

SENATE ENGROSSMENT

FOR S.B. NO. 8

Three Engrossed Riders:

- (1) Committee Substitute for S.B. No. 8
- (2) Floor Amendment No. 1 by Staples and West
- (3) Floor Amendment No. 15 by Lucio

SENATE ENGROSSED RIDERS

FLOOR AMENDMENT NO. 1

BY: Staples, West

Amend C.S.S.B. No. 8 in SECTION 1B.01 of the bill as follows:

(1) In added Subsection (b), Section 42.252, Education Code, in the definition of "GL", strike "different" and substitute "greater".

(2) In added Subsection (c), Section 42.252, Education Code, strike "different" and substitute "greater".

(3) Strike added Subsection (e), Section 42.252, Education Code.

FLOOR AMENDMENT NO. 15

BY: Lucio

Amend C.S.S.B. No. 8 as follows:

(1) In ARTICLE 2 of the bill, in PART C, add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS appropriately:

SECTION 2C.____. Effective August 1, 2006, Section 7.056(e), Education Code, as amended by S.B. 658, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual

1 education programs; or

2 (3) a requirement, restriction, or prohibition
3 relating to:

4 (A) essential knowledge or skills under Section
5 28.002 or minimum graduation requirements under Section 28.025;

6 (B) public school accountability as provided by
7 Subchapters B, C, D, and G, Chapter 39;

8 (C) extracurricular activities under Section
9 33.081 or participation in a University Interscholastic League
10 area, regional, or state competition under Section 33.0812;

11 (D) health and safety under Chapter 38;

12 (E) purchasing under Subchapter B, Chapter 44;

13 (F) elementary school class size limits, except
14 as provided by Section 25.112;

15 (G) removal of a disruptive student from the
16 classroom under Subchapter A, Chapter 37;

17 (H) at-risk programs under Subchapter C, Chapter
18 29;

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

21 (J) educator rights and benefits under
22 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
23 A, Chapter 22;

24 (K) special education programs under Subchapter
25 A, Chapter 29; ~~or~~

26 (L) bilingual education programs under
27 Subchapter B, Chapter 29; or

28 (M) the requirements for the first and last day

1 of instruction under Section 25.0811, except as provided by that
2 section.

3 SECTION 2C.____. Effective August 1, 2006, the heading to
4 Section 25.0811, Education Code, is amended to read as follows:

5 Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

6 SECTION 2C.____. Effective August 1, 2006, Section 25.0811
7 (a), Education Code, is amended to read as follows:

8 ~~[(a)]~~ A school district shall ~~[may not]~~ begin instruction
9 for students for a school year on the first Tuesday after Labor Day.

10 The school year must end not later than June 7 unless:

11 (1) the district operates a year-round system under
12 Section 25.084; or

13 (2) the commissioner grants a waiver to extend the
14 school year at a campus as the result of a disaster, flood, extreme
15 weather condition, fuel curtailment, or other calamity that caused
16 a closure of the campus for a significant period ~~[before the week in~~
17 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
18 ~~considered the first day of the week].~~

19 SECTION 2C.____. A waiver under Section 7.056(e), Education
20 Code, from the requirements for the first and last day of
21 instruction under Section 25.0811, Education Code, as amended by
22 this Act, for the 2006-2007 or a subsequent school year may be
23 granted only as provided by Section 25.0811, Education Code, as
24 amended by this Act, and a waiver of those requirements for the
25 2006-2007 or a subsequent school year that is granted before August
26 1, 2006, and that does not comply with Section 25.0811, Education
27 Code, as amended by this Act, is void.

28 (2) In ARTICLE 9 of the bill, add the following

1 appropriately numbered SECTION and renumber subsequent SECTIONS
2 appropriately:
3 SECTION 9.____. Effective June 1, 2006, Sections 25.0811(b)
4 and (c), Education Code, are repealed.

By: Shapiro

S.B. No. 8

Substitute the following for S.B. No. 8:

By: Shapiro

C.S.S.B. No. 8

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING FOR THE 2005-2006 SCHOOL YEAR

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

Sec. 42.2518. ADDITIONAL STATE AID FOR DISTRICTS. A school
district is entitled to receive for the 2005-2006 school year
additional state aid in the amount equal to the product of \$2,000
multiplied by the number of classroom teachers, full-time
librarians, full-time counselors certified under Subchapter B,
Chapter 21, and full-time school nurses employed by the district
and entitled to a minimum salary under Section 21.402.

Sec. 42.2519. STAFF COMPENSATION. (a) For the 2005-2006
school year, a school district shall provide district employees,
other than administrators, compensation in the form of annual
salaries, incentives, or other compensation determined appropriate
by the district that results in a total compensation increase for
all district employees in an amount equal to the product of \$500 and
the total number of classroom teachers, full-time librarians,
full-time counselors certified under Subchapter B, Chapter 21, and

1 full-time school nurses employed by the district.

2 (b) A payment under this section is in addition to
3 compensation a school district would otherwise pay an employee
4 during the school year.

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

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

9 PART B. EDUCATION FUNDING

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

12 CHAPTER 42. FOUNDATION SCHOOL PROGRAM

13 SUBCHAPTER A. GENERAL PROVISIONS

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

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

1 Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM.

2 (a) The purposes of the Foundation School Program set forth in
3 this chapter are to guarantee that each school district in the state
4 has:

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

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

10 (b) The Foundation School Program consists of:

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

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

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

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

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

24 (b) A student to whom Subsection (a) does not apply is
25 entitled to the benefits of the Foundation School Program if the
26 student is enrolled in a prekindergarten class under Section
27 29.153.

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

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

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

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

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

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

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

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

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

25 (2) for a district that operates under a flexible year
26 program under Section 29.0821, the quotient of the sum of
27 attendance for each actual day of instruction as permitted by
28 Section 29.0821(b)(1) divided by the number of actual days of

1 instruction as permitted by Section 29.0821(b)(1); or

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

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

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

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

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

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

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

26 (f) If a student may receive course credit toward the
27 student's high school academic requirements and toward the
28 student's higher education academic requirements for a single

1 course, the time during which the student attends the course shall
2 be counted as part of the minimum number of instructional hours
3 required for a student to be considered a full-time student in
4 average daily attendance for purposes of this section.

5 Sec. 42.006. EQUALIZED FUNDING ELEMENTS. (a) The
6 Legislative Budget Board shall adopt rules, subject to appropriate
7 notice and opportunity for public comment, for the calculation for
8 each year of a biennium of the equalized funding elements, in
9 accordance with Subsection (c), necessary to achieve the state
10 policy under Section 42.001.

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

14 (c) The funding elements must include:

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

18 (2) adjustments designed to reflect the variation in
19 known resource costs and costs of education beyond the control of
20 school districts;

21 (3) appropriate program cost differentials and other
22 funding elements for the programs authorized under Subchapter C,
23 with the program funding level expressed as total dollar amounts
24 for each program and the specific dollar amount to be provided for
25 each eligible student or course for the appropriate year;

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

28 (5) the maximum district enrichment tax rate for

1 purposes of Section 42.252; and

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

4 (d) The board shall conduct a study of the funding elements
5 each biennium, as appropriate. The study must include a
6 determination of the projected cost to the state in the next state
7 fiscal biennium of ensuring the ability of each school district to
8 comply with all legal mandates and regulations without increasing
9 district tax rates.

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

21 (f) The study required by Subsection (e) must include a
22 component on funding elements relating to special education
23 programs and services. The special education component must
24 include a review of the current funding elements relating to
25 special education programs and services, an analysis of funding
26 mechanisms used by other states, the solicitation and consideration
27 of recommendations from persons with expertise in the area of
28 special education, a review of best practices in the area of special

1 education, and the development of recommendations for a funding
2 system that supports success for students with disabilities and
3 that appropriately recognizes the variance in needs for specialized
4 services, including related services, without providing fiscal
5 incentives to improperly identify or fail to identify students who
6 need special education services. Regardless of the date on which
7 the report under Subsection (e) is required to be submitted, the
8 board shall submit a report on the results of the special education
9 component required by this subsection to the commissioner and the
10 legislature not later than December 1, 2006. This subsection
11 expires January 1, 2007.

12 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A
13 reference in law to the foundation school fund means the Texas
14 education fund.

15 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each
16 regular session of the legislature, the Legislative Budget Board
17 shall submit to the commissioner and the legislature a report that
18 includes:

19 (1) a description of the amount of all spending on
20 primary and secondary education in this state, disaggregated by
21 federal, state, and local spending and spending by private
22 entities; and

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

24 [Sections 42.009-42.100 reserved for expansion]

25 SUBCHAPTER B. BASIC PROGRAM

26 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
27 ALLOTMENTS. (a) For each student in average daily attendance, a
28 school district is entitled to an accreditation allotment of

1 \$4,600.

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

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

7 [Sections 42.102-42.150 reserved for expansion]

8 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

9 Sec. 42.151. SPECIAL EDUCATION ALLOTMENTS. (a) In this
10 section:

11 (1) "Full-time equivalent student" means 30 hours of
12 contact a week between a student and special education program
13 personnel.

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

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

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

25 (1) \$17,370, for a student in a homebound
26 instructional arrangement;

27 (2) \$8,602, for a student in a hospital class
28 instructional arrangement;

1 (3) \$17,370, for a student in a speech therapy
2 instructional arrangement;

3 (4) \$8,602, for a student in a resource room
4 instructional arrangement;

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

7 (6) \$8,602, for a student in a self-contained, severe,
8 regular campus instructional arrangement;

9 (7) \$7,287, for a student in an off-home-campus
10 instructional arrangement;

11 (8) \$2,903, for a student in a nonpublic day school;

12 (9) \$5,533, for a student in a vocational adjustment
13 class;

14 (10) \$12,986, for a student who resides in a
15 residential care and treatment facility, other than a state school,
16 whose parent or guardian does not reside in the district, and who
17 receives educational services from a local school district; and

18 (11) \$7,726, for a student who resides in a state
19 school.

20 (d) For funding purposes, the number of contact hours
21 credited per day for each special education student in the
22 off-home-campus instructional arrangement may not exceed the
23 contact hours credited per day for the multidistrict class
24 instructional arrangement in the 1992-1993 school year.

25 (e) For funding purposes, the contact hours credited per day
26 for each special education student in the resource room;
27 self-contained, mild and moderate, regular campus; and
28 self-contained, severe, regular campus instructional arrangements

1 may not exceed the average of the statewide total contact hours
2 credited per day for those three instructional arrangements in the
3 1992-1993 school year.

4 (f) The commissioner by rule shall prescribe the
5 qualifications a special education instructional arrangement must
6 meet in order to be funded as a particular instructional
7 arrangement under this chapter. In prescribing the qualifications
8 that a mainstream instructional arrangement must meet, the
9 commissioner shall require that students with disabilities and
10 their teachers receive the direct, indirect, and support services
11 that are necessary to enrich the regular classroom and enable
12 student success.

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

17 (h) Funds allocated under this section, other than an
18 indirect cost allotment established under commissioner rule, must
19 be used in the special education program under Subchapter A,
20 Chapter 29.

21 (i) The agency shall encourage the placement of students in
22 special education programs, including students in residential
23 instructional arrangements, in the least restrictive environment
24 appropriate for students' educational needs.

25 (j) Each year, the agency shall make and disseminate to each
26 school district a list of those districts that maintain for two
27 successive years a ratio of full-time equivalent special education
28 students placed in partially or totally self-contained classrooms

1 to the number of full-time equivalent students placed in resource
2 room or mainstream instructional arrangements that is 25 percent
3 higher than the statewide average ratio.

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

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

27 (m) From the total amount appropriated for purposes of this
28 section, the commissioner shall set aside an amount necessary to

1 pay the cost of the study of the funding elements for special
2 education required by Section 42.006(f). After setting aside funds
3 under this subsection, the commissioner shall reduce each
4 district's allotment in the manner provided by Section 42.313(f).
5 This subsection expires September 1, 2007.

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

$$10 \qquad \qquad \qquad \underline{APA = F \times ADA \times PR}$$

11 where:

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

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

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

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

28 (b) The legislature may provide by appropriation for a

1 greater allotment than the amount prescribed by Subsection (a).

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

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

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

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

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

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

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

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

1 program under that subchapter for the preceding school year;

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

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

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

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

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

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

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

1 percent of the accreditation allotment under Section 42.101.

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

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

9 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

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

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

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

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

26 (3) courses designed for special education students.

27 (c) The commissioner shall establish a pilot program under
28 which participating districts receive the allotment described by

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

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

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

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

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

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

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

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

28 (b) The total number of allotments under this section to

1 which a school district is entitled may not exceed the number by
2 which the number of students using public education grants to
3 attend school in the district exceeds the number of students who
4 reside in the district and use public education grants to attend
5 school in another district.

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

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

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

24 [Sections 42.157-42.170 reserved for expansion]

25 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS.
26 (a) Unless specifically provided otherwise by this code, but
27 subject to Section 42.172, a school district is not required to use
28 amounts allotted under this subchapter for the program for which

1 the amounts were allotted.

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

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

13 (1) a special education program under Subchapter A,
14 Chapter 29;

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

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

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

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

28 (6) a career and technology education program in

1 grades nine through 12 or a career and technology education program
2 for students with disabilities in grades seven through 12 under
3 Sections 29.182, 29.183, and 29.184; or

4 (7) a gifted and talented program under Subchapter D,
5 Chapter 29.

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

11 [Sections 42.173-42.200 reserved for expansion]

12 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

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

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

25 Sec. 42.202. HAZARDOUS CONDITIONS. A district or county
26 may apply for and on approval of the commissioner receive an
27 additional amount of up to 10 percent of its regular transportation
28 allotment to be used for the transportation of children living

1 within two miles of the school they attend who would be subject to
2 hazardous traffic conditions if they walked to school. Each board
3 of trustees shall provide to the commissioner the definition of
4 hazardous conditions applicable to that district and shall identify
5 the specific hazardous areas for which the allocation is requested.
6 A hazardous condition exists where no walkway is provided and
7 children must walk along or cross a freeway or expressway, an
8 underpass, an overpass or a bridge, an uncontrolled major traffic
9 artery, an industrial or commercial area, or another comparable
10 condition.

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

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

1 cases.

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

5 [Sections 42.206-42.220 reserved for expansion]

6 SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

7 Sec. 42.221. NEW INSTRUCTIONAL FACILITY ALLOTMENT. A
8 school district is entitled to an additional allotment as provided
9 by this subchapter for operational expenses associated with opening
10 a new instructional facility.

11 Sec. 42.222. DEFINITIONS. In this subchapter:

12 (1) "Fast growth school district" means a school
13 district that during the five school years preceding the opening of
14 a new instructional facility has experienced an increase in
15 enrollment of:

16 (A) greater than 10 percent; or

17 (B) more than 3,500 students.

18 (2) "Instructional facility" has the meaning assigned
19 by Section 46.001.

20 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION.

21 (a) For the first school year in which students attend a new
22 instructional facility, a school district other than a fast growth
23 school district is entitled to an allotment of \$250 for each student
24 in average daily attendance at the facility or a greater amount
25 provided by appropriation.

26 (b) For the first school year in which students attend a new
27 instructional facility, a fast growth school district is entitled
28 to an allotment of \$375 for each student in average daily attendance

1 at the facility or a greater amount provided by appropriation.

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

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

13 (c) For purposes of this section, the number of additional
14 students in average daily attendance at a facility is the
15 difference between the number of students in average daily
16 attendance in the current year at that facility and the number of
17 students in average daily attendance at that facility in the
18 preceding year.

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

22 (b) If the total amount of allotments to which school
23 districts are entitled under this subchapter for a school year
24 exceeds the amount appropriated for allotments under this
25 subchapter, the commissioner shall reduce each district's
26 allotment under this subchapter in the manner provided by Section
27 42.313(f).

28 [Sections 42.226-42.250 reserved for expansion]

1 [Subchapter F reserved]

2 SUBCHAPTER G. ENRICHMENT PROGRAM

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

9 Sec. 42.252. ALLOTMENT. (a) In this section, "wealth per
10 student" means a school district's taxable value of property for
11 the preceding year as determined under Subchapter M, Chapter 403,
12 Government Code, divided by the number of students in attendance in
13 the district, and adjusted to reflect the effects of Subchapters C
14 and H.

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

20
$$\underline{GYA = (GL \times AF \times DETR \times 100) - LR}$$

21 where:

22 "GYA" is the guaranteed amount of state enrichment funds to
23 be allocated to the district;

24 "GL" is the dollar amount guaranteed level, which is the
25 amount of district enrichment tax revenue per cent of tax effort
26 available to a school district at the 96th percentile in wealth per
27 student, provided that a different amount for any school year may be
28 provided by appropriation;

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

6 "DETR" is the district enrichment tax rate of the school
7 district, which is the district's adopted maintenance and
8 operations tax rate minus the maximum rate specified under Section
9 42.306 or otherwise provided by appropriation for purposes of that
10 section; and

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

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

21 (1) for the 2006-2007 school year, GL is determined
22 using a percentile that is equivalent to an amount of \$39.10;

23 (2) for the 2007-2008 school year, GL is determined
24 using a percentile that is equivalent to an amount of \$39.70;

25 (3) for the 2008-2009 school year, GL is determined
26 using a percentile that is equivalent to an amount of \$40.80; and

27 (4) for the 2009-2010 school year, GL is determined
28 using the 95th percentile in wealth per student.

1 (d) This subsection and Subsection (c) expire September 1,
2 2011.

3 (e) Any increase in the total amount of state funds
4 distributed to school districts by application of the dollar amount
5 guaranteed level ("GL") under this section over the total amount of
6 state funds distributed to districts by application of the GL under
7 this section for the 2006-2007 school year may not exceed the amount
8 appropriated specifically for that purpose for the applicable
9 school year.

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

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

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

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

18 (a-2) Notwithstanding Subsection (b), a school district
19 that has not imposed an enrichment tax under this section may impose
20 an enrichment tax, without voter approval, at a rate not to exceed
21 \$0.02 per \$100 of valuation, provided that the total rate of the
22 district's tax for the maintenance of the public schools has been
23 approved by the voters, regardless of the date of the election.

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

27 (c) Subsection (a-1) and this subsection expire January 1,
28 2009.

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

8 [Sections 42.255-42.300 reserved for expansion]

9 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

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

27 (b-1) In this subsection, "teacher fixed effects index"
28 means the teacher fixed effects index in the 2004 report

1 commissioned by the Joint Select Committee on Public School Finance
2 of the 78th Legislature, as adjusted so that there is not a greater
3 difference between the highest index value and the lowest index
4 value in the regional boundaries of a regional education service
5 center than the difference that existed between the highest index
6 value and lowest index value within the regional boundaries of that
7 regional education service center under 19 T.A.C. Chapter 203, as
8 that chapter existed on January 1, 2005. The commissioner shall
9 increase the amount of the lowest adjustment in the regional
10 boundaries of each regional education service center to satisfy
11 the requirements of this subsection. Notwithstanding Subsection
12 (a), the cost of education index for purposes of that subsection for
13 the following school years is determined using the teacher fixed
14 effects index in the following manner:

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

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

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

27 (4) for the 2009-2010 and 2010-2011 school years, the
28 cost of education index for purposes of Subsection (a) is the

1 teacher fixed effects index.

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

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

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

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

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

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

25 (f) Any increase in the total amount of state funds
26 distributed to school districts by application of the cost of
27 education adjustment under this section over the total amount of
28 state funds distributed to districts by application of the cost of

1 education adjustment under this section for the 2006-2007 school
2 year may not exceed the amount appropriated specifically for that
3 purpose for the applicable school year.

4 Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT.

5 (a) The amounts of the accreditation allotments under Subchapter B
6 and each special student allotment under Subchapter C of certain
7 small and mid-sized school districts are adjusted in accordance
8 with this section to reflect district costs related to the
9 district's size. In this section:

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

12 (2) "ADA" is the number of students in average daily
13 attendance for which the district is entitled to an accreditation
14 allotment under Section 42.101, minus the sum of the number of
15 full-time equivalent students in a special education program in a
16 mainstream instructional arrangement and the number of full-time
17 equivalent students in a career and technology program; and

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

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

26
$$A = ((1,600 - ADA) \times 0.0004) \times SA$$

27 (c) The sum of total accreditation allotments and any
28 special student allotments under Subchapter C of a school district

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

$$4 \quad \quad \quad A = ((1,600 - ADA) \times 0.000288) \times SA$$

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

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

$$10 \quad \quad \quad A = ((1,600 - ADA) \times 0.000272) \times SA; \text{ and}$$

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

$$12 \quad \quad \quad A = ((1,600 - ADA) \times 0.000276) \times SA$$

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

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

$$21 \quad \quad \quad (2) \quad A = ((5,000 - ADA) \times 0.0000288) \times SA$$

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

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

28 (A) the formula in Subsection (b) or (c-1)(1) for

which the district is eligible; or

(B) $A = ((5,000 - ADA) \times 0.0000272) \times SA$; and

(2) for the 2007-2008 school year:

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

(B) $A = ((5,000 - ADA) \times 0.0000276) \times SA$

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

(f) The commissioner may make the adjustment authorized by Subsection (d)(2), (d-1)(1)(B), or (d-1)(2)(B) only if the district is not subject to additional equalization under Section 42.401. For purposes of this subsection, the adjustment provided by Subsection (d)(2), (d-1)(1)(B), or (d-1)(2)(B) is not used in determining whether the district is subject to additional equalization under Section 42.401.

(g) Subsections (c-1) and (d-1) and this subsection expire September 1, 2009.

(h) Any increase in the total amount of state funds distributed to school districts by application of the adjustments provided by this section over the total amount of state funds distributed to districts by application of the adjustments under this section for the 2006-2007 school year may not exceed the amount appropriated specifically for that purpose for the applicable

1 school year.

2 Sec. 42.303. SPARSITY ADJUSTMENT. Notwithstanding
3 Sections 42.101 and 42.302:

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

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

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

23 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
24 accreditation allotments under Subchapter B and the additional
25 allotments under Subchapters C, D, and E, as adjusted in accordance
26 with this subchapter, constitutes the tier one allotments. The sum
27 of the tier one allotments and the enrichment program allotments
28 under Subchapter G constitutes the total cost of the Foundation

1 School Program.

2 (b) The program shall be financed by:

3 (1) state funds appropriated for the purposes of
4 public school education;

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

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

10 (4) state available school funds distributed in
11 accordance with law.

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

19 Sec. 42.3051. STAFF COMPENSATION AND ADDITIONAL STATE AID.

20 (a) For the 2006-2007 school year, a school district shall provide
21 district employees compensation in the form of annual salaries,
22 incentives, or other compensation determined appropriate by the
23 district that results in a total compensation increase for all
24 district employees over the compensation paid in the 2005-2006
25 school year in an amount equal to the product of \$250 and the total
26 number of classroom teachers, full-time librarians, full-time
27 counselors certified under Subchapter B, Chapter 21, and full-time
28 school nurses employed by the district.

1 (b) A payment under this section is in addition to
2 compensation a school district would otherwise pay an employee
3 during the school year.

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

8 (1) an amount equal to the product of \$3,000
9 multiplied by the number of classroom teachers, full-time
10 librarians, full-time counselors certified under Subchapter B,
11 Chapter 21, and full-time school nurses employed by the district
12 and entitled to a minimum salary under Section 21.402; and

13 (2) the amount of additional funds to which the
14 district is entitled as a result of S.B. No. 8, Acts of the 79th
15 Legislature, 2nd Called Session, 2005.

16 (d) Section 42.311(b) applies to any determinations made
17 under Subsection (a).

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

20 (f) The commissioner may adopt rules to implement this
21 section.

22 Sec. 42.3052. CRISIS INTERVENTION FUNDING. (a) To the
23 extent consistent with this section, the commissioner may set aside
24 funds appropriated to the agency for purposes of the Foundation
25 School Program to provide temporary emergency assistance to a
26 school district responding to flood, extreme weather conditions,
27 fuel curtailment, severe financial crisis, or other crisis or
28 disaster, as determined appropriate by the commissioner. The

1 commissioner may determine funding priorities under this section.

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

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

8 Sec. 42.306. LOCAL SHARE OF PROGRAM COST (TIER ONE).

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

11
$$\underline{LS = TR \times DPV}$$

12 where:

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

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

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

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

27 (c) A school district with a tax rate ("TR") of \$1.20 or the
28 rate otherwise provided by appropriation for purposes of Subsection

1 (a) is eligible to receive the full amount of the tier one allotment
2 to which the district is entitled under this chapter.

3 (d) If a school district's tax rate ("TR") is less than
4 \$1.20 or the rate otherwise provided by appropriation for purposes
5 of Subsection (a), the district's tier one allotment is adjusted by
6 a percentage determined by dividing the district's tax rate ("TR")
7 by \$1.20 or the rate otherwise provided by appropriation for
8 purposes of Subsection (a) and multiplying the resulting quotient
9 by 100. The commissioner shall determine the amount of the tier one
10 allotment to which a district is entitled under this subsection.
11 The commissioner's determination is final and may not be appealed.

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

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

24 (b) To the extent that a sufficient amount of money is not
25 available to fund all adjustments under this section, the
26 commissioner shall reduce adjustments in the manner provided by
27 Section 42.313(f) so that the total amount of adjustments equals
28 the amount of money available to fund the adjustments.

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

3 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

8 (1) funds are specifically appropriated for purposes
9 of this section; or

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

18 (b) In making a determination under Subsection (a)(2), the
19 commissioner shall:

20 (1) notwithstanding Section 42.313(b), reduce the
21 entitlement under this chapter of a school district whose final
22 taxable value of property is higher than the estimate under Section
23 42.314 and make payments to school districts accordingly; and

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

28 (c) In the first year of a state fiscal biennium, before

1 providing funding as provided by Subsection (a)(2), the
2 commissioner shall ensure that sufficient appropriated funds for
3 purposes of the Foundation School Program are available for the
4 second year of the biennium, including funds to be used for purposes
5 of Section 42.307.

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

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

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

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

28 (c) The commissioner shall recover the benefit of any

1 adjustment made under this section by making offsetting adjustments
2 in the school district's taxable value of property for purposes of
3 this chapter or Chapter 46 on a final determination of the taxable
4 value of property that was the basis of the original adjustment, or
5 in the second school year following the year in which the adjustment
6 is made, whichever is earlier.

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

9 Sec. 42.309. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT
10 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the
11 taxable value of property of a school district that contracts for
12 students residing in the district to be educated in another
13 district under Section 25.039(a) is adjusted by applying the
14 formula:

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

16 where:

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

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

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

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

28 Sec. 42.310. EFFECT OF APPRAISAL APPEAL. (a) If the final

1 determination of an appeal under Chapter 42, Tax Code, results in a
2 reduction in the taxable value of property that exceeds five
3 percent of the total taxable value of property in the school
4 district for the same tax year determined under Subchapter M,
5 Chapter 403, Government Code, the commissioner shall request the
6 comptroller to adjust its taxable property value findings for that
7 year consistent with the final determination of the appraisal
8 appeal.

9 **(b) If the district would have received a greater amount**
10 **from the Texas education fund for the applicable school year using**
11 **the adjusted value, the commissioner shall add the difference to**
12 **subsequent distributions to the district from the Texas education**
13 **fund. An adjustment does not affect the local share of any other**
14 **district.**

15 **Sec. 42.311. ADDITIONAL TRANSITIONAL AID.**

16 **(a) Notwithstanding any other provision of this subtitle, and**
17 **provided that a school district imposes a tax at a minimum rate**
18 **specified by the commissioner, a school district is entitled to the**
19 **amount of state revenue necessary to maintain state and local**
20 **revenue per student in average daily attendance in the amount equal**
21 **to the sum of:**

22 **(1) the amount of state and local revenue per student**
23 **in average daily attendance for the maintenance and operation of**
24 **the district to which the district would have been entitled for the**
25 **2005-2006 school year under Chapter 42, as that chapter existed on**
26 **January 1, 2006, or, if the district would have been subject to**
27 **Chapter 41, as that chapter existed on January 1, 2006, the amount**
28 **to which the district would have been entitled under that chapter,**

1 based on the funding elements in effect for the 2004-2005 school
2 year, and including:

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

6 (B) the portion of any profit the district
7 received during the 2005-2006 school year as a result of an
8 agreement under Subchapter E, Chapter 41, that exceeds the amount
9 of state and local revenue that would have been available to the
10 district during that school year if the district imposed a
11 maintenance and operations tax of \$1.50 per \$100 of valuation
12 during that school year;

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

15 (D) any amount necessary to reflect an adjustment
16 made by the commissioner under Section 42.3081;

17 (2) an amount equal to three percent of the amount
18 described by Subdivision (1); and

19 (3) the product of \$1,000 multiplied by the number of
20 classroom teachers, full-time librarians, full-time counselors
21 certified under Subchapter B, Chapter 21, and full-time nurses
22 employed by the district and entitled to a minimum salary under
23 Section 21.402.

24 (b) The amount of revenue to which a school district is
25 entitled because of the instructional materials and technology
26 allotment under Section 32.005 is not included in making a
27 determination under Subsection (a).

28 (c) The commissioner shall determine the minimum tax rate

1 for a school district under Subsection (a) on the basis of the tax
2 rate adopted by the district for maintenance and operations for the
3 2005-2006 school year. The commissioner shall compute the amount
4 of state and local revenue in Subsection (a)(1) using a maintenance
5 and operations tax rate that does not exceed \$1.50 for each \$100
6 valuation of taxable property for both entitlement to state aid and
7 collection of local taxes.

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

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

14 Sec. 42.3111. IMPLEMENTATION OF REVENUE MAINTENANCE
15 PROVISIONS FOR DISTRICTS UNDER COUNTYWIDE EQUALIZATION SYSTEM.

16 (a) This section applies only to a school district that receives
17 local property tax revenue from a countywide equalization tax
18 imposed in accordance with former Chapter 18 and authorized by
19 Section 11.301.

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

28 Sec. 42.312. TEMPORARY LIMITATIONS ON AID.

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

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

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

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

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

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

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

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

19 Sec. 42.313. DISTRIBUTION OF TEXAS EDUCATION FUND.

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

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

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

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

28 (4) the amount of a school district's tier one local

1 share under Section 42.306; and

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

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

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

23 (c-1) Notwithstanding any other provision of this chapter,
24 with the approval of the commissioner, a school district in which
25 the number of students in average daily attendance increases as a
26 result of enrolling students pursuant to an agreement to provide
27 education services in cooperation with a public charter district or
28 open-enrollment charter school is entitled to receive state revenue

1 for the additional students in an amount not less than the
2 district's total state and local revenue per student, including
3 revenue from accreditation allotments and an enrichment program
4 under Subchapter G, calculated on the basis of the district's
5 average daily attendance prior to the enrollment of the additional
6 students, or by the amount per student that the public charter
7 district or open-enrollment charter school would have received if
8 it enrolled the students, whichever is greater.

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

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

26 (f) If the total amount appropriated for a year is less than
27 the amount of money to which school districts are entitled for that
28 year, the commissioner shall reduce the total amount of funds

1 allocated to each district proportionately. The following fiscal
2 year, a district's entitlement under this section is increased by
3 an amount equal to the reduction made under this subsection.

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

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

1 subsection.

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

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

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

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

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

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

27 (b) The agency and the comptroller shall update the
28 information provided to the legislature under Subsection (a) not

1 later than March 1 of each odd-numbered year.

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

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

21 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In
22 this section:

23 (1) "Category 1 school district" means a school
24 district having a wealth per student of less than one-half of the
25 statewide average wealth per student.

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

1 statewide average wealth per student.

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

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

9 (b) Payments from the Texas education fund to each category
10 1 school district shall be made as follows:

11 (1) 15 percent of the yearly entitlement of the
12 district shall be paid in an installment to be made on or before the
13 25th day of September of a fiscal year;

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

18 (3) five percent of the yearly entitlement of the
19 district shall be paid in an installment to be made on or before the
20 25th day of February.

21 (c) Payments from the Texas education fund to each category
22 2 school district shall be made as follows:

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

26 (2) 18 percent of the yearly entitlement of the
27 district shall be paid in an installment to be made on or before the
28 25th day of October;

1 (3) 9.5 percent of the yearly entitlement of the
2 district shall be paid in an installment to be made on or before the
3 25th day of November;

4 (4) 7.5 percent of the yearly entitlement of the
5 district shall be paid in an installment to be made on or before the
6 25th day of April;

7 (5) five percent of the yearly entitlement of the
8 district shall be paid in an installment to be made on or before the
9 25th day of May;

10 (6) 10 percent of the yearly entitlement of the
11 district shall be paid in an installment to be made on or before the
12 25th day of June;

13 (7) 13 percent of the yearly entitlement of the
14 district shall be paid in an installment to be made on or before the
15 25th day of July; and

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

21 (d) Payments from the Texas education fund to each category
22 3 school district shall be made as follows:

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

26 (2) 35 percent of the yearly entitlement of the
27 district shall be paid in an installment to be made on or before the
28 25th day of October; and

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

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

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

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

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

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

3 [Sections 42.318-42.400 reserved for expansion]

4 SUBCHAPTER I. ADDITIONAL EQUALIZATION

5 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

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

16 (f-1) The commissioner shall determine the total amount
17 that the Texas School for the Blind and Visually Impaired and the
18 Texas School for the Deaf would have received from school districts
19 pursuant to this section if S.B. No. 8 and __.B. No. __, Acts of the
20 79th Legislature, 2nd Called Session, 2005, had not reduced the
21 districts' share of the cost of providing education services. That
22 amount, minus any amount the schools do receive from school
23 districts, shall be set aside as a separate account in the Texas
24 education fund and appropriated to those schools for educational
25 purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (a) The commissioner may adopt rules necessary for the
25 implementation of this chapter. The rules may provide for the
26 commissioner to make necessary adjustments to the provisions of
27 Chapter 42, including providing for the commissioner to make an
28 adjustment in the funding element established by Section 42.252

1 ~~[42.302]~~, at the earliest date practicable, to the amount the
2 commissioner believes, taking into consideration options exercised
3 by school districts under Section 42.401 ~~[this chapter]~~ and
4 estimates of student enrollments, will match appropriation levels.

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

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

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

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

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

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

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

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

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

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

14 Sec. 41.091. AGREEMENT. A school district subject to
15 Section 42.401 ~~[with a wealth per student that exceeds the~~
16 ~~equalized wealth level]~~ may execute an agreement with the
17 commissioner to purchase attendance credits in an amount equal to
18 the difference between the district's local share under Section
19 42.306 and the district's tier one allotment under Section 42.304
20 ~~[sufficient, in combination with any other actions taken under this~~
21 ~~chapter, to reduce the district's wealth per student to a level that~~
22 ~~is equal to or less than the equalized wealth level]~~.

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

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

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

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

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

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

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

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

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

27 (1) first, to the contiguous district that has the
28 lowest local share percentage ~~[wealth per student]~~ and is located

1 in the same county;

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

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

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

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

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

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

26 (d) In this section, "local share percentage" means a
27 percentage determined by dividing a school district's local share
28 under Section 42.306 by the district's tier one allotment under

1 Section 42.304.

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

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

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

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

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

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

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

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

27 (f) Notwithstanding any other provision of this section, a
28 district may not adopt a tax rate for the maintenance and operations

1 of the district that exceeds the sum of the maximum rate for
2 purposes of Section 42.253 and the rate specified in Section 42.306
3 or otherwise provided for that section by appropriation unless that
4 tax rate is approved by two-thirds of the qualified voters voting in
5 an election held for that purpose. A district's adoption of a rate
6 authorized by this subsection does not affect the limitation on a
7 district's entitlement to enrichment revenue provided by Section
8 42.253. This subsection does not authorize the adoption of a tax
9 rate for the maintenance and operations of the district that
10 exceeds the maximum rate prescribed by Subsection (d).

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

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

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

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

24 (a-1) Notwithstanding Section 45.003, Education Code, and
25 except as provided by Subsection (a-2), (a-3), or (a-4), for the
26 2006 tax year, a school district may not impose a tax for the
27 maintenance and operations of the district that exceeds the greater
28 of:

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

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

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

19 (a-3) For the 2006 tax year, a school district permitted by
20 Subsection (a-1) to impose a tax for the maintenance and operations
21 of the district at the rate of \$1.20 on the \$100 valuation of
22 taxable property may impose a tax for the maintenance and
23 operations of the district at a higher rate if approved by the
24 voters in an election held after the effective date of S.B. No. 8,
25 Acts of the 79th Legislature, 2nd Called Session, 2005.

26 (a-4) Notwithstanding any other provision of law, a school
27 district permitted by special law on January 1, 2006, to impose an
28 ad valorem tax for maintenance and operations at a rate greater than

1 \$1.50 on the \$100 valuation of taxable property in the district may,
2 for the 2006 tax year:

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

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

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

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

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

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

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

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

26 (h) For purposes of Subsection (b) ~~[this section]~~,
27 increases in taxable values and tax levies occurring within a
28 reinvestment zone under Chapter 311 (Tax Increment Financing Act),

1 in which the district is a participant, shall be eliminated from the
2 calculation of the tax rate adopted by the governing body of the
3 school district.

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

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

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

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

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

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

27 (b-1) In addition to other requirements of this section, a
28 tax bill or the separate statement accompanying the tax bill for a

1 school district must state in a distinct row for each of the
2 following taxes:

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

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

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

15 SECTION 1B.20. Effective on the 91st day after the last day
16 of the legislative session, Section 311.013, Tax Code, as amended
17 by S.B. No. 771, Acts of the 79th Legislature, Regular Session,
18 2005, is amended by adding Subsection (n) to read as follows:

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

1 school district realizes from the reduction in the school
2 district's taxable value under Section 403.302(d)(5), Government
3 Code. This subsection ceases to apply to the school district on the
4 earlier of the dates specified by Sections 311.017(a)(1) and (2)
5 for the reinvestment zone.

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

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

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

26 (2) the comptroller shall use the category weighted
27 mean appraisal ratios as adjusted under Subdivision (1) to
28 establish a value estimate for each category of property sampled

1 and tested by the comptroller in the school district; and

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

7 (c-2) Subsection (c-1) and this subsection expire September
8 1, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

28 (8) ~~(7)~~ the portion of the appraised value of

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

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

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

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

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

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

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

28 (13) [~~(12)~~] the amount by which the market value of a

1 residence homestead to which Section 23.23, Tax Code, applies
2 exceeds the appraised value of that property as calculated under
3 that section.

4 (d-1) For a school district for which in the 2004 tax year a
5 deduction from taxable value is made under Subsection (d)(5), the
6 comptroller shall certify to the commissioner of education a final
7 taxable value for the 2004 tax year, calculated as if the reduction
8 in the school district's ad valorem tax rate and the method of
9 calculating the amount of the deduction from taxable value under
10 Subsection (d)(5) required by S.B. No. 8, Acts of the 79th
11 Legislature, 2nd Called Session, 2005, took effect January 1, 2004.
12 This subsection expires September 1, 2006.

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

1 determined by that appraisal district, is not valid, the
2 comptroller, in determining the taxable value of property in the
3 school district under Subsection (d), shall for purposes of
4 Subsection (d)(13) [~~(d)(12)~~] subtract from the market value as
5 estimated by the comptroller of residence homesteads to which
6 Section 23.23, Tax Code, applies the amount by which that amount
7 exceeds the appraised value of those properties as calculated by
8 the appraisal district under Section 23.23, Tax Code.

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

11 PART C. SCHOOL FACILITIES

12 SECTION 1C.01. Subchapter A, Chapter 46, Education Code, is
13 amended by adding Section 46.014 to read as follows:

14 Sec. 46.014. STUDY REGARDING INSTRUCTIONAL FACILITIES.

15 (a) The Legislative Budget Board, in cooperation with the agency,
16 shall study existing instructional facilities in this state.

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

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

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

26 (3) a determination of the number of school districts
27 and campuses that have student populations that exceed the state
28 average for enrollment growth, including, if appropriate, a

1 determination of:

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

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

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

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

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

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

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

22 SECTION 1C.02. This part takes effect on the 91st day after
23 the last day of the legislative session.

24 PART D. SOCIAL SECURITY CONTRIBUTIONS

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

27 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

28 (a) Subject to Subsection (b), the state shall pay 50 percent of

1 the total costs incurred by a school district in making
2 contributions for social security coverage for the
3 district's employees.

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

10 (b) Payment of state assistance under this section is
11 limited to:

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

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

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

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

22 ARTICLE 2. EDUCATION EXCELLENCE

23 PART A. EDUCATION EMPLOYEES

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

26 (f) The employment policy may not restrict the ability of a
27 school district employee to communicate directly with a member of
28 the board of trustees regarding a matter relating to the operation

1 of the district, except that the policy may prohibit:

2 (1) communication during:

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

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

6 (2) ex parte communication relating to:

7 (A) a hearing under Subchapter E or F, Chapter
8 21; and

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 2A.021. Subsection (a), Section 21.003, Education
2 Code, is amended to read as follows:

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

8 SECTION 2A.03. Subsections (a) and (b), Section 21.045,
9 Education Code, are amended to read as follows:

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

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

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

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

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

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

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

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

12 SECTION 2A.04. Subsection (a), Section 21.104, Education
13 Code, is amended to read as follows:

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

16 (1) good cause as determined by the board of trustees;
17 or

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

22 SECTION 2A.05. Subchapter C, Chapter 21, Education Code, is
23 amended by adding Section 21.1041 to read as follows:

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

28 (b) If the teacher desires a hearing after receiving notice

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

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

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

14 (3) cross-examine adverse witnesses; and

15 (4) present evidence.

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

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

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

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

1 SECTION 2A.06. Subchapter E, Chapter 21, Education Code, is
2 amended by adding Section 21.2111 to read as follows:

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

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

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

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

21 (3) cross-examine adverse witnesses; and

22 (4) present evidence.

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

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

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

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

7 SECTION 2A.07. Section 21.251, Education Code, is amended
8 to read as follows:

9 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
10 if a teacher requests a hearing after receiving notice of the
11 proposed decision to:

12 (1) terminate the teacher's continuing contract at any
13 time;

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

17 (3) suspend the teacher without pay.

18 (b) This subchapter does not apply to:

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

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

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

28 SECTION 2A.08. Subsection (a), Section 21.301, Education

1 Code, is amended to read as follows:

2 (a) Not later than the 20th day after the date the board of
3 trustees or board subcommittee announces its decision under Section
4 21.259, ~~[or]~~ the board advises the teacher of its decision not to
5 renew the teacher's contract under Section 21.208, or the board
6 advises the teacher of its decision to terminate the teacher's
7 probationary contract under Section 21.1041(c) or (d) or term
8 contract under Section 21.2111(c) or (d), the teacher may appeal
9 the decision by filing a petition for review with the commissioner.

10 SECTION 2A.09. Subsection (a), Section 21.303, Education
11 Code, is amended to read as follows:

12 (a) If the board of trustees decided not to renew a
13 teacher's term contract or decided to terminate a teacher's
14 probationary contract under Section 21.1041(c) or (d) or term
15 contract under Section 21.2111(c) or (d), the commissioner may not
16 substitute the commissioner's judgment for that of the board of
17 trustees unless the decision was arbitrary, capricious, or unlawful
18 or is not supported by substantial evidence.

19 SECTION 2A.10. Section 21.402, Education Code, is amended
20 by amending Subsections (a), (c), and (d) and adding Subsections
21 (a-1), (a-2), (c-1), (c-2), (c-3), (c-4), and (c-5) to read as
22 follows:

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

1	Years	3	4	5
2	Experience			
3	<u>Monthly Salary</u>	<u>\$2,871</u> [-.6058]	<u>\$2,992</u> [-.6340]	<u>\$3,113</u> [-.6623]
4	[Factor]			
5	Years	6	7	8
6	Experience			
7	<u>Monthly Salary</u>	<u>\$3,234</u> [-.6906]	<u>\$3,347</u> [-.7168]	<u>\$3,453</u> [-.7416]
8	[Factor]			
9	Years	9	10	11
10	Experience			
11	<u>Monthly Salary</u>	<u>\$3,554</u> [-.7651]	<u>\$3,648</u> [-.7872]	<u>\$3,739</u> [-.8082]
12	[Factor]			
13	Years	12	13	14
14	Experience			
15	<u>Monthly Salary</u>	<u>\$3,824</u> [-.8281]	<u>\$3,903</u> [-.8467]	<u>\$3,980</u> [-.8645]
16	[Factor]			
17	Years	15	16	17
18	Experience			
19	<u>Monthly Salary</u>	<u>\$4,051</u> [-.8811]	<u>\$4,119</u> [-.8970]	<u>\$4,183</u> [-.9119]
20	[Factor]			
21	Years	18	19	20 and over
22	Experience			
23	<u>Monthly Salary</u>	<u>\$4,243</u> [-.9260]	<u>\$4,301</u> [-.9394]	<u>\$4,355</u> [-.9520]
24	[Factor]			

25 (c-1) Subsection (c) applies beginning with the 2006-2007
26 school year. For the 2005-2006 school year, the minimum monthly
27 salary under this section is as follows:

1	<u>Years</u>	<u>0</u>	<u>1</u>	<u>2</u>
2	<u>Experience</u>			
3	<u>Monthly Salary</u>	<u>\$2,574</u>	<u>\$2,631</u>	<u>\$2,689</u>
4	<u>Years</u>	<u>3</u>	<u>4</u>	<u>5</u>
5	<u>Experience</u>			
6	<u>Monthly Salary</u>	<u>\$2,746</u>	<u>\$2,867</u>	<u>\$2,988</u>
7	<u>Years</u>	<u>6</u>	<u>7</u>	<u>8</u>
8	<u>Experience</u>			
9	<u>Monthly Salary</u>	<u>\$3,109</u>	<u>\$3,222</u>	<u>\$3,328</u>
10	<u>Years</u>	<u>9</u>	<u>10</u>	<u>11</u>
11	<u>Experience</u>			
12	<u>Monthly Salary</u>	<u>\$3,429</u>	<u>\$3,523</u>	<u>\$3,614</u>
13	<u>Years</u>	<u>12</u>	<u>13</u>	<u>14</u>
14	<u>Experience</u>			
15	<u>Monthly Salary</u>	<u>\$3,699</u>	<u>\$3,778</u>	<u>\$3,855</u>
16	<u>Years</u>	<u>15</u>	<u>16</u>	<u>17</u>
17	<u>Experience</u>			
18	<u>Monthly Salary</u>	<u>\$3,926</u>	<u>\$3,994</u>	<u>\$4,058</u>
19	<u>Years</u>	<u>18</u>	<u>19</u>	<u>20 and over</u>
20	<u>Experience</u>			
21	<u>Monthly Salary</u>	<u>\$4,118</u>	<u>\$4,176</u>	<u>\$4,230</u>

22 (c-2) Notwithstanding Subsection (a), for the 2005-2006
 23 school year, a classroom teacher, full-time librarian, full-time
 24 counselor certified under Subchapter B, or full-time school nurse
 25 is entitled to a monthly salary that is at least equal to the sum of:
 26 (1) the monthly salary the employee would have
 27 received for the 2005-2006 school year under the district's salary
 28 schedule for the 2004-2005 school year, if that schedule had been in

effect for the 2005-2006 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2005-2006 school year; and

(2) \$150.

(c-3) Notwithstanding Subsection (a), for the 2006-2007 school year, a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse is entitled to a monthly salary that is at least equal to the sum of:

(1) the monthly salary the employee would have received for the 2006-2007 school year under the district's salary schedule for the 2004-2005 school year, if that schedule had been in effect for the 2006-2007 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2006-2007 school year; and

(2) \$275.

(c-4) A school district that paid employees an additional amount during each of the 2003-2004 and 2004-2005 school years to compensate for reductions made in the health coverage or compensation supplementation provided by former Article 3.50-8, Insurance Code, may apply to the commissioner for authority to provide a lesser average compensation increase than the amount otherwise required by Subsection (c-2) or (c-3), to the extent equitable considering the additional amount provided by the district during the 2003-2004 and 2004-2005 school years. A determination by the commissioner under this subsection is final and may not be appealed. The commissioner may adopt rules to implement this subsection.

(c-5) Subsections (c-1), (c-2), (c-3), (c-4), and this

1 subsection expire September 1, 2007.

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

8 SECTION 2A.11. Subchapter I, Chapter 21, Education Code, is
9 amended by adding Section 21.4021 to read as follows:

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

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

18 (1) the teacher's ability to improve the academic
19 achievement of the teacher's students;

20 (2) the grade level or subject the teacher is assigned
21 to teach;

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

23 (4) the assignment of the teacher, including whether
24 the teacher is assigned to a subject or school that is difficult to
25 staff.

26 (c) A school district can and should provide additional
27 compensation to a teacher who substantially contributes to
28 improvement in student achievement.

1 SECTION 2A.12. Effective September 1, 2006, Subchapter I,
2 Chapter 21, Education Code, is amended by adding Section 21.4031 to
3 read as follows:

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

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

10 (1) \$1,000 for a year in which the sum of the teacher's
11 age and years of service credit in the Teacher Retirement System of
12 Texas equals at least 80 but less than 85;

13 (2) \$2,000 for a year in which the sum of the teacher's
14 age and years of service credit in the Teacher Retirement System of
15 Texas equals at least 85 but less than 90;

16 (3) \$3,000 for a year in which the sum of the teacher's
17 age and years of service credit in the Teacher Retirement System of
18 Texas equals at least 90 but less than 95; and

19 (4) \$4,000 for a year in which the sum of the teacher's
20 age and years of service credit in the Teacher Retirement System of
21 Texas equals at least 95.

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

25 (d) The Teacher Retirement System of Texas, at the request
26 of the agency, may release information to the agency about a member
27 of the retirement system or a retiree that the executive director of
28 the retirement system finds is necessary to determine a person's

1 eligibility for a salary supplement under this section. The
2 information remains confidential after the information is released
3 to the agency as authorized by this section. The agency may
4 disclose whether an employee is entitled to a supplement and the
5 amount of the supplement to which the employee is entitled but may
6 not release other information provided by the retirement system.

7 (e) A school district is entitled to state funds in an
8 amount equal to the sum of the salary supplements to which classroom
9 teachers employed by the district are entitled under this section.
10 Funding a school district receives under this section is in
11 addition to any funding the district receives under Chapter 42. The
12 commissioner shall distribute funds under this section with the
13 Foundation School Program payment to which the district is entitled
14 as soon as practicable after the end of the school year as
15 determined by the commissioner. A district to which Chapter 41
16 applies is entitled to funding under this section. The
17 commissioner shall determine the timing of the distribution of
18 funds to a district that does not receive Foundation School Program
19 payments.

20 SECTION 2A.13. Subchapter J, Chapter 21, Education Code, is
21 amended by adding Section 21.458 to read as follows:

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

25 (1) teach in the same school;
26 (2) to the extent practicable, teach the same subject
27 or grade level, as applicable; and

28 (3) meet the qualifications prescribed by

1 commissioner rules adopted under Subsection (b).

2 (b) The commissioner shall adopt rules necessary to
3 administer this section, including rules concerning the duties and
4 qualifications of a teacher who serves as a mentor. The rules
5 concerning qualifications must require that to serve as a mentor a
6 teacher must:

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

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

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

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

19 (1) mentor teacher stipends;

20 (2) scheduled time for mentor teachers to provide
21 mentoring to assigned classroom teachers; and

22 (3) mentoring support through providers of mentor
23 training.

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

27 SECTION 2A.14. Chapter 21, Education Code, is amended by
28 adding Subchapter N to read as follows:

1 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

2 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM.

3 (a) The commissioner shall establish an educator excellence
4 incentive program under which school districts, in accordance with
5 locally developed plans approved by the commissioner, provide
6 incentive payments to employees who demonstrate superior success in
7 growth in student achievement.

8 (b) The commissioner shall award grants in an amount not to
9 exceed a total of \$50 million per school year to school districts
10 selected by the commissioner in accordance with an application
11 process established by the commissioner. Districts shall use
12 grants awarded under this section to provide incentive payments to
13 employees in accordance with this subchapter.

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

15 (1) encourage classroom teachers to:

16 (A) teach at campuses with high percentages of
17 educationally disadvantaged students;

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

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

23 (2) further the goals of any other locally designed
24 performance incentive program intended to improve student
25 achievement.

26 (d) The commissioner shall adopt rules necessary to
27 implement this subchapter, including rules establishing criteria
28 for awarding grants under Subsection (b). In adopting rules, the

1 commissioner shall encourage local flexibility in designing
2 incentive plans that promote student achievement.

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

4 (a) A school district that applies to participate in the educator
5 excellence incentive program established under Section 21.651
6 shall develop a local incentive plan for rewarding successful
7 incremental growth in student achievement in the district and
8 submit the plan to the commissioner for approval.

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

12 (c) A local incentive plan must provide for incentive
13 payments to classroom teachers and may provide for incentive
14 payments to other employees.

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

24 (e) A local incentive plan must:

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

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

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

4 Sec. 21.653. EMPLOYMENT CONTRACTS. (a) A school district
5 that applies to participate in the educator excellence incentive
6 program established under Section 21.651 shall provide in
7 employment contracts that qualifying employees may receive an
8 incentive payment under the local incentive plan.

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

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

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

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

24 Sec. 22.101. DEFINITIONS. In this subchapter:

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

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

1 (A) is employed by a district, other educational
2 district whose employees are members of the Teacher Retirement
3 System of Texas, participating charter school, or regional
4 education service center;

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

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

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

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

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

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

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

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

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

1 ~~person becomes an employee.~~

2 ~~[Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the~~
3 ~~availability of funds, each month the agency shall deliver to each]~~
4 ~~district, [including a district that is ineligible for state aid~~
5 ~~under Chapter 42, each] other educational district that is a member~~
6 ~~of the Teacher Retirement System of Texas, [each] participating~~
7 ~~charter school, or [and each] regional education service center may~~
8 ~~elect to designate a portion of the employee's compensation to be~~
9 ~~used as health care supplementation under this subchapter.~~

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

12 (c) This section does not apply to:

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

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

26 Sec. 22.104 ~~[22.105]~~. FUNDS HELD IN TRUST. All funds
27 received by a district, other educational district, participating
28 charter school, or regional education service center under this

1 subchapter are held in trust for the benefit of the employees on
2 whose behalf the district, school, or service center received the
3 funds.

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

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

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

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

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

1 designated amount [~~of the distribution~~] for health care premiums
2 through a premium conversion plan. [~~The employee may take the~~
3 ~~amount of the distribution as supplemental compensation.~~

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

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

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

14 SECTION 2A.16. Subchapter A, Chapter 29, Education Code, is
15 amended by adding Section 29.019 to read as follows:

16 Sec. 29.019. SPEECH-LANGUAGE INSTRUCTION: ASSISTANTS.

17 (a) This section applies to an assistant who:

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

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

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

1 except as provided by Subsection (c).

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

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

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

11 (d) This section:

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

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

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

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

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

28 (3) teaching students in a manner that results in the

1 highest level of student performance.

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

7 SECTION 2A.18. Sections 21.104, 21.251, 21.301, and 21.303,
8 Education Code, as amended by this Act, and Sections 21.1041 and
9 21.2111, Education Code, as added by this Act, apply only to a
10 discharge under a probationary or term contract for which written
11 notice of the proposed discharge is given to a teacher on or after
12 the effective date of this Act. A discharge under a probationary or
13 term contract for which written notice of the proposed discharge is
14 given to a teacher before the effective date of this Act is governed
15 by the law in effect when the notice is given, and the former law is
16 continued in effect for that purpose.

17 SECTION 2A.19. Subsection (a-1), Section 21.402, Education
18 Code, as added by this Act, does not apply to the salary of an
19 educator employed under a contract entered into before the
20 effective date of this Act.

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

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

1 PART B. STATE AND REGIONAL GOVERNANCE

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

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

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

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

12 (1) the Texas Education Agency;

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

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

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

26 (e) A center shall conduct research for the benefit of
27 education in this state, including research relating to the impact
28 of state and federal education programs, the performance of

1 educator preparation programs, public school finance, and the best
2 practices of school districts with regard to classroom instruction,
3 bilingual education programs, special language programs, and
4 business practices.

5 (f) The commissioner of education and the commissioner of
6 higher education:

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

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

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

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

25 (2) shall comply with rules adopted by the
26 commissioner of education and the commissioner of higher education
27 to protect the confidentiality of student information, including
28 rules establishing procedures to ensure that confidential student

1 information is not duplicated or removed from a center in an
2 unauthorized manner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) course or grade completion;
23 (2) teachers of record;
24 (3) assessment instrument results; and
25 (4) receipt of special education services, including
26 placement in a special education program and the individualized
27 education program developed.

28 (d) The commissioner of education or the commissioner of

1 higher education may solicit and accept grant funds to maintain the
2 electronic student records system and to make the system available
3 to school districts, public charter districts, and institutions of
4 higher education.

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

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

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

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

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

27 SECTION 2B.06. Section 7.028, Education Code, as renumbered
28 by Subdivision (9), Section 23.001, H.B. No. 2018, Acts of the 79th

1 Legislature, Regular Session, 2005, is amended to read as follows:

2 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING.

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

12 (1) compliance with federal law and regulations;

13 (2) financial accountability, including compliance
14 with grant requirements; and

15 (3) data integrity for purposes of:

16 (A) the Public Education Information Management
17 System (PEIMS); and

18 (B) accountability under Chapter 39.

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

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

26 Sec. 7.033. COMPREHENSIVE MONITORING SYSTEM. To the extent
27 permissible under Section 7.028, the agency shall develop and
28 implement a comprehensive, integrated monitoring system for

1 monitoring school district and charter school overall performance
2 under and compliance with federal and state education laws. The
3 system must incorporate performance and compliance information
4 collected by various agency divisions for each school district and
5 charter school, including information relating to:

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

13 SECTION 2B.08. Subsections (a) and (d), Section 7.057,
14 Education Code, are amended to read as follows:

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

- 18 (1) the school laws of this state; or
- 19 (2) actions or decisions of any school district board
20 of trustees that violate:

- 21 (A) the school laws of this state; or
- 22 (B) a provision of a written employment contract
23 between the school district and a school district employee, if a
24 violation causes or would cause monetary harm to the employee.

25 (d) Except as provided by Section 7.0571, a [A] person
26 aggrieved by an action of the agency or decision of the commissioner
27 may appeal to a district court in Travis County. An appeal must be
28 made by serving the commissioner with citation issued and served in

1 the manner provided by law for civil suits. The petition must state
2 the action or decision from which the appeal is taken. At trial,
3 the court shall determine all issues of law and fact, except as
4 provided by Section 33.081(g).

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

7 Sec. 7.0571. INFORMAL REVIEW BY COMMISSIONER. (a) The
8 commissioner shall adopt rules under which a school district,
9 public charter district, or other person that wishes to challenge
10 an agency decision made under Chapter 39, 41, 42, or 46 must
11 petition the commissioner for an informal review by the
12 commissioner of the decision.

13 (b) The commissioner may limit a review under this section
14 to a written submission of any issue identified by the
15 commissioner.

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

18 SECTION 2B.095. Subchapter C, Chapter 7, Education Code, is
19 amended by adding Section 7.061 to read as follows:

20 Sec. 7.061. SUBPOENA. (a) The commissioner may issue a
21 subpoena to compel the attendance and testimony of a witness or the
22 production of materials relevant to an audit or investigation under
23 this title.

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

26 (c) If a person fails to comply with a subpoena issued under
27 this section, the commissioner, acting through the attorney
28 general, may file suit to enforce the subpoena in a district court

1 in Travis County or in the county in which the audit or
2 investigation is conducted. The court shall order compliance with
3 the subpoena if the court finds that good cause exists to issue the
4 subpoena.

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

7 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

12 (b) The grant system must:

13 (1) connect grant activities and funding to student
14 academic performance; and

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

17 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall
18 ensure that:

19 (1) the mission, purpose, and objectives of each
20 agency grant program support student academic performance or
21 another public education mission, objective, or goal specified
22 under Sections 4.001 and 4.002;

23 (2) each agency grant program coordinates with other
24 grant programs administered by the agency;

25 (3) grant programs with similar objectives have common
26 performance measures; and

27 (4) the most efficient methods for coordinating grant
28 objectives, grant activities, academic performance measures, and

1 funding are used in the agency's grant application and reporting
2 systems.

3 Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may
4 use existing data to identify and notify an eligible school
5 district or charter school of the opportunity to apply for a
6 state-funded discretionary grant.

7 Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.
8 The agency shall develop one or more consolidated applications to
9 be used by school districts and charter schools in applying for any
10 state-funded formula grant administered by the agency.

11 Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency
12 shall ensure that information relating to the grant system is
13 available to the legislature and the public.

14 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The
15 agency, in coordination with regional education service centers,
16 shall use data relating to grant programs, including grant spending
17 and performance information, to identify successful grant
18 programs. Based on the identification of successful grant
19 programs, each regional education service center shall provide
20 information concerning those programs to the school districts in
21 the service center's region.

22 (b) This section applies beginning with the 2009-2010
23 school year. This subsection expires June 1, 2010.

24 Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. (a) In
25 developing the performance-based grant system, the agency shall:

26 (1) identify each area of data collected for grant
27 programs and the method in which the agency collects the data;

28 (2) determine whether grant data that a school

1 district or charter school is required to collect is useful and
2 supports:

3 (A) a grant program's objectives; and

4 (B) the goals for academic performance and
5 accountability or another public education mission, objective, or
6 goal;

7 (3) determine whether grant data is analyzed and
8 disseminated efficiently; and

9 (4) review the agency's policies, procedures, and
10 reporting requirements relating to grant programs administered by
11 the agency to simplify and make more efficient the grant
12 application, award, and reporting processes for school districts
13 and charter schools.

14 (b) This section expires June 1, 2010.

15 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL
16 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the
17 agency shall provide the legislature with a status report
18 concerning the agency's development of the grant system. The
19 report may suggest any statutory changes needed to facilitate a
20 full transition to a performance-based grant system.

21 (b) Beginning with the 2009-2010 school year, the agency
22 shall make the performance-based grant system fully available to
23 school districts and charter schools.

24 (c) This section expires June 1, 2010.

25 SECTION 2B.11. Subchapter A, Chapter 8, Education Code, is
26 amended by adding Section 8.0031 to read as follows:

27 Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS.

28 (a) The commissioner shall adopt rules prescribing training for

1 members of regional education service center boards of directors.

2 The training curriculum may include:

3 (1) an overview of this code and any rules adopted
4 under this code;

5 (2) a review of recent state and federal education
6 legislation, rules, and regulations;

7 (3) a review of the powers and duties of a regional
8 education service center board of directors; and

9 (4) a review of any statewide or regional strategic
10 planning applicable to regional education service centers.

11 (b) A member of a regional education service center board of
12 directors must complete any training required by commissioner rule.

13 SECTION 2B.12. Subsections (b), (c), and (d), Section
14 8.051, Education Code, are amended to read as follows:

15 (b) Each regional education service center shall annually
16 develop and submit to the commissioner for approval a plan for
17 improvement. Each plan must include the purposes and description
18 of the services the center will provide to:

19 (1) campuses rated academically unacceptable
20 ~~[identified as low-performing based on the indicators adopted]~~
21 under Section 39.072 ~~[39.051]~~;

22 (2) the lowest-performing campuses in the region; and

23 (3) other campuses.

24 (c) Each regional education service center shall provide
25 services that enable school districts to operate more efficiently
26 and economically, including collecting and disseminating:

27 (1) best practices information as provided by Section
28 7.010; and

1 (2) information concerning successful grant programs
2 to school districts as provided by Section 7.156.

3 (d) Each regional education service center shall maintain
4 core services for purchase by school districts and campuses. The
5 core services are:

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

8 (2) training and assistance in providing each program
9 that qualifies for a special education, accelerated program,
10 transitional program, or gifted and talented student funding
11 allotment under Subchapter C, Chapter 42 [~~Section 42.151, 42.152,~~
12 ~~42.153, or 42.156~~];

13 (3) assistance specifically designed for a school
14 district or campus rated academically unacceptable under Section
15 39.072 [~~39.072(a) or a campus whose performance is considered~~
16 ~~unacceptable based on the indicators adopted under Section 39.051~~];

17 (4) training and assistance to teachers,
18 administrators, members of district boards of trustees, and members
19 of site-based decision-making committees;

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

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

25 SECTION 2B.13. Section 8.102, Education Code, is amended to
26 read as follows:

27 Sec. 8.102. DATA REPORTING. (a) Each regional education
28 service center shall report audited or budgeted financial

1 information and any other information requested by the commissioner
2 for use in assessing the performance of the center. The
3 commissioner shall develop a uniform system for regional education
4 service centers to report audited financial data, to report
5 information on the indicators adopted under Section 8.101, and to
6 provide information on client satisfaction with services provided
7 under Subchapter B.

8 (b) The uniform system for reporting required by Subsection
9 (a) must require regional education service centers to:

10 (1) use standard accepted cost accounting practices
11 approved by the commissioner for reporting all expenditures; and

12 (2) identify and report each expenditure separately by
13 purpose as educational, support, or administrative.

14 SECTION 2B.14. Section 8.103, Education Code, is amended to
15 read as follows:

16 Sec. 8.103. ANNUAL EVALUATION. (a) The commissioner shall
17 conduct an annual evaluation of each executive director and
18 regional education service center. Each evaluation must include:

- 19 (1) an audit of the center's finances;
20 (2) a review of the center's performance on the
21 indicators adopted under Section 8.101;
22 (3) a review of client satisfaction with services
23 provided under Subchapter B; and
24 (4) a review of any other factor the commissioner
25 determines to be appropriate.

26 (b) In the audit conducted under Subsection (a)(1), the
27 commissioner shall verify that the regional education service
28 center has identified each expenditure separately by purpose as

1 educational, support, or administrative as required by Section
2 8.102(b).

3 (c) The commissioner shall make the annual evaluation for a
4 fiscal year available to the public not later than January 1
5 following that fiscal year. The commissioner shall provide a copy
6 of the annual evaluation to any person who submits a written request
7 to the commissioner.

8 SECTION 2B.15. Subchapter A, Chapter 11, Education Code, is
9 amended by adding Section 11.003 to read as follows:

10 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later
11 than December 1, 2005, the commissioner shall evaluate the
12 feasibility of including a uniform indicator under Section
13 39.202(b) that measures effective administrative management
14 through the use of cooperative shared service arrangements. If the
15 commissioner determines that the adoption of a uniform indicator
16 described by this subsection is feasible, the commissioner by rule
17 shall include the indicator in the financial accountability rating
18 system under Subchapter I, Chapter 39, for school districts
19 beginning with the 2006-2007 school year. This subsection expires
20 September 1, 2007.

21 (b) Each regional education service center shall:

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

26 (2) evaluate the need for cooperative shared service
27 arrangements within the center's service area and consider
28 expanding center-sponsored cooperative shared service

1 arrangements.

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

9 (d) The commissioner may:

10 (1) adopt by rule reasonable incentives to encourage
11 school districts and public charter districts to enter into
12 agreements for a cooperative shared service arrangement; and

13 (2) require a district or a public charter district to
14 enter into an agreement for a cooperative shared service
15 arrangement if the commissioner determines that the financial
16 management performance of the district is unsatisfactory.

17 SECTION 2B.16. Subchapter A, Chapter 29, Education Code, is
18 amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as
19 follows:

20 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
21 PROCESS HEARINGS. (a) The agency shall make available to a
22 parent, student, school district, attorney, or other interested
23 person, and shall place on the agency's Internet website,
24 comprehensive, easily understood information concerning the
25 special education due process hearing process.

26 (b) The information described by Subsection (a) must
27 include:

28 (1) a description of the steps in the due process

1 hearing process;

2 (2) the text of any applicable administrative,
3 procedural, or evidentiary rule;

4 (3) a description of any notice requirements;

5 (4) an explanation of options for alternative dispute
6 resolution, including mediation;

7 (5) an explanation of a resolution session;

8 (6) answers to frequently asked questions; and

9 (7) other sources of information, including
10 electronic sources of information, such as special education case
11 law available on the Internet.

12 Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION
13 CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency
14 shall collect and at least biennially analyze any information,
15 including complaint information, relating to the performance of a
16 special education hearing officer for use in assessing:

17 (1) the effectiveness of the due process hearing
18 process; and

19 (2) the performance of a special education hearing
20 officer.

21 (b) The agency shall use the information described by
22 Subsection (a) in determining whether to renew a contract with a
23 special education hearing officer.

24 Sec. 29.0164. SPECIAL EDUCATION HEARING OFFICER: CONFLICT
25 OF INTEREST PROVISIONS. A special education hearing officer may
26 not accept employment or compensation from a school district during
27 a school year in which the hearing officer presides over a hearing
28 to which the district is a party.

1 SECTION 2B.17. Section 37.008, Education Code, is amended
2 by adding Subsection (o) to read as follows:

3 (o) For purposes of accountability under Chapter 39, a
4 student placed in a disciplinary alternative education program is
5 reported as if the student were enrolled at the student's assigned
6 campus in the student's regularly assigned education program,
7 including a special education program.

8 SECTION 2B.18. Section 1551.101, Insurance Code, is amended
9 by adding Subsection (c) to read as follows:

10 (c) An individual who is a member of the State Board of
11 Education is eligible to participate in the group benefits program
12 as provided by Subsection (a).

13 PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

14 SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is
15 amended by adding Section 7.011 to read as follows:

16 Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM
17 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at
18 risk of dropping out of school" has the meaning described by Section
19 29.081.

20 (b) The agency shall develop a management information
21 system for funds awarded and allocated to school districts and
22 public charter districts for the purpose of providing services to
23 students at risk of dropping out of school.

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

1 information:

2 (1) the amount of an award;

3 (2) the beginning and ending period of a grant or
4 award;

5 (3) expenditures related to an award; and

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

9 (d) The commissioner shall adopt rules as necessary to
10 administer this section. The rules adopted under this subsection
11 must ensure that:

12 (1) the funds management information system includes:

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

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

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

25 (3) aggregate funding information is readily
26 available to agency personnel and policy makers, including
27 aggregate funding information relating to a compensatory,
28 intensive, or accelerated instruction program under Section

1 29.081, a disciplinary alternative education program established
2 under Section 37.008, or a program eligible under Title I of the
3 Elementary and Secondary Education Act of 1965, as provided by Pub.
4 L. No. 103-382.

5 SECTION 2C.02. Subchapter C, Chapter 11, Education Code, is
6 amended by adding Section 11.066 to read as follows:

7 Sec. 11.066. REMOVAL FOR FAILURE TO ATTEND BOARD MEETINGS.

8 (a) It is a ground for removal of a trustee of an independent
9 school district that the trustee is absent from more than half of
10 the regularly scheduled board of trustees meetings during a
11 calendar year that the member is eligible to attend, unless the
12 absence is excused by a majority vote of the board of trustees.

13 (b) If the superintendent of the school district has
14 knowledge that a ground for removal under this section exists, the
15 superintendent shall notify the board of trustees. On a
16 determination that a potential ground for removal exists, the board
17 shall notify the appropriate county or district attorney or the
18 attorney general.

19 SECTION 2C.03. Section 11.163, Education Code, as amended
20 by S.B. No. 387, Acts of the 79th Legislature, Regular Session,
21 2005, is amended by amending Subsections (c) and (d) to read as
22 follows:

23 (c) The employment policy may:

24 (1) specify the terms of employment with the district;

25 or

26 (2) delegate to the superintendent the authority to
27 determine the terms of employment with the district[~~, or~~

28 [~~(3) include a provision for providing each current~~

1 ~~district employee with an opportunity to participate in a process~~
2 ~~for transferring to another school in or position with the~~
3 ~~district].~~

4 (d) The employment policy must provide that not later than
5 the 10th school day before the date on which a district fills a
6 vacant position for which a certificate or license is required as
7 provided by Section 21.003, other than a position that affects the
8 safety and security of students as determined by the board of
9 trustees, the district must provide to each current district
10 employee:

11 (1) notice of the position by posting the position on:

12 (A) a bulletin board at:

13 (i) a place convenient to the public in the
14 district's central administrative office; and

15 (ii) the central administrative office of
16 each campus in the district during any time the office is open; or
17 ~~[and]~~

18 (B) the district's Internet website, if the
19 district has a website; and

20 (2) a reasonable opportunity to apply for the
21 position.

22 SECTION 2C.04. Subchapter E, Chapter 11, Education Code, is
23 amended by adding Section 11.2011 to read as follows:

24 Sec. 11.2011. SUPERINTENDENTS: CONFLICT OF INTEREST
25 PROVISIONS. (a) Except as provided by Subsection (b), a
26 superintendent may not receive any financial benefit for personal
27 services performed by the superintendent for any business entity
28 that conducts business with or solicits business from the school

1 district. Any financial benefit received by the superintendent for
2 performing personal services for any other entity must be approved
3 by the board of trustees on a case-by-case basis in an open meeting.

4 (b) Subsection (a) does not apply to personal services
5 performed by a superintendent for an institution of higher
6 education, as defined by Section 61.003, regional education service
7 center, or professional association or organization if the
8 superintendent provides notice to the board of trustees of the
9 school district disclosing the agreement to perform the services.

10 SECTION 2C.05. Subchapter C, Chapter 29, Education Code, is
11 amended by adding Sections 29.092, 29.093, and 29.0931 to read as
12 follows:

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

17 (b) To enable school districts and public charter districts
18 to provide supplemental programs and services for the benefit of
19 students at risk of dropping out of school, the commissioner each
20 school year shall award funds to a school district or public charter
21 district in accordance with a streamlined and simplified grant
22 process developed by the commissioner. To the extent practicable,
23 the grant process developed by the commissioner under this
24 subsection must comply with Subchapter E, Chapter 7.

25 (c) The commissioner shall consolidate funding from the
26 following currently funded programs and types of services,
27 excluding early childhood care and education programs and
28 accelerated reading or mathematics initiatives under Section

1 28.006, 28.007, or 28.0211:

2 (1) an optional extended year program under Section
3 29.082;

4 (2) a basic skills program for high school students
5 under Section 29.086;

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

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

10 (d) The commissioner may include grants under Section 7.024
11 as part of one or more consolidated grant application processes
12 developed under this section. The commissioner shall ensure that a
13 grant applied for under a consolidated application process under
14 this section and awarded under Section 7.024 is used only for the
15 purposes of Section 7.024.

16 (e) The commissioner may redistribute the funding of
17 programs described under Subsection (c) as necessary to accomplish
18 the purpose of improving the achievement of students at risk of
19 dropping out of school.

20 (f) A school district or public charter district that
21 receives an award of funds under this section may use the funds to
22 provide academic and support services to students at risk of
23 dropping out of school, including:

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

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

1 (3) after-school academic and support services;
2 (4) intensive instruction for preschool and
3 school-age students of limited English proficiency;
4 (5) any academic or support services for pregnant or
5 parenting students, including basic instruction and health and life
6 skills training and support for pregnant or parenting students;
7 (6) community-based services designed to address the
8 needs of students at risk of dropping out of school;
9 (7) programs or services designed to promote the
10 involvement of parents of students at risk of dropping out of
11 school; and
12 (8) services or programs promoting school and
13 community collaboration to restructure schools for the successful
14 achievement of all students, especially students at risk of
15 dropping out of school.
16 (g) The agency shall make available research-based guidance
17 to school districts and public charter districts to enable
18 successful implementation of the academic and support services
19 described by Subsection (f) that assist students at risk of
20 dropping out of school to succeed in school.
21 (h) Not later than November 1 of each year, a school
22 district or public charter district may submit an application for
23 funding for programs or services under this section. The school
24 district or public charter district must include an assessment of
25 needs for students at risk of dropping out of school, a
26 comprehensive plan for providing services for those students based
27 on the agency's research-based implementation guidance provided
28 under Subsection (g), and a report of all sources of funding for

1 providing services for those students. The commissioner shall
2 distribute an award of funds in the form of a block grant not later
3 than March 15 of each year.

4 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and
5 the Legislative Budget Board shall jointly develop a request for
6 proposals for a qualified third party to conduct a comprehensive
7 cost-outcome analysis of federal and state funding for programs
8 targeting students at risk of dropping out of school, as described
9 by Section 29.081, and the impact of those programs on student
10 achievement outcomes. In order to be qualified under this section,
11 a party must at a minimum have experience in educational program
12 evaluation and statistical analysis of public education data.

13 (b) The cost-outcome methodology developed by the
14 contractor under this section is subject to joint review and
15 approval by the agency and the Legislative Budget Board. The
16 cost-outcome analysis at a minimum must consist of the following
17 components:

18 (1) a methodology for assessing the
19 cost-effectiveness of individual school districts and public
20 charter districts in providing services to students at risk of
21 dropping out of school;

22 (2) performance measures that can be used to assess
23 the effectiveness of school districts and public charter districts
24 in administering academic and social service programs for students
25 at risk of dropping out of school;

26 (3) a methodology for evaluating best practices in
27 providing effective services for students at risk of dropping out
28 of school;

1 (4) a statistical methodology for:

2 (A) controlling for differences among individual
3 school districts and public charter districts that are not related
4 to funding streams included in the cost-outcome analysis; and

5 (B) disaggregating data by peer groups;

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

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

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

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

12 (A) report findings from the cost-outcome
13 analysis to the lieutenant governor, the speaker of the house of
14 representatives, and the presiding officer of the standing
15 committee of each house of the legislature with primary
16 jurisdiction over public education, including data related to the
17 feasibility of constructing a cost-effectiveness measure for
18 school districts and public charter districts;

19 (B) make recommendations for the potential use of
20 the data, including the best methods to disseminate the information
21 to parents and school districts and public charter districts; and

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

24 (2) during the 2006-2007 school year, develop a plan
25 to implement the cost-outcome methodology to assess the
26 effectiveness of school districts and public charter districts in
27 providing services during the 2007-2008 school year to students at
28 risk of dropping out of school.

1 (d) During the state fiscal biennium beginning September 1,
2 2005, the commissioner shall retain an amount not to exceed
3 \$500,000 from the total amount of funds allotted under the
4 Foundation School Program to finance the comprehensive
5 cost-outcome analysis and shall reduce the total amount of state
6 funds allocated to each district from any source in the same manner
7 described for a reduction in allotments under Section 42.313.

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

9 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S
10 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a
11 cost-outcome analysis methodology for use in assessing the
12 effectiveness of school districts and public charter districts in
13 providing services for students at risk of dropping out of school,
14 as described by Section 29.081. The commissioner shall use the
15 adopted methodology until the commissioner determines that an
16 alternate methodology approved by the agency and the Legislative
17 Budget Board under Section 29.093(b) more accurately portrays the
18 cost-effectiveness of the analyzed services.

19 (b) The methodology adopted by the commissioner must
20 include the following components:

21 (1) a composite performance measure that combines key
22 indicators of student performance, disaggregated for students at
23 risk of dropping out of school;

24 (2) a format for reporting all state, federal, local,
25 and private sources of funding and total expenditures for
26 supplemental services for students at risk of dropping out of
27 school, reported by school district, public charter district, and
28 statewide; and

1 (3) a system for scoring and ranking school districts
2 and public charter districts, including criteria for establishing
3 school district and public charter district peer groups for
4 comparison purposes.

5 (c) Based on the cost-outcome analysis methodology, the
6 commissioner shall use the ranking system under Subsection (b)(3)
7 to determine annually the level at which school districts and
8 public charter districts are cost-effective in serving students at
9 risk of dropping out of school.

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

12 (1) report the methodology and the results of the
13 cost-outcome analysis to the lieutenant governor, the speaker of
14 the house of representatives, and the presiding officer of the
15 standing committee of each house of the legislature with primary
16 jurisdiction over public education; and

17 (2) make the report under Subdivision (1) available to
18 the public.

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

22 SECTION 2C.06. Subchapter D, Chapter 33, Education Code, is
23 amended by adding Section 33.088 to read as follows:

24 Sec. 33.088. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT
25 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
26 eligible to participate in an extracurricular activity or a
27 University Interscholastic League competition is not ineligible
28 because the student is enrolled in a course offered for joint high

1 school and college credit or in a course offered under a concurrent
2 enrollment program, regardless of the location at which the course
3 is provided.

4 SECTION 2C.07. Subchapter A, Chapter 44, Education Code, is
5 amended by adding Section 44.011 to read as follows:

6 Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL
7 ACTIVITIES. (a) A school district shall allocate at least 65
8 percent of the district's total available general fund revenue to
9 fund direct instructional activities in the district. The
10 commissioner by rule shall determine the manner in which a
11 district's total available general fund revenue for purposes of
12 this section is computed.

13 (a-1) Subsection (a) applies beginning with the 2009-2010
14 school year. For the 2006-2007, 2007-2008, and 2008-2009 school
15 years, a school district shall allocate the following percentages
16 of the district's total available general fund revenue to fund
17 direct instructional activities in the district:

18 (1) for the 2006-2007 school year, at least 50
19 percent;

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

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

24 (a-2) Subsection (a-1) and this subsection expire August 1,
25 2009.

26 (b) For purposes of this section, whether an expenditure is
27 an expenditure for direct instructional activities:

28 (1) shall be determined in accordance with standards

1 and definitions adopted by the National Center for Education
2 Statistics of the United States Department of Education; and

3 (2) must also include expenditures for any
4 instructional or related service for a student with a disability,
5 counseling services determined by appropriate school personnel to
6 be necessary for instructional success, truant officers, speech
7 pathology and audiology services, curriculum and instruction
8 development, staff training, instruction-related technology,
9 nurses, and library services.

10 (c) The commissioner shall adopt rules for purposes of this
11 section in a manner consistent with Subsection (b) of this section,
12 Section 44.0071, and standards used by the commissioner in the
13 submission of relevant data to the National Center for Education
14 Statistics of the United States Department of Education for the
15 2002-2003 school year. In adopting the rules, the commissioner may
16 not include local school district revenue from sources other than
17 state and local taxes, such as grants and donations, in the
18 computation of a district's total available general fund revenue.

19 SECTION 2C.08. Section 44.0071, Education Code, is amended
20 by amending Subsection (a) and adding Subsection (a-1) to read as
21 follows:

22 (a) Each fiscal year, a school district shall compute and
23 report to the commissioner:

24 (1) the percentage of the district's total available
25 general fund revenue [~~expenditures~~] for the preceding fiscal year
26 that was [~~were~~] used to fund direct instructional activities; [~~and~~]

27 (2) the percentage of the district's total available
28 general fund revenue for the preceding fiscal year that was used to

1 fund direct instructional activities related to courses that are
2 subject to assessment under Subchapter B, Chapter 39; and

3 (3) the percentage of the district's full-time
4 equivalent employees during the preceding fiscal year whose job
5 function was to directly provide classroom instruction to students,
6 determined by dividing the number of hours spent by employees in
7 providing direct classroom instruction by the total number of hours
8 worked by all district employees.

9 (a-1) The commissioner by rule shall determine the manner in
10 which a district's total available general fund revenue for
11 purposes of this section is computed.

12 SECTION 2C.09. Section 11.066, Education Code, as added by
13 this Act, applies only to trustee attendance at a board of trustees
14 meeting held on or after the effective date of this Act. Trustee
15 attendance at a board of trustees meeting held before the effective
16 date of this Act is governed by the law in effect when the meeting
17 was held, and the former law is continued in effect for that
18 purpose.

19 SECTION 2C.10. Section 11.2011, Education Code, as added by
20 this Act, applies only to a contract between a superintendent of a
21 school district and a business entity that is entered into,
22 amended, or extended on or after September 1, 2006. A contract
23 between a superintendent of a school district and a business entity
24 that is entered into, amended, or extended before September 1,
25 2006, is governed by the law in effect on the date the contract is
26 entered into, and the former law is continued in effect for that
27 purpose.

28 SECTION 2C.11. Not later than January 1, 2007, the Texas

1 Education Agency shall adopt a five-year plan to renovate the
2 Public Education Information Management System (PEIMS) to provide
3 for efficient and effective information storage and retrieval for
4 the purposes of allocating scarce school resources. The renovation
5 must include a redesign of the records layout.

6 PART D. ACCOUNTABILITY

7 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is
8 amended by adding Section 7.0071 to read as follows:

9 Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The
10 commissioner by rule shall adopt procedures to make available,
11 through the agency Internet website, all financial information
12 provided by school districts and campuses through the Public
13 Education Information Management System (PEIMS), including
14 campus-level expenditure information.

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

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

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

1 SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is
2 amended by adding Section 7.010 to read as follows:

3 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In
4 coordination with the Legislative Budget Board and with the
5 assistance of the centers of education research established under
6 Section 1.005, the agency shall establish an online clearinghouse
7 of information relating to best practices of campuses and school
8 districts regarding instruction, resource allocation, and business
9 practices. To the extent practicable, the agency shall ensure that
10 information provided through the online clearinghouse is specific,
11 actionable information relating to the best practices of
12 high-performing and highly efficient campuses and school districts
13 rather than general guidelines relating to campus and school
14 district operation. The information must be accessible by campuses,
15 school districts, and interested members of the public.

16 (b) The agency shall solicit and collect from the
17 Legislative Budget Board, centers of education research
18 established under Section 1.005, and exemplary or recognized school
19 districts and public charter districts, as rated under Section
20 39.072, examples of best practices relating to instruction,
21 resource allocation, and business practices, including best
22 practices relating to curriculum, scope and sequence, compensation
23 and incentive systems, bilingual education and special language
24 programs, and the effective use of instructional technology,
25 including online courses.

26 (c) The agency may contract for the services of one or more
27 third-party contractors to develop and implement a system of
28 collecting and evaluating the best practices of campuses and school

1 districts as provided by this section. In addition to any other
2 considerations required by law, the agency must consider an
3 applicant's demonstrated competence and qualifications in
4 analyzing campus and school district practices in awarding a
5 contract under this subsection.

6 SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is
7 amended by adding Section 11.004 to read as follows:

8 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
9 AND CAMPUSES. (a) Except as provided by Subsection (b), a school
10 district or campus rated exemplary under Section 39.072 is subject
11 only to the prohibitions, restrictions, and requirements of this
12 title that apply to a public charter district under Section
13 11A.052(b) as approved by the commissioner.

14 (b) A school district or campus described by Subsection (a)
15 is subject to the prohibitions, restrictions, and requirements of
16 Chapter 37, as applicable.

17 SECTION 2D.05. Subsections (b) and (d), Section 29.053,
18 Education Code, are amended to read as follows:

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

27 (d) Each district that is required to offer bilingual
28 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 2D.06. Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.0822 to read as follows:

Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM.

(a) Notwithstanding Section 25.081 or 25.082, a school district may provide a flexible school day program for students in grades nine through 12 who have dropped out of school or who are at risk of dropping out of school as defined by Section 29.081.

(b) To enable a school district to provide a program under this section that meets the needs of students described by Subsection (a), a school district may:

(1) provide flexibility in the number of hours each day a student attends;

(2) provide flexibility in the number of days each week a student attends; or

(3) allow a student to enroll in less or more than a full course load.

(c) A course offered in a program under this section must

1 provide for at least the same number of instructional hours as
2 required for a course offered in a program that meets the required
3 minimum number of instructional days under Section 25.081 and the
4 required length of school day under Section 25.082 or as specified
5 by the commissioner for accelerated credit recovery.

6 (d) The commissioner may adopt rules for the administration
7 of this section. The commissioner shall calculate average daily
8 attendance for students served under this section. The
9 commissioner shall allow accumulations of hours of instruction for
10 students whose schedule would not otherwise allow full state
11 funding. Funding under this subsection shall be determined based
12 on the number of instructional days in the district calendar and a
13 seven-hour school day, but attendance may be cumulated over a
14 school year, inclusive of any summer or vacation sessions. The
15 attendance of students who accumulate less than the number of
16 attendance hours required under this subsection shall be
17 proportionately reduced for funding purposes. The commissioner may
18 set maximum funding amounts for an individual course under this
19 section.

20 SECTION 2D.07. Section 29.202, Education Code, is amended
21 to read as follows:

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

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

27 (2) used to measure various indicators of educational
28 success to determine the progress of a campus towards academic

1 achievement.

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

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

10 (2) that was, at any time in the preceding three years,
11 considered academically unacceptable ~~[low-performing]~~ under
12 Section 39.132; or

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

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

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

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

25 SECTION 2D.08. Subchapter G, Chapter 29, Education Code, is
26 amended by adding Section 29.2021 to read as follows:

27 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
28 between this subchapter and a provision of Section 1116, No Child

1 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
2 Behind Act of 2001 prevails.

3 SECTION 2D.09. Subsection (f), Section 29.203, Education
4 Code, is amended to read as follows:

5 (f) The school district in which a student resides shall
6 provide each student attending a school in another district under
7 this subchapter transportation free of charge to and from the
8 school the student would otherwise attend, except as provided by
9 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
10 6316).

11 SECTION 2D.10. Section 39.022, Education Code, is amended
12 to read as follows:

13 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of
14 Education by rule shall create and implement a statewide assessment
15 program that is knowledge- and skills-based to ensure school
16 accountability for student achievement that achieves the goals
17 provided under Section 4.002. After adopting rules under this
18 section, the State Board of Education shall consider the importance
19 of maintaining stability in the statewide assessment program when
20 adopting any subsequent modification of the rules.

21 (b) The commissioner by rule shall provide for the
22 administration of assessment instruments under this subchapter.

23 SECTION 2D.11. Section 39.023, Education Code, is amended
24 by amending Subsections (a) through (e), (i), (j), (l), (m), and (n)
25 and adding Subsections (a-1) and (b-1) to read as follows:

26 (a) The agency shall adopt or develop appropriate
27 criterion-referenced assessment instruments designed to assess
28 essential knowledge and skills in reading, writing, mathematics,

1 social studies, and science. Except as otherwise provided by this
2 subchapter, all [All] students[, ~~except students assessed under~~
3 ~~Subsection (b) or (1) or exempted under Section 39.027,~~] shall be
4 assessed in:

5 (1) mathematics, annually in grades three through
6 [~~seven without the aid of technology and in grades eight through~~] 11
7 [~~with the aid of technology on any assessment instruments that~~
8 ~~include algebra~~];

9 (2) reading, annually in grades three through nine;

10 (3) writing, including spelling and grammar, in grades
11 four and seven;

12 (4) English language arts, in grades [~~grade~~] 10 and
13 11;

14 (5) social studies, in grades eight, [~~and~~] 10, and 11;

15 (6) science, in grades five, eight, [~~and~~] 10, and 11;

16 and

17 (7) any other subject and grade required by federal
18 law.

19 (a-1) An assessment instrument under this section may
20 include questions that test a broader range of knowledge and skills
21 or that are at a higher difficulty level for the purpose of
22 differentiating student achievement. A student may not be required
23 to answer a question described by this subsection correctly to
24 perform satisfactorily on the assessment instrument or to be
25 promoted to the next grade level. To ensure a valid bank of
26 questions for use each year, the agency is not required to release a
27 question that is being field-tested until after the fifth school
28 year the question is used on an assessment instrument administered

1 under this section.

2 (b) The agency shall develop or adopt appropriate
3 criterion-referenced assessment instruments to be administered to
4 each student in a special education program under Subchapter A,
5 Chapter 29, who receives modified instruction in the essential
6 knowledge and skills identified under Section 28.002 for the
7 assessed subject but for whom an assessment instrument adopted
8 under Subsection (a), even with allowable accommodations
9 ~~[modifications]~~, would not provide an appropriate measure of
10 student achievement, as determined by the student's admission,
11 review, and dismissal committee. The assessment instruments
12 required under this subsection must assess essential knowledge and
13 skills ~~[and growth]~~ in the subjects of reading, mathematics, and
14 writing and any other subject required by federal law. A student's
15 admission, review, and dismissal committee shall determine whether
16 any allowable accommodation ~~[modification]~~ is necessary in
17 administering to the student an assessment instrument required
18 under this subsection or whether an alternate assessment instrument
19 must be used to measure alternate academic achievement standards.
20 A student's admission, review, and dismissal committee shall
21 determine the high school graduation assessment requirements for a
22 student in a special education program under Subchapter A, Chapter
23 29, and may use local alternative assessment instruments if
24 multiple testing opportunities are not available for a student. To
25 the extent practicable, the ~~[The]~~ assessment instruments required
26 under this subsection shall be administered on the same schedule as
27 the assessment instruments administered under Subsection (a). The
28 commissioner shall adopt rules to implement this subsection.

1 (b-1) The agency shall adopt or develop appropriate
2 criterion-referenced instruments as required by federal law
3 designed to measure alternate academic achievement standards for
4 students in a special education program under Subchapter A, Chapter
5 29, with the most significant cognitive disabilities.

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

1 any secondary exit-level assessment instrument when initially
2 tested shall be given multiple opportunities to retake that
3 assessment instrument. A student who performs at or above a level
4 established by the Texas Higher Education Coordinating Board on the
5 secondary exit-level assessment instruments is exempt from the
6 requirements of Section 51.3062 [~~51.306~~]. The performance level
7 established by the Texas Higher Education Coordinating Board under
8 this subsection represents the level of academic achievement
9 indicating a student is prepared for college course work. The
10 performance level may be used as an indicator to measure progress
11 toward college preparedness of public school students in the state.

12 (d) The commissioner may participate in multistate efforts
13 to develop voluntary standardized end-of-course assessment
14 instruments. The commissioner by rule may require a school
15 district to administer an end-of-course assessment instrument
16 developed through the multistate efforts. The admission, review,
17 and dismissal committee of a student in a special education program
18 under Subchapter A, Chapter 29, shall determine whether any
19 allowable accommodation [~~modification~~] is necessary in
20 administering to the student an end-of-course assessment
21 instrument or whether the student should be exempted [~~under Section~~
22 ~~39.027(a)(2)~~].

23 (e) Under rules adopted by the State Board of Education,
24 [~~every other year,~~] the agency shall release the questions and
25 answer keys to each assessment instrument administered under
26 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after
27 August 1 after the second anniversary of the date [~~after the last~~
28 ~~time~~] the instrument was [~~is~~] administered [~~for that school year~~].

1 To ensure a valid bank of questions for use each year, the agency is
2 not required to release a question that is being field-tested and
3 was not used to compute the student's score on the instrument. The
4 agency shall also release, under board rule, each question that is
5 no longer being field-tested and that was not used to compute a
6 student's score.

7 (i) The provisions of this section, except Subsection (d),
8 are subject to modification by rules adopted under Section 39.022.
9 Each assessment instrument adopted or developed under this section
10 ~~[those rules and each assessment instrument required under~~
11 ~~Subsection (d)]~~ must be reliable and valid and must meet any
12 applicable federal requirements for measurement of student
13 progress.

14 (j) The commissioner shall develop a standardized
15 end-of-course assessment instrument for Algebra I. The
16 commissioner by rule may require a school district to administer
17 the [an] end-of-course assessment instrument developed under this
18 subsection ~~[in Algebra I]~~. The admission, review, and dismissal
19 committee of a student in a special education program under
20 Subchapter A, Chapter 29, shall determine whether any allowable
21 accommodation ~~[modification]~~ is necessary in administering to the
22 student an end-of-course assessment instrument ~~[or whether the~~
23 ~~student should be exempted under Section 39.027(a)(2)]~~.

24 (l) The agency ~~[State Board of Education]~~ shall adopt or
25 develop a Spanish version ~~[rules for the administration]~~ of the
26 assessment instruments adopted under Subsection (a) for ~~[in Spanish~~
27 ~~to]~~ students in grades three through six who are of limited English
28 proficiency, as defined by Section 29.052, whose primary language

1 is Spanish, and who are not otherwise exempt from the
2 administration of an assessment instrument under Section 39.027
3 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency
4 whose primary language is Spanish, other than a student to whom
5 Subsection (b) or (b-1) applies, may be assessed using assessment
6 instruments in Spanish under this subsection for up to three years
7 or assessment instruments in English under Subsection (a). The
8 language proficiency assessment committee established under
9 Section 29.063 shall determine which students are administered
10 assessment instruments in Spanish under this subsection.

11 (m) The commissioner by rule shall develop procedures under
12 which the language proficiency assessment committee established
13 under Section 29.063 shall determine which students in grades three
14 through 10 are exempt from the administration of the assessment
15 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules
16 adopted under this subsection shall ensure that the language
17 proficiency assessment committee provides that the exempted
18 students are administered the assessment instruments under
19 Subsections (a) and (c) at the earliest practical date. As
20 necessary to comply with federal requirements, the commissioner by
21 rule shall develop procedures under which a student who is exempt
22 from the administration of an assessment instrument under Section
23 39.027 is administered a linguistically accommodated assessment
24 instrument.

25 (n) This subsection applies only to a student who is
26 determined to have dyslexia or a related disorder and who is an
27 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~
28 ~~its subsequent amendments~~]. The agency shall adopt or develop

1 appropriate ~~[criterion-referenced]~~ assessment administration
2 procedures, including accommodations for a ~~[instruments designed~~
3 ~~to assess the ability of and to be administered to each]~~ student to
4 whom this subsection applies. The ~~[for whom the assessment~~
5 ~~instruments adopted under Subsection (a), even with allowable~~
6 ~~modifications, would not provide an appropriate measure of student~~
7 ~~achievement, as determined by the]~~ committee established by the
8 board of trustees of the district to determine the placement of
9 students with dyslexia or related disorders~~[-. The committee]~~ shall
10 determine whether the ~~[any]~~ allowable accommodations are
11 ~~[modification is]~~ necessary in administering to a student an
12 assessment instrument required under this section ~~[subsection. The~~
13 ~~assessment instruments required under this subsection shall be~~
14 ~~administered on the same schedule as the assessment instruments~~
15 ~~administered under Subsection (a)]~~.

16 SECTION 2D.12. Subsections (a) and (c), Section 39.024,
17 Education Code, are amended to read as follows:

18 (a) Except as otherwise provided by this subsection, the
19 State Board of Education shall determine the level of performance
20 considered to be satisfactory on the assessment instruments
21 administered under Section 39.023. The commissioner by rule
22 ~~[admission, review, and dismissal committee of a student being~~
23 ~~assessed under Section 39.023(b)]~~ shall determine the level of
24 performance considered to be satisfactory on the assessment
25 instruments administered under Section 39.023(b) or (b-1) ~~[to that~~
26 ~~student]~~ in accordance with applicable federal requirements
27 ~~[criteria established by agency rule]~~.

28 (c) The agency shall develop study guides for the assessment

1 instruments administered under Sections 39.023(a) and (1) [~~(e)~~].
2 To assist parents in providing assistance during the period that
3 school is recessed for summer, each school district shall
4 distribute the study guides to parents of students who do not
5 perform satisfactorily on one or more parts of the [~~an~~] assessment
6 instrument [~~administered under this subchapter~~].

7 SECTION 2D.13. Subsection (a), Section 39.025, Education
8 Code, is amended to read as follows:

9 (a) A student may not receive a high school diploma until
10 the student has performed satisfactorily on the secondary
11 exit-level assessment instruments for English language arts,
12 mathematics, social studies, and science administered under
13 Section 39.023(a) [~~39.023(e)~~]. This subsection does not require a
14 student to demonstrate readiness to enroll in an institution of
15 higher education.

16 SECTION 2D.14. Effective August 1, 2006, Subchapter B,
17 Chapter 39, Education Code, is amended by adding Section 39.0261 to
18 read as follows:

19 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
20 addition to the assessment instruments otherwise authorized or
21 required by this subchapter:

22 (1) each school year and at state cost, a school
23 district may administer to students in any two grade levels other
24 than the 11th or 12th grade an established, valid, reliable, and
25 nationally norm-referenced preliminary college preparation
26 assessment instrument; and

27 (2) high school students in the spring of the 11th
28 grade or during the 12th grade may select and take once, at state

1 cost, one of the valid, reliable, and nationally norm-referenced
2 assessment instruments used by colleges and universities as part of
3 their undergraduate admissions processes.

4 (b) The agency shall:

5 (1) select and approve vendors of the specific
6 assessment instruments administered under this section; and

7 (2) pay all fees associated with the administration of
8 the assessment instrument from funds allotted under the Foundation
9 School Program, and the commissioner shall reduce the total amount
10 of state funds allocated to each district from any source in the
11 same manner described for a reduction in allotments under Section
12 42.313.

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

21 (d) A vendor that administers an assessment instrument for a
22 district under this section shall report the results of the
23 assessment instrument to the agency.

24 (e) Subsection (a)(2) does not prohibit a high school
25 student in the spring of the 11th grade or during the 12th grade
26 from selecting and taking, at the student's own expense, one of the
27 valid, reliable, and nationally norm-referenced assessment
28 instruments used by colleges and universities as part of their

1 undergraduate admissions processes more than once.

2 SECTION 2D.15. Subsections (a), (e), and (g), Section
3 39.027, Education Code, are amended to read as follows:

4 (a) A student in grades three through 10 may be exempted
5 from the administration of an assessment instrument under:

6 (1) ~~[Section 39.023(a) or (b) if the student is~~
7 ~~eligible for a special education program under Section 29.003 and~~
8 ~~the student's individualized education program does not include~~
9 ~~instruction in the essential knowledge and skills under Section~~
10 ~~28.002 at any grade level;~~

11 ~~[(2) Section 39.023(c) or (d) if the student is~~
12 ~~eligible for a special education program under Section 29.003 and:~~

13 ~~[(A) the student's individualized education~~
14 ~~program does not include instruction in the essential knowledge and~~
15 ~~skills under Section 28.002 at any grade level; or~~

16 ~~[(B) the assessment instrument, even with~~
17 ~~allowable modifications, would not provide an appropriate measure~~
18 ~~of the student's achievement as determined by the student's~~
19 ~~admission, review, and dismissal committee;~~

20 ~~[(3)]~~ Section 39.023(a), (b), (b-1), or (l) for a
21 period of up to one year after initial enrollment in a school in the
22 United States if the student is of limited English proficiency, as
23 defined by Section 29.052, and has not demonstrated proficiency in
24 English as determined by the assessment system under Subsection
25 (e); or

26 (2) ~~[(4)]~~ Section 39.023(a), (b), (b-1), or (l) for a
27 period of up to two years in addition to the exemption period
28 authorized by Subdivision (1) ~~[(3)]~~ if the student has received an

1 exemption under Subdivision (1) [~~(3)~~] and:

2 (A) is a recent unschooled immigrant; or

3 (B) is in a grade for which no assessment
4 instrument in the primary language of the student is available.

5 (e) As provided by applicable federal requirements, the
6 ~~[The]~~ commissioner shall develop an assessment system that shall be
7 used for evaluating the academic progress toward attaining academic
8 language proficiency in English, including reading proficiency in
9 English, of all students of limited English proficiency, as defined
10 by Section 29.052. A student who has demonstrated the designated
11 level of ~~[is exempt from the administration of an assessment~~
12 ~~instrument under Subsection (a)(3) or (4) who achieves]~~ reading
13 proficiency in English as determined by the assessment system
14 developed under this subsection is not eligible for an exemption
15 under Subsection (a)(1) or (2) ~~[shall be administered the~~
16 ~~assessment instruments described by Sections 39.023(a) and (c).~~
17 ~~The performance under the assessment system developed under this~~
18 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~
19 ~~shall be included in the academic excellence indicator system under~~
20 ~~Section 39.051, the performance report under Section 39.053, and~~
21 ~~the comprehensive annual report under Section 39.182].~~

22 (g) For purposes of this section, "recent unschooled
23 immigrant" means an immigrant who initially enrolled in a school in
24 the United States not more than 12 months before the date of the
25 administration of an assessment instrument under Section 39.023
26 ~~[39.023(a) or (1)]~~ and who, as a result of inadequate schooling
27 outside of the United States, lacks the necessary foundation in the
28 essential knowledge and skills of the curriculum prescribed under

1 Section 28.002 as determined by the language proficiency assessment
2 committee established under Section 29.063. For purposes of this
3 subsection and to the extent authorized by federal law, a child's
4 prior enrollment in a school in the United States shall be
5 determined on the basis of documents and records required under
6 Section 25.002(a).

7 SECTION 2D.16. Subchapter B, Chapter 39, Education Code, is
8 amended by adding Section 39.034 to read as follows:

9 Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT
10 ACHIEVEMENT. (a) The commissioner shall determine a method by
11 which the agency may measure incremental growth in student
12 achievement from one school year to the next on an assessment
13 instrument required under this subchapter.

14 (b) The agency shall report to each school district the
15 comparisons made under Subsection (a). Each school district shall
16 provide the comparisons to each teacher for all students who were:

17 (1) assessed on an assessment instrument; and

18 (2) taught by that teacher in the subject for which the
19 assessment instrument was administered.

20 (c) The school a student attends shall provide a record of
21 the comparison made under this section and provided to the school
22 under Subsection (b) in a written notice to the student's parents.

23 (d) To the extent practicable, the agency shall combine the
24 report of the comparisons required under this section with the
25 report of the student's performance on assessment instruments
26 administered under Section 39.023.

27 (e) The commissioner shall implement this section not later
28 than September 1, 2006. This subsection expires January 1, 2008.

1 SECTION 2D.17. Subchapter B, Chapter 39, Education Code, is
2 amended by adding Section 39.035 to read as follows:

3 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF
4 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other
5 employee, contractor, or volunteer of a school district or public
6 charter district commits an offense if, for the primary purpose of
7 influencing the results of an assessment instrument administered
8 under this subchapter, the person intentionally:

9 (1) discriminates in school admissions based on a
10 student's academic ability in a manner that is not otherwise
11 permitted by law;

12 (2) refers a student to a special education program
13 under Subchapter A, Chapter 29, or a bilingual or special language
14 program under Subchapter B, Chapter 29, for the purpose of gaining
15 an exemption for the student from the administration of the
16 assessment instrument;

17 (3) requires or encourages a student to be absent from
18 a school campus during the day on which the assessment instrument is
19 administered at the campus;

20 (4) tampers with the assessment instrument or related
21 materials to alter the results of the assessment instrument; or

22 (5) engages in any other action designed to alter the
23 accuracy of the results of the assessment instrument.

24 (b) An offense under this section is a Class A misdemeanor.

25 (c) An offense under Subsection (a)(4) is in addition to any
26 offense under Section 37.10(c)(2), Penal Code, arising from the
27 same action.

28 SECTION 2D.18. Subsection (b), Section 39.051, Education

1 Code, as amended by Chapters 433 and 805, Acts of the 78th
2 Legislature, Regular Session, 2003, is reenacted and amended to
3 read as follows:

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

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

14 (2) dropout rates, including dropout rates and
15 district completion rates for grade levels 7 [~~9~~] through 12,
16 computed:

17 (A) as a longitudinal rate and an annual
18 completion rate by grade; and

19 (B) in accordance with standards and definitions
20 adopted by the National Center for Education Statistics of the
21 United States Department of Education;

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

26 (4) student attendance rates;

27 (5) the percentage of graduating students who attain
28 scores on the secondary exit-level assessment instruments required

1 under Subchapter B that are equivalent to a passing score on the
2 assessment [~~test~~] instrument required under Section 51.3062
3 [~~51.306~~];

4 (6) the percentage of graduating students who meet the
5 course requirements established for the recommended high school
6 program by State Board of Education rule;

7 (7) the results of the Scholastic Assessment Test
8 (SAT), the American College Test (ACT), articulated postsecondary
9 degree programs described by Section 61.852, and certified
10 workforce training programs described by Chapter 311, Labor Code;

11 (8) incremental growth in student achievement, as
12 measured under Section 39.034, aggregated by grade level and
13 subject area;

14 (9) the number and percentage of students at risk of
15 dropping out of school, the number and percentage of those students
16 who are administered each assessment instrument required under
17 Section 39.023, the number and percentage of those students who
18 perform satisfactorily on the assessment instruments, and the
19 results of those students, grouped by number and percentage, on the
20 assessment instruments, disaggregated by subject area and grade
21 level;

22 (10) the number and percentage of students, aggregated
23 by grade level, provided accelerated instruction under Section
24 28.0211(c), the results of assessments administered under that
25 section, the percentage of students promoted through the grade
26 placement committee process under Section 28.0211, the subject of
27 the assessment instrument on which each student failed to perform
28 satisfactorily, and the performance of those students in the school

1 year following that promotion on the assessment instruments
2 required under Section 39.023;

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

9 (12) [~~(10)~~] the percentage of students exempted, by
10 exemption category, from the assessment program generally
11 applicable under this chapter; [~~and~~]

12 (13) [~~(11)~~] the percentage of students of limited
13 English proficiency exempted from the administration of an
14 assessment instrument under Sections 39.027(a)(1) and (2);

15 (14) [~~39.027(a)(3) and (4)~~] the percentage of students
16 in a special education program under Subchapter A, Chapter 29,
17 assessed through assessment instruments developed or adopted under
18 Section 39.023(b);

19 (15) for students of limited English proficiency, as
20 defined by Section 29.052, a measure of progress toward English
21 language proficiency, as determined by the commissioner, including
22 the student's performance after transferring out of a bilingual
23 education program or instruction in English as a second language;
24 and

25 (16) the performance of students who are not
26 educationally disadvantaged on an assessment instrument under
27 Sections 39.023(a), (b), (c), and (1) and dropout rates and
28 district completion rates for grades 9 through 12 for those

1 students.

2 SECTION 2D.19. Subsection (b), Section 39.052, Education
3 Code, is amended to read as follows:

4 (b) The report card shall include the following
5 information:

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

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

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

11 (4) the district's instructional expenditures ratio
12 and instructional employees ratio computed under Section 44.0071,
13 and the statewide average of those ratios, as determined by the
14 commissioner.

15 SECTION 2D.20. Section 39.055, Education Code, is amended
16 to read as follows:

17 Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT.

18 (a) The commissioner shall develop a process for auditing school
19 district dropout records electronically. The commissioner shall
20 also develop a system and standards for review of the audit or use
21 systems already available at the agency. The system must be
22 designed to identify districts that are at high risk of having
23 inaccurate dropout records and that, as a result, may be subject to
24 a special accreditation investigation under Section 39.075
25 ~~[require on-site monitoring of dropout records. If the electronic~~
26 ~~audit of a district's dropout records indicates that a district is~~
27 ~~not at high risk of having inaccurate dropout records, the district~~
28 ~~may not be subject to on-site monitoring under this subsection. If~~

1 ~~the risk-based system indicates that a district is at high risk of~~
2 ~~having inaccurate dropout records, the district is entitled to an~~
3 ~~opportunity to respond to the commissioner's determination before~~
4 ~~on-site monitoring may be conducted. The district must respond not~~
5 ~~later than the 30th day after the date the commissioner notifies the~~
6 ~~district of the commissioner's determination. If the district's~~
7 ~~response does not change the commissioner's determination that the~~
8 ~~district is at high risk of having inaccurate dropout records or if~~
9 ~~the district does not respond in a timely manner, the commissioner~~
10 ~~shall order agency staff to conduct on-site monitoring of the~~
11 ~~district's dropout records].~~

12 **(b)** ~~[(e)]~~ The commissioner shall notify the superintendent
13 ~~[board of trustees]~~ of a school district of any objection the
14 commissioner has to the district's dropout data, any violation of
15 sound accounting practices or of a law or rule revealed by the data,
16 or any recommendation by the commissioner concerning the data. If
17 the data reflect that a penal law has been violated, the
18 commissioner shall notify the county attorney, district attorney,
19 or criminal district attorney, as appropriate, and the attorney
20 general. The commissioner is entitled to access to all district
21 records the commissioner considers necessary or appropriate for the
22 review, analysis, or approval of district dropout data.

23 SECTION 2D.21. Sections 39.071 and 39.072, Education Code,
24 are amended to read as follows:

25 Sec. 39.071. ACCREDITATION. **(a)** Accreditation of a school
26 district is determined in accordance with this section
27 ~~[subchapter]~~.

28 **(b)** Each year, the commissioner shall determine the

1 accreditation status of each school district. In determining
2 accreditation status, the commissioner:

3 (1) shall evaluate and consider the performance of the
4 district under:

5 (A) the academic accountability system under
6 Section 39.072; and

7 (B) the financial accountability system under
8 Subchapter I;

9 (2) shall evaluate and consider:

10 (A) the results of any special accreditation
11 investigation under Section 39.075; and

12 (B) the district's current special education
13 monitoring or compliance status with the agency; and

14 (3) may consider:

15 (A) the district's compliance with statutory
16 requirements and requirements imposed by rule of the commissioner
17 or State Board of Education under specific statutory authority that
18 relate to:

19 (i) reporting data through the Public
20 Education Information Management System (PEIMS) or other reports
21 required by state or federal law or court order;

22 (ii) the high school graduation
23 requirements under Section 28.025; or

24 (iii) an item listed under Sections
25 7.056(e)(3)(C)-(I) that applies to the district;

26 (B) the effectiveness of the district's programs
27 for special populations; and

28 (C) the effectiveness of the district's career

1 and technology program.

2 (c) Based on a school district's performance under
3 Subsection (b), the commissioner shall:

4 (1) assign a district an accreditation status of:

5 (A) accredited;

6 (B) accredited-warned; or

7 (C) accredited-probation; or

8 (2) revoke the accreditation of the district and order
9 closure of the district under this subchapter.

10 (d) The commissioner shall notify a school district that
11 receives an accreditation status of accredited-warned or
12 accredited-probation that the performance of the district is below
13 a standard required under this section. The commissioner shall
14 require the district to notify the parents of students enrolled in
15 the district and property owners in the district of the district's
16 accreditation status and the implications of that accreditation
17 status.

18 (e) A school district that is not accredited may not
19 receive funds from the agency or hold itself out as operating a
20 public school of this state.

21 (f) This chapter may not be construed to invalidate a
22 diploma awarded, course credit earned, or grade promotion granted
23 by a school district before the commissioner revoked the district's
24 accreditation.

25 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
26 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
27 adopt rules for assigning [~~to evaluate the performance of school~~
28 ~~districts and to assign~~] to each school district and campus a

1 performance rating as follows:

2 (1) exemplary (meets or exceeds state exemplary
3 standards);

4 (2) recognized (meets or exceeds required improvement
5 or [and] within 10 percent of state exemplary standards);

6 (3) academically acceptable (below the exemplary and
7 recognized standards but exceeds the academically unacceptable
8 standards); or

9 (4) academically unacceptable (below the state
10 clearly unacceptable performance standard and does not meet
11 required improvement).

12 (b) The academic excellence indicators adopted under
13 Section 39.051(b) [~~Sections 39.051(b)(1) through (7) and the~~
14 ~~district's current special education compliance status with the~~
15 ~~agency]~~ shall be the main considerations of the agency in the rating
16 of a school [~~the~~] district or campus under this section.
17 [~~Additional criteria in the rules may include consideration of:~~

18 [~~(1) compliance with statutory requirements and~~
19 ~~requirements imposed by rule of the State Board of Education under~~
20 ~~specific statutory authority that relate to:~~

21 [~~(A) reporting data through the Public Education~~
22 ~~Information Management System (PEIMS);~~

23 [~~(B) the high school graduation requirements~~
24 ~~under Section 28.025; or~~

25 [~~(C) an item listed in Sections~~
26 ~~7.056(e)(3)(C)-(I) that applies to the district;~~

27 [~~(2) the effectiveness of the district's programs for~~
28 ~~special populations; and~~

1 ~~[(3) the effectiveness of the district's career and~~
2 ~~technology programs.]~~

3 (c) The agency shall evaluate ~~[against state standards]~~ and
4 ~~[shall]~~, not later than August 1 of each year, report the
5 performance of each school ~~[campus in a]~~ district and campus. ~~[each~~
6 ~~open-enrollment charter school on the basis of the campus's~~
7 ~~performance on the indicators adopted under Sections 39.051(b)(1)~~
8 ~~through (7). Consideration of the effectiveness of district~~
9 ~~programs under Subsection (b)(2) or (3) must be based on data~~
10 ~~collected through the Public Education Information Management~~
11 ~~System for purposes of accountability under this chapter and~~
12 ~~include the results of assessments required under Section 39.023.]~~

13 (d) The agency shall annually review the performance of each
14 school district and campus and determine if a change in the academic
15 performance rating of the district or campus is warranted.
16 Notwithstanding any other provision of this code, the commissioner
17 shall determine how the indicators adopted under Section 39.051(b)
18 may be used to determine academic performance ratings and to select
19 districts and campuses for acknowledgment.

20 (e) Each annual review shall include an analysis of the
21 indicators under Section 39.051(b) to determine district and campus
22 performance in relation to:

- 23 (1) state standards established for each indicator;
24 (2) required improvement as defined under Section
25 39.051(c); and
26 (3) comparable improvement as determined under
27 Section 39.051(c).

28 (f) The academic performance rating of a school district may

1 be raised or lowered based on the district's performance or may be
2 lowered based on the unacceptable performance of one or more
3 campuses in the district. The academic performance rating of a
4 school district may also be lowered based on a determination that
5 data provided to the agency by the district that is necessary for
6 conducting an annual review under this section is unreliable.

7 (g) The commissioner shall notify a school district if the
8 performance of the district or a campus in the district is below a
9 standard required under this section. The commissioner shall
10 require the school district to notify the parents of students who
11 are enrolled in the district and property owners in the district of
12 the academic performance rating and the implications of that
13 rating.

14 (h) Notwithstanding any other provision of this code, for
15 purposes of determining the performance of a school district or
16 public charter district under this chapter, including the academic
17 performance rating [accreditation status] of the district or
18 school, a student attending a campus that is a [confined by court
19 order in a residential program or] facility operated by or under
20 contract with the Texas Youth Commission, a pre-adjudication secure
21 detention facility or a post-adjudication secure correctional
22 facility that is registered with the Texas Juvenile Probation
23 Commission, or a residential facility is not considered to be a
24 student of the school district or public charter district school
25 serving the student [in which the program or facility is physically
26 located]. For purposes of this section, an involuntary residential
27 facility, including a detention center, residential treatment
28 center, or psychiatric hospital, is not considered a campus in

1 determining accreditation status [~~The performance of such a student~~
2 ~~on an assessment instrument or other academic excellence indicator~~
3 ~~adopted under Section 39.051 shall be determined, reported, and~~
4 ~~considered separately from the performance of students attending a~~
5 ~~school of the district in which the program or facility is~~
6 ~~physically located~~].

7 SECTION 2D.22. Subchapter D, Chapter 39, Education Code, is
8 amended by adding Section 39.0722 to read as follows:

9 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION.

10 (a) In addition to school district performance ratings under
11 Section 39.072, the commissioner shall annually rate districts
12 according to the degree to which the districts prepare students for
13 postsecondary success, including student performance on assessment
14 instruments administered under Section 39.0261 and on the
15 applicable indicators under Sections 39.051(b) and 39.0721. The
16 commissioner shall consult with the P-16 Council established under
17 Section 61.076 when adopting criteria under this section.

18 (b) The commissioner may adopt rules as necessary to
19 administer this section.

20 SECTION 2D.23. Subsection (a), Section 39.075, Education
21 Code, is amended to read as follows:

22 (a) The commissioner may [~~shall~~] authorize special
23 accreditation investigations to be conducted:

24 (1) when excessive numbers of absences of students
25 eligible to be tested on state assessment instruments are
26 determined;

27 (2) when excessive numbers of allowable exemptions
28 from the required state assessment instrument are determined;

1 (3) in response to complaints submitted to the agency
2 with respect to alleged violations of civil rights or other
3 requirements imposed on the state by federal law or court order;

4 (4) in response to established monitoring or
5 compliance reviews of the district's financial accounting
6 practices and state and federal program requirements;

7 (5) when extraordinary numbers of student placements
8 in alternative education programs, other than placements under
9 Sections 37.006 and 37.007, are determined;

10 (6) in response to an allegation involving a conflict
11 between members of the board of trustees or between the board and
12 the district administration if it appears that the conflict
13 involves a violation of a role or duty of the board members or the
14 administration clearly defined by this code;

15 (7) when excessive numbers of students in special
16 education programs under Subchapter A, Chapter 29, are assessed
17 through assessment instruments developed or adopted under Section
18 39.023(b); ~~[or]~~

19 (8) in response to questions concerning a program,
20 including special education, that is required by federal law or for
21 which the district receives federal funds;

22 (9) when an annual review indicates the academically
23 unacceptable performance under Section 39.072 of one or more
24 campuses in a district, except that the resulting investigation is
25 limited to those campuses;

26 (10) in response to concerns regarding the integrity
27 of data submitted to the agency;

28 (11) in response to allegations of a violation of

1 student assessment procedures for assessment instruments adopted
2 under Section 39.023; or

3 (12) as the commissioner otherwise determines
4 necessary.

5 SECTION 2D.24. Subsection (c), Section 39.075, Education
6 Code, as amended by Chapters 396 and 931, Acts of the 76th
7 Legislature, Regular Session, 1999, is reenacted and amended to
8 read as follows:

9 (c) Based on the results of a special accreditation
10 investigation, the commissioner may:

11 (1) take appropriate action under Subchapter G;

12 (2) raise or lower the district's accreditation status
13 [rating]; or

14 (3) take action under both Subdivisions (1) and (2).

15 SECTION 2D.25. Section 39.076, Education Code, is amended
16 by amending Subsection (a) and adding Subsections (a-1), (a-2),
17 (a-3), and (c) to read as follows:

18 (a) The agency shall adopt written procedures for
19 conducting ~~[on-site]~~ investigations under this subchapter. The
20 agency shall make the procedures available to the complainant, the
21 alleged violator, and the public. Agency staff must be trained in
22 the procedures and must follow the procedures in conducting the
23 investigation.

24 (a-1) An investigation conducted under this subchapter may
25 be an on-site, desk, or data-based investigation as determined by
26 the commissioner.

27 (a-2) If conducting an on-site investigation, the
28 investigators may obtain information from administrators,

1 teachers, or parents of students enrolled in the school district.

2 The commissioner shall adopt rules for:

3 (1) obtaining information from parents and using that
4 information in the investigator's report; and

5 (2) obtaining information from teachers in a manner
6 that prevents a campus or district from screening the information.

7 (a-3) The agency may give written notice of any impending
8 on-site investigation to the superintendent and the board of
9 trustees of a school district.

10 (c) The investigators conducting an on-site investigation
11 shall report the results of the investigation orally and in writing
12 to the board of trustees of the district and, as appropriate, to
13 campus administrators, and shall make recommendations concerning
14 any necessary improvements or sources of aid, such as regional
15 education service centers.

16 SECTION 2D.26. Subchapter D, Chapter 39, Education Code, is
17 amended by adding Sections 39.077 and 39.078 to read as follows:

18 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
19 school district or public charter district that wishes to challenge
20 a decision to assign or lower an accreditation status, an academic
21 performance rating, or a financial accountability rating must
22 petition for an informal review as provided by Section 7.0571.

23 (b) A final decision by the commissioner to assign or lower
24 an accreditation status, an academic performance rating, or a
25 financial accountability rating following a review under Section
26 7.0571 is final and may not be appealed.

27 Sec. 39.078. RULES. (a) The commissioner may adopt rules
28 as necessary to administer this subchapter.

1 (b) Unless a provision of this code clearly specifies
2 otherwise, any rule adopted under Subsection (a) must apply
3 accreditation requirements and academic performance ratings under
4 this subchapter to:

5 (1) a public charter district in the same manner as the
6 requirements and ratings are applied to a school district; and

7 (2) a campus operated by a public charter district in
8 the same manner as the requirements and ratings are applied to a
9 campus operated by a school district.

10 SECTION 2D.27. Effective August 1, 2006, Subchapter F,
11 Chapter 39, Education Code, is amended by adding Section 39.113 to
12 read as follows:

13 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
14 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
15 rules to create an incentive award system for annual growth in
16 student achievement. A school that achieves incremental growth in
17 student achievement, as described in Subsection (b), is eligible
18 for an award if the school:

19 (1) has a student population of at least 50 percent
20 educationally disadvantaged students;

21 (2) achieves an accreditation performance rating of
22 academically acceptable or better; and

23 (3) demonstrates superior growth in the academic
24 performance of educationally disadvantaged students.

25 (b) The commissioner by rule shall adopt performance
26 criteria to measure annual growth in student academic performance.
27 The commissioner shall consider the following criteria, as
28 applicable:

1 (1) annual growth in student achievement that
2 contributes to closing performance gaps among various populations
3 of students;

4 (2) improvements in student scores on the assessment
5 instruments required under Section 39.023;

6 (3) growth in high school completion rates;

7 (4) improvement in student scores on college advanced
8 placement tests; and

9 (5) any other factor that contributes to student
10 achievement.

11 (c) From funds appropriated for the purposes of this
12 section, the commissioner shall award grants to campuses that meet
13 performance criteria adopted under Subsection (b). The
14 commissioner shall allocate awards to campuses not later than
15 December 1 of each year, based on growth in student achievement as
16 measured for the preceding two school years.

17 (c-1) The commissioner shall award grants under this
18 section beginning September 1, 2006. This subsection expires
19 January 1, 2007.

20 (d) At least 75 percent of an award under this section must
21 be used for additional teacher compensation at the campus level.
22 The commissioner by rule shall provide for allocating awards under
23 this subsection, including providing individual awards of at least
24 \$3,000 for each teacher at a campus receiving an award under this
25 subsection.

26 (e) Grants from funds appropriated for the award program may
27 be awarded beginning with the 2006-2007 school year and may not
28 exceed \$50 million in the 2006-2007 school year except as expressly

1 authorized by the General Appropriations Act or other law.

2 (f) A determination of the commissioner under this section
3 is final and may not be appealed.

4 (g) The commissioner shall annually evaluate the
5 effectiveness of the state incentive program for improving student
6 performance on at-risk campuses established under this section.
7 The evaluation must consider:

8 (1) the performance of students in districts under
9 this section on assessment instruments administered under Section
10 39.023;

11 (2) the districts' high school graduation and
12 completion rates; and

13 (3) the districts' teacher attrition rates.

14 SECTION 2D.28. Section 39.131, Education Code, is amended
15 to read as follows:

16 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
17 district does not satisfy the accreditation criteria under Section
18 39.071, the academic performance standards under Section 39.072, or
19 any financial accountability standard as determined by
20 commissioner rule, the commissioner shall take any of the following
21 actions[~~, listed in order of severity,~~] to the extent the
22 commissioner determines necessary:

23 (1) issue public notice of the deficiency to the board
24 of trustees;

25 (2) order a hearing conducted by the board of trustees
26 of the district for the purpose of notifying the public of the
27 unacceptable performance, the improvements in performance expected
28 by the agency, and the sanctions that may be imposed under this

1 section if the performance does not improve;

2 (3) order the preparation of a student achievement
3 improvement plan that addresses each academic excellence indicator
4 for which the district's performance is unacceptable, the
5 submission of the plan to the commissioner for approval, and
6 implementation of the plan;

7 (4) order a hearing to be held before the commissioner
8 or the commissioner's designee at which the president of the board
9 of trustees of the district and the superintendent shall appear and
10 explain the district's low performance, lack of improvement, and
11 plans for improvement;

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

13 (6) appoint an agency monitor to participate in and
14 report to the agency on the activities of the board of trustees or
15 the superintendent;

16 (7) appoint a conservator to oversee the operations of
17 the district;

18 (8) appoint a management team to direct the operations
19 of the district in areas of unacceptable performance or require the
20 district to obtain certain services under a contract with another
21 person;

22 (9) if a district has a current accreditation status
23 of accredited-warned or accredited-probation, is [been] rated [as]
24 academically unacceptable, or fails to satisfy financial
25 accountability standards as determined by commissioner rule [for a
26 period of one year or more], appoint a board of managers to exercise
27 the powers and duties of the board of trustees;

28 (10) if for two consecutive school years, including

1 the current school year, a district has received an accreditation
2 status of accredited-warned or accredited-probation, has been
3 rated academically unacceptable, or has failed to satisfy financial
4 accountability standards as determined by commissioner rule,
5 revoke the district's accreditation and ~~[been rated as academically~~
6 ~~unacceptable for a period of two years or more]~~:

7 (A) order closure of the district and annex the
8 district to one or more adjoining districts under Section 13.054;
9 or

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

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

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

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

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

27 (D) ordering the use of any other intervention
28 strategy effective in reducing dropout rates, including mentor

1 programs and flexible class scheduling.

2 (b) This subsection applies regardless of whether a
3 district has satisfied the accreditation criteria. If for two
4 consecutive school years, including the current school year, [~~a~~
5 ~~period of one year or more~~] a district has had a conservator or
6 management team assigned, the commissioner may appoint a board of
7 managers, a majority of whom must be residents of the district, to
8 exercise the powers and duties of the board of trustees.

9 SECTION 2D.29. Section 39.132, Education Code, is amended
10 to read as follows:

11 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND
12 CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any
13 standard under Section 39.072 [~~39.073(b)~~], the campus is considered
14 an academically unacceptable [~~a low-performing~~] campus. The
15 commissioner may permit the campus to participate in an innovative
16 redesign of the campus to improve campus performance or shall [~~may~~]
17 take any of the other following actions[, ~~listed in order of~~
18 ~~severity~~], to the extent the commissioner determines necessary:

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

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

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

28 (B) soliciting public comment on the initial

1 steps being taken to improve performance;

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

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

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

15 (4) ~~[(6)]~~ order a hearing to be held before the
16 commissioner or the commissioner's designee at which the president
17 of the board of trustees, the superintendent, and the campus
18 principal shall appear and explain the campus's low performance,
19 lack of improvement, and plans for improvement;

20 (5) appoint a technical assistance team under Section
21 39.1321; or

22 (6) appoint a campus intervention team under Section
23 39.1321.

24 ~~[(7) appoint a special campus intervention team to:~~

25 ~~[(A) conduct a comprehensive on-site evaluation~~
26 ~~of the campus to determine the cause for the campus's low~~
27 ~~performance and lack of progress;~~

28 ~~[(B) recommend actions, including reallocation~~

1 ~~of resources and technical assistance, changes in school procedures~~
2 ~~or operations, staff development for instructional and~~
3 ~~administrative staff, intervention for individual administrators~~
4 ~~or teachers, waivers from state statute or rule, or other actions~~
5 ~~the team considers appropriate,~~

6 ~~[(C) assist in the development of a campus plan~~
7 ~~for student achievement, and~~

8 ~~[(D) assist the commissioner in monitoring the~~
9 ~~progress of the campus in implementing the campus plan for~~
10 ~~improvement of student achievement, or~~

11 ~~[(8) if a campus has been a low-performing campus for a~~
12 ~~period of one year or more, appoint a board of managers composed of~~
13 ~~residents of the district to exercise the powers and duties of the~~
14 ~~board of trustees of the district in relation to the campus.~~

15 ~~[(b) If a campus has been a low-performing campus for a~~
16 ~~period of two consecutive years or more, the commissioner shall~~
17 ~~order the closure of the district or charter program on the campus~~
18 ~~or reconstitute the campus. In reconstituting the campus, a~~
19 ~~special campus intervention team shall be assembled for the purpose~~
20 ~~of deciding which educators may be retained at that campus. If an~~
21 ~~educator is not retained, the educator may be assigned to another~~
22 ~~position in the district.]~~

23 SECTION 2D.30. Subchapter G, Chapter 39, Education Code, is
24 amended by adding Sections 39.1321, 39.1322, 39.1323, 39.1325,
25 39.1326, and 39.1327 to read as follows:

26 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION
27 TEAMS. (a) If a campus is rated academically acceptable for the
28 current school year but would be rated as academically unacceptable

1 if performance standards to be used for the following school year
2 were applied to the current school year, the commissioner shall
3 select and assign a technical assistance team to assist the campus
4 in executing a school improvement plan and any other school
5 improvement strategies the commissioner determines appropriate.

6 (b) If a campus has been identified as academically
7 unacceptable under Section 39.132, the commissioner shall appoint a
8 campus intervention team.

9 (c) To the extent practicable, the commissioner shall
10 select and assign the technical assistance team under Subsection
11 (a) or the campus intervention team under Subsection (b) before the
12 first day of instruction for the school year.

13 (d) The commissioner may determine when the services of a
14 technical assistance team or campus intervention team are no longer
15 needed at a campus under this section.

16 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A
17 campus intervention team shall:

18 (1) conduct a comprehensive on-site evaluation of the
19 campus to determine the cause for the campus's low performance and
20 lack of progress;

21 (2) recommend actions, including reallocation of
22 resources and technical assistance, changes in school procedures or
23 operations, staff development for instructional and administrative
24 staff, intervention for individual administrators or teachers,
25 waivers from state statute or rule, or other actions the team
26 considers appropriate;

27 (3) assist in the development of a school improvement
28 plan for student achievement; and

1 (4) assist the commissioner in monitoring the progress
2 of the campus in implementing the school improvement plan for
3 improvement of student achievement.

4 (b) A campus intervention team assigned under Section
5 39.1321 to a campus shall conduct a comprehensive on-site
6 evaluation of the campus to determine the cause for the campus's low
7 performance and lack of progress. The team shall have wide latitude
8 to determine what factors to assess and how to conduct the
9 assessment. Some factors to be considered are:

10 (1) an assessment of the staff to determine the
11 percentage of certified teachers who are teaching in their field,
12 the number of teachers with less than three years of experience, and
13 teacher turnover rates;

14 (2) compliance with the appropriate class-size rules
15 and number of class-size waivers received;

16 (3) an assessment of the quality, quantity, and
17 appropriateness of instructional materials, including the
18 availability of technology-based instructional materials;

19 (4) a report on the parental involvement strategies
20 and the effectiveness of the strategies;

21 (5) an assessment of the extent and quality of the
22 mentoring program provided for new teachers on the campus;

23 (6) an assessment of the type and quality of the
24 professional development provided to the staff;

25 (7) a demographic analysis of the student population,
26 including student demographics, at-risk populations, and special
27 education percentages;

28 (8) a report of disciplinary incidents and school

1 safety information;

2 (9) financial and accounting practices; and

3 (10) an assessment of the appropriateness of the
4 curriculum and teaching strategies.

5 (c) On completing the evaluation under this section, the
6 campus intervention team shall recommend actions, including:

7 (1) reallocation of resources;

8 (2) distribution of additional funds to the campus
9 from funds set aside by the agency for purposes of assisting
10 campuses in meeting standards specified in the intervention plan;

11 (3) technical assistance;

12 (4) changes in school procedures or operations;

13 (5) staff development for instructional and
14 administrative staff;

15 (6) intervention for individual administrators or
16 teachers;

17 (7) waivers from state statutes or rules; or

18 (8) other actions the campus intervention team
19 considers appropriate.

20 (d) In executing a school improvement plan developed under
21 Subsection (a)(3), the campus intervention team shall:

22 (1) assist the campus in implementing research-based
23 practices for curriculum development and classroom instruction,
24 including bilingual education and special education programs, if
25 appropriate, and financial management;

26 (2) provide research-based technical assistance,
27 including data analysis, academic deficiency identification,
28 intervention implementation, and budget analysis, to strengthen

1 and improve the instructional programs at the campus; and

2 (3) submit the school improvement plan to the
3 commissioner for approval.

4 (e) A campus intervention team appointed under Section
5 39.1321(b):

6 (1) shall continue to work with a campus until:

7 (A) the campus is rated academically acceptable
8 for a two-year period; or

9 (B) the campus is rated academically acceptable
10 for a one-year period and the commissioner determines that the
11 campus is operating and will continue to operate in a manner that
12 improves student achievement; and

13 (2) may continually update the school improvement
14 plan, with approval from the commissioner, to meet the needs of the
15 campus.

16 (f) Notwithstanding any other provision of this subchapter,
17 if the commissioner determines that a campus for which an
18 intervention is ordered under Section 39.1321(b) is not fully
19 implementing the campus intervention team's recommendations or
20 school improvement plan, the commissioner may order the
21 reconstitution of the campus, pursue alternative management of the
22 campus as provided by Section 39.1326, or order closure of the
23 campus.

24 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has
25 been identified as academically unacceptable for a period of two
26 consecutive school years, including the current school year, the
27 commissioner shall order the reconstitution of the campus and
28 assign a campus intervention team. In determining whether a campus

1 is rated academically unacceptable for a second year under this
2 subsection, dropout rates and completion rates may not be
3 considered. In reconstituting the campus, a campus intervention
4 team shall assist the campus in:

- 5 (1) developing a school improvement plan;
6 (2) obtaining approval of the plan from the
7 commissioner; and
8 (3) executing the plan on approval by the
9 commissioner.

10 (b) The campus intervention team shall decide which
11 educators may be retained at that campus. A principal who has been
12 employed by the campus in that capacity during the two-year period
13 described by Subsection (a) may not be retained at that campus. A
14 teacher of a subject assessed by an assessment instrument under
15 Section 39.023 may be retained only if the campus intervention team
16 determines that a pattern exists of significant academic growth by
17 students taught by the teacher. If an educator is not retained, the
18 educator may be assigned to another position in the district.

19 (c) A campus subject to Subsection (a) shall implement the
20 school improvement plan as approved by the commissioner. The
21 commissioner may appoint a monitor, conservator, management team,
22 or a board of managers to the district to ensure and oversee the
23 implementation of the school improvement plan.

24 (d) Notwithstanding any other provision of this subchapter,
25 if the commissioner determines that a campus subject to Subsection
26 (a) is not fully implementing the school improvement plan, the
27 commissioner may pursue alternative management of the campus as
28 provided by Section 39.1326, or may order closure of the campus.

1 (e) If a campus is considered an academically unacceptable
2 campus for more than two consecutive school years, the commissioner
3 may order reconstitution or closure of the campus or pursue
4 alternative management under Section 39.1326.

5 (f) If a campus is considered an academically unacceptable
6 campus for the subsequent school year after the campus is
7 reconstituted under this section, the commissioner shall pursue
8 alternative management under Section 39.1326.

9 Sec. 39.1325. TRANSITIONAL SANCTIONS PROVISIONS. For the
10 2005-2006 school year, the commissioner shall assign a campus
11 intervention team or a technical assistance team to a campus under
12 Section 39.1321 on the basis of academic performance ratings for
13 the 2004-2005 school year. The commissioner may impose a sanction
14 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the
15 basis of academic performance ratings for the 2004-2005 school year
16 and the 2005-2006 school year. A sanction ordered by the
17 commissioner before July 1, 2005, shall remain in effect for the
18 2005-2006 school year. The commissioner may allow a principal
19 subject to Section 39.1323(b) to remain at a campus for the
20 2005-2006 school year. This section expires September 1, 2007.

21 Sec. 39.1326. MANAGEMENT OF CERTAIN ACADEMICALLY
22 UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section
23 if the campus has been identified as academically unacceptable
24 under Section 39.132 and the commissioner orders alternative
25 management under Section 39.1323(e) or (f).

26 (b) The commissioner shall solicit proposals from qualified
27 entities to assume management of a campus subject to this section.

28 (c) If the commissioner determines that the basis for

1 identifying a campus as academically unacceptable is limited to a
2 specific condition that may be remedied with targeted technical
3 assistance, the commissioner may:

4 (1) provide the campus a one-year waiver under this
5 section; and

6 (2) require the district to contract for the
7 appropriate technical assistance.

8 (d) The commissioner may annually solicit proposals under
9 this section for the management of a campus subject to this section.
10 The commissioner shall notify a qualified entity that has been
11 approved as a provider under this section. The district must
12 execute a contract with an approved provider and relinquish control
13 of the campus before January 1 of the school year.

14 (e) To qualify for consideration as a managing entity under
15 this section, the entity must submit a proposal that provides
16 information relating to the entity's management and leadership team
17 that will participate in management of the campus under
18 consideration, including information relating to individuals that
19 have:

20 (1) documented success in whole school interventions
21 that increased the educational and performance levels of students
22 in academically unacceptable campuses;

23 (2) a proven record of effectiveness with programs
24 assisting low-performing students;

25 (3) a proven ability to apply research-based school
26 intervention strategies;

27 (4) a proven record of financial ability to perform
28 under the management contract; and

1 (5) any other experience or qualifications the
2 commissioner determines necessary.

3 (f) In selecting a managing entity under this section, the
4 commissioner shall give preference to an entity that:

5 (1) meets any qualifications under this section; and

6 (2) has documented success in educating students from
7 similar demographic groups and with similar educational needs as
8 the students who attend the campus that is to be operated by a
9 managing entity under this section.

10 (g) The school district may negotiate the term of a
11 management contract for not more than five years with an option to
12 renew the contract. The management contract must include a
13 provision describing the district's responsibilities in supporting
14 the operation of the campus. The commissioner shall approve the
15 contract before the contract is executed and, as appropriate, may
16 require the district, as a term of the contract, to support the
17 campus in the same manner as the district was required to support
18 the campus before the execution of the management contract.

19 (h) A management contract under this section shall include
20 provisions approved by the commissioner that require the managing
21 entity to demonstrate improvement in campus performance, including
22 negotiated performance measures. The performance measures must be
23 consistent with the priorities of this chapter. The commissioner
24 shall evaluate a managing entity's performance on the first and
25 second anniversaries of the date of the management contract. If the
26 evaluation fails to demonstrate improvement as negotiated under the
27 contract by the first anniversary of the date of the management
28 contract, the district may terminate the management contract, with

1 the commissioner's consent, for nonperformance or breach of
2 contract and select another provider from an approved list provided
3 by the commissioner. If the evaluation fails to demonstrate
4 significant improvement, as determined by the commissioner, by the
5 second anniversary of the date of the management contract, the
6 district shall terminate the management contract and select another
7 provider from an approved list provided by the commissioner or
8 resume operation of the campus if approved by the commissioner. If
9 the commissioner approves the district's operation of the campus,
10 the commissioner shall assign a technical assistance team to assist
11 the campus.

12 (i) Notwithstanding any other provision of this code, the
13 funding for a campus operated by a managing entity must be
14 equivalent to the funding of the other campuses in the district on a
15 per student basis so that the managing entity receives the same
16 funding the campus would otherwise have received.

17 (j) Each campus operated by a managing entity under this
18 section is subject to this chapter in the same manner as any other
19 campus in the district.

20 (k) The commissioner may adopt rules necessary to implement
21 this section.

22 (l) With respect to the management of a campus under this
23 section:

24 (1) a managing entity is considered to be a
25 governmental body for purposes of Chapters 551 and 552, Government
26 Code; and

27 (2) any requirement in Chapter 551 or 552, Government
28 Code, that applies to a school district or the board of trustees of

1 a school district applies to a managing entity.

2 Sec. 39.1327. REVIEW OF SANCTIONS FOR CAMPUSES SERVING
3 RESIDENTIAL FACILITIES. (a) A school district or public charter
4 district may petition the commissioner to review an academically
5 unacceptable rating assigned to a campus if the campus
6 predominantly served students residing in a residential facility
7 during the rating period.

8 (b) If the commissioner determines that the basis for
9 identifying the campus as academically unacceptable was limited to
10 a condition that was not related to the educational purpose of the
11 residential facility, the commissioner may take any of the
12 following actions as the commissioner determines appropriate:

13 (1) change, modify, or suspend the academically
14 unacceptable rating; or

15 (2) impose any sanction otherwise authorized under
16 Section 39.131 or 39.132.

17 (c) The commissioner may consider a factor other than a
18 factor used to assign a rating in evaluating a campus under this
19 section. The commissioner may assign a campus intervention team
20 under Section 39.1321 at the expense of the school district or
21 public charter district as provided by Section 39.134 to develop a
22 long-term intervention plan to improve services for students.

23 (d) On a determination that a campus subject to this section
24 is appropriately meeting the educational needs of its students, the
25 commissioner may waive revocation of a public charter district for
26 a period not to exceed two years. A waiver under this subsection
27 may be extended for additional two-year periods based on subsequent
28 evaluations of the campus.

1 (e) This section does not limit the commissioner's ability
2 to sanction a public charter district for the performance of a
3 campus subject to this section or any other law.

4 (f) A decision by the commissioner under this section is
5 final and may not be appealed.

6 SECTION 2D.31. Section 39.133, Education Code, is amended
7 to read as follows:

8 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
9 review annually the performance of a district or campus subject to a
10 sanction under this subchapter to determine the appropriate actions
11 to be implemented under this subchapter. The determination shall
12 take into account the number, severity, and duration of the
13 problems identified. [The commissioner must review at least
14 annually the performance of a district for which the accreditation
15 rating has been lowered due to unacceptable student performance and
16 may not raise the rating until the district has demonstrated
17 improved student performance.] If the review reveals a lack of
18 improvement, the commissioner shall increase the level of state
19 intervention and sanction unless the commissioner finds good cause
20 for maintaining the current status.

21 (b) The commissioner shall review at least annually the
22 performance of a school district for which the academic performance
23 rating has been lowered due to unacceptable student performance and
24 may not raise the rating until the district has demonstrated
25 improved student performance.

26 SECTION 2D.32. Subchapter G, Chapter 39, Education Code, is
27 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as
28 follows:

1 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In
2 addition to other sanctions authorized under Sections 39.131 and
3 39.132, the commissioner may order a school district or campus to
4 acquire professional services at the expense of the district or
5 campus to address the applicable financial, assessment, data
6 quality, program, or governance deficiency. The commissioner's
7 order may require the district or campus to:

8 (1) select an external auditor, data quality expert,
9 professional authorized to monitor district assessment instrument
10 administration, or curriculum or program expert; or

11 (2) provide for the appropriate training of district
12 staff or board of trustees members in the case of a district, or
13 campus staff, in the case of a campus.

14 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS.

15 (a) The commissioner may revoke the accreditation of a school
16 district and order the closure of the district or a campus, as
17 appropriate, under the following circumstances:

18 (1) the commissioner is authorized to close the
19 district or campus under Section 39.131(a)(10) or 39.1322(f);

20 (2) the commissioner determines that the district is
21 insolvent and unable to complete the school year; or

22 (3) the commissioner determines that the district has
23 ceased operations for 11 or more instructional days during the
24 current or most recent scheduled school year without the
25 commissioner's authorization.

26 (b) The commissioner shall issue an order of closure under
27 this section that includes provisions necessary for the
28 continuation of the education of students enrolled in the district

1 or campus, including annexation to one or more adjoining districts
2 as provided by Section 13.054. An order of closure may:

3 (1) establish an effective date for accreditation
4 revocation and closure that is not later than the first anniversary
5 of the date of the order;

6 (2) provide for an interim board of managers to
7 exercise the duties of the board of trustees of the district as
8 designated by the commissioner;

9 (3) require enrollment or student services to be
10 provided by another district as necessary to allow students
11 enrolled in the closed district to complete a school year, and make
12 adjustments in the state and federal funding to which the district
13 would otherwise be entitled as determined by the commissioner; and

14 (4) require the preservation, transfer, or surrender
15 of all student records and other records required for an audit of
16 any state and federal funding provided to the district.

17 (c) A person who intentionally destroys, conceals, or
18 tampers with a record that is required to be preserved,
19 transferred, or surrendered under Subsection (b)(4) commits an
20 offense punishable under Section 37.10(c)(2), Penal Code.

21 (d) A board of managers exercising authority under
22 Subsection (b)(2) may exercise the authority of the board of
23 trustees with regard to financial management of the district and
24 personnel actions. The board of managers is not required to be
25 composed of residents of the district.

26 (e) A public charter district ordered closed under this
27 section is not entitled to a separate hearing concerning the
28 revocation or nonrenewal of the charter under Section 11A.108.

1 (f) An open-enrollment charter school ordered closed under
2 this section is not entitled to a separate hearing concerning the
3 revocation or nonrenewal of the charter under Section 12.116. This
4 subsection expires August 1, 2006.

5 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A
6 school district or public charter district that wishes to challenge
7 a decision to impose a sanction under this subchapter, including a
8 decision to close a district, school, or campus under Section
9 39.1332, must petition for an informal review as provided by
10 Section 7.0571.

11 (b) A final decision by the commissioner to impose a
12 sanction under this subchapter, including a decision to close a
13 school district or a campus under Section 39.1332, following a
14 review under Section 7.0571 is final and may not be appealed.

15 (c) A school district may not collaterally contest an
16 academic performance rating or other accreditation standard as part
17 of the review of a sanction under this subchapter if a review
18 opportunity has already been provided for the academic performance
19 rating.

20 SECTION 2D.33. Section 39.134, Education Code, is amended
21 to read as follows:

22 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
23 a monitor, conservator, management team, ~~[or special]~~ campus
24 intervention team, technical assistance team, managing entity
25 under Section 39.1326, or service provider under Section 39.1331
26 shall be paid by the district. If the district fails or refuses to
27 pay the costs in a timely manner, the commissioner may:

28 (1) pay the costs using amounts withheld from any

1 funds to which the district is otherwise entitled; or

2 (2) recover the amount of the costs in the manner
3 provided for recovery of an overallocation of state funds under
4 Section 42.317 [~~42.258~~].

5 SECTION 2D.34. Subchapter G, Chapter 39, Education Code, is
6 amended by adding Section 39.1371 to read as follows:

7 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
8 responsible for managing an intervention of a campus subject to
9 sanctions under this subchapter.

10 (b) The agency shall:

11 (1) monitor the progress of technical assistance teams
12 and campus intervention teams appointed by the commissioner under
13 this subchapter; and

14 (2) supervise the activities of the managing entities
15 under Section 39.1326.

16 (c) The agency shall:

17 (1) establish by rule and publish school improvement
18 objectives;

19 (2) advocate for the increased use of research-based
20 effective practices; and

21 (3) coordinate campus improvement activities of the
22 agency and regional education service centers.

23 (d) The commissioner may contract for services under this
24 section.

25 SECTION 2D.35. Subsection (a), Section 39.182, Education
26 Code, as amended by S.B. No. 42, Acts of the 79th Legislature,
27 Regular Session, 2005, is amended to read as follows:

28 (a) Not later than December 1 of each year, the agency shall

1 prepare and deliver to the governor, the lieutenant governor, the
2 speaker of the house of representatives, each member of the
3 legislature, the Legislative Budget Board, and the clerks of the
4 standing committees of the senate and house of representatives with
5 primary jurisdiction over the public school system a comprehensive
6 report covering the preceding school year and containing:

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

10 (2) an evaluation of the status of education in the
11 state as reflected by the academic excellence indicators adopted
12 under Section 39.051;

13 (3) a summary compilation of the percentage of
14 graduating students who attain scores on the secondary exit-level
15 assessment instruments required under Section 39.023(c) that are
16 equivalent to a passing score on the assessment instrument required
17 under Section 51.3062;

18 (4) a summary compilation of overall student
19 performance on academic skills assessment instruments required by
20 Section 39.023 with the number and percentage of students exempted
21 from the administration of those instruments and the basis of the
22 exemptions, aggregated by grade level, subject area, campus, and
23 district, with appropriate interpretations and analysis, and
24 disaggregated by race, ethnicity, gender, and socioeconomic
25 status;

26 (5) [~~4~~] a summary compilation of overall
27 performance of students placed in a disciplinary alternative
28 education program established under Section 37.008 on academic

1 skills assessment instruments required by Section 39.023 with the
2 number of those students exempted from the administration of those
3 instruments and the basis of the exemptions, aggregated by
4 district, grade level, and subject area, with appropriate
5 interpretations and analysis, and disaggregated by race,
6 ethnicity, gender, and socioeconomic status;

7 (6) [~~(5)~~] a summary compilation of the progress
8 ~~[overall performance]~~ of students at risk of dropping out of
9 school, as defined by Section 29.081(d), including information
10 described by the academic excellence indicators under Sections
11 39.051(b)(7), (8), (10), and (11), provided statewide and
12 aggregated by district, on academic skills assessment instruments
13 required by Section 39.023 and any other assessment instrument
14 required by the commissioner [~~with the number of those students~~
15 ~~exempted from the administration of those instruments and the basis~~
16 ~~of the exemptions, aggregated by district, grade level, and subject~~
17 ~~area]~~, with appropriate interpretations and analysis, and
18 disaggregated by race, ethnicity, gender, and socioeconomic
19 status;

20 (7) [~~(6)~~] an evaluation of the correlation between
21 student grades and student performance on academic skills
22 assessment instruments required by Section 39.023;

23 (8) [~~(7)~~] a statement of the dropout rate of students
24 in grade levels 7 through 12, expressed in the aggregate and by
25 grade level, and a statement of the completion rates of students for
26 grade levels 9 through 12;

27 (9) [~~(8)~~] a statement of:

28 (A) the completion rate of students who enter

1 grade level 9 and graduate not more than four years later;

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

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

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

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

14 (10) [~~(9)~~] a statement of the projected
15 cross-sectional and longitudinal dropout rates for grade levels 9
16 through 12 for the next five years, assuming no state action is
17 taken to reduce the dropout rate;

18 (11) [~~(10)~~] a description of a systematic, measurable
19 plan for reducing the projected cross-sectional and longitudinal
20 dropout rates to five percent or less for the 1997-1998 school year;

21 (12) [~~(11)~~] a summary of the information required by
22 Section 29.083 regarding grade level retention of students and
23 information concerning:

24 (A) the number and percentage of students
25 retained; and

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

28 (13) [~~(12)~~] information, aggregated by district type

1 and disaggregated by race, ethnicity, gender, and socioeconomic
2 status, on:

3 (A) the number of students placed in a
4 disciplinary alternative education program established under
5 Section 37.008;

6 (B) the average length of a student's placement
7 in a disciplinary alternative education program established under
8 Section 37.008;

9 (C) the academic performance of students on
10 assessment instruments required under Section 39.023(a) during the
11 year preceding and during the year following placement in a
12 disciplinary alternative education program; and

13 (D) the dropout rates of students who have been
14 placed in a disciplinary alternative education program established
15 under Section 37.008;

16 (14) [~~(13)~~] a list of each school district or campus
17 that does not satisfy performance standards, with an explanation of
18 the actions taken by the commissioner to improve student
19 performance in the district or campus and an evaluation of the
20 results of those actions;

21 (15) [~~(14)~~] an evaluation of the status of the
22 curriculum taught in public schools, with recommendations for
23 legislative changes necessary to improve or modify the curriculum
24 required by Section 28.002;

25 (16) [~~(15)~~] a description of all funds received by and
26 each activity and expenditure of the agency;

27 (17) [~~(16)~~] a summary and analysis of the
28 instructional expenditures ratios and instructional employees

1 ratios of school districts computed under Section 44.0071;

2 (18) [~~(17)~~] a summary of the effect of deregulation,
3 including exemptions and waivers granted under Section 7.056 [~~or~~
4 ~~39.112~~];

5 (19) [~~(18)~~] a statement of the total number and length
6 of reports that school districts and school district employees must
7 submit to the agency, identifying which reports are required by
8 federal statute or rule, state statute, or agency rule, and a
9 summary of the agency's efforts to reduce overall reporting
10 requirements;

11 (20) [~~(19)~~] a list of each school district that is not
12 in compliance with state special education requirements,
13 including:

14 (A) the period for which the district has not
15 been in compliance;

16 (B) the manner in which the agency considered the
17 district's failure to comply in determining the district's
18 accreditation status; and

19 (C) an explanation of the actions taken by the
20 commissioner to ensure compliance and an evaluation of the results
21 of those actions;

22 (21) an evaluation of public charter districts,
23 including:

24 (A) the academic performance of students
25 enrolled in public charter districts, disaggregated by race,
26 ethnicity, gender, and socioeconomic status;

27 (B) the costs of instruction, administration,
28 and transportation incurred by public charter districts; and

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

10 (22) [~~(21)~~] a summary of the information required by
11 Section 38.0141 regarding student health and physical activity from
12 each school district;

13 (23) a statement of the percentage of students scoring
14 at the proficient and advanced levels on the National Assessment of
15 Educational Progress; and

16 (24) [~~(22)~~] any additional information considered
17 important by the commissioner or the State Board of Education.

18 SECTION 2D.36. Subsection (b), Section 39.182, Education
19 Code, is amended to read as follows:

20 (b) In reporting the information required by Subsection
21 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate
22 the performance data of students enrolled in a special education
23 program under Subchapter A, Chapter 29, or a bilingual education or
24 special language program under Subchapter B, Chapter 29.

25 SECTION 2D.37. Section 39.182, Education Code, is amended
26 by adding Subsections (b-1) and (b-2) to read as follows:

27 (b-1) The report must include an assessment of the impact of
28 the performance-based grant system developed under Subchapter E,

1 Chapter 7, on student academic performance, including:

2 (1) an analysis of performance and spending
3 information relating to grants administered by the agency; and

4 (2) recommendations on any statutory changes needed
5 for the agency to more effectively administer grant programs,
6 including recommendations on whether to eliminate or modify
7 inefficient grant programs, expand effective grant programs, or
8 consolidate similar grant programs to maximize the effectiveness
9 and efficiencies of those programs.

10 (b-2) Subsection (b-1) applies beginning January 1, 2009.
11 This subsection expires February 1, 2009.

12 SECTION 2D.38. Section 39.183, Education Code, is amended
13 to read as follows:

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

22 (1) a summary of school district compliance with the
23 student/teacher ratios and class-size limitations prescribed by
24 Sections 25.111 and 25.112, including:

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

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

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

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

8 (4) an evaluation of accelerated instruction programs
9 offered under Section 28.006, including an assessment of the
10 quality of such programs and the performance of students enrolled
11 in such programs; and

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

15 SECTION 2D.39. Subsection (a), Section 39.202, Education
16 Code, is amended to read as follows:

17 (a) The commissioner shall, in consultation with the
18 comptroller, develop and implement a financial accountability
19 rating system for schooldistricts in this state that distinguishes
20 among districts' varying levels of financial performance and
21 includes procedures for:

22 (1) providing additional transparency to public
23 education finance; and

24 (2) enabling the commissioner and district
25 administrators to provide meaningful financial oversight and
26 improvement.

27 SECTION 2D.40. Subsection (b), Section 39.203, Education
28 Code, is amended to read as follows:

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

2 (1) a description of the district's financial
3 management performance based on a comparison, provided by the
4 agency, of the district's performance on the standards [~~indicators~~]
5 adopted under Section 39.202 [~~39.202(b)~~] to:

6 (A) state-established standards; and

7 (B) the district's previous performance on the
8 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

9 (2) a description of the district's actual
10 expenditures for each campus and any difference between those
11 campus expenditures and the foundation school program allotments
12 received for the campus; and

13 (3) any descriptive information required by the
14 commissioner.

15 SECTION 2D.41. Subchapter I, Chapter 39, Education Code, is
16 amended by adding Section 39.205 to read as follows:

17 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than
18 September 1, 2006, the agency shall submit a report to the
19 legislature on the status of the financial accountability system
20 that recommends to the legislature methods for linking school
21 district financial management performance and academic
22 performance.

23 (b) This section expires September 2, 2006.

24 SECTION 2D.42. (a) Not later than the 2007-2008 school
25 year, the Texas Education Agency shall collect information
26 concerning:

27 (1) incremental growth in student achievement for
28 purposes of Subdivision (8), Subsection (b), Section 39.051,

1 Education Code, as amended by this Act; and

2 (2) the measure of progress toward English language
3 proficiency for purposes of Subdivision (15), Subsection (b),
4 Section 39.051, Education Code, as added by this Act.

5 (b) Not later than the 2008-2009 school year, the Texas
6 Education Agency shall include, in evaluating the performance of
7 school districts, campuses, and public charter districts under
8 Subchapter D, Chapter 39, Education Code:

9 (1) incremental growth in student achievement under
10 Subdivision (8), Subsection (b), Section 39.051, Education Code, as
11 amended by this Act; and

12 (2) the measure of progress toward English language
13 proficiency under Subdivision (15), Subsection (b), Section
14 39.051, Education Code, as added by this Act.

15 SECTION 2D.43. The commissioner of education shall develop
16 and implement the reporting procedures for:

17 (1) districts to prepare and distribute annual
18 financial management reports under Section 39.203, Education Code,
19 as amended by this Act, beginning with the 2007-2008 school year;
20 and

21 (2) campuses to provide financial information under
22 Section 39.202, Education Code, as amended by this Act, beginning
23 with the 2008-2009 school year.

24 PART E. INSTRUCTIONAL MATERIALS

25 SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is
26 amended by adding Section 7.030 to read as follows:

27 Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED
28 GRANT PROGRAMS. (a) The agency shall conduct a review of

1 state-funded and federally funded grant programs and incentives
2 designed to improve student academic performance and shall actively
3 determine the full extent to which funds awarded under those
4 programs may be used to enhance or expand the use of technology in
5 public schools. For purposes of removing barriers to and
6 encouraging the use of technology in public schools, the
7 commissioner may, as appropriate, issue a waiver to one or more
8 schools.

9 (b) Not later than December 1, 2006, the agency shall submit
10 a report regarding the findings of the review conducted under this
11 section to the legislature. The report must include a summary of
12 promising practices for current grant programs that leverage
13 technology. This section expires January 15, 2007.

14 SECTION 2E.02. Subdivision (28), Subsection (b), Section
15 7.055, Education Code, is amended to read as follows:

16 (28) The commissioner shall perform duties relating to
17 the funding, adoption, and purchase of instructional materials
18 [~~textbooks~~] under Chapter 31.

19 SECTION 2E.03. Subsection (f), Section 7.056, Education
20 Code, is amended to read as follows:

21 (f) A school district or campus that is required to develop
22 and implement a student achievement improvement plan under Section
23 39.131 or 39.132 may receive an exemption or waiver under this
24 section from any law or rule other than:

25 (1) a prohibition on conduct that constitutes a
26 criminal offense;

27 (2) a requirement imposed by federal law or rule;

28 (3) a requirement, restriction, or prohibition

1 imposed by state law or rule relating to:

2 (A) public school accountability as provided by
3 Subchapters B, C, D, and G, Chapter 39; or

4 (B) educator rights and benefits under
5 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
6 A, Chapter 22; or

7 (4) ~~[textbook]~~ selection of instructional materials
8 under Chapter 31.

9 SECTION 2E.04. Subdivision (23), Subsection (c), Section
10 7.102, Education Code, is amended to read as follows:

11 (23) The board shall approve ~~[adopt]~~ and purchase or
12 license instructional materials ~~[textbooks]~~ as provided by Chapter
13 31 and adopt rules required by that chapter.

14 SECTION 2E.05. Subsections (a) and (c), Section 7.108,
15 Education Code, are amended to read as follows:

16 (a) A person interested in selling bonds of any type or a
17 person engaged in manufacturing, shipping, selling, or advertising
18 instructional materials ~~[textbooks]~~ or otherwise connected with
19 the instructional material ~~[textbook]~~ business commits an offense
20 if the person makes or authorizes a political contribution to or
21 takes part in, directly or indirectly, the campaign of any person
22 seeking election to or serving on the board.

23 (c) In this section:

24 (1) "Instructional material" has the meaning assigned
25 by Section 31.002.

26 (2) "Political contribution" has the meaning assigned
27 by Section 251.001, Election Code.

28 ~~[(2) "Textbook" has the meaning assigned by Section~~

1 ~~31.002.]~~

2 SECTION 2E.06. The heading to Section 7.112, Education
3 Code, is amended to read as follows:

4 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF
5 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

6 SECTION 2E.07. Subsection (a), Section 7.112, Education
7 Code, is amended to read as follows:

8 (a) A former member of the State Board of Education who is
9 employed by or otherwise receives compensation from a [~~textbook~~]
10 publisher of instructional materials may not, before the second
11 anniversary of the date on which the person last served as a member
12 of the State Board of Education:

13 (1) confer with a member of the board of trustees of a
14 school district concerning instructional materials [~~a textbook~~]
15 published by that [~~textbook~~] publisher; or

16 (2) appear at a meeting of the board of trustees on
17 behalf of the [~~textbook~~] publisher.

18 SECTION 2E.08. Subdivision (2), Subsection (c), Section
19 7.112, Education Code, is amended to read as follows:

20 (2) "Instructional material" and "publisher"
21 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section
22 31.002.

23 SECTION 2E.09. Subsection (b), Section 11.158, Education
24 Code, is amended to read as follows:

25 (b) The board may not charge fees for:

26 (1) instructional materials [~~textbooks~~], workbooks,
27 laboratory supplies, or other supplies necessary for participation
28 in any instructional course except as authorized under this code;

1 (2) field trips required as a part of a basic education
2 program or course;

3 (3) any specific form of dress necessary for any
4 required educational program or diplomas;

5 (4) the payment of instructional costs for necessary
6 school personnel employed in any course or educational program
7 required for graduation;

8 (5) library materials [~~books~~] required to be used for
9 any educational course or program, other than fines for lost,
10 damaged, or overdue materials [~~books~~];

11 (6) admission to any activity the student is required
12 to attend as a prerequisite to graduation;

13 (7) admission to or examination in any required
14 educational course or program; or

15 (8) lockers.

16 SECTION 2E.10. Subsection (a), Section 11.164, Education
17 Code, is amended to read as follows:

18 (a) The board of trustees of each school district shall
19 limit redundant requests for information and the number and length
20 of written reports that a classroom teacher is required to prepare.
21 A classroom teacher may not be required to prepare any written
22 information other than:

23 (1) any report concerning the health, safety, or
24 welfare of a student;

25 (2) a report of a student's grade on an assignment or
26 examination;

27 (3) a report of a student's academic progress in a
28 class or course;

1 (4) a report of a student's grades at the end of each
2 grade reporting period;

3 (5) a [~~textbook~~] report on instructional materials;

4 (6) a unit or weekly lesson plan that outlines, in a
5 brief and general manner, the information to be presented during
6 each period at the secondary level or in each subject or topic at
7 the elementary level;

8 (7) an attendance report;

9 (8) any report required for accreditation review;

10 (9) any information required by a school district that
11 relates to a complaint, grievance, or actual or potential
12 litigation and that requires the classroom teacher's involvement;
13 or

14 (10) any information specifically required by law,
15 rule, or regulation.

16 SECTION 2E.11. Subsection (e), Section 19.007, Education
17 Code, is amended to read as follows:

18 (e) The district may participate in the instructional
19 materials [~~textbook~~] program under Chapter 31.

20 SECTION 2E.12. Subsections (a) and (c), Section 26.006,
21 Education Code, are amended to read as follows:

22 (a) A parent is entitled to:

23 (1) review all teaching materials, instructional
24 materials [~~textbooks~~], and other teaching aids used in the
25 classroom of the parent's child; and

26 (2) review each test administered to the parent's
27 child after the test is administered.

28 (c) A student's parent is entitled to request that the

1 public school [~~district or open-enrollment charter school~~] the
2 student attends allow the student to take home any instructional
3 materials [~~textbook~~] used by the student. Subject to the
4 availability of the instructional materials [~~a textbook~~], the
5 [~~district or~~] school shall honor the request. A student who takes
6 home instructional materials [~~a textbook~~] must return the
7 instructional materials [~~textbook~~] to school at the beginning of
8 the next school day if requested to do so by the student's teacher.
9 In this subsection, "instructional material" [~~"textbook"~~] has the
10 meaning assigned by Section 31.002.

11 SECTION 2E.13. Subsections (c) and (h), Section 28.002,
12 Education Code, are amended to read as follows:

13 (c) The State Board of Education, with the direct
14 participation of educators, parents, business and industry
15 representatives, and employers shall by rule identify the essential
16 knowledge and skills of each subject of the required curriculum
17 that all students should be able to demonstrate and that will be
18 used in evaluating instructional materials [~~textbooks~~] under
19 Chapter 31 and addressed on the assessment instruments required
20 under Subchapter B, Chapter 39. As a condition of accreditation,
21 the board shall require each district to provide instruction in the
22 essential knowledge and skills at appropriate grade levels.

23 (h) The State Board of Education and each school district
24 shall foster the continuation of the tradition of teaching United
25 States and Texas history and the free enterprise system in regular
26 subject matter and in reading courses and in the adoption of
27 instructional materials [~~textbooks~~]. A primary purpose of the
28 public school curriculum is to prepare thoughtful, active citizens

1 who understand the importance of patriotism and can function
2 productively in a free enterprise society with appreciation for the
3 basic democratic values of our state and national heritage.

4 SECTION 2E.14. The heading to Chapter 31, Education Code,
5 is amended to read as follows:

6 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

7 SECTION 2E.15. Section 31.001, Education Code, is amended
8 to read as follows:

9 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
10 Instructional materials [~~Textbooks~~] selected for use in the public
11 schools shall be furnished without cost to the students attending
12 those schools in accordance with Section 3(b), Article VII, Texas
13 Constitution.

14 SECTION 2E.16. Subdivisions (1), (2), and (4), Section
15 31.002, Education Code, are amended to read as follows:

16 (1) "Instructional material" [~~"Electronic textbook"~~]
17 means a medium or a combination of media for conveying information
18 to a student. The term includes a book, supplementary materials, a
19 combination of a book, workbook, supplementary materials, computer
20 software, [~~interactive videodisc,~~ magnetic media, DVD, CD-ROM,
21 computer courseware, on-line services, or an electronic medium, or
22 other means of conveying information to the student or otherwise
23 contributing to the learning process through electronic means.

24 (2) "Publisher" means a person who prepares
25 instructional materials for sale or distribution to educational
26 institutions. The term includes an on-line service or a developer
27 or distributor of [~~an~~] electronic instructional materials
28 [~~textbook~~].

1 (4) "Technological equipment" means hardware, a
2 device, or equipment necessary for:

3 (A) instructional use in the classroom,
4 including to gain access to or enhance the use of ~~[an]~~ electronic
5 instructional materials ~~[textbook]~~; or

6 (B) professional use by a classroom teacher.

7 SECTION 2E.17. Section 31.003, Education Code, is amended
8 to read as follows:

9 Sec. 31.003. RULES. The State Board of Education shall
10 ~~[may]~~ adopt rules, consistent with this chapter, for the approval
11 ~~[adoption]~~, requisition, distribution, care, use, and disposal of
12 instructional materials ~~[textbooks]~~.

13 SECTION 2E.18. The heading to Subchapter B, Chapter 31,
14 Education Code, is amended to read as follows:

15 SUBCHAPTER B. STATE APPROVAL

16 ~~[FUNDING, ADOPTION, AND PURCHASE]~~

17 SECTION 2E.19. Section 31.021, Education Code, as amended
18 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
19 2005, is amended to read as follows:

20 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS ~~[TEXTBOOK]~~
21 FUND. (a) The state instructional materials ~~[textbook]~~ fund
22 consists of:

23 (1) an amount set aside by the State Board of Education
24 from the available school fund, computed in accordance with this
25 section; and

26 (2) ~~[all funds accruing from the state's sale of~~
27 ~~discused textbooks; and~~

28 ~~[(3)]~~ all amounts lawfully paid into the fund from any

1 other source.

2 (b) The State Board of Education shall annually set aside
3 out of the available school fund of the state an amount sufficient
4 for the instructional materials allotment to provide public [~~board,~~
5 ~~school districts, and open-enrollment charter~~] schools with the
6 funds required to purchase and distribute the necessary
7 instructional materials [~~textbooks~~] for the use of the students of
8 this state for the following school year. The board shall determine
9 the amount of the available school fund to set aside for the state
10 instructional materials [~~textbook~~] fund based on the amount of the
11 instructional materials and technology allotment under Section
12 32.005(a). [~~+~~

13 [~~(1) a report by the commissioner issued on July 1 or,~~
14 ~~if that date is a Saturday or Sunday, on the following Monday,~~
15 ~~stating the amount of unobligated money in the fund;~~

16 [~~(2) the commissioner's estimate, based on textbooks~~
17 ~~selected under Section 31.101 and on attendance reports submitted~~
18 ~~under Section 31.103 by school districts and open-enrollment~~
19 ~~charter schools, of the amount of funds, in addition to funds~~
20 ~~reported under Subdivision (1), that will be necessary for purchase~~
21 ~~and distribution of textbooks for the following school year; and~~

22 [~~(3) any amount the board determines should be set~~
23 ~~aside for emergency purposes caused by unexpected increases in~~
24 ~~attendance.~~]

25 (c) This subsection applies only if the pilot project
26 established under Section 54.2161 is implemented[, ~~and expires~~
27 ~~August 15, 2009~~]. In addition to the amount set aside under
28 Subsection (b), the State Board of Education shall annually set

1 aside out of the available school fund an amount sufficient for each
2 school district with one or more students entitled to free
3 textbooks under the pilot project established under Section 54.2161
4 to pay the costs of those textbooks as required by Section 31.031
5 for the following school year. The board shall determine the amount
6 of the available school fund to set aside for the state
7 instructional materials ~~[textbook]~~ fund for purposes of this
8 subsection based on the commissioner's estimate of the amount that
9 will be necessary to pay the costs of textbooks as required under
10 Section 31.031. This subsection expires August 31, 2006.

11 (d) Money transferred to the state instructional materials
12 ~~[textbook]~~ fund remains in the fund until spent and does not lapse
13 to the state at the end of the fiscal year.

14 ~~[(c) All necessary expenses incurred under this chapter~~
15 ~~shall be paid from the state textbook fund on invoices approved by~~
16 ~~the commissioner.]~~

17 SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is
18 amended by adding Sections 31.0251 through 31.0254 to read as
19 follows:

20 Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS;
21 REVIEW. (a) A publisher may, in accordance with State Board of
22 Education rule, submit an instructional material to the board for
23 approval. As part of a submission, a publisher must include a
24 statement that identifies in writing the essential knowledge and
25 skills for a subject and grade level as determined by the board
26 under Section 28.002 that the instructional material covers.

27 (b) The board shall:

28 (1) review each instructional material submitted for

1 approval as provided by Section 31.0253;

2 (2) determine whether the instructional material
3 covers the essential knowledge and skills identified in the
4 submission; and

5 (3) identify the degree to which the instructional
6 material complies with the essential knowledge and skills.

7 Sec. 31.0252. CORRECTION OF FACTUAL ERRORS. (a) To
8 promote efficiency in the correction of factual errors during the
9 instructional materials review and approval process, the State
10 Board of Education shall:

11 (1) to the extent practicable, conduct the review of
12 instructional materials using page proofs or other appropriate
13 draft versions of the instructional materials; and

14 (2) require the publisher to provide instructional
15 materials, including page proofs, draft versions, or sample
16 instructional materials, directly to state instructional materials
17 review panel members in a timely manner before the members meet to
18 conduct a complete and formal review of the materials.

19 (b) During the instructional materials review and approval
20 process, the publisher of instructional materials proposed for
21 adoption in this state shall promptly correct any factual errors
22 discovered in the instructional materials. For purposes of this
23 section, a factual error includes an objectively verifiable
24 mistake, including an incorrect reference to a date, place, or
25 person, an incorrect computational process or result, or similar
26 incorrect provisions. A factual error does not include a
27 difference in professional opinion, conclusion, emphasis, or
28 perspective expressed in instructional materials.

1 (c) If the board believes that the content of an
2 instructional material is factually inaccurate because the content
3 is incomplete or expresses only one viewpoint or opinion that is not
4 widely accepted in the academic community, the board shall appoint
5 a panel of experts and scholars to determine whether the material is
6 factually inaccurate.

7 (d) The board shall adopt rules authorizing the imposition
8 of an administrative penalty in the manner provided by Section
9 31.151 against a publisher who knowingly fails to promptly correct
10 any factual errors discovered by the board in the instructional
11 materials submitted by the publisher.

12 (e) In setting the amount of any penalty to be imposed under
13 this section, the board shall consider the stage of the
14 instructional materials review and approval process at which the
15 failure occurs and set progressively higher penalties for failures
16 that occur later in the process.

17 Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION.

18 (a) The State Board of Education shall meet biannually to approve
19 instructional materials submitted under Section 31.0251. The board
20 must approve or reject each submitted instructional material not
21 later than the second biannual meeting held for the purpose of
22 approving instructional materials under this section after the date
23 the instructional material was submitted.

24 (b) By majority vote, the board shall approve an
25 instructional material submitted under Section 31.0251 unless the
26 board determines, based on the board's own review, that the
27 instructional material does not contain the essential knowledge and
28 skills identified by the publisher in the submission. The board

1 shall identify the essential knowledge and skills for a subject and
2 grade level that an approved instructional material covers.

3 (c) Each approved instructional material must be free from
4 factual errors.

5 (d) For each subject and grade level, the board shall list
6 the approved instructional materials. The board shall
7 periodically:

8 (1) review each list of approved instructional
9 materials; and

10 (2) by majority vote, remove approved instructional
11 materials that the board determines no longer cover the essential
12 knowledge and skills.

13 Sec. 31.0254. PARALLEL REVIEW AND APPROVAL PROCESS FOR
14 PRINTED AND TEXT-BASED ELECTRONIC INSTRUCTIONAL MATERIALS. The
15 commissioner by rule shall adopt procedures to contemporaneously
16 and separately review and approve printed instructional materials
17 and text-based electronic instructional materials under the
18 procedures provided by this subchapter.

19 SECTION 2E.21. Sections 31.026 through 31.030, Education
20 Code, are amended to read as follows:

21 Sec. 31.026. CONTRACT; PRICE. (a) The Department of
22 Information Resources may [~~State Board of Education shall~~] execute
23 a contract[+]

24 [~~(1)~~] for the purchase or licensing of each approved
25 instructional material. The commissioner, with the assistance of
26 the Department of Information Resources, the State Board of
27 Education, and the office of the attorney general, shall develop
28 model contracts that may be used by public schools for the purchase

1 or licensing of instructional materials under this chapter ~~[adopted~~
2 ~~textbook other than an electronic textbook, and~~

3 ~~[(2) for the purchase or licensing of each adopted~~
4 ~~electronic textbook].~~

5 (b) A contract for the purchase or licensing of
6 instructional materials must require the publisher to provide all
7 of the approved instructional materials ~~[the number of textbooks]~~
8 required by public schools ~~[school districts]~~ in this state for the
9 term of the contract~~[, which must coincide with the board's~~
10 ~~adoption cycle].~~

11 (c) As applicable, a contract must provide for the purchase
12 or licensing of instructional materials ~~[a textbook]~~ at a
13 ~~[specific]~~ price determined through negotiation between the
14 publisher and the Department of Information Resources or the public
15 school, as applicable, that does ~~[, which may]~~ not exceed the lowest
16 price paid by any other state or any school or school district. The
17 price must be fixed for the term of the contract.

18 (d) The Department of Information Resources shall execute a
19 blanket purchase order with the publisher of an approved
20 instructional material. A school district may requisition
21 instructional materials under the purchase order.

22 (e) The agency and the Department of Information Resources
23 shall enter into an interagency contract specifying each agency's
24 duties regarding the purchasing and licensing of instructional
25 materials.

26 (f) The contract may allow the publisher of an approved
27 instructional material to update the material as provided by
28 Section 31.033.

1 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~
2 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each
3 public school [~~district and open-enrollment charter school~~] with
4 information that fully describes each of the publisher's approved
5 instructional materials. [~~adopted textbooks. On request of a~~
6 ~~school district, a publisher shall provide a sample copy of an~~
7 ~~adopted textbook.~~]

8 (b) A publisher shall provide at least two sample copies of
9 each approved instructional material [~~adopted textbook~~] to be
10 maintained at each regional education service center.

11 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
12 (a) The State Board of Education may provide for [~~purchase~~]
13 special instructional materials [~~textbooks~~] for the education of
14 blind and visually impaired students in public schools. In
15 addition, for a teacher who is blind or visually impaired, the board
16 shall provide a teacher's edition in Braille or large type, as
17 requested by the teacher, for each printed instructional material
18 [~~textbook~~] the teacher uses in the instruction of students. The
19 printed teacher edition must be available at the same time the
20 printed student instructional materials [~~textbooks~~] become
21 available.

22 (b) The publisher of an approved printed instructional
23 material [~~adopted textbook~~] shall provide the agency with
24 computerized [~~textbook~~] files for the production of Braille
25 instructional materials [~~textbooks~~] or other versions of
26 instructional materials [~~textbooks~~] to be used by students with
27 disabilities, on request of the State Board of Education. A
28 publisher shall arrange the computerized [~~textbook~~] files in one of

1 several optional formats specified by the State Board of Education.

2 (c) The board shall require electronic instructional
3 materials submitted for approval under Section 31.0251 to comply
4 with the standards established under Section 508, Rehabilitation
5 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~
6 ~~providing for the acceptance, requisition, and distribution of~~
7 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~
8 ~~Section 101 et seq.~~] for use by students enrolled in:

9 (1) public schools; or

10 (2) private nonprofit schools, if state funds, other
11 than for administrative costs, are not involved.

12 (d) In this section:

13 (1) "Blind or visually impaired student" includes any
14 student whose visual acuity is impaired to the extent that the
15 student is unable to read the text [~~print~~] in [~~a~~] regularly approved
16 instructional materials [~~adopted textbook~~] used in the student's
17 class.

18 (2) "Special instructional materials" [~~textbook~~]
19 means instructional materials [~~a textbook~~] in Braille, large type
20 or any other medium or any apparatus that conveys information to a
21 student or otherwise contributes to the learning process.

22 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS
23 [~~TEXTBOOKS~~]. The board shall approve instructional materials
24 [~~purchase or otherwise acquire textbooks~~] for use in bilingual
25 education classes.

26 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The
27 State Board of Education shall adopt rules to ensure that used
28 instructional materials [~~textbooks~~] sold to public schools [~~school~~]

1 ~~districts and open-enrollment charter schools]~~ are not sample
2 copies that contain factual errors. The rules may provide for the
3 imposition of an administrative penalty in accordance with Section
4 31.151 against a seller of used instructional materials ~~[textbooks]~~
5 who knowingly violates this section.

6 SECTION 2E.22. Subsection (b), Section 31.031, Education
7 Code, as added by S.B. No. 151, Acts of the 79th Legislature,
8 Regular Session, 2005, is amended to read as follows:

9 (b) From the amount set aside by the State Board of
10 Education under Section 31.021(c) or allocated to a school district
11 under Section 32.005(c), the school district that a student
12 entitled to free textbooks under the pilot project established by
13 Section 54.2161 attends shall pay the costs of each textbook the
14 student requires for a course described by Section 54.2161(b)(2).

15 SECTION 2E.23. Subchapter B, Chapter 31, Education Code, is
16 amended by adding Sections 31.032 and 31.033 to read as follows:

17 Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL
18 MATERIALS. The publisher of an approved electronic instructional
19 material may offer the material to public schools on an annual
20 subscription basis.

21 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The
22 publisher of an approved instructional material may, under the
23 terms of a contract under Section 31.026, update the instructional
24 material. The State Board of Education by rule shall provide for an
25 expedited review process to determine the extent to which an
26 updated instructional material:

27 (1) is aligned with the essential knowledge and skills
28 for the subject and grade level; and

1 (2) does not contain factual errors.

2 SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is
3 amended by adding Sections 31.1012 and 31.1013 to read as follows:

4 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. A school
5 district shall:

6 (1) select the instructional materials to be used by
7 the district; and

8 (2) using funds allotted under Section 32.005 or other
9 funds that may be used for the purpose, purchase those materials:

10 (A) directly from the publisher of the materials;
11 or

12 (B) through the Department of Information
13 Resources, if the materials have been approved by the State Board of
14 Education.

15 Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL
16 MATERIALS. Each school district shall annually certify to the
17 agency that, for each subject in the required curriculum and each
18 grade level, the district provides each student with instructional
19 materials that are aligned with the essential knowledge and skills
20 adopted by the State Board of Education for that subject and grade
21 level.

22 SECTION 2E.25. Section 31.102, Education Code, is amended
23 to read as follows:

24 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional
25 material [~~textbook~~] purchased as provided by this chapter is the
26 property of this state.

27 (b) Subsection (a) applies to an electronic instructional
28 material [~~textbook~~] only to the extent of any applicable licensing

1 agreement.

2 (c) The board of trustees of a school district [~~or the~~
3 ~~governing body of an open-enrollment charter school~~] is the legal
4 custodian of instructional materials [~~textbooks~~] purchased as
5 provided by this chapter for the district [~~or school~~]. The board of
6 trustees shall distribute instructional materials [~~textbooks~~] to
7 students in the manner that the board [~~or governing body~~]
8 determines is most effective and economical.

9 SECTION 2E.26. Sections 31.104, 31.105, and 31.106,
10 Education Code, are amended to read as follows:

11 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of
12 trustees of a school district [~~or the governing body of an~~
13 ~~open-enrollment charter school~~] may delegate to an employee the
14 authority to requisition, distribute, and manage the inventory of
15 instructional materials [~~textbooks~~] in a manner consistent with
16 this chapter and rules adopted under this chapter.

17 (b) A school district [~~or open-enrollment charter school~~]
18 may order replacements for instructional materials [~~textbooks~~]
19 that have been lost or damaged directly from[+]

20 [~~(1) the textbook depository, or~~
21 [~~(2)~~] the [~~textbook~~] publisher of the instructional
22 materials [~~or manufacturer if the textbook publisher or~~
23 ~~manufacturer does not have a designated textbook depository in this~~
24 ~~state under Section 31.151(a)(6)(B)]~~].

25 (c) Each instructional material [~~textbook~~] must state that
26 the instructional material [~~textbook~~] is the property of or is
27 licensed to this state, as appropriate. The board may require the
28 publisher of a textbook that must be returned by a student under

1 Subsection (d) to place a bar code with a unique identifying number
2 on the textbook. Each instructional material [~~textbook~~], other
3 than an electronic instructional material [~~textbook~~], must be
4 covered by the student under the direction of the teacher. A student
5 must return all instructional materials [~~textbooks~~] to the teacher
6 at the end of the school year or when the student withdraws from
7 school.

8 (d) Each student, or the student's parent or guardian, is
9 responsible for each instructional material [~~textbook~~] not
10 returned by the student. A student who fails to return all
11 instructional materials [~~textbooks~~] forfeits the right to free
12 instructional materials [~~textbooks~~] until each instructional
13 material [~~textbook~~] previously issued but not returned is paid for
14 by the student, parent, or guardian. As provided by policy of the
15 board of trustees [~~or governing body~~], a school district [~~or~~
16 ~~open-enrollment charter school~~] may waive or reduce the payment
17 requirement if the student is from a low-income family. The
18 district [~~or school~~] shall allow the student to use instructional
19 materials [~~textbooks~~] at school during each school day. If an
20 instructional material [~~a textbook~~] is not returned or paid for,
21 the district [~~or school~~] may withhold the student's records. A
22 district [~~or school~~] may not, under this subsection, prevent a
23 student from graduating, participating in a graduation ceremony, or
24 receiving a diploma.

25 (e) The board of trustees of a school district may not
26 require an employee of the district to pay for an instructional
27 material [~~a textbook~~] or instructional technology that is stolen,
28 misplaced, or not returned by a student.

1 Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL
2 MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school
3 district [~~or governing body of an open-enrollment charter school~~]
4 may sell instructional materials [~~textbooks~~], other than
5 electronic instructional materials [~~textbooks~~], to a student or
6 another school at a [~~the state contract~~] price determined by board
7 rule. Money [~~The district shall send money~~] from the sale of
8 instructional materials may be used only to purchase items that may
9 be purchased lawfully using the allotment provided by Section
10 32.005.

11 (b) Subject to any applicable licensing agreement, the
12 board of trustees of a school district may:

13 (1) exchange instructional materials with another
14 school district; or

15 (2) loan instructional materials to another school
16 district [~~textbooks to the commissioner as required by the~~
17 ~~commissioner. The commissioner shall deposit the money in the~~
18 ~~state textbook fund~~].

19 Sec. 31.106. USE OF LOCAL FUNDS. A [~~In addition to any~~
20 ~~textbook selected under this chapter, a~~] school district [~~or~~
21 ~~open-enrollment charter school~~] may use local funds to purchase any
22 instructional materials [~~textbooks~~].

23 SECTION 2E.27. The heading to Section 31.151, Education
24 Code, is amended to read as follows:

25 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

26 SECTION 2E.28. Subsections (a), (b), and (d), Section
27 31.151, Education Code, are amended to read as follows:

28 (a) A publisher [~~or manufacturer~~] of instructional

1 materials [~~textbooks~~]:

2 (1) shall furnish any instructional material
3 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[7]
4 at a price that does not exceed the lowest price at which the
5 publisher offers that instructional material [~~textbook~~] for
6 adoption or sale to any state, public school, or school district in
7 the United States;

8 (2) shall automatically reduce the price of an
9 instructional material [~~a textbook~~] sold for use in a public school
10 [~~district or open-enrollment charter school~~] to the extent that the
11 price is reduced elsewhere in the United States;

12 (3) shall provide any instructional material
13 [~~textbook~~] or ancillary item free of charge in this state to the
14 same extent that the publisher [~~or manufacturer~~] provides the
15 instructional material [~~textbook~~] or ancillary item free of charge
16 to any state, public school, or school district in the United
17 States;

18 (4) shall guarantee that each copy of an instructional
19 material [~~a textbook~~] sold in this state is at least equal in
20 quality to copies of that instructional material [~~textbook~~] sold
21 elsewhere in the United States and is free from factual error;

22 (5) may not become associated or connected with,
23 directly or indirectly, any combination in restraint of trade in
24 instructional materials [~~textbooks~~] or enter into any
25 understanding or combination to control prices or restrict
26 competition in the sale of instructional materials [~~textbooks~~] for
27 use in this state;

28 (6) shall[+]

1 [~~(A)~~ maintain a depository in this state or
2 arrange with a depository in this state to receive and fill orders
3 for textbooks, other than on-line textbooks or on-line textbook
4 components, consistent with State Board of Education rules; or

5 [~~(B)~~] deliver instructional materials
6 [~~textbooks~~] to a public school [~~district or open-enrollment charter~~
7 ~~school~~] without a delivery charge to the school [~~district,~~
8 ~~open-enrollment charter school,~~] or state[, ~~if:~~

9 [~~(i)~~ the publisher or manufacturer does not
10 maintain or arrange with a depository in this state under Paragraph
11 ~~(A)~~ and the publisher's or manufacturer's textbooks and related
12 products are warehoused or otherwise stored less than 300 miles
13 from a border of this state; or

14 [~~(ii)~~ the textbooks are on-line textbooks
15 or on-line textbook components];

16 (7) shall, at the time an order for instructional
17 materials [~~textbooks~~] is acknowledged, provide to public [~~school~~
18 ~~districts or open-enrollment charter~~] schools an accurate shipping
19 date for instructional materials [~~textbooks~~] that are
20 back-ordered;

21 (8) shall guarantee delivery of instructional
22 materials [~~textbooks~~] at least 10 business days before the opening
23 day of school of the year for which the instructional materials
24 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
25 are ordered by a date specified in the sales contract; and

26 (9) shall submit to the State Board of Education an
27 affidavit certifying any instructional material [~~textbook~~] the
28 publisher [~~or manufacturer~~] offers in this state to be free of

1 factual errors at the time the publisher executes the contract
2 required by Section 31.026.

3 (b) The State Board of Education may impose a reasonable
4 administrative penalty against a publisher [~~or manufacturer~~] who
5 knowingly violates Subsection (a). The board shall provide for a
6 hearing to be held to determine whether a penalty is to be imposed
7 and, if so, the amount of the penalty. The board shall base the
8 amount of the penalty on:

- 9 (1) the seriousness of the violation;
- 10 (2) any history of a previous violation;
- 11 (3) the amount necessary to deter a future violation;
- 12 (4) any effort to correct the violation; and
- 13 (5) any other matter justice requires.

14 (d) A penalty collected under this section shall be
15 deposited to the credit of the state instructional materials
16 [~~textbook~~] fund.

17 SECTION 2E.29. The heading to Section 31.152, Education
18 Code, is amended to read as follows:

19 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS
20 [~~TEXTBOOKS~~].

21 SECTION 2E.30. Subsections (a), (b), and (d), Section
22 31.152, Education Code, are amended to read as follows:

23 (a) A school trustee, administrator, or teacher commits an
24 offense if that person receives any commission or rebate on any
25 instructional materials [~~textbooks~~] used in the schools with which
26 the person is associated as a trustee, administrator, or teacher.

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

1 (1) is given to the person or the person's school;
2 (2) might reasonably tend to influence a trustee,
3 administrator, or teacher in the selection of instructional
4 materials [~~a textbook~~]; and

5 (3) could not be lawfully purchased with state
6 instructional materials funds [~~from the state textbook fund~~].

7 (d) In this section, "gift, favor, or service" does not
8 include:

9 (1) staff development, in-service, or teacher
10 training; or

11 (2) ancillary [~~instructional~~] materials, such as maps
12 or worksheets, that convey information to the student or otherwise
13 contribute to the learning process.

14 SECTION 2E.31. The heading to Section 31.153, Education
15 Code, is amended to read as follows:

16 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
17 [~~TEXTBOOK~~] LAW.

18 SECTION 2E.32. Subsection (a), Section 31.153, Education
19 Code, is amended to read as follows:

20 (a) A person commits an offense if the person knowingly
21 violates any law providing for the purchase or distribution of free
22 instructional materials [~~textbooks~~] for the public schools.

23 SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is
24 amended to read as follows:

25 SUBCHAPTER E. DISPOSITION OF
26 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

27 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS
28 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State

1 Board of Education, may provide for the disposition of:

2 (1) instructional materials [~~textbooks~~], other than
3 electronic instructional materials [~~textbooks~~], that are no longer
4 in acceptable condition to be used for instructional purposes; or

5 (2) discontinued instructional materials [~~textbooks~~],
6 other than electronic instructional materials [~~textbooks~~].

7 (b) The commissioner, as provided by rules adopted by the
8 State Board of Education, shall make available on request copies of
9 discontinued instructional materials [~~textbooks~~], other than
10 electronic instructional materials [~~textbooks~~], for use in
11 libraries maintained in municipal and county jails and facilities
12 of the institutional division of the Texas Department of Criminal
13 Justice and other state agencies.

14 (c) The State Board of Education shall adopt rules under
15 which a public school [~~district or open-enrollment charter school~~]
16 may donate discontinued instructional materials [~~textbooks~~], other
17 than electronic instructional materials [~~textbooks~~], to a student,
18 to an adult education program, or to a nonprofit organization.

19 SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is
20 amended by adding Section 32.0011 to read as follows:

21 Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND
22 IMPLEMENTATION. (a) An advisory committee for technology and
23 implementation is created to assist the agency and permit the
24 agency to monitor changing technology in business, industry, and
25 education.

26 (b) Members of the advisory committee are appointed as
27 follows:

28 (1) the commissioner, in consultation with the

1 lieutenant governor, the speaker of the house of representatives,
2 and the presiding officers of the standing committees of the senate
3 and the house of representatives with jurisdiction over the agency,
4 shall appoint members from the business and education communities
5 and public members; and

6 (2) the State Board of Education may appoint one
7 member.

8 (c) The advisory committee is subject to Chapters 551 and
9 552, Government Code.

10 SECTION 2E.35. Sections 32.002 and 32.003, Education Code,
11 are amended to read as follows:

12 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A
13 public school [~~district~~] is not required by this subchapter to
14 acquire or use technology that has been approved, selected, or
15 contracted for by the State Board of Education or the commissioner.

16 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The
17 commissioner may contract with developers of technology to supply
18 technology for use by public schools [~~school districts~~] throughout
19 this state.

20 SECTION 2E.36. Effective September 1, 2006, Section 32.005,
21 Education Code, is amended by adding Subsection (d) to read as
22 follows:

23 (d) This subsection applies only if the pilot project
24 established under Section 54.2161 is implemented. In addition to
25 amounts to which the district is entitled under Subsection (a), a
26 school district is entitled to an amount sufficient for the
27 district to pay the costs of textbooks for students participating
28 in the pilot project established under Section 54.2161. This

1 subsection expires August 15, 2009.

2 SECTION 2E.37. Effective September 1, 2007, Section 32.005,
3 Education Code, is amended to read as follows:

4 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
5 ALLOTMENT. (a) Each school district is entitled to an allotment
6 of \$150 [~~\$30~~] for each student in average daily attendance or a
7 different amount for any year provided by appropriation.

8 (a-1) From the funds a school district receives under
9 Subsection (a), the district shall use an amount equal to \$60 for
10 each student in average daily attendance to fund targeted
11 technology programs under Section 32.006. A school district shall
12 use funds for targeted technology programs in a manner that allows
13 each student and teacher assigned to a targeted campus, grade level
14 on a campus, or specific educational program to benefit from a
15 targeted technology program. The commissioner shall adopt rules
16 concerning the use of funds under this subsection.

17 (b) An allotment under this section may be used only to:

18 (1) provide for the purchase by school districts of
19 instructional materials [~~electronic textbooks~~] or technological
20 equipment that contributes to student learning; and

21 (2) pay for training educational personnel directly
22 involved in student learning in the appropriate use of electronic
23 instructional materials [~~textbooks~~] and for providing for access to
24 technological equipment for instructional use.

25 (c) The allotment under this section may be paid from:

26 (1) the telecommunications infrastructure fund under
27 Subchapter C, Chapter 57, Utilities Code;

28 (2) the available school fund; [~~or~~]

1 (3) the state instructional materials fund under
2 Section 31.021; or

3 (4) any other fund that may be used for that purpose
4 and that is identified in the General Appropriations Act as the
5 source of payment of the allotment.

6 SECTION 2E.38. Subchapter A, Chapter 32, Education Code, is
7 amended by adding Section 32.006 to read as follows:

8 Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each
9 school district shall use funds designated for targeted technology
10 programs under Section 32.005(a-1) in accordance with this section
11 and in a manner consistent with the long-range plan developed by the
12 State Board of Education under Section 32.001 and the district's
13 own technology plan. A school district may use funds from other
14 sources, including grants, donations, and state and federal funds,
15 to provide targeted technology programs.

16 (b) A targeted technology program must provide for each
17 student and teacher at a targeted campus or grade level on a
18 targeted campus:

19 (1) the provision of:

20 (A) wireless electronic mobile computing devices
21 or other technology devices that convey instruction;

22 (B) productivity software and hardware,
23 including writing, computation, presentation, printing, and
24 communication tools;

25 (C) electronic learning software aligned with
26 the essential knowledge and skills adopted by the State Board of
27 Education under Section 28.002;

28 (D) electronic library and other research tools;

1 (E) electronic assessment tools;
2 (F) electronic learning tools to improve
3 communications among students, teachers, school administrators,
4 parents, and the community;

5 (G) classroom management systems; and
6 (H) portable electronic instructional material
7 devices capable of supporting instructional material for each
8 subject in the foundation and enrichment curriculum;

9 (2) professional development for teachers to
10 integrate the tools and solutions described by Subdivision (1); or

11 (3) the provision of other infrastructure,
12 components, and technologies to support and enhance student
13 performance through individual instruction programs.

14 (c) The Legislative Budget Board shall:

15 (1) conduct a biennial study of the cost of school
16 district targeted technology programs, including the cost of
17 implementing those programs on a statewide basis; and

18 (2) based on the results of the study required by
19 Subdivision (1), make recommendations to the legislature before the
20 beginning of each regular session of the legislature concerning
21 statewide implementation of targeted technology programs.

22 (d) Each biennium, the Legislative Budget Board and the
23 commissioner shall jointly conduct a performance evaluation of
24 school district targeted technology programs.

25 SECTION 2E.39. Subchapter A, Chapter 32, Education Code, is
26 amended by adding Section 32.007 to read as follows:

27 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

28 (a) The commissioner may enter into an agreement with a public

1 broadcasting station, or a consortium of public broadcasting
2 stations, under which the station or consortium will provide online
3 instructional content and educational materials.

4 (b) From funds appropriated to the agency, the commissioner
5 may, under an agreement entered into under Subsection (a), make
6 instructional materials available through public broadcasting
7 stations for purposes of instruction and professional development
8 and for use in providing adult-based education.

9 (c) An agreement entered into under Subsection (a) must, to
10 the extent practicable, provide access to instructional materials
11 and online content to persons located in all parts of this state.

12 (d) For purposes of providing high-quality online
13 instructional materials under this section, the commissioner may:

14 (1) use federal funds that may be used for those
15 purposes; or

16 (2) use unexpended balances of funds appropriated to
17 the agency for educational purposes, including adult education.

18 SECTION 2E.40. The heading to Section 32.154, Education
19 Code, as added by Chapter 834, Acts of the 78th Legislature, Regular
20 Session, 2003, is amended to read as follows:

21 Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

22 SECTION 2E.41. Section 32.154, Education Code, as added by
23 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,
24 is amended by adding Subsection (a-1) and amending Subsection (b)
25 to read as follows:

26 (a-1) In addition to school districts and schools selected
27 before September 1, 2005, for participation in the technology
28 immersion pilot project, the agency shall expand the program by

1 selecting for participation in the pilot project for the 2005-2006
2 and subsequent school years each high school to which a school
3 district regularly assigns students who were enrolled in grade
4 eight during the 2004-2005 school year at a district school
5 participating in the pilot project. The agency shall establish
6 criteria for expanding the pilot project under this subsection.

7 (b) Except as provided by Subsection (a-1), the ~~[The]~~ agency
8 shall select the participating ~~[districts and]~~ schools for the
9 pilot project based on each ~~[district's or]~~ school's need for the
10 pilot project. In selecting participants, the agency shall
11 consider the following criteria:

12 (1) whether the ~~[district or]~~ school has limited
13 access to educational resources that could be improved through the
14 use of wireless mobile computing devices and other technologies;

15 (2) whether the ~~[district or]~~ school has the following
16 problems and whether those problems can be mitigated through the
17 use of wireless mobile computing devices and other technologies:

18 (A) documented teacher shortages in critical
19 areas;

20 (B) limited access to advanced placement
21 courses;

22 (C) low rates of satisfactory performance on
23 assessment instruments under Subchapter B, Chapter 39; and

24 (D) high dropout rates;

25 (3) the ~~[district's or]~~ school's readiness to
26 incorporate technology into its classrooms;

27 (4) the possibility of obtaining a trained technology
28 support staff and high-speed Internet services for the ~~[district~~

1 ~~or~~] school; and

2 (5) the methods the [~~district or~~] school will use to
3 measure the progress of the pilot project in the [~~district or~~]
4 school in accordance with Section 32.155(e).

5 SECTION 2E.42. Section 32.156, Education Code, as added by
6 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,
7 is amended to read as follows:

8 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

9 (a) The agency may develop and adopt strategies for making
10 instructional materials [~~textbooks~~] available through the portal
11 or through other means in an electronic format as an alternative or
12 supplement to traditional instructional materials [~~textbooks~~].

13 (b) In developing and adopting strategies under this
14 section, the agency shall seek to achieve a system under which a
15 student may, in addition to [~~a~~] traditional instructional materials
16 [~~textbook~~], be provided with secure Internet access to each
17 instructional material [~~textbook~~] used by the student.

18 SECTION 2E.43. Subsection (b), Section 32.161, Education
19 Code, is amended to read as follows:

20 (b) To the extent possible considering other statutory
21 requirements, the commissioner and agency shall encourage the use
22 of instructional materials [~~textbook funds~~] and technology
23 allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner
24 that facilitates the development and use of the portal.

25 SECTION 2E.44. Subchapter B, Chapter 39, Education Code, is
26 amended by adding Section 39.0232 to read as follows:

27 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
28 extent practicable and appropriate, the agency shall provide for

1 assessment instruments required under Section 39.023 to be designed
2 so that those assessment instruments can be computer-adaptive.

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

6 (c) The commissioner may adopt rules to implement this
7 section.

8 (d) As necessary to implement this section, the
9 commissioner by rule may delay the release of assessment instrument
10 questions and answer keys under Section 39.023(e).

11 (e) The agency shall implement this section not later than
12 May 1, 2007. This subsection expires September 1, 2007.

13 SECTION 2E.45. Subchapter B, Chapter 44, Education Code, is
14 amended by adding Section 44.046 to read as follows:

15 Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS.
16 Notwithstanding Section 44.031, a public school may purchase
17 instructional materials, as defined by Section 31.002, under a
18 blanket purchase order executed by the Department of Information
19 Resources under Section 31.026.

20 SECTION 2E.46. (a) This section applies to an
21 instructional material, as that term is defined by Section 31.002,
22 Education Code, as amended by this part, including an electronic
23 instructional material, adopted by the State Board of Education
24 before January 1, 2005.

25 (b) A contract for the purchase or licensing of an
26 instructional material described by Subsection (a) of this section
27 continues in effect as a state contract for the contract term, and
28 the former law is continued in effect for that purpose.

1 SECTION 2E.47. (a) Notwithstanding any other law, it is
2 the intent of the legislature that:

3 (1) of the money appropriated for the provision of
4 public school textbooks by H.B. No. 1, Acts of the 79th Legislature,
5 1st Called Session, 2005, \$295 million be used in providing
6 textbooks for those grade levels and subjects specified by
7 Proclamation 2002; and

8 (2) the Texas Education Agency provide for the
9 delivery of textbooks to public school students for the 2005-2006
10 school year as soon as practicable after this section takes effect.

11 (b) This section takes effect on the 91st day after the last
12 day of the legislative session, regardless of whether H.B. No. 3,
13 Acts of the 79th Legislature, 2nd Called Session, 2005, or similar
14 legislation enacted by the 79th Legislature, 2nd Called Session,
15 2005, becomes law.

16 SECTION 2E.48. Texas Education Agency Rider 78 in Article
17 III, Senate Bill No. 1, Acts of the 79th Legislature, Regular
18 Session, 2005 (the General Appropriations Act), as amended by H.B.
19 No. 1, Acts of the 79th Legislature, 1st Called Session, 2005, is
20 amended to read as follows:

21 Rider 78. Textbook Proclamations. It is the intent of the
22 Legislature that the State Board of Education forego the issuance
23 of all Proclamations of textbook purchases until such time as the
24 Legislature has implemented reforms to the system by which the
25 state and school districts procure and purchase textbooks.

26 Contingent upon passage and enactment of House Bill 2, or
27 similar legislation relating to public school finance by the 79th
28 Legislature, 2nd [~~First~~] Called Session, 2005, or by a subsequent

1 legislature that includes in the legislation reforms to the system
2 by which the state and school districts procure and purchase
3 textbooks, it is the intent of the Legislature that the State Board
4 of Education rescind Proclamation 2004 and conduct activities
5 related to instructional materials in accordance with the
6 provisions of House Bill 2 or the similar legislation, as
7 applicable.

8 SECTION 2E.49. Subdivision (3), Section 31.002, and
9 Sections 31.022, 31.023, 31.024, 31.025, 31.101, 31.103, and
10 31.1031, Education Code, and Subsections (a) and (c), Section
11 32.154, Education Code, as added by Chapter 834, Acts of the 78th
12 Legislature, Regular Session, 2003, are repealed.

13 PART F. BILINGUAL EDUCATION AND SPECIAL
14 LANGUAGE PROGRAMS

15 SECTION 2F.01. Effective August 1, 2006, Subchapter B,
16 Chapter 21, Education Code, is amended by adding Sections 21.0485
17 and 21.0486 to read as follows:

18 Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER
19 CERTIFICATION. (a) To ensure that there are teachers with special
20 training to work with other teachers and with students in a dual
21 language education program, the commissioner shall establish a dual
22 language education teaching certificate.

23 (b) The commissioner shall adopt rules establishing the
24 training requirements, including the minimum academic
25 qualifications, a person must accomplish to obtain a certificate
26 under this section.

27 (c) The commissioner shall adopt rules establishing the
28 requirements for a teacher who receives training in a foreign

1 country to obtain a certificate under this section.

2 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

3 (a) To ensure that there are teachers with special training to
4 work with other teachers and with students in order to improve
5 student performance in English and other languages, the
6 commissioner shall establish:

7 (1) a master language teacher certificate to teach
8 bilingual education, dual language instruction, or English as a
9 second language at elementary school grade levels;

10 (2) a master language teacher certificate to teach
11 bilingual education, dual language instruction, or English as a
12 second language at middle school grade levels; and

13 (3) a master language teacher certificate to teach
14 dual language instruction at high school grade levels.

15 (b) The board shall issue the appropriate master language
16 teacher certificate to each eligible person.

17 (c) To be eligible for a master language teacher
18 certificate, a person must:

19 (1) hold a teaching certificate issued under this
20 subchapter;

21 (2) have at least three years of experience teaching
22 bilingual education, dual language instruction, or English as a
23 second language;

24 (3) satisfactorily complete a knowledge-based course
25 of instruction on second language acquisition and the science of
26 teaching children language that includes training in language
27 instruction and professional peer mentoring techniques that,
28 through scientific testing, have been proven effective;

1 (4) perform satisfactorily on the appropriate master
2 language certification examination prescribed by the commissioner;
3 and
4 (5) satisfy any other requirements prescribed by the
5 commissioner.

6 SECTION 2F.02. Subsection (b), Section 21.050, Education
7 Code, is amended to read as follows:

8 (b) The commissioner [~~board~~] may not require more than 18
9 semester credit hours of education courses at the baccalaureate
10 level for the granting of a teaching certificate. The commissioner
11 [~~board~~] shall provide for a minimum number of semester credit hours
12 of internship to be included in the hours needed for certification.
13 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring
14 additional credit hours for certification in bilingual education,
15 dual language instruction, English as a second language, early
16 childhood education, or special education.

17 SECTION 2F.03. Section 21.054, Education Code, is amended
18 by adding Subsection (c) to read as follows:

19 (c) Rules adopted under Subsection (a) must permit an
20 educator to fulfill continuing education requirements by acquiring
21 conversational skills in one or more languages other than English
22 and academic language development in the subject area for which the
23 educator provides instruction. The rules must permit educators to
24 obtain language instruction through a variety of methods, including
25 attendance at workshops offered by qualified entities and
26 enrollment on a noncredit basis in courses offered by public or
27 private colleges and universities.

28 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is

1 amended by adding Section 21.060 to read as follows:

2 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.
3 On issuing an educator certificate to an educational aide or
4 renewing such a certificate, the commissioner shall notify the
5 person to whom the certificate is issued of the existence of the
6 educational aide exemption under Section 54.214.

7 SECTION 2F.05. Section 28.0051, Education Code, is amended
8 by adding Subsection (d) to read as follows:

9 (d) The commissioner shall provide for the issuance of
10 teaching certificates appropriate for dual language instruction to
11 teachers who:

12 (1) possess a speaking, reading, and writing language
13 ability in a language other than English in which a dual language
14 immersion program is offered; and

15 (2) meet the general requirements of Subchapter B,
16 Chapter 21.

17 SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is
18 amended by adding Section 28.0052 to read as follows:

19 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT.

20 (a) The commissioner shall establish a pilot project in school
21 districts selected by the commissioner under which the agency
22 examines dual language education programs and the effect of those
23 programs on a student's ability to graduate from high school.

24 (b) In selecting school districts under Subsection (a), the
25 commissioner shall:

26 (1) select districts that:

27 (A) will commit to at least a three-year dual
28 language education program; and

1 (B) demonstrate a substantially equal enrollment
2 of students with limited English proficiency and students whose
3 primary language is English or, if a district does not have a
4 sufficient number of limited English proficiency students to meet
5 the equal enrollment standard, include the enrollment of students
6 with limited English proficiency, students whose primary language
7 is English, and bilingual students; and

8 (2) give preference to a district that:

9 (A) demonstrates the potential for expanding the
10 program through middle school; and

11 (B) will implement the program at the
12 kindergarten level.

13 (c) The commissioner by rule shall require a district to
14 limit activities of the dual language education program during the
15 first year of the program to planning activities, including:

16 (1) hiring and training teachers and ensuring teacher
17 certification;

18 (2) establishing parental and community support for
19 the program; and

20 (3) acquiring adequate learning materials in both
21 program languages.

22 (d) From amounts appropriated to the agency, including
23 foundation school program funds, the commissioner shall award
24 grants to school districts that participate in the program. A grant
25 under this section must be in an amount sufficient to pay the costs
26 to the district of participating in the program, as determined by
27 the commissioner. A determination of the commissioner under this
28 subsection is final and may not be appealed.

1 (e) A school district that applies for the expansion of an
2 existing dual language education program is eligible for a grant
3 under Subsection (d).

4 (f) A school district may use a grant awarded under
5 Subsection (d) for:

6 (1) classroom materials;

7 (2) tuition and textbook expenses for students seeking
8 teacher certification under Section 21.0485; and

9 (3) other necessary costs of operating the program, as
10 approved by the commissioner.

11 (f-1) During the 2006-2007 school year, the commissioner
12 may award grants to school districts under this section only for the
13 purpose of planning activities described by Subsection (c) in an
14 amount not to exceed two percent of the total amount required to
15 fully implement the pilot program for the 2007-2008 school year.
16 This subsection expires September 1, 2008.

17 (g) Grants under this section may not exceed \$13 million for
18 each biennium.

19 (h) The agency shall report to the legislature describing
20 the agency's activities under the pilot project, the effect of the
21 project on grade-level completion, and the recommendations arising
22 from the project. The agency shall submit an interim report under
23 this subsection not later than January 1, 2009, and a final report
24 not later than January 1, 2011.

25 (i) This section expires August 1, 2011.

26 SECTION 2F.07. Section 29.056, Education Code, is amended
27 by amending Subsections (a), (d), and (g) and adding Subsections
28 (g-1) and (i) to read as follows:

1 (a) The agency shall establish standardized criteria for
2 the identification, assessment, and classification of students of
3 limited English proficiency eligible for entry into the program or
4 exit from the program. Except as provided by this subsection, the
5 [The] student's parent must approve a student's entry into the
6 program, exit from the program, or placement in the program. A
7 school district shall provide notice to the student's parent that
8 the district intends to transfer the student from the program. If
9 the student's parent fails to respond to the notice on or before the
10 30th day after the date the notice is provided, the district may
11 transfer the student from the program without the student's
12 parent's approval. The district must inform the student's parent of
13 the student's transfer from the program. The school district or
14 parent may appeal the decision under Section 29.064. The criteria
15 for identification, assessment, and classification may include:

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

24 (2) the results of an agency-approved English language
25 proficiency test administered to all students identified through
26 the home survey as normally speaking a language other than English
27 to determine the level of English language proficiency, with
28 students in kindergarten or grade 1 being administered an oral

1 English proficiency test and students in grades 2 through 12 being
2 administered an oral English proficiency test and, if the oral
3 English proficiency test demonstrates proficiency, a written
4 English proficiency test; and

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

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

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

26 (1) agency-approved tests administered at the end of
27 each school year to determine the extent to which the student has
28 developed oral and written language proficiency and specific

1 language skills in [~~both the student's primary language and~~
2 English;

3 (2) satisfactory performance on the reading
4 assessment instrument under Section 39.023(a)(2) or the English
5 language arts assessment instrument under Section 39.023(a)(4), as
6 applicable, with the assessment instrument administered in
7 English, or, if the student is enrolled in the first or second
8 grade, an achievement score at or above the 40th percentile in the
9 reading and language arts sections of an English standardized test
10 approved by the agency; and

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

15 (g-1) A school district may exit a student of limited
16 English proficiency who is eligible for special education services
17 under Subchapter A out of a bilingual education or special language
18 program upon the determination by the language proficiency
19 assessment committee that the student has reached all English
20 language proficiency goals provided for under the student's
21 individualized education program.

22 (i) On approval of the student's parent and the
23 recommendation of the student's language proficiency assessment
24 committee, a school district may allow a student of limited English
25 proficiency who meets the criteria for being transferred out of a
26 bilingual education or special language program to continue
27 participating in the program.

28 SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is

1 amended by adding Section 29.0561 to read as follows:

2 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;
3 REENROLLMENT. (a) The language proficiency assessment committee
4 shall reevaluate a student who is transferred out of a bilingual
5 education or special language program under Section 29.056(g) if
6 the student earns a failing grade in a subject in the foundation
7 curriculum under Section 28.002(a)(1) during any grading period in
8 the first two school years after the student is transferred to
9 determine whether the student should be reenrolled in a bilingual
10 education or special language program.

11 (b) During the first two school years after a student is
12 transferred out of a bilingual education or special language
13 program under Section 29.056(g), the language proficiency
14 assessment committee shall review the student's performance and
15 consider:

16 (1) the total amount of time the student was enrolled
17 in a bilingual education or special language program;

18 (2) the student's grades each grading period in each
19 subject in the foundation curriculum under Section 28.002(a)(1);

20 (3) the student's performance on each assessment
21 instrument administered under Section 39.023(a) or (c);

22 (4) the number of credits the student has earned
23 toward high school graduation, if applicable; and

24 (5) any disciplinary actions taken against the student
25 under Subchapter A, Chapter 37.

26 (c) After an evaluation under this section, the language
27 proficiency assessment committee may require intensive instruction
28 for the student or reenroll the student in a bilingual education or

1 special language program.

2 SECTION 2F.09. Effective August 1, 2006, Subchapter B,
3 Chapter 29, Education Code, is amended by adding Section 29.065 to
4 read as follows:

5 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
6 PROFICIENCY. The commissioner by rule shall develop a longitudinal
7 measure of progress toward English language proficiency under which
8 a student of limited English proficiency is evaluated from the time
9 the student enters public school until, for two consecutive school
10 years, the student scores at a specific level determined by the
11 commissioner on the reading assessment instrument under Section
12 39.023(a)(2) or the English language arts assessment instrument
13 under Section 39.023(a)(4), as applicable. The commissioner shall:

14 (1) as part of the measure of progress, include
15 student advancement from one proficiency level to a higher level
16 under the reading proficiency in English assessment system
17 developed under Section 39.027(e) and from the highest level under
18 that assessment system to the level determined by the commissioner
19 under this section on the reading assessment instrument under
20 Section 39.023(a)(2) or the English language arts assessment
21 instrument under Section 39.023(a)(4), as applicable; and

22 (2) to the extent practicable in developing the
23 measure of progress, use applicable research and analysis done in
24 developing an annual measurable achievement objective as required
25 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
26 6842)).

27 SECTION 2F.10. Not later than January 1, 2006, the
28 commissioner of education shall adopt rules permitting an educator

1 to fulfill continuing education requirements by requiring
2 conversational skill in a language other than English, as required
3 by Subsection (c), Section 21.054, Education Code, as added by this
4 Act.

5 SECTION 2F.11. Not later than January 1, 2007, the
6 commissioner of education shall adopt rules:

7 (1) establishing requirements and prescribing an
8 examination for master language teacher certification as required
9 by Section 21.0486, Education Code, as added by this Act; and

10 (2) establishing requirements and prescribing an
11 examination for dual language instruction teacher certification as
12 required by Subsection (b), Section 21.050, Education Code, as
13 amended by this Act, and Subsection (d), Section 28.0051, Education
14 Code, as added by this Act.

15 PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

16 SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is
17 amended by adding Section 29.124 to read as follows:

18 Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this
19 section, "public senior college or university" has the meaning
20 assigned by Section 61.003.

21 (b) A Texas governor's school is a summer residential
22 program for high-achieving high school students. A governor's
23 school program may include any or all of the following educational
24 curricula:

25 (1) mathematics and science;

26 (2) humanities; or

27 (3) leadership and public policy.

28 (c) A public senior college or university may apply to the

1 commissioner to administer a Texas governor's school program under
2 this section. The commissioner shall give preference to a public
3 senior college or university that applies in cooperation with a
4 nonprofit association. The commissioner shall give additional
5 preference if the nonprofit association receives private
6 foundation funds that may be used to finance the program.

7 (d) The commissioner may approve an application under this
8 section only if the applicant:

9 (1) applies within the period and in the manner
10 required by rule adopted by the commissioner;

11 (2) submits a program proposal that includes:

12 (A) a curriculum consistent with Subsection (b);

13 (B) criteria for selecting students to
14 participate in the program;

15 (C) a statement of the length of the program,
16 which must be at least three weeks; and

17 (D) a statement of the location of the program;

18 (3) agrees to use a grant under this section only for
19 the purpose of administering a program; and

20 (4) satisfies any other requirements established by
21 rule adopted by the commissioner.

22 (e) From funds appropriated to the agency, the commissioner
23 may make a grant in an amount not to exceed \$750,000 each year to
24 public senior colleges or universities whose applications are
25 approved under this section to pay the costs of administering a
26 Texas governor's school program.

27 (f) The commissioner may adopt other rules necessary to
28 implement this section.

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

3 (b-1) In addition to the indicators adopted under
4 Subsection (b), the commissioner shall consider adopting and may
5 adopt the following indicators relating to high academic
6 achievement in assigning a district an exemplary performance rating
7 under Section 39.072:

8 (1) the percentage of students, disaggregated by race,
9 ethnicity, gender, and socioeconomic status, who are enrolled in an
10 educational program for gifted and talented students;

11 (2) student results on advanced placement and
12 international baccalaureate examinations, including the percentage
13 of students scoring three or higher on the advanced placement
14 examinations and the percentage of students scoring four or higher
15 on the international baccalaureate examinations;

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

18 (4) the percentage of students scoring in the top five
19 percent on nationally recognized norm-referenced assessment
20 instruments;

21 (5) the percentage of high school students enrolled in
22 an advanced course;

23 (6) the percentage of students achieving commended
24 performance, as determined by the State Board of Education, on an
25 assessment instrument required under Section 39.023(a), (c), or
26 (1);

27 (7) the percentage of students completing the
28 recommended or advanced high school program established under

1 Section 28.025; and

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

5 SECTION 2G.03. Subsection (a), Section 39.053, Education
6 Code, is amended to read as follows:

7 (a) Each board of trustees shall publish an annual report
8 describing the educational performance of the district and of each
9 campus in the district that includes uniform student performance
10 and descriptive information as determined under rules adopted by
11 the commissioner. The annual report must also include:

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

15 (2) the academic performance rating for the district
16 ~~[as provided under Section 39.072(a)]~~ and ~~[the performance rating~~
17 ~~of]~~ each campus in the district ~~[as provided]~~ under Section 39.072
18 ~~[39.072(c)]~~;

19 (3) the district's current special education
20 compliance status with the agency;

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

25 (5) information concerning school violence prevention
26 and violence intervention policies and procedures that the district
27 is using to protect students; ~~and]~~

28 (6) the findings that result from evaluations

1 conducted under the Safe and Drug-Free Schools and Communities Act
2 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
3 amendments; ~~and~~

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

7 (8) information relating to high academic achievement
8 in the district, as determined by the district's performance on the
9 indicators under Section 39.051(b-1).

10 SECTION 2G.04. (a) Not later than the 2006-2007 school
11 year, the Texas Education Agency shall collect information
12 concerning high academic achievement for purposes of Subsection
13 (b-1), Section 39.051, Education Code, as added by this Act.

14 (b) Not later than the 2007-2008 school year, the Texas
15 Education Agency shall include information concerning high
16 academic achievement for purposes of Subsection (b-1), Section
17 39.051, Education Code, as added by this Act, in evaluating the
18 performance of school districts, campuses, and public charter
19 districts under Subchapter D, Chapter 39, Education Code.

20 (c) Not later than the 2007-2008 school year, the Texas
21 Education Agency shall include the information required by
22 Subdivision (23), Subsection (a), Section 39.182, Education Code,
23 as added by this Act, in the agency's comprehensive annual report
24 under Section 39.182, Education Code.

25 PART H. PREKINDERGARTEN PROGRAMS

26 SECTION 2H.01. Section 29.1532, Education Code, is amended
27 by adding Subsections (d), (e), (f), and (g) to read as follows:

28 (d) Before a school district may implement a

1 prekindergarten program, the district shall:

2 (1) investigate the possibility of sharing program
3 sites with existing child-care programs licensed by the Department
4 of Family and Protective Services and existing federal Head Start
5 programs; and

6 (2) coordinate use of any sites to the greatest extent
7 possible.

8 (e) A school district shall implement to the greatest extent
9 possible coordinated use of licensed child-care and Head Start
10 sites with existing prekindergarten programs.

11 (f) The commissioner may adopt rules relating to the
12 operation of prekindergarten and early childhood care and education
13 programs that receive prekindergarten expansion grant program
14 funds to foster school readiness in children enrolled in those
15 programs.

16 (g) All of the entities that choose to share or coordinate
17 concerning use of a particular program site under this section
18 shall enter into a joint memorandum of understanding. The
19 memorandum of understanding must include the same or similar
20 provision required by Section 29.160(c-1).

21 PART I. SCHOOL DISCIPLINE

22 SECTION 2I.01. Chapter 26, Education Code, is amended by
23 adding Section 26.0083 to read as follows:

24 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY
25 ACTION. (a) A parent is entitled to notice from a school district
26 or public charter district as provided by this section if the
27 parent's child is removed from class under Section 37.006 for
28 placement in a disciplinary alternative education program or under

1 Section 37.007 for expulsion or placement in a juvenile justice
2 alternative education program. A school district or public charter
3 district shall make a good faith effort to provide the notice
4 required by this subsection on the same day the parent's child is
5 removed from class. If the district fails to provide the notice on
6 that day, the district shall provide or mail the notice not later
7 than 5 p.m. on the first business day after the day the student is
8 removed from class.

9 (b) A noncustodial parent who has requested notice of
10 disciplinary actions as provided by Section 37.0091 is entitled to
11 notice under Subsection (a).

12 SECTION 2I.02. Subsection (b-1), Section 37.001, Education
13 Code, as added by H.B. No. 283, Acts of the 79th Legislature,
14 Regular Session, 2005, is amended to read as follows:

15 (b-1) The methods adopted under Subsection (a)(8) must
16 provide that, except as provided by federal law, including related
17 regulations, a student who is enrolled in a special education
18 program under Subchapter A, Chapter 29, may not be disciplined for
19 conduct prohibited in accordance with Subsection (a)(7) until an
20 admission, review, and dismissal committee meeting has been held to
21 review the conduct.

22 SECTION 2I.03. Section 37.004, Education Code, is amended
23 by adding Subsections (e) and (f) to read as follows:

24 (e) Notwithstanding any other provision of this subchapter,
25 in a county with a juvenile justice alternative education program
26 established under Section 37.011, the expulsion under a provision
27 of Section 37.007 described by this subsection of a student with a
28 disability who receives special education services must occur in

1 accordance with this subsection and Subsection (f). The school
2 district from which the student was expelled shall, in accordance
3 with applicable federal law, provide the administrator of the
4 juvenile justice alternative education program or the
5 administrator's designee with reasonable notice of the meeting of
6 the student's admission, review, and dismissal committee to discuss
7 the student's expulsion. A representative of the juvenile justice
8 alternative education program may participate in the meeting to the
9 extent that the meeting relates to the student's placement in the
10 program. This subsection applies only to an expulsion under:

11 (1) Section 37.007(b), (c), or (f); or

12 (2) Section 37.007(d) as a result of conduct that
13 contains the elements of any offense listed in Section
14 37.007(b)(2)(C) against any employee or volunteer in retaliation
15 for or as a result of the person's employment or association with a
16 school district.

17 (f) If, after placement of a student in a juvenile justice
18 alternative education program under Subsection (e), the
19 administrator of the program or the administrator's designee has
20 concerns that the student's educational or behavioral needs cannot
21 be met in the program, the administrator or designee shall
22 immediately provide written notice of those concerns to the school
23 district from which the student was expelled. The student's
24 admission, review, and dismissal committee shall meet to reconsider
25 the placement of the student in the program. The district shall, in
26 accordance with applicable federal law, provide the administrator
27 or designee with reasonable notice of the meeting, and a
28 representative of the program may participate in the meeting to the

1 extent that the meeting relates to the student's continued
2 placement in the program.

3 SECTION 2I.04. Section 37.008, Education Code, is amended
4 by amending Subsections (m) and (m-1) and adding Subsection (n) to
5 read as follows:

6 (m) Notwithstanding Section 7.028, the ~~[The]~~ commissioner
7 shall adopt rules necessary to evaluate through an annual
8 monitoring process ~~[annually]~~ the performance of each district's
9 disciplinary alternative education program established under this
10 subchapter. The monitoring process ~~[evaluation]~~ required by this
11 section may be electronic and shall be based on indicators defined
12 by the commissioner, but must include student performance on
13 assessment instruments required under Section ~~[Sections]~~ 39.023(a)
14 and at least one indicator that measures student academic progress
15 ~~[(e)]~~. Academically, the mission of disciplinary alternative
16 education programs shall be to enable students to perform at grade
17 level.

18 (m-1) The agency shall integrate the monitoring process
19 developed under Subsection (m) with the monitoring the agency is
20 authorized to conduct under Section 7.028(a). The commissioner may
21 require ~~[shall develop a process for evaluating]~~ a school district
22 to contract at the district's expense in the manner provided by
23 Section 39.134 with a public or private service provider for
24 services determined by the commissioner to be necessary to:

25 (1) improve student performance;
26 (2) improve disciplinary alternative education
27 program effectiveness; and

28 (3) [electronically. ~~The commissioner shall also~~

1 ~~develop a system and standards for review of the evaluation or use~~
2 ~~systems already available at the agency. The system must be~~
3 ~~designed to identify districts that are at high risk of having~~
4 ~~inaccurate disciplinary alternative education program data or of~~
5 ~~failing to]~~ comply with disciplinary alternative education program
6 state and federal requirements.

7 (n) ~~[The commissioner shall notify the board of trustees of~~
8 ~~a district of any objection the commissioner has to the district's~~
9 ~~disciplinary alternative education program data or of a violation~~
10 ~~of a law or rule revealed by the data, including any violation of~~
11 ~~disciplinary alternative education program requirements, or of any~~
12 ~~recommendation by the commissioner concerning the data. If the~~
13 ~~data reflect that a penal law has been violated, the commissioner~~
14 ~~shall notify the county attorney, district attorney, or criminal~~
15 ~~district attorney, as appropriate, and the attorney general.]~~ The
16 commissioner is entitled to access to all district records the
17 commissioner considers necessary or appropriate for the review,
18 analysis, or approval of disciplinary alternative education
19 program data.

20 SECTION 2I.05. Subsections (b) and (c), Section 37.020,
21 Education Code, are amended to read as follows:

22 (b) For each placement in a disciplinary alternative
23 education program established under Section 37.008, the district
24 shall report:

25 (1) information identifying the student, including
26 the student's race, sex, and date of birth, that will enable the
27 agency to compare placement data with information collected through
28 other reports;

1 (2) information indicating whether the student was
2 enrolled in a special education program under Subchapter A, Chapter
3 29, at the time of the placement;

4 (3) information indicating whether the placement was
5 based on:

6 (A) conduct violating the student code of conduct
7 adopted under Section 37.001;

8 (B) conduct for which a student may be removed
9 from class under Section 37.002(b);

10 (C) conduct for which placement in a disciplinary
11 alternative education program is required by Section 37.006; or

12 (D) conduct occurring while a student was
13 enrolled in another district and for which placement in a
14 disciplinary alternative education program is permitted by Section
15 37.008(j);

16 (4) [~~3~~] the number of full or partial days the
17 student was assigned to the program and the number of full or
18 partial days the student attended the program; and

19 (5) [~~4~~] the number of placements that were
20 inconsistent with the guidelines included in the student code of
21 conduct under Section 37.001(a)(5).

22 (c) For each expulsion under Section 37.007, the district
23 shall report:

24 (1) information identifying the student, including
25 the student's race, sex, and date of birth, that will enable the
26 agency to compare placement data with information collected through
27 other reports;

28 (2) information indicating whether the student was

1 enrolled in a special education program under Subchapter A, Chapter
2 29, at the time of the expulsion;

3 (3) information indicating whether the expulsion was
4 based on:

5 (A) conduct for which expulsion is required under
6 Section 37.007, including information specifically indicating
7 whether a student was expelled on the basis of Section 37.007(e); or

8 (B) conduct for which expulsion is permitted
9 under Section 37.007;

10 (4) [~~(3)~~] the number of full or partial days the
11 student was expelled;

12 (5) [~~(4)~~] information indicating whether:

13 (A) the student was placed in a juvenile justice
14 alternative education program under Section 37.011;

15 (B) the student was placed in a disciplinary
16 alternative education program; or

17 (C) the student was not placed in a juvenile
18 justice or other disciplinary alternative education program; and

19 (6) [~~(5)~~] the number of expulsions that were
20 inconsistent with the guidelines included in the student code of
21 conduct under Section 37.001(a)(5).

22 PART J. CRIMINAL HISTORY RECORDS INFORMATION

23 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is
24 amended by adding Section 21.0401 to read as follows:

25 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
26 commissioner shall obtain a complete set of fingerprints from:

27 (1) each applicant for a certificate issued under this
28 subchapter;

1 (2) each applicant for or holder of a teaching permit
2 issued under this subchapter; and

3 (3) each person described by Section 11A.153 or
4 Section 21.0032 for whom the commissioner has received information
5 from a public charter district.

6 SECTION 2J.02. Subsection (c), Section 21.041, Education
7 Code, is amended to read as follows:

8 (c) The commissioner by rule ~~[board]~~ shall set fees ~~[propose~~
9 ~~a rule adopting a fee]~~ for:

10 (1) the issuance and maintenance of each [an] educator
11 certificate that is adequate to cover the cost of administration of
12 this subchapter, including costs related to the operation of the
13 board and any amount necessary to cover the cost of obtaining
14 fingerprints under Section 21.0401 or conducting a national
15 criminal background review and investigation under Sections
16 21.0032 and 22.082; and

17 (2) the cost of obtaining fingerprints from or
18 conducting a national criminal background review of a holder of a
19 teaching permit issued under this subchapter.

20 SECTION 2J.03. Section 22.082, Education Code, is amended
21 to read as follows:

22 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
23 EDUCATION AUTHORITIES ~~[BOARD FOR EDUCATOR CERTIFICATION]~~. (a) The
24 agency ~~[State Board for Educator Certification]~~ shall obtain from
25 the Department of Public Safety ~~[any law enforcement or criminal~~
26 ~~justice agency]~~ all state and national criminal history record
27 information that relates to:

28 (1) an applicant for or holder of a certificate or

1 permit issued under Subchapter B, Chapter 21; or

2 (2) a person described by Section 11A.153 or 21.0032.

3 (b) The Educators' Professional Practices Board may obtain
4 from the Department of Public Safety all criminal history record
5 information that relates to a holder of a certificate issued under
6 Subchapter B, Chapter 21.

7 (c) The agency shall require each applicant, holder, and
8 person described by Subsection (a)(2) to pay any costs to the agency
9 related to obtaining criminal history record information related to
10 the person under this section.

11 SECTION 2J.04. Subsection (d), Section 22.083, Education
12 Code, is amended to read as follows:

13 (d) The superintendent of a district or the director of a
14 public charter district [~~an open-enrollment charter school~~],
15 private school, regional education service center, or shared
16 services arrangement shall promptly notify the Educators'
17 Professional Practices [State] Board [~~for Educator Certification~~]
18 in writing if the person obtains or has knowledge of information
19 showing that an applicant for or holder of a certificate issued
20 under Subchapter B, Chapter 21, has a reported criminal history.
21 The board shall notify the commissioner of the reported criminal
22 history.

23 SECTION 2J.05. Sections 22.085 and 22.086, Education Code,
24 are amended to read as follows:

25 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.
26 A school district, public charter district [~~open-enrollment~~
27 ~~charter school~~], private school, regional education service
28 center, or shared services arrangement may discharge an employee if

1 the district or school obtains information of the employee's
2 conviction of a felony or of a misdemeanor involving moral
3 turpitude that the employee did not disclose to the agency [~~State~~
4 ~~Board for Educator Certification~~] or the district, school, service
5 center, or shared services arrangement. An employee discharged
6 under this section is considered to have been discharged for
7 misconduct for purposes of Section 207.044, Labor Code.

8 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,
9 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
10 ~~Certification~~], a school district, a public charter district [~~an~~
11 ~~open-enrollment charter school~~], a private school, a regional
12 education service center, a shared services arrangement, or an
13 employee of the agency, board, district, school, service center, or
14 shared services arrangement is not civilly or criminally liable for
15 making a report required under this subchapter.

16 SECTION 2J.06. Section 411.090, Government Code, is amended
17 to read as follows:

18 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
19 AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR~~
20 ~~EDUCATOR CERTIFICATION~~]. (a) The Texas Education Agency [~~State~~
21 ~~Board for Educator Certification~~] is entitled to obtain from the
22 department any criminal history record information maintained by
23 the department about:

24 (1) a person who has applied or expressed to the
25 commissioner an intention to apply [~~board~~] for a certificate or
26 permit or holds a certificate or permit under Subchapter B, Chapter
27 21, Education Code; or

28 (2) a person described by Section 11A.153 or 21.0032,

1 Education Code.

2 (b) Criminal history record information obtained by the
3 agency [~~board~~] under Subsection (a):

4 (1) may be used for any purpose related to the issuance
5 or [~~7~~] denial [~~, suspension, or cancellation~~] of a certificate issued
6 under Subchapter B, Chapter 21, Education Code, or for any purpose
7 authorized by Section 11A.153 or 21.0032, Education Code [~~by the~~
8 ~~board~~];

9 (2) may be provided to the Educators' Professional
10 Practices Board to be used for any purpose related to the suspension
11 or revocation of a certificate issued under Subchapter B, Chapter
12 21, Education Code;

13 (3) may not be released to any other person except on
14 court order or with the consent of the subject of the criminal
15 history record information [~~applicant for a certificate~~]; and

16 (4) [~~(3)~~] shall be destroyed by the agency [~~board~~]
17 after the information is used for the authorized purposes.

18 (c) The Texas Education Agency may keep on file with the
19 department all fingerprints obtained by the agency under Section
20 21.0401, Education Code. The department shall notify the agency of
21 the arrest of any person who has fingerprints on file with the
22 department pursuant to that section.

23 (d) On receipt of notice from the department of an arrest of
24 a person described by Section 11A.153 or 21.0032, Education Code,
25 the Texas Education Agency shall notify the public charter district
26 affected.

27 PART K. HEALTH AND SAFETY

28 SECTION 2K.01. Chapter 33, Education Code, is amended by

1 adding Subchapter F to read as follows:

2 SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN

3 EXTRACURRICULAR ACTIVITIES

4 Sec. 33.201. APPLICABILITY. This subchapter applies to
5 each public school in this state and to any other school in this
6 state subject to University Interscholastic League regulations.

7 Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The
8 commissioner by rule shall develop and adopt a safety training
9 program as provided by this section. In developing the program, the
10 commissioner may use materials available from the American Red
11 Cross or another appropriate entity.

12 (b) The following persons must satisfactorily complete the
13 safety training program:

14 (1) a coach, trainer, or sponsor for an
15 extracurricular athletic activity;

16 (2) except as provided by Subsection (f), a physician
17 who is employed by a school or school district or who volunteers to
18 assist with an extracurricular athletic activity; and

19 (3) a director responsible for a school marching band.

20 (c) The safety training program must include:

21 (1) certification of participants by the American Red
22 Cross, the American Heart Association, or a similar organization or
23 the University Interscholastic League, as determined by the
24 commissioner;

25 (2) annual training in:

26 (A) emergency action planning;

27 (B) cardiopulmonary resuscitation if the person
28 is not required to obtain certification under Section 33.086;

1 (C) communicating effectively with 9-1-1
2 emergency service operators and other emergency personnel; and

3 (D) recognizing symptoms of potentially
4 catastrophic injuries, including head and neck injuries,
5 concussions, injuries related to second impact syndrome, asthma
6 attacks, heatstroke, cardiac arrest, and injuries requiring use of
7 a defibrillator; and

8 (3) at least once each school year, a safety drill that
9 incorporates the training described by Subdivision (2) and
10 simulates various injuries described by Subdivision (2)(D).

11 (d) A student participating in an extracurricular athletic
12 activity must receive training related to:

13 (1) recognizing the symptoms of injuries described by
14 Subsection (c)(2)(D); and

15 (2) the risks of using supplements designed or
16 marketed to enhance athletic performance.

17 (e) The safety training program and the training under
18 Subsection (d) may each be conducted by a school or school district
19 or by an organization described by Subsection (c)(1).

20 (f) A physician who is employed by a school or school
21 district or who volunteers to assist with an extracurricular
22 athletic activity is exempt from the requirements of Subsection (b)
23 if the physician attends a continuing medical education course that
24 specifically addresses emergency medicine for athletic team
25 physicians.

26 Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC
27 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an
28 extracurricular athletic activity must complete the University

1 Interscholastic League forms entitled "Preparticipation Physical
2 Evaluation--Medical History" and "Acknowledgment of Rules." Each
3 form must be signed by both the student and the student's parent or
4 guardian.

5 (b) Each form described by Subsection (a) must clearly state
6 that failure to accurately and truthfully answer all questions on a
7 form required by statute or by the University Interscholastic
8 League as a condition for participation in an extracurricular
9 athletic activity subjects a signer of the form to penalties
10 determined by the University Interscholastic League.

11 (c) The "Preparticipation Physical Evaluation--Medical
12 History" form described by Subsection (a) must contain the
13 following statement:

14 "An individual answering in the affirmative to
15 any question relating to a possible cardiovascular
16 health issue, as identified on the form, should be
17 restricted from further participation until the
18 individual is examined by the individual's primary
19 care physician. Ultimately, the individual may need
20 to be evaluated by a cardiologist and/or undergo
21 cardiac testing (including an echocardiogram and/or
22 other heart-related examination) based on the
23 assessment by the primary care physician."

24 Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES
25 PROHIBITED. A coach, trainer, or sponsor for an extracurricular
26 athletic activity may not encourage or permit a student
27 participating in the activity to engage in any unreasonably
28 dangerous athletic technique that unnecessarily endangers the

1 health of a student, including using a helmet or any other sports
2 equipment as a weapon.

3 Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A
4 coach, trainer, or sponsor for an extracurricular athletic activity
5 shall at each athletic practice or competition ensure that:

6 (1) each student participating in the activity is
7 adequately hydrated;

8 (2) any prescribed asthma medication for a student
9 participating in the activity is readily available to the student;

10 (3) emergency lanes providing access to the practice
11 or competition area are open and clear; and

12 (4) heatstroke prevention materials are readily
13 available.

14 (b) If a student participating in an extracurricular
15 athletic activity, including a practice or competition, is rendered
16 unconscious during the activity, the student may not:

17 (1) return to the practice or competition during which
18 the student was rendered unconscious; or

19 (2) continue to participate in any extracurricular
20 athletic activity until the student receives written authorization
21 from a physician.

22 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a
23 school shall make available to the public proof of compliance for
24 each person enrolled in, employed by, or volunteering for the
25 school who is required to receive safety training described by
26 Section 33.202.

27 (b) The superintendent of a school district or the director
28 of a school subject to this subchapter shall maintain complete and

1 accurate records of the district's or school's compliance with
2 Section 33.202.

3 (c) A school campus that is determined by the school's
4 superintendent or director to not be in compliance with Section
5 33.202 or 33.204 or this section shall discontinue all
6 extracurricular athletic activities offered by the school campus,
7 including all practices and competitions, until the superintendent
8 or director determines that the school campus is in compliance.

9 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner
10 shall maintain an existing telephone number and an electronic mail
11 address to allow a person to report a violation of this subchapter.

12 (b) Each school that offers an extracurricular athletic
13 activity shall prominently display at the administrative offices of
14 the school the telephone number and electronic mail address
15 maintained under Subsection (a).

16 Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an
17 extracurricular athletic activity shall provide to each student
18 participating in an extracurricular athletic activity and to the
19 student's parent or guardian a copy of the text of Sections
20 33.201-33.206 and this section and a copy of the University
21 Interscholastic League's parent information manual.

22 (b) A document required to be provided under this section
23 may be provided in an electronic format unless otherwise requested
24 by a student, parent, or guardian.

25 Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The
26 University Interscholastic League shall incorporate the provisions
27 of Sections 33.203-33.207 into the league's constitution and
28 contest rules.

1 Sec. 33.209. LIABILITY. The requirements of this
2 subchapter are not considered ministerial acts for purposes of
3 immunity from liability under Section 22.0511.

4 SECTION 2K.02. Subchapter D, Chapter 33, Education Code, is
5 amended by adding Section 33.087 to read as follows:

6 Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL
7 DEFIBRILLATORS. (a) Using existing funds and other resources
8 available for the purpose, the agency and the University
9 Interscholastic League shall jointly investigate the availability
10 of federal, state, local, and private funds for purchasing
11 automated external defibrillators, as defined by Section 779.001,
12 Health and Safety Code, for use by University Interscholastic
13 League member schools, and the possibility of receiving a bulk
14 discount on such purchases.

15 (b) The agency and the University Interscholastic League
16 shall submit a report describing the findings of the investigation
17 to the legislature not later than June 1, 2006.

18 (c) This section expires July 1, 2006.

19 SECTION 2K.03. The heading to Section 34.008, Education
20 Code, is amended to read as follows:

21 Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, [OR]
22 COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

23 SECTION 2K.04. Subsection (a), Section 34.008, Education
24 Code, is amended to read as follows:

25 (a) A board of county school trustees or school district
26 board of trustees may contract with a mass transit authority, ~~[or]~~
27 commercial transportation company, or a juvenile board for all or
28 any part of a district's public school transportation if the

1 authority, ~~[or]~~ company, or board:

2 (1) requires its school bus drivers to have the
3 qualifications required by and to be certified in accordance with
4 standards established by the Department of Public Safety; and

5 (2) uses only those school buses or mass transit
6 authority buses in transporting 15 or more public school students
7 that meet or exceed safety standards for school buses established
8 under Section 34.002, Education Code.

9 SECTION 2K.05. The heading to Section 38.015, Education
10 Code, is amended to read as follows:

11 Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR
12 ANAPHYLAXIS MEDICINE BY STUDENTS.

13 SECTION 2K.06. Subsections (a) and (b), Section 38.015,
14 Education Code, are amended to read as follows:

15 (a) In this section:

16 (1) "Parent" includes a person standing in parental
17 relation.

18 (2) "Self-administration of prescription asthma or
19 anaphylaxis medicine" means a student's discretionary use of
20 prescription asthma or anaphylaxis medicine.

21 (b) A student with asthma or anaphylaxis is entitled to
22 possess and self-administer prescription asthma or anaphylaxis
23 medicine while on school property or at a school-related event or
24 activity if:

25 (1) the prescription ~~[asthma]~~ medicine has been
26 prescribed for that student as indicated by the prescription label
27 on the medicine;

28 (2) the student has demonstrated to the student's

1 physician or other licensed health care provider and the school
2 nurse, if available, the skill level necessary to self-administer
3 the prescription medication, including the use of any device
4 required to administer the medication;

5 (3) the self-administration is done in compliance with
6 the prescription or written instructions from the student's
7 physician or other licensed health care provider; and

8 (4) ~~(3)~~ a parent of the student provides to the
9 school:

10 (A) a written authorization, signed by the
11 parent, for the student to self-administer the prescription
12 ~~[asthma]~~ medicine while on school property or at a school-related
13 event or activity; and

14 (B) a written statement from the student's
15 physician or other licensed health care provider, signed by the
16 physician or provider, that states:

17 (i) that the student has asthma or
18 anaphylaxis and is capable of self-administering the prescription
19 ~~[asthma]~~ medicine;

20 (ii) the name and purpose of the medicine;

21 (iii) the prescribed dosage for the
22 medicine;

23 (iv) the times at which or circumstances
24 under which the medicine may be administered; and

25 (v) the period for which the medicine is
26 prescribed.

27 SECTION 2K.07. Section 28.002, Education Code, as amended
28 by S.B. No. 42, Acts of the 79th Legislature, Regular Session, 2005,

1 is amended by amending Subsection (1-3) and adding Subsection (1-4)
2 to read as follows:

3 (1-3)(1) This subsection may be cited as "Lauren's Law."

4 (2) The State Board of Education or~~[7]~~ the Department
5 of State Health Services~~[, or a school district]~~ may not adopt any
6 rule, policy, or program under Subsections (a), (k), (l), (1-1), or
7 (1-2) that would prohibit a parent or grandparent of a student from
8 providing any food product of the parent's or grandparent's choice
9 to:

10 (A) children in the classroom of the child of the
11 parent or grandparent on the occasion of the child's birthday; or

12 (B) children at a school-designated function.

13 (1-4) Subsection (1-3) does not prohibit a school district
14 from adopting a rule, policy, or program as described by that
15 subsection.

16 SECTION 2K.08. Chapter 12, Agriculture Code, is amended by
17 adding Section 12.041 to read as follows:

18 Sec. 12.041. SCHOOL BREAKFAST AND LUNCH PROGRAM. (a) The
19 department, the Texas Education Agency, and the Health and Human
20 Services Commission shall ensure that applicable information
21 maintained by each entity is used on at least a quarterly basis to
22 identify children who are categorically eligible for free meals
23 under the national free or reduced-price breakfast and lunch
24 program. In complying with this subsection, the department,
25 agency, and commission shall use information that corresponds to
26 the months of the year in which enrollment in the food stamp program
27 is customarily higher than average.

28 (b) The department shall determine the feasibility of

1 establishing a process under which school districts verify student
2 eligibility for the national free or reduced-price breakfast and
3 lunch program through a direct verification process that uses
4 information maintained under the food stamp and Medicaid programs,
5 as authorized by 42 U.S.C. Section 1758(b)(3), as amended by
6 Section 105(a) of the Child Nutrition and WIC Reauthorization Act
7 of 2004 (Pub. L. No. 108-265), and 7 C.F.R. Sections 245.6a(a)(1)
8 and (3) and 245.6a(b)(3). If the department determines the process
9 described by this subsection is feasible, the department may
10 implement the process.

11 ARTICLE 3. CONFORMING AMENDMENTS

12 SECTION 3.01. Subsection (a), Section 7.024, Education
13 Code, is amended to read as follows:

14 (a) The investment capital fund consists of money
15 transferred to the fund as provided by Section 42.152(d)(4)
16 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of
17 this fund are to assist eligible public schools to implement
18 practices and procedures consistent with deregulation and school
19 restructuring in order to improve student achievement and to help
20 schools identify and train parents and community leaders who will
21 hold the school and the school district accountable for achieving
22 high academic standards.

23 SECTION 3.02. Subdivision (34), Subsection (b), Section
24 7.055, Education Code, is amended to read as follows:

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

28 SECTION 3.03. Subsection (a), Section 11.158, Education

1 Code, is amended to read as follows:

2 (a) The board of trustees of an independent school district
3 may require payment of:

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

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

11 (3) a security deposit for the return of materials,
12 supplies, or equipment;

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

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

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

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

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

27 (9) a fee for items of personal apparel that become the
28 property of the student and that are used in extracurricular

1 activities;

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

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

6 (12) a fee for a course offered for credit that
7 requires the use of facilities not available on the school premises
8 or the employment of an educator who is not part of the school's
9 regular staff, if participation in the course is at the student's
10 option;

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

15 (14) a reasonable fee for transportation of a student
16 who lives within two miles of the school the student attends to and
17 from that school, except that the board may not charge a fee for
18 transportation for which the school district receives funds under
19 Section 42.202 [~~42.155(d)~~]; or

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

26 SECTION 3.04. Subsection (b), Section 12.013, Education
27 Code, is amended to read as follows:

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

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

3 (2) a provision of this title relating to limitations
4 on liability; and

5 (3) a prohibition, restriction, or requirement, as
6 applicable, imposed by this title or a rule adopted under this
7 title, relating to:

8 (A) the Public Education Information Management
9 System (PEIMS) to the extent necessary to monitor compliance with
10 this subchapter as determined by the commissioner;

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

13 (C) criminal history records under Subchapter C,
14 Chapter 22;

15 (D) student admissions under Section 25.001;

16 (E) school attendance under Sections 25.085,
17 25.086, and 25.087;

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

20 (G) elementary class size limits under Section
21 25.112, in the case of any campus in the district that is considered
22 academically unacceptable [~~low-performing~~] under Section 39.132;

23 (H) high school graduation under Section 28.025;

24 (I) special education programs under Subchapter
25 A, Chapter 29;

26 (J) bilingual education under Subchapter B,
27 Chapter 29;

28 (K) prekindergarten programs under Subchapter E,

Chapter 29;

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

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

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

(P) public school accountability under Subchapters B, C, D, and G, Chapter 39;

(Q) equalization [~~equalized wealth~~] under Section 42.401 [~~Chapter 41~~];

(R) a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

(S) purchasing under Chapter 44.

SECTION 3.05. Subsection (f), Section 13.054, Education Code, is amended to read as follows:

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

SECTION 3.06. Subsections (a) and (b), Section 13.282,

1 Education Code, are amended to read as follows:

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

4 (1) the sum of the entitlements computed under Section
5 42.313 [~~42.253~~] that would have been paid to the districts included
6 in the reorganized district if the districts had not been
7 consolidated; and

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

10 (b) If the reorganized district is not eligible for an
11 entitlement under Section 42.313 [~~42.253~~], the amount of the
12 incentive aid payments may not exceed the sum of the entitlements
13 computed under Section 42.313 [~~42.253~~] for which the districts
14 included in the reorganized district were eligible in the school
15 year when they were consolidated.

16 SECTION 3.07. Subsection (h), Section 21.410, Education
17 Code, is amended to read as follows:

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

28 SECTION 3.08. Subsection (h), Section 21.411, Education

1 Code, is amended to read as follows:

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

12 SECTION 3.09. Subsection (h), Section 21.412, Education
13 Code, is amended to read as follows:

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

24 SECTION 3.10. Subsection (h), Section 21.413, Education
25 Code, as added by Chapter 430, Acts of the 78th Legislature, Regular
26 Session, 2003, is amended to read as follows:

27 (h) A grant a school district receives under this section is
28 in addition to any funding the district receives under Chapter 42.

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

9 SECTION 3.11. Effective on the 91st day after the last day
10 of the legislative session, Subsection (b), Section 21.453,
11 Education Code, is amended to read as follows:

12 (b) The commissioner may allocate funds from the account to
13 regional education service centers to provide staff development
14 resources to school districts that:

15 (1) are rated academically unacceptable;

16 (2) have one or more campuses rated academically
17 unacceptable [~~as low-performing~~]; or

18 (3) are otherwise in need of assistance as indicated
19 by the academic performance of students, as determined by the
20 commissioner.

21 SECTION 3.12. Effective on the 91st day after the last day
22 of the legislative session, Subsection (c), Section 22.004,
23 Education Code, as amended by S.B. No. 1691 and S.B. No. 1863, Acts
24 of the 79th Legislature, Regular Session, 2005, is amended to read
25 as follows:

26 (c) The cost of the coverage provided under the program
27 described by Subsection (a) shall be paid by the state, the
28 district, and the employees in the manner provided by Subchapter F,

1 Chapter 1579, Insurance Code. The cost of coverage provided under a
2 plan adopted under Subsection (b) shall be shared by the employees
3 and the district using the contributions by the state described by
4 Subchapter F, Chapter 1579, Insurance Code, or compensation
5 designated for health care supplementation under Subchapter D.

6 SECTION 3.13. Subsection (b), Section 29.008, Education
7 Code, is amended to read as follows:

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

24 SECTION 3.14. Subsection (d), Section 29.014, Education
25 Code, is amended to read as follows:

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

28 (1) the cost of education adjustment under Section

1 42.301 [~~42.102~~] for the school district in which the district is
2 geographically located; and

3 (2) any other appropriate factor adopted by the
4 commissioner [~~the weight for a homebound student under Section~~
5 ~~42.151(a)~~].

6 SECTION 3.15. Subsection (j), Section 29.087, Education
7 Code, is amended to read as follows:

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

13 SECTION 3.16. Effective on the 91st day after the last day
14 of the legislative session, Subsection (a), Section 29.161,
15 Education Code, as added by S.B. No. 23, Acts of the 79th
16 Legislature, Regular Session, 2005, is amended to read as follows:

17 (a) The State Center for Early Childhood Development, in
18 conjunction with the P-16 Council established under Section 61.076
19 [~~61.077~~], shall develop and adopt a school readiness certification
20 system for use in certifying the effectiveness of prekindergarten
21 programs, Head Start and Early Head Start programs,
22 government-subsidized child-care programs provided by nonprofit or
23 for-profit entities, government-subsidized faith-based child-care
24 programs, and other government-subsidized child-care programs in
25 preparing children for kindergarten. The system shall be made
26 available on a voluntary basis to program providers seeking to
27 obtain certification as evidence of the quality of the program
28 provided.

1 SECTION 3.17. Subsection (b), Section 29.203, Education
2 Code, is amended to read as follows:

3 (b) A school district is entitled to the allotment provided
4 by Section 42.155 [~~42.157~~] for each eligible student using a public
5 education grant. [~~If the district has a wealth per student greater
6 than the guaranteed wealth level but less than the equalized wealth
7 level, a school district is entitled under rules adopted by the
8 commissioner to additional state aid in an amount equal to the
9 difference between the cost to the district of providing services
10 to a student using a public education grant and the sum of the state
11 aid received because of the allotment under Section 42.157 and
12 money from the available school fund attributable to the student.~~]

13 SECTION 3.18. Subsection (a), Section 33.002, Education
14 Code, is amended to read as follows:

15 (a) This section applies only to a school district that
16 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

17 SECTION 3.19. Subsection (c), Section 34.002, Education
18 Code, is amended to read as follows:

19 (c) A school district that fails or refuses to meet the
20 safety standards for school buses established under this section is
21 ineligible to share in the transportation allotment under
22 Subchapter D, Chapter 42, [~~Section 42.155~~] until the first
23 anniversary of the date the district begins complying with the
24 safety standards.

25 SECTION 3.20. Section 37.0061, Education Code, is amended
26 to read as follows:

27 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
28 JUVENILE RESIDENTIAL FACILITIES. A school district that provides

1 education services to pre-adjudicated and post-adjudicated
2 students who are confined by court order in a juvenile residential
3 facility operated by a juvenile board is entitled to count such
4 students in the district's average daily attendance for purposes of
5 receipt of state funds under the Foundation School Program. [~~If the~~
6 ~~district has a wealth per student greater than the guaranteed~~
7 ~~wealth level but less than the equalized wealth level, the district~~
8 ~~in which the student is enrolled on the date a court orders the~~
9 ~~student to be confined to a juvenile residential facility shall~~
10 ~~transfer to the district providing education services an amount~~
11 ~~equal to the difference between the average Foundation School~~
12 ~~Program costs per student of the district providing education~~
13 ~~services and the sum of the state aid and the money from the~~
14 ~~available school fund received by the district that is attributable~~
15 ~~to the student for the portion of the school year for which the~~
16 ~~district provides education services to the student.~~]

17 SECTION 3.21. Section 39.031, Education Code, is amended to
18 read as follows:

19 Sec. 39.031. COST. (a) The commissioner shall set aside
20 an appropriate amount from the Foundation School Program to pay the
21 cost of preparing, administering, or grading the assessment
22 instruments and the [~~shall be paid from the funds allotted under~~
23 ~~Section 42.152, and each district shall bear the cost in the same~~
24 ~~manner described for a reduction in allotments under Section~~
25 ~~42.253. If a district does not receive an allotment under Section~~
26 ~~42.152, the commissioner shall subtract the cost from the~~
27 ~~district's other foundation school fund allotments.~~

28 [~~(b) The~~] cost of releasing the question and answer keys

1 under Section 39.023(e) [~~shall be paid from amounts appropriated to~~
2 ~~the agency~~].

3 (b) After setting aside an appropriate amount in accordance
4 with this section, the commissioner shall reduce each district's
5 tier one allotments proportionately. A reduction in tier one
6 allotments under this subsection does not affect the computation of
7 the guaranteed amount of revenue per student per cent of tax effort
8 under Section 42.252.

9 (c) Any amount set aside under this section must be approved
10 by the Legislative Budget Board and the governor's office of
11 budget, planning, and policy.

12 SECTION 3.22. Subsection (b), Section 43.002, Education
13 Code, is amended to read as follows:

14 (b) Of the amounts available for transfer from the general
15 revenue fund to the available school fund for the months of January
16 and February of each fiscal year, no more than the amount necessary
17 to enable the comptroller to distribute from the available school
18 fund an amount equal to 9-1/2 percent of the estimated annual
19 available school fund apportionment to category 1 school districts,
20 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the
21 estimated annual available school fund apportionment to category 2
22 school districts, as defined by Section 42.316 [~~42.259~~], may be
23 transferred from the general revenue fund to the available school
24 fund. Any remaining amount that would otherwise be available for
25 transfer for the months of January and February shall be
26 transferred from the general revenue fund to the available school
27 fund in equal amounts in June and in August of the same fiscal year.

28 SECTION 3.23. Section 44.004, Education Code, is amended by

1 amending Subsections (e) and (i) and adding Subsection (b-1) to
2 read as follows:

3 (b-1) The notice of the public meeting to discuss and adopt
4 the budget and the proposed tax rate may not be smaller than
5 one-quarter page of a standard-size or a tabloid-size newspaper,
6 and the headline on the notice must be in 18-point or larger type.

7 (e) A person who owns taxable property in a school district
8 is entitled to an injunction restraining the collection of taxes by
9 the district if the district has not complied with the requirements
10 of Subsections (b) and (b-1) ~~[(c)]~~ and ~~[(d), and]~~, if applicable,
11 Subsection (i), and the failure to comply was not in good faith. An
12 action to enjoin the collection of taxes must be filed before the
13 date the school district delivers substantially all of its tax
14 bills.

15 (i) A school district that uses a certified estimate, as
16 authorized by Subsection (h), may adopt a budget at the public
17 meeting designated in the notice prepared using the estimate, but
18 the district may not adopt a tax rate before the district receives
19 the certified appraisal roll for the district required by Section
20 26.01(a), Tax Code. After receipt of the certified appraisal roll,
21 the district must publish a revised notice and hold another public
22 meeting before the district may adopt a tax rate that exceeds:

23 (1) the rate proposed in the notice prepared using the
24 estimate; or

25 (2) the district's rollback rate determined under
26 Section 26.08, Tax Code, if applicable, using the certified
27 appraisal roll.

28 SECTION 3.24. Subsection (a), Section 46.003, Education

Code, is amended to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, ~~[or, if applicable, Section 42.2521]~~ divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code~~[or, if applicable, Section 42.2521]~~.

SECTION 3.25. Subsection (g), Section 46.006, Education

Code, is amended to read as follows:

(g) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, ~~[or, if applicable, Section 42.2521,~~] divided by the district's average daily attendance as determined under Section 42.005.

SECTION 3.26. Subsections (b), (e), and (f), Section 46.009, Education Code, are amended to read as follows:

(b) If the amount appropriated for purposes of this subchapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's Texas education ~~[foundation school]~~ fund allocations in the manner provided by Section 42.313(f) ~~[42.253(h)]~~.

(e) Section 42.317 ~~[42.258]~~ applies to payments under this subchapter.

(f) If a school district would have received a greater amount under this subchapter for the applicable school year using the adjusted value determined under Section 42.310 ~~[42.257]~~, the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter to subsequent distributions to the district under this subchapter.

SECTION 3.27. Section 46.013, Education Code, is amended to read as follows:

1 Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school
2 district is not entitled to state assistance under this subchapter
3 based on taxes with respect to which the district receives state
4 assistance under Subchapter G [~~F~~], Chapter 42.

5 SECTION 3.28. Subsection (a), Section 46.032, Education
6 Code, is amended to read as follows:

7 (a) Each school district is guaranteed a specified amount
8 per student in state and local funds for each cent of tax effort to
9 pay the principal of and interest on eligible bonds. The amount of
10 state support, subject only to the maximum amount under Section
11 46.034, is determined by the formula:

$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

13 where:

14 "EDA" is the amount of state funds to be allocated to the
15 district for assistance with existing debt;

16 "EDGL" is the dollar amount guaranteed level of state and
17 local funds per student per cent of tax effort, which is \$35 or a
18 greater amount for any year provided by appropriation;

19 "ADA" is the number of students in average daily attendance,
20 as determined under Section 42.005, in the district;

21 "EDTR" is the existing debt tax rate of the district, which is
22 determined by dividing the amount budgeted by the district for
23 payment of eligible bonds by the quotient of the district's taxable
24 value of property as determined under Subchapter M, Chapter 403,
25 Government Code, [~~or, if applicable, under Section 42.2521,~~]
26 divided by 100; and

27 "DPV" is the district's taxable value of property as
28 determined under Subchapter M, Chapter 403, Government Code[~~or,~~

1 ~~if applicable, under Section 42.2521]~~.

2 SECTION 3.29. Section 46.037, Education Code, is amended to
3 read as follows:

4 Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school
5 district is not entitled to state assistance under this subchapter
6 based on taxes with respect to which the district receives state
7 assistance under Subchapter G [~~F~~], Chapter 42.

8 SECTION 3.30. Section 56.208, Education Code, is amended to
9 read as follows:

10 Sec. 56.208. FUNDING. (a) The Early High School
11 Graduation Scholarship program is financed under the Foundation
12 School Program. [~~Funding for the state tuition credits is not~~
13 ~~subject to the provisions of Sections 42.253(c) through (k).~~]

14 (b) The commissioner of education shall reduce the total
15 annual amount of Texas education [~~foundation school~~] fund payments
16 made to a school district by an amount equal to $F \times A$, where:

17 (1) "F" is the lesser of one or the quotient of the
18 district's local share for the preceding school year under Section
19 42.306 [~~42.252~~] divided by the tier one allotment under Section
20 42.304 [~~amount of money to which the district was entitled under~~
21 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

22 (2) "A" is the amount of state tuition credits under
23 this subchapter applied by institutions of higher education on
24 behalf of eligible persons who graduated from the district that has
25 not been used to compute a previous reduction under this
26 subsection.

27 (c) A school district that does not receive Texas education
28 [~~foundation school~~] fund payments during a year in which the

1 commissioner would otherwise withhold money from the district under
2 Subsection (b) shall remit an amount equal to the amount that would
3 be withheld under Subsection (b) to the comptroller for deposit to
4 the credit of the Texas education [~~foundation school~~] fund.

5 SECTION 3.31. Subsection (e), Section 105.301, Education
6 Code, is amended to read as follows:

7 (e) The academy is not subject to the provisions of this
8 code, or to the rules of the Texas Education Agency, regulating
9 public schools, except that:

10 (1) professional employees of the academy are entitled
11 to the limited liability of an employee under Section 22.0511,
12 22.0512, or 22.052;

13 (2) a student's attendance at the academy satisfies
14 compulsory school attendance requirements; and

15 (3) for each student enrolled, the academy is entitled
16 to allotments from the foundation school program under Chapter 42
17 as if the academy were a school district without a tier one local
18 share for purposes of Section 42.306 [~~42.253~~].

19 SECTION 3.32. Subsection (f), Section 317.005, Government
20 Code, is amended to read as follows:

21 (f) The governor or board may adopt an order under this
22 section withholding or transferring any portion of the total amount
23 appropriated to finance the foundation school program for a fiscal
24 year. The governor or board may not adopt such an order if it would
25 result in an allocation of money between particular programs or
26 statutory allotments under the foundation school program contrary
27 to the statutory proration formula provided by Section 42.313(f)
28 [~~42.253(h)~~], Education Code. The governor or board may transfer an

1 amount to the total amount appropriated to finance the foundation
2 school program for a fiscal year and may increase the accreditation
3 ~~[basic]~~ allotment. The governor or board may adjust allocations of
4 amounts between particular programs or statutory allotments under
5 the foundation school program only for the purpose of conforming
6 the allocations to actual pupil enrollments or attendance.

7 SECTION 3.33. Subsection (d), Section 403.093, Government
8 Code, is amended to read as follows:

9 (d) The comptroller shall transfer from the general revenue
10 fund to the Texas education ~~[foundation school]~~ fund an amount of
11 money necessary to fund the foundation school program as provided
12 by Chapter 42, Education Code. The comptroller shall make the
13 transfers in installments as necessary to comply with Section
14 42.316 ~~[42.259]~~, Education Code. An installment must be made not
15 earlier than two days before the date an installment to school
16 districts is required by Section 42.316 ~~[42.259]~~, Education Code,
17 and must not exceed the amount necessary for that payment.

18 SECTION 3.34. Subsection (k), Section 403.302, Government
19 Code, is amended to read as follows:

20 (k) For purposes of Section 42.308 ~~[42.2522]~~, Education
21 Code, the comptroller shall certify to the commissioner of
22 education:

23 (1) a final value for each school district computed
24 without any deduction for residence homestead exemptions granted
25 under Section 11.13(n), Tax Code; and

26 (2) a final value for each school district computed
27 after deducting one-half the total dollar amount of residence
28 homestead exemptions granted under Section 11.13(n), Tax Code.

1 SECTION 3.35. Subdivision (1), Section 404.121, Government
2 Code, is amended to read as follows:

3 (1) "Cash flow deficit" for any period means the
4 excess, if any, of expenditures paid and transfers made from the
5 general revenue fund in the period, including payments provided by
6 Section 42.316 [~~42.259~~], Education Code, over taxes and other
7 revenues deposited to the fund in the period, other than revenues
8 deposited pursuant to Section 403.092, that are legally available
9 for the expenditures and transfers.

10 SECTION 3.36. Subsection (c), Section 466.355, Government
11 Code, is amended to read as follows:

12 (c) Each August the comptroller shall:

13 (1) estimate the amount to be transferred to the Texas
14 education [~~foundation school~~] fund on or before September 15; and

15 (2) notwithstanding Subsection (b)(4), transfer the
16 amount estimated in Subdivision (1) to the Texas education
17 [~~foundation school~~] fund before August 25 [~~installment payments are~~
18 ~~made under Section 42.259, Education Code~~].

19 SECTION 3.37. Effective on the 91st day after the last day
20 of the legislative session, Subsection (c), Section 822.201,
21 Government Code, as amended by S.B. No. 1691 and S.B. No. 1863, Acts
22 of the 79th Legislature, Regular Session, 2005, is amended to read
23 as follows:

24 (c) Excluded from salary and wages are:

- 25 (1) expense payments;
26 (2) allowances;
27 (3) payments for unused vacation or sick leave;
28 (4) maintenance or other nonmonetary compensation;

- 1 (5) fringe benefits;
- 2 (6) deferred compensation other than as provided by
3 Subsection (b)(3);
- 4 (7) compensation that is not made pursuant to a valid
5 employment agreement;
- 6 (8) payments received by an employee in a school year
7 that exceed \$5,000 for teaching a driver education and traffic
8 safety course that is conducted outside regular classroom hours;
- 9 (9) the benefit replacement pay a person earns as a
10 result of a payment made under Subchapter B or C, Chapter 661;
- 11 (10) any compensation designated as health care
12 supplementation ~~[amount received]~~ by an employee under Subchapter
13 D, Chapter 22, Education Code, subject to the following annual
14 limits:
- 15 (A) \$1,000, for an employee entitled to the
16 minimum salary under Section 21.402, Education Code; and
- 17 (B) \$500, for any other school employee entitled
18 under Section 22.103, Education Code, to designate a portion of the
19 employee's compensation to be used as health care supplementation;
- 20 (11) any amount received by an employee under former
21 Article 3.50-8, Insurance Code, former Chapter 1580, Insurance
22 Code, or Rider 9, Page III-39, Chapter 1330, Acts of the 78th
23 Legislature, Regular Session, 2003 (the General Appropriations
24 Act); ~~[and]~~
- 25 (12) amounts received under the educator excellence
26 incentive program under Subchapter N, Chapter 21, Education Code;
27 and
- 28 (13) [~~(11)~~] any compensation not described by

1 Subsection (b).

2 SECTION 3.38. Subsection (c), Section 2175.304, Government
3 Code, is amended to read as follows:

4 (c) The procedures established under Subsection (b) must
5 give preference to transferring the property directly to a public
6 school or school district or to an assistance organization
7 designated by the school district before disposing of the property
8 in another manner. If more than one public school or school
9 district or assistance organization seeks to acquire the same
10 property on substantially the same terms, the system, institution,
11 or agency shall give preference to a public school that is
12 considered academically unacceptable under Section 39.132,
13 Education Code, ~~[low-performing by the commissioner of education]~~
14 or to a school district that has a relatively low ~~[taxable]~~ wealth
15 per student, as determined by the commissioner of education ~~[that~~
16 ~~entitles the district to an allotment of state funds under~~
17 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance
18 organization designated by such a school district.

19 SECTION 3.39. Section 1579.251, Insurance Code, is amended
20 by amending Subsection (a) and adding Subsection (c) to read as
21 follows:

22 (a) The state shall assist employees of participating
23 school districts and charter schools in the purchase of group
24 health coverage under this chapter by providing for each covered
25 employee the amount of \$900 each state fiscal year or a greater
26 amount as provided by the General Appropriations Act. The state
27 contribution shall be distributed through the school finance
28 formulas under Chapters 41 and 42, Education Code, and used by

1 school districts and charter schools to pay contributions under a
2 group health coverage plan for employees [~~as provided by Sections~~
3 ~~42.2514 and 42.260, Education Code~~].

4 (c) A school district or charter school that does not
5 participate in the program is entitled to state assistance computed
6 and distributed as provided by Subsection (a). State funds
7 received under this subsection must be used to pay for employee
8 health coverage.

9 SECTION 3.40. Effective on the 91st day after the last day
10 of the legislative session, Subsection (c), Section 302.006, Labor
11 Code, is amended to read as follows:

12 (c) To be eligible to receive a scholarship awarded under
13 this section, a person must:

14 (1) be employed in a child-care facility, as defined
15 by Section 42.002, Human Resources Code;

16 (2) intend to obtain a credential, certificate, or
17 degree specified in Subsection (b);

18 (3) agree to work for at least 18 additional months in
19 a child-care facility, as defined by Section 42.002, Human
20 Resources Code, that accepts federal Child Care Development Fund
21 subsidies and that, at the time the person begins to fulfill the
22 work requirement imposed by this subdivision, is located:

23 (A) within the attendance zone of a public school
24 campus considered academically unacceptable [~~low-performing~~] under
25 Section 39.132, Education Code; or

26 (B) in an economically disadvantaged community,
27 as determined by the commission; and

28 (4) satisfy any other requirements adopted by the

1 commission.

2 SECTION 3.41. Subsection (b), Section 6.02, Tax Code, is
3 amended to read as follows:

4 (b) A taxing unit that has boundaries extending into two or
5 more counties may choose to participate in only one of the appraisal
6 districts. In that event, the boundaries of the district chosen
7 extend outside the county to the extent of the unit's boundaries.
8 To be effective, the choice must be approved by resolution of the
9 board of directors of the district chosen. ~~[The choice of a school~~
10 ~~district to participate in a single appraisal district does not~~
11 ~~apply to property annexed to the school district under Subchapter C~~
12 ~~or G, Chapter 41, Education Code, unless:~~

13 ~~[(1) the school district taxes property other than~~
14 ~~property annexed to the district under Subchapter C or G, Chapter~~
15 ~~41, Education Code, in the same county as the annexed property; or~~

16 ~~[(2) the annexed property is contiguous to property in~~
17 ~~the school district other than property annexed to the district~~
18 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

19 SECTION 3.42. Subsection (a), Section 21.02, Tax Code, is
20 amended to read as follows:

21 (a) Except as provided by ~~[Subsection (b) and]~~ Sections
22 21.021, 21.04, and 21.05, tangible personal property is taxable by
23 a taxing unit if:

24 (1) it is located in the unit on January 1 for more
25 than a temporary period;

26 (2) it normally is located in the unit, even though it
27 is outside the unit on January 1, if it is outside the unit only
28 temporarily;

1 (3) it normally is returned to the unit between uses
2 elsewhere and is not located in any one place for more than a
3 temporary period; or

4 (4) the owner resides (for property not used for
5 business purposes) or maintains the owner's ~~[his]~~ principal place
6 of business in this state (for property used for business purposes)
7 in the unit and the property is taxable in this state but does not
8 have a taxable situs pursuant to Subdivisions (1) through (3) ~~[of~~
9 ~~this section]~~.

10 SECTION 3.43. Section 313.029, Tax Code, is amended to read
11 as follows:

12 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
13 a school district grants an application for a limitation on
14 appraised value under this subchapter, for each of the first two tax
15 years that begins after the date the application is approved, the
16 governing body of the school district may not adopt a tax rate that
17 exceeds the school district's rollback tax rate under Section
18 26.08, if applicable, for that year. If, in any tax year in which a
19 restriction on the school district's tax rate under this section is
20 in effect, the governing body approves a subsequent application for
21 a limitation on appraised value under this section, the restriction
22 on the school district's tax rate is extended until the first tax
23 year that begins after the second anniversary of the date the
24 subsequent application is approved.

25 SECTION 3.44. Except as otherwise provided by this Act,
26 this article takes effect September 1, 2006.

27 ARTICLE 4. CHARTER SCHOOLS

28 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,

Chapter 12, Education Code, is repealed.

(b) Except as provided by Section 11A.1041, Education Code, as added by this Act, each open-enrollment charter school operating 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

1 evaluating the public charter district's educational programs,
2 services, and facilities;

3 (B) making recommendations to the governing body
4 of the public charter district relating to the selection of school
5 personnel;

6 (C) managing the public charter district's
7 day-to-day operations as its administrative manager;

8 (D) preparing and submitting to the governing
9 body of the public charter district a proposed budget;

10 (E) recommending policies to be adopted by the
11 governing body of the public charter district, developing
12 appropriate procedures to implement policies adopted by the
13 governing body of the public charter district, and overseeing the
14 implementation of adopted policies; and

15 (F) providing leadership for the attainment of
16 student performance at the public charter district based on the
17 indicators adopted under Section 39.051 or by the governing body of
18 the public charter district.

19 (6) "Officer of a public charter district" means:

20 (A) the principal, director, or other chief
21 operating officer of a public charter district or campus; or

22 (B) a person charged with managing the finances
23 of a public charter district.

24 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this
25 chapter, the State Board of Education may grant a charter on the
26 application of an eligible entity for a public charter district to
27 operate in a facility of a commercial or nonprofit entity, an
28 eligible entity, or a school district, including a home-rule school

1 district. In this subsection, "eligible entity" means:

2 (1) an institution of higher education as defined
3 under Section 61.003;

4 (2) a private or independent institution of higher
5 education as defined under Section 61.003;

6 (3) an organization that is exempt from federal income
7 taxation under Section 501(a), Internal Revenue Code of 1986, as an
8 organization described by Section 501(c)(3) of that code; or

9 (4) a governmental entity in this state.

10 (b) The State Board of Education may grant a charter for a
11 public charter district only to an applicant that meets all
12 financial, governing, and operational standards adopted by the
13 commissioner under this chapter.

14 (c) The State Board of Education may not grant more than a
15 total of 215 charters for public charter districts.

16 (d) An educator employed by a school district before the
17 effective date of a charter for a public charter district operated
18 at a school district facility may not be transferred to or employed
19 by the public charter district over the educator's objection.

20 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter
21 district:

22 (1) shall provide instruction to and assess a number
23 of students at a number of elementary or secondary grade levels, as
24 provided by the charter, sufficient to permit the agency to assign
25 an accountability rating under Chapter 39;

26 (2) is governed under the governing structure required
27 by this chapter and described by the charter;

28 (3) retains authority to operate under the charter

1 contingent on satisfactory student performance as provided by the
2 charter in accordance with Section 11A.103; and

3 (4) does not have authority to impose taxes.

4 Sec. 11A.004. STATUS. A public charter district or campus
5 is part of the public school system of this state.

6 Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related
7 to operation of a public charter district, a public charter
8 district is immune from liability to the same extent as a school
9 district, and its employees and volunteers are immune from
10 liability to the same extent as school district employees and
11 volunteers. Except as provided by Section 11A.154, a member of the
12 governing body of a public charter district or of a charter holder
13 is immune from liability to the same extent as a school district
14 trustee.

15 Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.
16 A reference in law to an open-enrollment charter school means a
17 public charter district or public charter campus, as applicable.

18 [Sections 11A.007-11A.050 reserved for expansion]

19 SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

20 Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND
21 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by
22 Subsection (b) or (c), a public charter district is subject to
23 federal and state laws and rules governing public schools and to
24 municipal zoning ordinances governing public schools.

25 (b) A public charter district is subject to this code and
26 rules adopted under this code only to the extent the applicability
27 to a public charter district of a provision of this code or a rule
28 adopted under this code is specifically provided.

1 (c) Notwithstanding Subsection (a), a campus of a public
2 charter district located in whole or in part in a municipality with
3 a population of 20,000 or less is not subject to a municipal zoning
4 ordinance governing public schools.

5 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public
6 charter district has the powers granted to schools under this
7 title.

8 (b) A public charter district is subject to:

9 (1) a provision of this title establishing a criminal
10 offense; and

11 (2) a prohibition, restriction, or requirement, as
12 applicable, imposed by this title or a rule adopted under this
13 title, relating to:

14 (A) the Public Education Information Management
15 System (PEIMS) under Section 7.007;

16 (B) reporting an educator's misconduct under
17 Section 21.006;

18 (C) criminal history records under Subchapter C,
19 Chapter 22;

20 (D) reading instruments and accelerated reading
21 instruction programs under Section 28.006;

22 (E) satisfactory performance on assessment
23 instruments and to accelerated instruction under Section 28.0211;

24 (F) intensive programs of instruction under
25 Section 28.0213;

26 (G) high school graduation under Section 28.025;

27 (H) special education programs under Subchapter
28 A, Chapter 29, including a requirement that special education

1 teachers obtain appropriate certification;

2 (I) bilingual education under Subchapter B,
3 Chapter 29, including a requirement that bilingual education
4 teachers obtain appropriate certification;

5 (J) prekindergarten programs under Subchapter E,
6 Chapter 29;

7 (K) extracurricular activities under Section
8 33.081;

9 (L) discipline management practices or behavior
10 management techniques under Section 37.0021;

11 (M) health and safety under Chapter 38; and

12 (N) public school accountability under
13 Subchapters B, C, D, G, and I, Chapter 39.

14 (c) A public charter district is entitled to the same level
15 of services provided to school districts by regional education
16 service centers. The commissioner shall adopt rules that provide
17 for the representation of public charter districts on the boards of
18 directors of regional education service centers.

19 (d) The commissioner may by rule permit a public charter
20 district to voluntarily participate in any state program available
21 to school districts, including a purchasing program, if the public
22 charter district complies with all terms of the program.

23 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC
24 INFORMATION LAWS. (a) With respect to the operation of a public
25 charter district, the governing body of a charter holder and the
26 governing body of a public charter district are considered to be
27 governmental bodies for purposes of Chapters 551 and 552,
28 Government Code.

1 (b) With respect to the operation of a public charter
2 district, any requirement in Chapter 551 or 552, Government Code,
3 that applies to a school district, the board of trustees of a school
4 district, or public school students applies to a public charter
5 district, the governing body of a charter holder, the governing
6 body of a public charter district, or students in attendance at a
7 public charter district campus.

8 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL
9 GOVERNMENT RECORDS. (a) With respect to the operation of a public
10 charter district, a public charter district is considered to be a
11 local government for purposes of Subtitle C, Title 6, Local
12 Government Code, and Subchapter J, Chapter 441, Government Code.

13 (b) Records of a public charter district, a charter holder,
14 or a management company that relate to a public charter district are
15 government records for all purposes under state law.

16 (c) Any requirement in Subtitle C, Title 6, Local Government
17 Code, or Subchapter J, Chapter 441, Government Code, that applies
18 to a school district, the board of trustees of a school district, or
19 an officer or employee of a school district applies to a public
20 charter district or management company, the governing body of a
21 charter holder, the governing body of a public charter district, or
22 an officer or employee of a public charter district or management
23 company except that the records of a public charter district or
24 management company that ceases to operate shall be transferred in
25 the manner prescribed by Subsection (d).

26 (d) The records of a public charter district or management
27 company that ceases to operate shall be transferred in the manner
28 specified by the commissioner to a custodian designated by the

1 commissioner. The commissioner may designate any appropriate
2 entity to serve as custodian, including the agency, a regional
3 education service center, or a school district. In designating a
4 custodian, the commissioner shall ensure that the transferred
5 records, including student and personnel records, are transferred
6 to a custodian capable of:

7 (1) maintaining the records;

8 (2) making the records readily accessible to students,
9 parents, former school employees, and other persons entitled to
10 access; and

11 (3) complying with applicable state or federal law
12 restricting access to the records.

13 (e) If the charter holder of a public charter district that
14 ceases to operate or an officer or employee of the district or a
15 management company refuses to transfer school records in the manner
16 specified by the commissioner under Subsection (d), the
17 commissioner may ask the attorney general to petition a court for
18 recovery of the records. If the court grants the petition, the
19 court shall award attorney's fees and court costs to the state.

20 (f) A record described by this section is a public school
21 record for purposes of Section 37.10(c)(2), Penal Code.

22 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC
23 PURCHASING AND CONTRACTING. (a) This section applies to a public
24 charter district unless the district's charter otherwise describes
25 procedures for purchasing and contracting and the procedures are
26 approved by the State Board of Education.

27 (b) A public charter district is considered to be:

28 (1) a governmental entity for purposes of:

1 (A) Subchapter D, Chapter 2252, Government Code;
2 and

3 (B) Subchapter B, Chapter 271, Local Government
4 Code;

5 (2) a political subdivision for purposes of Subchapter
6 A, Chapter 2254, Government Code; and

7 (3) a local government for purposes of Sections
8 2256.009-2256.016, Government Code.

9 (c) To the extent consistent with this section, a
10 requirement in a law listed in this section that applies to a school
11 district or the board of trustees of a school district applies to a
12 public charter district, the governing body of a charter holder, or
13 the governing body of a public charter district.

14 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF
15 INTEREST. (a) A member of the governing body of a charter holder,
16 a member of the governing body of a public charter district, or an
17 officer of a public charter district is considered to be a local
18 public official for purposes of Chapter 171, Local Government Code.
19 For purposes of that chapter:

20 (1) a member of the governing body of a charter holder
21 or a member of the governing body or officer of a public charter
22 district is considered to have a substantial interest in a business
23 entity if a person related to the member or officer in the third
24 degree by consanguinity or affinity, as determined under Chapter
25 573, Government Code, has a substantial interest in the business
26 entity under Section 171.002, Local Government Code; and

27 (2) a teacher at a public charter district may serve as
28 a member of the governing body of the charter holder or the

1 governing body of the public charter district if the teachers
2 serving on the governing body:

3 (A) do not constitute a quorum of the governing
4 body or any committee of the governing body; and

5 (B) comply with the requirements of Sections
6 171.003-171.007, Local Government Code.

7 (b) To the extent consistent with this section, a
8 requirement of a law listed in this section that applies to a school
9 district or the board of trustees of a school district applies to a
10 public charter district, the governing body of a charter holder, or
11 the governing body of a public charter district.

12 (c) An employee who is not a teacher may serve as a member of
13 the governing body of a charter holder or the governing body of a
14 public charter district if:

15 (1) the charter holder operating the public charter
16 district where the individual is employed and serves as a member of
17 the governing body operated an open-enrollment charter school under
18 Subchapter D, Chapter 12, on August 31, 2005;

19 (2) the individual was employed by the charter holder
20 and serving as a member of the governing body on August 31, 2005, in
21 compliance with former Section 12.1054; and

22 (3) the individual had been continuously so employed
23 and serving since a date on or before January 1, 2005.

24 (d) If under Subsection (c) an individual continues to be
25 employed and serve as a member of the governing body, the individual
26 may not participate in any deliberation or voting on the
27 appointment, reappointment, confirmation of the appointment or
28 reappointment, employment, reemployment, change in the status,

1 compensation, or dismissal of the individual if that action applies
2 only to the individual and is not taken regarding a bona fide class
3 or category of employees. In addition, the individual may not hear,
4 consider, or act on any grievance or complaint concerning the
5 individual or a matter with which the individual has dealt in the
6 individual's capacity as an employee.

7 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A
8 public charter district, including the governing body of a public
9 charter district and any district employee with final authority to
10 hire a district employee, is subject to a prohibition, restriction,
11 or requirement, as applicable, imposed by state law or by a rule
12 adopted under state law, relating to nepotism under Chapter 573,
13 Government Code.

14 (b) Notwithstanding Subsection (a), a member of the
15 governing body of a charter holder or public charter district may
16 not be related in the third degree by consanguinity or affinity, as
17 determined under Chapter 573, Government Code, to another member of
18 the governing body of the charter holder or public charter
19 district.

20 (c) This section does not apply to an appointment,
21 confirmation of an appointment, or vote for an appointment or
22 confirmation of an appointment of an individual to a position if:

23 (1) the charter holder operating the public charter
24 district where the individual is employed or serves as a member of
25 the governing body operated an open-enrollment charter school under
26 Subchapter D, Chapter 12, on August 31, 2005;

27 (2) the individual was employed or serving in the
28 position on August 31, 2005, in compliance with former Section

1 12.1055; and

2 (3) the individual has been continuously employed or
3 serving since a date on or before January 1, 2005.

4 (d) If, under Subsection (c), an individual continues to be
5 employed or serve in a position, the public official to whom the
6 individual is related in a prohibited degree may not participate in
7 any deliberation or voting on the appointment, reappointment,
8 confirmation of the appointment or reappointment, employment,
9 reemployment, change in status, compensation, or dismissal of the
10 individual if that action applies only to the individual and is not
11 taken regarding a bona fide class or category of employees.

12 [Sections 11A.058-11A.100 reserved for expansion]

13 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

14 Sec. 11A.101. APPLICATION. (a) The State Board of
15 Education shall adopt:

16 (1) an application form and a procedure that must be
17 used to apply for a charter for a public charter district; and

18 (2) criteria to use in selecting a program for which to
19 grant a charter.

20 (b) The application form must provide for including the
21 information required under Section 11A.103 to be contained in a
22 charter.

23 (c) The State Board of Education may approve or deny an
24 application based on criteria it adopts and on financial,
25 governing, and operational standards adopted by the commissioner
26 under this chapter. The criteria the board adopts must include:

27 (1) criteria relating to improving student
28 performance and encouraging innovative programs; and

1 (2) criteria relating to the educational benefit for
2 students residing in the geographic area to be served by the
3 proposed public charter district, as compared to any significant
4 financial difficulty that a loss in enrollment may have on any
5 school district whose enrollment is likely to be affected by the
6 public charter district.

7 (d) A public charter district may not begin operating under
8 this chapter unless the commissioner has certified that the
9 applicant has acceptable administrative and accounting systems and
10 procedures in place for the operation of the proposed public
11 charter district.

12 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The
13 commissioner by rule shall adopt a procedure for providing notice
14 to each member of the legislature that represents the geographic
15 area to be served by the proposed public charter district, as
16 determined by the commissioner, on receipt by the State Board of
17 Education of an application for a charter for a public charter
18 district under Section 11A.101.

19 Sec. 11A.103. CONTENT. (a) Each charter granted under
20 this chapter must:

21 (1) describe the educational program to be offered,
22 which must include the required curriculum as provided by Section
23 28.002;

24 (2) establish educational goals, which must include
25 acceptable student performance as determined under Chapter 39;

26 (3) specify the grade levels to be offered, which must
27 be sufficient to permit the agency to assign an accountability
28 rating under Chapter 39;

1 (4) describe the facilities to be used;
2 (5) describe the geographical area served by the
3 program, which may not be statewide; and
4 (6) specify any type of enrollment criteria to be
5 used.

6 (b) A charter holder of a public charter district shall
7 consider including in the district's charter a requirement that the
8 district develop and administer personal graduation plans under
9 Section 28.0212.

10 (c) The terms of a charter may not include plans for future
11 increases in student enrollment, grade levels, campuses, or
12 geographical area, except that:

13 (1) the charter may contain a plan for adding grade
14 levels as necessary to comply with Section 11A.253(c) or (d); and

15 (2) the commissioner may approve such an increase in a
16 charter revision request under Section 11A.106.

17 Sec. 11A.104. FORM. A charter for a public charter district
18 shall be in the form of a license issued by the State Board of
19 Education to the charter holder.

20 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN
21 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner
22 shall immediately grant a charter under this chapter to the
23 following entities on or before August 1, 2006:

24 (1) an eligible entity holding a charter granted
25 before September 1, 2002, under Subchapter D, Chapter 12, as that
26 subchapter existed on January 1, 2005, if:

27 (A) for fiscal years 2004 and 2005, the entity
28 had total assets that exceeded total liabilities, as determined by

1 the entity's annual audit report under Section 44.008;

2 (B) at least 25 percent of all students enrolled
3 at the entity's open-enrollment charter school and administered an
4 assessment instrument under Section 39.023(a), (c), or (l)
5 performed satisfactorily on the assessment instrument in
6 mathematics, as determined by the school's assessment instrument
7 results for the 2005-2006 school year; and

8 (C) at least 25 percent of all students enrolled
9 at the entity's open-enrollment charter school and administered an
10 assessment instrument under Section 39.023(a), (c), or (l)
11 performed satisfactorily on the assessment instrument in reading or
12 English language arts, as applicable, as determined by the school's
13 assessment instrument results for the 2005-2006 school year;

14 (2) a governmental entity holding a charter under
15 Subchapter D, Chapter 12, as that subchapter existed on January 1,
16 2005;

17 (3) an eligible entity holding a charter under
18 Subchapter D, Chapter 12, as that subchapter existed on January 1,
19 2005, if at least 85 percent of students enrolled in the school
20 reside in a residential facility; and

21 (4) an eligible entity granted a charter on or after
22 September 1, 2002, under Subchapter D, Chapter 12, as that
23 subchapter existed on January 1, 2005.

24 (b) Assessment instrument results for fewer than five
25 students are not considered for purposes of Subsection (a)(1)(B) or
26 (C).

27 (c) The commissioner shall determine which entities are
28 eligible for a charter under this section as soon as practicable.

1 (d) The content and terms of a charter granted to an
2 eligible entity under this section must be the same as those under
3 which the entity operated under Subchapter D, Chapter 12, as that
4 subchapter existed on January 1, 2005, except that where the terms
5 conflict with this chapter, this chapter prevails.

6 (e) An eligible entity holding multiple charters prior to
7 January 1, 2005, may not combine those charters into one charter for
8 a public charter district but must retain each of those charters
9 which count towards the limit imposed under Section 11A.002(c).

10 (f) Section 11A.157 does not apply to an entity granted a
11 charter under this section.

12 (g) A decision of the commissioner under this section is not
13 subject to a hearing or an appeal to a district court.

14 (h) This section expires January 1, 2008.

15 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

16 (a) For purposes of Section 11A.1041(a), the commissioner shall
17 compute the percentage of students who performed satisfactorily on
18 an assessment instrument in a manner consistent with this section.

19 (b) The commissioner may only consider the performance of a
20 student who was enrolled as of the date for reporting enrollment for
21 the fall semester under the Public Education Information Management
22 System (PEIMS).

23 (c) In computing performance under this section, the
24 commissioner must:

25 (1) add the results for third through 11th grade
26 assessment instruments in English and third through sixth grade
27 assessment instruments in Spanish across grade levels tested at all
28 campuses operated by the charter holder and evaluate those results

1 for all students;

2 (2) combine the results for third through ninth grade
3 assessment instruments in reading and 10th and 11th grade
4 assessment instruments in English language arts and evaluate those
5 results as a single subject; and

6 (3) separately determine student performance for
7 reading and mathematics as a percentage equal to the sum of students
8 who performed satisfactorily on the specific subject area
9 assessment instrument in all grade levels tested at all campuses
10 operated by the charter holder divided by the number of students who
11 took the specific subject area assessment instrument in grade
12 levels tested at all campuses operated by the charter holder.

13 (d) To the extent consistent with this section, the
14 commissioner shall use the methodology used to compute passing
15 rates for reading and mathematics assessment instruments for
16 purposes of determining accountability ratings under Chapter 39 for
17 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

18 (e) This section expires January 1, 2008.

19 Sec. 11A.105. CHARTER GRANTED. Each charter the State
20 Board of Education grants for a public charter district must:

21 (1) satisfy this chapter; and

22 (2) include the information that is required under
23 Section 11A.103 consistent with the information provided in the
24 application and any modification the board requires.

25 Sec. 11A.106. REVISION. (a) A revision of a charter of a
26 public charter district may be made only with the approval of the
27 commissioner.

28 (b) Not more than once each year, a public charter district

1 may request approval to revise the maximum student enrollment
2 described by the district's charter.

3 (c) The commissioner may not approve a charter revision that
4 increases a public charter district's enrollment, increases the
5 grade levels offered, increases the number of campuses, or changes
6 the boundaries of the geographic area served by the program unless
7 the commissioner determines that:

8 (1) the public charter district has operated one or
9 more campuses for at least three school years;

10 (2) each campus operated by the public charter
11 district has been rated at least academically acceptable under
12 Subchapter D, Chapter 39, for each of its most recent three years of
13 operation;

14 (3) each campus operated by the public charter
15 district has achieved performance levels that are at least five
16 percentage points above the applicable accountability standard for
17 academically acceptable performance on statewide assessments under
18 Subchapter D, Chapter 39, as determined by the commissioner, for
19 all tested subjects for each of its most recent two years of
20 operation;

21 (4) the public charter district has been rated
22 superior, above standard, standard, or the equivalent, under the
23 financial accountability system under Subchapter I, Chapter 39;

24 (5) during the three years preceding the proposed
25 charter revision, the public charter district and its campuses have
26 not been subject to an intervention or sanction under Subchapter G,
27 Chapter 39, including an intervention or sanction related to:

28 (A) the quality of data or reports required by

1 state or federal law or court order;

2 (B) high school graduation requirements under
3 Section 28.025; or

4 (C) the effectiveness of programs for special
5 student populations; and

6 (6) the charter revision is in the best interest of
7 students of this state.

8 (d) In making a determination under Subsection (c)(6), the
9 commissioner shall review all available information relating to the
10 charter holder, including the charter holder's:

11 (1) academic and financial performance;

12 (2) history of compliance with applicable laws;

13 (3) staffing, financial, and organizational data; and

14 (4) any other information regarding the charter
15 holder's capacity to successfully implement the requested charter
16 revision.

17 (e) The commissioner may not approve a charter revision that
18 proposes an increase in:

19 (1) a public charter district's enrollment, unless the
20 charter holder adopts a business plan for implementing the
21 enrollment increase that includes components identified by the
22 commissioner; or

23 (2) the grade levels offered by a public charter
24 district, unless the charter holder adopts an educational plan for
25 the additional grade levels that includes components identified by
26 the commissioner.

27 (f) The commissioner may approve a charter revision
28 authorizing a public charter district to serve students in a

1 geographical area that is not contiguous with the existing
2 boundaries of the district, but may not approve a statewide
3 geographical boundary.

4 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON
5 PROBATION, OR REVOCATION. (a) The commissioner may modify, place
6 on probation, or revoke the charter of a public charter district if
7 the commissioner determines under Section 11A.108 that the charter
8 holder:

9 (1) committed a material violation of the charter;

10 (2) failed to satisfy generally accepted accounting
11 standards of fiscal management;

12 (3) failed to protect the health, safety, welfare, or
13 best interests of the students enrolled at the public charter
14 district; or

15 (4) failed to comply with this chapter or another
16 applicable law or rule.

17 (b) The commissioner shall revoke the charter of a public
18 charter district without a hearing if:

19 (1) in two consecutive years, the public charter
20 district:

21 (A) is rated academically unacceptable under
22 Subchapter D, Chapter 39; or

23 (B) is rated financially unacceptable by the
24 commissioner under Subchapter I, Chapter 39; or

25 (2) all campuses operated by the public charter
26 district have been ordered closed under Section 39.131(a) or
27 39.1322(f).

28 (c) A revocation under Subsection (b)(1) is effective on

1 January 1 following the school year in which the public charter
2 district received a second unacceptable rating.

3 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON
4 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a
5 procedure to be used for modifying, placing on probation, or
6 revoking the charter of a public charter district under Section
7 11A.107(a).

8 (b) The procedure adopted under Subsection (a) must provide
9 an opportunity for a hearing to the charter holder.

10 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON
11 PROBATION, OR REVOCATION. A charter holder may appeal a
12 modification, placement on probation, or revocation under this
13 subchapter only in the manner provided by the applicable procedures
14 adopted by the commissioner under Section 11A.108. The charter
15 holder may not otherwise appeal to the commissioner and may not
16 appeal to a district court.

17 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.
18 If the commissioner revokes a charter of a public charter district,
19 if a district is ordered closed under Chapter 39, or if a public
20 charter district surrenders its charter, the district may not:

21 (1) continue to operate under this chapter; or

22 (2) receive state funds under this chapter.

23 [Sections 11A.111-11A.150 reserved for expansion]

24 SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF CHARTER
25 HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

26 Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.
27 The governing body of a charter holder is responsible for the
28 management, operation, and accountability of the public charter

1 district, regardless of whether the governing body delegates the
2 governing body's powers and duties to another person.

3 Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER
4 HOLDER. The governing body of a charter holder must be composed of
5 at least five members.

6 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF
7 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS
8 OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a
9 person may not serve as a member of the governing body of a charter
10 holder, as a member of the governing body of a public charter
11 district, or as an officer or employee of a public charter district
12 if the person:

13 (1) has been convicted of a felony or a misdemeanor
14 involving moral turpitude;

15 (2) has been convicted of an offense listed in Section
16 37.007(a);

17 (3) has been convicted of an offense listed in Article
18 62.01(5), Code of Criminal Procedure; or

19 (4) has a substantial interest in a management
20 company.

21 (b) A person who has been convicted of an offense described
22 by Subsection (a)(1), (2), or (3) may serve as a member of the
23 governing body of a charter holder, as a member of the governing
24 body of a public charter district, or as an officer or employee of a
25 public charter district if the commissioner determines that the
26 person is fit to serve in that capacity. In making a determination
27 under this subsection, the commissioner shall consider:

28 (1) the factors described by Section 53.022,

1 Occupations Code, for determining the extent to which a conviction
2 relates to an occupation;

3 (2) the factors described by Section 53.023,
4 Occupations Code, for determining the fitness of a person to
5 perform the duties and discharge the responsibilities of an
6 occupation; and

7 (3) other appropriate factors, as determined by the
8 commissioner.

9 (c) For purposes of Subsection (a)(4), a person has a
10 substantial interest in a management company if the person or a
11 relative within the third degree by consanguinity or affinity, as
12 determined under Chapter 573, Government Code:

13 (1) has a controlling interest in the company;

14 (2) owns more than 10 percent of the voting interest in
15 the company;

16 (3) owns more than \$25,000 of the fair market value of
17 the company;

18 (4) has a direct or indirect participating interest by
19 shares, stock, or otherwise, regardless of whether voting rights
20 are included, in more than 10 percent of the profits, proceeds, or
21 capital gains of the company;

22 (5) is a member of the board of directors or other
23 governing body of the company;

24 (6) serves as an elected officer of the company; or

25 (7) is an employee of the company.

26 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF
27 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit
28 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil

1 Statutes), Chapter 22, Business Organizations Code, or other law,
2 on request of the commissioner, the attorney general shall bring
3 suit against a member of the governing body of a charter holder for
4 breach of a fiduciary duty by the member, including misapplication
5 of public funds.

6 (b) The attorney general may bring suit under Subsection (a)
7 for:

8 (1) damages;
9 (2) injunctive relief; or
10 (3) any other equitable remedy determined to be
11 appropriate by the court.

12 (c) This section is cumulative of all other remedies.

13 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF
14 CHARTER HOLDER. (a) The commissioner shall adopt rules
15 prescribing training for members of governing bodies of charter
16 holders.

17 (b) The rules adopted under Subsection (a) may:

18 (1) specify the minimum amount and frequency of the
19 training;

20 (2) require the training to be provided by:
21 (A) the agency and regional education service
22 centers;

23 (B) entities other than the agency and service
24 centers, subject to approval by the commissioner; or

25 (C) both the agency, service centers, and other
26 entities; and

27 (3) require training to be provided concerning:

28 (A) basic school law, including school finance;

1 (B) health and safety issues;
2 (C) accountability requirements related to the
3 use of public funds; and
4 (D) other requirements relating to
5 accountability to the public, such as open meetings requirements
6 under Chapter 551, Government Code, and public information
7 requirements under Chapter 552, Government Code.

8 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder
9 shall file with the commissioner a copy of its articles of
10 incorporation and bylaws, or comparable documents if the charter
11 holder does not have articles of incorporation or bylaws, within
12 the period and in the manner prescribed by the commissioner.

13 (b) Each public charter district shall file annually with
14 the commissioner the following information in a form prescribed by
15 the commissioner:

16 (1) the name, address, and telephone number of each
17 officer and member of the governing body of the charter holder; and

18 (2) the amount of annual compensation the public
19 charter district pays to each officer and member of the governing
20 body.

21 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During
22 a public charter district's first year of operation, the charter
23 holder shall submit quarterly financial reports to the
24 commissioner. The commissioner by rule shall determine the form
25 and content of the financial reports under this section.

26 Sec. 11A.158. PEIMS INFORMATION. The governing body of a
27 public charter district shall comply with Section 7.007.

28 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A

1 management company that provides management services to a public
2 charter district is liable for damages incurred by the state or a
3 school district as a result of the failure of the company to comply
4 with its contractual or other legal obligation to provide services
5 to the district.

6 (b) On request of the commissioner, the attorney general may
7 bring suit on behalf of the state against a management company
8 liable under Subsection (a) for:

9 (1) damages, including any state funding received by
10 the company and any consequential damages suffered by the state;

11 (2) injunctive relief; or

12 (3) any other equitable remedy determined to be
13 appropriate by the court.

14 (c) This section is cumulative of all other remedies and
15 does not affect:

16 (1) the liability of a management company to the
17 charter holder; or

18 (2) the liability of a charter holder, a member of the
19 governing body of a charter holder, or a member of the governing
20 body of a public charter district to the state.

21 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

22 (a) The charter holder or the governing body of a public charter
23 district may not accept a loan from a management company that has a
24 contract to provide management services to:

25 (1) the district; or

26 (2) another public charter district that operates
27 under a charter granted to the charter holder.

28 (b) A charter holder or the governing body of a public

1 charter district that accepts a loan from a management company may
2 not enter into a contract with that management company to provide
3 management services to the district.

4 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any
5 contract, including a contract renewal, between a public charter
6 district and a management company proposing to provide management
7 services to the district must require the management company to
8 maintain all records related to the management services separately
9 from any other records of the management company.

10 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS
11 PROHIBITED. The commissioner may prohibit, deny renewal of,
12 suspend, or revoke a contract between a public charter district and
13 a management company providing management services to the district
14 if the commissioner determines that the management company has:

15 (1) failed to provide educational or related services
16 in compliance with the company's contractual or other legal
17 obligation to any public charter district in this state or to any
18 other similar entity in another state;

19 (2) failed to protect the health, safety, or welfare
20 of the students enrolled at a public charter district served by the
21 company;

22 (3) violated this chapter or a rule adopted under this
23 chapter; or

24 (4) otherwise failed to comply with any contractual or
25 other legal obligation to provide services to the district.

26 [Sections 11A.163-11A.200 reserved for expansion]

27 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

28 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent

1 with Subsection (c), a charter holder is entitled to receive for the
2 public charter district funding under Chapter 42 as if the public
3 charter district were a school district without a local share for
4 purposes of Section 42.306 and without any local revenue ("LR") for
5 purposes of Section 42.252. In determining funding for a public
6 charter district, adjustments under Sections 42.301, 42.302, and
7 42.303 and the district enrichment tax rate ("DETR") under Section
8 42.252 are based on the average adjustment and average district
9 enrichment tax rate for the state.

10 (a-1) Notwithstanding Subsection (a), an entity granted a
11 charter under Section 11A.1041 is entitled to receive funding for
12 each student in weighted average daily attendance in an amount
13 equal to the greater of the amount determined under Subsection (a)
14 or the amount to which the entity was entitled for the 2003-2004 or
15 2004-2005 school year, as determined by the commissioner. A
16 determination of the commissioner under this subsection is final
17 and not subject to appeal. This subsection expires September 1,
18 2013.

19 (b) To the extent consistent with Subsection (c), a public
20 charter district is entitled to funds that are available to school
21 districts from the agency or the commissioner, including grants and
22 other discretionary funding and any teacher incentive payments
23 under Section 39.113, unless the statute authorizing the funding
24 explicitly provides that a public charter district is not entitled
25 to the funding.

26 (c) A charter holder is entitled to receive for a public
27 charter district funding under this section only if the holder:

28 (1) provides information for the Public Education

1 Information Management System (PEIMS) as required by this chapter;

2 (2) submits to the commissioner appropriate fiscal and
3 financial records as required by this chapter and the commissioner;
4 and

5 (3) receives an annual unqualified opinion in the
6 standard report filed pursuant to Section 11A.210.

7 (d) The commissioner shall suspend the funding of a charter
8 holder that fails to comply with Subsection (c) until the
9 commissioner determines that the charter holder is in compliance or
10 has cured any noncompliance and has adopted adequate procedures to
11 prevent future noncompliance.

12 (e) The commissioner may adopt rules to provide and account
13 for state funding of public charter districts under this section. A
14 rule adopted under this section may be similar to a provision of
15 this code that is not similar to Section 11A.052(b) if the
16 commissioner determines that the rule is related to financing of
17 public charter districts and is necessary or prudent to provide or
18 account for state funds.

19 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF
20 SALARIES. (a) This section applies to a charter holder that on
21 January 1, 2005, operated an open-enrollment charter school under
22 former Subchapter D, Chapter 12.

23 (b) A charter holder that participated in the program under
24 Chapter 1579, Insurance Code, for the 2004-2005 school year is
25 entitled to state aid in an amount, as determined by the
26 commissioner, equal to the difference, if any, between:

27 (1) an amount equal to the product of \$3,000
28 multiplied by the number of classroom teachers, full-time

1 librarians, and full-time counselors certified under Subchapter B,
2 Chapter 21, and full-time school nurses appropriately licensed
3 under Chapter 301, Occupations Code, who are employed by the
4 charter holder at a public charter district; and

5 (2) the amount of additional money to which the
6 charter holder is entitled as a result of S.B. No. 8, Acts of the
7 79th Legislature, 2nd Called Session, 2005.

8 (c) A charter holder that did not participate in the program
9 under Chapter 1579, Insurance Code, for the 2004-2005 school year
10 is entitled to state aid in an amount, as determined by the
11 commissioner, equal to the difference, if any, between:

12 (1) an amount equal to the product of \$2,000
13 multiplied by the number of classroom teachers, full-time
14 librarians, and full-time counselors certified under Subchapter B,
15 Chapter 21, and full-time school nurses appropriately licensed
16 under Chapter 301, Occupations Code, who are employed by the
17 charter holder at a public charter district; and

18 (2) the amount of additional money to which the
19 charter holder is entitled as a result of S.B. No. 8, Acts of the
20 79th Legislature, 2nd Called Session, 2005.

21 (d) A charter holder is not entitled to funds under
22 Subsection (b) or (c) if the amount of additional funds to which the
23 charter holder is entitled as a result of S.B. No. 8, Acts of the
24 79th Legislature, 2nd Called Session, 2005, is sufficient to pay
25 the amounts described by Subsection (b) or (c), as determined by the
26 commissioner.

27 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS.

28 (a) In this section, "instructional facility" has the meaning

1 assigned by Section 46.001.

2 (b) A charter holder is initially eligible for
3 instructional facilities allotments in accordance with this
4 section if:

5 (1) any campus of a public charter district for which
6 the charter holder has been granted a license has for two
7 consecutive school years been rated exemplary or recognized under
8 Subchapter D, Chapter 39, or has performed at a comparable level, as
9 determined by the commissioner for purposes of this section; and

10 (2) on the most recent audit of the financial
11 operations of the district conducted pursuant to Section 11A.210,
12 the district has satisfied generally accepted accounting standards
13 of fiscal management as evidenced by an unqualified opinion in the
14 standard report issued and filed pursuant to Section 11A.210.

15 (b-1) Notwithstanding Subsection (b), a charter holder is
16 eligible for instructional facilities allotments for the 2006-2007
17 school year in accordance with this section if any campus of a
18 public charter district for which the charter holder has been
19 granted a license has been rated exemplary or recognized under
20 Subchapter D, Chapter 39, for at least two of the 2003-2004,
21 2004-2005, and 2005-2006 school years.

22 (b-2) Subsection (b-1) and this subsection expire September
23 1, 2007.

24 (c) Once a public charter district satisfies the initial
25 eligibility requirements under Subsection (b) and receives an
26 allotment under this section, the district continues to remain
27 eligible until the district receives an accountability rating of
28 unacceptable under Subchapter D, Chapter 39, at which point the

1 district is again subject to the eligibility requirements of
2 Subsection (b).

3 (d) The commissioner annually shall review the eligibility
4 of a public charter district campus for purposes of this section.

5 (e) Except as otherwise provided by this section, a charter
6 holder is entitled to an annual allotment in an amount determined by
7 the commissioner, not to exceed \$1,000 or a different amount
8 provided by appropriation, for each student in average daily
9 attendance during the preceding year at a campus of a public charter
10 district that is eligible for an allotment under this section.

11 (f) A charter holder who receives funds under this section
12 may use the funds only to:

13 (1) purchase real property on which to construct an
14 instructional facility for a public charter district campus for
15 which the funds were paid under Subsection (e);

16 (2) purchase, lease, construct, expand, or renovate
17 instructional facilities for a public charter district campus for
18 which the funds were paid under Subsection (e);

19 (3) pay debt service in connection with instructional
20 facilities purchased or improved for a campus of the public charter
21 district that meets the requirements under Subsection (b); or

22 (4) maintain and operate public charter district
23 instructional facilities.

24 (g) A decision of the commissioner under Subsection (e) is
25 final and may not be appealed.

26 (h) The commissioner shall by rule establish procedures to
27 ensure that funds a charter holder claims to be using for purposes
28 of Subsection (f)(3) are used only for that purpose.

1 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received
2 under Section 11A.201 or 11A.202 by a charter holder:

3 (1) are considered to be public funds for all purposes
4 under state law;

5 (2) are held in trust by the charter holder for the
6 benefit of this state and the students of the public charter
7 district;

8 (3) may be used only for a purpose for which a school
9 may use local funds under Section 45.105(c) in the case of funds
10 received under Section 11A.201, and may be used only for a purpose
11 specified under Section 11A.202(f) in the case of funds received
12 under Section 11A.202; and

13 (4) pending their use, must be deposited into a bank,
14 as defined by Section 45.201, with which the charter holder has
15 entered into a depository contract under Section 11A.204.

16 (b) Funds deposited under Subsection (a)(4) may be directly
17 deposited into an account controlled by a bond trustee acting for
18 the charter holder pursuant to a bond indenture agreement requiring
19 direct deposit.

20 (c) The commissioner shall adopt rules for identifying
21 public funds in accordance with Subsection (a).

22 (d) The commissioner may bring an action in district court
23 in Travis County for injunctive or other relief to enforce this
24 section. In identifying public funds held by a charter holder, the
25 court shall use the criteria adopted by the commissioner under
26 Subsection (c). Except as otherwise provided by this subsection,
27 the court shall enter any order under this subsection concerning
28 public funds held by the charter holder necessary to best serve the

1 interests of the students of a public charter district. In the case
2 of a public charter district that has ceased to operate, the court
3 shall enter any order under this subsection concerning public funds
4 held by the charter holder necessary to best serve the interests of
5 this state.

6 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank
7 selected as a school depository and the charter holder shall enter
8 into a depository contract, bond, or other necessary instrument
9 setting forth the duties and agreements pertaining to the
10 depository, in a form and with the content prescribed by the State
11 Board of Education.

12 (b) The depository bank shall attach to the contract and
13 file with the charter holder a bond in an initial amount equal to
14 the estimated highest daily balance, determined by the charter
15 holder, of all deposits that the charter holder will have in the
16 depository during the term of the contract, less any applicable
17 Federal Deposit Insurance Corporation insurance. The bond must be
18 payable to the charter holder and must be signed by the depository
19 bank and by a surety company authorized to engage in business in
20 this state. The depository bank shall increase the amount of the
21 bond if the charter holder determines the increase is necessary to
22 adequately protect the funds of the charter holder deposited with
23 the depository bank.

24 (c) The bond shall be conditioned on:

25 (1) the faithful performance of all duties and
26 obligations imposed by law on the depository;

27 (2) the payment on presentation of all checks or
28 drafts on order of the charter holder, in accordance with its orders

1 entered by the charter holder according to law;

2 (3) the payment on demand of any demand deposit in the
3 depository;

4 (4) the payment, after the expiration of the period of
5 notice required, of any time deposit in the depository;

6 (5) the faithful keeping of school funds by the
7 depository and the accounting for the funds according to law; and

8 (6) the faithful paying over to the successor
9 depository all balances remaining in the accounts.

10 (d) The bond and the surety on the bond must be approved by
11 the charter holder. A premium on the depository bond may not be
12 paid out of charter holder funds related to operation of the public
13 charter district.

14 (e) The charter holder shall file a copy of the depository
15 contract and bond with the agency.

16 (f) Instead of the bond required under Subsection (b), the
17 depository bank may deposit or pledge, with the charter holder or
18 with a trustee designated by the charter holder, approved
19 securities, as defined by Section 45.201, in an amount sufficient
20 to adequately protect the funds of the charter holder deposited
21 with the depository bank. A depository bank may give a bond and
22 deposit or pledge approved securities in an aggregate amount
23 sufficient to adequately protect the funds of the charter holder
24 deposited with the depository bank. The charter holder shall
25 periodically designate the amount of approved securities or the
26 aggregate amount of the bond and approved securities necessary to
27 adequately protect the charter holder. The charter holder may not
28 designate an amount less than the balance of charter holder funds on

1 deposit with the depository bank from day to day, less any
2 applicable Federal Deposit Insurance Corporation insurance. The
3 depository bank may substitute approved securities on obtaining the
4 approval of the charter holder. For purposes of this subsection,
5 the approved securities are valued at their market value.

6 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter
7 holder who accepts state funds under Section 11A.201 or 11A.202
8 agrees to be subject to all requirements, prohibitions, and
9 sanctions authorized under this chapter.

10 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE
11 FUNDS. (a) Property purchased or leased with funds received by a
12 charter holder under Section 11A.201 or 11A.202:

13 (1) is considered to be public property for all
14 purposes under state law;

15 (2) is held in trust by the charter holder for the
16 benefit of this state and the students of the public charter
17 district; and

18 (3) may be used only for a purpose for which a school
19 district may use school district property.

20 (b) The commissioner shall:

21 (1) take possession and assume control of the property
22 described by Subsection (a) of a public charter district that
23 ceases to operate; and

24 (2) supervise the disposition of the property in
25 accordance with law.

26 (c) This section does not affect the priority of a security
27 interest in or lien on property established by a creditor in
28 compliance with law if the security interest or lien arose in

1 connection with the sale or lease of the property to the charter
2 holder.

3 (d) The commissioner shall adopt rules for identifying
4 public property in accordance with Subsection (a).

5 (e) The commissioner may bring an action in district court
6 in Travis County for injunctive or other relief to enforce this
7 section. In identifying public property held by a charter holder,
8 the court shall use the criteria adopted by the commissioner under
9 Subsection (d). Except as otherwise provided by this subsection,
10 the court shall enter any order under this subsection concerning
11 public property held by the charter holder necessary to best serve
12 the interests of the students of a public charter district. In the
13 case of a public charter district that has ceased to operate, the
14 court shall enter any order under this subsection concerning public
15 property held by the charter holder necessary to best serve the
16 interests of this state. The court may order title to real or
17 personal public property held by the charter holder transferred to
18 a trust established for the purpose of managing the property or may
19 make other disposition of the property necessary to best serve the
20 interests of this state.

21 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER
22 DISTRICT LAND OR FACILITIES. A municipality to which a charter is
23 granted under this chapter may borrow funds, issue obligations, or
24 otherwise spend its funds to acquire land or acquire, construct,
25 expand, or renovate school buildings or facilities and related
26 improvements for its public charter district within the city limits
27 of the municipality in the same manner the municipality is
28 authorized to borrow funds, issue obligations, or otherwise spend

1 its funds in connection with any other public works project.

2 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND
3 TECHNOLOGY. A public charter district is entitled to funding for
4 instructional materials under Chapter 31 and technology under
5 Subchapter A, Chapter 32, and is subject to those provisions as if
6 the public charter district were a school district.

7 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public
8 charter district shall annually adopt a budget for the district.

9 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public
10 charter district shall conduct an annual audit in a manner that
11 complies with Section 44.008.

12 [Sections 11A.211-11A.250 reserved for expansion]

13 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

14 Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by
15 this section, a public charter district may not discriminate in
16 admission policy on the basis of sex, national origin, ethnicity,
17 religion, disability, or academic, artistic, or athletic ability or
18 the district the child would otherwise attend in accordance with
19 this code.

20 (b) A public charter district admission policy may provide
21 for the exclusion of a student who has a documented history of a
22 criminal offense, a juvenile court adjudication, or discipline
23 problems under Subchapter A, Chapter 37.

24 (c) A public charter district admission policy may require a
25 student to demonstrate artistic ability if the school specializes
26 in performing arts.

27 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to
28 a public charter district campus, the governing body of the

1 district shall:

2 (1) require the applicant to complete and submit an
3 application not later than a reasonable deadline the district
4 establishes; and

5 (2) on receipt of more acceptable applications for
6 admission under this section than available positions in the
7 school:

8 (A) fill the available positions by lottery; or

9 (B) subject to Subsection (b), fill the available
10 positions in the order in which applications received before the
11 application deadline were received.

12 (b) A public charter district may fill applications for
13 admission under Subsection (a)(2)(B) only if the district published
14 a notice of the opportunity to apply for admission to the district.
15 A notice published under this subsection must:

16 (1) state the application deadline;

17 (2) be published in a newspaper of general circulation
18 in the community in which the district campus is located not later
19 than the seventh day before the application deadline; and

20 (3) be made available on the public charter district's
21 Internet website, if available.

22 (c) A public charter district may exempt an applicant from
23 the requirements of Subsection (a)(2) if the applicant is:

24 (1) the child or grandchild of a member of the
25 governing body of the charter holder at the time the district's
26 charter was first granted;

27 (2) the child of an employee of the district or the
28 charter holder; or

1 (3) a sibling of a student who is enrolled in the
2 district.

3 (d) A public charter district that specializes in one or
4 more performing arts may require an applicant to audition for
5 admission to the school.

6 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided
7 by Subsection (b) or as otherwise determined impracticable by the
8 commissioner, during a public charter district's first year of
9 operation, the district must have a student enrollment of at least
10 100 and not more than 500 at any time during the school year.

11 (b) A public charter district may have a student enrollment
12 of less than 100 if approved by the commissioner.

13 (c) Not later than a public charter district's third year of
14 operation, at least 25 percent of the district's students must be
15 enrolled in one or more grade levels for which assessment
16 instruments are administered under Section 39.023(a).

17 (d) The commissioner may grant a waiver from the
18 requirements of Subsection (c) for a public charter district that
19 opens a campus serving prekindergarten or kindergarten students and
20 agrees to:

21 (1) add at least one higher grade level class each
22 school year after opening the campus; and

23 (2) until the campus complies with Subsection (c),
24 adopt accountability measures to assess the performance of the
25 students not assessed under Section 39.023(a).

26 (e) The commissioner may grant a waiver from the
27 requirements of Subsection (c) for a public charter district that
28 was operating an open-enrollment charter school campus on January

1 1, 2005, serving prekindergarten, kindergarten, and first, second,
2 and third grade students if the public charter district:

3 (1) adopts one or more nationally norm-referenced
4 assessment instruments approved by the commissioner;

5 (2) administers the assessment instruments to its
6 second grade students at intervals and in the manner specified by
7 commissioner rule; and

8 (3) meets the applicable standards for student
9 performance on the assessment instruments, as determined by
10 commissioner rule.

11 (f) The commissioner shall adopt rules necessary to
12 implement this section.

13 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public
14 charter district may not charge tuition to an eligible student who
15 applies for admission to the district under this chapter.

16 (b) The governing body of a public charter district may
17 require a student to pay any fee that the board of trustees of a
18 school district may charge under Section 11.158(a). The governing
19 body may not require a student to pay a fee that the board of
20 trustees of a school district may not charge under Section
21 11.158(b).

22 Sec. 11A.255. TRANSPORTATION. A public charter district
23 shall provide transportation to each student attending the school
24 to the same extent a school district is required by law to provide
25 transportation to district students.

26 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY
27 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The
28 governing body of a public charter district shall adopt a code of

1 conduct for the district or for each campus in the district.

2 (b) The code of conduct must include:

3 (1) standards for student behavior, including the
4 types of prohibited behaviors and the possible consequences of
5 misbehavior; and

6 (2) the district's due process procedures regarding
7 expulsion of a student.

8 (c) A final decision of the governing body of a public
9 charter district regarding action taken under the code of conduct
10 may not be appealed.

11 (d) A public charter district may not expel a student for a
12 reason that is not authorized by Section 37.007 or specified in the
13 district's code of conduct as conduct that may result in expulsion.

14 (e) Section 37.002 does not apply to a public charter
15 district except to the extent specified by the governing body of the
16 public charter district in the district's code of conduct.

17 [Sections 11A.257-11A.300 reserved for expansion]

18 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

19 Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except
20 as otherwise required by this section or chapter, a person employed
21 as a teacher by a public charter district must hold a high school
22 diploma.

23 (b) To the extent required by federal law, including 20
24 U.S.C. Section 7801(11), a person employed as a teacher by a public
25 charter district must hold a baccalaureate degree.

26 Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE
27 QUALIFICATIONS. (a) Each public charter district shall provide to
28 the parent or guardian of each student enrolled at a campus in the

1 district written notice of the qualifications of each professional
2 employee, including each teacher, employed at the campus.

3 (b) The notice must include:

4 (1) any professional or educational degree held by the
5 employee;

6 (2) a statement of any certification under Subchapter
7 B, Chapter 21, held by the employee; and

8 (3) any relevant experience of the employee.

9 Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The
10 governing body of a public charter district shall obtain a complete
11 set of fingerprints from each person described by Section
12 21.0032(a).

13 Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF
14 CERTAIN APPLICANTS. A public charter district must comply with
15 Section 21.0032 before employing or otherwise securing the services
16 of a person as a teacher, teacher intern or trainee, librarian,
17 educational aide, administrator, or counselor, regardless of
18 whether the applicant is certified under Subchapter B, Chapter 21.

19 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
20 TEXAS. (a) An employee of a public charter district who qualifies
21 for membership in the Teacher Retirement System of Texas shall be
22 covered under the system to the same extent a qualified employee of
23 a school district is covered.

24 (b) For each employee of a public charter district covered
25 under the system, the public charter district is responsible for
26 making any contribution that otherwise would be the legal
27 responsibility of a school district, and the state is responsible
28 for making contributions to the same extent it would be legally

1 responsible if the employee were a school district employee.

2 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

3 (a) This section applies to a charter holder that on January 1,
4 2005, operated an open-enrollment charter school under former
5 Subchapter D, Chapter 12.

6 (b) Using state funds received by the charter holder for
7 that purpose under Section 11A.2011, each school year a charter
8 holder that participated in the program under Chapter 1579,
9 Insurance Code, for the 2004-2005 school year shall provide
10 employees of the charter holder, other than administrators,
11 compensation in the form of annual salaries, incentives, or other
12 compensation determined appropriate by the charter holder that
13 results in an average compensation increase for the employees of
14 \$3,000.

15 (c) Using state funds received by the charter holder for
16 that purpose under Section 11A.2011, each school year a charter
17 holder that did not participate in the program under Chapter 1579,
18 Insurance Code, for the 2004-2005 school year shall provide
19 employees of the charter holder, other than administrators,
20 compensation in the form of annual salaries, incentives, or other
21 compensation determined appropriate by the charter holder that
22 results in an average compensation increase for the employees of
23 \$2,000.

24 (d) A payment under this section is in addition to wages the
25 charter holder would otherwise pay the employee during the school
26 year.

27 [Sections 11A.307-11A.350 reserved for expansion]

1 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

2 Sec. 11A.351. AUDIT. (a) To the extent consistent with
3 this section, the commissioner may audit the records of:

4 (1) a public charter district or campus;

5 (2) a charter holder; and

6 (3) a management company.

7 (b) An audit under Subsection (a) must be limited to matters
8 directly related to the management or operation of a public charter
9 district, including any financial, student, and administrative
10 records.

11 (c) Unless the commissioner has specific cause to conduct an
12 additional audit, the commissioner may not conduct more than one
13 on-site audit of a public charter district under this section
14 during any fiscal year, including any audit of financial, student,
15 and administrative records. For purposes of this subsection, an
16 audit of a charter holder or management company associated with a
17 public charter district is not considered an audit of the district.

18 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a
19 subpoena to compel the attendance and testimony of a witness or the
20 production of materials relevant to an audit or investigation under
21 this chapter.

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

24 (c) If a person fails to comply with a subpoena issued under
25 this section, the commissioner, acting through the attorney
26 general, may file suit to enforce the subpoena in a district court
27 in Travis County or in the county in which the audit or
28 investigation is conducted. The court shall order compliance with

1 the subpoena if the court finds that good cause exists to issue the
2 subpoena.

3 (d) This section expires September 1, 2007.

4 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take
5 any of the actions described by Subsection (b) or by Section
6 39.131(a), to the extent the commissioner determines necessary, if
7 a public charter district, as determined by a report issued under
8 Section 39.076(b):

9 (1) commits a material violation of the district's
10 charter;

11 (2) fails to satisfy generally accepted accounting
12 standards of fiscal management; or

13 (3) fails to comply with this chapter or another
14 applicable rule or law.

15 (b) The commissioner may temporarily withhold funding,
16 suspend the authority of a public charter district to operate, or
17 take any other reasonable action the commissioner determines
18 necessary to protect the health, safety, or welfare of students
19 enrolled at a district campus based on evidence that conditions at
20 the district campus present a danger to the health, safety, or
21 welfare of the students.

22 (c) After the commissioner acts under Subsection (b), the
23 public charter district may not receive funding and may not resume
24 operating until a determination is made that:

25 (1) despite initial evidence, the conditions at the
26 district campus do not present a danger of material harm to the
27 health, safety, or welfare of students; or

28 (2) the conditions at the district campus that

1 presented a danger of material harm to the health, safety, or
2 welfare of students have been corrected.

3 (d) Not later than the third business day after the date the
4 commissioner acts under Subsection (b), the commissioner shall
5 provide the charter holder an opportunity for a hearing. This
6 subsection does not apply to an action taken by the commissioner
7 under Chapter 39.

8 (e) Immediately after a hearing under Subsection (d), the
9 commissioner must cease the action under Subsection (b) or initiate
10 action under Section 11A.108.

11 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN
12 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the
13 Foundation School Program, the commissioner shall reduce the total
14 amount of state funds allocated to each district from any source in
15 the same manner described for a reduction in allotments under
16 Section 42.313 and adopt and implement a program for supervising
17 the administration of assessment instruments under Section 39.023
18 during the 2005-2006 school year at an open-enrollment charter
19 school, other than a school operated by an entity described by
20 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent
21 of all students enrolled at the school and administered an
22 assessment instrument under Section 39.023(a), (c), or (l)
23 performed satisfactorily on:

24 (1) the assessment instrument in mathematics, as
25 determined by the school's assessment instrument results for the
26 2004-2005 school year; or

27 (2) the assessment instrument in reading or English
28 language arts, as applicable, as determined by the school's

1 assessment instrument results for the 2004-2005 school year.

2 (b) The program adopted under Subsection (a) must be
3 designed to:

4 (1) ensure that the location at which an assessment
5 instrument is administered is secure and under the supervision of
6 persons who do not have any interest in the results of the
7 assessment instrument; and

8 (2) provide direct supervision of:

9 (A) the transportation of the assessment
10 instrument materials to and from the location at which the
11 instrument is administered; and

12 (B) the administration of the assessment
13 instrument to students.

14 (c) The commissioner may adopt rules necessary to
15 administer this section and may take any action that the
16 commissioner determines necessary to ensure the integrity of the
17 results of an assessment instrument administered at an
18 open-enrollment charter school described by Subsection (a).

19 (d) After deducting the amount withheld under Subsection
20 (a) from the total amount appropriated for the Foundation School
21 Program, the commissioner shall reduce the total amount of state
22 funds allocated to each district from any source in the same manner
23 described for a reduction in allotments under Section 42.313.

24 (e) An open-enrollment charter school's failure to fully
25 cooperate with the commissioner under this section is sufficient
26 grounds for revocation of the district's charter, as determined by
27 the commissioner.

28 (f) This section expires September 1, 2006.

1 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The
2 commissioner shall periodically consult with representatives of
3 charter holders regarding the duties and mission of the agency
4 relating to the operation of public charter districts. The
5 commissioner shall determine the frequency of the consultations.

6 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing
7 in this chapter may be construed to limit the commissioner's
8 authority under Chapter 39.

9 Sec. 11A.356. RULES. The commissioner may adopt rules for
10 the administration of this chapter.

11 [Sections 11A.357-11A.400 reserved for expansion]

12 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

13 Sec. 11A.401. AUTHORIZATION. (a) In this section,
14 "eligible entity" means an organization that is exempt from
15 taxation under Section 501(a), Internal Revenue Code of 1986, as an
16 organization described by Section 501(c)(3) of that code.

17 (b) In accordance with this subchapter, the commissioner
18 may authorize not more than three charter holders to grant a charter
19 to an eligible entity to operate a blue ribbon charter campus if:

20 (1) the charter holder proposes to grant the blue
21 ribbon charter to replicate a distinctive education program;

22 (2) the charter holder has demonstrated the ability to
23 replicate the education program;

24 (3) the education program has been implemented by the
25 charter holder for at least seven school years; and

26 (4) the charter school in which the charter holder has
27 implemented the program has been rated recognized or exemplary
28 under Section 39.072 for at least five school years.

1 (b-1) An eligible entity that assumed operation of an
2 existing charter school program during the seven years preceding
3 the proposed authorization under Subsection (b) may be authorized
4 to grant a blue ribbon charter under Subsection (b) if:

5 (1) the performance level of the program at a campus
6 before and after the entity assumed operation of the program meets
7 the qualifications described by Subsection (b); and

8 (2) the entity has met the qualifications described by
9 Subsection (b) since assuming operation of the program.

10 (c) A charter holder may grant a blue ribbon charter only to
11 an applicant that meets any financial, governing, and operational
12 standards adopted by the commissioner under this subchapter.

13 (d) A charter holder may grant not more than two blue ribbon
14 charters under this subchapter.

15 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue
16 ribbon charter campus is considered a public charter district
17 campus for purposes of state and federal law.

18 (b) A blue ribbon charter granted under this subchapter is
19 not considered for purposes of the limit on the number of public
20 charter districts imposed by Section 11A.002.

21 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE
22 RIBBON CHARTER CAMPUS. (a) The governing body of the public
23 charter district authorizing a blue ribbon charter is responsible
24 for the management and operation of the campus operated under a
25 blue ribbon charter. A blue ribbon charter campus is subject to the
26 rules and policies of the governing body of the charter holder that
27 granted the blue ribbon charter.

28 (b) For purposes of academic and financial accountability

1 and all other purposes under this chapter and Chapter 39, a blue
2 ribbon charter campus is considered a campus of the public charter
3 district operated by the charter holder that granted the blue
4 ribbon charter.

5 (c) A charter holder is entitled to receive funding for a
6 blue ribbon charter campus as if the blue ribbon charter campus were
7 a campus of the public charter district operated by the charter
8 holder.

9 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The
10 commissioner by rule shall adopt an application form and procedures
11 for a charter holder to apply for authorization to grant a blue
12 ribbon charter to an eligible entity under this subchapter.

13 (b) The application must specify:

14 (1) the criteria that will be used to grant blue ribbon
15 charters;

16 (2) procedures for governance and management of
17 campuses operating under a blue ribbon charter; and

18 (3) the performance standard by which continuation of
19 a blue ribbon charter will be determined.

20 (c) A determination by the commissioner regarding an
21 application under this section is final and may not be appealed.

22 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The
23 commissioner may revoke a charter holder's authorization to grant a
24 blue ribbon charter or operate a campus granted a blue ribbon
25 charter if the commissioner determines that the purposes of this
26 subchapter are not being satisfied.

27 (b) On revocation of a charter holder's authority under this
28 section, the charter holder shall:

1 (1) operate a campus granted a blue ribbon charter as a
2 standard campus of the charter holder under this chapter; or

3 (2) close the campus effective at the end of the school
4 year in which the commissioner revokes the authorization.

5 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter
6 granted under this subchapter must:

7 (1) describe the educational program to be offered,
8 which may be a general or specialized education program;

9 (2) provide that continuation of the charter is
10 contingent on satisfactory student performance under Subchapter B,
11 Chapter 39, and on compliance with other applicable accountability
12 provisions under Chapter 39;

13 (3) specify any basis, in addition to a basis
14 specified by this subchapter, on which the charter may be placed on
15 probation or revoked;

16 (4) prohibit discrimination in admission on the basis
17 of national origin, ethnicity, race, religion, or disability;

18 (5) describe the governing structure of the blue
19 ribbon charter campus;

20 (6) specify any procedure or requirement, in addition
21 to those under Chapter 38, that the campus will follow to ensure the
22 health and safety of students and employees; and

23 (7) describe the manner in which the campus and
24 charter holder granting the blue ribbon charter will comply with
25 financial and operational requirements, including requirements
26 related to the Public Education Information Management System
27 (PEIMS) under Section 11A.158 and the audit requirements under
28 Section 11A.210.

1 (2) "Records" means government records, as determined
2 under Section 12.1052, as that section existed on January 1, 2005.

3 Sec. 11A.452. APPLICABILITY. The commissioner shall
4 appoint a receiver under this subchapter for each open-enrollment
5 charter school that on June 1, 2005, was operating under a charter
6 issued under Subchapter D, Chapter 12, as that subchapter existed
7 on January 1, 2005, and:

8 (1) is not authorized to operate as a public charter
9 district under this chapter; or

10 (2) elects not to operate as a public charter district
11 under this chapter.

12 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED.

13 (a) The commissioner shall appoint a receiver to protect the
14 assets and direct the dissolution of open-enrollment charter
15 schools subject to this subchapter.

16 (b) The receiver shall execute a bond in an amount set by the
17 commissioner to ensure the proper performance of the receiver's
18 duties.

19 (c) Until discharged by the commissioner, the receiver
20 shall perform the duties that the commissioner directs to preserve
21 the assets and direct the dissolution of the open-enrollment
22 charter school under this subchapter.

23 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After
24 appointment and execution of bond under Section 11A.453, the
25 receiver shall take possession of:

26 (1) assets and records in the possession of the
27 open-enrollment charter school specified by the commissioner; and

28 (2) any Foundation School Program funds and any other

1 public funds received by the school's charter holder.

2 (b) On request of the receiver, the attorney general shall
3 file a suit for attachment, garnishment, or involuntary bankruptcy
4 and take any other action necessary for the dissolution of an
5 open-enrollment charter school under this subchapter.

6 (c) If the charter holder of an open-enrollment charter
7 school or an officer or employee of such a school refuses to
8 transfer school assets or records to a receiver under this
9 subsection, the receiver may ask the attorney general to petition a
10 court for recovery of the assets or records. If the court grants
11 the petition, the court shall award attorney's fees and court costs
12 to the state.

13 (d) A record described by this section is a public school
14 record for purposes of Section 37.10(c)(2), Penal Code.

15 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall
16 wind up the affairs of an open-enrollment charter school and,
17 except as provided by Subsection (b), reduce its assets to cash for
18 the purpose of discharging all existing liabilities and obligations
19 of the school. In winding up the affairs of a school, the receiver
20 shall cooperate in any bankruptcy proceeding affecting the school.
21 The receiver shall distribute any remaining balance to the
22 commissioner.

23 (b) A receiver shall offer free of charge any equipment and
24 supplies of an open-enrollment charter school dissolved under this
25 subchapter to school districts, giving priority to districts based
26 on the percentage of the charter school's students that reside in
27 the districts.

28 (c) The commissioner shall use money in the foundation

1 school fund and money received under this section to pay the costs
2 described by Section 11A.458 and discharge liabilities and
3 obligations of open-enrollment charter schools under this
4 subchapter. The commissioner shall deposit any remaining balance
5 in the foundation school fund.

6 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of
7 an open-enrollment charter school subject to this subchapter shall
8 be transferred in the manner specified by the commissioner to a
9 custodian designated by the commissioner. The commissioner may
10 designate any appropriate entity to serve as custodian of records,
11 including the agency, a regional education service center, or a
12 school district. In designating a custodian, the commissioner
13 shall ensure that the transferred records, including student and
14 personnel records, are transferred to a custodian capable of:

15 (1) maintaining the records;

16 (2) making the records readily accessible to students,
17 parents, former school employees, and other persons entitled to
18 access; and

19 (3) complying with applicable state or federal law
20 restricting access to the records.

21 (b) The commissioner is entitled to access to any records
22 transferred to a custodian under this section as the commissioner
23 determines necessary for auditing, investigative, or monitoring
24 purposes.

25 Sec. 11A.457. LIABILITY. A receiver is not personally
26 liable for actions taken by the receiver under this subchapter.

27 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may
28 authorize reimbursement of reasonable costs related to the

1 receivership, including:

2 (1) payment of fees to the receiver for the receiver's
3 services; and

4 (2) payment of fees to attorneys, accountants, or any
5 other person that provides goods or services necessary to the
6 operation of the receivership.

7 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The
8 competitive bidding requirements of this code and the contracting
9 requirements of Chapter 2155, Government Code, do not apply to the
10 appointment of a receiver, attorney, accountant, or other person
11 appointed under this subchapter.

12 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is
13 amended by adding Sections 12.1058 and 12.135 to read as follows:

14 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT
15 PROVISIONS. (a) An open-enrollment charter school is subject to
16 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,
17 11A.304, 11A.352, 21.0032, and 21.058.

18 (b) The commissioner may bring an action for injunctive or
19 other relief as provided by Section 11A.203(d) to enforce Section
20 12.107.

21 (c) For purposes of this section, a reference in a law
22 described by this section to a public charter district means an
23 open-enrollment charter school.

24 Sec. 12.135. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.
25 (a) This section applies to a charter holder that on January 1,
26 2005, operated an open-enrollment charter school.

27 (b) Using state funds received by the charter holder for
28 that purpose under Subsection (d), each school year a charter

1 holder that participated in the program under Chapter 1579,
2 Insurance Code, for the 2004-2005 school year shall provide
3 employees of the charter holder, other than administrators,
4 compensation in the form of annual salaries, incentives, or other
5 compensation determined appropriate by the charter holder that
6 results in an average compensation increase for the employees of
7 \$2,000.

8 (c) Using state funds received by the charter holder for
9 that purpose under Subsection (e), each school year a charter
10 holder that did not participate in the program under Chapter 1579,
11 Insurance Code, for the 2004-2005 school year shall provide
12 employees of the charter holder, other than administrators,
13 compensation in the form of annual salaries, incentives, or other
14 compensation determined appropriate by the charter holder that
15 results in an average compensation increase for the employees of
16 \$1,000.

17 (d) In addition to any amounts to which a charter holder is
18 entitled under this chapter, a charter holder that participated in
19 the program under Chapter 1579, Insurance Code, for the 2004-2005
20 school year is entitled to state aid in an amount, as determined by
21 the commissioner, equal to the product of \$2,000 multiplied by the
22 number of classroom teachers, full-time librarians, full-time
23 counselors certified under Subchapter B, Chapter 21, and full-time
24 school nurses appropriately licensed under Chapter 301,
25 Occupations Code, who are employed by the charter holder at an
26 open-enrollment charter school.

27 (e) In addition to any amounts to which a charter holder is
28 entitled under this chapter, a charter holder that did not

1 participate in the program under Chapter 1579, Insurance Code, for
2 the 2004-2005 school year is entitled to state aid in an amount, as
3 determined by the commissioner, equal to the product of \$1,000
4 multiplied by the number of classroom teachers, full-time
5 librarians, full-time counselors certified under Subchapter B,
6 Chapter 21, and full-time school nurses appropriately licensed
7 under Chapter 301, Occupations Code, who are employed by the
8 charter holder at an open-enrollment charter school.

9 (f) A payment under this section is in addition to wages the
10 charter holder would otherwise pay the employee during the school
11 year.

12 SECTION 4.04. Sections 12.152 and 12.156, Education Code,
13 are amended to read as follows:

14 Sec. 12.152. AUTHORIZATION. ~~[(a)]~~ In accordance with this
15 subchapter and Chapter 11A ~~[Subchapter D]~~, the State Board of
16 Education may grant a charter on the application of a public senior
17 college or university for a public ~~[an open-enrollment]~~ charter
18 district ~~[school]~~ to operate on the campus of the public senior
19 college or university or in the same county in which the campus of
20 the public senior college or university is located.

21 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS.
22 (a) Except as otherwise provided by this subchapter, Chapter 11A
23 ~~[Subchapter D]~~ applies to a college or university charter school as
24 though the college or university charter school were granted a
25 charter under that chapter ~~[subchapter]~~.

26 (b) A charter granted under this subchapter is not
27 considered for purposes of the limit on the number of public
28 ~~[open-enrollment]~~ charter districts ~~[schools]~~ imposed by Section

1 11A.002 [~~12.101(b)~~].

2 (c) A college or university charter school is not subject to
3 a prohibition, restriction, or requirement relating to:

4 (1) open meetings and public information under Section
5 11A.053;

6 (2) maintenance of records under Section 11A.054;

7 (3) purchasing and contracting under Section 11A.055;

8 (4) conflict of interest under Section 11A.056;

9 (5) nepotism under Section 11A.057;

10 (6) composition of a governing body under Section
11 11A.152;

12 (7) restrictions on serving as a member of a governing
13 body or as an officer or employee under Section 11A.153;

14 (8) liability of members of a governing body under
15 Section 11A.154;

16 (9) training for members of a governing body under
17 Section 11A.155;

18 (10) bylaws and annual reports under Section 11A.156;

19 (11) quarterly financial reports under Section
20 11A.157; and

21 (12) depository bond and security requirements under
22 Section 11A.204.

23 (d) A college or university charter school and the governing
24 body of the school are subject to regulations and procedures that
25 govern a public senior college or university relating to open
26 meetings, records retention, purchasing, contracting, conflicts of
27 interest, and nepotism.

28 SECTION 4.05. Section 5.001, Education Code, is amended by

1 adding Subdivision (5-a) and amending Subdivision (6) to read as
2 follows:

3 (5-a) "Public charter campus" means a campus operated
4 by a public charter district.

5 (6) "Public charter district ~~[Open-enrollment charter~~
6 ~~school]~~" means a public school authorized by ~~[that has been~~
7 ~~granted]~~ a charter under Chapter 11A ~~[Subchapter D, Chapter 12]~~.

8 SECTION 4.06. Section 7.003, Education Code, is amended to
9 read as follows:

10 Sec. 7.003. LIMITATION ON AUTHORITY. An educational
11 function not specifically delegated to the agency or the board
12 under this code is reserved to and shall be performed by school
13 districts or ~~[open-enrollment]~~ charter schools.

14 SECTION 4.065. Subsection (b), Section 7.027, Education
15 Code, as renumbered by H.B. No. 2018, Acts of the 79th Legislature,
16 Regular Session, 2005, is amended to read as follows:

17 (b) The board of trustees of a school district or the
18 governing body of a public charter district ~~[an open-enrollment~~
19 ~~charter school]~~ has primary responsibility for ensuring that the
20 district ~~[or school]~~ complies with all applicable requirements of
21 state educational programs.

22 SECTION 4.07. Subdivision (17), Subsection (b), Section
23 7.055, Education Code, is amended to read as follows:

24 (17) The commissioner shall distribute funds to public
25 charter districts ~~[open-enrollment charter schools]~~ as required
26 under Chapter 11A ~~[Subchapter D, Chapter 12]~~.

27 SECTION 4.08. Subdivision (9), Subsection (c), Section
28 7.102, Education Code, is amended to read as follows:

1 (9) The board may grant a charter for a public charter
2 district [~~an open-enrollment charter or approve a charter revision~~]
3 as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

4 SECTION 4.09. Section 12.002, Education Code, is amended to
5 read as follows:

6 Sec. 12.002. CLASSES OF CHARTER. The classes of charter
7 under this chapter are:

8 (1) a home-rule school district charter as provided by
9 Subchapter B;

10 (2) a campus or campus program charter as provided by
11 Subchapter C; or

12 (3) a college or university [~~an open-enrollment~~]
13 charter as provided by Subchapter E [~~D~~].

14 SECTION 4.10. Effective August 1, 2006, Subchapter A,
15 Chapter 21, Education Code, is amended by adding Section 21.0032 to
16 read as follows:

17 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER
18 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or
19 serve as a teacher, teacher intern or teacher trainee, librarian,
20 educational aide, administrator, educational diagnostician, or
21 counselor for a public charter district unless the person has been
22 cleared by the agency following a national criminal history record
23 review and investigation under this section.

24 (b) Before or immediately after employing or securing the
25 services of a person described by Subsection (a), a public charter
26 district shall send to the agency the person's fingerprints and
27 social security number. The person may be employed or serve pending
28 action by the agency.

1 (c) The agency shall review and investigate the person's
2 national criminal history record information, educator
3 certification discipline history in any state, and other
4 information in the same manner as a review or investigation
5 conducted regarding an initial application for educator
6 certification. If the agency finds the person would not be eligible
7 for educator certification, the agency shall notify the public
8 charter district in writing that the person may not be employed or
9 serve in a capacity described by Subsection (a).

10 (d) On receipt of written notice under Subsection (c), a
11 public charter district may not employ or permit the person to serve
12 unless the person timely submits a written appeal under this
13 section. The agency shall conduct an appeal under this subsection
14 in the same manner as an appeal regarding the denial of an initial
15 application for educator certification.

16 SECTION 4.11. Subsections (b) and (c), Section 21.058,
17 Education Code, are amended to read as follows:

18 (b) Notwithstanding Section 21.041(b)(7), not later than
19 the fifth day after the date the board receives notice under Article
20 42.018, Code of Criminal Procedure, of the conviction of a person
21 described by Section 21.0032 or who holds a certificate under this
22 subchapter, the board shall:

23 (1) revoke the certificate or clearance held by the
24 person; and

25 (2) provide to the person and to any school district or
26 public charter district [~~open-enrollment charter school~~] employing
27 the person at the time of revocation written notice of:

28 (A) the revocation; and

1 (B) the basis for the revocation.

2 (c) A school district or public charter district
3 ~~[open-enrollment charter school]~~ that receives notice under
4 Subsection (b) of the revocation of a certificate issued under this
5 subchapter shall:

6 (1) immediately remove the person whose certificate
7 has been revoked from campus or from an administrative office, as
8 applicable, to prevent the person from having any contact with a
9 student; and

10 (2) as soon as practicable, terminate the employment
11 of the person in accordance with the person's contract and with this
12 subchapter.

13 SECTION 4.12. Subsections (b) and (c), Section 22.083,
14 Education Code, are amended to read as follows:

15 (b) A public charter district may ~~[An open-enrollment~~
16 ~~charter school shall]~~ obtain from the Department of Public Safety
17 ~~[any law enforcement or criminal justice agency]~~ all criminal
18 history record information that relates to:

19 (1) a person whom the district ~~[school]~~ intends to
20 employ in any capacity; or

21 (2) a person who has indicated, in writing, an
22 intention to serve as a volunteer with the district ~~[school]~~.

23 (c) A school district, public charter district
24 ~~[open-enrollment charter school]~~, private school, regional
25 education service center, or shared services arrangement may obtain
26 from a federal or state ~~[any]~~ law enforcement or criminal justice
27 agency all criminal history record information that relates to:

28 (1) a volunteer or employee of the district, school,

1 service center, or shared services arrangement; or

2 (2) an employee of or applicant for employment by a
3 person that contracts with the district, school, service center, or
4 shared services arrangement to provide services, if:

5 (A) the employee or applicant has or will have
6 continuing duties related to the contracted services; and

7 (B) the duties are or will be performed on school
8 property or at another location where students are regularly
9 present.

10 SECTION 4.13. Effective August 1, 2006, Section 22.084,
11 Education Code, is amended to read as follows:

12 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL
13 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided
14 by Subsections (c) and (d), a school district, public charter
15 district [~~open-enrollment charter school~~], private school,
16 regional education service center, or shared services arrangement
17 that contracts with a person for transportation services shall
18 obtain from the Department of Public Safety [~~any law enforcement or~~
19 ~~criminal justice agency~~] all criminal history record information
20 that relates to:

21 (1) a person employed by the person as a bus driver; or

22 (2) a person the person intends to employ as a bus
23 driver.

24 (b) Except as provided by Subsections (c) and (d), a person
25 that contracts with a school district, public charter district
26 [~~open-enrollment charter school~~], private school, regional
27 education service center, or shared services arrangement to provide
28 transportation services shall submit to the district, school,

1 service center, or shared services arrangement the name and other
2 identification data required to obtain criminal history record
3 information of each person described by Subsection (a). If the
4 district, school, service center, or shared services arrangement
5 obtains information that a person described by Subsection (a) has
6 been convicted of a felony or a misdemeanor involving moral
7 turpitude, the district, school, service center, or shared services
8 arrangement shall inform the chief personnel officer of the person
9 with whom the district, school, service center, or shared services
10 arrangement has contracted, and the person may not employ that
11 person to drive a bus on which students are transported without the
12 permission of the board of trustees of the district or service
13 center, the governing body of the public charter district
14 ~~[open-enrollment charter school]~~, or the chief executive officer of
15 the private school or shared services arrangement.

16 (c) A commercial transportation company that contracts with
17 a school district, public charter district ~~[open-enrollment~~
18 ~~charter school]~~, private school, regional education service
19 center, or shared services arrangement to provide transportation
20 services may obtain from a federal or state ~~[any]~~ law enforcement or
21 criminal justice agency all criminal history record information
22 that relates to:

23 (1) a person employed by the commercial transportation
24 company as a bus driver, bus monitor, or bus aide; or

25 (2) a person the commercial transportation company
26 intends to employ as a bus driver, bus monitor, or bus aide.

27 (d) If the commercial transportation company obtains
28 information that a person employed or to be employed by the company

1 has been convicted of a felony or a misdemeanor involving moral
2 turpitude, the company may not employ that person to drive or to
3 serve as a bus monitor or bus aide on a bus on which students are
4 transported without the permission of the board of trustees of the
5 district or service center, the governing body of the public
6 charter district [~~open-enrollment charter school~~], or the chief
7 executive officer of the private school or shared services
8 arrangement. Subsections (a) and (b) do not apply if information is
9 obtained as provided by Subsection (c).

10 SECTION 4.14. Section 25.087, Education Code, is amended by
11 amending Subsection (b) and adding Subsection (c) to read as
12 follows:

13 (b) A school district shall excuse a student from attending
14 school for:

15 (1) the following purposes, including travel for those
16 purposes:

17 (A) [~~purpose of~~] observing religious holy days;

18 (B) appearing at a governmental office to
19 complete paperwork required in connection with the student's
20 application for United States citizenship or to take part in a
21 naturalization oath ceremony;

22 (C) attending an appointment with the student's
23 probation officer;

24 (D) attending an adoption proceeding involving
25 the student; or

26 (E) attending a required court appearance; or

27 (2) a [~~, including traveling for that purpose. A~~
28 school district shall excuse a student for] temporary absence

1 resulting from health care professionals if that student commences
2 classes or returns to school on the same day of the appointment.

3 (c) A student whose absence is excused under Subsection (b)
4 ~~[this subsection]~~ may not be penalized for that absence and shall be
5 counted as if the student attended school for purposes of
6 calculating the average daily attendance of students in the school
7 district. A student whose absence is excused under Subsection (b)
8 ~~[this subsection]~~ shall be allowed a reasonable time to make up
9 school work missed on those days. If the student satisfactorily
10 completes the school work, the day of absence shall be counted as a
11 day of compulsory attendance.

12 SECTION 4.15. Section 25.088, Education Code, is amended to
13 read as follows:

14 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school
15 attendance officer may be selected by:

- 16 (1) the county school trustees of any county;
17 (2) the board of trustees of any school district or the
18 boards of trustees of two or more school districts jointly; or
19 (3) the governing body of a public charter district
20 ~~[an open-enrollment charter school]~~.

21 SECTION 4.16. Subsection (a), Section 25.089, Education
22 Code, is amended to read as follows:

23 (a) An attendance officer may be compensated from the funds
24 of the county, independent school district, or public charter
25 district ~~[open-enrollment charter school]~~, as applicable.

26 SECTION 4.17. Subsection (b), Section 25.090, Education
27 Code, is amended to read as follows:

28 (b) If the governing body of a public charter district ~~[an~~

1 ~~open-enrollment charter school~~] has not selected an attendance
2 officer for a district campus, the duties of attendance officer
3 shall be performed by the peace officers of the county in which the
4 campus ~~[school]~~ is located.

5 SECTION 4.18. Subsections (d) and (e), Section 25.093,
6 Education Code, are amended to read as follows:

7 (d) A fine collected under this section shall be deposited
8 as follows:

9 (1) one-half shall be deposited to the credit of the
10 operating fund of, as applicable:

11 (A) the school district in which the child
12 attends school;

13 (B) the public charter district ~~[open-enrollment~~
14 ~~charter school]~~ the child attends; or

15 (C) the juvenile justice alternative education
16 program that the child has been ordered to attend; and

17 (2) one-half shall be deposited to the credit of:

18 (A) the general fund of the county, if the
19 complaint is filed in the justice court or the constitutional
20 county court; or

21 (B) the general fund of the municipality, if the
22 complaint is filed in municipal court.

23 (e) At the trial of any person charged with violating this
24 section, the attendance records of the child may be presented in
25 court by any authorized employee of the school district or public
26 charter district ~~[open-enrollment charter school]~~, as applicable.

27 SECTION 4.19. Subsections (a) and (b), Section 25.095,
28 Education Code, are amended to read as follows:

1 (a) A school district or public charter district
2 ~~[open-enrollment charter school]~~ shall notify a student's parent in
3 writing at the beginning of the school year that if the student is
4 absent from school on 10 or more days or parts of days within a
5 six-month period in the same school year or on three or more days or
6 parts of days within a four-week period:

7 (1) the student's parent is subject to prosecution
8 under Section 25.093; and

9 (2) the student is subject to prosecution under
10 Section 25.094 or to referral to a juvenile court in a county with a
11 population of less than 100,000 for conduct that violates that
12 section.

13 (b) A school district or public charter district shall
14 notify a student's parent if the student has been absent from
15 school, without excuse under Section 25.087, on three days or parts
16 of days within a four-week period. The notice must:

17 (1) inform the parent that:

18 (A) it is the parent's duty to monitor the
19 student's school attendance and require the student to attend
20 school; and

21 (B) the parent is subject to prosecution under
22 Section 25.093; and

23 (2) request a conference between school officials and
24 the parent to discuss the absences.

25 SECTION 4.20. Subsection (a), Section 25.0951, Education
26 Code, as amended by H.B. No. 1575, Acts of the 79th Legislature,
27 Regular Session, 2005, is amended to read as follows:

28 (a) If a student fails to attend school without excuse on 10

1 or more days or parts of days within a six-month period in the same
2 school year, a school district or public charter district shall
3 within seven school days of the student's last absence:

4 (1) file a complaint against the student or the
5 student's parent or both in a county, justice, or municipal court
6 for an offense under Section 25.093 or 25.094, as appropriate, or
7 refer the student to a juvenile court in a county with a population
8 of less than 100,000 for conduct that violates Section 25.094; or

9 (2) refer the student to a juvenile court for conduct
10 indicating a need for supervision under Section 51.03(b)(2), Family
11 Code.

12 SECTION 4.21. Subsection (b), Section 25.0951, Education
13 Code, is amended to read as follows:

14 (b) If a student fails to attend school without excuse on
15 three or more days or parts of days within a four-week period but
16 does not fail to attend school for the time described by Subsection
17 (a), the school district or public charter district may:

18 (1) file a complaint against the student or the
19 student's parent or both in a county, justice, or municipal court
20 for an offense under Section 25.093 or 25.094, as appropriate, or
21 refer the student to a juvenile court in a county with a population
22 of less than 100,000 for conduct that violates Section 25.094; or

23 (2) refer the student to a juvenile court for conduct
24 indicating a need for supervision under Section 51.03(b)(2), Family
25 Code.

26 SECTION 4.22. Subsections (a), (c), (d), and (e), Section
27 26.0085, Education Code, are amended to read as follows:

28 (a) A school district or public charter district

1 ~~[open-enrollment charter school]~~ that seeks to withhold
2 information from a parent who has requested public information
3 relating to the parent's child under Chapter 552, Government Code,
4 and that files suit as described by Section 552.324, Government
5 Code, to challenge a decision by the attorney general issued under
6 Subchapter G, Chapter 552, Government Code, must bring the suit not
7 later than the 30th calendar day after the date the school district
8 or public charter district ~~[open-enrollment charter school]~~
9 receives the decision of the attorney general being challenged.

10 (c) Notwithstanding any other law, a school district or
11 public charter district ~~[open-enrollment charter school]~~ may not
12 appeal the decision of a court in a suit filed under Subsection (a).
13 This subsection does not affect the right of a parent to appeal the
14 decision.

15 (d) If the school district or public charter district
16 ~~[open-enrollment charter school]~~ does not bring suit within the
17 period established by Subsection (a), the school district or public
18 charter district ~~[open-enrollment charter school]~~ shall comply
19 with the decision of the attorney general.

20 (e) A school district or public charter district
21 ~~[open-enrollment charter school]~~ that receives a request from a
22 parent for public information relating to the parent's child shall
23 comply with Chapter 552, Government Code. If an earlier deadline
24 for bringing suit is established under Chapter 552, Government
25 Code, Subsection (a) does not apply. This section does not affect
26 the earlier deadline for purposes of Section 552.353(b)(3),
27 Government Code, ~~[552.353(b)(3)]~~ for a suit brought by an officer
28 for public information.

1 SECTION 4.23. Subsection (j), Section 28.0211, Education
2 Code, is amended to read as follows:

3 (j) A school district [~~or open-enrollment charter school~~]
4 shall provide students required to attend accelerated programs
5 under this section with transportation to those programs if the
6 programs occur outside of regular school hours.

7 SECTION 4.24. Subsection (f), Section 29.010, Education
8 Code, is amended to read as follows:

9 (f) This section does not create an obligation for or impose
10 a requirement on a school district [~~or open-enrollment charter~~
11 ~~school~~] that is not also created or imposed under another state law
12 or a federal law.

13 SECTION 4.25. Subsections (a) and (c), Section 29.012,
14 Education Code, are amended to read as follows:

15 (a) Except as provided by Subsection (b)(2), not later than
16 the third day after the date a person 22 years of age or younger is
17 placed in a residential facility, the residential facility shall:

18 (1) if the person is three years of age or older,
19 notify the school district in which the facility is located, unless
20 the facility is a public charter district [~~an open-enrollment~~
21 ~~charter school~~]; or

22 (2) if the person is younger than three years of age,
23 notify a local early intervention program in the area in which the
24 facility is located.

25 (c) For purposes of enrollment in a school, a person who
26 resides in a residential facility is considered a resident of the
27 school district or geographical area served by the public charter
28 district campus [~~open-enrollment charter school~~] in which the

1 facility is located.

2 SECTION 4.26. Subsections (c), (d), and (e), Section
3 29.062, Education Code, are amended to read as follows:

4 (c) Not later than the 30th day after the date of an on-site
5 monitoring inspection, the agency shall report its findings to the
6 school district [~~or open-enrollment charter school~~] and to the
7 division of accreditation.

8 (d) The agency shall notify a school district [~~or~~
9 ~~open-enrollment charter school~~] found in noncompliance in writing,
10 not later than the 30th day after the date of the on-site
11 monitoring. The district [~~or open-enrollment charter school~~] shall
12 take immediate corrective action.

13 (e) If a school district [~~or open-enrollment charter~~
14 ~~school~~] fails to satisfy appropriate standards adopted by the
15 commissioner for purposes of Subsection (a), the agency shall apply
16 sanctions, which may include the removal of accreditation, loss of
17 foundation school funds, or both.

18 SECTION 4.27. Subsections (a), (b), (b-1), (c), (e), (k),
19 and (l), Section 29.087, Education Code, are amended to read as
20 follows:

21 (a) The agency shall develop a process by which a school
22 district or public charter district [~~open-enrollment charter~~
23 ~~school~~] may apply to the commissioner for authority to operate a
24 program to prepare eligible students to take a high school
25 equivalency examination.

26 (b) Any school district or public charter district
27 [~~open-enrollment charter school~~] may apply for authorization to
28 operate a program under this section. As part of the application

1 process, the commissioner shall require a school district or public
2 charter district [~~or school~~] to provide information regarding the
3 operation of any similar program during the preceding five years.

4 (b-1) A school district or public charter district
5 [~~open-enrollment charter school~~] authorized by the commissioner on
6 or before August 31, 2003, to operate a program under this section
7 may continue to operate that program in accordance with this
8 section.

9 (c) A school district or public charter district
10 [~~open-enrollment charter school~~] may not increase enrollment of
11 students in a program authorized by this section by more than five
12 percent of the number of students enrolled in the similar program
13 operated by the school district or public charter district [~~or~~
14 ~~school~~] during the 2000-2001 school year.

15 (e) A school district or public charter district
16 [~~open-enrollment charter school~~] shall inform each student who has
17 completed a program authorized by this section of the time and place
18 at which the student may take the high school equivalency
19 examination. Notwithstanding any provision of this section, a
20 student may not take the high school equivalency examination except
21 as authorized by Section 7.111.

22 (k) The board of trustees of a school district or the
23 governing body [~~board~~] of a public charter district [~~an~~
24 ~~open-enrollment charter school~~] shall:

25 (1) hold a public hearing concerning the proposed
26 application of the school district or public charter district [~~or~~
27 ~~school~~] before applying to operate a program authorized by this
28 section; and

1 (2) subsequently hold a public hearing annually to
2 review the performance of the program.

3 (1) The commissioner may revoke a school district's or
4 public charter district's [~~open-enrollment charter school's~~]
5 authorization under this section after consideration of relevant
6 factors, including performance of students participating in the
7 school district's or public charter district's [~~or school's~~]
8 program on assessment instruments required under Chapter 39, the
9 percentage of students participating in the school district's or
10 public charter district's [~~or school's~~] program who complete the
11 program and perform successfully on the high school equivalency
12 examination, and other criteria adopted by the commissioner. A
13 decision by the commissioner under this subsection is final and may
14 not be appealed.

15 SECTION 4.28. Subsections (a) through (d), (i), and (j),
16 Section 29.155, Education Code, are amended to read as follows:

17 (a) From amounts appropriated for the purposes of this
18 section, the commissioner may make grants to school districts and
19 public charter districts [~~open-enrollment charter schools~~] to
20 implement or expand kindergarten and prekindergarten programs by:

21 (1) operating an existing half-day kindergarten or
22 prekindergarten program on a full-day basis; or

23 (2) implementing a prekindergarten program at a campus
24 that does not have a prekindergarten program.

25 (b) A school district or public charter district
26 [~~open-enrollment charter school~~] may use funds received under this
27 section to employ teachers and other personnel for a kindergarten
28 or prekindergarten program and acquire curriculum materials or

1 equipment, including computers, for use in kindergarten and
2 prekindergarten programs.

3 (c) To be eligible for a grant under this section, a school
4 district or public charter district [~~open-enrollment charter~~
5 ~~school~~] must apply to the commissioner in the manner and within the
6 time prescribed by the commissioner.

7 (d) In awarding grants under this section, the commissioner
8 shall give priority to districts and public charter districts
9 [~~open-enrollment charter schools~~] in which the level of performance
10 of students on the assessment instruments administered under
11 Section 39.023 to students in grade three is substantially below
12 the average level of performance on those assessment instruments
13 for all school districts in the state.

14 (i) In carrying out the purposes of Subsection (g), a school
15 district or public charter district [~~open-enrollment charter~~
16 ~~school~~] may use funds granted to the school district or public
17 charter district [~~or school~~] under this section [~~subsection~~] in
18 contracting with another entity, including a private entity.

19 (j) If a school district or public charter district
20 [~~open-enrollment charter school~~] returns to the commissioner funds
21 granted under this section, the commissioner may grant those funds
22 to another entity, including a private entity, for the purposes of
23 Subsection (g).

24 SECTION 4.29. Subsection (b), Section 29.905, Education
25 Code, is amended to read as follows:

26 (b) The agency shall make the program available to a school
27 on the request of the board of trustees of [~~or~~] the school district
28 of which the school is a part, or if the school is a public charter

1 district [~~an open-enrollment charter school~~], on the request of the
2 governing body of the public charter district [~~school~~].

3 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is
4 amended by adding Section 32.1011 to read as follows:

5 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.
6 This subchapter applies to a public charter district as if the
7 public charter district were a school district.

8 SECTION 4.31. Section 32.102, Education Code, is amended to
9 read as follows:

10 Sec. 32.102. AUTHORITY. (a) As provided by this
11 subchapter, a school district [~~or open-enrollment charter school~~]
12 may transfer to a student enrolled in the district [~~or school~~]:

13 (1) any data processing equipment donated to the
14 district [~~or school~~], including equipment donated by:

15 (A) a private donor; or

16 (B) a state eleemosynary institution or a state
17 agency under Section 2175.128, Government Code;

18 (2) any equipment purchased by the district [~~or~~
19 ~~school~~], to the extent consistent with Section 32.105; and

20 (3) any surplus or salvage equipment owned by the
21 district [~~or school~~].

22 (b) A school district [~~or open-enrollment charter school~~]
23 may accept:

24 (1) donations of data processing equipment for
25 transfer under this subchapter; and

26 (2) any gifts, grants, or donations of money or
27 services to purchase, refurbish, or repair data processing
28 equipment under this subchapter.

1 SECTION 4.32. Section 32.103, Education Code, is amended to
2 read as follows:

3 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is
4 eligible to receive data processing equipment under this subchapter
5 only if the student does not otherwise have home access to data
6 processing equipment, as determined by the student's school
7 district [~~or open-enrollment charter school~~].

8 (b) In transferring data processing equipment to students,
9 a school district [~~or open-enrollment charter school~~] shall give
10 preference to educationally disadvantaged students.

11 SECTION 4.33. Section 32.104, Education Code, is amended to
12 read as follows:

13 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before
14 transferring data processing equipment to a student, a school
15 district [~~or open-enrollment charter school~~] must:

16 (1) adopt rules governing transfers under this
17 subchapter, including provisions for technical assistance to the
18 student by the district [~~or school~~];

19 (2) determine that the transfer serves a public
20 purpose and benefits the district [~~or school~~]; and

21 (3) remove from the equipment any offensive,
22 confidential, or proprietary information, as determined by the
23 district [~~or school~~].

24 SECTION 4.34. Section 32.105, Education Code, is amended to
25 read as follows:

26 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school
27 district [~~or open-enrollment charter school~~] may spend public funds
28 to:

1 (1) purchase, refurbish, or repair any data processing
2 equipment transferred to a student under this subchapter; and

3 (2) store, transport, or transfer data processing
4 equipment under this subchapter.

5 SECTION 4.35. Section 32.106, Education Code, is amended to
6 read as follows:

7 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided
8 by Subsection (b), a student who receives data processing equipment
9 from a school district [~~or open-enrollment charter school~~] under
10 this subchapter shall return the equipment to the district [~~or~~
11 ~~school~~] not later than the earliest of:

12 (1) five years after the date the student receives the
13 equipment;

14 (2) the date the student graduates;

15 (3) the date the student transfers to another school
16 district [~~or open-enrollment charter school~~]; or

17 (4) the date the student withdraws from school.

18 (b) Subsection (a) does not apply if, at the time the
19 student is required to return the data processing equipment under
20 that subsection, the district [~~or school~~] determines that the
21 equipment has no marketable value.

22 SECTION 4.36. Section 33.007, Education Code, is amended to
23 read as follows:

24 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION.
25 (a) Each counselor at an elementary, middle, or junior high
26 school, including a public charter district [~~an open-enrollment~~
27 ~~charter school~~] offering those grades, shall advise students and
28 their parents or guardians regarding the importance of higher

1 education, coursework designed to prepare students for higher
2 education, and financial aid availability and requirements.

3 (b) During the first school year a student is enrolled in a
4 high school or at the high school level in a public charter district
5 ~~[an open-enrollment charter school]~~, and again during a student's
6 senior year, a counselor shall provide information about higher
7 education to the student and the student's parent or guardian. The
8 information must include information regarding:

9 (1) the importance of higher education;

10 (2) the advantages of completing the recommended or
11 advanced high school program adopted under Section 28.025(a);

12 (3) the disadvantages of taking courses to prepare for
13 a high school equivalency examination relative to the benefits of
14 taking courses leading to a high school diploma;

15 (4) financial aid eligibility;

16 (5) instruction on how to apply for federal financial
17 aid;

18 (6) the center for financial aid information
19 established under Section 61.0776;

20 (7) the automatic admission of certain students to
21 general academic teaching institutions as provided by Section
22 51.803; and

23 (8) the eligibility and academic performance
24 requirements for the TEXAS Grant as provided by Subchapter M,
25 Chapter 56~~[, as added by Chapter 1590, Acts of the 76th Legislature,~~
26 ~~Regular Session, 1999]~~.

27 SECTION 4.37. Section 33.901, Education Code, is amended to
28 read as follows:

1 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of
2 the students enrolled in one or more schools in a school district or
3 enrolled in a public charter district campus [~~an open-enrollment~~
4 ~~charter school~~] are eligible for free or reduced-price breakfasts
5 under the national school breakfast program provided for by the
6 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing
7 body of the district or the public charter district
8 [~~open-enrollment charter school~~] shall participate in the program
9 and make the benefits of the program available to all eligible
10 students in the schools or campus [~~school~~].

11 SECTION 4.38. Subsection (e), Section 37.007, Education
12 Code, is amended to read as follows:

13 (e) In accordance with 20 U.S.C. Section 7151, a local
14 educational agency, including a school district, home-rule school
15 district, or public charter district [~~open-enrollment charter~~
16 ~~school~~], shall expel a student who brings a firearm, as defined by
17 18 U.S.C. Section 921, to school. The student must be expelled from
18 the student's regular campus for a period of at least one year,
19 except that:

20 (1) the superintendent or other chief administrative
21 officer of the school district or of the other local educational
22 agency, as defined by 20 U.S.C. Section 7801, may modify the length
23 of the expulsion in the case of an individual student;

24 (2) the district or other local educational agency
25 shall provide educational services to an expelled student in a
26 disciplinary alternative education program as provided by Section
27 37.008 if the student is younger than 10 years of age on the date of
28 expulsion; and

1 (3) the district or other local educational agency may
2 provide educational services to an expelled student who is 10 years
3 of age or older in a disciplinary alternative education program as
4 provided in Section 37.008.

5 SECTION 4.39. Subsection (j), Section 37.008, Education
6 Code, as amended by H.B. No. 603, Acts of the 79th Legislature,
7 Regular Session, 2005, is amended to read as follows:

8 (j) If a student placed in a disciplinary alternative
9 education program enrolls in another school district before the
10 expiration of the period of placement, the board of trustees of the
11 district requiring the placement shall provide to the district in
12 which the student enrolls, at the same time other records of the
13 student are provided, a copy of the placement order. The district
14 in which the student enrolls shall inform each educator who will
15 have responsibility for, or will be under the direction and
16 supervision of an educator who will have responsibility for, the
17 instruction of the student of the contents of the placement order.
18 Each educator shall keep the information received under this
19 subsection confidential from any person not entitled to the
20 information under this subsection, except that the educator may
21 share the information with the student's parent or guardian as
22 provided for by state or federal law. The district in which the
23 student enrolls may continue the disciplinary alternative
24 education program placement under the terms of the order or may
25 allow the student to attend regular classes without completing the
26 period of placement. A school district may take any action
27 permitted by this subsection if:

28 (1) the student was placed in a disciplinary

1 alternative education program by a public charter district [~~an~~
2 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and
3 the public charter district [~~school~~] provides to the school
4 district a copy of the placement order; or

5 (2) the student was placed in a disciplinary
6 alternative education program by a school district in another state
7 and:

8 (A) the out-of-state district provides to the
9 school district a copy of the placement order; and

10 (B) the grounds for the placement by the
11 out-of-state district are grounds for placement in the school
12 district in which the student is enrolling.

13 SECTION 4.40. Subdivision (2), Subsection (a), Section
14 37.022, Education Code, as renumbered by Subdivision (16), Section
15 23.001, H.B. No. 2018, Acts of the 79th Legislature, Regular
16 Session, 2005, is amended to read as follows:

17 (2) "District or school" includes an independent
18 school district, a home-rule school district, a campus or campus
19 program charter holder, or a public charter district [~~an~~
20 ~~open-enrollment charter school~~].

21 SECTION 4.41. Subsection (a), Section 44.008, Education
22 Code, is amended to read as follows:

23 (a) The board of school trustees of each school district
24 shall have its school district fiscal accounts audited annually at
25 district expense by a certified or public accountant holding a
26 permit from the Texas State Board of Public Accountancy. Except as
27 determined impracticable by the commissioner, the accountant must
28 have completed at least one peer-reviewed audit of a school

1 district, governmental entity, quasi-governmental entity, or
2 nonprofit corporation and received an unqualified opinion from the
3 peer review. The audit must be completed following the close of
4 each fiscal year.

5 SECTION 4.42. Section 46.012, Education Code, is amended to
6 read as follows:

7 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
8 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
9 ~~open-enrollment charter school~~] is not entitled to an allotment
10 under this subchapter.

11 SECTION 4.43. Section 46.036, Education Code, is amended to
12 read as follows:

13 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS
14 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~
15 ~~open-enrollment charter school~~] is not entitled to an allotment
16 under this subchapter.

17 SECTION 4.44. Subdivision (10), Section 53.02, Education
18 Code, as amended by H.B. No. 2701, Acts of the 79th Legislature,
19 Regular Session, 2005, is amended to read as follows:

20 (10) "Authorized charter school" means a public
21 charter district [~~an open-enrollment charter school~~] that holds a
22 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

23 SECTION 4.45. The heading to Section 53.351, Education
24 Code, is amended to read as follows:

25 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN-ENROLLMENT~~]
26 CHARTER SCHOOL FACILITIES.

27 SECTION 4.46. Subsections (a), (c), (d), (f), and (g),
28 Section 53.351, Education Code, are amended to read as follows:

1 (a) The Texas Public Finance Authority shall establish a
2 nonprofit corporation to issue revenue bonds on behalf of
3 authorized [~~open-enrollment~~] charter schools for the acquisition,
4 construction, repair, or renovation of educational facilities of
5 those schools.

6 (c) The corporation has all powers granted under the Texas
7 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
8 Texas Civil Statutes) for the purpose of aiding authorized
9 [~~open-enrollment~~] charter schools in providing educational
10 facilities. The corporation may make expenditures from the fund
11 described by Subsection (e) and may solicit and accept grants for
12 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,
13 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and
14 govern the corporation and its procedures and bonds.

15 (d) The corporation shall adopt rules governing the
16 issuance of bonds on behalf of an authorized [~~open-enrollment~~]
17 charter school.

18 (f) A revenue bond issued under this section is not a debt of
19 the state or any state agency, political corporation, or political
20 subdivision of the state and is not a pledge of the faith and credit
21 of any of these entities. A revenue bond is payable solely from the
22 revenue of the authorized [~~open-enrollment~~] charter school on whose
23 behalf the bond is issued. A revenue bond issued under this section
24 must contain on its face a statement to the effect that:

25 (1) neither the state nor a state agency, political
26 corporation, or political subdivision of the state is obligated to
27 pay the principal of or interest on the bond; and

28 (2) neither the faith and credit nor the taxing power

1 of the state or any state agency, political corporation, or
2 political subdivision of the state is pledged to the payment of the
3 principal of or interest on the bond.

4 (g) An educational facility financed in whole or in part
5 under this section is exempt from taxation if the facility:

6 (1) is owned by an authorized [~~open-enrollment~~]
7 charter school;

8 (2) is held for the exclusive benefit of the school;
9 and

10 (3) is held for the exclusive use of the students,
11 faculty, and staff members of the school.

12 SECTION 4.47. Subsection (c), Section 411.097, Government
13 Code, is amended to read as follows:

14 (c) A public charter district [~~An open-enrollment charter~~
15 ~~school~~] is entitled to obtain from the department criminal history
16 record information maintained by the department that relates to a
17 person who:

18 (1) is a member of the governing body of the public
19 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],
20 Education Code; or

21 (2) has agreed to serve as a member of the governing
22 body of the public charter district [~~school~~].

23 SECTION 4.48. Subsections (a) and (b), Section 2175.128,
24 Government Code, are amended to read as follows:

25 (a) If a disposition of a state agency's surplus or salvage
26 data processing equipment is not made under Section 2175.125 or
27 2175.184, the state agency shall transfer the equipment to:

28 (1) a school district or public charter district

1 ~~[open-enrollment charter school]~~ in this state under Subchapter C,
2 Chapter 32, Education Code;

3 (2) an assistance organization specified by the school
4 district or public charter district; or

5 (3) the Texas Department of Criminal Justice.

6 (b) If a disposition of the surplus or salvage data
7 processing equipment of a state eleemosynary institution or an
8 institution or agency of higher education is not made under other
9 law, the institution or agency shall transfer the equipment to:

10 (1) a school district or public charter district
11 ~~[open-enrollment charter school]~~ in this state under Subchapter C,
12 Chapter 32, Education Code;

13 (2) an assistance organization specified by the school
14 district or public charter district; or

15 (3) the Texas Department of Criminal Justice.

16 SECTION 4.49. Subsection (a), Section 2306.630, Government
17 Code, is amended to read as follows:

18 (a) Subject to Subsection (b), the following entities may
19 apply to receive a grant for an eligible project under this
20 subchapter:

21 (1) a private, nonprofit, tax-exempt organization
22 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26
23 U.S.C. Section 501(c)(3));

24 (2) a public agency that operates a community-based
25 youth employment training program;

26 (3) a community housing development organization
27 certified by the state;

28 (4) an educational facility approved by the Texas

1 Youth Commission;

2 (5) a corps-based community service organization;

3 (6) a public charter district [~~an open-enrollment~~
4 ~~charter school~~] approved by the State Board of Education [~~Texas~~
5 ~~Education Agency~~]; or

6 (7) another entity authorized by board rule.

7 SECTION 4.50. Subdivision (6), Section 1575.002, Insurance
8 Code, is amended to read as follows:

9 (6) "Public school" means:

10 (A) a school district;

11 (B) another educational district whose employees
12 are members of the Teacher Retirement System of Texas;

13 (C) a regional education service center
14 established under Chapter 8, Education Code; or

15 (D) a public charter district [~~an~~
16 ~~open-enrollment charter school~~] established under Chapter 11A
17 [~~Subchapter D, Chapter 12~~], Education Code.

18 SECTION 4.51. Subdivision (3), Section 1579.002, Insurance
19 Code, is amended to read as follows:

20 (3) "Charter school" means a public charter district
21 [~~an open-enrollment charter school~~] established under Chapter 11A
22 [~~Subchapter D, Chapter 12~~], Education Code.

23 SECTION 4.52. Section 140.005, Local Government Code, is
24 amended to read as follows:

25 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,
26 OR OTHER DISTRICT. The governing body of a school district, public
27 charter district [~~open-enrollment charter school~~], junior college
28 district, or a district or authority organized under Article III,

1 Section 52, or Article XVI, Section 59, of the Texas Constitution,
2 shall prepare an annual financial statement showing for each fund
3 subject to the authority of the governing body during the fiscal
4 year:

5 (1) the total receipts of the fund, itemized by source
6 of revenue, including taxes, assessments, service charges, grants
7 of state money, gifts, or other general sources from which funds are
8 derived;

9 (2) the total disbursements of the fund, itemized by
10 the nature of the expenditure; and

11 (3) the balance in the fund at the close of the fiscal
12 year.

13 SECTION 4.53. Subsection (c), Section 140.006, Local
14 Government Code, is amended to read as follows:

15 (c) The presiding officer of a school district shall submit
16 a financial statement prepared under Section 140.005 to a daily,
17 weekly, or biweekly newspaper published within the boundaries of
18 the district. If a daily, weekly, or biweekly newspaper is not
19 published within the boundaries of the school district, the
20 financial statement shall be published in the manner provided by
21 Subsections (a) and (b). The financial statement of a public
22 charter district [~~an open-enrollment charter school~~] shall be made
23 available in the manner provided by Chapter 552, Government Code.

24 SECTION 4.54. Subdivision (2), Section 375.303, Local
25 Government Code, is amended to read as follows:

26 (2) "Eligible project" means a program authorized by
27 Section 379A.051 and a project as defined by Sections 2(11) and
28 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,

Vernon's Texas Civil Statutes). Notwithstanding this definition, seeking a charter for or operating a public charter district [~~an open-enrollment charter school~~] authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an eligible project.

SECTION 4.55. Subsections (b) and (c), Section 375.308, Local Government Code, are amended to read as follows:

(b) An authority may not:

(1) issue bonds or notes without the prior approval of the governing body of the municipality that created the authority;

(2) seek a charter for or operate, within the boundaries of the authority, a public charter district [~~an open-enrollment charter school~~] authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code; or

(3) levy ad valorem property taxes.

(c) A municipality may not seek a charter for or operate a public charter district [~~an open-enrollment charter school~~] authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education Code, within the boundaries of the authority.

SECTION 4.56. Subdivision (15), Section 541.201, Transportation Code, is amended to read as follows:

(15) "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a school district, county school, public charter district [~~open-enrollment charter school~~], regional education service center, or shared services arrangement and that is used to transport public school students on a school-related activity trip, other than on routes to and from

1 school. The term does not include a chartered bus, a bus operated
2 by a mass transit authority, or a school bus.

3 SECTION 4.57. Subdivision (9), Section 57.042, Utilities
4 Code, is amended to read as follows:

5 (9) "Public school" means a public elementary or
6 secondary school, including a public charter district [~~an~~
7 ~~open-enrollment charter school~~], a home-rule school district
8 school, and a school with a campus or campus program charter.

9 SECTION 4.58. Subdivision (2), Section 4, Chapter 22, Acts
10 of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
11 Vernon's Texas Civil Statutes), is amended to read as follows:

12 (2) "Educational institution" means a school district
13 or a public charter district [~~an open-enrollment charter school~~].

14 SECTION 4.59. The following laws are repealed:

15 (1) Section 12.106, Education Code; and

16 (2) Section 40, Chapter 1504, Acts of the 77th
17 Legislature, Regular Session, 2001.

18 SECTION 4.60. Notwithstanding the repeal of Sections 12.107
19 and 12.128, Education Code, by this Act, those sections continue to
20 apply to state funds and property received or purchased by an
21 open-enrollment charter school before August 1, 2006.

22 SECTION 4.61. The changes in law made by Sections 4.04
23 through 4.60 of this article apply beginning August 1, 2006, except
24 that Sections 4.10, 4.11, 4.41, and 4.59 apply beginning on the 91st
25 day after the last day of the legislative session.

26 [ARTICLES 5-6 RESERVED]

1 ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;
2 TRANSFER OF POWERS AND DUTIES

3 SECTION 7.01. Subsection (a), Section 21.0031, Education
4 Code, is amended to read as follows:

5 (a) An employee's probationary, continuing, or term
6 contract under this chapter is void if the employee:

7 (1) does not hold a certificate or permit issued under
8 Subchapter B [~~by the State Board for Educator Certification~~]; or

9 (2) fails to fulfill the requirements necessary to
10 extend the employee's temporary or emergency certificate or permit.

11 SECTION 7.02. Subsections (a) through (e), Section 21.004,
12 Education Code, are amended to read as follows:

13 (a) To the extent that funds are available, the agency[~~, the~~
14 ~~State Board for Educator Certification,~~] and the Texas Higher
15 Education Coordinating Board shall develop and implement programs
16 to identify talented students and recruit those students and
17 persons, including high school and undergraduate students,
18 mid-career and retired professionals, honorably discharged and
19 retired military personnel, and members of underrepresented gender
20 and ethnic groups, into the teaching profession.

21 (b) From available funds, the agency[~~, the State Board for~~
22 ~~Educator Certification,~~] and the Texas Higher Education
23 Coordinating Board shall develop and distribute materials that
24 emphasize the importance of the teaching profession and inform
25 individuals about state-funded loan forgiveness and tuition
26 assistance programs.

27 (c) The commissioner, in cooperation with the commissioner
28 of higher education [~~and the executive director of the State Board~~

1 ~~for Educator Certification~~], shall annually identify the need for
2 teachers in specific subject areas and geographic regions and among
3 underrepresented groups. The commissioner shall give priority to
4 developing and implementing recruitment programs to address those
5 needs from the agency's discretionary funds.

6 (d) The agency [~~, the State Board for Educator~~
7 ~~Certification,~~] and the Texas Higher Education Coordinating Board
8 shall encourage the business community to cooperate with local
9 schools to develop recruiting programs designed to attract and
10 retain capable teachers, including programs to provide summer
11 employment opportunities for teachers.

12 (e) The agency [~~, the State Board for Educator~~
13 ~~Certification,~~] and the Texas Higher Education Coordinating Board
14 shall encourage major education associations to cooperate in
15 developing a long-range program promoting teaching as a career and
16 to assist in identifying local activities and resources that may be
17 used to promote the teaching profession.

18 SECTION 7.03. Section 21.006, Education Code, is amended by
19 amending Subsections (a), (b), (c), (e), (f), and (g) and adding
20 Subsection (h) to read as follows:

21 (a) In this section:

22 (1) "Abuse" [~~, "abuse"~~] has the meaning assigned by
23 Section 261.001, Family Code, and includes any sexual conduct
24 involving an educator and a student or minor.

25 (2) "Board" means the Educators' Professional
26 Practices Board.

27 (b) In addition to the reporting requirement under Section
28 261.101, Family Code, the superintendent or director of a school

1 district, regional education service center, or shared services
2 arrangement shall notify the commissioner [~~State Board for Educator~~
3 ~~Certification~~] if the superintendent or director has reasonable
4 cause to believe that:

5 (1) an educator employed by or seeking employment by
6 the district, service center, or shared services arrangement has a
7 criminal record;

8 (2) an educator's employment at the district, service
9 center, or shared services arrangement was terminated based on a
10 determination that the educator:

11 (A) abused or otherwise committed an unlawful act
12 with a student or minor;

13 (B) possessed, transferred, sold, or distributed
14 a controlled substance, as defined by Chapter 481, Health and
15 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~
16 ~~subsequent amendments~~];

17 (C) illegally transferred, appropriated, or
18 expended funds or other property of the district, service center,
19 or shared services arrangement;

20 (D) attempted by fraudulent or unauthorized
21 means to obtain or alter a professional certificate or license for
22 the purpose of promotion or additional compensation; or

23 (E) committed a criminal offense or any part of a
24 criminal offense on school property or at a school-sponsored event;
25 or

26 (3) the educator resigned and reasonable evidence
27 supports a recommendation by the superintendent or director to
28 terminate the educator based on a determination that the educator

1 engaged in misconduct described by Subdivision (2).

2 (c) The superintendent or director must notify the
3 commissioner [~~State Board for Educator Certification~~] by filing a
4 report with the commissioner [~~board~~] not later than the seventh day
5 after the date the superintendent or director first learns about an
6 alleged incident of misconduct described by Subsection (b). The
7 report must be:

8 (1) in writing; and

9 (2) in a form prescribed by the board.

10 (e) A superintendent or director who in good faith and while
11 acting in an official capacity files a report with the commissioner
12 [~~State Board for Educator Certification~~] under this section is
13 immune from civil or criminal liability that might otherwise be
14 incurred or imposed.

15 (f) The board, acting on a recommendation of the
16 commissioner, [~~State Board for Educator Certification~~] shall
17 determine whether to impose sanctions against a superintendent or
18 director who fails to file a report in violation of Subsection (c).

19 (g) The commissioner [~~State Board for Educator~~
20 ~~Certification~~] shall adopt [~~propose~~] rules as necessary to
21 implement this section.

22 (h) The commissioner shall forward a report received under
23 this section to the board for use as the commissioner determines
24 appropriate in the execution of the board's duties.

25 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is
26 amended by adding Section 21.007 to read as follows:

27 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner
28 shall determine whether to recommend a sanction against an educator

1 to the Educators' Professional Practices Board under this chapter.
2 The board shall make a final determination regarding the imposition
3 of a sanction under this chapter, except that the commissioner may
4 impose any sanction through informal disposition by stipulation,
5 agreed settlement, consent order, or default.

6 SECTION 7.04. Sections 21.031 and 21.032, Education Code,
7 are amended to read as follows:

8 Sec. 21.031. PURPOSE. (a) The Educators' Professional
9 Practices [State] Board [~~for Educator Certification~~] is
10 established in the agency to [~~recognize public school educators as~~
11 ~~professionals and to grant educators the authority to govern the~~
12 ~~standards of their profession. The board shall~~] regulate and
13 oversee [~~all aspects of~~] the [~~certification, continuing education,~~
14 ~~and~~] standards of conduct of public school educators.

15 (b) The commissioner shall adopt rules governing the
16 certification of educators and continuing education for educators.
17 In adopting [~~In proposing~~] rules under this subchapter, the
18 commissioner [~~board~~] shall ensure that all candidates for
19 certification or renewal of certification demonstrate the
20 knowledge and skills necessary to improve the performance of the
21 diverse student population of this state.

22 Sec. 21.032. DEFINITION. In this subchapter, "board" means
23 the Educators' Professional Practices [State] Board [~~for Educator~~
24 ~~Certification~~].

25 SECTION 7.05. The heading to Section 21.033, Education
26 Code, is amended to read as follows:

27 Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [STATE]
28 BOARD [~~FOR EDUCATOR CERTIFICATION~~].

1 SECTION 7.06. Section 21.033, Education Code, is amended by
2 amending Subsection (a) and adding Subsections (a-1), (d), (e), and
3 (f) to read as follows:

4 (a) The board [~~State Board for Educator Certification~~] is
5 composed of 11 [~~14~~] members[~~. The commissioner of education shall~~
6 ~~appoint an employee of the agency to represent the commissioner as a~~
7 ~~nonvoting member. The commissioner of higher education shall~~
8 ~~appoint an employee of the Texas Higher Education Coordinating~~
9 ~~Board to represent the commissioner as a nonvoting member. The~~
10 ~~governor shall appoint a dean of a college of education in this~~
11 ~~state as a nonvoting member. The remaining 11 members are]~~
12 appointed by the commissioner [~~governor with the advice and consent~~
13 ~~of the senate,~~] as follows:

14 (1) six [~~four~~] members must be classroom teachers,
15 appointed as provided by Subsection (a-1) [~~employed in public~~
16 ~~schools~~];

17 (2) not more than two members of the board may [~~must~~]
18 be [~~public~~] school administrators; and

19 (3) a number of other members consistent with this
20 subsection who the commissioner determines are qualified [~~one~~
21 ~~member must be a public school counselor, and~~

22 [~~(4) four members must be citizens, three of whom are~~
23 ~~not and have not, in the five years preceding appointment, been~~
24 ~~employed by a public school district or by an educator preparation~~
25 ~~program in an institution of higher education and one of whom is not~~
26 ~~and has not been employed by a public school district or by an~~
27 ~~educator preparation program in an institution of higher~~
28 ~~education~~].

1 (a-1) In appointing a board member under Subsection (a)(1),
2 the commissioner shall:

3 (1) appoint teachers with at least five years'
4 experience as public school classroom teachers;

5 (2) give preference to teachers who have received
6 state or national awards for teaching excellence; and

7 (3) provide an opportunity for professional educator
8 associations to submit nominations for the appointment.

9 (d) The commissioner shall designate a member of the board
10 as the presiding officer of the board to serve in that capacity at
11 the pleasure of the commissioner.

12 (e) The agency shall provide administrative services for
13 the board as necessary.

14 (f) A reference in law to the State Board for Educator
15 Certification means the Educators' Professional Practices Board.

16 SECTION 7.07. Section 21.034, Education Code, is amended to
17 read as follows:

18 Sec. 21.034. TERMS; VACANCY. (a) The board members
19 ~~[appointed by the governor]~~ hold office for staggered terms of six
20 years with the terms of one-third, or as near to one-third as
21 possible, of the members expiring on February 1 of each
22 odd-numbered year. ~~[A member appointed by the commissioner of~~
23 ~~education or the commissioner of higher education serves at the~~
24 ~~will of the appointing commissioner.]~~

25 (b) In the event of a vacancy during a term of a member
26 ~~[appointed by the governor],~~ the commissioner ~~[governor]~~ shall
27 appoint a replacement who meets the qualifications of the vacated
28 office to fill the unexpired portion of the term.

1 (c) A vacancy arises if a member [~~appointed by the governor~~]
2 no longer qualifies for the office to which the member was
3 appointed, as determined by the commissioner.

4 SECTION 7.075. Section 21.035, Education Code, as amended
5 by H.B. No. 1116, Acts of the 79th Legislature, Regular Session,
6 2005, is amended to read as follows:

7 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is
8 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
9 continued in existence as provided by that chapter, the board is
10 abolished and this subchapter expires on the date prescribed by
11 Section 7.004 for abolishment of the agency [~~The Texas Education~~
12 ~~Agency shall provide the board's administrative functions and~~
13 ~~services~~].

14 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is
15 amended by adding Section 21.0391 to read as follows:

16 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner
17 shall appoint an advisory committee composed of holders of each
18 class of educator certificate and stakeholders as required under
19 Chapter 2008, Government Code.

20 (b) The advisory committee shall recommend educator
21 certification standards under Section 21.041(b)(4) and educator
22 preparation program standards under Section 21.044 and propose
23 rules under those sections to the commissioner through negotiated
24 rulemaking under Chapter 2008, Government Code. For purposes of
25 that chapter, the advisory committee is considered to be the
26 negotiated rulemaking committee described by Section 2008.054,
27 Government Code. As provided by Section 2008.058, Government Code,
28 the commissioner may propose and adopt a rule that has not been

1 recommended or proposed by the advisory committee.

2 (c) The commissioner may not finally adopt or amend a rule
3 subject to this section unless the State Board of Education has
4 failed to reject the rule or amendment by an affirmative vote of
5 four-fifths of its members. A vote under this subsection may be
6 conducted by mail ballot, provided that the State Board of
7 Education has at least 30 days' written notice of the proposed final
8 rule adoption.

9 (d) Members of the advisory committee serve at the will of
10 the commissioner.

11 SECTION 7.09. Section 21.041, Education Code, is amended by
12 adding Subsection (a-1) and amending Subsection (b) to read as
13 follows:

14 (a-1) The board shall adopt rules that provide for the
15 adoption and amendment of an educator's code of ethics.

16 (b) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules
17 that:

18 (1) provide for the issuance and renewal of educator
19 certificates ~~[regulation of educators and the general~~
20 ~~administration of this subchapter]~~ in a manner consistent with this
21 subchapter;

22 (2) specify the classes of educator certificates to be
23 issued, including emergency certificates;

24 (3) specify the period for which each class of
25 educator certificate is valid;

26 (4) specify the requirements for the issuance and
27 renewal of an educator certificate;

28 (5) provide for the issuance of an educator

1 certificate to a person who holds a similar certificate issued by
2 another state or foreign country, subject to Section 21.052;

3 (6) provide for special or restricted certification of
4 educators, including certification of instructors of American Sign
5 Language;

6 (7) provide for disciplinary proceedings, including:
7 (A) the suspension or revocation of an educator
8 certificate, as provided by Chapter 2001, Government Code; and
9 (B) enforcement of an educator's code of ethics
10 adopted by the board;

11 (8) ~~[provide for the adoption, amendment, and~~
12 ~~enforcement of an educator's code of ethics;~~

13 ~~[(9)]~~ provide for continuing education requirements;
14 ~~[and]~~

15 (9) ~~[(10)]~~ provide for certification of persons
16 performing appraisals under Subchapter H; and

17 (10) provide for the regulation of educators in a
18 manner consistent with this subchapter.

19 SECTION 7.10. Section 21.044, Education Code, is amended to
20 read as follows:

21 Sec. 21.044. EDUCATOR PREPARATION. The commissioner
22 ~~[board]~~ shall adopt ~~[propose]~~ rules establishing the training
23 requirements a person must accomplish to obtain a certificate,
24 enter an internship, or enter an induction-year program. The
25 commissioner ~~[board]~~ shall specify the minimum academic
26 qualifications required for a certificate.

27 SECTION 7.11. Subsections (b), (c), and (d), Section
28 21.045, Education Code, are amended to read as follows:

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

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

14 (c) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules
15 establishing performance standards for the Accountability System
16 for Educator Preparation for accrediting educator preparation
17 programs. At a minimum, performance standards must be based on
18 Subsection (a). The commissioner ~~[board]~~ shall adopt ~~[propose]~~
19 rules for the sanction of educator preparation programs and shall
20 annually review the accreditation status of each educator
21 preparation program.

22 (d) The commissioner ~~[executive director of the board]~~
23 shall appoint an oversight team of educators to make
24 recommendations and provide assistance to educator preparation
25 programs that do not meet accreditation standards. If, after one
26 year, an educator preparation program has not fulfilled the
27 recommendations of the oversight team, the commissioner ~~[executive
28 director]~~ shall appoint a person to administer and manage the

1 operations of the program. If the program does not improve after
2 two years, the commissioner [~~board~~] shall revoke the approval of
3 the program to prepare educators for state certification.

4 SECTION 7.12. Subsections (c) and (d), Section 21.046,
5 Education Code, are amended to read as follows:

6 (c) Because an effective principal is essential to school
7 improvement, the commissioner [~~board~~] shall ensure that:

8 (1) each candidate for certification as a principal is
9 of the highest caliber; and

10 (2) multi-level screening processes, validated
11 comprehensive assessment programs, and flexible internships with
12 successful mentors exist to determine whether a candidate for
13 certification as a principal possesses the essential knowledge,
14 skills, and leadership capabilities necessary for success.

15 (d) In creating the qualifications for certification as a
16 principal, the commissioner [~~board~~] shall consider the knowledge,
17 skills, and proficiencies for principals as developed by relevant
18 national organizations and the State Board of Education.

19 SECTION 7.125. Subchapter B, Chapter 21, Education Code, is
20 amended by adding Section 21.0461 to read as follows:

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

24 (1) assistant principal;

25 (2) principal; or

26 (3) superintendent.

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

28 (1) hold a baccalaureate or advanced degree from an

1 institution of higher education;

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

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

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

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

14 (e) A certificate issued under this section:

15 (1) expires on the third anniversary of the date on
16 which the certificate was issued; and

17 (2) is not renewable.

18 (f) The commissioner shall issue a standard certificate to a
19 person who holds a temporary certificate issued under this section
20 if the school district employing the person under the temporary
21 certificate:

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

24 (2) has recommended the person to the commissioner and
25 favorably reviewed, primarily using objective measures of student
26 performance and improvement in the district, the person's
27 performance.

28 (g) A school district employing a person who holds a

1 temporary certificate issued under this section must provide the
2 person with intensive support during the person's first year of
3 employment with the district, including:

4 (1) mentoring; and

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

6 SECTION 7.13. Subsection (a), Section 21.048, Education
7 Code, is amended to read as follows:

8 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
9 prescribing comprehensive examinations for each class of
10 certificate issued by the board.

11 SECTION 7.14. Sections 21.0481 through 21.0484 and 21.049,
12 Education Code, are amended to read as follows:

13 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION.

14 (a) To ensure that there are teachers with special training to
15 work with other teachers and with students in order to improve
16 student reading performance, the commissioner [~~board~~] shall
17 establish a master reading teacher certificate.

18 (b) The board shall issue a master reading teacher
19 certificate to each eligible person.

20 (c) To be eligible for a master reading teacher certificate,
21 a person must:

22 (1) hold a reading specialist certificate issued under
23 this subchapter and satisfactorily complete a course of instruction
24 as prescribed under Subdivision (2)(B); or

25 (2) hold a teaching certificate issued under this
26 subchapter and:

27 (A) have at least three years of teaching
28 experience;

1 (B) satisfactorily complete a knowledge-based
2 and skills-based course of instruction on the science of teaching
3 children to read that includes training in:

4 (i) effective reading instruction
5 techniques, including effective techniques for students whose
6 primary language is a language other than English;

7 (ii) identification of dyslexia and related
8 reading disorders and effective reading instruction techniques for
9 students with those disorders; and

10 (iii) effective professional peer
11 mentoring techniques;

12 (C) perform satisfactorily on the master reading
13 teacher certification examination prescribed by the commissioner
14 ~~[board]~~; and

15 (D) satisfy any other requirements prescribed by
16 the commissioner ~~[board]~~.

17 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

18 (a) To ensure that there are teachers with special training to
19 work with other teachers and with students in order to improve
20 student mathematics performance, the commissioner ~~[board]~~ shall
21 establish:

22 (1) a master mathematics teacher certificate to teach
23 mathematics at elementary school grade levels;

24 (2) a master mathematics teacher certificate to teach
25 mathematics at middle school grade levels; and

26 (3) a master mathematics teacher certificate to teach
27 mathematics at high school grade levels.

28 (b) The board shall issue the appropriate master

1 mathematics teacher certificate to each eligible person.

2 (c) To be eligible for a master mathematics teacher
3 certificate, a person must:

4 (1) hold a teaching certificate issued under this
5 subchapter;

6 (2) have at least three years of teaching experience;

7 (3) satisfactorily complete a knowledge-based course
8 of instruction on the science of teaching children mathematics that
9 includes training in mathematics instruction and professional peer
10 mentoring techniques that, through scientific testing, have been
11 proven effective;

12 (4) perform satisfactorily on the appropriate master
13 mathematics teacher certification examination prescribed by the
14 commissioner ~~[board]~~; and

15 (5) satisfy any other requirements prescribed by the
16 commissioner ~~[board]~~.

17 (d) The course of instruction prescribed under Subsection
18 (c)(3) shall be developed by the commissioner ~~[board]~~ in
19 consultation with mathematics and science faculty members at
20 institutions of higher education.

21 Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION.

22 (a) To ensure that there are teachers with special training to
23 work with other teachers and with students in order to increase the
24 use of technology in each classroom, the commissioner ~~[board]~~ shall
25 establish a master technology teacher certificate.

26 (b) The board shall issue a master technology teacher
27 certificate to each eligible person.

28 (c) To be eligible for a master technology teacher

1 certificate, a person must:

2 (1) hold a technology applications or Technology
3 Education certificate issued under this subchapter, satisfactorily
4 complete the course of instruction prescribed under Subdivision
5 (2)(B), and satisfactorily perform on the examination prescribed
6 under Subdivision (2)(C); or

7 (2) hold a teaching certificate issued under this
8 subchapter and:

9 (A) have at least three years of teaching
10 experience;

11 (B) satisfactorily complete a knowledge-based
12 and skills-based course of instruction on interdisciplinary
13 technology applications and the science of teaching technology that
14 includes training in:

15 (i) effective technology instruction
16 techniques, including applications designed to meet the
17 educational needs of students with disabilities;

18 (ii) classroom teaching methodology that
19 engages student learning through the integration of technology;

20 (iii) digital learning competencies,
21 including Internet research, graphics, animation, website
22 mastering, and video technologies;

23 (iv) curriculum models designed to prepare
24 teachers to facilitate an active student learning environment; and

25 (v) effective professional peer mentoring
26 techniques;

27 (C) satisfactorily perform on an examination
28 developed in cooperation with the Telecommunications

1 Infrastructure Fund Board and administered at the conclusion of the
2 course of instruction prescribed under Paragraph (B); and

3 (D) satisfy any other requirements prescribed by
4 the commissioner [~~board~~].

5 (d) The commissioner [~~board~~] may provide technology
6 applications training courses under Subsection (c)(2)(B) in
7 cooperation with:

8 (1) regional education service centers; and

9 (2) other public or private entities, including any
10 state council on technology.

11 Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION.

12 (a) To ensure that there are teachers with special training to
13 work with other teachers and with students in order to improve
14 student science performance, the commissioner [~~board~~] shall
15 establish:

16 (1) a master science teacher certificate to teach
17 science at elementary school grade levels;

18 (2) a master science teacher certificate to teach
19 science at middle school grade levels; and

20 (3) a master science teacher certificate to teach
21 science at high school grade levels.

22 (b) The board shall issue the appropriate master science
23 teacher certificate to each eligible person.

24 (c) To be eligible for a master science teacher certificate,
25 a person must:

26 (1) hold a teaching certificate issued under this
27 subchapter;

28 (2) have at least three years of teaching experience;

1 (3) satisfactorily complete a knowledge-based course
2 of instruction on the science of teaching children science that
3 includes training in science instruction and professional peer
4 mentoring techniques that, through scientific testing, have been
5 proven effective;

6 (4) perform satisfactorily on the appropriate master
7 science teacher certification examination prescribed by the
8 commissioner [~~board~~]; and

9 (5) satisfy any other requirements prescribed by the
10 commissioner [~~board~~].

11 (d) The course of instruction prescribed under Subsection
12 (c)(3) shall be developed by the commissioner [~~board~~] in
13 consultation with science faculty members at institutions of higher
14 education.

15 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a
16 continuing additional source of qualified educators, the
17 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for
18 educator certification programs as an alternative to traditional
19 educator preparation programs. The rules may not provide that a
20 person may be certified under this section only if there is a
21 demonstrated shortage of educators in a school district or subject
22 area.

23 (b) The commissioner [~~board~~] may not require a person
24 employed as a teacher in a disciplinary [~~an~~] alternative education
25 program under Section 37.008 or a juvenile justice alternative
26 education program under Section 37.011 for at least three years to
27 complete an alternative educator certification program adopted
28 under this section before taking the appropriate certification

1 examination.

2 SECTION 7.15. Subsection (a), Section 21.050, Education
3 Code, is amended to read as follows:

4 (a) A person who applies for a teaching certificate for
5 which commissioner [~~board~~] rules require a bachelor's degree must
6 possess a bachelor's degree received with an academic major or
7 interdisciplinary academic major, including reading, other than
8 education, that is related to the curriculum as prescribed under
9 Subchapter A, Chapter 28.

10 SECTION 7.16. Section 21.051, Education Code, is amended to
11 read as follows:

12 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.
13 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing
14 flexible options for persons for any field experience or internship
15 required for certification.

16 SECTION 7.17. Subsection (a), Section 21.054, Education
17 Code, is amended to read as follows:

18 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
19 establishing a process for identifying continuing education
20 courses and programs that fulfill educators' continuing education
21 requirements.

22 SECTION 7.18. Section 21.056, Education Code, is amended to
23 read as follows:

24 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner
25 [~~board~~] by rule shall provide for a certified educator to qualify
26 for additional certification to teach at a grade level or in a
27 subject area not covered by the educator's certificate upon
28 satisfactory completion of an examination or other assessment of

1 the educator's qualification.

2 SECTION 7.19. Subsection (d), Section 21.057, Education
3 Code, is amended to read as follows:

4 (d) For purposes of this section, "inappropriately
5 certified or uncertified teacher":

6 (1) includes:

7 (A) an individual serving on an emergency
8 certificate issued under Section 21.041(b)(2); or

9 (B) an individual who does not hold any
10 certificate or permit issued under this chapter and is not employed
11 as specified by Subdivision (2)(E); and

12 (2) does not include an individual:

13 (A) who is a certified teacher assigned to teach
14 a class or classes outside his or her area of certification, as
15 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]
16 in specifying the certificate required for each assignment;

17 (B) serving on a certificate issued due to a
18 hearing impairment under Section 21.048;

19 (C) serving on a certificate issued pursuant to
20 enrollment in an approved alternative certification program under
21 Section 21.049;

22 (D) certified by another state or country and
23 serving on a certificate issued under Section 21.052;

24 (E) serving on a school district teaching permit
25 issued under Section 21.055; or

26 (F) employed under a waiver granted by the
27 commissioner pursuant to Section 7.056.

28 SECTION 7.20. Subsection (d), Section 21.058, Education

1 Code, is amended to read as follows:

2 (d) A person whose certificate is revoked under Subsection
3 (b) may reapply for a certificate in accordance with commissioner
4 ~~[board]~~ rules.

5 SECTION 7.21. Subsection (c), Section 21.105, Education
6 Code, is amended to read as follows:

7 (c) On written complaint by the employing district and
8 recommendation by the commissioner, the Educators' Professional
9 Practices [State] Board [~~for Educator Certification~~] may impose
10 sanctions against a teacher employed under a probationary contract
11 who:

12 (1) resigns;

13 (2) fails without good cause to comply with Subsection
14 (a) or (b); and

15 (3) fails to perform the contract.

16 SECTION 7.22. Subsection (c), Section 21.160, Education
17 Code, is amended to read as follows:

18 (c) On written complaint by the employing district and
19 recommendation by the commissioner, the Educators' Professional
20 Practices [State] Board [~~for Educator Certification~~] may impose
21 sanctions against a teacher who is employed under a continuing
22 contract that obligates the district to employ the person for the
23 following school year and who:

24 (1) resigns;

25 (2) fails without good cause to comply with Subsection
26 (a) or (b); and

27 (3) fails to perform the contract.

28 SECTION 7.23. Subsection (c), Section 21.210, Education

1 Code, is amended to read as follows:

2 (c) On written complaint by the employing district and
3 recommendation by the commissioner, the Educators' Professional
4 Practices [State] Board [~~for Educator Certification~~] may impose
5 sanctions against a teacher who is employed under a term contract
6 that obligates the district to employ the person for the following
7 school year and who:

8 (1) resigns;

9 (2) fails without good cause to comply with Subsection
10 (a) or (b); and

11 (3) fails to perform the contract.

12 SECTION 7.24. Section 21.503, Education Code, is amended to
13 read as follows:

14 Sec. 21.503. ELIGIBILITY. A person is eligible for the
15 program if the person:

16 (1) has served in the armed forces of the United
17 States;

18 (2) is honorably discharged, retired, or released from
19 active duty on or after October 1, 1990, after at least six years of
20 continuous active duty service immediately before the discharge,
21 retirement, or release;

22 (3) has received a baccalaureate or advanced degree
23 from a public or private institution of higher education accredited
24 by a regional accrediting agency or group that is recognized by a
25 nationally recognized accreditation board; and

26 (4) satisfies any other criteria for selection
27 [~~jointly~~] prescribed by the agency [~~and the State Board for~~
28 ~~Educator Certification~~].

1 SECTION 7.25. Subsection (b), Section 21.504, Education
2 Code, is amended to read as follows:

3 (b) The agency [~~and the State Board for Educator~~
4 ~~Certification~~] shall distribute the applications and information
5 regarding the program.

6 SECTION 7.26. Subsection (c), Section 21.510, Education
7 Code, is amended to read as follows:

8 (c) For purposes of this section, a participant in the
9 program is not considered to be in violation of an agreement under
10 Section 21.508 during any period in which the participant:

11 (1) is pursuing a full-time course of study related to
12 the field of teaching at a public or private institution of higher
13 education approved by the agency [~~State Board for Educator~~
14 ~~Certification~~];

15 (2) is serving on active duty as a member of the armed
16 forces of the United States;

17 (3) is temporarily totally disabled for a period not
18 to exceed three years as established by sworn affidavit of a
19 qualified physician;

20 (4) is unable to secure employment for a period not to
21 exceed one year because of care required by a disabled spouse;

22 (5) is seeking and unable to find full-time employment
23 as a teacher in a public elementary or secondary school for a single
24 period not to exceed 27 months; or

25 (6) satisfies the provisions of any additional
26 reimbursement exception adopted by the agency.

27 SECTION 7.27. Sections 21.551, 21.552, and 21.553,
28 Education Code, are amended to read as follows:

1 Sec. 21.551. PURPOSES. The purposes of the alternative
2 certification Teach for Texas Pilot Program are to:

3 (1) attract to the teaching profession persons who
4 have expressed interest in teaching and to support the
5 certification of those persons as teachers;

6 (2) recognize the importance of the certification
7 process governed by the commissioner [~~State Board for Educator~~
8 ~~Certification~~] under Subchapter B, which requires verification of
9 competence in subject area and professional knowledge and skills;

10 (3) encourage the creation and expansion of educator
11 preparation programs that recognize the knowledge and skills gained
12 through previous educational and work-related experiences and that
13 are delivered in a manner that recognizes individual circumstances,
14 including the need to remain employed full-time while enrolled in
15 the Teach for Texas Pilot Program; and

16 (4) provide annual stipends to postbaccalaureate
17 teacher certification candidates.

18 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~
19 ~~Board for Educator Certification~~] by rule shall establish the Teach
20 for Texas Pilot Program consistent with the purposes provided by
21 Section 21.551.

22 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program
23 must offer to participants financial incentives, including tuition
24 assistance and loan forgiveness. In offering a financial
25 incentive, the commissioner [~~State Board for Educator~~
26 ~~Certification~~] shall:

27 (1) require a contract between each participant who
28 accepts a financial incentive and the agency [~~State Board for~~

1 ~~Educator Certification~~] under which the participant is obligated to
2 teach in a public school in this state for a stated period after
3 certification;

4 (2) provide financial incentives in proportion to the
5 length of the period the participant is obligated by contract to
6 teach after certification; and

7 (3) give special financial incentives to a participant
8 who agrees in the contract to teach in an underserved area.

9 (b) Financial incentives may be paid only from funds
10 appropriated specifically for that purpose and from gifts, grants,
11 and donations solicited or accepted by the commissioner [~~State~~
12 ~~Board for Educator Certification~~] for that purpose.

13 (c) The commissioner [~~State Board for Educator~~
14 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria
15 for awarding financial incentives under this section, including
16 criteria for awarding financial incentives if there are more
17 participants than funds available to provide the financial
18 incentives.

19 SECTION 7.28. Subsection (b), Section 21.604, Education
20 Code, is amended to read as follows:

21 (b) The agency [~~and the State Board for Educator~~
22 ~~Certification~~] shall distribute the applications and information
23 regarding the program.

24 SECTION 7.29. Subsection (c), Section 21.609, Education
25 Code, is amended to read as follows:

26 (c) For purposes of this section, a participant in the
27 program is not considered to be in violation of an agreement under
28 Section 21.607 during any period in which the participant:

1 (1) is pursuing a full-time course of study related to
2 the field of teaching at an institution of higher education
3 approved by the agency [~~State Board for Educator Certification~~];

4 (2) is serving on active duty as a member of the armed
5 forces of the United States;

6 (3) is temporarily totally disabled for a period not
7 to exceed three years as established by affidavit of a qualified
8 physician;

9 (4) is unable to secure employment for a period not to
10 exceed one year because of care required by a disabled spouse;

11 (5) is seeking and unable to find full-time employment
12 as a teacher in a public elementary or secondary school for a single
13 period not to exceed 27 months; or

14 (6) satisfies the provisions of any additional
15 reimbursement exception adopted by the agency.

16 SECTION 7.30. Subsection (b), Section 22.0512, Education
17 Code, is amended to read as follows:

18 (b) In this section, "disciplinary proceeding" means:

19 (1) an action brought by the school district employing
20 a professional employee of a school district to discharge or
21 suspend the employee or terminate or not renew the employee's term
22 contract; or

23 (2) an action brought by the Educators' Professional
24 Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the
25 educator's code of ethics adopted under Section 21.041(a-1)
26 [~~21.041(b)(8)~~].

27 SECTION 7.31. Subsections (a), (b), (c), and (e), Section
28 29.061, Education Code, are amended to read as follows:

1 (a) The commissioner [~~State Board for Educator~~
2 ~~Certification~~] shall provide for the issuance of teaching
3 certificates appropriate for bilingual education instruction to
4 teachers who possess a speaking, reading, and writing ability in a
5 language other than English in which bilingual education programs
6 are offered and who meet the general requirements of Chapter 21.
7 The commissioner [~~board~~] shall also provide for the issuance of
8 teaching certificates appropriate for teaching English as a second
9 language. The commissioner [~~board~~] may issue emergency
10 endorsements in bilingual education and in teaching English as a
11 second language.

12 (b) A teacher assigned to a bilingual education program must
13 be appropriately certified under Subchapter B, Chapter 21, for
14 bilingual education [~~by the board~~].

15 (c) A teacher assigned to an English as a second language or
16 other special language program must be appropriately certified
17 under Subchapter B, Chapter 21, for English as a second language [~~by~~
18 ~~the board~~].

19 (e) The agency [~~State Board for Educator Certification~~] and
20 the Texas Higher Education Coordinating Board shall develop a
21 comprehensive plan for meeting the teacher supply needs created by
22 the programs outlined in this subchapter.

23 SECTION 7.32. Subsections (b) and (c), Section 33.002,
24 Education Code, are amended to read as follows:

25 (b) A school district with 500 or more students enrolled in
26 elementary school grades shall employ a counselor certified under
27 the rules of the commissioner [~~State Board for Educator~~
28 ~~Certification~~] for each elementary school in the district. A

1 school district shall employ at least one counselor for every 500
2 elementary school students in the district.

3 (c) A school district with fewer than 500 students enrolled
4 in elementary school grades shall provide guidance and counseling
5 services to elementary school students by:

6 (1) employing a part-time counselor certified under
7 the rules of the commissioner [~~State Board for Educator~~
8 ~~Certification~~];

9 (2) employing a part-time teacher certified as a
10 counselor under the rules of the commissioner [~~State Board for~~
11 ~~Educator Certification~~]; or

12 (3) entering into a shared services arrangement
13 agreement with one or more school districts to share a counselor
14 certified under the rules of the commissioner [~~State Board for~~
15 ~~Educator Certification~~].

16 SECTION 7.33. Subsection (g), Section 37.007, Education
17 Code, as amended by H.B. No. 603, Acts of the 79th Legislature,
18 Regular Session, 2005, is amended to read as follows:

19 (g) In addition to any notice required under Article 15.27,
20 Code of Criminal Procedure, a school district shall inform each
21 educator who has responsibility for, or is under the direction and
22 supervision of an educator who has responsibility for, the
23 instruction of a student who has engaged in any violation listed in
24 this section of the student's misconduct. Each educator shall keep
25 the information received under this subsection confidential from
26 any person not entitled to the information under this subsection,
27 except that the educator may share the information with the
28 student's parent or guardian as provided for by state or federal

1 law. The Educators' Professional Practices [State] Board on
2 recommendation of the commissioner [~~for Educator Certification~~]
3 may revoke or suspend the certification of an educator who
4 intentionally violates this subsection.

5 SECTION 7.34. Section 61.0514, Education Code, is amended
6 to read as follows:

7 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the
8 cooperation and advice of the commissioner of education [State
9 ~~Board for Educator Certification~~], shall adopt educator
10 preparation coursework guidelines that promote, to the greatest
11 extent practicable, the integration of subject matter knowledge
12 with classroom teaching strategies and techniques in order to
13 maximize the effectiveness and efficiency of coursework required
14 for certification under Subchapter B, Chapter 21.

15 SECTION 7.35. Section 61.076, Education Code, as amended by
16 H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005,
17 is amended by amending Subsection (b) and adding Subsection (j) to
18 read as follows:

19 (b) The P-16 Council is composed of the commissioner of
20 education, the commissioner of higher education, the executive
21 director of the Texas Workforce Commission, [~~the executive director~~
22 ~~of the State Board for Educator Certification,~~] and the
23 commissioner of assistive and rehabilitative services. The
24 commissioner of higher education and the commissioner of education
25 shall serve as co-chairs of the council.

26 (j) The P-16 Council, in conjunction with the State Center
27 for Early Childhood Development, shall develop and adopt a school
28 readiness certification system as required by Section 29.161.

1 SECTION 7.36. Subsection (a), Section 1001.254, Education
2 Code, is amended to read as follows:

3 (a) A temporary driver education instructor license may be
4 issued authorizing a person to teach or provide classroom driver
5 education training if the person:

6 (1) has completed the educational requirements
7 prescribed by Section 1001.253(d)(1);

8 (2) holds a Texas teaching certificate with an
9 effective date before February 1, 1986;

10 (3) meets all license requirements, other than
11 successful completion of the examination required under rules
12 adopted by the commissioner [~~State Board for Educator~~
13 ~~Certification~~] to revalidate the teaching certificate; and

14 (4) demonstrates, in a manner prescribed by the
15 commissioner, the intention to comply with the examination
16 requirement at the first available opportunity.

17 SECTION 7.37. Subsection (a), Article 15.27, Code of
18 Criminal Procedure, is amended to read as follows:

19 (a) A law enforcement agency that arrests any person or
20 refers a child to the office or official designated by the juvenile
21 board who the agency believes is enrolled as a student in a public
22 primary or secondary school, for an offense listed in Subsection
23 (h), shall attempt to ascertain whether the person is so enrolled.
24 If the law enforcement agency ascertains that the individual is
25 enrolled as a student in a public primary or secondary school, the
26 agency shall orally notify the superintendent or a person
27 designated by the superintendent in the school district in which
28 the student is enrolled of that arrest or referral within 24 hours

1 after the arrest or referral is made, or on the next school day. If
2 the law enforcement agency cannot ascertain whether the individual
3 is enrolled as a student, the agency shall orally notify the
4 superintendent or a person designated by the superintendent in the
5 school district in which the student is believed to be enrolled of
6 that arrest or detention within 24 hours after the arrest or
7 detention, or on the next school day. If the individual is a
8 student, the superintendent shall promptly notify all
9 instructional and support personnel who have responsibility for
10 supervision of the student. All personnel shall keep the
11 information received in this subsection confidential. The
12 Educators' Professional Practices [State] Board [~~for Educator~~
13 ~~Certification~~] may revoke or suspend the certification of personnel
14 who intentionally violate this subsection. Within seven days after
15 the date the oral notice is given, the law enforcement agency shall
16 mail written notification, marked "PERSONAL and CONFIDENTIAL" on
17 the mailing envelope, to the superintendent or the person
18 designated by the superintendent. Both the oral and written notice
19 shall contain sufficient details of the arrest or referral and the
20 acts allegedly committed by the student to enable the
21 superintendent or the superintendent's designee to determine
22 whether there is a reasonable belief that the student has engaged in
23 conduct defined as a felony offense by the Penal Code. The
24 information contained in the notice may be considered by the
25 superintendent or the superintendent's designee in making such a
26 determination.

27 SECTION 7.38. Subsection (b), Article 42.018, Code of
28 Criminal Procedure, is amended to read as follows:

1 (b) Not later than the fifth day after the date a person who
2 holds a certificate issued under Subchapter B, Chapter 21,
3 Education Code, is convicted or granted deferred adjudication on
4 the basis of an offense, the clerk of the court in which the
5 conviction or deferred adjudication is entered shall provide to the
6 Texas Education Agency and the Educators' Professional Practices
7 [State] Board [for Educator Certification] written notice of the
8 person's conviction or deferred adjudication, including the
9 offense on which the conviction or deferred adjudication was based.

10 SECTION 7.39. Subsection (a), Section 654.011, Government
11 Code, is amended to read as follows:

12 (a) The position classification plan and the salary rates
13 and provisions in the General Appropriations Act apply to all
14 hourly, part-time, temporary, and regular, full-time salaried
15 employments in the state departments, agencies, or judicial
16 entities specified in the articles of the General Appropriations
17 Act that appropriate money to:

- 18 (1) general government agencies;
- 19 (2) health and human services agencies;
- 20 (3) the judiciary, except for judges, district
21 attorneys, and assistant district attorneys;
- 22 (4) public safety and criminal justice agencies;
- 23 (5) natural resources agencies;
- 24 (6) business and economic development agencies;
- 25 (7) regulatory agencies; and
- 26 (8) agencies of public education, but only the Texas
27 Education Agency, the Texas School for the Blind and Visually
28 Impaired, ~~[the State Board for Educator Certification]~~ the

1 Telecommunications Infrastructure Fund, and the Texas School for
2 the Deaf.

3 SECTION 7.40. Subdivision (7), Section 821.001, Government
4 Code, is amended to read as follows:

5 (7) "Employer" means any agents or agencies in the
6 state responsible for public education, including the governing
7 board of any school district created under the laws of this state,
8 any county school board, the board of trustees, the board of regents
9 of any college or university, or any other legally constituted
10 board or agency of any public school, but excluding the State Board
11 of Education and ~~[,]~~ the Texas Education Agency~~[, and the State~~
12 ~~Board for Educator Certification]~~.

13 SECTION 7.41. Section 821.103, Government Code, is amended
14 to read as follows:

15 Sec. 821.103. REVOCATION ~~[CANCELLATION]~~ OF TEACHER
16 CERTIFICATE. (a) After receiving notice from the board of
17 trustees of an offense under Section 821.101 and after complying
18 with Chapter 2001 and rules adopted by the Educators' Professional
19 Practices ~~[State]~~ Board ~~[for Educator Certification]~~, the board
20 ~~[State Board for Educator Certification]~~ may revoke ~~[cancel]~~ the
21 teacher certificate of a person if the board ~~[State Board for~~
22 ~~Educator Certification]~~ determines that the person committed the
23 offense.

24 (b) The Educators' Professional Practices ~~[executive~~
25 ~~director of the State]~~ Board ~~[for Educator Certification]~~ may enter
26 into an agreed sanction.

27 (c) A criminal prosecution of an offender under Section
28 821.101 is not a prerequisite to action by the Educators'

1 Professional Practices [~~State~~] Board [~~for Educator Certification~~
2 ~~or its executive director~~].

3 SECTION 7.42. Subsection (a), Section 2054.352, Government
4 Code, as amended by S.B. No. 411, Acts of the 79th Legislature,
5 Regular Session, 2005, is amended to read as follows:

6 (a) The following licensing entities shall participate in
7 the system established under Section 2054.353:

- 8 (1) Texas Board of Chiropractic Examiners;
- 9 (2) Court Reporters Certification Board;
- 10 (3) State Board of Dental Examiners;
- 11 (4) Texas Funeral Service Commission;
- 12 (5) Texas Board of Professional Land Surveying;
- 13 (6) Texas State Board of Medical Examiners;
- 14 (7) Board of Nurse Examiners;
- 15 (8) Texas Optometry Board;
- 16 (9) Texas Structural Pest Control Board;
- 17 (10) Texas State Board of Pharmacy;
- 18 (11) Executive Council of Physical Therapy and
19 Occupational Therapy Examiners;
- 20 (12) Texas State Board of Plumbing Examiners;
- 21 (13) Texas State Board of Podiatric Medical Examiners;
- 22 (14) Board of Tax Professional Examiners;
- 23 (15) Polygraph Examiners Board;
- 24 (16) Texas State Board of Examiners of Psychologists;
- 25 (17) State Board of Veterinary Medical Examiners;
- 26 (18) Texas Real Estate Commission;
- 27 (19) Texas Appraiser Licensing and Certification
28 Board;

- 1 (20) Texas Department of Licensing and Regulation;
2 (21) Texas State Board of Public Accountancy;
3 (22) Educators' Professional Practices [State] Board
4 [~~for Educator Certification~~];
5 (23) Texas Board of Professional Engineers;
6 (24) Department of State Health Services;
7 (25) Texas Board of Architectural Examiners;
8 (26) Texas Racing Commission;
9 (27) Commission on Law Enforcement Officer Standards
10 and Education; [~~and~~]
11 (28) Texas Private Security Board; and
12 (29) Texas Education Agency.

13 SECTION 7.43. Subsection (b), Section 504.002, Occupations
14 Code, is amended to read as follows:

15 (b) This chapter does not apply to an activity or service of
16 a person who:

17 (1) is employed as a counselor by a federal
18 institution and is providing chemical dependency counseling within
19 the scope of the person's employment;

20 (2) except as provided by Section 504.1515 [~~504.057~~],
21 is a student, intern, or trainee pursuing a supervised course of
22 study in counseling at a regionally accredited institution of
23 higher education or training institution, if the person:

24 (A) is designated as a "counselor intern"; and

25 (B) is engaging in the activity or providing the
26 service as part of the course of study;

27 (3) is not a resident of this state, if the person:

28 (A) engages in the activity or provides the

1 service in this state for not more than 30 days during any year; and

2 (B) is authorized to engage in the activity or
3 provide the service under the law of the state of the person's
4 residence;

5 (4) is a licensed physician, psychologist,
6 professional counselor, or social worker;

7 (5) is a religious leader of a congregation providing
8 pastoral chemical dependency counseling within the scope of the
9 person's duties;

10 (6) is working for or providing counseling with a
11 program exempt under Subchapter C, Chapter 464, Health and Safety
12 Code; or

13 (7) is a school counselor certified under Subchapter
14 B, Chapter 21, Education Code [~~by the State Board for Educator~~
15 ~~Certification~~].

16 SECTION 7.44. Sections 21.036, 21.040, 21.042, and 21.047,
17 Education Code, are repealed.

18 SECTION 7.45. (a) The State Board for Educator
19 Certification is abolished, and all powers, duties, personnel,
20 property, assets, and obligations of the board are transferred to
21 the Educators' Professional Practices Board and the Texas Education
22 Agency, as determined appropriate by the commissioner of education.
23 The validity of a prior action of the State Board for Educator
24 Certification is not affected by the abolishment, and any pending
25 activities of the State Board for Educator Certification shall be
26 deemed to have continued without interruption or material change.

27 (b) The powers and duties of the Educators' Professional
28 Practices Board, as created by this Act, shall continue to be

1 exercised by the State Board for Educator Certification until the
2 initial appointees of the Educators' Professional Practices Board
3 assume their offices, which may not be later than January 1, 2006.

4 (c) All rules of the State Board for Educator Certification
5 relating to a transferred power or duty remain in effect as rules of
6 the Educators' Professional Practices Board or commissioner of
7 education, as appropriate, until amended or repealed by the board
8 or commissioner.

9 (d) A contested case, rulemaking procedure, program, test,
10 fee, contract, review, evaluation, sanction, act, or decision of
11 the State Board for Educator Certification that is pending,
12 completed, or in effect on the effective date of this Act shall be
13 deemed that of the commissioner of education or the Educators'
14 Professional Practices Board to the extent authorized by Subchapter
15 B, Chapter 21, Education Code, as amended by this article, or other
16 law, until and unless a change is expressly made by the commissioner
17 or the board, as appropriate.

18 (e) As soon as practicable after the effective date of this
19 article and not later than December 1, 2005, the commissioner of
20 education shall make initial appointments to the Educators'
21 Professional Practices Board. In making the initial appointments,
22 the commissioner shall designate four members to serve terms
23 expiring February 1, 2007, four members to serve terms expiring
24 February 1, 2009, and three members to serve terms expiring
25 February 1, 2011.

26 (f) A person who holds a certificate issued under Subchapter
27 B, Chapter 21, Education Code, as it existed on January 1, 2005, may
28 continue to practice under that certificate until the certificate

1 is renewed or replaced under Subchapter B, Chapter 21, Education
2 Code, as amended by this article.

3 (g) The code of ethics adopted under Subchapter B, Chapter
4 21, Education Code, by the State Board for Educator Certification
5 and in effect on the effective date of this article remains in
6 effect until superseded by rules of the Educators' Professional
7 Practices Board.

8 ARTICLE 8. TEXAS SCHOOL FOR THE DEAF

9 SECTION 8.01. Section 30.051, Education Code, is amended by
10 amending Subsection (a) and adding Subsection (e) to read as
11 follows:

12 (a) The Texas School for the Deaf is a state agency
13 established to provide educational services to persons who are 21
14 years of age or younger on September 1 of any school year, ~~[and]~~ who
15 are deaf or hard of hearing, and who may have one or more other
16 disabilities. The school shall provide~~[+]~~

17 ~~[(1)]~~ comprehensive educational services, on a day or
18 residential basis, and~~[+]~~

19 ~~[(2)]~~ short-term services to allow a student to better
20 achieve educational results from services available in the
21 community. The school is not intended to serve:

22 (1) students whose needs are appropriately addressed
23 in a home or hospital setting or a residential treatment facility;
24 or

25 (2) students whose primary, ongoing needs are related
26 to a severe or profound emotional, behavioral, or cognitive
27 deficit~~[+and]~~

28 ~~[(3) services for any student who is deaf or hard of~~

1 ~~hearing and also has an additional disability and who requires a~~
2 ~~specialized support program but does not require a residential~~
3 ~~treatment facility].~~

4 (e) If a school district or another educational entity
5 requests an assessment of a student's educational or related needs
6 related to hearing impairment, the school may conduct an assessment
7 and charge a reasonable fee for the assessment.

8 SECTION 8.02. Subsection (d), Section 30.053, Education
9 Code, is amended to read as follows:

10 (d) The board shall annually establish the superintendent's
11 salary. The annual salary [~~must be based on not more than 230 days~~
12 ~~of service and~~] may not exceed 120 percent of the annual salary of
13 the highest paid instructional administrator at the school.

14 SECTION 8.03. Section 30.055, Education Code, is amended by
15 amending Subsection (b) and adding Subsection (g) to read as
16 follows:

17 (b) The governing board of the school may enter into an
18 employment contract with any employee who provides, or supervises
19 any employee who provides, direct and regular educational services
20 to students or who provides other professional, educational
21 services. An employee employed under this subsection is not
22 subject to Section 2252.901, Government Code. Each teacher shall
23 be employed under a term contract as provided by Subchapter E,
24 Chapter 21, or under a probationary contract as provided by
25 Subchapter C, Chapter 21. An employee employed under a contract
26 under this subsection:

27 (1) shall be paid in accordance with a salary
28 structure adopted by the superintendent with the concurrence of the

1 board that provides salaries, including assignment stipends,
2 equal, on a daily-rate basis, to salaries, including assignment
3 stipends, paid to employees employed in comparable positions by the
4 Austin Independent School District;

5 (2) is not eligible for longevity pay under Subchapter
6 D, Chapter 659, Government Code, and is not entitled to a paid day
7 off from work on any national or state holiday;

8 (3) is eligible for sick leave accrual under the
9 General Appropriations Act in each month in which at least one day
10 of the month is included in the term of the employment contract and
11 in any other month in which work is performed or paid leave is
12 taken;

13 (4) may be permitted by the board to use a maximum of
14 four days per contract term of accrued sick leave for personal
15 reasons as designated by the board but the number of sick leave days
16 not used for personal reasons during a contract term may not be
17 carried forward to a subsequent contract term for use as personal
18 leave;

19 (5) shall be paid the salary designated in the
20 employment contract in 12 [~~equal~~] monthly installments if the
21 employee chooses to be paid in that manner; [~~and~~]

22 (6) shall work the hours established by the
23 superintendent; and

24 (7) in addition to the contract salary received during
25 the employee's first year of employment with the school and for the
26 purpose of reducing a vacancy in a position that is difficult to
27 fill because of the specialized nature and the limited number of
28 qualified applicants, may be paid a salary supplement, not to

1 exceed any salary supplement paid by the Austin Independent School
2 District to an employee employed in a comparable position ~~[board]~~.

3 (g) The school may pay to a teacher or employee who provides
4 services or supervises an employee who provides services as
5 described by Subsection (b) and who is employed to provide
6 short-term services under Section 30.051(a) a salary that, on a
7 daily-rate basis, does not exceed the salary paid by the Austin
8 Independent School District to an employee employed in a comparable
9 position during the regular school year.

10 ARTICLE 9. REPEALER; EFFECTIVE DATE

11 SECTION 9.01. Effective on the 91st day after the last day
12 of the legislative session, the following provisions are repealed:

13 (1) Sections 1, 2, and 3, Chapter 201, Acts of the 78th
14 Legislature, Regular Session, 2003;

15 (2) Section 4, S.B. No. 23, Acts of the 79th
16 Legislature, Regular Session, 2005;

17 (3) Section 21.357, Subsections (b) and (e), Section
18 21.402, Subsection (h), Section 29.056, Subsections (b), (c), and
19 (f), Section 39.027, Subsection (d), Section 39.051, and Sections
20 39.073, 39.074, and 39.112, Education Code;

21 (4) Subsection (b), Section 1579.253, Insurance Code;
22 and

23 (5) Subchapter O, Chapter 1581, Insurance Code.

24 SECTION 9.02. Effective September 1, 2006, the following
25 provisions are repealed:

26 (1) Subchapters B, C, E, F, and G, Chapter 41,
27 Education Code;

28 (2) Chapter 42, Education Code, as it existed on

1 January 1, 2006;

2 (3) Subsections (c) and (g), Section 29.203,
3 Subsection (e), Section 39.024, Sections 41.001, 41.002, 41.003,
4 41.0031, and 41.007, Subsection (b), Section 41.009, Sections
5 41.011, 41.092, and 41.099, Subsection (b), Section 41.252,
6 Subsections (c) and (d), Section 44.004, and Subsection (f),
7 Section 105.301, Education Code;

8 (4) Subsection (j), Section 403.302, Government Code;

9 (5) Subsection (b), Section 1581.053, Insurance Code;

10 (6) Subchapter C, Chapter 1581, Insurance Code; and

11 (7) Subsection (g), Section 6.02, Subsection (m),
12 Section 6.03, Subsection (b), Section 21.02, and Subsections (k),
13 (l), and (m), Section 26.08, Tax Code.

14 SECTION 9.03. Except as otherwise specifically provided by
15 this Act, this Act takes effect on the 91st day after the last day of
16 the legislative session, but only if H.B. No. 3, Acts of the 79th
17 Legislature, 2nd Called Session, 2005, or similar legislation
18 enacted by the 79th Legislature, 2nd Called Session, 2005, becomes
19 law. If H.B. No. 3, Acts of the 79th Legislature, 2nd Called
20 Session, 2005, or similar legislation enacted by the 79th
21 Legislature, 2nd Called Session, 2005, does not become law, this
22 Act has no effect.

23 * * * * *