. In adopting [In proposing] rules under this subchapter, the commissioner [board] shall ensure that all candidates for certification or renewal of certification demonstrate the knowledge and skills necessary to improve the performance of the diverse student population of this state.

Sec. 21.032. DEFINITION. In this subchapter, "board" means the Educators' Professional Practices [State] Board [for Educator Certification].

151-1 SECTION 7.05. The heading to Section 21.033, Education  
151-2 Code, is amended to read as follows:

151-3 Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [STATE]  
151-4 BOARD [FOR EDUCATOR CERTIFICATION].

151-5 SECTION 7.06. Section 21.033, Education Code, is amended by  
151-6 amending Subsection (a) and adding Subsections (a-1), (d), (e), and  
151-7 (f) to read as follows:

151-8 (a) The board [State Board for Educator Certification] is  
151-9 composed of 11 [14] members~~[- The commissioner of education shall~~  
151-10 ~~appoint an employee of the agency to represent the commissioner as a~~  
151-11 ~~nonvoting member. The commissioner of higher education shall~~  
151-12 ~~appoint an employee of the Texas Higher Education Coordinating~~  
151-13 ~~Board to represent the commissioner as a nonvoting member. The~~  
151-14 ~~governor shall appoint a dean of a college of education in this~~  
151-15 ~~state as a nonvoting member. The remaining 11 members are]~~  
151-16 appointed by the commissioner [governor with the advice and consent  
151-17 of the senate,] as follows:

151-18 (1) six [four] members must be classroom teachers,  
151-19 appointed as provided by Subsection (a-1) [employed in public  
151-20 schools];

151-21 (2) not more than two members of the board may [must]  
151-22 be [public] school administrators; and

151-23 (3) a number of other members consistent with this  
151-24 subsection who the commissioner determines are qualified [one  
151-25 member must be a public school counselor; and

151-26 ~~[(4) four members must be citizens, three of whom are~~  
151-27 ~~not and have not, in the five years preceding appointment, been~~  
151-28 ~~employed by a public school district or by an educator preparation~~  
151-29 ~~program in an institution of higher education and one of whom is not~~  
151-30 ~~and has not been employed by a public school district or by an~~  
151-31 ~~educator preparation program in an institution of higher~~  
151-32 ~~education].~~

151-33 (a-1) In appointing a board member under Subsection (a)(1),  
151-34 the commissioner shall request a list of qualified candidates from  
151-35 each of the four statewide professional educator associations in  
151-36 this state with the largest membership of classroom teachers and  
151-37 shall make appointments from the candidates listed. Not later than  
151-38 the 30th day after the date on which the association receives notice  
151-39 of the commissioner's request for candidate nominations, the  
151-40 association shall submit a list of six candidates for membership on  
151-41 the board. If the commissioner does not receive nominations for at  
151-42 least 12 candidates the commissioner may appoint classroom teachers  
151-43 not nominated by an association.

151-44 (d) The commissioner shall designate a member of the board  
151-45 as the presiding officer of the board to serve in that capacity at  
151-46 the pleasure of the commissioner.

151-47 (e) The agency shall provide administrative services for  
151-48 the board as necessary.

151-49 (f) A reference in law to the State Board for Educator  
151-50 Certification means the Educators' Professional Practices Board.

151-51 SECTION 7.07. Section 21.034, Education Code, is amended to  
151-52 read as follows:

151-53 Sec. 21.034. TERMS; VACANCY. (a) The board members  
151-54 ~~[appointed by the governor]~~ hold office for staggered terms of six  
151-55 years with the terms of one-third, or as near to one-third as  
151-56 possible, of the members expiring on February 1 of each  
151-57 odd-numbered year. ~~[A member appointed by the commissioner of~~  
151-58 ~~education or the commissioner of higher education serves at the~~  
151-59 ~~will of the appointing commissioner.]~~

151-60 (b) In the event of a vacancy during a term of a member  
151-61 ~~[appointed by the governor],~~ the commissioner [governor] shall  
151-62 appoint a replacement who meets the qualifications of the vacated  
151-63 office to fill the unexpired portion of the term.

151-64 (c) A vacancy arises if a member ~~[appointed by the governor]~~  
151-65 no longer qualifies for the office to which the member was  
151-66 appointed, as determined by the commissioner.

151-67 SECTION 7.075. Subsection (a), Section 21.035, Education  
151-68 Code, is amended to read as follows:

151-69 ~~[(a)]~~ The board is subject to Chapter 325, Government Code

152-1 (Texas Sunset Act). Unless continued in existence as provided by  
 152-2 that chapter, the board is abolished and this subchapter expires on  
 152-3 the date prescribed by Section 7.004 for abolishment of the agency  
 152-4 [September 1, 2005].

152-5 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is  
 152-6 amended by adding Section 21.0391 to read as follows:

152-7 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner  
 152-8 shall appoint an advisory committee composed of holders of each  
 152-9 class of educator certificate and stakeholders as required under  
 152-10 Chapter 2008, Government Code.

152-11 (b) The advisory committee shall recommend educator  
 152-12 certification standards and educator preparation program standards  
 152-13 under Sections 21.044 and 21.045, and propose related rules to the  
 152-14 commissioner through negotiated rulemaking under Chapter 2008,  
 152-15 Government Code. For purposes of that chapter, the advisory  
 152-16 committee is considered to be the negotiated rulemaking committee  
 152-17 described by Section 2008.054.

152-18 (c) The commissioner may not finally adopt or amend a rule  
 152-19 subject to this section unless the State Board of Education has  
 152-20 failed to reject the rule or amendment by an affirmative vote of  
 152-21 two-thirds of its members. A vote under this subsection may be  
 152-22 conducted by mail ballot, provided that the State Board of  
 152-23 Education has at least 30 days' written notice of the proposed final  
 152-24 rule adoption.

152-25 (d) Members of the advisory committee serve at the will of  
 152-26 the commissioner.

152-27 SECTION 7.09. Sections 21.041, 21.044, and 21.045,  
 152-28 Education Code, are amended to read as follows:

152-29 Sec. 21.041. RULES; FEES. (a) The board may adopt rules as  
 152-30 necessary for its own procedures.

152-31 (a-1) The board shall adopt rules that provide for the  
 152-32 adoption and amendment of an educator's code of ethics.

152-33 (b) The commissioner [board] shall adopt [~~propose~~] rules  
 152-34 that:

152-35 (1) provide for the issuance and renewal of educator  
 152-36 certificates [~~regulation of educators and the general~~  
 152-37 administration of this subchapter] in a manner consistent with this  
 152-38 subchapter;

152-39 (2) specify the classes of educator certificates to be  
 152-40 issued, including emergency certificates;

152-41 (3) specify the period for which each class of  
 152-42 educator certificate is valid;

152-43 (4) specify the requirements for the issuance and  
 152-44 renewal of an educator certificate;

152-45 (5) provide for the issuance of an educator  
 152-46 certificate to a person who holds a similar certificate issued by  
 152-47 another state or foreign country, subject to Section 21.052;

152-48 (6) provide for special or restricted certification of  
 152-49 educators, including certification of instructors of American Sign  
 152-50 Language;

152-51 (7) provide for disciplinary proceedings, including  
 152-52 the suspension or revocation of an educator certificate, as  
 152-53 provided by Chapter 2001, Government Code;

152-54 (8) [~~provide for the adoption, amendment, and~~  
 152-55 ~~enforcement of an educator's code of ethics,~~

152-56 [~~(9)~~] provide for continuing education requirements;  
 152-57 [and]

152-58 (9) [~~(10)~~] provide for certification of persons  
 152-59 performing appraisals under Subchapter H; and

152-60 (10) provide for the regulation of educators in a  
 152-61 manner consistent with this subchapter.

152-62 (c) The commissioner by rule [board] shall set [~~propose a~~  
 152-63 rule adopting] a fee for the issuance and maintenance of an educator  
 152-64 certificate that is adequate to cover the cost of administration of  
 152-65 this subchapter, including costs related to the operation of the  
 152-66 board.

152-67 Sec. 21.044. EDUCATOR PREPARATION. The commissioner  
 152-68 [board] shall adopt [~~propose~~] rules establishing the training  
 152-69 requirements a person must accomplish to obtain a certificate,



153-1 enter an internship, or enter an induction-year program. The  
 153-2 commissioner [~~board~~] shall specify the minimum academic  
 153-3 qualifications required for a certificate.

153-4 Sec. 21.045. ACCOUNTABILITY SYSTEM FOR EDUCATOR  
 153-5 PREPARATION PROGRAMS. (a) The commissioner [~~board~~] shall adopt  
 153-6 [~~propose~~] rules establishing standards to govern the approval and  
 153-7 continuing accountability of all educator preparation programs  
 153-8 based on information that is disaggregated with respect to sex and  
 153-9 ethnicity and that includes:

153-10 (1) results of the certification examinations  
 153-11 prescribed under Section 21.048(a); and

153-12 (2) performance based on the appraisal system for  
 153-13 beginning teachers adopted by the commissioner [~~board~~].

153-14 (b) Each educator preparation program shall submit data  
 153-15 elements as required by the commissioner [~~board~~] for an annual  
 153-16 performance report to ensure access and equity. At a minimum, the  
 153-17 annual report must contain the performance data from Subsection (a)  
 153-18 and the following information, disaggregated by sex and ethnicity:

153-19 (1) the number of candidates who apply;

153-20 (2) the number of candidates admitted;

153-21 (3) the number of candidates retained;

153-22 (4) the number of candidates completing the program;

153-23 (5) the number of candidates employed in the  
 153-24 profession after completing the program; and

153-25 (6) the number of candidates retained in the  
 153-26 profession.

153-27 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
 153-28 establishing performance standards for the Accountability System  
 153-29 for Educator Preparation for accrediting educator preparation  
 153-30 programs. At a minimum, performance standards must be based on  
 153-31 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]  
 153-32 rules for the sanction of educator preparation programs and shall  
 153-33 annually review the accreditation status of each educator  
 153-34 preparation program.

153-35 (d) The commissioner [~~executive director of the board~~]  
 153-36 shall appoint an oversight team of educators to make  
 153-37 recommendations and provide assistance to educator preparation  
 153-38 programs that do not meet accreditation standards. If, after one  
 153-39 year, an educator preparation program has not fulfilled the  
 153-40 recommendations of the oversight team, the commissioner [~~executive~~  
 153-41 ~~director~~] shall appoint a person to administer and manage the  
 153-42 operations of the program. If the program does not improve after  
 153-43 two years, the commissioner [~~board~~] shall revoke the approval of  
 153-44 the program to prepare educators for state certification.

153-45 SECTION 7.10. Subsections (c) and (d), Section 21.046,  
 153-46 Education Code, are amended to read as follows:

153-47 (c) Because an effective principal is essential to school  
 153-48 improvement, the commissioner [~~board~~] shall ensure that:

153-49 (1) each candidate for certification as a principal is  
 153-50 of the highest caliber; and

153-51 (2) multi-level screening processes, validated  
 153-52 comprehensive assessment programs, and flexible internships with  
 153-53 successful mentors exist to determine whether a candidate for  
 153-54 certification as a principal possesses the essential knowledge,  
 153-55 skills, and leadership capabilities necessary for success.

153-56 (d) In creating the qualifications for certification as a  
 153-57 principal, the commissioner [~~board~~] shall consider the knowledge,  
 153-58 skills, and proficiencies for principals as developed by relevant  
 153-59 national organizations and the State Board of Education.

153-60 SECTION 7.11. Subsection (a), Section 21.048, Education  
 153-61 Code, is amended to read as follows:

153-62 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
 153-63 prescribing comprehensive examinations for each class of  
 153-64 certificate issued by the board.

153-65 SECTION 7.12. Sections 21.0481, 21.0482, 21.0483, 21.0484,  
 153-66 and 21.049, Education Code, are amended to read as follows:

153-67 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION.  
 153-68 (a) To ensure that there are teachers with special training to  
 153-69 work with other teachers and with students in order to improve

154-1 student reading performance, the commissioner [~~board~~] shall  
 154-2 establish a master reading teacher certificate.

154-3 (b) The board shall issue a master reading teacher  
 154-4 certificate to each eligible person.

154-5 (c) To be eligible for a master reading teacher certificate,  
 154-6 a person must:

154-7 (1) hold a reading specialist certificate issued under  
 154-8 this subchapter and satisfactorily complete a course of instruction  
 154-9 as prescribed under Subdivision (2)(B); or

154-10 (2) hold a teaching certificate issued under this  
 154-11 subchapter and:

154-12 (A) have at least three years of teaching  
 154-13 experience;

154-14 (B) satisfactorily complete a knowledge-based  
 154-15 and skills-based course of instruction on the science of teaching  
 154-16 children to read that includes training in:

154-17 (i) effective reading instruction  
 154-18 techniques, including effective techniques for students whose  
 154-19 primary language is a language other than English;

154-20 (ii) identification of dyslexia and related  
 154-21 reading disorders and effective reading instruction techniques for  
 154-22 students with those disorders; and

154-23 (iii) effective professional peer  
 154-24 mentoring techniques;

154-25 (C) perform satisfactorily on the master reading  
 154-26 teacher certification examination prescribed by the commissioner  
 154-27 [~~board~~]; and

154-28 (D) satisfy any other requirements prescribed by  
 154-29 the commissioner [~~board~~].

154-30 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

154-31 (a) To ensure that there are teachers with special training to  
 154-32 work with other teachers and with students in order to improve  
 154-33 student mathematics performance, the commissioner [~~board~~] shall  
 154-34 establish:

154-35 (1) a master mathematics teacher certificate to teach  
 154-36 mathematics at elementary school grade levels;

154-37 (2) a master mathematics teacher certificate to teach  
 154-38 mathematics at middle school grade levels; and

154-39 (3) a master mathematics teacher certificate to teach  
 154-40 mathematics at high school grade levels.

154-41 (b) The board shall issue the appropriate master  
 154-42 mathematics teacher certificate to each eligible person.

154-43 (c) To be eligible for a master mathematics teacher  
 154-44 certificate, a person must:

154-45 (1) hold a teaching certificate issued under this  
 154-46 subchapter;

154-47 (2) have at least three years of teaching experience;

154-48 (3) satisfactorily complete a knowledge-based course  
 154-49 of instruction on the science of teaching children mathematics that  
 154-50 includes training in mathematics instruction and professional peer  
 154-51 mentoring techniques that, through scientific testing, have been  
 154-52 proven effective;

154-53 (4) perform satisfactorily on the appropriate master  
 154-54 mathematics teacher certification examination prescribed by the  
 154-55 commissioner [~~board~~]; and

154-56 (5) satisfy any other requirements prescribed by the  
 154-57 commissioner [~~board~~].

154-58 (d) The course of instruction prescribed under Subsection  
 154-59 (c)(3) shall be developed by the commissioner [~~board~~] in  
 154-60 consultation with mathematics and science faculty members at  
 154-61 institutions of higher education.

154-62 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION.

154-63 (a) To ensure that there are teachers with special training to  
 154-64 work with other teachers and with students in order to increase the  
 154-65 use of technology in each classroom, the commissioner [~~board~~] shall  
 154-66 establish a master technology teacher certificate.

154-67 (b) The board shall issue a master technology teacher  
 154-68 certificate to each eligible person.

154-69 (c) To be eligible for a master technology teacher

155-1 certificate, a person must:

155-2 (1) hold a technology applications or Technology  
155-3 Education certificate issued under this subchapter, satisfactorily  
155-4 complete the course of instruction prescribed under Subdivision  
155-5 (2)(B), and satisfactorily perform on the examination prescribed  
155-6 under Subdivision (2)(C); or

155-7 (2) hold a teaching certificate issued under this  
155-8 subchapter and:

155-9 (A) have at least three years of teaching  
155-10 experience;

155-11 (B) satisfactorily complete a knowledge-based  
155-12 and skills-based course of instruction on interdisciplinary  
155-13 technology applications and the science of teaching technology that  
155-14 includes training in:

155-15 (i) effective technology instruction  
155-16 techniques, including applications designed to meet the  
155-17 educational needs of students with disabilities;

155-18 (ii) classroom teaching methodology that  
155-19 engages student learning through the integration of technology;

155-20 (iii) digital learning competencies,  
155-21 including Internet research, graphics, animation, website  
155-22 mastering, and video technologies;

155-23 (iv) curriculum models designed to prepare  
155-24 teachers to facilitate an active student learning environment; and

155-25 (v) effective professional peer mentoring  
155-26 techniques;

155-27 (C) satisfactorily perform on an examination  
155-28 developed in cooperation with the Telecommunications  
155-29 Infrastructure Fund Board and administered at the conclusion of the  
155-30 course of instruction prescribed under Paragraph (B); and

155-31 (D) satisfy any other requirements prescribed by  
155-32 the commissioner [~~board~~].

155-33 (d) The commissioner [~~board~~] may provide technology  
155-34 applications training courses under Subsection (c)(2)(B) in  
155-35 cooperation with:

155-36 (1) regional education service centers; and

155-37 (2) other public or private entities, including any  
155-38 state council on technology.

155-39 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION.

155-40 (a) To ensure that there are teachers with special training to  
155-41 work with other teachers and with students in order to improve  
155-42 student science performance, the commissioner [~~board~~] shall  
155-43 establish:

155-44 (1) a master science teacher certificate to teach  
155-45 science at elementary school grade levels;

155-46 (2) a master science teacher certificate to teach  
155-47 science at middle school grade levels; and

155-48 (3) a master science teacher certificate to teach  
155-49 science at high school grade levels.

155-50 (b) The board shall issue the appropriate master science  
155-51 teacher certificate to each eligible person.

155-52 (c) To be eligible for a master science teacher certificate,  
155-53 a person must:

155-54 (1) hold a teaching certificate issued under this  
155-55 subchapter;

155-56 (2) have at least three years of teaching experience;

155-57 (3) satisfactorily complete a knowledge-based course  
155-58 of instruction on the science of teaching children science that  
155-59 includes training in science instruction and professional peer  
155-60 mentoring techniques that, through scientific testing, have been  
155-61 proven effective;

155-62 (4) perform satisfactorily on the appropriate master  
155-63 science teacher certification examination prescribed by the  
155-64 commissioner [~~board~~]; and

155-65 (5) satisfy any other requirements prescribed by the  
155-66 commissioner [~~board~~].

155-67 (d) The course of instruction prescribed under Subsection  
155-68 (c)(3) shall be developed by the commissioner [~~board~~] in  
155-69 consultation with science faculty members at institutions of higher

156-1 education.

156-2 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a  
156-3 continuing additional source of qualified educators, the  
156-4 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for  
156-5 educator certification programs as an alternative to traditional  
156-6 educator preparation programs. The rules may not provide that a  
156-7 person may be certified under this section only if there is a  
156-8 demonstrated shortage of educators in a school district or subject  
156-9 area.

156-10 (b) The commissioner [~~board~~] may not require a person  
156-11 employed as a teacher in a disciplinary [~~an~~] alternative education  
156-12 program under Section 37.008 or a juvenile justice alternative  
156-13 education program under Section 37.011 for at least three years to  
156-14 complete an alternative educator certification program adopted  
156-15 under this section before taking the appropriate certification  
156-16 examination.

156-17 SECTION 7.13. Subsections (a) and (b), Section 21.050,  
156-18 Education Code, are amended to read as follows:

156-19 (a) A person who applies for a teaching certificate for  
156-20 which commissioner [~~board~~] rules require a bachelor's degree must  
156-21 possess a bachelor's degree received with an academic major or  
156-22 interdisciplinary academic major, including reading, other than  
156-23 education, that is related to the curriculum as prescribed under  
156-24 Subchapter A, Chapter 28.

156-25 (b) The commissioner [~~board~~] may not require more than 18  
156-26 semester credit hours of education courses at the baccalaureate  
156-27 level for the granting of a teaching certificate. The commissioner  
156-28 [~~board~~] shall provide for a minimum number of semester credit hours  
156-29 of internship to be included in the hours needed for certification.  
156-30 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring  
156-31 additional credit hours for certification in bilingual education,  
156-32 English as a second language, early childhood education, or special  
156-33 education.

156-34 SECTION 7.14. Section 21.051, Education Code, is amended to  
156-35 read as follows:

156-36 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.  
156-37 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing  
156-38 flexible options for persons for any field experience or internship  
156-39 required for certification.

156-40 SECTION 7.15. Subsection (a), Section 21.054, Education  
156-41 Code, is amended to read as follows:

156-42 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules  
156-43 establishing a process for identifying continuing education  
156-44 courses and programs that fulfill educators' continuing education  
156-45 requirements.

156-46 SECTION 7.16. Section 21.056, Education Code, is amended to  
156-47 read as follows:

156-48 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner  
156-49 [~~board~~] by rule shall provide for a certified educator to qualify  
156-50 for additional certification to teach at a grade level or in a  
156-51 subject area not covered by the educator's certificate upon  
156-52 satisfactory completion of an examination or other assessment of  
156-53 the educator's qualification.

156-54 SECTION 7.17. Subsection (d), Section 21.057, Education  
156-55 Code, is amended to read as follows:

156-56 (d) For purposes of this section, "inappropriately  
156-57 certified or uncertified teacher":

156-58 (1) includes:

156-59 (A) an individual serving on an emergency  
156-60 certificate issued under Section 21.041(b)(2); or

156-61 (B) an individual who does not hold any  
156-62 certificate or permit issued under this chapter and is not employed  
156-63 as specified by Subdivision (2)(E); and

156-64 (2) does not include an individual:

156-65 (A) who is a certified teacher assigned to teach  
156-66 a class or classes outside his or her area of certification, as  
156-67 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]  
156-68 in specifying the certificate required for each assignment;

156-69 (B) serving on a certificate issued due to a

157-1 hearing impairment under Section 21.048;

157-2 (C) serving on a certificate issued pursuant to  
157-3 enrollment in an approved alternative certification program under  
157-4 Section 21.049;

157-5 (D) certified by another state or country and  
157-6 serving on a certificate issued under Section 21.052;

157-7 (E) serving on a school district teaching permit  
157-8 issued under Section 21.055; or

157-9 (F) employed under a waiver granted by the  
157-10 commissioner pursuant to Section 7.056.

157-11 SECTION 7.18. Subsection (d), Section 21.058, Education  
157-12 Code, is amended to read as follows:

157-13 (d) A person whose certificate is revoked under Subsection  
157-14 (b) may reapply for a certificate in accordance with commissioner  
157-15 [~~board~~] rules.

157-16 SECTION 7.19. Subsection (c), Section 21.105, Education  
157-17 Code, is amended to read as follows:

157-18 (c) On written complaint by the employing district and  
157-19 recommendation by the commissioner, the Educators' Professional  
157-20 Practices [State] Board [for Educator Certification] may impose  
157-21 sanctions against a teacher employed under a probationary contract  
157-22 who:

157-23 (1) resigns;

157-24 (2) fails without good cause to comply with Subsection  
157-25 (a) or (b); and

157-26 (3) fails to perform the contract.

157-27 SECTION 7.20. Subsection (c), Section 21.160, Education  
157-28 Code, is amended to read as follows:

157-29 (c) On written complaint by the employing district and  
157-30 recommendation by the commissioner, the Educators' Professional  
157-31 Practices [State] Board [for Educator Certification] may impose  
157-32 sanctions against a teacher who is employed under a continuing  
157-33 contract that obligates the district to employ the person for the  
157-34 following school year and who:

157-35 (1) resigns;

157-36 (2) fails without good cause to comply with Subsection  
157-37 (a) or (b); and

157-38 (3) fails to perform the contract.

157-39 SECTION 7.21. Subsection (c), Section 21.210, Education  
157-40 Code, is amended to read as follows:

157-41 (c) On written complaint by the employing district and  
157-42 recommendation by the commissioner, the Educators' Professional  
157-43 Practices [State] Board [for Educator Certification] may impose  
157-44 sanctions against a teacher who is employed under a term contract  
157-45 that obligates the district to employ the person for the following  
157-46 school year and who:

157-47 (1) resigns;

157-48 (2) fails without good cause to comply with Subsection  
157-49 (a) or (b); and

157-50 (3) fails to perform the contract.

157-51 SECTION 7.22. Section 21.503, Education Code, is amended to  
157-52 read as follows:

157-53 Sec. 21.503. ELIGIBILITY. A person is eligible for the  
157-54 program if the person:

157-55 (1) has served in the armed forces of the United  
157-56 States;

157-57 (2) is honorably discharged, retired, or released from  
157-58 active duty on or after October 1, 1990, after at least six years of  
157-59 continuous active duty service immediately before the discharge,  
157-60 retirement, or release;

157-61 (3) has received a baccalaureate or advanced degree  
157-62 from a public or private institution of higher education accredited  
157-63 by a regional accrediting agency or group that is recognized by a  
157-64 nationally recognized accreditation board; and

157-65 (4) satisfies any other criteria for selection  
157-66 [~~jointly~~] prescribed by the agency [~~and the State Board for~~  
157-67 ~~Educator Certification~~].

157-68 SECTION 7.23. Subsection (b), Section 21.504, Education  
157-69 Code, is amended to read as follows:

158-1 (b) The agency [~~and the State Board for Educator~~  
158-2 ~~Certification~~] shall distribute the applications and information  
158-3 regarding the program.

158-4 SECTION 7.24. Subsection (c), Section 21.510, Education  
158-5 Code, is amended to read as follows:

158-6 (c) For purposes of this section, a participant in the  
158-7 program is not considered to be in violation of an agreement under  
158-8 Section 21.508 during any period in which the participant:

158-9 (1) is pursuing a full-time course of study related to  
158-10 the field of teaching at a public or private institution of higher  
158-11 education approved by the agency [~~State Board for Educator~~  
158-12 ~~Certification~~];

158-13 (2) is serving on active duty as a member of the armed  
158-14 forces of the United States;

158-15 (3) is temporarily totally disabled for a period not  
158-16 to exceed three years as established by sworn affidavit of a  
158-17 qualified physician;

158-18 (4) is unable to secure employment for a period not to  
158-19 exceed one year because of care required by a disabled spouse;

158-20 (5) is seeking and unable to find full-time employment  
158-21 as a teacher in a public elementary or secondary school for a single  
158-22 period not to exceed 27 months; or

158-23 (6) satisfies the provisions of any additional  
158-24 reimbursement exception adopted by the agency.

158-25 SECTION 7.25. Sections 21.551, 21.552, and 21.553,  
158-26 Education Code, are amended to read as follows:

158-27 Sec. 21.551. PURPOSES. The purposes of the alternative  
158-28 certification Teach for Texas Pilot Program are to:

158-29 (1) attract to the teaching profession persons who  
158-30 have expressed interest in teaching and to support the  
158-31 certification of those persons as teachers;

158-32 (2) recognize the importance of the certification  
158-33 process governed by the commissioner [~~State Board for Educator~~  
158-34 ~~Certification~~] under Subchapter B, which requires verification of  
158-35 competence in subject area and professional knowledge and skills;

158-36 (3) encourage the creation and expansion of educator  
158-37 preparation programs that recognize the knowledge and skills gained  
158-38 through previous educational and work-related experiences and that  
158-39 are delivered in a manner that recognizes individual circumstances,  
158-40 including the need to remain employed full-time while enrolled in  
158-41 the Teach for Texas Pilot Program; and

158-42 (4) provide annual stipends to postbaccalaureate  
158-43 teacher certification candidates.

158-44 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~  
158-45 ~~Board for Educator Certification~~] by rule shall establish the Teach  
158-46 for Texas Pilot Program consistent with the purposes provided by  
158-47 Section 21.551.

158-48 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program  
158-49 must offer to participants financial incentives, including tuition  
158-50 assistance and loan forgiveness. In offering a financial  
158-51 incentive, the commissioner [~~State Board for Educator~~  
158-52 ~~Certification~~] shall:

158-53 (1) require a contract between each participant who  
158-54 accepts a financial incentive and the agency [~~State Board for~~  
158-55 ~~Educator Certification~~] under which the participant is obligated to  
158-56 teach in a public school in this state for a stated period after  
158-57 certification;

158-58 (2) provide financial incentives in proportion to the  
158-59 length of the period the participant is obligated by contract to  
158-60 teach after certification; and

158-61 (3) give special financial incentives to a participant  
158-62 who agrees in the contract to teach in an underserved area.

158-63 (b) Financial incentives may be paid only from funds  
158-64 appropriated specifically for that purpose and from gifts, grants,  
158-65 and donations solicited or accepted by the commissioner [~~State~~  
158-66 ~~Board for Educator Certification~~] for that purpose.

158-67 (c) The commissioner [~~State Board for Educator~~  
158-68 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria  
158-69 for awarding financial incentives under this section, including

159-1 criteria for awarding financial incentives if there are more  
 159-2 participants than funds available to provide the financial  
 159-3 incentives.

159-4 SECTION 7.26. Subsection (b), Section 21.604, Education  
 159-5 Code, is amended to read as follows:

159-6 (b) The agency [~~and the State Board for Educator~~  
 159-7 ~~Certification~~] shall distribute the applications and information  
 159-8 regarding the program.

159-9 SECTION 7.27. Subsection (c), Section 21.609, Education  
 159-10 Code, is amended to read as follows:

159-11 (c) For purposes of this section, a participant in the  
 159-12 program is not considered to be in violation of an agreement under  
 159-13 Section 21.607 during any period in which the participant:

159-14 (1) is pursuing a full-time course of study related to  
 159-15 the field of teaching at an institution of higher education  
 159-16 approved by the agency [~~State Board for Educator Certification~~];

159-17 (2) is serving on active duty as a member of the armed  
 159-18 forces of the United States;

159-19 (3) is temporarily totally disabled for a period not  
 159-20 to exceed three years as established by affidavit of a qualified  
 159-21 physician;

159-22 (4) is unable to secure employment for a period not to  
 159-23 exceed one year because of care required by a disabled spouse;

159-24 (5) is seeking and unable to find full-time employment  
 159-25 as a teacher in a public elementary or secondary school for a single  
 159-26 period not to exceed 27 months; or

159-27 (6) satisfies the provisions of any additional  
 159-28 reimbursement exception adopted by the agency.

159-29 SECTION 7.28. Subsection (b), Section 22.0512, Education  
 159-30 Code, is amended to read as follows:

159-31 (b) In this section, "disciplinary proceeding" means:

159-32 (1) an action brought by the school district employing  
 159-33 a professional employee of a school district to discharge or  
 159-34 suspend the employee or terminate or not renew the employee's term  
 159-35 contract; or

159-36 (2) an action brought by the Educators' Professional  
 159-37 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the  
 159-38 educator's code of ethics adopted under Section 21.041(a-1)  
 159-39 [~~21.041(b)(8)~~].

159-40 SECTION 7.29. Section 22.082, Education Code, is amended to  
 159-41 read as follows:

159-42 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
 159-43 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~].

159-44 (a) The agency [~~State Board for Educator Certification~~] shall  
 159-45 obtain from any law enforcement or criminal justice agency all  
 159-46 criminal history record information that relates to an applicant  
 159-47 for or holder of a certificate issued under Subchapter B, Chapter  
 159-48 21.

159-49 (b) The Educators' Professional Practices Board may obtain  
 159-50 from any law enforcement or criminal justice agency all criminal  
 159-51 history record information that relates to a holder of a  
 159-52 certificate issued under Subchapter B, Chapter 21.

159-53 SECTION 7.30. Subsection (d), Section 22.083, Education  
 159-54 Code, is amended to read as follows:

159-55 (d) The superintendent of a district or the director of an  
 159-56 open-enrollment charter school, private school, regional education  
 159-57 service center, or shared services arrangement shall promptly  
 159-58 notify the Educators' Professional Practices [~~State~~] Board [~~for~~  
 159-59 ~~Educator Certification~~] in writing if the person obtains or has  
 159-60 knowledge of information showing that an applicant for or holder of  
 159-61 a certificate issued under Subchapter B, Chapter 21, has a reported  
 159-62 criminal history. The board shall notify the commissioner of the  
 159-63 reported criminal history.

159-64 SECTION 7.31. Sections 22.085 and 22.086, Education Code,  
 159-65 are amended to read as follows:

159-66 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.  
 159-67 A school district, open-enrollment charter school, private school,  
 159-68 regional education service center, or shared services arrangement  
 159-69 may discharge an employee if the district or school obtains

160-1 information of the employee's conviction of a felony or of a  
 160-2 misdemeanor involving moral turpitude that the employee did not  
 160-3 disclose to the agency [~~State Board for Educator Certification~~] or  
 160-4 the district, school, service center, or shared services  
 160-5 arrangement. An employee discharged under this section is  
 160-6 considered to have been discharged for misconduct for purposes of  
 160-7 Section 207.044, Labor Code.

160-8 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,  
 160-9 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~  
 160-10 ~~Certification~~], a school district, an open-enrollment charter  
 160-11 school, a private school, a regional education service center, a  
 160-12 shared services arrangement, or an employee of the agency, board,  
 160-13 district, school, service center, or shared services arrangement is  
 160-14 not civilly or criminally liable for making a report required under  
 160-15 this subchapter.

160-16 SECTION 7.32. Subsections (a), (b), (c) and (e), Section  
 160-17 29.061, Education Code, are amended to read as follows:

160-18 (a) The commissioner [~~State Board for Educator~~  
 160-19 ~~Certification~~] shall provide for the issuance of teaching  
 160-20 certificates appropriate for bilingual education instruction to  
 160-21 teachers who possess a speaking, reading, and writing ability in a  
 160-22 language other than English in which bilingual education programs  
 160-23 are offered and who meet the general requirements of Chapter 21.  
 160-24 The commissioner [~~board~~] shall also provide for the issuance of  
 160-25 teaching certificates appropriate for teaching English as a second  
 160-26 language. The commissioner [~~board~~] may issue emergency  
 160-27 endorsements in bilingual education and in teaching English as a  
 160-28 second language.

160-29 (b) A teacher assigned to a bilingual education program must  
 160-30 be appropriately certified under Subchapter B, Chapter 21, for  
 160-31 bilingual education [~~by the board~~].

160-32 (c) A teacher assigned to an English as a second language or  
 160-33 other special language program must be appropriately certified  
 160-34 under Subchapter B, Chapter 21, for English as a second language [~~by~~  
 160-35 ~~the board~~].

160-36 (e) The agency [~~State Board for Educator Certification~~] and  
 160-37 the Texas Higher Education Coordinating Board shall develop a  
 160-38 comprehensive plan for meeting the teacher supply needs created by  
 160-39 the programs outlined in this subchapter.

160-40 SECTION 7.33. Subsections (b) and (c), Section 33.002,  
 160-41 Education Code, are amended to read as follows:

160-42 (b) A school district with 500 or more students enrolled in  
 160-43 elementary school grades shall employ a counselor certified under  
 160-44 the rules of the commissioner [~~State Board for Educator~~  
 160-45 ~~Certification~~] for each elementary school in the district. A  
 160-46 school district shall employ at least one counselor for every 500  
 160-47 elementary school students in the district.

160-48 (c) A school district with fewer than 500 students enrolled  
 160-49 in elementary school grades shall provide guidance and counseling  
 160-50 services to elementary school students by:

160-51 (1) employing a part-time counselor certified under  
 160-52 the rules of the commissioner [~~State Board for Educator~~  
 160-53 ~~Certification~~];

160-54 (2) employing a part-time teacher certified as a  
 160-55 counselor under the rules of the commissioner [~~State Board for~~  
 160-56 ~~Educator Certification~~]; or

160-57 (3) entering into a shared services arrangement  
 160-58 agreement with one or more school districts to share a counselor  
 160-59 certified under the rules of the commissioner [~~State Board for~~  
 160-60 ~~Educator Certification~~].

160-61 SECTION 7.34. Subsection (g), Section 37.007, Education  
 160-62 Code, as amended by H. B. No. 603, Acts of the 79th Legislature,  
 160-63 Regular Session, 2005, effective September 1, 2005, is amended to  
 160-64 read as follows:

160-65 (g) In addition to any notice required under Article 15.27,  
 160-66 Code of Criminal Procedure, a school district shall inform each  
 160-67 educator who has responsibility for, or is under the direction and  
 160-68 supervision of an educator who has responsibility for, the  
 160-69 instruction of a student who has engaged in any violation listed in



161-1 this section of the student's misconduct. Each educator shall keep  
 161-2 the information received under this subsection confidential from  
 161-3 any person not entitled to the information under this subsection,  
 161-4 except that the educator may share the information with the  
 161-5 student's parent or guardian as provided for by state or federal  
 161-6 law. The Educators' Professional Practices [State] Board on  
 161-7 recommendation of the commissioner [~~For Educator Certification~~]  
 161-8 may revoke or suspend the certification of an educator who  
 161-9 intentionally violates this subsection.

161-10 SECTION 7.35. Section 61.0514, Education Code, is amended  
 161-11 to read as follows:

161-12 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the  
 161-13 cooperation and advice of the commissioner of education [State  
 161-14 Board for Educator Certification], shall adopt educator  
 161-15 preparation coursework guidelines that promote, to the greatest  
 161-16 extent practicable, the integration of subject matter knowledge  
 161-17 with classroom teaching strategies and techniques in order to  
 161-18 maximize the effectiveness and efficiency of coursework required  
 161-19 for certification under Subchapter B, Chapter 21.

161-20 SECTION 7.36. Section 61.077, Education Code, as amended by  
 161-21 Chapters 61, 818, and 820, Acts of the 78th Legislature, Regular  
 161-22 Session, 2003, is reenacted and amended to read as follows:

161-23 Sec. 61.077. P-16 COUNCIL. (a) The P-16 Council shall  
 161-24 advise the Texas Higher Education Coordinating Board and the State  
 161-25 Board of Education in coordinating postsecondary career and  
 161-26 technology activities, career and technology teacher education  
 161-27 programs offered or proposed to be offered in the colleges and  
 161-28 universities of this state, and other relevant matters, including  
 161-29 those listed in Section 61.076.

161-30 (b) The council is composed of the commissioner of  
 161-31 education, the commissioner of higher education, and the executive  
 161-32 director of the Texas Workforce Commission[, and the executive  
 161-33 ~~director of the State Board for Educator Certification~~]. Existing  
 161-34 members of the council may appoint additional members as the  
 161-35 members consider necessary. The position of presiding officer  
 161-36 rotates among the members of the council in the order the members  
 161-37 are listed in this subsection, with each member serving as the  
 161-38 presiding officer for one two-year term.

161-39 (c) The council shall meet at least once each calendar  
 161-40 quarter and may hold other meetings as necessary at the call of the  
 161-41 presiding officer. Each member of the council or the member's  
 161-42 designee shall make a report of the council's activities at least  
 161-43 twice annually to the governing body of the member's agency or, in  
 161-44 the case of the commissioner of education, to the State Board of  
 161-45 Education.

161-46 (d) The purposes of this council shall include the  
 161-47 following:

161-48 (1) to advise the two boards on the coordination of  
 161-49 postsecondary career and technology education and the articulation  
 161-50 between postsecondary career and technology education and  
 161-51 secondary career and technology education;

161-52 (2) to facilitate the transfer of responsibilities for  
 161-53 the administration of postsecondary career and technology  
 161-54 education from the State Board of Education to the board in  
 161-55 accordance with Section 111(a)(I) of the Carl D. Perkins Vocational  
 161-56 Education Act, Public Law 98-524;

161-57 (3) to cooperate with the commissioner of higher  
 161-58 education and the State Board of Education, when it acts as the  
 161-59 State Board for Career and Technology Education, on the following:

161-60 (A) the transfer of federal funds to the board  
 161-61 for allotment to eligible public postsecondary institutions of  
 161-62 higher education;

161-63 (B) the career and technology education funding  
 161-64 for projects and institutions as determined by the board when the  
 161-65 State Board for Career and Technology Education is required by  
 161-66 federal law to endorse such determinations;

161-67 (C) the development and updating of the state  
 161-68 plan for career and technology education and the evaluation of  
 161-69 programs, services, and activities of postsecondary career and

162-1 technology education and such amendments to the state plan for  
 162-2 career and technology education as may relate to postsecondary  
 162-3 education;

162-4 (D) other matters related to postsecondary  
 162-5 career and technology education; and

162-6 (E) the coordination of curricula, instructional  
 162-7 programs, research, and other functions as appropriate, including  
 162-8 areas listed in Section 61.076, school-to-work and  
 162-9 school-to-college transition programs, and professional  
 162-10 development activities;

162-11 (4) to advise the Texas Workforce Investment Council  
 162-12 on educational policy issues related to workforce preparation; and

162-13 (5) to examine and make recommendations regarding the  
 162-14 alignment of secondary and postsecondary education:

162-15 (A) curricula; and

162-16 (B) testing and assessment.

162-17 (e) Subsection (d)(5) does not require the council to  
 162-18 establish curriculum or testing or assessment standards.

162-19 SECTION 7.37. Subsection (a), Section 1001.254, Education  
 162-20 Code, is amended to read as follows:

162-21 (a) A temporary driver education instructor license may be  
 162-22 issued authorizing a person to teach or provide classroom driver  
 162-23 education training if the person:

162-24 (1) has completed the educational requirements  
 162-25 prescribed by Section 1001.253(d)(1);

162-26 (2) holds a Texas teaching certificate with an  
 162-27 effective date before February 1, 1986;

162-28 (3) meets all license requirements, other than  
 162-29 successful completion of the examination required under rules  
 162-30 adopted by the commissioner [~~State Board for Educator~~  
 162-31 ~~Certification~~] to revalidate the teaching certificate; and

162-32 (4) demonstrates, in a manner prescribed by the  
 162-33 commissioner, the intention to comply with the examination  
 162-34 requirement at the first available opportunity.

162-35 SECTION 7.38. Subsection (a), Article 15.27, Code of  
 162-36 Criminal Procedure, is amended to read as follows:

162-37 (a) A law enforcement agency that arrests any person or  
 162-38 refers a child to the office or official designated by the juvenile  
 162-39 board who the agency believes is enrolled as a student in a public  
 162-40 primary or secondary school, for an offense listed in Subsection  
 162-41 (h), shall attempt to ascertain whether the person is so enrolled.  
 162-42 If the law enforcement agency ascertains that the individual is  
 162-43 enrolled as a student in a public primary or secondary school, the  
 162-44 agency shall orally notify the superintendent or a person  
 162-45 designated by the superintendent in the school district in which  
 162-46 the student is enrolled of that arrest or referral within 24 hours  
 162-47 after the arrest or referral is made, or on the next school day. If  
 162-48 the law enforcement agency cannot ascertain whether the individual  
 162-49 is enrolled as a student, the agency shall orally notify the  
 162-50 superintendent or a person designated by the superintendent in the  
 162-51 school district in which the student is believed to be enrolled of  
 162-52 that arrest or detention within 24 hours after the arrest or  
 162-53 detention, or on the next school day. If the individual is a  
 162-54 student, the superintendent shall promptly notify all  
 162-55 instructional and support personnel who have responsibility for  
 162-56 supervision of the student. All personnel shall keep the  
 162-57 information received in this subsection confidential. The  
 162-58 Educators' Professional Practices [~~State~~] Board [~~for Educator~~  
 162-59 ~~Certification~~] may revoke or suspend the certification of personnel  
 162-60 who intentionally violate this subsection. Within seven days after  
 162-61 the date the oral notice is given, the law enforcement agency shall  
 162-62 mail written notification, marked "PERSONAL and CONFIDENTIAL" on  
 162-63 the mailing envelope, to the superintendent or the person  
 162-64 designated by the superintendent. Both the oral and written notice  
 162-65 shall contain sufficient details of the arrest or referral and the  
 162-66 acts allegedly committed by the student to enable the  
 162-67 superintendent or the superintendent's designee to determine  
 162-68 whether there is a reasonable belief that the student has engaged in  
 162-69 conduct defined as a felony offense by the Penal Code. The

163-1 information contained in the notice may be considered by the  
 163-2 superintendent or the superintendent's designee in making such a  
 163-3 determination.

163-4 SECTION 7.39. Subsection (b), Article 42.018, Code of  
 163-5 Criminal Procedure, is amended to read as follows:

163-6 (b) Not later than the fifth day after the date a person who  
 163-7 holds a certificate issued under Subchapter B, Chapter 21,  
 163-8 Education Code, is convicted or granted deferred adjudication on  
 163-9 the basis of an offense, the clerk of the court in which the  
 163-10 conviction or deferred adjudication is entered shall provide to the  
 163-11 Texas Education Agency and the Educators' Professional Practices  
 163-12 ~~[State] Board [for Educator Certification]~~ written notice of the  
 163-13 person's conviction or deferred adjudication, including the  
 163-14 offense on which the conviction or deferred adjudication was based.

163-15 SECTION 7.40. Section 411.090, Government Code, is amended  
 163-16 to read as follows:

163-17 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD  
 163-18 INFORMATION: STATE EDUCATIONAL AUTHORITIES ~~[BOARD FOR EDUCATOR~~  
 163-19 ~~CERTIFICATION]~~. (a) The Texas Education Agency [State Board for  
 163-20 Educator Certification] is entitled to obtain from the department  
 163-21 any criminal history record information maintained by the  
 163-22 department about a person who has applied to the commissioner  
 163-23 [board] for a certificate or holds a certificate under Subchapter  
 163-24 B, Chapter 21, Education Code.

163-25 (b) Criminal history record information obtained by the  
 163-26 agency [board] under Subsection (a):

163-27 (1) may be used for any purpose related to the issuance  
 163-28 or [7] denial [7, suspension, or cancellation] of a certificate issued  
 163-29 under Subchapter B, Chapter 21, Education Code [by the board];

163-30 (2) may be provided to the Educators' Professional  
 163-31 Practices Board to be used for any purpose related to the suspension  
 163-32 or revocation of a certificate issued under Subchapter B, Chapter  
 163-33 21, Education Code;

163-34 (3) may not be released to any other person except on  
 163-35 court order or with the consent of the applicant for a certificate;  
 163-36 and

163-37 (4) ~~[(3)]~~ shall be destroyed by the agency [board]  
 163-38 after the information is used for the authorized purposes.

163-39 (c) The Educators' Professional Practices Board is entitled  
 163-40 to obtain from the department any criminal history record  
 163-41 information maintained by the department about a person who holds a  
 163-42 certificate issued under Subchapter B, Chapter 21, Education Code.

163-43 (d) Criminal history record information obtained by the  
 163-44 board under Subsection (c):

163-45 (1) may be used for any purpose related to the  
 163-46 suspension or revocation of a certificate issued under Subchapter  
 163-47 B, Chapter 21, Education Code;

163-48 (2) may be provided to the Texas Education Agency to be  
 163-49 used for any purpose related to the issuance or denial of a  
 163-50 certificate under Subchapter B, Chapter 21, Education Code;

163-51 (3) may not be released to any other person except on  
 163-52 court order or with the consent of the holder of the certificate;  
 163-53 and

163-54 (4) shall be destroyed by the board after the  
 163-55 information is used for the authorized purposes.

163-56 SECTION 7.41. Subsection (d), Section 411.097, Government  
 163-57 Code, is amended to read as follows:

163-58 (d) Criminal history record information obtained by a  
 163-59 school district, charter school, private school, service center,  
 163-60 commercial transportation company, or shared services arrangement  
 163-61 under Subsection (a), (b), or (c) may not be released or disclosed  
 163-62 to any person, other than the individual who is the subject of the  
 163-63 information, the Texas Education Agency, the Educators'  
 163-64 Professional Practices [State] Board [for Educator Certification],  
 163-65 or the chief personnel officer of the transportation company, if  
 163-66 the information is obtained under Subsection (a)(2).

163-67 SECTION 7.42. Subsection (a), Section 654.011, Government  
 163-68 Code, is amended to read as follows:

163-69 (a) The position classification plan and the salary rates

164-1 and provisions in the General Appropriations Act apply to all  
 164-2 hourly, part-time, temporary, and regular, full-time salaried  
 164-3 employments in the state departments, agencies, or judicial  
 164-4 entities specified in the articles of the General Appropriations  
 164-5 Act that appropriate money to:

- 164-6 (1) general government agencies;
- 164-7 (2) health and human services agencies;
- 164-8 (3) the judiciary, except for judges, district  
 164-9 attorneys, and assistant district attorneys;
- 164-10 (4) public safety and criminal justice agencies;
- 164-11 (5) natural resources agencies;
- 164-12 (6) business and economic development agencies;
- 164-13 (7) regulatory agencies; and
- 164-14 (8) agencies of public education, but only the Texas  
 164-15 Education Agency, the Texas School for the Blind and Visually  
 164-16 Impaired, [~~the State Board for Educator Certification,~~] the  
 164-17 Telecommunications Infrastructure Fund, and the Texas School for  
 164-18 the Deaf.

164-19 SECTION 7.43. Subdivision (7), Section 821.001, Government  
 164-20 Code, is amended to read as follows:

164-21 (7) "Employer" means any agents or agencies in the  
 164-22 state responsible for public education, including the governing  
 164-23 board of any school district created under the laws of this state,  
 164-24 any county school board, the board of trustees, the board of regents  
 164-25 of any college or university, or any other legally constituted  
 164-26 board or agency of any public school, but excluding the State Board  
 164-27 of Education and~~[,]~~ the Texas Education Agency~~[, and the State  
 164-28 Board for Educator Certification].~~

164-29 SECTION 7.44. Section 821.103, Government Code, is amended  
 164-30 to read as follows:

164-31 Sec. 821.103. CANCELLATION OF TEACHER CERTIFICATE.  
 164-32 (a) After receiving notice from the board of trustees of an  
 164-33 offense under Section 821.101 and after complying with Chapter 2001  
 164-34 and rules adopted by the Educators' Professional Practices [State]  
 164-35 Board [for Educator Certification], the board [State Board for  
 164-36 Educator Certification] may cancel the teacher certificate of a  
 164-37 person if the board [State Board for Educator Certification]  
 164-38 determines that the person committed the offense.

164-39 (b) The Educators' Professional Practices [executive  
 164-40 director of the State] Board [for Educator Certification] may enter  
 164-41 into an agreed sanction.

164-42 (c) A criminal prosecution of an offender under Section  
 164-43 821.101 is not a prerequisite to action by the Educators'  
 164-44 Professional Practices [State] Board [for Educator Certification  
 164-45 or its executive director].

164-46 SECTION 7.45. Subsection (a), Section 2054.352, Government  
 164-47 Code, is reenacted and amended to conform to Chapters 553, 1216, and  
 164-48 1275, Acts of the 78th Legislature, Regular Session, 2003, and  
 164-49 further amended to read as follows:

164-50 (a) The following licensing entities shall participate in  
 164-51 the system established under Section 2054.353~~[, as added by Chapter  
 164-52 353, Acts of the 77th Legislature, Regular Session, 2001]~~:

- 164-53 (1) State Board of Barber Examiners;
- 164-54 (2) Texas Board of Chiropractic Examiners;
- 164-55 (3) Texas Cosmetology Commission;
- 164-56 (4) Court Reporters Certification Board;
- 164-57 (5) State Board of Dental Examiners;
- 164-58 (6) Texas Funeral Service Commission;
- 164-59 (7) Texas Board of Professional Land Surveying;
- 164-60 (8) Texas State Board of Medical Examiners;
- 164-61 (9) Board of Nurse Examiners;
- 164-62 (10) Texas Optometry Board;
- 164-63 (11) Texas Structural Pest Control Board;
- 164-64 (12) Texas State Board of Pharmacy;
- 164-65 (13) Executive Council of Physical Therapy and  
 164-66 Occupational Therapy Examiners;
- 164-67 (14) Texas State Board of Plumbing Examiners;
- 164-68 (15) Texas State Board of Podiatric Medical Examiners;
- 164-69 (16) Board of Tax Professional Examiners;

- 165-1 (17) Polygraph Examiners Board;
- 165-2 (18) Texas State Board of Examiners of Psychologists;
- 165-3 (19) State Board of Veterinary Medical Examiners;
- 165-4 (20) Texas Real Estate Commission;
- 165-5 (21) Texas Appraiser Licensing and Certification
- 165-6 Board;
- 165-7 (22) Texas Department of Licensing and Regulation;
- 165-8 (23) [~~(24)~~] Texas State Board of Public Accountancy;
- 165-9 (24) Texas Education Agency;
- 165-10 (25) Educators' Professional Practices [~~State~~] Board
- 165-11 [~~for Educator Certification~~];
- 165-12 (26) Texas Board of Professional Engineers;
- 165-13 (27) Texas Department of Health;
- 165-14 (28) Texas Board of Architectural Examiners;
- 165-15 (29) Texas Racing Commission;
- 165-16 (30) Commission on Law Enforcement Officer Standards
- 165-17 and Education; and
- 165-18 (31) Texas Commission on Private Security.

165-19 SECTION 7.46. Subsection (c), Section 2165.104, Government  
 165-20 Code, is amended to read as follows:

165-21 (c) To the extent possible without sacrificing critical  
 165-22 public or client services, the commission may not allocate usable  
 165-23 office space, as defined by the commission, to a state agency under  
 165-24 Article I, II, V, VI, VII, or VIII of the General Appropriations Act  
 165-25 or to the Texas Higher Education Coordinating Board, the Texas  
 165-26 Education Agency, the Educators' Professional Practices [~~State~~]  
 165-27 Board [~~for Educator Certification~~], the Telecommunications  
 165-28 Infrastructure Fund Board, or the Office of Court Administration of  
 165-29 the Texas Judicial System in an amount that exceeds an average of  
 165-30 135 square feet per agency employee for each agency site. To the  
 165-31 extent that any of those agencies allocates its own usable office  
 165-32 space, as defined by the commission, the agency shall allocate the  
 165-33 space to achieve the required ratio. This subsection does not apply  
 165-34 to:

- 165-35 (1) an agency site at which there are so few employees
- 165-36 that it is not practical to apply this subsection to that site, as
- 165-37 determined by the commission; and
- 165-38 (2) an agency site at which it is not practical to
- 165-39 apply this subsection because of the site's type of space or use of
- 165-40 space, as determined by the commission.

165-41 SECTION 7.47. Subsection (b), Section 504.002, Occupations  
 165-42 Code, is amended to read as follows:

165-43 (b) This chapter does not apply to an activity or service of  
 165-44 a person who:

- 165-45 (1) is employed as a counselor by a federal
- 165-46 institution and is providing chemical dependency counseling within
- 165-47 the scope of the person's employment;
- 165-48 (2) except as provided by Section 504.057, is a
- 165-49 student, intern, or trainee pursuing a supervised course of study
- 165-50 in counseling at a regionally accredited institution of higher
- 165-51 education or training institution, if the person:
  - 165-52 (A) is designated as a "counselor intern"; and
  - 165-53 (B) is engaging in the activity or providing the
  - 165-54 service as part of the course of study;
- 165-55 (3) is not a resident of this state, if the person:
  - 165-56 (A) engages in the activity or provides the
  - 165-57 service in this state for not more than 30 days during any year; and
  - 165-58 (B) is authorized to engage in the activity or
  - 165-59 provide the service under the law of the state of the person's
  - 165-60 residence;
- 165-61 (4) is a licensed physician, psychologist,
- 165-62 professional counselor, or social worker;
- 165-63 (5) is a religious leader of a congregation providing
- 165-64 pastoral chemical dependency counseling within the scope of the
- 165-65 person's duties;
- 165-66 (6) is working for or providing counseling with a
- 165-67 program exempt under Subchapter C, Chapter 464, Health and Safety
- 165-68 Code; or
- 165-69 (7) is a school counselor certified under Subchapter

166-1 B, Chapter 21, Education Code [~~by the State Board for Educator~~  
166-2 ~~Certification~~].

166-3 SECTION 7.48. Subsections (b) and (c), Section 21.035, and  
166-4 Sections 21.039, 21.040, and 21.042, Education Code, are repealed.

166-5 SECTION 7.49. (a) The State Board for Educator  
166-6 Certification is abolished, and all powers, duties, personnel,  
166-7 property, assets, and obligations of the board are transferred to  
166-8 the Educators' Professional Practices Board and the Texas Education  
166-9 Agency, as determined appropriate by the commissioner of education.  
166-10 The validity of a prior action of the State Board for Educator  
166-11 Certification is not affected by the abolishment and any pending  
166-12 activities of the State Board for Educator Certification shall be  
166-13 deemed to have continued without interruption or material change.

166-14 (b) The powers and duties of the Educators' Professional  
166-15 Practices Board, as created by this Act, shall continue to be  
166-16 exercised by the State Board for Educator Certification until the  
166-17 initial appointees of the Educators' Professional Practices Board  
166-18 assume their offices, which may not be later than January 1, 2006.

166-19 (c) All rules of the State Board for Educator Certification  
166-20 relating to a transferred power or duty remain in effect as rules of  
166-21 the Educators' Professional Practices Board or commissioner of  
166-22 education, as appropriate, until amended or repealed by the board  
166-23 or commissioner.

166-24 (d) A contested case, rulemaking procedure, program, test,  
166-25 fee, contract, review, evaluation, sanction, act, or decision of  
166-26 the State Board for Educator Certification that is pending,  
166-27 completed, or in effect on the effective date of this Act shall be  
166-28 deemed that of the commissioner of education or the Educators'  
166-29 Professional Practices Board to the extent authorized by Subchapter  
166-30 B, Chapter 21, Education Code, as amended by this Act, or other law,  
166-31 until and unless a change is expressly made by the commissioner or  
166-32 the board, as appropriate.

166-33 (e) As soon as practicable after the effective date of this  
166-34 article and not later than November 1, 2005, the commissioner of  
166-35 education shall make initial appointments to the Educators'  
166-36 Professional Practices Board. In making the initial appointments,  
166-37 the commissioner shall designate four members to serve terms  
166-38 expiring February 1, 2007, four members to serve terms expiring  
166-39 February 1, 2009, and three members to serve terms expiring  
166-40 February 1, 2011.

166-41 (f) A person who holds a certificate issued under Subchapter  
166-42 B, Chapter 21, Education Code, as it existed on January 1, 2005, may  
166-43 continue to practice under that certificate until the certificate  
166-44 is renewed or replaced under Subchapter B, Chapter 21, Education  
166-45 Code, as amended by this Act.

166-46 (g) The code of ethics adopted under Subchapter B, Chapter  
166-47 21, Education Code, as amended by this Act, by the State Board for  
166-48 Educator Certification and in effect on the effective date of this  
166-49 article remains in effect until superseded by rules of the  
166-50 Educators' Professional Practices Board.

#### 166-51 ARTICLE 8. REPEALER; TRANSITION; EFFECTIVE DATE

166-52 SECTION 8.01. (a) Effective September 1, 2005, the  
166-53 following laws are repealed:

166-54 (1) Sections 1, 2, 3, and 57, Chapter 201, Acts of the  
166-55 78th Legislature, Regular Session, 2003;

166-56 (2) Chapter 313, Acts of the 78th Legislature, Regular  
166-57 Session, 2003;

166-58 (3) Section 1.01, Chapter 366, Acts of the 78th  
166-59 Legislature, Regular Session, 2003; and

166-60 (4) Sections 7.006, 8.010, Subsection (h), Section  
166-61 29.056, Subsection (g), Section 37.004, Subsections (b), (c), and  
166-62 (f), Section 39.027, Subsection (d), Section 39.051, Section  
166-63 39.073, Section 39.074, and Subsection (e-1), Section 42.253,  
166-64 Education Code.

166-65 (b) Effective September 1, 2006, Subsections (b) and (c),  
166-66 Section 25.0811, Education Code, are repealed.

166-67 SECTION 8.02. Effective September 1, 2006, the following  
166-68 laws are repealed:

166-69 (1) the following provisions of the Education Code:

167-1 (A) Subchapters B, C, E, F, and G, Chapter 41;  
167-2 (B) Subchapter F, Chapter 42, as it existed on  
167-3 November 1, 2005;  
167-4 (C) Subsection (b), Section 21.402, Subsections  
167-5 (c) and (g), Section 29.203, Sections 31.025, 31.1031, 41.001,  
167-6 41.002, 41.003, 41.0031, 41.007, Subsection (b), Section 41.009,  
167-7 Sections 41.011, 41.092, 41.099, Subsection (b), Section 41.252,  
167-8 Subsections (b) and (e), Section 42.103, and Sections 42.2514,  
167-9 42.2517, 42.259, 42.260, and 42.4101; and  
167-10 (D) Subsection (a-1), Section 42.2512, and  
167-11 Section 42.2541, as added by Part A, Article 1, of this Act;  
167-12 (2) the following provisions of the Insurance Code:  
167-13 (A) Subsection (b), Section 1581.053; and  
167-14 (B) Subchapter C, Chapter 1581; and  
167-15 (3) Subsection (g), Sections 6.02, Subsection (m),  
167-16 Section 6.03, Subsection (b), Section 21.02, and Subsection (k),  
167-17 Section 25.25, Tax Code.  
167-18 SECTION 8.03. A school district maintenance tax rate  
167-19 imposed under Sections 45.002 and 45.003, Education Code, before  
167-20 September 1, 2005, is void.  
167-21 SECTION 8.04. (a) Except as provided by Subsection (b) of  
167-22 this section, if two or more sections of this Act amend the same  
167-23 provision of law, the sections of the Act should be harmonized, if  
167-24 possible, so that effect may be given to each section.  
167-25 (b) If a section of this Act repeals a provision of Chapter  
167-26 12, Education Code, that section prevails over a section of this Act  
167-27 that amends the same provision.  
167-28 SECTION 8.05. A change in law made by this Act relating to a  
167-29 school district maintenance tax or enrichment tax under Chapter 41  
167-30 or Chapter 42, Education Code, prevails over any similar provision  
167-31 of H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session,  
167-32 2005.  
167-33 SECTION 8.06. Except as otherwise specifically provided by  
167-34 this Act, this Act applies beginning with the 2005-2006 school  
167-35 year.  
167-36 SECTION 8.07. Except as otherwise specifically provided by  
167-37 this Act, this Act takes effect September 1, 2005, but only if H.B.  
167-38 No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005,  
167-39 becomes law. If H.B. No. 3 does not become law, this Act has no  
167-40 effect.

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167-41