

By: Shapiro

S.B. No. 8

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

By: Grusendorf

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, 42.2519, and 42.2520 to read as
follows:

Sec. 42.2518. ADDITIONAL STATE AID OR CREDIT FOR DISTRICTS
THAT REDUCE PROPERTY TAX RATES. (a) A school district that adopts
a tax for the maintenance and operations of the district for the
2005 tax year that does not exceed the lesser of the district's
rollback tax rate under Section 26.08, Tax Code, or the rate that is
25 cents less than the rate adopted by the district for maintenance
and operations for the 2004 tax year, is entitled to receive for the
2005-2006 school year additional state aid in the sum of:

(1) the amount equal to the product of \$2,000
multiplied by the number of classroom teachers, full-time
librarians, full-time counselors certified under Subchapter B,
Chapter 21, and full-time school nurses employed by the district
and entitled to a minimum salary under Section 21.402; and

(2) the amount necessary, as determined by the
commissioner, to ensure that the district's total amount of state

1 and local revenue per student in average daily attendance for
2 maintenance and operations, other than the amount to which the
3 district is entitled under Subdivision (1), is not less than the
4 total amount of state and local revenue per student in average daily
5 attendance the district would have received during the 2005-2006
6 school year, under the law in effect January 1, 2005, using the
7 greater of the district's adopted maintenance and operations tax
8 rate for the 2004 tax year, the district's adopted maintenance and
9 operations tax rate for the 2005 tax year, or the maximum rate under
10 Section 42.253(e) for which the district could receive state aid
11 for the 2005-2006 school year, but not to exceed the rate of \$1.50
12 for each \$100 valuation of taxable property.

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

22 (c) This subsection applies to a district with a wealth per
23 student, as defined by Section 41.001, greater than the product of
24 the dollar amount guaranteed level of state and local funds per
25 weighted student per cent of tax effort, as provided by Section
26 42.302, multiplied by 10,000, but less than the equalized wealth
27 level under Section 41.002. A district to which this subsection

1 applies that adopts a tax rate that complies with the limitation
2 described by Subsection (a) is entitled to state aid in the amount
3 equal to the sum of the amounts described by Subsections (a)(1) and
4 (a)(2).

5 (d) The commissioner may adjust the tax rate used for
6 purposes of this section to account for special circumstances, as
7 determined by the commissioner. A determination by the
8 commissioner under this section is final and may not be appealed.

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

10 Sec. 42.2519. ADJUSTMENT FOR DISTRICTS THAT FAIL TO REDUCE
11 PROPERTY TAX RATES. (a) Notwithstanding Section 42.253 or any
12 other provision of this chapter, the commissioner shall reduce the
13 amount to which a district is entitled under this chapter or Chapter
14 41 by 15 percent if the district adopts and assesses a tax for the
15 maintenance and operations of the district for the 2005 tax year
16 that exceeds the limitation described by Section 42.2518(a).

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

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

20 Sec. 42.2520. PROFESSIONAL STAFF COMPENSATION. (a) For
21 the 2005-2006 school year, a school district shall provide
22 classroom teachers, full-time librarians, full-time counselors
23 certified under Subchapter B, Chapter 21, and full-time school
24 nurses with, in addition to the amounts required under Section
25 21.402, compensation in the form of annual salaries, incentives, or
26 other compensation determined appropriate by the district that
27 results in an average compensation increase for the employees of

1 \$500 over what the employees would have received in the 2005-2006
2 school year under the district's salary schedule for the 2004-2005
3 school year, including any local supplement and any money
4 representing a career ladder supplement the employee would have
5 received in the 2005-2006 school year.

6 (b) A school district that paid employees an additional
7 amount during each of the 2003-2004 and 2004-2005 school years to
8 compensate for reductions made in the health coverage or
9 compensation supplementation provided by former Article 3.50-8,
10 Insurance Code, may apply to the commissioner for authority to
11 provide a lesser average compensation increase than the amount
12 otherwise required by Subsection (a), to the extent equitable
13 considering the additional amount provided by the district during
14 the 2003-2004 and 2004-2005 school years.

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

17 (d) The commissioner may adopt rules to implement this
18 section.

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

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

22 PART B. EDUCATION FUNDING

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

25 CHAPTER 42. FOUNDATION SCHOOL PROGRAM

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 42.001. STATE POLICY. (a) It is the policy of this

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

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

Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a) The purposes of the Foundation School Program set forth in this chapter are to guarantee that each school district in the state has:

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

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

(b) The Foundation School Program consists of:

(1) two tiers that in combination provide for:

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

1 meets other applicable legal standards; and

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

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

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

10 (b) A student to whom Subsection (a) does not apply is
11 entitled to the benefits of the Foundation School Program if the
12 student is enrolled in a prekindergarten class under Section
13 29.153.

14 (c) A child may be enrolled in the first grade if the child
15 is at least six years of age at the beginning of the school year of
16 the district or has been enrolled in the first grade or has
17 completed kindergarten in the public schools in another state
18 before transferring to a public school in this state.

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

22 (1) the student performs satisfactorily on the
23 assessment instrument administered under Section 39.023(a) to
24 students in the third grade; and

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

27 Sec. 42.004. ADMINISTRATION OF PROGRAM. (a) The

1 commissioner shall take such action and require such reports
2 consistent with this chapter as may be necessary to implement and
3 administer the Foundation School Program.

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

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

8 (1) the quotient of the sum of attendance for each day
9 of the minimum number of days of instruction as described under
10 Section 25.081(a) divided by the minimum number of days of
11 instruction;

12 (2) for a district that operates under a flexible year
13 program under Section 29.0821, the quotient of the sum of
14 attendance for each actual day of instruction as permitted by
15 Section 29.0821(b)(1) divided by the number of actual days of
16 instruction as permitted by Section 29.0821(b)(1); or

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

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

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

27 (2) an average daily attendance equal to 98 percent of

1 the actual average daily attendance of the preceding school year,
2 if the decline is not the result of the closing or reduction in
3 personnel of a military base.

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

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

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

14 (f) If a student may receive course credit toward the
15 student's high school academic requirements and toward the
16 student's higher education academic requirements for a single
17 course, the time during which the student attends the course shall
18 be counted as part of the minimum number of instructional hours
19 required for a student to be considered a full-time student in
20 average daily attendance for purposes of this section.

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

27 (b) Before each regular session of the legislature, the

1 board shall, as determined by the board, report the equalized
2 funding elements to the commissioner and the legislature.

3 (c) The funding elements must include:

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

7 (2) adjustments designed to reflect the variation in
8 known resource costs and costs of education beyond the control of
9 school districts;

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

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

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

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

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

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

1 contract for a comprehensive study of the funding elements. The
2 scope of the study shall include an investigation of uncontrollable
3 variations in the costs of education due to diseconomies of scale or
4 geographic variations in the costs of hiring highly qualified
5 teachers. To the extent practicable, the study shall examine
6 uncontrollable variations in the costs of providing the recommended
7 high school program in small, mid-sized, and urban school
8 districts. The board shall report the results of the study to the
9 commissioner and the legislature not later than December 1, 2008.
10 This subsection expires January 1, 2009.

11 (f) The study required by Subsection (e) must include a
12 component on funding elements relating to special education
13 programs and services. The special education component must
14 include a review of the current funding elements relating to
15 special education programs and services, an analysis of funding
16 mechanisms used by other states, the solicitation and consideration
17 of recommendations from persons with expertise in the area of
18 special education, a review of best practices in the area of special
19 education, and the development of recommendations for a funding
20 system that supports success for students with disabilities and
21 that appropriately recognizes the variance in needs for specialized
22 services, including related services, without providing fiscal
23 incentives to improperly identify or fail to identify students who
24 need special education services. Regardless of the date on which
25 the report under Subsection (e) is required to be submitted, the
26 board shall submit a report on the results of the special education
27 component required by this subsection to the commissioner and the

1 legislature not later than December 1, 2006. This subsection
2 expires January 1, 2007.

3 Sec. 42.007. REFERENCE TO FOUNDATION SCHOOL FUND. A
4 reference in law to the foundation school fund means the Texas
5 education fund.

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

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

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

15 [Sections 42.009-42.100 reserved for expansion]

16 SUBCHAPTER B. BASIC PROGRAM

17 Sec. 42.101. ACCREDITATION ALLOTMENT AND SPECIAL STUDENT
18 ALLOTMENTS. (a) For each student in average daily attendance, a
19 school district is entitled to an accreditation allotment of
20 \$4,600.

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

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

26 [Sections 42.102-42.150 reserved for expansion]

SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

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

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

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

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

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

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

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

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

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

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

1 (6) \$8,602, for a student in a self-contained, severe,
2 regular campus instructional arrangement;

3 (7) \$7,287, for a student in an off-home-campus
4 instructional arrangement;

5 (8) \$2,903, for a student in a nonpublic day school;

6 (9) \$5,533, for a student in a vocational adjustment
7 class;

8 (10) \$12,986, for a student who resides in a
9 residential care and treatment facility, other than a state school,
10 whose parent or guardian does not reside in the district, and who
11 receives educational services from a local school district; and

12 (11) \$7,726, for a student who resides in a state
13 school.

14 (d) For funding purposes, the number of contact hours
15 credited per day for each special education student in the
16 off-home-campus instructional arrangement may not exceed the
17 contact hours credited per day for the multidistrict class
18 instructional arrangement in the 1992-1993 school year.

19 (e) For funding purposes, the contact hours credited per day
20 for each special education student in the resource room;
21 self-contained, mild and moderate, regular campus; and
22 self-contained, severe, regular campus instructional arrangements
23 may not exceed the average of the statewide total contact hours
24 credited per day for those three instructional arrangements in the
25 1992-1993 school year.

26 (f) The commissioner by rule shall prescribe the
27 qualifications a special education instructional arrangement must

1 meet in order to be funded as a particular instructional
2 arrangement under this chapter. In prescribing the qualifications
3 that a mainstream instructional arrangement must meet, the
4 commissioner shall require that students with disabilities and
5 their teachers receive the direct, indirect, and support services
6 that are necessary to enrich the regular classroom and enable
7 student success.

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

12 (h) Funds allocated under this section, other than an
13 indirect cost allotment established under commissioner rule, must
14 be used in the special education program under Subchapter A,
15 Chapter 29.

16 (i) The agency shall encourage the placement of students in
17 special education programs, including students in residential
18 instructional arrangements, in the least restrictive environment
19 appropriate for students' educational needs.

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

27 (k) A school district that provides an extended year program

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

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

23 (m) From the total amount appropriated for purposes of this
24 section, the commissioner shall set aside an amount necessary to
25 pay the cost of the study of the funding elements for special
26 education required by Section 42.006(f). After setting aside funds
27 under this subsection, the commissioner shall reduce each

district's allotment in the manner provided by Section 42.313(f).
This subsection expires September 1, 2007.

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

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

where:

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

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

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

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

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

(c) From the total amount of funds appropriated for

1 allotments under this section, the commissioner may, each fiscal
2 year:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) if the student is enrolled at or above the ninth
27 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

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

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

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

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

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

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

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

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

1 a greater amount for any school year provided by appropriation.

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

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

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

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

26 [Sections 42.157-42.170 reserved for expansion]

27 Sec. 42.171. RESTRICTIONS ON USE OF ALLOTMENTS. (a) Unless

1 specifically provided otherwise by this code, but subject to
2 Section 42.172, a school district is not required to use amounts
3 allotted under this subchapter for the program for which the
4 amounts were allotted.

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

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

16 (1) a special education program under Subchapter A,
17 Chapter 29;

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

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

26 (4) programs for students who do not have a disability
27 and reside in residential placement facilities in districts in

1 which the student's parents or legal guardians do not reside;

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

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

8 (7) a gifted and talented program under Subchapter D,
9 Chapter 29.

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

15 [Sections 42.173-42.200 reserved for expansion]

16 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

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

25 (c) If the amount of an allotment under this section that a
26 school district or county receives exceeds the district's or
27 county's cost of operating the transportation system, the district

1 or county may use the excess funds for any legal purpose.

2 Sec. 42.202. HAZARDOUS CONDITIONS. A district or county
3 may apply for and on approval of the commissioner receive an
4 additional amount of up to 10 percent of its regular transportation
5 allotment to be used for the transportation of children living
6 within two miles of the school they attend who would be subject to
7 hazardous traffic conditions if they walked to school. Each board
8 of trustees shall provide to the commissioner the definition of
9 hazardous conditions applicable to that district and shall identify
10 the specific hazardous areas for which the allocation is requested.
11 A hazardous condition exists where no walkway is provided and
12 children must walk along or cross a freeway or expressway, an
13 underpass, an overpass or a bridge, an uncontrolled major traffic
14 artery, an industrial or commercial area, or another comparable
15 condition.

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

24 Sec. 42.204. TRANSPORTATION OF SPECIAL EDUCATION STUDENTS.
25 Districts may use a portion of their allotment under Section 42.151
26 to pay transportation costs for special education students, if
27 necessary. The commissioner may grant an amount set by

appropriation for private transportation to reimburse parents or their agents for transporting special education students. The mileage allowed shall be computed along the shortest public road from the student's home to school and back, morning and afternoon. The need for this type of transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

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

[Sections 42.206-42.220 reserved for expansion]

SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

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

Sec. 42.222. DEFINITIONS. In this subchapter:

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

(A) greater than 10 percent; or

(B) more than 3,500 students.

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

Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. (a) For the first school year in which students attend a new

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

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

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

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

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

26 Sec. 42.225. LIMIT ON APPROPRIATIONS; PRORATION OF
27 ALLOTMENTS. (a) The amount appropriated for allotments under this

1 subchapter may not exceed \$35 million in a school year.

2 (b) If the total amount of allotments to which school
3 districts are entitled under this subchapter for a school year
4 exceeds the amount appropriated for allotments under this
5 subchapter, the commissioner shall reduce each district's
6 allotment under this subchapter in the manner provided by Section
7 42.313(f).

8 [Sections 42.226-42.250 reserved for expansion]

9 [Subchapter F reserved]

10 SUBCHAPTER G. ENRICHMENT PROGRAM

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

17 Sec. 42.252. ALLOTMENT. (a) Each school district is
18 guaranteed a specified amount per student in state and local funds
19 for each cent of enrichment tax effort up to the maximum level
20 specified in this subchapter. The amount of state support, subject
21 only to the maximum amount under Section 42.253, is determined by
22 the formula:

23
$$\text{GYA} = (\text{GL} \times \text{AF} \times \text{DETR} \times 100) - \text{LR}$$

24 where:

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

27 "GL" is the dollar amount guaranteed level, which is the

1 amount of district enrichment tax revenue per cent of tax effort
2 available to a school district at the target percentile, which is
3 the 96th percentile in wealth per student, provided that a greater
4 amount for any school year may be provided by appropriation;

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

10 "DETR" is the district enrichment tax rate of the school
11 district, which is the district's adopted maintenance and
12 operations tax rate minus the maximum rate specified under Section
13 42.306 or otherwise provided by appropriation for purposes of that
14 section, or, if applicable, the rate applicable to the district
15 under Section 41.101; and

16 "LR" is the local revenue, which is determined by multiplying
17 "DETR" by the quotient of the district's taxable value of property
18 as determined under Subchapter M, Chapter 403, Government Code,
19 divided by 100.

20 (b) The target percentile described by Subsection (a) for
21 purposes of determining the dollar amount guaranteed level ("GL")
22 applies beginning with the 2010-2011 school year. For the
23 2006-2007 through 2009-2010 school years, GL is determined as
24 provided by this subsection, except that a different amount may be
25 provided by appropriation:

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

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

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

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

9 (c) This subsection and Subsection (b) expire September 1,
10 2011.

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

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

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

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

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

22 (c) Subsection (a-1) and this subsection expire January 1,
23 2009.

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

1 using the average district enrichment tax rate and property value
2 per student of school districts in the county, as determined by the
3 commissioner.

4 [Sections 42.255-42.300 reserved for expansion]

5 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

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

23 (b-1) In this subsection, "teacher fixed effects index"
24 means the teacher fixed effects index in the 2004 report
25 commissioned by the Joint Select Committee on Public School Finance
26 of the 78th Legislature, as adjusted so that there is not a greater
27 difference between the highest index value and the lowest index

1 value in the regional boundaries of a regional education service
2 center than the difference that existed between the highest index
3 value and lowest index value within the regional boundaries of that
4 regional education service center under 19 T.A.C. Chapter 203, as
5 that chapter existed on January 1, 2005. The commissioner shall
6 increase the amount of the lowest adjustment in the regional
7 boundaries of each regional education service center to satisfy
8 the requirements of this subsection. Notwithstanding Subsection
9 (a), the cost of education index for purposes of that subsection for
10 the following school years is determined using the teacher fixed
11 effects index in the following manner:

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

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

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

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

27 (b-2) All information relating to the computation and

1 adoption of the cost of education index under this section,
2 including underlying data, assumptions, and computations used in
3 the development of the index, is public information.

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

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

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

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

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

23 Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a)
24 The amounts of the accreditation allotments under Subchapter B and
25 each special student allotment under Subchapter C of certain small
26 and mid-sized school districts are adjusted in accordance with this
27 section to reflect district costs related to the district's size.

In this section:

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

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

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

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

$$A = ((1,600 - ADA) \times 0.000447) \times SA$$

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

(1) for the 2006-2007 school year:

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

(2) for the 2007-2008 school year:

$$A = ((1,600 - ADA) \times 0.000432) \times SA$$

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

formula:

$$A = ((1,600 - ADA) \times 0.0002794) \times SA$$

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

(1) for the 2006-2007 school year:

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

(2) for the 2007-2008 school year:

$$A = ((1,600 - ADA) \times 0.0002700) \times SA$$

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

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

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

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

(1) for the 2006-2007 school year:

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

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

(2) for the 2007-2008 school year:

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

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

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

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

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

(2) a school district that offers a kindergarten through grade eight program and whose preceding or current year's average daily attendance was or is at least 50 students or that is 30 miles or more by bus route from the nearest high school district

1 is entitled to an adjusted accreditation allotment on the basis of
2 75 students in average daily attendance; and

3 (3) a school district that offers a kindergarten
4 through grade six program and whose preceding or current year's
5 average daily attendance was or is at least 40 students or that is
6 30 miles or more by bus route from the nearest high school district
7 is entitled to an adjusted accreditation allotment on the basis of
8 60 students in average daily attendance.

9 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
10 accreditation allotments under Subchapter B and the additional
11 allotments under Subchapters C, D, and E, as adjusted in accordance
12 with this subchapter, constitutes the tier one allotments. The sum
13 of the tier one allotments and the enrichment program allotments
14 under Subchapter G constitutes the total cost of the Foundation
15 School Program.

16 (b) The program shall be financed by:

17 (1) state funds appropriated for the purposes of
18 public school education;

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

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

24 (4) state available school funds distributed in
25 accordance with law.

26 Sec. 42.305. ADDITIONAL STATE AID FOR AD VALOREM TAX
27 CREDITS UNDER TEXAS ECONOMIC DEVELOPMENT ACT. For each school

1 year, a school district, including a school district that is
2 otherwise ineligible for state aid under this chapter, is entitled
3 to state aid in an amount equal to the amount of all tax credits
4 credited against ad valorem taxes of the district in that year under
5 Subchapter D, Chapter 313, Tax Code.

6 Sec. 42.3051. PROFESSIONAL STAFF SALARIES AND ADDITIONAL
7 STATE AID. (a) For the 2006-2007 school year, a school district
8 shall provide classroom teachers, full-time librarians, full-time
9 counselors certified under Subchapter B, Chapter 21, and full-time
10 school nurses with, in addition to the amounts required under
11 Section 21.402, compensation in the form of annual salaries,
12 incentives, or other compensation determined appropriate by the
13 district that results in an average compensation increase for the
14 employees of \$500 over the average annual salaries for the
15 2005-2006 school year.

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

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

25 (2) the amount of additional funds to which the
26 district is entitled under Chapter 41 and this chapter, including
27 Section 42.311(a)(2), as a result of S.B. No. 8, Acts of the 79th

1 Legislature, 2nd Called Session, 2005.

2 (c) For purposes of this section, the amount described by
3 Subsection (b)(2) for a school district does not include:

4 (1) the district's instructional materials and
5 technology allotment under Section 32.005;

6 (2) any amount to which the district is entitled under
7 Subchapter G; or

8 (3) any grant funds received by the district.

9 (d) A school district that paid employees an additional
10 amount during each of the 2003-2004 and 2004-2005 school years to
11 compensate for reductions made in the health coverage or
12 compensation supplementation provided by former Article 3.50-8,
13 Insurance Code, may apply to the commissioner for authority to
14 provide a lesser average compensation increase than the amount
15 otherwise required by Subsection (a), to the extent equitable
16 considering the additional amount provided by the district during
17 the 2003-2004 and 2004-2005 school years.

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

disaster, as determined appropriate by the commissioner. The commissioner may determine funding priorities under this section.

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

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

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

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

where:

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

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

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

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

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

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

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

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

26 (b) To the extent that a sufficient amount of money is not
27 available to fund all adjustments under this section, the

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

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

6 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

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

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

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

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

27 (2) give priority to school districts that, due to

factors beyond the control of the board of trustees, experience a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

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

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

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

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

(b) A school district that has a major taxpayer, as

determined by the commissioner, that because of a protest of the valuation of the taxpayer's property fails to pay all or a portion of the ad valorem taxes due to the district may apply to the commissioner for an adjustment under this section.

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

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

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

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

where:

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

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

"TN" is the total amount of tuition required to be paid by the district under Section 25.039 for the school year for which the

adjustment is made, not to exceed the amount specified by commissioner rule under Section 25.039(b); and

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

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

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

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

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

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

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

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

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

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

26 (b) The amount of revenue to which a school district is
27 entitled because of the instructional materials and technology

1 allotment under Section 32.005 is not included in making a
2 determination under Subsection (a).

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

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

14 (e) Any amount to which a school district is entitled under
15 Subchapter G is not included in determining the amount to which the
16 district is entitled under this section.

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

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

1 revenue from a countywide equalization tax to be the sum of the
2 equalization tax rate and the rate imposed by the district.

3 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)
4 Notwithstanding any other provision of this subtitle, the
5 commissioner shall withhold from a school district the amount of
6 state funds necessary to ensure that the district does not receive
7 an amount of state and local revenue per student in average daily
8 attendance that is greater than the following percentage of the
9 amount described by Section 42.311(a):

10 (1) 108 percent for the 2006-2007 school year;

11 (2) 116 percent for the 2007-2008 school year; and

12 (3) 124 percent for the 2008-2009 school year.

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

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

19 (d) Section 42.311(b) applies to any determinations made
20 under this section.

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

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

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

27 (2) the amount of money to which a school district is

1 entitled under Subchapter G;

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

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

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

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

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

27 (d) The commissioner shall approve warrants to each school

1 district equaling the amount of its entitlement, except as provided
2 by this section. Warrants for all money expended according to this
3 chapter shall be approved and transmitted to treasurers or
4 depositories of school districts in the same manner as warrants for
5 state available fund payments are transmitted. The total amount of
6 the warrants issued under this section may not exceed the total
7 amount appropriated for Foundation School Program purposes for that
8 fiscal year.

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

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

23 (g) Not later than March 1 of each year, the commissioner
24 shall determine the actual amount of state funds to which each
25 school district is entitled under this chapter for the current
26 school year and shall compare that amount with the amount of the
27 warrants issued to each district for that year. If the amount of

1 the warrants differs from the amount to which a district is entitled
2 because of variations in the district's tax rate, student
3 enrollment, or taxable value of property, the commissioner shall
4 adjust the district's entitlement for the next fiscal year
5 accordingly.

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

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

26 (i) The commissioner shall compute for each school district
27 the total amount by which the district's allocation of state funds

1 is increased or reduced under Subsection (g) or (g-1) and shall
2 certify that amount to the district.

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

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

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

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

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

23 (c) For purposes of this section, the agency shall use the
24 estimate of student enrollment provided by the school district,
25 unless the agency's review of the estimate indicates that it is
26 inaccurate. The commissioner shall adopt criteria for use by the
27 agency in reviewing a district's estimate and shall develop

procedures to be used to resolve significant differences between the district's estimate and any revised estimate proposed by the agency. The procedures must provide a district with an opportunity to demonstrate the basis of the district's estimate.

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

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

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

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

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

(4) "Wealth per student" means the taxable property

1 values reported by the comptroller to the commissioner under
2 Section 42.306 divided by the number of students in average daily
3 attendance.

4 (b) Payments from the Texas education fund to each category
5 1 school district shall be made as follows:

6 (1) 15 percent of the yearly entitlement of the
7 district shall be paid in an installment to be made on or before the
8 25th day of September of a fiscal year;

9 (2) 80 percent of the yearly entitlement of the
10 district shall be paid in eight equal installments to be made on or
11 before the 25th day of October, November, December, January, March,
12 May, June, and July; and

13 (3) five 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 February.

16 (c) Payments from the Texas education fund to each category
17 2 school district shall be made as follows:

18 (1) 22 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 September of a fiscal year;

21 (2) 18 percent of the yearly entitlement of the
22 district shall be paid in an installment to be made on or before the
23 25th day of October;

24 (3) 9.5 percent of the yearly entitlement of the
25 district shall be paid in an installment to be made on or before the
26 25th day of November;

27 (4) 7.5 percent of the yearly entitlement of the

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

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

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

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

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

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

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

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

(3) 20 percent of the yearly entitlement of the district shall be paid in an installment to be made after the fifth day of September and not later than the 10th day of September of the

calendar year following the calendar year of the payment made under Subdivision (1).

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

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

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

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

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

[Sections 42.318-42.400 reserved for expansion]

SUBCHAPTER I. ADDITIONAL EQUALIZATION

Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

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

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

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

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

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

(c) Notwithstanding Subsection (b) or any other provision

1 of this subtitle, for the 2006-2007 and 2007-2008 school years, the
2 commissioner shall withhold from a capped district an amount of
3 state funds necessary, or adjust the amount of attendance credits
4 the district must purchase under Section 41.091 in the amount
5 necessary, to ensure that the district does not receive an amount of
6 state and local revenue per student in average daily attendance
7 that is greater than 108 percent of the amount described by Section
8 42.311(a)(1). For the 2008-2009 and each following school year, a
9 capped district is subject to Section 41.101.

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

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

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

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

1 purposes.

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

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

5 SECTION 1B.035. Subchapter A, Chapter 41, Education Code,
6 is amended by adding Sections 41.0011 and 41.0012 to read as
7 follows:

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

11 Sec. 41.0012. RECOGNITION OF OPTIONAL HOMESTEAD EXEMPTION.
12 (a) As provided by this section, a district subject to commissioner
13 action under Section 42.401, other than a district that elects to
14 purchase attendance credits in the amount specified by Section
15 41.091(a)(3), is entitled to state and local funds under this
16 chapter and Chapter 42 based on the district's taxable value of
17 property computed in accordance with Section 403.302(d)(14),
18 Government Code.

19 (b) The commissioner shall make a determination as to
20 whether a district is subject to commissioner action under Section
21 42.401 without recognizing the district's taxable value of property
22 computed in accordance with Section 403.302(d)(14), Government
23 Code.

24 (c) Recognition of a district's taxable value of property
25 computed in accordance with Section 403.302(d)(14), Government
26 Code, does not entitle the district to state aid under Chapter 42
27 that the district would not be entitled to receive in the absence of

1 that recognition.

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

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

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

13 (2) each district that [~~to which~~] the commissioner has
14 determined is eligible to be a capped district for the following
15 school year [~~proposes to annex property detached from a district~~
16 ~~notified under Subdivision (1), if necessary, under Subchapter C~~];
17 and

18 (3) each district to which the commissioner proposes
19 to consolidate a district notified under Subdivision (1), if
20 necessary, under Subchapter H.

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

~~G. If that detachment will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner may not detach property under Subchapter C but]~~
 shall order the consolidation of the district with one or more other districts as provided by Subchapter H. ~~[An agreement under Section 41.003(1) or (2) must be executed not later than September 1 immediately following the notice under Subsection (a).]~~ An election to authorize the purchase of average daily attendance credit as provided by Subchapter D ~~[for an option under Section 41.003(3), (4), or (5)]~~ must be ordered before September 1 immediately following the notice under Subsection (a).

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

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

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

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

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

1 (a) The commissioner may adopt rules necessary for the
2 implementation of this chapter. The rules may provide for the
3 commissioner to make necessary adjustments to the provisions of
4 Chapter 42, including providing for the commissioner to make an
5 adjustment in the funding element established by Section 42.252
6 ~~[42.302]~~, at the earliest date practicable, to the amount the
7 commissioner believes, taking into consideration options exercised
8 by school districts under Section 42.401 ~~[this chapter]~~ and
9 estimates of student enrollments, will match appropriation levels.

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

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

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

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

1 the district within which the property is included.

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

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

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

15 (a) A [~~Except as provided by Subchapter G, a~~] decision of
16 the commissioner under this chapter is appealable under Section
17 7.057.

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

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

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

1 (2) if the district elects to have the district's
2 taxable value of property computed in accordance with Section
3 403.302(d)(14), Government Code, the difference between the
4 district's local share under Section 42.306 and the sum of:

5 (A) the district's tier one allotment under
6 Section 42.304; and

7 (B) other revenue to which the district is
8 entitled under Sections 42.3051 and 42.311; and

9 (3) if the district elects not to have the district's
10 taxable value of property computed in accordance with Section
11 403.302(d)(14), Government Code, the difference between the
12 district's local share under Section 42.306 and 104 percent of the
13 sum of:

14 (A) the district's tier one allotment under
15 Section 42.304; and

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

18 (b) Subsection (a)(1) applies only to a school district that
19 levies a maintenance and operations tax at a rate at least equal to
20 75 percent of the maximum tax rate specified by Section 42.306.

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

1 the amount by which the dollar amount guaranteed level ("GL") under
2 Section 42.252 exceeds the dollar amount of state and local revenue
3 available per student in average daily attendance at the applicable
4 target percentile under that section.

5 (d) If the dollar amount guaranteed level ("GL") under
6 Section 42.252 for a school year is less than the amount of
7 enrichment tax revenue available to a school district at the
8 applicable target percentile under that section, the applicable
9 amount of state and local revenue per student in average daily
10 attendance required to be used to purchase attendance credits as
11 provided by Subsection (a)(1) is decreased by an amount equal to the
12 amount by which the dollar amount guaranteed level ("GL") under
13 Section 42.252 exceeds the dollar amount of state and local revenue
14 available per student in average daily attendance at the applicable
15 target percentile under that section.

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

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

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

24 (1) the amount of the district's maintenance and
25 operations tax revenue per student in [weighted] average daily
26 attendance for the school year for which the contract is executed;
27 or

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

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

7 Sec. 41.101. MINIMUM TAX RATES OF CAPPED DISTRICTS. (a)
8 Notwithstanding the percent described by Section 41.091(a)(1),
9 revenue raised for a school year by a capped district in excess of
10 the revenue that the capped district is permitted to raise at the
11 minimum tax rate described by Section 41.091(b) is included in
12 determining the district's local share for purposes of Section
13 42.401. For purposes of this subsection, a capped district is
14 permitted each school year to raise the sum of:

15 (1) 108 percent of the amount described by Section
16 42.311(a)(1); and

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

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

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

1 (c) Not later than December 1, 2006, the agency shall
2 prepare and deliver a report describing the commissioner's
3 determinations under Subsection (b) to the governor, the lieutenant
4 governor, the speaker of the house of representatives, and the
5 presiding officer of the committee in each house of the legislature
6 with primary jurisdiction over public education. This subsection
7 expires January 1, 2007.

8 (d) Any amount to which a school district is entitled under
9 Subchapter G, Chapter 42, is not included in determining the
10 district's local share for purposes of Section 42.401.

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

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

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

22 (a) In selecting the districts to be consolidated with a
23 district subject to Section 42.401 [~~that has a property wealth~~
24 ~~greater than the equalized wealth level~~], the commissioner shall
25 select one or more districts with a local share under Section 42.306
26 [~~wealth per student~~] that, when consolidated, will result in a
27 consolidated district that is not subject to Section 42.401 [~~with a~~

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

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

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

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

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

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

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

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

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

4 (d) In this section, "local share percentage" means a
5 percentage determined by dividing a school district's local share
6 under Section 42.306 by the district's tier one allotment under
7 Section 42.304.

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

10 Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS
11 AND TRANSPORTATION ALLOTMENT. The budget of the consolidated
12 district must apply the benefit of the adjustment or allotment to
13 the schools of the consolidating district to which Section 42.302,
14 42.303, or Subchapter D, Chapter 42, [42.103, 42.105, or 42.155]
15 would have applied in the event that the consolidated district
16 still qualifies as a small or sparse district.

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

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

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

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

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

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

6 (f) Notwithstanding any other provision of this section, a
7 district may not adopt a tax rate for the maintenance and operations
8 of the district that exceeds the sum of the maximum rate for
9 purposes of Section 42.253 and the rate specified in Section 42.306
10 or otherwise provided for that section by appropriation unless that
11 tax rate is approved by two-thirds of the qualified voters voting in
12 an election held for that purpose. A district's adoption of a rate
13 authorized by this subsection does not affect the limitation on a
14 district's entitlement to enrichment revenue provided by Section
15 42.253. This subsection does not authorize the adoption of a tax
16 rate for the maintenance and operations of the district that
17 exceeds the maximum rate prescribed by Subsection (d).

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

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

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

25 (a) Except as provided by Subsection (b), a school district
26 must obtain voter authorization in an election each time the
27 district adopts a tax rate for the maintenance and operations of the

1 district that exceeds the rate levied by the district in the
2 preceding tax year.

3 (a-1) Notwithstanding Section 45.003, Education Code, and
4 except as provided by Subsection (a-2), (a-3), or (a-4), for the
5 2006 tax year, a school district may not impose a tax for the
6 maintenance and operations of the district that exceeds the greater
7 of:

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

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

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

26 (a-3) For the 2006 tax year, a school district permitted by
27 Subsection (a-1) to impose a tax for the maintenance and operations

1 of the district at the rate of \$1.20 on the \$100 valuation of
2 taxable property may impose a tax for the maintenance and
3 operations of the district at a higher rate if approved by the
4 voters in an election held after the effective date of S.B. No. 8,
5 Acts of the 79th Legislature, 2nd Called Session, 2005.

6 (a-4) Notwithstanding any other provision of law, a school
7 district permitted by special law on January 1, 2006, to impose an
8 ad valorem tax for maintenance and operations at a rate greater than
9 \$1.50 on the \$100 valuation of taxable property in the district may,
10 for the 2006 tax year:

11 (1) impose a tax for the maintenance and operations of
12 the district at a rate not to exceed the rate that is \$0.30 less than
13 the rate adopted by the district for maintenance and operations for
14 the 2004 tax year, provided that, notwithstanding any other
15 provision of law, the tax authorized by this subdivision may not be
16 considered an enrichment tax rate for purposes of Subchapter G,
17 Chapter 42, Education Code; and

18 (2) seek voter authorization to impose a tax for
19 maintenance and operations for purposes of Subchapter G, Chapter
20 42, Education Code, at a rate greater than the rate authorized by
21 Subdivision (1), provided that the rate authorized by this
22 subdivision may not exceed the maximum tax permitted under
23 Subchapter G, Chapter 42, Education Code.

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

26 (b) If the governing body of a school district with a
27 maintenance and operations tax rate of less than the rate specified

1 in Section 42.306 or otherwise provided by appropriation for
2 purposes of that section adopts a tax rate that exceeds the
3 district's rollback tax rate, the registered voters of the district
4 at an election held for that purpose must determine whether to
5 approve the adopted tax rate. When increased expenditure of money
6 by a school district is necessary to respond to a disaster,
7 including a tornado, hurricane, flood, or other calamity, but not
8 including a drought, that has impacted a school district and the
9 governor has requested federal disaster assistance for the area in
10 which the school district is located, an election is not required
11 under this section to approve the tax rate adopted by the governing
12 body for the year following the year in which the disaster occurs.

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

26 (c) If a majority of the votes cast in the election required
27 by Subsection (b) favor the proposition, the tax rate for the

1 current year is the rate that was adopted by the governing body.

2 (e) For purposes of Subsection (b) [~~this section~~], local tax
3 funds dedicated to a junior college district under Section
4 45.105(e), Education Code, shall be eliminated from the calculation
5 of the tax rate adopted by the governing body of the school
6 district. However, the funds dedicated to the junior college
7 district are subject to Section 26.085.

8 (h) For purposes of Subsection (b) [~~this section~~],
9 increases in taxable values and tax levies occurring within a
10 reinvestment zone under Chapter 311 (Tax Increment Financing Act),
11 in which the district is a participant, shall be eliminated from the
12 calculation of the tax rate adopted by the governing body of the
13 school district.

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

16 (1) the tax rate that, applied to the current total
17 value for the district, would impose taxes in an amount that, when
18 added to state funds that would be distributed to the district under
19 Chapter 42, Education Code, for the school year beginning in the
20 current tax year using that tax rate, would provide the same amount
21 of state funds distributed under Chapter 42 and maintenance and
22 operations taxes of the district per student in [~~weighted~~] average
23 daily attendance for that school year that would have been
24 available to the district in the preceding year if the funding
25 elements for Chapters 41 and 42, Education Code, for the current
26 year had been in effect for the preceding year;

27 (2) the rate of \$0.04 [~~\$0.06~~] per \$100 of taxable

1 value; and

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

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

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

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

14 (1) the rate for the maintenance and operations tax
15 described by Section 45.003, Education Code, and the amount of tax
16 due under that tax rate, under the heading "Maintenance and
17 Operations Tax";

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

22 (3) the rate for the enrichment tax described by
23 Section 45.003, Education Code, and the amount of tax due under that
24 tax rate, under the heading "Local Enrichment Tax Approved by Local
25 Voters."

26 SECTION 1B.20. Effective on the 91st day after the last day
27 of the legislative session, Section 311.013, Tax Code, as amended

1 by S.B. No. 771, Acts of the 79th Legislature, Regular Session,
2 2005, is amended by adding Subsection (n) to read as follows:

3 (n) This subsection applies only to a school district whose
4 taxable value computed under Section 403.302(d), Government Code,
5 is reduced in accordance with Subdivision (5) of that subsection.
6 In addition to the amount otherwise required to be paid into the tax
7 increment fund, the district shall pay into the fund an amount equal
8 to the amount by which the amount of taxes the district would have
9 been required to pay into the fund in the current year if the
10 district levied taxes at the rate the district levied in 2004
11 exceeds the amount the district is otherwise required to pay into
12 the fund in the year of the reduction, not to exceed the amount the
13 school district realizes from the reduction in the school
14 district's taxable value under Section 403.302(d)(5), Government
15 Code. This subsection ceases to apply to the school district on the
16 earlier of the dates specified by Sections 311.017(a)(1) and (2)
17 for the reinvestment zone.

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

22 (c-1) This subsection applies only to a school district
23 whose central administrative office is located in a county with a
24 population of 9,000 or less and a total area of more than 6,000
25 square miles. If after conducting the annual study for a tax year
26 the comptroller determines that the local value for a school
27 district is not valid, the comptroller shall adjust the taxable

1 value determined under Subsections (a) and (b) as follows:

2 (1) for each category of property sampled and tested
3 by the comptroller in the school district, the comptroller shall
4 use the weighted mean appraisal ratio determined by the study,
5 unless the ratio is more than four percentage points lower than the
6 weighted mean appraisal ratio determined by the comptroller for
7 that category of property in the immediately preceding study, in
8 which case the comptroller shall use the weighted mean appraisal
9 ratio determined in the immediately preceding study minus four
10 percentage points;

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

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

20 (c-2) Subsection (c-1) and this subsection expire September
21 1, 2007.

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

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

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

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

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

10 (A) is within a reinvestment zone created on or
11 before May 31, 1999, or is proposed to be included within the
12 boundaries of a reinvestment zone as the boundaries of the zone and
13 the proposed portion of tax increment paid into the tax increment
14 fund by a school district are described in a written notification
15 provided by the municipality or the board of directors of the zone
16 to the governing bodies of the other taxing units in the manner
17 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
18 within the boundaries of the zone as those boundaries existed on
19 September 1, 1999, including subsequent improvements to the
20 property regardless of when made;

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

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

27 (5) for a school district for which a deduction from

1 taxable value is made under Subdivision (4), an amount equal to the
2 taxable value required to generate revenue when taxed at the school
3 district's current tax rate in an amount that, when added to the
4 taxes of the district paid into a tax increment fund as described by
5 Subdivision (4)(B), is equal to the total amount of taxes the
6 district would have paid into the tax increment fund if the district
7 levied taxes at the rate the district levied in 2004;

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

10 (7) [~~(6)~~] the difference between the comptroller's
11 estimate of the market value and the productivity value of land that
12 qualifies for appraisal on the basis of its productive capacity,
13 except that the productivity value estimated by the comptroller may
14 not exceed the fair market value of the land;

15 (8) [~~(7)~~] the portion of the appraised value of
16 residence homesteads of individuals who receive a tax limitation
17 under Section 11.26, Tax Code, on which school district taxes are
18 not imposed in the year that is the subject of the study, calculated
19 as if the residence homesteads were appraised at the full value
20 required by law;

21 (9) [~~(8)~~] a portion of the market value of property
22 not otherwise fully taxable by the district at market value because
23 of:

24 (A) action required by statute or the
25 constitution of this state that, if the tax rate adopted by the
26 district is applied to it, produces an amount equal to the
27 difference between the tax that the district would have imposed on

1 the property if the property were fully taxable at market value and
2 the tax that the district is actually authorized to impose on the
3 property, if this subsection does not otherwise require that
4 portion to be deducted; or

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

7 (10) [~~(9)~~] the market value of all tangible personal
8 property, other than manufactured homes, owned by a family or
9 individual and not held or used for the production of income;

10 (11) [~~(10)~~] the appraised value of property the
11 collection of delinquent taxes on which is deferred under Section
12 33.06, Tax Code;

13 (12) [~~(11)~~] the portion of the appraised value of
14 property the collection of delinquent taxes on which is deferred
15 under Section 33.065, Tax Code; [~~and~~]

16 (13) [~~(12)~~] the amount by which the market value of a
17 residence homestead to which Section 23.23, Tax Code, applies
18 exceeds the appraised value of that property as calculated under
19 that section; and

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

24 (d-1) For a school district for which in the 2004 tax year a
25 deduction from taxable value is made under Subsection (d)(5), the
26 comptroller shall certify to the commissioner of education a final
27 taxable value for the 2004 tax year, calculated as if the reduction

1 in the school district's ad valorem tax rate and the method of
 2 calculating the amount of the deduction from taxable value under
 3 Subsection (d)(5) required by S.B. No. 8, Acts of the 79th
 4 Legislature, 2nd Called Session, 2005, took effect January 1, 2004.
 5 This subsection expires September 1, 2006.

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

1 exceeds the appraised value of those properties as calculated by
2 the appraisal district under Section 23.23, Tax Code.

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

5 PART C. SCHOOL FACILITIES

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

8 Sec. 46.008. STANDARDS. (a) The commissioner shall
9 establish standards for adequacy of school facilities. The
10 standards must include requirements related to space, educational
11 adequacy, and construction quality. All new facilities constructed
12 after September 1, 1998, must meet the standards to be eligible to
13 be financed with state or local tax funds.

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

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

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

1 (b) The study of instructional facilities must include an
2 examination of the following objectives and any other objectives
3 determined appropriate by the Legislative Budget Board and the
4 agency:

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

7 (2) information relating to the condition of existing
8 instructional facilities, including dates of the most recent major
9 renovations;

10 (3) a determination of the number of school districts
11 and campuses that have student populations that exceed the state
12 average for enrollment growth, including, if appropriate, a
13 determination of:

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

16 (B) the square footage of instructional facility
17 space per student; and

18 (C) the number of instructional facilities that
19 are serving a number of students that exceeds the maximum capacity
20 of the facility;

21 (4) a determination of the extent to which
22 instructional facilities in this state are energy and water use
23 efficient; and

24 (5) a determination of the extent of a school
25 district's bonded indebtedness relating to facilities or
26 replacement costs.

27 (c) The Legislative Budget Board and the agency shall

1 determine the appropriate methodology for use in conducting the
2 study required by this section.

3 (d) Not later than December 1, 2006, the Legislative Budget
4 Board and the agency shall submit to the legislature a report based
5 on the study required by this section. This section expires January
6 15, 2007.

7 SECTION 1C.03. This part takes effect on the 91st day after
8 the last day of the legislative session.

9 PART D. SOCIAL SECURITY CONTRIBUTIONS

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

12 Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.

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

17 (a-1) Subsection (a) applies beginning with the 2008-2009
18 school year. For the 2006-2007 school year, the state shall pay 16
19 percent of the total costs described by Subsection (a). For the
20 2007-2008 school year, the state shall pay 33 percent of the total
21 costs described by Subsection (a). This subsection expires
22 September 1, 2009.

23 (b) Payment of state assistance under this section is
24 limited to:

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

27 (2) contributions made on behalf of employees in a

1 class of employees the district covered under the social security
2 program before January 1, 2005.

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

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

8 ARTICLE 2. EDUCATION EXCELLENCE

9 PART A. EDUCATION EMPLOYEES

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

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

16 (1) communication during:

17 (A) the employee's regular working hours at the
18 district; or

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

20 (2) ex parte communication relating to:

21 (A) a hearing under Subchapter E or F, Chapter
22 21; and

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

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

1 Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR
2 PRINCIPALS. (a) The agency shall develop and implement a school
3 leadership pilot program for principals in cooperation with a
4 nonprofit corporation that has substantial experience in
5 developing best practices to improve leadership skills, student
6 achievement, student graduation rates, and teacher retention.

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

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

13 (d) A principal of a campus rated academically
14 unacceptable, as well as any person employed to replace that
15 principal, shall participate in the program and complete the
16 program requirements not later than a date determined by the
17 commissioner.

18 (e) To pay the costs of administering the program, the
19 commissioner shall retain a portion of the total amount of funds
20 allotted under the Foundation School Program that the commissioner
21 considers appropriate to finance activities under this section and
22 shall reduce the total amount of state funds allocated to each
23 district from any source in the same manner described for a
24 reduction in allotments under Section 42.313.

25 (e-1) For the state fiscal biennium beginning September 1,
26 2005, the amount set aside under Subsection (e) may not exceed \$3.6
27 million. This subsection expires August 31, 2007.

1 (f) To implement and administer the program, the
2 commissioner may accept grants, gifts, and donations from public
3 and private entities.

4 (g) The commissioner may adopt rules necessary to
5 administer this section.

6 (h) During the first semester of the 2008-2009 school year,
7 the agency shall evaluate the effectiveness of the program in
8 developing and enhancing the ability of principals participating in
9 the program to provide school leadership and improve student
10 achievement and graduation rates and teacher retention. Not later
11 than January 1, 2009, the agency shall submit a report explaining
12 the results of the study to the governor, lieutenant governor,
13 speaker of the house of representatives, and the presiding officers
14 of the standing committees of each house of the legislature with
15 primary jurisdiction over public education.

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

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

19 (a) A person may not be employed as a teacher, teacher
20 intern or teacher trainee, librarian, educational aide,
21 administrator, educational diagnostician, or counselor by a school
22 district unless the person holds an appropriate certificate or
23 permit issued as provided by Subchapter B.

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

26 (a) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules
27 establishing standards to govern the approval and continuing

1 accountability of all educator preparation programs based on
2 information that is disaggregated with respect to sex and ethnicity
3 and that includes:

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

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

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

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

14 (b) Each educator preparation program shall submit data
15 elements as required by the commissioner ~~[board]~~ for an annual
16 performance report to ensure access and equity. At a minimum, the
17 annual report must contain the performance data from Subsection
18 (a), other than the data required for purposes of Subsection
19 (a)(3), and the following information, disaggregated by sex and
20 ethnicity:

21 (1) the number of candidates who apply;
22 (2) the number of candidates admitted;
23 (3) the number of candidates retained;
24 (4) the number of candidates completing the program;
25 (5) the number of candidates employed in the
26 profession after completing the program; and

27 (6) the number of candidates retained in the

profession.

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

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

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

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

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

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

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

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

3 (2) hear the evidence supporting the reason for the
4 discharge;

5 (3) cross-examine adverse witnesses; and

6 (4) present evidence.

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

9 (1) take the appropriate action to discharge the
10 teacher or allow the teacher to complete the probationary contract
11 term; and

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

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

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

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

26 (b) If the teacher desires a hearing after receiving notice
27 of the proposed discharge, the teacher shall notify the board of

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

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

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

13 (3) cross-examine adverse witnesses; and

14 (4) present evidence.

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

16 (1) take the appropriate action to discharge the
17 teacher or allow the teacher to complete the current contract term;
18 and

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

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

27 SECTION 2A.08. Section 21.251, Education Code, is amended

to read as follows:

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

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

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

(3) suspend the teacher without pay.

(b) This subchapter does not apply to:

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

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

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

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

(a) Not later than the 20th day after the date the board of trustees or board subcommittee announces its decision under Section 21.259, ~~[or]~~ the board advises the teacher of its decision not to renew the teacher's contract under Section 21.208, or the board advises the teacher of its decision to terminate the teacher's

1 probationary contract under Section 21.1041(c) or (d) or term
2 contract under Section 21.2111(c) or (d), the teacher may appeal
3 the decision by filing a petition for review with the commissioner.

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

6 (a) If the board of trustees decided not to renew a
7 teacher's term contract or decided to terminate a teacher's
8 probationary contract under Section 21.1041(c) or (d) or term
9 contract under Section 21.2111(c) or (d), the commissioner may not
10 substitute the commissioner's judgment for that of the board of
11 trustees unless the decision was arbitrary, capricious, or unlawful
12 or is not supported by substantial evidence.

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

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

$$[MS = SF \times FS]$$

23 [where:]

24 ["MS" is the minimum monthly salary,

25 ["SF" is the applicable salary factor specified by Subsection
26 (c), and

27 ["FS" is the amount, as determined by the commissioner under

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

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

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

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

Years	0	1	2
Experience			
Monthly Salary	<u>\$2,574</u> [-.5656]	<u>\$2,631</u> [-.5790]	<u>\$2,689</u> [-.5924]
[Factor]			
Years	3	4	5
Experience			
Monthly Salary	<u>\$2,746</u> [-.6058]	<u>\$2,867</u> [-.6340]	<u>\$2,988</u> [-.6623]
[Factor]			
Years	6	7	8
Experience			

1	<u>Monthly</u> Salary	<u>\$3,109</u> [-.6906]	<u>\$3,222</u> [-.7168]	<u>\$3,328</u> [-.7416]
2	[Factor]			
3	Years	9	10	11
4	Experience			
5	<u>Monthly</u> Salary	<u>\$3,429</u> [-.7651]	<u>\$3,523</u> [-.7872]	<u>\$3,614</u> [-.8082]
6	[Factor]			
7	Years	12	13	14
8	Experience			
9	<u>Monthly</u> Salary	<u>\$3,699</u> [-.8281]	<u>\$3,778</u> [-.8467]	<u>\$3,855</u> [-.8645]
10	[Factor]			
11	Years	15	16	17
12	Experience			
13	<u>Monthly</u> Salary	<u>\$3,926</u> [-.8811]	<u>\$3,994</u> [-.8970]	<u>\$4,058</u> [-.9119]
14	[Factor]			
15	Years	18	19	20 and over
16	Experience			
17	<u>Monthly</u> Salary	<u>\$4,118</u> [-.9260]	<u>\$4,176</u> [-.9394]	<u>\$4,230</u> [-.9520]
18	[Factor]			

19 (c-1) Notwithstanding Subsection (a), for the 2005-2006
20 school year, a classroom teacher, full-time librarian, full-time
21 counselor certified under Subchapter B, or full-time school nurse
22 is entitled to a monthly salary that is at least equal to the sum of:
23 (1) the monthly salary the employee would have
24 received for the 2005-2006 school year under the district's salary
25 schedule for the 2004-2005 school year, if that schedule had been in
26 effect for the 2005-2006 school year, including any local
27 supplement and any money representing a career ladder supplement

1 the employee would have received in the 2005-2006 school year; and

2 (2) \$150.

3 (c-2) Subsection (c-1) and this subsection expire September
4 1, 2006.

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

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

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

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

21 (1) the teacher's ability to improve the academic
22 achievement of the teacher's students;

23 (2) the grade level or subject the teacher is assigned
24 to teach;

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

26 (4) the assignment of the teacher, including whether
27 the teacher is assigned to a subject or school that is difficult to

1 staff.

2 (c) A school district can and should provide additional
3 compensation to a teacher who substantially contributes to
4 improvement in student achievement.

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

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

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

14 (1) \$1,000 for a year in which the sum of the teacher's
15 age and years of service credit in the Teacher Retirement System of
16 Texas equals at least 80 but less than 85;

17 (2) \$2,000 for a year in which the sum of the teacher's
18 age and years of service credit in the Teacher Retirement System of
19 Texas equals at least 85 but less than 90;

20 (3) \$3,000 for a year in which the sum of the teacher's
21 age and years of service credit in the Teacher Retirement System of
22 Texas equals at least 90 but less than 95; and

23 (4) \$4,000 for a year in which the sum of the teacher's
24 age and years of service credit in the Teacher Retirement System of
25 Texas equals at least 95.

26 (c) If a person is entitled to a salary supplement under a
27 provision of Subsection (b) for only part of a year, the amount of

1 the salary supplement shall be prorated accordingly.

2 (d) The Teacher Retirement System of Texas, at the request
3 of the agency, may release information to the agency about a member
4 of the retirement system or a retiree that the executive director of
5 the retirement system finds is necessary to determine a person's
6 eligibility for a salary supplement under this section. The
7 information remains confidential after the information is released
8 to the agency as authorized by this section. The agency may
9 disclose whether an employee is entitled to a supplement and the
10 amount of the supplement to which the employee is entitled but may
11 not release other information provided by the retirement system.

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

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

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

a mentor teacher to each classroom teacher who has less than two years of teaching experience. A teacher assigned as a mentor must:

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

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

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

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

- (1) mentor teacher stipends;
- (2) scheduled time for mentor teachers to provide mentoring to assigned classroom teachers; and

1 (3) mentoring support through providers of mentor
2 training.

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

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

8 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

9 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)
10 The commissioner shall establish an educator excellence incentive
11 program under which school districts, in accordance with locally
12 developed plans approved by the commissioner, provide incentive
13 payments to employees who demonstrate superior success in growth in
14 student achievement.

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

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

20 (1) encourage classroom teachers to:

21 (A) teach at campuses with high percentages of
22 educationally disadvantaged students;

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

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

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

4 (d) The commissioner shall adopt rules necessary to
5 implement this subchapter. In adopting rules, the commissioner
6 shall:

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

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

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

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

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

18 (c) A local incentive plan must provide for incentive
19 payments to classroom teachers and may provide for incentive
20 payments to other employees.

21 (d) The primary criteria for making incentive payments to
22 employees under a local incentive plan must be based on objective
23 measures of student achievement, including a measure of incremental
24 growth in student achievement under Section 39.034, and the plan
25 must provide for incentive payments to be awarded on the basis of
26 high achievement, incremental growth in achievement, or both. A
27 local incentive plan may also consider other indicators of employee

1 performance, such as teacher evaluations conducted by principals or
2 parents.

3 (e) A local incentive plan must:

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

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

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

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

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

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

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

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

Sec. 22.101. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) This section does not apply to:

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

(2) an administrator, as defined by the trustee, employed by a school district, another educational district, a participating charter school, or a regional education service center ~~[state funds in an amount, as determined by the agency, equal to the product of the number of eligible employees employed by the~~

1 ~~district, school, or service center multiplied by the amount~~
2 ~~specified in the General Appropriations Act for purposes of this~~
3 ~~subchapter and divided by 12. The agency shall distribute funding~~
4 ~~to only one entity for employees who are employed by more than one~~
5 ~~entity listed in this section].~~

6 Sec. 22.104 [~~22.105~~]. FUNDS HELD IN TRUST. All funds
7 received by a district, other educational district, participating
8 charter school, or regional education service center under this
9 subchapter are held in trust for the benefit of the employees on
10 whose behalf the district, school, or service center received the
11 funds.

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

16 Sec. 22.106. [~~RECOVERY OF DISTRIBUTIONS. The agency is~~
17 ~~entitled to recover from a district, other educational district,~~
18 ~~participating charter school, or regional education service center~~
19 ~~any amount distributed under this subchapter to which the district,~~
20 ~~school, or service center was not entitled.~~

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

24 [~~Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each~~
25 ~~district, other educational district that is a member of the~~
26 ~~Teacher Retirement System of Texas, participating charter school,~~
27 ~~and regional education service center must distribute to its~~

~~eligible employees the funding received under this subchapter. To receive the monthly distribution, an individual must meet the definition of an employee under Section 22.101 for that month.~~

~~[Sec. 22.109.] USE OF DESIGNATED [SUPPLEMENTAL] COMPENSATION. An employee may use compensation designated for health care supplementation [a monthly distribution received] under this subchapter for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in a cafeteria plan, or using the designated amount [of the distribution] for health care premiums through a premium conversion plan. [The employee may take the amount of the distribution as supplemental compensation.~~

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

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

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

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

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

(1) has at least three years of experience in speech

1 therapy, as determined by the State Board of Examiners for
2 Speech-Language Pathology and Audiology; and

3 (2) is supervised by a licensed speech-language
4 pathologist.

5 (b) An assistant described by Subsection (a) may attend, as
6 related services personnel, a student admission, review, and
7 dismissal committee meeting if the meeting involves a student for
8 whom the assistant provides services. If an assistant attends a
9 meeting as provided by this section, the supervising
10 speech-language pathologist is not required to attend the meeting,
11 except as provided by Subsection (c).

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

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

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

21 (d) This section:

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

25 (2) is not a waiver of a school district's sovereign
26 immunity.

27 SECTION 2A.18. (a) Not later than January 1, 2006, the

1 commissioner of education shall review the rules adopted under
2 Section 21.044, Education Code, relating to educator training
3 requirements and revise those rules as necessary to ensure that the
4 training requirements are sufficient to produce educators capable
5 of:

6 (1) satisfying the increased standards for highly
7 qualified educators prescribed by the No Child Left Behind Act of
8 2001 (Pub. L. No. 107-110);

9 (2) complying with certification standards in this
10 state; and

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

13 (b) In conducting the review required by Subsection (a) of
14 this section, the commissioner of education shall give specific
15 attention to the degree to which educator training requirements
16 prepare educators to serve students of limited English proficiency
17 and students with learning disabilities.

18 SECTION 2A.19. Sections 21.104, 21.251, 21.301, and 21.303,
19 Education Code, as amended by this Act, and Sections 21.1041 and
20 21.2111, Education Code, as added by this Act, apply only to a
21 discharge under a probationary or term contract for which written
22 notice of the proposed discharge is given to a teacher on or after
23 the effective date of this Act. A discharge under a probationary or
24 term contract for which written notice of the proposed discharge is
25 given to a teacher before the effective date of this Act is governed
26 by the law in effect when the notice is given, and the former law is
27 continued in effect for that purpose.

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

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

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

12 PART B. STATE AND REGIONAL GOVERNANCE

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

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

18 (b) The commissioner of education and the commissioner of
19 higher education may establish not more than three centers for
20 education research for conducting research described by
21 Subsections (e) and (f).

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

23 (1) the Texas Education Agency;
24 (2) the Texas Higher Education Coordinating Board; or
25 (3) a public junior college, public senior college or
26 university, or public state college, as those terms are defined by
27 Section 61.003.

1 (d) A center may be operated under a memorandum of
2 understanding between the commissioner of education, the
3 commissioner of higher education, and the governing board of an
4 educational institution described by Subsection (c)(3). The
5 memorandum of understanding must require the commissioner of
6 education, or a person designated by the commissioner, and the
7 commissioner of higher education, or a person designated by the
8 commissioner, to provide direct, joint supervision of the center
9 under this section.

10 (e) A center shall conduct research for the benefit of
11 education in this state, including research relating to the impact
12 of state and federal education programs, the performance of
13 educator preparation programs, public school finance, and the best
14 practices of school districts with regard to classroom instruction,
15 bilingual education programs, special language programs, and
16 business practices.

17 (f) The commissioner of education and the commissioner of
18 higher education:

19 (1) under the memorandum of understanding described by
20 Subsection (d), may require a center to conduct certain research
21 projects considered of particular importance to the state, as
22 determined by the commissioners; and

23 (2) not later than the 45th day before the date a
24 research project required to be conducted under this subsection is
25 scheduled to begin, shall notify the governor, the Legislative
26 Budget Board, and the governing body of the educational institution
27 in which the center is established that the research project is

1 required.

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

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

10 (2) shall comply with rules adopted by the
11 commissioner of education and the commissioner of higher education
12 to protect the confidentiality of student information, including
13 rules establishing procedures to ensure that confidential student
14 information is not duplicated or removed from a center in an
15 unauthorized manner.

16 (h) The commissioner of education and the commissioner of
17 higher education may:

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

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

22 (i) This section does not authorize the disclosure of
23 student information that may not be disclosed under the Family
24 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
25 1232g).

26 (j) The commissioner of education and the commissioner of
27 higher education shall adopt rules as necessary to implement this

1 section.

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

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

8 Sec. 7.004. SUNSET PROVISION. (a) The Texas Education
9 Agency is subject to Chapter 325, Government Code (Texas Sunset
10 Act). Unless continued in existence as provided by that chapter,
11 the agency is abolished September 1, 2017 ~~[2007. In the review of~~
12 ~~the agency by the Sunset Advisory Commission, as required by this~~
13 ~~section, the sunset commission shall limit its review to the~~
14 ~~appropriateness of recommendations made by the sunset commission to~~
15 ~~the 79th Legislature. In the Sunset Advisory Commission's report~~
16 ~~to the 80th Legislature, the sunset commission may include any~~
17 ~~recommendations it considers appropriate].~~

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

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

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

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

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

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

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

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

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

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

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

27 (b) Each school district, public charter district, and

1 institution of higher education shall participate in an electronic
2 student records system that satisfies standards approved by the
3 commissioner of education and the commissioner of higher education.

4 (c) The electronic student records system must permit an
5 authorized state or district official or an authorized
6 representative of an institution of higher education to
7 electronically transfer to and from an educational institution in
8 which the student is enrolled and retrieve student transcripts,
9 including information concerning a student's:

10 (1) course or grade completion;

11 (2) teachers of record;

12 (3) assessment instrument results; and

13 (4) receipt of special education services, including
14 placement in a special education program and the individualized
15 education program developed.

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

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

27 (f) Any person involved in the transfer and retrieval of

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

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

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

12 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may
 13 receive gifts, grants, or donations from any public or private
 14 source to perform any educational function the agency is authorized
 15 to perform by law.

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

19 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING. (a)
 20 Except as provided by Section 29.001(5), 29.010(a), [~~39.074,~~] or
 21 39.075, the agency may monitor compliance with requirements
 22 applicable to a process or program provided by a school district,
 23 campus, program, or school granted charters under Chapter 11A or
 24 12, including the process described by Subchapter F, Chapter 11, or
 25 a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,
 26 Subchapter A, Chapter 37, or Section 38.003, and the use of funds
 27 provided for such a program under Subchapter C, Chapter 42, only as

necessary to ensure:

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

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

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

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

- (1) data integrity;
- (2) the performance of district or school programs;
- (3) financial accountability;
- (4) academic accountability;

1 (5) previous history of compliance;

2 (6) complaints issues; and

3 (7) governance issues.

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

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

9 (1) the school laws of this state; or

10 (2) actions or decisions of any school district board
11 of trustees that violate:

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

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

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

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

26 Sec. 7.0571. INFORMAL REVIEW BY COMMISSIONER. (a) The
27 commissioner shall adopt rules under which a school district,

1 public charter district, or other person that wishes to challenge
2 an agency decision made under Chapter 39, 41, 42, or 46 must
3 petition the commissioner for an informal review by the
4 commissioner of the decision.

5 (b) The commissioner may limit a review under this section
6 to a written submission of any issue identified by the
7 commissioner.

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

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

12 Sec. 7.061. SUBPOENA. (a) The commissioner may issue a
13 subpoena to compel the attendance and testimony of a witness or the
14 production of materials relevant to an audit or investigation under
15 this title.

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

18 (c) If a person fails to comply with a subpoena issued under
19 this section, the commissioner, acting through the attorney
20 general, may file suit to enforce the subpoena in a district court
21 in Travis County or in the county in which the audit or
22 investigation is conducted. The court shall order compliance with
23 the subpoena if the court finds that good cause exists to issue the
24 subpoena.

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

1 SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

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

6 (b) The grant system must:

7 (1) connect grant activities and funding to student
8 academic performance; and

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

11 Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall
12 ensure that:

13 (1) the mission, purpose, and objectives of each
14 agency grant program support student academic performance or
15 another public education mission, objective, or goal specified
16 under Sections 4.001 and 4.002;

17 (2) each agency grant program coordinates with other
18 grant programs administered by the agency;

19 (3) grant programs with similar objectives have common
20 performance measures; and

21 (4) the most efficient methods for coordinating grant
22 objectives, grant activities, academic performance measures, and
23 funding are used in the agency's grant application and reporting
24 systems.

25 Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may
26 use existing data to identify and notify an eligible school
27 district or charter school of the opportunity to apply for a

1 state-funded discretionary grant.

2 Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.
3 The agency shall develop one or more consolidated applications to
4 be used by school districts and charter schools in applying for any
5 state-funded formula grant administered by the agency.

6 Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency
7 shall ensure that information relating to the grant system is
8 available to the legislature and the public.

9 Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The
10 agency, in coordination with regional education service centers,
11 shall use data relating to grant programs, including grant spending
12 and performance information, to identify successful grant
13 programs. Based on the identification of successful grant
14 programs, each regional education service center shall provide
15 information concerning those programs to the school districts in
16 the service center's region.

17 (b) This section applies beginning with the 2009-2010
18 school year. This subsection expires June 1, 2010.

19 Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. (a) In developing
20 the performance-based grant system, the agency shall:

21 (1) identify each area of data collected for grant
22 programs and the method in which the agency collects the data;

23 (2) determine whether grant data that a school
24 district or charter school is required to collect is useful and
25 supports:

26 (A) a grant program's objectives; and

27 (B) the goals for academic performance and

1 accountability or another public education mission, objective, or
2 goal;

3 (3) determine whether grant data is analyzed and
4 disseminated efficiently; and

5 (4) review the agency's policies, procedures, and
6 reporting requirements relating to grant programs administered by
7 the agency to simplify and make more efficient the grant
8 application, award, and reporting processes for school districts
9 and charter schools.

10 (b) This section expires June 1, 2010.

11 Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL
12 YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the
13 agency shall provide the legislature with a status report
14 concerning the agency's development of the grant system. The
15 report may suggest any statutory changes needed to facilitate a
16 full transition to a performance-based grant system.

17 (b) Beginning with the 2009-2010 school year, the agency
18 shall make the performance-based grant system fully available to
19 school districts and charter schools.

20 (c) This section expires June 1, 2010.

21 SECTION 2B.11. Subchapter A, Chapter 8, Education Code, is
22 amended by adding Section 8.0031 to read as follows:

23 Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS.

24 (a) The commissioner shall adopt rules prescribing training for
25 members of regional education service center boards of directors.
26 The training curriculum may include:

27 (1) an overview of this code and any rules adopted

1 under this code;

2 (2) a review of recent state and federal education
3 legislation, rules, and regulations;

4 (3) a review of the powers and duties of a regional
5 education service center board of directors; and

6 (4) a review of any statewide or regional strategic
7 planning applicable to regional education service centers.

8 (b) A member of a regional education service center board of
9 directors must complete any training required by commissioner rule.

10 SECTION 2B.12. Sections 8.051(b), (c), and (d), Education
11 Code, are amended to read as follows:

12 (b) Each regional education service center shall annually
13 develop and submit to the commissioner for approval a plan for
14 improvement. Each plan must include the purposes and description
15 of the services the center will provide to:

16 (1) campuses rated academically unacceptable
17 ~~[identified as low-performing based on the indicators adopted]~~
18 under Section 39.072 ~~[39.051]~~;

19 (2) the lowest-performing campuses in the region; and

20 (3) other campuses.

21 (c) Each regional education service center shall provide
22 services that enable school districts to operate more efficiently
23 and economically, including collecting and disseminating:

24 (1) best practices information as provided by Section
25 7.010; and

26 (2) information concerning successful grant programs
27 to school districts as provided by Section 7.156.

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

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

(2) training and assistance in providing each program that qualifies for a special education, compensatory education, bilingual education, or gifted and talented student funding allotment under Subchapter C, Chapter 42 [~~Section 42.151, 42.152, 42.153, or 42.156~~];

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

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

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

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

SECTION 2B.13. Section 8.102, Education Code, is amended to read as follows:

Sec. 8.102. DATA REPORTING. (a) Each regional education service center shall report audited or budgeted financial information and any other information requested by the commissioner

1 for use in assessing the performance of the center. The
2 commissioner shall develop a uniform system for regional education
3 service centers to report audited financial data, to report
4 information on the indicators adopted under Section 8.101, and to
5 provide information on client satisfaction with services provided
6 under Subchapter B.

7 (b) The uniform system for reporting required by Subsection
8 (a) must require regional education service centers to:

9 (1) use standard accepted cost accounting practices
10 approved by the commissioner for reporting all expenditures; and

11 (2) identify and report each expenditure separately by
12 purpose as educational, support, or administrative.

13 SECTION 2B.14. Section 8.103, Education Code, is amended to
14 read as follows:

15 Sec. 8.103. ANNUAL EVALUATION. (a) The commissioner shall
16 conduct an annual evaluation of each executive director and
17 regional education service center. Each evaluation must include:

- 18 (1) an audit of the center's finances;
19 (2) a review of the center's performance on the
20 indicators adopted under Section 8.101;
21 (3) a review of client satisfaction with services
22 provided under Subchapter B; and
23 (4) a review of any other factor the commissioner
24 determines to be appropriate.

25 (b) In the audit conducted under Subsection (a)(1), the
26 commissioner shall verify that the regional education service
27 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

1 expanding center-sponsored cooperative shared service
2 arrangements.

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

10 (d) The commissioner may:

11 (1) adopt by rule reasonable incentives to encourage
12 school districts and public charter districts to enter into
13 agreements for a cooperative shared service arrangement; and

14 (2) require a district or a public charter district to
15 enter into an agreement for a cooperative shared service
16 arrangement if the commissioner determines that the financial
17 management performance of the district is unsatisfactory.

18 SECTION 2B.16. Subchapter A, Chapter 28, Education Code, is
19 amended by adding Section 28.0022 to read as follows:

20 Sec. 28.0022. CURRICULUM REVIEW; ALIGNMENT WITH
21 INSTRUCTIONAL MATERIALS AND ASSESSMENT PROGRAM. (a) The State
22 Board of Education shall adopt a five-year cycle for reviewing the
23 essential knowledge and skills of each subject of the required
24 curriculum under Section 28.002.

25 (b) The State Board of Education may not modify the
26 curriculum in a manner intended to benefit:

27 (1) a specific publisher of instructional materials,

1 as those terms are defined by Section 31.002; or

2 (2) another vendor of educational products or
3 technology.

4 (c) It is the intent of the legislature that the State Board
5 of Education continue to align instructional materials approved
6 under Chapter 31 with the required curriculum. The agency shall
7 develop the state assessment program under Subchapter B, Chapter
8 39, in alignment with the required curriculum.

9 SECTION 2B.17. Subchapter A, Chapter 29, Education Code, is
10 amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as
11 follows:

12 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
13 PROCESS HEARINGS. (a) The agency shall make available to a parent,
14 student, school district, attorney, or other interested person, and
15 shall place on the agency's Internet website, comprehensive, easily
16 understood information concerning the special education due
17 process hearing process.

18 (b) The information described by Subsection (a) must
19 include:

20 (1) a description of the steps in the due process
21 hearing process;

22 (2) the text of any applicable administrative,
23 procedural, or evidentiary rule;

24 (3) a description of any notice requirements;

25 (4) an explanation of options for alternative dispute
26 resolution, including mediation;

27 (5) an explanation of a resolution session;

1 (6) answers to frequently asked questions; and
2 (7) other sources of information, including
3 electronic sources of information, such as special education case
4 law available on the Internet.

5 Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION
6 CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency
7 shall collect and at least biennially analyze any information,
8 including complaint information, relating to the performance of a
9 special education hearing officer for use in assessing:

10 (1) the effectiveness of the due process hearing
11 process; and

12 (2) the performance of a special education hearing
13 officer.

14 (b) The agency shall use the information described by
15 Subsection (a) in determining whether to renew a contract with a
16 special education hearing officer.

17 Sec. 29.0164. SPECIAL EDUCATION HEARING OFFICER: CONFLICT
18 OF INTEREST PROVISIONS. A special education hearing officer may
19 not accept employment or compensation from a school district during
20 a school year in which the hearing officer presides over a hearing
21 to which the district is a party.

22 SECTION 2B.18. Section 37.008, Education Code, is amended
23 by adding Subsection (o) to read as follows:

24 (o) For purposes of accountability under Chapter 39, a
25 student placed in a disciplinary alternative education program is
26 reported as if the student were enrolled at the student's assigned
27 campus in the student's regularly assigned education program,

1 including a special education program.

2 PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

3 SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is
4 amended by adding Section 7.011 to read as follows:

5 Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM
6 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at
7 risk of dropping out of school" has the meaning described by Section
8 29.081.

9 (b) The agency shall develop a management information
10 system for funds awarded and allocated to school districts and
11 public charter districts for the purpose of providing services to
12 students at risk of dropping out of school.

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

19 (1) the amount of an award;
20 (2) the beginning and ending period of a grant or
21 award;

22 (3) expenditures related to an award; and
23 (4) any amount of an award that was not distributed
24 because of a school district's failure to use awarded funds to
25 provide needed services during the funding period.

26 (d) The commissioner shall adopt rules as necessary to
27 administer this section. The rules adopted under this subsection

1 must ensure that:

2 (1) the funds management information system includes:

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

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

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

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

23 SECTION 2C.02. Effective August 1, 2006, Section 7.056(e),
24 Education Code, as amended by S.B. No. 658, Acts of the 79th
25 Legislature, Regular Session, 2005, is amended to read as follows:

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

1 from:

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

4 (2) a requirement imposed by federal law or rule,
5 including a requirement for special education or bilingual
6 education programs; or

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

9 (A) essential knowledge or skills under Section
10 28.002 or minimum graduation requirements under Section 28.025;

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

13 (C) extracurricular activities under Section
14 33.081 or participation in a University Interscholastic League
15 area, regional, or state competition under Section 33.0812;

16 (D) health and safety under Chapter 38;

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

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

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

22 (H) at-risk programs under Subchapter C, Chapter
23 29;

24 (I) prekindergarten programs under Subchapter E,
25 Chapter 29;

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

A, Chapter 22;

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

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

(M) the requirements for the first and last day of instruction under Section 25.0811, except as provided by that section.

SECTION 2C.03. Section 11.059, Education Code, is amended to read as follows:

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

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

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

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

SECTION 2C.04. Subchapter C, Chapter 11, Education Code, is amended by adding Section 11.066 to read as follows:

Sec. 11.066. REMOVAL FOR FAILURE TO ATTEND BOARD MEETINGS.

(a) It is a ground for removal of a trustee of an independent school district that the trustee is absent from more than half of the

1 regularly scheduled board of trustees meetings during a calendar
2 year that the member is eligible to attend, unless the absence is
3 excused by a majority vote of the board of trustees.

4 (b) If the superintendent of the school district has
5 knowledge that a ground for removal under this section exists, the
6 superintendent shall notify the board of trustees. On a
7 determination that a potential ground for removal exists, the board
8 shall notify the appropriate county or district attorney or the
9 attorney general.

10 SECTION 2C.05. Subchapter E, Chapter 11, Education Code, is
11 amended by adding Section 11.2011 to read as follows:

12 Sec. 11.2011. SUPERINTENDENTS: CONFLICT OF INTEREST
13 PROVISIONS. (a) Except as provided by Subsection (b), a
14 superintendent may not receive any financial benefit for personal
15 services performed by the superintendent for any business entity
16 that conducts business with or solicits business from the school
17 district. Any financial benefit received by the superintendent for
18 performing personal services for any other entity must be approved
19 by the board of trustees on a case-by-case basis in an open meeting.

20 (b) Subsection (a) does not apply to personal services
21 performed by a superintendent for an institution of higher
22 education, as defined by Section 61.003, regional education service
23 center, or professional association or organization if the
24 superintendent provides notice to the board of trustees of the
25 school district disclosing the agreement to perform the services.

26 SECTION 2C.06. Section 25.031, Education Code, is amended
27 to read as follows:

1 Sec. 25.031. ASSIGNMENTS AND TRANSFERS IN DISCRETION OF
2 GOVERNING BOARD. (a) In conformity with this subchapter, the board
3 of trustees of a school district or the board of county school
4 trustees or a school employee designated by the board may assign and
5 transfer any student from one school facility or classroom to
6 another within its jurisdiction.

7 (b) A student who transfers to a school campus other than
8 the campus the student would normally attend based on the student's
9 residence may not be subsequently transferred out of a class at that
10 campus before the end of a semester if the only purpose of the
11 subsequent transfer is to comply with the limit in Section 25.112.
12 A school district is not required to apply for an exception under
13 Section 25.112(d) for the class in which the student is enrolled.

14 SECTION 2C.07. Effective August 1, 2006, the heading to
15 Section 25.0811, Education Code, is amended to read as follows:

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

17 SECTION 2C.08. Effective August 1, 2006, Section
18 25.0811(a), Education Code, is amended to read as follows:

19 ~~[(a)]~~ A school district shall ~~[may not]~~ begin instruction
20 for students for a school year on the first Tuesday after Labor Day.
21 The school year must end not later than June 7 unless:

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

24 (2) the commissioner grants a waiver to extend the
25 school year at a campus as the result of a disaster, flood, extreme
26 weather condition, fuel curtailment, or other calamity that caused
27 a closure of the campus for a significant period ~~[before the week in~~

1 ~~which August 21 falls. For purposes of this subsection, Sunday is~~
2 ~~considered the first day of the week].~~

3 SECTION 2C.09. Subchapter C, Chapter 29, Education Code, is
4 amended by adding Sections 29.092, 29.093, and 29.0931 to read as
5 follows:

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

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

18 (c) The commissioner shall consolidate funding from the
19 following currently funded programs and types of services,
20 excluding early childhood care and education programs and
21 accelerated reading or mathematics initiatives under Section
22 28.006, 28.007, or 28.0211:

23 (1) an optional extended year program under Section
24 29.082;

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

27 (3) a summer school program of instruction for

1 students of limited English proficiency; and

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

4 (d) The commissioner may include grants under Section 7.024
5 as part of one or more consolidated grant application processes
6 developed under this section. The commissioner shall ensure that a
7 grant applied for under a consolidated application process under
8 this section and awarded under Section 7.024 is used only for the
9 purposes of Section 7.024.

10 (e) The commissioner may redistribute the funding of
11 programs described under Subsection (c) as necessary to accomplish
12 the purpose of improving the achievement of students at risk of
13 dropping out of school.

14 (f) A school district or public charter district that
15 receives an award of funds under this section may use the funds to
16 provide academic and support services to students at risk of
17 dropping out of school, including:

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

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

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

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

26 (5) any academic or support services for pregnant or
27 parenting students, including basic instruction and health and life

1 skills training and support for pregnant or parenting students;

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

4 (7) programs or services designed to promote the
5 involvement of parents of students at risk of dropping out of
6 school; and

7 (8) services or programs promoting school and
8 community collaboration to restructure schools for the successful
9 achievement of all students, especially students at risk of
10 dropping out of school.

11 (g) The agency shall make available research-based guidance
12 to school districts and public charter districts to enable
13 successful implementation of the academic and support services
14 described by Subsection (f) that assist students at risk of
15 dropping out of school to succeed in school.

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

27 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and the

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

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

14 (1) a methodology for assessing the
15 cost-effectiveness of individual school districts and public
16 charter districts in providing services to students at risk of
17 dropping out of school;

18 (2) performance measures that can be used to assess
19 the effectiveness of school districts and public charter districts
20 in administering academic and social service programs for students
21 at risk of dropping out of school;

22 (3) a methodology for evaluating best practices in
23 providing effective services for students at risk of dropping out
24 of school;

25 (4) a statistical methodology for:
26 (A) controlling for differences among individual
27 school districts and public charter districts that are not related

1 to funding streams included in the cost-outcome analysis; and

2 (B) disaggregating data by peer groups;

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

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

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

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

9 (A) report findings from the cost-outcome
10 analysis to the lieutenant governor, the speaker of the house of
11 representatives, and the presiding officer of the standing
12 committee of each house of the legislature with primary
13 jurisdiction over public education, including data related to the
14 feasibility of constructing a cost-effectiveness measure for
15 school districts and public charter districts;

16 (B) make recommendations for the potential use of
17 the data, including the best methods to disseminate the information
18 to parents and school districts and public charter districts; and

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

21 (2) during the 2006-2007 school year, develop a plan
22 to implement the cost-outcome methodology to assess the
23 effectiveness of school districts and public charter districts in
24 providing services during the 2007-2008 school year to students at
25 risk of dropping out of school.

26 (d) During the state fiscal biennium beginning September 1,
27 2005, the commissioner shall retain an amount not to exceed

1 \$500,000 from the total amount of funds allotted under the
2 Foundation School Program to finance the comprehensive
3 cost-outcome analysis and shall reduce the total amount of state
4 funds allocated to each district from any source in the same manner
5 described for a reduction in allotments under Section 42.313.

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

7 Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S
8 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a
9 cost-outcome analysis methodology for use in assessing the
10 effectiveness of school districts and public charter districts in
11 providing services for students at risk of dropping out of school,
12 as described by Section 29.081. The commissioner shall use the
13 adopted methodology until the commissioner determines that an
14 alternate methodology approved by the agency and the Legislative
15 Budget Board under Section 29.093(b) more accurately portrays the
16 cost-effectiveness of the analyzed services.

17 (b) The methodology adopted by the commissioner must
18 include the following components:

19 (1) a composite performance measure that combines key
20 indicators of student performance, disaggregated for students at
21 risk of dropping out of school;

22 (2) a format for reporting all state, federal, local,
23 and private sources of funding and total expenditures for
24 supplemental services for students at risk of dropping out of
25 school, reported by school district, public charter district, and
26 statewide; and

27 (3) a system for scoring and ranking school districts

1 and public charter districts, including criteria for establishing
2 school district and public charter district peer groups for
3 comparison purposes.

4 (c) Based on the cost-outcome analysis methodology, the
5 commissioner shall use the ranking system under Subsection (b)(3)
6 to determine annually the level at which school districts and
7 public charter districts are cost-effective in serving students at
8 risk of dropping out of school.

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

11 (1) report the methodology and the results of the
12 cost-outcome analysis to the lieutenant governor, the speaker of
13 the house of representatives, and the presiding officer of the
14 standing committee of each house of the legislature with primary
15 jurisdiction over public education; and

16 (2) make the report under Subdivision (1) available to
17 the public.

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

21 SECTION 2C.10. Subchapter D, Chapter 33, Education Code, is
22 amended by adding Section 33.088 to read as follows:

23 Sec. 33.088. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT
24 CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise
25 eligible to participate in an extracurricular activity or a
26 University Interscholastic League competition is not ineligible
27 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.11. 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 revenue to fund direct
9 instructional activities in the district. The commissioner by rule
10 shall determine the manner in which a district's total available
11 revenue for purposes of this section is computed.

12 (a-1) Subsection (a) applies beginning with the 2009-2010
13 school year. For the 2006-2007, 2007-2008, and 2008-2009 school
14 years, a school district shall allocate the following percentages
15 of the district's total available revenue to fund direct
16 instructional activities in the district:

17 (1) for the 2006-2007 school year, at least 50
18 percent;

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

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

23 (a-2) Subsection (a-1) and this subsection expire August 1,
24 2009.

25 (b) For purposes of this section, whether an expenditure is
26 an expenditure for direct instructional activities shall be
27 determined in accordance with standards and definitions adopted by

1 the National Center for Education Statistics of the United States
2 Department of Education.

3 (c) The commissioner may adopt rules for purposes of this
4 section in a manner consistent with Subsection (b) and Section
5 44.0071.

6 SECTION 2C.12. Section 44.0071, Education Code, is amended
7 by amending Subsection (a) and adding Subsection (a-1) to read as
8 follows:

9 (a) Each fiscal year, a school district shall compute and
10 report to the commissioner:

11 (1) the percentage of the district's total available
12 revenue [~~expenditures~~] for the preceding fiscal year that was
13 [~~were~~] used to fund direct instructional activities; [~~and~~]

14 (2) the percentage of the district's total available
15 revenue for the preceding fiscal year that was used to fund direct
16 instructional activities related to courses that are subject to
17 assessment under Subchapter B, Chapter 39; and

18 (3) the the percentage of the district's full-time
19 equivalent employees during the preceding fiscal year whose job
20 function was to directly provide classroom instruction to students,
21 determined by dividing the number of hours spent by employees in
22 providing direct classroom instruction by the total number of hours
23 worked by all district employees.

24 (a-1) The commissioner by rule shall determine the manner in
25 which a district's total available revenue for purposes of this
26 section is computed.

27 SECTION 2C.13. Section 42.002(a), Election Code, as amended

by H.B. No. 1209, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) The county election precincts are the election precincts for the following elections:

(1) the general election for state and county officers;

(2) a special election ordered by the governor;

(3) a primary election;

(4) a countywide election ordered by the commissioners court, county judge, or other county authority, except an election subject to Section 42.062(2); ~~and~~

(5) any other election of a political subdivision not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million held on the November uniform election date, as provided by Section 42.0621; and

(6) an election held by a school district on the November uniform election date, as provided by Section 42.0622.

SECTION 2C.14. Subchapter C, Chapter 42, Election Code, is amended by adding Section 42.0622 to read as follows:

Sec. 42.0622. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT ELECTION. (a) A school district that holds an election on the November uniform election date shall use the regular county election precincts.

(b) If an election precinct contains territory from more than one school district or more than one district used to elect a member of the governing body of a school district, election

1 officials shall take reasonable measures to ensure that a voter
2 voting at that precinct may not vote in an election in which the
3 voter is not entitled to vote.

4 (c) This section does not require a school district to
5 contract with a county under Section 31.092 or hold a joint election
6 with a county under Chapter 271.

7 (d) The secretary of state shall prescribe procedures to
8 implement this section.

9 SECTION 2C.15. Section 43.004, Election Code, is amended by
10 adding Subsection (c) to read as follows:

11 (c) If a school district holds an election on the November
12 uniform election date, the school district shall designate as the
13 polling places for the election the regular county polling places
14 in the county election precincts that contain territory from the
15 school district.

16 SECTION 2C.16. (a) Section 11.059, Education Code, as
17 amended by this Act, applies to a school district trustee election
18 scheduled to be held on or after November 8, 2005.

19 (b) Except as provided by Subsection (c) of this section, a
20 school district trustee election that on the effective date of this
21 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
22 be held on November 7, 2006.

23 (c) If, under Subsection (b) of this section, the positions
24 of more than one-half of the trustees or as near to one-half as
25 possible would be scheduled for election on November 7, 2006, the
26 trustees holding those positions shall draw lots to determine, as
27 appropriate, which positions are subject to election in 2006 and

1 which are subject to election in 2008.

2 (d) To implement the changes made to Section 11.059,
3 Education Code, as amended by this Act, a person may serve a term as
4 school district trustee that is longer than the term for which the
5 person was elected.

6 SECTION 2C.17. Section 11.066, Education Code, as added by
7 this Act, applies only to trustee attendance at a board of trustees
8 meeting held on or after the effective date of this Act. Trustee
9 attendance at a board of trustees meeting held before the effective
10 date of this Act is governed by the law in effect when the meeting
11 was held, and the former law is continued in effect for that
12 purpose.

13 SECTION 2C.18. Section 11.2011, Education Code, as added by
14 this Act, applies only to a contract between a superintendent of a
15 school district and a business entity that is entered into,
16 amended, or extended on or after September 1, 2006. A contract
17 between a superintendent of a school district and a business entity
18 that is entered into, amended, or extended before September 1,
19 2006, is governed by the law in effect on the date the contract is
20 entered into, and the former law is continued in effect for that
21 purpose.

22 SECTION 2C.19. Not later than January 1, 2007, the Texas
23 Education Agency shall adopt a five-year plan to renovate the
24 Public Education Information Management System (PEIMS) to provide
25 for efficient and effective information storage and retrieval for
26 the purposes of allocating scarce school resources. The renovation
27 must include a redesign of the records layout.

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

PART D. ACCOUNTABILITY

SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.0071 to read as follows:

Sec. 7.0071. PUBLIC ACCESS TO PEIMS DATA. (a) The commissioner by rule shall adopt procedures to make available, through the agency Internet website, all financial information provided by school districts and campuses through the Public Education Information Management System (PEIMS), including campus-level expenditure information.

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

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

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.051(b)(10) [~~39.051(b)(7)~~]

and may implement sanctions under Subchapter G, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

SECTION 2D.03. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.010 to read as follows:

Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) In coordination with the Legislative Budget Board and with the assistance of the centers of education research established under Section 1.005, the agency shall establish an online clearinghouse of information relating to best practices of campuses and school districts regarding instruction, resource allocation, and business practices. To the extent practicable, the agency shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient campuses and school districts rather than general guidelines relating to campus and school district operation. The information must be accessible by campuses, school districts, and interested members of the public.

(b) The agency shall solicit and collect from the Legislative Budget Board, centers of education research established under Section 1.005, and exemplary or recognized school districts and public charter districts, as rated under Section 39.072, examples of best practices relating to instruction, resource allocation, and business practices, including best practices relating to curriculum, scope and sequence, compensation

and incentive systems, bilingual education and special language programs, and the effective use of instructional technology, including online courses.

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

SECTION 2D.04. Subchapter A, Chapter 11, Education Code, is amended by adding Section 11.004 to read as follows:

Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS AND CAMPUSES. (a) Except as provided by Subsection (b), a school district or campus rated exemplary under Section 39.072 is subject only to the prohibitions, restrictions, and requirements of this title that apply to a public charter district under Section 11A.052(b) as approved by the commissioner.

(b) A school district or campus described by Subsection (a) is subject to the prohibitions, restrictions, and requirements of Chapter 37, as applicable.

SECTION 2D.05. Sections 29.053(b) and (d), Education Code, are amended to read as follows:

(b) Within the first ~~four~~ five weeks following the first day of school, the language proficiency assessment committee established under Section 29.063 shall determine and report to the

board of trustees of the district the number of students of limited English proficiency on each campus and shall classify each student according to the language in which the student possesses primary proficiency. The board shall report that information to the agency before November 1 each year.

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

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

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

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

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

SECTION 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

1 Subsection (a), a school district may:

2 (1) provide flexibility in the number of hours each
3 day a student attends;

4 (2) provide flexibility in the number of days each
5 week a student attends; or

6 (3) allow a student to enroll in less or more than a
7 full course load.

8 (c) A course offered in a program under this section must
9 provide for at least the same number of instructional hours as
10 required for a course offered in a program that meets the required
11 minimum number of instructional days under Section 25.081 and the
12 required length of school day under Section 25.082.

13 (d) The commissioner may adopt rules for the administration
14 of this section. The commissioner shall calculate average daily
15 attendance for students served under this section. The
16 commissioner shall allow accumulations of hours of instruction for
17 students whose schedule would not otherwise allow full state
18 funding. Funding under this subsection shall be determined based
19 on the number of instructional days in the district calendar and a
20 seven-hour school day, but attendance may be cumulated over a
21 school year, inclusive of any summer or vacation sessions. The
22 attendance of students who accumulate less than the number of
23 attendance hours required under this subsection shall be
24 proportionately reduced for funding purposes. The commissioner may
25 set maximum funding amounts for an individual course under this
26 section.

27 SECTION 2D.07. Section 29.202, Education Code, is amended

to read as follows:

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

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

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

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

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

(2) that was, at any time in the preceding three years, considered academically unacceptable ~~[low-performing]~~ under Section 39.132; or

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

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

~~[(1)]~~ the student does not become ineligible for the

1 grant if the school on which the student's initial eligibility is
2 based no longer meets the criteria under Subsection (b) ~~[(a), and~~
3 ~~[(2) the student becomes ineligible for the grant if~~
4 ~~the student is assigned to attend a school that does not meet the~~
5 ~~criteria under Subsection (a)]~~.

6 SECTION 2D.08. Subchapter G, Chapter 29, Education Code, is
7 amended by adding Section 29.2021 to read as follows:

8 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
9 between this subchapter and a provision of Section 1116, No Child
10 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
11 Behind Act of 2001 prevails.

12 SECTION 2D.09. Section 29.203(f), Education Code, is
13 amended to read as follows:

14 (f) The school district in which a student resides shall
15 provide each student attending a school in another district under
16 this subchapter transportation free of charge to and from the
17 school the student would otherwise attend, except as provided by
18 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
19 6316).

20 SECTION 2D.10. Subchapter Z, Chapter 29, Education Code, is
21 amended by adding Section 29.913 to read as follows:

22 Sec. 29.913. "EDUCATION. GO GET IT" WEEK. (a) To educate
23 middle school, junior high school, and high school students about
24 the importance of higher education, each school district and each
25 open-enrollment charter school offering those grades shall
26 designate one week during the school year as "Education. Go Get It"
27 Week.

1 (b) During the designated week, each middle school, junior
2 high school, and high school shall provide students with
3 comprehensive grade-appropriate information regarding the pursuit
4 of higher education. The information provided must include
5 information regarding:

6 (1) higher education options available to students;
7 (2) standard admission requirements for institutions
8 of higher education, including:

9 (A) overall high school grade point average;
10 (B) required curriculum; and
11 (C) scores necessary on generally recognized
12 tests or assessments used in admissions determinations, including
13 the Scholastic Assessment Test and the American College Test;

14 (3) automatic admission of certain students to general
15 academic teaching institutions as provided by Section 51.803; and

16 (4) financial aid availability and requirements,
17 including the financial aid information provided by counselors
18 under Section 33.007(b).

19 (c) In addition to the information provided under
20 Subsection (b), each middle school, junior high school, and high
21 school shall provide to the students during the designated week at
22 least one public speaker to promote the importance of higher
23 education.

24 SECTION 2D.11. Section 39.022, Education Code, is amended
25 to read as follows:

26 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of
27 Education by rule shall create and implement a statewide assessment

1 program that is knowledge- and skills-based to ensure school
2 accountability for student achievement that achieves the goals
3 provided under Section 4.002. After adopting rules under this
4 section, the State Board of Education shall consider the importance
5 of maintaining stability in the statewide assessment program when
6 adopting any subsequent modification of the rules.

7 (b) The commissioner by rule shall provide for the
8 administration of assessment instruments under this subchapter.

9 SECTION 2D.12. Section 39.023, Education Code, is amended
10 by amending Subsections (a)-(e), (i), (j), and (l)-(n) and adding
11 Subsections (a-1) and (b-1) to read as follows:

12 (a) The agency shall adopt or develop appropriate
13 criterion-referenced assessment instruments designed to assess
14 essential knowledge and skills in reading, writing, mathematics,
15 social studies, and science. Except as otherwise provided by this
16 subchapter, all [All] students[, except students assessed under
17 Subsection (b) or (1) or exempted under Section 39.027,] shall be
18 assessed in:

19 (1) mathematics, annually in grades three through
20 ~~[seven without the aid of technology and in grades eight through]~~ 11
21 ~~[with the aid of technology on any assessment instruments that~~
22 ~~include algebra];~~

23 (2) reading, annually in grades three through nine;

24 (3) writing, including spelling and grammar, in grades
25 four and seven;

26 (4) English language arts, in grades ~~[grade]~~ 10 and
27 11;

- 1 (5) social studies, in grades eight, ~~and~~ 10, and 11;
2 (6) science, in grades five, eight, ~~and~~ 10, and 11;
3 and
4 (7) any other subject and grade required by federal
5 law.

6 (a-1) An assessment instrument under this section may
7 include questions that test a broader range of knowledge and skills
8 or that are at a higher difficulty level for the purpose of
9 differentiating student achievement. A student may not be required
10 to answer a question described by this subsection correctly to
11 perform satisfactorily on the assessment instrument or to be
12 promoted to the next grade level. To ensure a valid bank of
13 questions for use each year, the agency is not required to release a
14 question that is being field-tested until after the fifth school
15 year the question is used on an assessment instrument administered
16 under this section.

17 (b) The agency shall develop or adopt appropriate
18 criterion-referenced assessment instruments to be administered to
19 each student in a special education program under Subchapter A,
20 Chapter 29, who receives modified instruction in the essential
21 knowledge and skills identified under Section 28.002 for the
22 assessed subject but for whom an assessment instrument adopted
23 under Subsection (a), even with allowable accommodations
24 ~~[modifications]~~, would not provide an appropriate measure of
25 student achievement, as determined by the student's admission,
26 review, and dismissal committee. The assessment instruments
27 required under this subsection must assess essential knowledge and

1 skills ~~[and growth]~~ in the subjects of reading, mathematics, and
2 writing and any other subject required by federal law. A student's
3 admission, review, and dismissal committee shall determine whether
4 any allowable accommodation ~~[modification]~~ is necessary in
5 administering to the student an assessment instrument required
6 under this subsection or whether an alternate assessment instrument
7 must be used to measure alternate academic achievement standards.
8 A student's admission, review, and dismissal committee shall
9 determine the high school graduation assessment requirements for a
10 student in a special education program under Subchapter A, Chapter
11 29, and may use local alternative assessment instruments if
12 multiple testing opportunities are not available for a student. To
13 the extent practicable, the ~~[The]~~ assessment instruments required
14 under this subsection shall be administered on the same schedule as
15 the assessment instruments administered under Subsection (a). The
16 commissioner shall adopt rules to implement this subsection.

17 (b-1) The agency shall adopt or develop appropriate
18 criterion-referenced instruments as required by federal law
19 designed to measure alternate academic achievement standards for
20 students in a special education program under Subchapter A, Chapter
21 29, with the most significant cognitive disabilities.

22 (c) The ~~[agency shall also adopt]~~ secondary exit-level
23 assessment instruments designed to be administered to students in
24 grade 11 under Subsection (a) must ~~[to]~~ assess essential knowledge
25 and skills in mathematics, English language arts, social studies,
26 and science. The mathematics section must include at least Algebra
27 I and geometry ~~[with the aid of technology]~~. The English language

1 arts section must include at least English III and must include the
2 assessment of essential knowledge and skills in writing. The social
3 studies section must include early American and United States
4 history. The science section must include at least biology and
5 integrated chemistry and physics. The assessment instruments must
6 be designed to assess a student's mastery of minimum skills
7 necessary for high school graduation and readiness to enroll in an
8 institution of higher education. ~~[If a student is in a special~~
9 ~~education program under Subchapter A, Chapter 29, the student's~~
10 ~~admission, review, and dismissal committee shall determine whether~~
11 ~~any allowable modification is necessary in administering to the~~
12 ~~student an assessment instrument required under this subsection or~~
13 ~~whether the student should be exempted under Section 39.027(a)(2).~~
14 ~~The State Board of Education shall administer the assessment~~
15 ~~instruments. The State Board of Education shall adopt a schedule~~
16 ~~for the administration of secondary exit-level assessment~~
17 ~~instruments.]~~ Each student who did not perform satisfactorily on
18 any secondary exit-level assessment instrument when initially
19 tested shall be given multiple opportunities to retake that
20 assessment instrument. A student who performs at or above a level
21 established by the Texas Higher Education Coordinating Board on the
22 secondary exit-level assessment instruments is exempt from the
23 requirements of Section 51.3062 ~~[51.306]~~. The performance level
24 established by the Texas Higher Education Coordinating Board under
25 this subsection represents the level of academic achievement
26 indicating a student is prepared for college course work. The
27 performance level may be used as an indicator to measure progress

1 toward college preparedness of public school students in the state.

2 (d) The commissioner may participate in multistate efforts
3 to develop voluntary standardized end-of-course assessment
4 instruments. The commissioner by rule may require a school
5 district to administer an end-of-course assessment instrument
6 developed through the multistate efforts. The admission, review,
7 and dismissal committee of a student in a special education program
8 under Subchapter A, Chapter 29, shall determine whether any
9 allowable accommodation [~~modification~~] is necessary in
10 administering to the student an end-of-course assessment
11 instrument or whether the student should be exempted [~~under Section~~
12 ~~39.027(a)(2)~~].

13 (e) Under rules adopted by the State Board of Education,
14 [~~every other year,~~] the agency shall release the questions and
15 answer keys to each assessment instrument administered under
16 Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after
17 August 1 after the second anniversary of the date [~~after the last~~
18 ~~time~~] the instrument was [~~is~~] administered [~~for that school year~~].
19 To ensure a valid bank of questions for use each year, the agency is
20 not required to release a question that is being field-tested and
21 was not used to compute the student's score on the instrument. The
22 agency shall also release, under board rule, each question that is
23 no longer being field-tested and that was not used to compute a
24 student's score.

25 (i) The provisions of this section, except Subsection (d),
26 are subject to modification by rules adopted under Section 39.022.
27 Each assessment instrument adopted or developed under this section

1 ~~[those rules and each assessment instrument required under~~
2 ~~Subsection (d)]~~ must be reliable and valid and must meet any
3 applicable federal requirements for measurement of student
4 progress.

5 (j) The commissioner shall develop a standardized
6 end-of-course assessment instrument for Algebra I. The
7 commissioner by rule shall ~~[may]~~ require a school district to
8 administer the ~~[an]~~ end-of-course assessment instrument developed
9 under this subsection ~~[in Algebra I]~~. The admission, review, and
10 dismissal committee of a student in a special education program
11 under Subchapter A, Chapter 29, shall determine whether any
12 allowable accommodation ~~[modification]~~ is necessary in
13 administering to the student an end-of-course assessment
14 instrument ~~[or whether the student should be exempted under Section~~
15 ~~39.027(a)(2)]~~.

16 (l) The agency ~~[State Board of Education]~~ shall adopt or
17 develop a Spanish version ~~[rules for the administration]~~ of the
18 assessment instruments adopted under Subsection (a) for ~~[in Spanish~~
19 ~~to]~~ students in grades three through six who are of limited English
20 proficiency, as defined by Section 29.052, whose primary language
21 is Spanish, and who are not otherwise exempt from the
22 administration of an assessment instrument under Section 39.027
23 ~~[39.027(a)(3) or (4)]~~. Each student of limited English proficiency
24 whose primary language is Spanish, other than a student to whom
25 Subsection (b) or (b-1) applies, may be assessed using assessment
26 instruments in Spanish under this subsection for up to three years
27 or assessment instruments in English under Subsection (a). The

1 language proficiency assessment committee established under
2 Section 29.063 shall determine which students are administered
3 assessment instruments in Spanish under this subsection.

4 (m) The commissioner by rule shall develop procedures under
5 which the language proficiency assessment committee established
6 under Section 29.063 shall determine which students in grades three
7 through 10 are exempt from the administration of the assessment
8 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules
9 adopted under this subsection shall ensure that the language
10 proficiency assessment committee provides that the exempted
11 students are administered the assessment instruments under
12 Subsections (a) and (c) at the earliest practical date. As
13 necessary to comply with federal requirements, the commissioner by
14 rule shall develop procedures under which a student who is exempt
15 from the administration of an assessment instrument under Section
16 39.027 is administered a linguistically accommodated assessment
17 instrument.

18 (n) This subsection applies only to a student who is
19 determined to have dyslexia or a related disorder and who is an
20 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~
21 ~~its subsequent amendments~~]. The agency shall adopt or develop
22 appropriate [~~criterion-referenced~~] assessment administration
23 procedures, including accommodations for a [~~instruments designed~~
24 ~~to assess the ability of and to be administered to each~~] student to
25 whom this subsection applies. The [~~for whom the assessment~~
26 ~~instruments adopted under Subsection (a), even with allowable~~
27 ~~modifications, would not provide an appropriate measure of student~~

1 ~~achievement, as determined by the~~ committee established by the
 2 board of trustees of the district to determine the placement of
 3 students with dyslexia or related disorders~~[-. The committee]~~ shall
 4 determine whether the [any] allowable accommodations are
 5 ~~[modification is]~~ necessary in administering to a student an
 6 assessment instrument required under this section ~~[subsection. The~~
 7 ~~assessment instruments required under this subsection shall be~~
 8 ~~administered on the same schedule as the assessment instruments~~
 9 ~~administered under Subsection (a)]~~.

10 SECTION 2D.13. Subchapter B, Chapter 39, Education Code, is
 11 amended by adding Section 39.0233 to read as follows:

12 Sec. 39.0233. COMPUTER-ADAPTIVE ASSESSMENT TOOLS. (a)
 13 Subject to the discretion of the commissioner regarding subjects
 14 and grade levels, the agency shall develop or acquire ongoing,
 15 computer-adaptive, interactive assessment tools for each subject
 16 and grade level for which an assessment instrument is adopted under
 17 Section 39.023.

18 (b) The commissioner shall set aside an appropriate amount,
 19 not to exceed \$11.5 million each fiscal year, from the Foundation
 20 School Program to pay the cost of developing or acquiring
 21 assessment tools under this section. After setting aside an
 22 appropriate amount in accordance with this section, the
 23 commissioner shall reduce each district's tier one allotments
 24 proportionately. A reduction in tier one allotments under this
 25 subsection does not affect the computation of the guaranteed amount
 26 of revenue per student per cent of tax effort under Section 42.252.

27 (b-1) Subsection (b) applies beginning with the fiscal year

beginning September 1, 2006. This subsection expires September 1, 2007.

(c) Any amount set aside under this section must be approved by the Legislative Budget Board and the governor's office of budget, planning, and policy.

(d) The agency shall make assessment tools developed or acquired under this section available to public schools at no cost.

SECTION 2D.14. Sections 39.024(a) and (c), Education Code, are amended to read as follows:

(a) Except as otherwise provided by this subsection, the State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments administered under Section 39.023. The commissioner by rule ~~[admission, review, and dismissal committee of a student being assessed under Section 39.023(b)]~~ shall determine the level of performance considered to be satisfactory on the assessment instruments administered under Section 39.023(b) or (b-1) ~~[to that student]~~ in accordance with applicable federal requirements ~~[criteria established by agency rule]~~.

(c) The agency shall develop study guides for the assessment instruments administered under Sections 39.023(a) and (1) ~~[(c)]~~. To assist parents in providing assistance during the period that school is recessed for summer, each school district shall distribute the study guides to parents of students who do not perform satisfactorily on one or more parts of the ~~[an]~~ assessment instrument ~~[administered under this subchapter]~~.

SECTION 2D.15. Subchapter B, Chapter 39, Education Code,

1 is amended by adding Sections 39.0241, 39.0242, and 39.0243 to read
2 as follows:

3 Sec. 39.0241. END-OF-COURSE ASSESSMENT INSTRUMENTS. (a)
4 The commissioner shall develop, in addition to the Algebra I
5 end-of-course assessment instrument, described by Section
6 39.023(j), end-of-course assessment instruments for other subjects
7 described by Section 39.023(c).

8 (b) The commissioner by rule may require a school district
9 to administer an end-of-course assessment instrument developed
10 under this section. The admission, review, and dismissal committee
11 of a student in a special education program under Subchapter A,
12 Chapter 29, shall determine whether any allowable accommodation is
13 necessary in administering to the student an end-of-course
14 assessment instrument.

15 (c) The agency shall ensure that each end-of-course
16 assessment instrument administered under this section or Section
17 39.023(j) complies with the requirements of this chapter and the No
18 Child Left Behind Act of 2001 (Pub. L. No. 107-110).

19 Sec. 39.0242. END-OF-COURSE ASSESSMENT INSTRUMENT:
20 SATISFACTORY PERFORMANCE. (a) The State Board of Education shall
21 determine the level of performance considered to be satisfactory on
22 end-of-course assessment instruments developed under Section
23 39.0241.

24 (b) The commissioner by rule may exempt a student from the
25 requirements of Section 39.025 as to a subject if the student has
26 performed satisfactorily on the comparable end-of-course
27 assessment instrument for that subject.

1 (c) For purposes of Section 28.0211, the commissioner by
2 rule may provide that a student who has performed satisfactorily on
3 the Algebra I end-of-course assessment instrument is exempt from
4 the requirement relating to passage of the assessment instrument
5 administered under Section 39.023(a)(1) in grade eight.

6 Sec. 39.0243. JOINT LEGISLATIVE OVERSIGHT COMMITTEE:
7 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) In this section,
8 "committee" means the legislative oversight committee on
9 end-of-course assessment instruments.

10 (b) The legislative oversight committee on end-of-course
11 assessment instruments is composed of eight members as follows:

12 (1) four members of the senate who serve on the senate
13 standing committee with primary jurisdiction over public
14 education, appointed by the lieutenant governor; and

15 (2) four members of the house of representatives who
16 serve on the house standing committee with primary jurisdiction
17 over public education, appointed by the speaker of the house of
18 representatives.

19 (c) The lieutenant governor shall designate one of the
20 committee members appointed by the lieutenant governor as committee
21 co-chair and the speaker shall designate one of the committee
22 members appointed by the speaker as committee co-chair.

23 (d) An appointed member of the committee serves at the
24 pleasure of the appointing official.

25 (e) The committee:

26 (1) shall receive information regarding rules
27 relating to end-of-course assessment instruments that have been

1 adopted by the commissioner under Section 39.0241; and

2 (2) may request reports and other information from the
3 commissioner relating to the development and administration of
4 end-of-course assessment instruments.

5 (f) The committee shall monitor the development and
6 administration of end-of-course assessment instruments.

7 (g) Not later than December 31 of each even-numbered year,
8 the committee shall file a report with the governor, the lieutenant
9 governor, the speaker of the house of representatives, and the
10 presiding officer of the standing committee of each house with
11 primary jurisdiction over public education.

12 (h) The report shall include an explanation relating to the
13 progress of the development and administration of end-of-course
14 assessment instruments and any recommendations for the
15 commissioner or for legislative action.

16 SECTION 2D.16. Section 39.025(a), Education Code, is
17 amended to read as follows:

18 (a) A student may not receive a high school diploma until
19 the student has performed satisfactorily on the secondary
20 exit-level assessment instruments for English language arts,
21 mathematics, social studies, and science administered under
22 Section 39.023(a) [~~39.023(c)~~]. This subsection does not require a
23 student to demonstrate readiness to enroll in an institution of
24 higher education.

25 SECTION 2D.17. Effective August 1, 2006, Subchapter B,
26 Chapter 39, Education Code, is amended by adding Section 39.0261 to
27 read as follows:

1 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
2 addition to the assessment instruments otherwise authorized or
3 required by this subchapter:

4 (1) each school year and at state cost, a school
5 district shall administer to students in any two grade levels other
6 than the 11th or 12th grade an established, valid, reliable, and
7 nationally norm-referenced preliminary college preparation
8 assessment instrument; and

9 (2) high school students in the spring of the 11th
10 grade or during the 12th grade may select and take once, at state
11 cost, one of the valid, reliable, and nationally norm-referenced
12 assessment instruments used by colleges and universities as part of
13 their undergraduate admissions processes.

14 (b) The agency shall:

15 (1) select and approve vendors of the specific
16 assessment instruments administered under this section; and

17 (2) pay all fees associated with the administration of
18 the assessment instrument from funds allotted under the Foundation
19 School Program, and the commissioner shall reduce the total amount
20 of state funds allocated to each district from any source in the
21 same manner described for a reduction in allotments under Section
22 42.313.

23 (c) The agency shall ensure that vendors are not paid under
24 Subsection (b) for the administration of an assessment instrument
25 to a student to whom the assessment instrument is not actually
26 administered. The agency may comply with this subsection by any
27 reasonable means, including by creating a refund system under which

1 a vendor returns any payment made for a student who registered for
2 the administration of an assessment instrument but did not appear
3 for the administration.

4 (d) A vendor that administers an assessment instrument for a
5 district under this section shall report the results of the
6 assessment instrument to the agency.

7 (e) Subsection (a)(2) does not prohibit a high school
8 student in the spring of the 11th grade or during the 12th grade
9 from selecting and taking, at the student's own expense, one of the
10 valid, reliable, and nationally norm-referenced assessment
11 instruments used by colleges and universities as part of their
12 undergraduate admissions processes more than once.

13 SECTION 2D.18. Sections 39.027(a), (e), and (g), Education
14 Code, are amended to read as follows:

15 (a) A student in grades three through 10 may be exempted
16 from the administration of an assessment instrument under:

17 (1) ~~[Section 39.023(a) or (b) if the student is~~
18 ~~eligible for a special education program under Section 29.003 and~~
19 ~~the student's individualized education program does not include~~
20 ~~instruction in the essential knowledge and skills under Section~~
21 ~~28.002 at any grade level,~~

22 ~~[(2) Section 39.023(c) or (d) if the student is~~
23 ~~eligible for a special education program under Section 29.003 and:~~

24 ~~[(A) the student's individualized education~~
25 ~~program does not include instruction in the essential knowledge and~~
26 ~~skills under Section 28.002 at any grade level, or~~

27 ~~[(B) the assessment instrument, even with~~

allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's admission, review, and dismissal committee;

~~[(3)]~~ Section 39.023(a), (b), (b-1), or (1) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e); or

(2) ~~[(4)]~~ Section 39.023(a), (b), (b-1), or (1) for a period of up to two years in addition to the exemption period authorized by Subdivision (1) ~~[(3)]~~ if the student has received an exemption under Subdivision (1) ~~[(3)]~~ and:

(A) is a recent unschooled immigrant; or

(B) is in a grade for which no assessment instrument in the primary language of the student is available.

(e) As provided by applicable federal requirements, the ~~[The]~~ commissioner shall develop an assessment system that shall be used for evaluating the academic progress toward attaining academic language proficiency in English, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who has demonstrated the designated level of ~~[is exempt from the administration of an assessment instrument under Subsection (a)(3) or (4) who achieves]~~ reading proficiency in English as determined by the assessment system developed under this subsection is not eligible for an exemption under Subsection (a)(1) or (2). ~~[shall be administered the~~

~~assessment instruments described by Sections 39.023(a) and (c).
The performance under the assessment system developed under this
subsection of students to whom Subsection (a)(3) or (4) applies
shall be included in the academic excellence indicator system under
Section 39.051, the performance report under Section 39.053, and
the comprehensive annual report under Section 39.182.]~~

(g) For purposes of this section, "recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment instrument under Section 39.023 ~~[39.023(a) or (1)]~~ and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002 as determined by the language proficiency assessment committee established under Section 29.063. For purposes of this subsection and to the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required under Section 25.002(a).

SECTION 2D.19. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.034 to read as follows:

Sec. 39.034. MEASURE OF INCREMENTAL GROWTH IN STUDENT ACHIEVEMENT. (a) The commissioner shall determine a method by which the agency may measure incremental growth in student achievement from one school year to the next on an assessment instrument required under this subchapter.

(b) The agency shall report to each school district the

1 comparisons made under Subsection (a). Each school district shall
2 provide the comparisons to each teacher for all students who were:

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

6 (c) The school a student attends shall provide a record of
7 the comparison made under this section and provided to the school
8 under Subsection (b) in a written notice to the student's parents.

9 (d) To the extent practicable, the agency shall combine the
10 report of the comparisons required under this section with the
11 report of the student's performance on assessment instruments
12 administered under Section 39.023.

13 (e) The commissioner shall implement this section not later
14 than September 1, 2006. This subsection expires January 1, 2008.

15 SECTION 2D.20. Subchapter B, Chapter 39, Education Code, is
16 amended by adding Section 39.035 to read as follows:

17 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF
18 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other
19 employee, contractor, or volunteer of a school district or public
20 charter district commits an offense if, for the primary purpose of
21 influencing the results of an assessment instrument administered
22 under this subchapter, the person intentionally:

23 (1) discriminates in school admissions based on a
24 student's academic ability in a manner that is not otherwise
25 permitted by law;

26 (2) refers a student to a special education program
27 under Subchapter A, Chapter 29, or a bilingual or special language

1 program under Subchapter B, Chapter 29, for the purpose of gaining
2 an exemption for the student from the administration of the
3 assessment instrument;

4 (3) requires or encourages a student to be absent from
5 a school campus during the day on which the assessment instrument is
6 administered at the campus;

7 (4) tampers with the assessment instrument or related
8 materials to alter the results of the assessment instrument; or

9 (5) engages in any other action designed to alter the
10 accuracy of the results of the assessment instrument.

11 (b) An offense under this section is a Class A misdemeanor.

12 (c) An offense under Subsection (a)(4) is in addition to any
13 offense under Section 37.10(c)(2), Penal Code, arising from the
14 same action.

15 SECTION 2D.21. Section 39.051(b), Education Code, as
16 amended by Chapters 433 and 805, Acts of the 78th Legislature,
17 Regular Session, 2003, is reenacted and amended to read as follows:

18 (b) Performance on the indicators adopted under this
19 section shall be compared to state-established standards. The
20 degree of change from one school year to the next in performance on
21 each indicator adopted under this section shall also be considered.
22 The indicators must be based on information that is disaggregated
23 by race, ethnicity, gender, and socioeconomic status and must
24 include:

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

(2) dropout rates, including dropout rates and district completion rates for grade levels 7 ~~[9]~~ through 12, computed:

(A) as a longitudinal rate and an annual completion rate by grade; and

(B) in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

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

(4) student attendance rates;

(5) the percentage of graduating students who attain scores on the secondary exit-level assessment instruments required under Subchapter B that are equivalent to a passing score on the assessment ~~[test]~~ instrument required under Section 51.3062 ~~[51.306]~~;

(6) the percentage of graduating students who meet the course requirements established for the recommended high school program by State Board of Education rule;

(7) the results of the Scholastic Assessment Test (SAT), the American College Test (ACT), articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;

(8) incremental growth in student achievement, as measured under Section 39.034, aggregated by grade level and

1 subject area;

2 (9) the number and percentage of students at risk of
3 dropping out of school, the number and percentage of those students
4 who are administered each assessment instrument required under
5 Section 39.023, the number and percentage of those students who
6 perform satisfactorily on the assessment instruments, and the
7 results of those students, grouped by number and percentage, on the
8 assessment instruments, disaggregated by subject area and grade
9 level;

10 (10) the number and percentage of students, aggregated
11 by grade level, provided accelerated instruction under Section
12 28.0211(c), the results of assessments administered under that
13 section, the percentage of students promoted through the grade
14 placement committee process under Section 28.0211, the subject of
15 the assessment instrument on which each student failed to perform
16 satisfactorily, and the performance of those students in the school
17 year following that promotion on the assessment instruments
18 required under Section 39.023;

19 (11) [~~(9)~~] for students who have failed to perform
20 satisfactorily on an assessment instrument required under Section
21 39.023(a) or (c), the numerical progress of those students grouped
22 by number and percentage on subsequent assessment instruments
23 required under those sections, aggregated by grade level and
24 subject area;

25 (12) [~~(10)~~] the percentage of students exempted, by
26 exemption category, from the assessment program generally
27 applicable under this chapter; [~~and~~]

1 (13) [~~(11)~~] the percentage of students of limited
2 English proficiency exempted from the administration of an
3 assessment instrument under Sections 39.027(a)(1) and (2);

4 (14) [~~39.027(a)(3) and (4)~~] the percentage of students
5 in a special education program under Subchapter A, Chapter 29,
6 assessed through assessment instruments developed or adopted under
7 Section 39.023(b);

8 (15) for students of limited English proficiency, as
9 defined by Section 29.052, a measure of progress toward English
10 language proficiency, as determined by the commissioner, including
11 the student's performance after transferring out of a bilingual
12 education program or instruction in English as a second language;
13 and

14 (16) the performance of students who are not
15 educationally disadvantaged on an assessment instrument under
16 Sections 39.023(a), (b), (c), and (l) and dropout rates and
17 district completion rates for grades 9 through 12 for those
18 students.

19 SECTION 2D.22. Section 39.052(b), Education Code, is
20 amended to read as follows:

21 (b) The report card shall include the following
22 information:

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

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

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

1 (4) the district's instructional expenditures ratio
2 and instructional employees ratio computed under Section 44.0071,
3 and the statewide average of those ratios, as determined by the
4 commissioner.

5 SECTION 2D.23. Section 39.055, Education Code, is amended
6 to read as follows:

7 Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT.

8 (a) The commissioner shall develop a process for auditing school
9 district dropout records electronically. The commissioner shall
10 also develop a system and standards for review of the audit or use
11 systems already available at the agency. The system must be
12 designed to identify districts that are at high risk of having
13 inaccurate dropout records and that, as a result, may be subject to
14 a special accreditation investigation under Section 39.075
15 ~~[require on-site monitoring of dropout records. If the electronic~~
16 ~~audit of a district's dropout records indicates that a district is~~
17 ~~not at high risk of having inaccurate dropout records, the district~~
18 ~~may not be subject to on-site monitoring under this subsection. If~~
19 ~~the risk-based system indicates that a district is at high risk of~~
20 ~~having inaccurate dropout records, the district is entitled to an~~
21 ~~opportunity to respond to the commissioner's determination before~~
22 ~~on-site monitoring may be conducted. The district must respond not~~
23 ~~later than the 30th day after the date the commissioner notifies the~~
24 ~~district of the commissioner's determination. If the district's~~
25 ~~response does not change the commissioner's determination that the~~
26 ~~district is at high risk of having inaccurate dropout records or if~~
27 ~~the district does not respond in a timely manner, the commissioner~~

~~shall order agency staff to conduct on-site monitoring of the district's dropout records].~~

(b) ~~[(e)]~~ The commissioner shall notify the superintendent ~~[board of trustees]~~ of a school district of any objection the commissioner has to the district's dropout data, any violation of sound accounting practices or of a law or rule revealed by the data, or any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of district dropout data.

SECTION 2D.24. Sections 39.071 and 39.072, Education Code, are amended to read as follows:

Sec. 39.071. ACCREDITATION. (a) Accreditation of a school district is determined in accordance with this section ~~[subchapter]~~.

(b) Each year, the commissioner shall determine the accreditation status of each school district. In determining accreditation status, the commissioner:

(1) shall evaluate and consider the performance of the district under:

(A) the academic accountability system under Section 39.072; and

(B) the financial accountability system under Subchapter I;

1 (2) shall evaluate and consider:

2 (A) the results of any special accreditation
3 investigation under Section 39.075; and

4 (B) the district's current special education
5 monitoring or compliance status with the agency; and

6 (3) may consider:

7 (A) the district's compliance with statutory
8 requirements and requirements imposed by rule of the commissioner
9 or State Board of Education under specific statutory authority that
10 relate to:

11 (i) reporting data through the Public
12 Education Information Management System (PEIMS) or other reports
13 required by state or federal law or court order;

14 (ii) the high school graduation
15 requirements under Section 28.025; or

16 (iii) an item listed under Sections
17 7.056(e)(3)(C)-(I) that applies to the district;

18 (B) the effectiveness of the district's programs
19 for special populations; and

20 (C) the effectiveness of the district's career
21 and technology program.

22 (c) Based on a school district's performance under
23 Subsection (b), the commissioner shall:

24 (1) assign a district an accreditation status of:

25 (A) accredited;

26 (B) accredited-warned; or

27 (C) accredited-probation; or

1 (2) revoke the accreditation of the district and order
2 closure of the district under this subchapter.

3 (d) The commissioner shall notify a school district that
4 receives an accreditation status of accredited-warned or
5 accredited-probation that the performance of the district is below
6 a standard required under this section. The commissioner shall
7 require the district to notify the parents of students enrolled in
8 the district and property owners in the district of the district's
9 accreditation status and the implications of that accreditation
10 status.

11 (e) A school district that is not accredited may not
12 receive funds from the agency or hold itself out as operating a
13 public school of this state.

14 (f) This chapter may not be construed to invalidate a
15 diploma awarded, course credit earned, or grade promotion granted
16 by a school district before the commissioner revoked the district's
17 accreditation.

18 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
19 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
20 adopt rules for assigning [~~to evaluate the performance of school~~
21 ~~districts and to assign~~] to each school district and campus a
22 performance rating as follows:

23 (1) exemplary (meets or exceeds state exemplary
24 standards);

25 (2) recognized (meets or exceeds required improvement
26 or [~~and~~] within 10 percent of state exemplary standards);

27 (3) academically acceptable (below the exemplary and

1 recognized standards but exceeds the academically unacceptable
2 standards); or

3 (4) academically unacceptable (below the state
4 clearly unacceptable performance standard and does not meet
5 required improvement).

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

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

15 [~~(A) reporting data through the Public Education~~
16 ~~Information Management System (PEIMS),~~

17 [~~(B) the high school graduation requirements~~
18 ~~under Section 28.025, or~~

19 [~~(C) an item listed in Sections~~
20 ~~7.056(e)(3)(C)-(I) that applies to the district,~~

21 [~~(2) the effectiveness of the district's programs for~~
22 ~~special populations, and~~

23 [~~(3) the effectiveness of the district's career and~~
24 ~~technology programs.]~~

25 (c) The agency shall evaluate [~~against state standards~~] and
26 [~~shall~~], not later than August 1 of each year, report the
27 performance of each school [~~campus in a~~] district and campus. [~~each~~

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

(d) The agency shall annually review the performance of each school district and campus and determine if a change in the academic performance rating of the district or campus is warranted. Notwithstanding any other provision of this code, the commissioner shall determine how the indicators adopted under Section 39.051(b) may be used to determine academic performance ratings and to select districts and campuses for acknowledgment.

(e) Each annual review shall include an analysis of the indicators under Section 39.051(b) to determine district and campus performance in relation to:

- (1) state standards established for each indicator;
- (2) required improvement as defined under Section 39.051(c); and
- (3) comparable improvement as determined under Section 39.051(c).

(f) The academic performance rating of a school district may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district. The academic performance rating of a school district may also be lowered based on a determination that

data provided to the agency by the district that is necessary for conducting an annual review under this section is unreliable.

(g) The commissioner shall notify a school district if the performance of the district or a campus in the district is below a standard required under this section. The commissioner shall require the school district to notify the parents of students who are enrolled in the district and property owners in the district of the academic performance rating and the implications of that rating.

(h) Notwithstanding any other provision of this code, for purposes of determining the performance of a school district or public charter district under this chapter, including the academic performance rating [accreditation status] of the district or school, a student attending a campus that is a [confined by court order in a residential program or] facility operated by or under contract with the Texas Youth Commission, a pre-adjudication secure detention facility or a post-adjudication secure correctional facility that is registered with the Texas Juvenile Probation Commission, or a residential facility is not considered to be a student of the school district or public charter district school serving the student [in which the program or facility is physically located]. For purposes of this section, an involuntary residential facility, including a detention center, residential treatment center, or psychiatric hospital, is not considered a campus in determining accreditation status. [The performance of such a student on an assessment instrument or other academic excellence indicator adopted under Section 39.051 shall be determined,

1 ~~reported, and considered separately from the performance of~~
2 ~~students attending a school of the district in which the program or~~
3 ~~facility is physically located.]~~

4 SECTION 2D.25. Subchapter D, Chapter 39, Education Code, is
5 amended by adding Section 39.0722 to read as follows:

6 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)
7 In addition to school district performance ratings under Section
8 39.072, the commissioner shall annually rate districts according to
9 the degree to which the districts prepare students for
10 postsecondary success, including student performance on assessment
11 instruments administered under Section 39.0261 and on the
12 applicable indicators under Sections 39.051(b) and 39.0721. The
13 commissioner shall consult with the P-16 Council established under
14 Section 61.076 when adopting criteria under this section.

15 (b) The commissioner may adopt rules as necessary to
16 administer this section.

17 SECTION 2D.26. Section 39.075(a), Education Code, is
18 amended to read as follows:

19 (a) The commissioner may ~~[shall]~~ authorize special
20 accreditation investigations to be conducted:

21 (1) when excessive numbers of absences of students
22 eligible to be tested on state assessment instruments are
23 determined;

24 (2) when excessive numbers of allowable exemptions
25 from the required state assessment instrument are determined;

26 (3) in response to complaints submitted to the agency
27 with respect to alleged violations of civil rights or other

1 requirements imposed on the state by federal law or court order;

2 (4) in response to established monitoring or
3 compliance reviews of the district's financial accounting
4 practices and state and federal program requirements;

5 (5) when extraordinary numbers of student placements
6 in alternative education programs, other than placements under
7 Sections 37.006 and 37.007, are determined;

8 (6) in response to an allegation involving a conflict
9 between members of the board of trustees or between the board and
10 the district administration if it appears that the conflict
11 involves a violation of a role or duty of the board members or the
12 administration clearly defined by this code;

13 (7) when excessive numbers of students in special
14 education programs under Subchapter A, Chapter 29, are assessed
15 through assessment instruments developed or adopted under Section
16 39.023(b); ~~[or]~~

17 (8) in response to questions concerning a program,
18 including special education, that is required by federal law or for
19 which the district receives federal funds;

20 (9) when an annual review indicates the academically
21 unacceptable performance under Section 39.072 of one or more
22 campuses in a district, except that the resulting investigation is
23 limited to those campuses;

24 (10) in response to concerns regarding the integrity
25 of data submitted to the agency;

26 (11) in response to allegations of a violation of
27 student assessment procedures for assessment instruments adopted

1 under Section 39.023; or

2 (12) as the commissioner otherwise determines
3 necessary.

4 SECTION 2D.27. Section 39.075(c), Education Code, as
5 amended by Chapters 396 and 931, Acts of the 76th Legislature,
6 Regular Session, 1999, is reenacted and amended to read as follows:

7 (c) Based on the results of a special accreditation
8 investigation, the commissioner may:

9 (1) take appropriate action under Subchapter G;

10 (2) raise or lower the district's accreditation status
11 [~~rating~~]; or

12 (3) take action under both Subdivisions (1) and (2).

13 SECTION 2D.28. Section 39.076, Education Code, is amended
14 by amending Subsection (a) and adding Subsections (a-1), (a-2),
15 (a-3), and (c) to read as follows:

16 (a) The agency shall adopt written procedures for
17 conducting [~~on-site~~] investigations under this subchapter. The
18 agency shall make the procedures available to the complainant, the
19 alleged violator, and the public. Agency staff must be trained in
20 the procedures and must follow the procedures in conducting the
21 investigation.

22 (a-1) An investigation conducted under this subchapter may
23 be an on-site, desk, or data-based investigation as determined by
24 the commissioner.

25 (a-2) If conducting an on-site investigation, the
26 investigators may obtain information from administrators,
27 teachers, or parents of students enrolled in the school district.

1 The commissioner shall adopt rules for:

2 (1) obtaining information from parents and using that
3 information in the investigator's report; and

4 (2) obtaining information from teachers in a manner
5 that prevents a campus or district from screening the information.

6 (a-3) The agency may give written notice of any impending
7 on-site investigation to the superintendent and the board of
8 trustees of a school district.

9 (c) The investigators conducting an on-site investigation
10 shall report the results of the investigation orally and in writing
11 to the board of trustees of the district and, as appropriate, to
12 campus administrators, and shall make recommendations concerning
13 any necessary improvements or sources of aid, such as regional
14 education service centers.

15 SECTION 2D.29. Subchapter D, Chapter 39, Education Code, is
16 amended by adding Sections 39.077 and 39.078 to read as follows:

17 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
18 school district or public charter district that wishes to challenge
19 a decision to assign or lower an accreditation status, an academic
20 performance rating, or a financial accountability rating must
21 petition for an informal review as provided by Section 7.0571.

22 (b) A final decision by the commissioner to assign or lower
23 an accreditation status, an academic performance rating, or a
24 financial accountability rating following a review under Section
25 7.0571 is final and may not be appealed.

26 Sec. 39.078. RULES. (a) The commissioner may adopt rules
27 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.30. 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

1 applicable:

2 (1) annual growth in student achievement that
3 contributes to closing performance gaps among various populations
4 of students;

5 (2) improvements in student scores on the assessment
6 instruments required under Section 39.023;

7 (3) growth in high school completion rates;

8 (4) improvement in student scores on college advanced
9 placement tests; and

10 (5) any other factor that contributes to student
11 achievement.

12 (c) From funds appropriated for the purposes of this
13 section, the commissioner shall award grants to campuses that meet
14 performance criteria adopted under Subsection (b). The
15 commissioner shall allocate awards to campuses not later than
16 December 1 of each year, based on growth in student achievement as
17 measured for the preceding two school years.

18 (c-1) The commissioner shall award grants under this
19 section beginning September 1, 2006. This subsection expires
20 January 1, 2007.

21 (d) At least 75 percent of an award under this section must
22 be used for additional teacher compensation at the campus level.
23 The commissioner by rule shall provide for allocating awards under
24 this subsection, including providing individual awards of at least
25 \$3,000 for each teacher at a campus receiving an award under this
26 subsection.

27 (e) Grants from funds appropriated for the award program may

1 be awarded beginning the 2006-2007 school year and may not exceed
2 \$100 million in the 2006-2007 school year except as expressly
3 authorized by the General Appropriations Act or other law.

4 (f) A determination of the commissioner under this section
5 is final and may not be appealed.

6 (g) The commissioner shall annually evaluate the
7 effectiveness of the state incentive program for improving student
8 performance on at-risk campuses established under this section.

9 The evaluation must consider:

10 (1) the performance of students in districts under
11 this section on assessment instruments administered under Section
12 39.023;

13 (2) the districts' high school graduation and
14 completion rates; and

15 (3) the districts' teacher attrition rates.

16 SECTION 2D.31. Section 39.131, Education Code, is amended
17 to read as follows:

18 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
19 district does not satisfy the accreditation criteria under Section
20 39.071, the academic performance standards under Section 39.072, or
21 any financial accountability standard as determined by
22 commissioner rule, the commissioner shall take any of the following
23 actions[~~, listed in order of severity,~~] to the extent the
24 commissioner determines necessary:

25 (1) issue public notice of the deficiency to the board
26 of trustees;

27 (2) order a hearing conducted by the board of trustees

1 of the district for the purpose of notifying the public of the
2 unacceptable performance, the improvements in performance expected
3 by the agency, and the sanctions that may be imposed under this
4 section if the performance does not improve;

5 (3) order the preparation of a student achievement
6 improvement plan that addresses each academic excellence indicator
7 for which the district's performance is unacceptable, the
8 submission of the plan to the commissioner for approval, and
9 implementation of the plan;

10 (4) order a hearing to be held before the commissioner
11 or the commissioner's designee at which the president of the board
12 of trustees of the district and the superintendent shall appear and
13 explain the district's low performance, lack of improvement, and
14 plans for improvement;

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

16 (6) appoint an agency monitor to participate in and
17 report to the agency on the activities of the board of trustees or
18 the superintendent;

19 (7) appoint a conservator to oversee the operations of
20 the district;

21 (8) appoint a management team to direct the operations
22 of the district in areas of unacceptable performance or require the
23 district to obtain certain services under a contract with another
24 person;

25 (9) if a district has a current accreditation status
26 of accredited-warned or accredited-probation, is [been] rated [as]
27 academically unacceptable, or fails to satisfy financial

1 accountability standards as determined by commissioner rule [~~for a~~
2 ~~period of one year or more~~], appoint a board of managers to exercise
3 the powers and duties of the board of trustees;

4 (10) if for two consecutive school years, including
5 the current school year, a district has received an accreditation
6 status of accredited-warned or accredited-probation, has been
7 rated academically unacceptable, or has failed to satisfy financial
8 accountability standards as determined by commissioner rule,
9 revoke the district's accreditation and [~~been rated as academically~~
10 ~~unacceptable for a period of two years or more~~]:

11 (A) order closure of the district and annex the
12 district to one or more adjoining districts under Section 13.054;
13 or

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

18 (11) if a district has been rated [~~as~~] academically
19 unacceptable for [~~a period of~~] two consecutive school years,
20 including the current school year, [~~or more~~] due to the district's
21 dropout rates, impose sanctions designed to improve high school
22 completion rates, including:

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

25 (B) restructuring the district or appropriate
26 school campuses to improve identification of and service to
27 students who are at risk of dropping out of school, as defined by

Section 29.081;

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

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

(b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, [~~a period of one year or more~~] a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

SECTION 2D.32. Section 39.132, Education Code, is amended to read as follows:

Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE AND CERTAIN OTHER CAMPUSES. [~~(a)~~] If a campus performance is below any standard under Section 39.072 [~~39.073(b)~~], the campus is considered an academically unacceptable [~~a low-performing~~] campus. The commissioner may permit the campus to participate in an innovative redesign of the campus to improve campus performance or shall [~~may~~] take any of the other following actions[~~, listed in order of severity~~], to the extent the commissioner determines necessary:

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

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

1 (A) notifying the public of the unacceptable
2 performance, the improvements in performance expected by the
3 agency, and the sanctions that may be imposed under this section if
4 the performance does not improve within a designated period of
5 time; and

6 (B) soliciting public comment on the initial
7 steps being taken to improve performance;

8 (3) ~~[order the preparation of a report regarding the~~
9 ~~parental involvement program at the campus and a plan describing~~
10 ~~strategies for improving parental involvement at the campus;~~

11 ~~[(4) order the preparation of a report regarding the~~
12 ~~effectiveness of the district- and campus-level planning and~~
13 ~~decision-making committees established under Subchapter F, Chapter~~
14 ~~11, and a plan describing strategies for improving the~~
15 ~~effectiveness of those committees;~~

16 ~~[(5)]~~ order the preparation of a student ~~[achievement]~~
17 improvement plan that addresses each academic excellence indicator
18 for which the campus's performance is unacceptable, the submission
19 of the plan to the commissioner for approval, and implementation of
20 the plan;

21 (4) ~~[(6)]~~ order a hearing to be held before the
22 commissioner or the commissioner's designee at which the president
23 of the board of trustees, the superintendent, and the campus
24 principal shall appear and explain the campus's low performance,
25 lack of improvement, and plans for improvement;

26 (5) appoint a technical assistance team under Section
27 39.1321; or

1 (6) appoint a campus intervention team under Section
2 39.1321.

3 ~~[(7) appoint a special campus intervention team to:~~

4 ~~[(A) conduct a comprehensive on-site evaluation~~
5 ~~of the campus to determine the cause for the campus's low~~
6 ~~performance and lack of progress;~~

7 ~~[(B) recommend actions, including reallocation~~
8 ~~of resources and technical assistance, changes in school procedures~~
9 ~~or operations, staff development for instructional and~~
10 ~~administrative staff, intervention for individual administrators~~
11 ~~or teachers, waivers from state statute or rule, or other actions~~
12 ~~the team considers appropriate;~~

13 ~~[(C) assist in the development of a campus plan~~
14 ~~for student achievement; and~~

15 ~~[(D) assist the commissioner in monitoring the~~
16 ~~progress of the campus in implementing the campus plan for~~
17 ~~improvement of student achievement; or~~

18 ~~[(8) if a campus has been a low-performing campus for a~~
19 ~~period of one year or more, appoint a board of managers composed of~~
20 ~~residents of the district to exercise the powers and duties of the~~
21 ~~board of trustees of the district in relation to the campus.~~

22 ~~[(b) If a campus has been a low-performing campus for a~~
23 ~~period of two consecutive years or more, the commissioner shall~~
24 ~~order the closure of the district or charter program on the campus~~
25 ~~or reconstitute the campus. In reconstituting the campus, a~~
26 ~~special campus intervention team shall be assembled for the purpose~~
27 ~~of deciding which educators may be retained at that campus. If an~~

1 ~~educator is not retained, the educator may be assigned to another~~
2 ~~position in the district.]~~

3 SECTION 2D.33. Subchapter G, Chapter 39, Education Code, is
4 amended by adding Sections 39.1321-39.1323 and 39.1325-39.1327 to
5 read as follows:

6 Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION
7 TEAMS. (a) If a campus is rated academically acceptable for the
8 current school year but would be rated as academically unacceptable
9 if performance standards to be used for the following school year
10 were applied to the current school year, the commissioner shall
11 select and assign a technical assistance team to assist the campus
12 in executing a school improvement plan and any other school
13 improvement strategies the commissioner determines appropriate.

14 (b) If a campus has been identified as academically
15 unacceptable under Section 39.132, the commissioner shall appoint a
16 campus intervention team.

17 (c) To the extent practicable, the commissioner shall
18 select and assign the technical assistance team under Subsection
19 (a) or the campus intervention team under Subsection (b) before the
20 first day of instruction for the school year.

21 (d) The commissioner may determine when the services of a
22 technical assistance team or campus intervention team are no longer
23 needed at a campus under this section.

24 Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A
25 campus intervention team shall:

26 (1) conduct a comprehensive on-site evaluation of the
27 campus to determine the cause for the campus's low performance and

1 lack of progress;

2 (2) recommend actions, including reallocation of
3 resources and technical assistance, changes in school procedures or
4 operations, staff development for instructional and administrative
5 staff, intervention for individual administrators or teachers,
6 waivers from state statute or rule, or other actions the team
7 considers appropriate;

8 (3) assist in the development of a school improvement
9 plan for student achievement; and

10 (4) assist the commissioner in monitoring the progress
11 of the campus in implementing the school improvement plan for
12 improvement of student achievement.

13 (b) A campus intervention team assigned under Section
14 39.1321 to a campus shall conduct a comprehensive on-site
15 evaluation of the campus to determine the cause for the campus's low
16 performance and lack of progress. The team shall have wide latitude
17 to determine what factors to assess and how to conduct the
18 assessment. Some factors to be considered are:

19 (1) an assessment of the staff to determine the
20 percentage of certified teachers who are teaching in their field,
21 the number of teachers with less than three years of experience, and
22 teacher turnover rates;

23 (2) compliance with the appropriate class-size rules
24 and number of class-size waivers received;

25 (3) an assessment of the quality, quantity, and
26 appropriateness of instructional materials, including the
27 availability of technology-based instructional materials;

1 (4) a report on the parental involvement strategies
2 and the effectiveness of the strategies;

3 (5) an assessment of the extent and quality of the
4 mentoring program provided for new teachers on the campus;

5 (6) an assessment of the type and quality of the
6 professional development provided to the staff;

7 (7) a demographic analysis of the student population,
8 including student demographics, at-risk populations, and special
9 education percentages;

10 (8) a report of disciplinary incidents and school
11 safety information;

12 (9) financial and accounting practices; and

13 (10) an assessment of the appropriateness of the
14 curriculum and teaching strategies.

15 (c) On completing the evaluation under this section, the
16 campus intervention team shall recommend actions, including:

17 (1) reallocation of resources;

18 (2) distribution of additional funds to the campus
19 from funds set aside by the agency for purposes of assisting
20 campuses in meeting standards specified in the intervention plan;

21 (3) technical assistance;

22 (4) changes in school procedures or operations;

23 (5) staff development for instructional and
24 administrative staff;

25 (6) intervention for individual administrators or
26 teachers;

27 (7) waivers from state statutes or rules; or

1 (8) other actions the campus intervention team
2 considers appropriate.

3 (d) In executing a school improvement plan developed under
4 Subsection (a)(3), the campus intervention team shall:

5 (1) assist the campus in implementing research-based
6 practices for curriculum development and classroom instruction,
7 including bilingual education and special education programs, if
8 appropriate, and financial management;

9 (2) provide research-based technical assistance,
10 including data analysis, academic deficiency identification,
11 intervention implementation, and budget analysis, to strengthen
12 and improve the instructional programs at the campus; and

13 (3) submit the school improvement plan to the
14 commissioner for approval.

15 (e) A campus intervention team appointed under Section
16 39.1321(b):

17 (1) shall continue to work with a campus until:

18 (A) the campus is rated academically acceptable
19 for a two-year period; or

20 (B) the campus is rated academically acceptable
21 for a one-year period and the commissioner determines that the
22 campus is operating and will continue to operate in a manner that
23 improves student achievement; and

24 (2) may continually update the school improvement
25 plan, with approval from the commissioner, to meet the needs of the
26 campus.

27 (f) Notwithstanding any other provision of this subchapter,

1 if the commissioner determines that a campus for which an
2 intervention is ordered under Section 39.1321(b) is not fully
3 implementing the campus intervention team's recommendations or
4 school improvement plan, the commissioner may order the
5 reconstitution of the campus, pursue alternative management of the
6 campus as provided by Section 39.1326, or order closure of the
7 campus.

8 Sec. 39.1323. MANDATORY SANCTIONS. (a) If a campus has
9 been identified as academically unacceptable for a period of two
10 consecutive school years, including the current school year, the
11 commissioner shall order the reconstitution of the campus and
12 assign a campus intervention team. In determining whether a campus
13 is rated academically unacceptable for a second year under this
14 subsection, dropout rates and completion rates may not be
15 considered. In reconstituting the campus, a campus intervention
16 team shall assist the campus in:

17 (1) developing a school improvement plan;
18 (2) obtaining approval of the plan from the
19 commissioner; and
20 (3) executing the plan on approval by the
21 commissioner.

22 (b) The campus intervention team shall decide which
23 educators may be retained at that campus. A principal who has been
24 employed by the campus in that capacity during the two-year period
25 described by Subsection (a) may not be retained at that campus. A
26 teacher of a subject assessed by an assessment instrument under
27 Section 39.023 may be retained only if the campus intervention team

1 determines that a pattern exists of significant academic growth by
2 students taught by the teacher. If an educator is not retained, the
3 educator may be assigned to another position in the district.

4 (c) A campus subject to Subsection (a) shall implement the
5 school improvement plan as approved by the commissioner. The
6 commissioner may appoint a monitor, conservator, management team,
7 or a board of managers to the district to ensure and oversee the
8 implementation of the school improvement plan.

9 (d) Notwithstanding any other provision of this subchapter,
10 if the commissioner determines that a campus subject to Subsection
11 (a) is not fully implementing the school improvement plan, the
12 commissioner may pursue alternative management of the campus as
13 provided by Section 39.1326, or may order closure of the campus.

14 (e) If a campus is considered an academically unacceptable
15 campus for more than two consecutive school years, the commissioner
16 may order reconstitution or closure of the campus or pursue
17 alternative management under Section 39.1326.

18 (f) If a campus is considered an academically unacceptable
19 campus for the subsequent school year after the campus is
20 reconstituted under this section, the commissioner shall pursue
21 alternative management under Section 39.1326.

22 Sec. 39.1325. TRANSITIONAL SANCTIONS PROVISIONS. For the
23 2005-2006 school year, the commissioner shall assign a campus
24 intervention team or a technical assistance team to a campus under
25 Section 39.1321 on the basis of academic performance ratings for
26 the 2004-2005 school year. The commissioner may impose a sanction
27 on a campus under Section 39.1322(f) or 39.1323(a) or (e) on the

basis of academic performance ratings for the 2004-2005 school year and the 2005-2006 school year. A sanction ordered by the commissioner before July 1, 2005, shall remain in effect for the 2005-2006 school year. The commissioner may allow a principal subject to Section 39.1323(b) to remain at a campus for the 2005-2006 school year. This section expires September 1, 2007.

Sec. 39.1326. MANAGEMENT OF CERTAIN ACADEMICALLY UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section if the campus has been identified as academically unacceptable under Section 39.132 and the commissioner orders alternative management under Section 39.1323(e) or (f).

(b) The commissioner shall solicit proposals from qualified entities to assume management of a campus subject to this section.

(c) If the commissioner determines that the basis for identifying a campus as academically unacceptable is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may:

(1) provide the campus a one-year waiver under this section; and

(2) require the district to contract for the appropriate technical assistance.

(d) The commissioner may annually solicit proposals under this section for the management of a campus subject to this section. The commissioner shall notify a qualified entity that has been approved as a provider under this section. The district must execute a contract with an approved provider and relinquish control of the campus before January 1 of the school year.

1 (e) To qualify for consideration as a managing entity under
2 this section, the entity must submit a proposal that provides
3 information relating to the entity's management and leadership team
4 that will participate in management of the campus under
5 consideration, including information relating to individuals that
6 have:

7 (1) documented success in whole school interventions
8 that increased the educational and performance levels of students
9 in academically unacceptable campuses;

10 (2) a proven record of effectiveness with programs
11 assisting low-performing students;

12 (3) a proven ability to apply research-based school
13 intervention strategies;

14 (4) a proven record of financial ability to perform
15 under the management contract; and

16 (5) any other experience or qualifications the
17 commissioner determines necessary.

18 (f) In selecting a managing entity under this section, the
19 commissioner shall give preference to an entity that:

20 (1) meets any qualifications under this section; and

21 (2) has documented success in educating students from
22 similar demographic groups and with similar educational needs as
23 the students who attend the campus that is to be operated by a
24 managing entity under this section.

25 (g) The school district may negotiate the term of a
26 management contract for not more than five years with an option to
27 renew the contract. The management contract must include a

1 provision describing the district's responsibilities in supporting
2 the operation of the campus. The commissioner shall approve the
3 contract before the contract is executed and, as appropriate, may
4 require the district, as a term of the contract, to support the
5 campus in the same manner as the district was required to support
6 the campus before the execution of the management contract.

7 (h) A management contract under this section shall include
8 provisions approved by the commissioner that require the managing
9 entity to demonstrate improvement in campus performance, including
10 negotiated performance measures. The performance measures must be
11 consistent with the priorities of this chapter. The commissioner
12 shall evaluate a managing entity's performance on the first and
13 second anniversaries of the date of the management contract. If the
14 evaluation fails to demonstrate improvement as negotiated under the
15 contract by the first anniversary of the date of the management
16 contract, the district may terminate the management contract, with
17 the commissioner's consent, for nonperformance or breach of
18 contract and select another provider from an approved list provided
19 by the commissioner. If the evaluation fails to demonstrate
20 significant improvement, as determined by the commissioner, by the
21 second anniversary of the date of the management contract, the
22 district shall terminate the management contract and select another
23 provider from an approved list provided by the commissioner or
24 resume operation of the campus if approved by the commissioner. If
25 the commissioner approves the district's operation of the campus,
26 the commissioner shall assign a technical assistance team to assist
27 the campus.

1 (i) Notwithstanding any other provision of this code, the
2 funding for a campus operated by a managing entity must be
3 equivalent to the funding of the other campuses in the district on a
4 per student basis so that the managing entity receives the same
5 funding the campus would otherwise have received.

6 (j) Each campus operated by a managing entity under this
7 section is subject to this chapter in the same manner as any other
8 campus in the district.

9 (k) The commissioner may adopt rules necessary to implement
10 this section.

11 (l) With respect to the management of a campus under this
12 section:

13 (1) a managing entity is considered to be a
14 governmental body for purposes of Chapters 551 and 552, Government
15 Code; and

16 (2) any requirement in Chapter 551 or 552, Government
17 Code, that applies to a school district or the board of trustees of
18 a school district applies to a managing entity.

19 Sec. 39.1327. REVIEW OF SANCTIONS FOR CAMPUSES SERVING
20 RESIDENTIAL FACILITIES. (a) A school district or public charter
21 district may petition the commissioner to review an academically
22 unacceptable rating assigned to a campus if the campus
23 predominantly served students residing in a residential facility
24 during the rating period.

25 (b) If the commissioner determines that the basis for
26 identifying the campus as academically unacceptable was limited to
27 a condition that was not related to the educational purpose of the

1 residential facility, the commissioner may take any of the
2 following actions as the commissioner determines appropriate:

3 (1) change, modify, or suspend the academically
4 unacceptable rating; or

5 (2) impose any sanction otherwise authorized under
6 Section 39.131 or 39.132.

7 (c) The commissioner may consider a factor other than a
8 factor used to assign a rating in evaluating a campus under this
9 section. The commissioner may assign a campus intervention team
10 under Section 39.1321 at the expense of the school district or
11 public charter district as provided by Section 39.134 to develop a
12 long-term intervention plan to improve services for students.

13 (d) On a determination that a campus subject to this section
14 is appropriately meeting the educational needs of its students, the
15 commissioner may waive revocation of a public charter district for
16 a period not to exceed two years. A waiver under this subsection
17 may be extended for additional two-year periods based on subsequent
18 evaluations of the campus.

19 (e) This section does not limit the commissioner's ability
20 to sanction a public charter district for the performance of a
21 campus subject to this section or any other law.

22 (f) A decision by the commissioner under this section is
23 final and may not be appealed.

24 SECTION 2D.34. Section 39.133, Education Code, is amended
25 to read as follows:

26 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
27 review annually the performance of a district or campus subject to a

1 sanction under this subchapter to determine the appropriate actions
 2 to be implemented under this subchapter. The determination shall
 3 take into account the number, severity, and duration of the
 4 problems identified. [~~The commissioner must review at least~~
 5 ~~annually the performance of a district for which the accreditation~~
 6 ~~rating has been lowered due to unacceptable student performance and~~
 7 ~~may not raise the rating until the district has demonstrated~~
 8 ~~improved student performance.~~] If the review reveals a lack of
 9 improvement, the commissioner shall increase the level of state
 10 intervention and sanction unless the commissioner finds good cause
 11 for maintaining the current status.

12 (b) The commissioner shall review at least annually the
 13 performance of a school district for which the academic performance
 14 rating has been lowered due to unacceptable student performance and
 15 may not raise the rating until the district has demonstrated
 16 improved student performance.

17 SECTION 2D.35. Subchapter G, Chapter 39, Education Code, is
 18 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as
 19 follows:

20 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In
 21 addition to other sanctions authorized under Sections 39.131 and
 22 39.132, the commissioner may order a school district or campus to
 23 acquire professional services at the expense of the district or
 24 campus to address the applicable financial, assessment, data
 25 quality, program, or governance deficiency. The commissioner's
 26 order may require the district or campus to:

27 (1) select an external auditor, data quality expert,

1 professional authorized to monitor district assessment instrument
2 administration, or curriculum or program expert; or

3 (2) provide for the appropriate training of district
4 staff or board of trustees members in the case of a district, or
5 campus staff, in the case of a campus.

6 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a)
7 The commissioner may revoke the accreditation of a school district
8 and order the closure of the district or a campus, as appropriate,
9 under the following circumstances:

10 (1) the commissioner is authorized to close the
11 district or campus under Section 39.131(a)(10) or 39.1322(f);

12 (2) the commissioner determines that the district is
13 insolvent and unable to complete the school year; or

14 (3) the commissioner determines that the district has
15 ceased operations for 11 or more instructional days during the
16 current or most recent scheduled school year without the
17 commissioner's authorization.

18 (b) The commissioner shall issue an order of closure under
19 this section that includes provisions necessary for the
20 continuation of the education of students enrolled in the district
21 or campus, including annexation to one or more adjoining districts
22 as provided by Section 13.054. An order of closure may:

23 (1) establish an effective date for accreditation
24 revocation and closure that is not later than the first anniversary
25 of the date of the order;

26 (2) provide for an interim board of managers to
27 exercise the duties of the board of trustees of the district as

1 designated by the commissioner;

2 (3) require enrollment or student services to be
3 provided by another district as necessary to allow students
4 enrolled in the closed district to complete a school year, and make
5 adjustments in the state and federal funding to which the district
6 would otherwise be entitled as determined by the commissioner; and

7 (4) require the preservation, transfer, or surrender
8 of all student records and other records required for an audit of
9 any state and federal funding provided to the district.

10 (c) A person who intentionally destroys, conceals, or
11 tampers with a record that is required to be preserved,
12 transferred, or surrendered under Subsection (b)(4) commits an
13 offense punishable under Section 37.10(c)(2), Penal Code.

14 (d) A board of managers exercising authority under
15 Subsection (b)(2) may exercise the authority of the board of
16 trustees with regard to financial management of the district and
17 personnel actions. The board of managers is not required to be
18 composed of residents of the district.

19 (e) An open-enrollment charter school ordered closed under
20 this section is not entitled to a separate hearing concerning the
21 revocation or nonrenewal of the charter under Section 11A.108.

22 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A
23 school district or open-enrollment charter school that wishes to
24 challenge a decision to impose a sanction under this subchapter,
25 including a decision to close a district, school, or campus under
26 Section 39.1332, must petition for an informal review as provided
27 by Section 7.0571.

1 (b) A final decision by the commissioner to impose a
2 sanction under this subchapter, including a decision to close a
3 school district or a campus under Section 39.1332, following a
4 review under Section 7.0571 is final and may not be appealed.

5 (c) A school district may not collaterally contest an
6 academic performance rating or other accreditation standard as part
7 of the review of a sanction under this subchapter if a review
8 opportunity has already been provided for the academic performance
9 rating.

10 SECTION 2D.36. Section 39.134, Education Code, is amended
11 to read as follows:

12 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
13 a monitor, conservator, management team, ~~[or special]~~ campus
14 intervention team, technical assistance team, managing entity
15 under Section 39.1326, or service provider under Section 39.1331
16 shall be paid by the district. If the district fails or refuses to
17 pay the costs in a timely manner, the commissioner may:

18 (1) pay the costs using amounts withheld from any
19 funds to which the district is otherwise entitled; or

20 (2) recover the amount of the costs in the manner
21 provided for recovery of an overallocation of state funds under
22 Section 42.317 ~~[42.258]~~.

23 SECTION 2D.37. Subchapter G, Chapter 39, Education Code, is
24 amended by adding Section 39.1371 to read as follows:

25 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
26 responsible for managing an intervention of a campus subject to
27 sanctions under this subchapter.

1 (b) The agency shall:

2 (1) monitor the progress of technical assistance teams
3 and campus intervention teams appointed by the commissioner under
4 this subchapter; and

5 (2) supervise the activities of the managing entities
6 under Section 39.1326.

7 (c) The agency shall:

8 (1) establish by rule and publish school improvement
9 objectives;

10 (2) advocate for the increased use of research-based
11 effective practices; and

12 (3) coordinate campus improvement activities of the
13 agency and regional education service centers.

14 (d) The commissioner may contract for services under this
15 section.

16 SECTION 2D.38. Section 39.182(a), Education Code, as
17 amended by S.B. No. 42, Acts of the 79th Legislature, Regular
18 Session, 2005, is amended to read as follows:

19 (a) Not later than December 1 of each year, the agency shall
20 prepare and deliver to the governor, the lieutenant governor, the
21 speaker of the house of representatives, each member of the
22 legislature, the Legislative Budget Board, and the clerks of the
23 standing committees of the senate and house of representatives with
24 primary jurisdiction over the public school system a comprehensive
25 report covering the preceding school year and containing:

26 (1) an evaluation of the achievements of the state
27 educational program in relation to the statutory goals for the

1 public education system under Section 4.002;

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

5 (3) a summary compilation of the percentage of
6 graduating students who attain scores on the secondary exit-level
7 assessment instruments required under Section 39.023(c) that are
8 equivalent to a passing score on the assessment instrument required
9 under Section 51.3062;

10 (4) a summary compilation of overall student
11 performance on academic skills assessment instruments required by
12 Section 39.023 with the number and percentage of students exempted
13 from the administration of those instruments and the basis of the
14 exemptions, aggregated by grade level, subject area, campus, and
15 district, with appropriate interpretations and analysis, and
16 disaggregated by race, ethnicity, gender, and socioeconomic
17 status;

18 (5) [~~4~~] a summary compilation of overall
19 performance of students placed in a disciplinary alternative
20 education program established under Section 37.008 on academic
21 skills assessment instruments required by Section 39.023 with the
22 number of those students exempted from the administration of those
23 instruments and the basis of the exemptions, aggregated by
24 district, grade level, and subject area, with appropriate
25 interpretations and analysis, and disaggregated by race,
26 ethnicity, gender, and socioeconomic status;

27 (6) [~~5~~] a summary compilation of the progress

1 ~~[overall performance]~~ of students at risk of dropping out of
 2 school, as defined by Section 29.081(d), including information
 3 described by the academic excellence indicators under Sections
 4 39.051(b)(7), (8), (10), and (11), provided statewide and
 5 aggregated by district, on academic skills assessment instruments
 6 required by Section 39.023 and any other assessment instrument
 7 required by the commissioner ~~[with the number of those students~~
 8 ~~exempted from the administration of those instruments and the basis~~
 9 ~~of the exemptions, aggregated by district, grade level, and subject~~
 10 ~~area]~~, with appropriate interpretations and analysis, and
 11 disaggregated by race, ethnicity, gender, and socioeconomic
 12 status;

13 (7) ~~[(6)]~~ an evaluation of the correlation between
 14 student grades and student performance on academic skills
 15 assessment instruments required by Section 39.023;

16 (8) ~~[(7)]~~ a statement of the dropout rate of students
 17 in grade levels 7 through 12, expressed in the aggregate and by
 18 grade level, and a statement of the completion rates of students for
 19 grade levels 9 through 12;

20 (9) ~~[(8)]~~ a statement of:

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

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

26 (C) the completion rate of students who enter
 27 grade level 9 and not more than four years later receive a high

1 school equivalency certificate;

2 (D) the completion rate of students who enter
3 grade level 9 and receive a high school equivalency certificate,
4 including students who require more than four years to receive a
5 certificate; and

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

8 (10) [~~(9)~~] a statement of the projected
9 cross-sectional and longitudinal dropout rates for grade levels 9
10 through 12 for the next five years, assuming no state action is
11 taken to reduce the dropout rate;

12 (11) [~~(10)~~] a description of a systematic, measurable
13 plan for reducing the projected cross-sectional and longitudinal
14 dropout rates to five percent or less for the 1997-1998 school year;

15 (12) [~~(11)~~] a summary of the information required by
16 Section 29.083 regarding grade level retention of students and
17 information concerning:

18 (A) the number and percentage of students
19 retained; and

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

22 (13) [~~(12)~~] information, aggregated by district type
23 and disaggregated by race, ethnicity, gender, and socioeconomic
24 status, on:

25 (A) the number of students placed in a
26 disciplinary alternative education program established under
27 Section 37.008;

(B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008;

(14) [~~(13)~~] a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions;

(15) [~~(14)~~] an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002;

(16) [~~(15)~~] a description of all funds received by and each activity and expenditure of the agency;

(17) [~~(16)~~] a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071;

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

1 (19) [~~(18)~~] a statement of the total number and length
2 of reports that school districts and school district employees must
3 submit to the agency, identifying which reports are required by
4 federal statute or rule, state statute, or agency rule, and a
5 summary of the agency's efforts to reduce overall reporting
6 requirements;

7 (20) [~~(19)~~] a list of each school district that is not
8 in compliance with state special education requirements,
9 including:

10 (A) the period for which the district has not
11 been in compliance;

12 (B) the manner in which the agency considered the
13 district's failure to comply in determining the district's
14 accreditation status; and

15 (C) an explanation of the actions taken by the
16 commissioner to ensure compliance and an evaluation of the results
17 of those actions;

18 (21) an evaluation of public charter districts,
19 including:

20 (A) the academic performance of students
21 enrolled in public charter districts, disaggregated by race,
22 ethnicity, gender, and socioeconomic status;

23 (B) the costs of instruction, administration,
24 and transportation incurred by public charter districts; and

25 (C) other issues, as determined by the
26 commissioner [~~(20) a comparison of the performance of~~
27 ~~open-enrollment charter schools and school districts on the~~

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

7 (22) ~~[(21)]~~ a summary of the information required by
8 Section 38.0141 regarding student health and physical activity from
9 each school district;

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

13 (24) ~~[(22)]~~ any additional information considered
14 important by the commissioner or the State Board of Education.

15 SECTION 2D.39. Section 39.182(b), Education Code, is
16 amended to read as follows:

17 (b) In reporting the information required by Subsection
18 (a)(4) or (5) ~~[(a)(3) or (4)]~~, the agency may separately aggregate
19 the performance data of students enrolled in a special education
20 program under Subchapter A, Chapter 29, or a bilingual education or
21 special language program under Subchapter B, Chapter 29.

22 SECTION 2D.40. Section 39.182, Education Code, is amended
23 by adding Subsections (b-1) and (b-2) to read as follows:

24 (b-1) The report must include an assessment of the impact of
25 the performance-based grant system developed under Subchapter E,
26 Chapter 7, on student academic performance, including:

27 (1) an analysis of performance and spending

1 information relating to grants administered by the agency; and

2 (2) recommendations on any statutory changes needed
3 for the agency to more effectively administer grant programs,
4 including recommendations on whether to eliminate or modify
5 inefficient grant programs, expand effective grant programs, or
6 consolidate similar grant programs to maximize the effectiveness
7 and efficiencies of those programs.

8 (b-2) Subsection (b-1) applies beginning January 1, 2009.
9 This subsection expires February 1, 2009.

10 SECTION 2D.41. Section 39.183, Education Code, is amended
11 to read as follows:

12 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The
13 agency shall prepare and deliver to the governor, the lieutenant
14 governor, the speaker of the house of representatives, each member
15 of the legislature, the Legislative Budget Board, and the clerks of
16 the standing committees of the senate and house of representatives
17 with primary jurisdiction over the public school system a regional
18 and district level report covering the preceding two school years
19 and containing:

20 (1) a summary of school district compliance with the
21 student/teacher ratios and class-size limitations prescribed by
22 Sections 25.111 and 25.112, including:

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

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

27 (2) a summary of the exemptions and waivers granted to

1 school districts under Section 7.056 [~~or 39.112~~] and a review of the
2 effectiveness of each campus or district following deregulation;

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

7 (4) an evaluation of accelerated instruction programs
8 offered under Section 28.006, including an assessment of the
9 quality of such programs and the performance of students enrolled
10 in such programs; and

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

14 SECTION 2D.42. Section 39.202(a), Education Code, is
15 amended to read as follows:

16 (a) The commissioner shall, in consultation with the
17 comptroller, develop and implement a financial accountability
18 rating system for schooldistricts in this state that distinguishes
19 among districts' varying levels of financial performance and
20 includes procedures for:

21 (1) providing additional transparency to public
22 education finance; and

23 (2) enabling the commissioner and district
24 administrators to provide meaningful financial oversight and
25 improvement.

26 SECTION 2D.43. Section 39.203(b), Education Code, is
27 amended to read as follows:

(b) The annual financial management report must include:

(1) a description of the district's financial management performance based on a comparison, provided by the agency, of the district's performance on the standards ~~[indicators]~~ adopted under Section 39.202 ~~[39.202(b)]~~ to:

(A) state-established standards; and

(B) the district's previous performance on the standards adopted under Section 39.202 ~~[indicators]~~; ~~[and]~~

(2) a description of the district's actual expenditures for each campus and any difference between those campus expenditures and the foundation school program allotments received for the campus; and

(3) any descriptive information required by the commissioner.

SECTION 2D.44. Subchapter I, Chapter 39, Education Code, is amended by adding Section 39.205 to read as follows:

Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than September 1, 2006, the agency shall submit a report to the legislature on the status of the financial accountability system that recommends to the legislature methods for linking school district financial management performance and academic performance.

(b) This section expires September 2, 2006.

SECTION 2D.45. (a) Not later than the 2007-2008 school year, the Texas Education Agency shall collect information concerning:

(1) incremental growth in student achievement for

1 purposes of Section 39.051(b)(8), Education Code, as amended by
2 this Act; and

3 (2) the measure of progress toward English language
4 proficiency for purposes of Section 39.051(b)(15), Education Code,
5 as added by this Act.

6 (b) Not later than the 2008-2009 school year, the Texas
7 Education Agency shall include, in evaluating the performance of
8 school districts, campuses, and public charter districts under
9 Subchapter D, Chapter 39, Education Code:

10 (1) incremental growth in student achievement under
11 Section 39.051(b)(8), Education Code, as amended by this Act; and

12 (2) the measure of progress toward English language
13 proficiency under Section 39.051(b)(15), Education Code, as added
14 by this Act.

15 SECTION 2D.46. 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

1 GRANT PROGRAMS. (a) The agency shall conduct a review of
2 state-funded and federally funded grant programs and incentives
3 designed to improve student academic performance and shall actively
4 determine the full extent to which funds awarded under those
5 programs may be used to enhance or expand the use of technology in
6 public schools. For purposes of removing barriers to and
7 encouraging the use of technology in public schools, the
8 commissioner may, as appropriate, issue a waiver to one or more
9 schools.

10 (b) Not later than December 1, 2006, the agency shall submit
11 a report regarding the findings of the review conducted under this
12 section to the legislature. The report must include a summary of
13 promising practices for current grant programs that leverage
14 technology. This section expires January 15, 2007.

15 SECTION 2E.02. Section 7.055(b)(28), Education Code, is
16 amended to read as follows:

17 (28) The commissioner shall perform duties relating to
18 the funding, adoption, and purchase of instructional materials
19 ~~[textbooks]~~ under Chapter 31.

20 SECTION 2E.03. Section 7.056(f), Education Code, is amended
21 to read as follows:

22 (f) A school district or campus that is required to develop
23 and implement a student achievement improvement plan under Section
24 39.131 or 39.132 may receive an exemption or waiver under this
25 section from any law or rule other than:

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

(2) a requirement imposed by federal law or rule;

(3) a requirement, restriction, or prohibition imposed by state law or rule relating to:

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

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

(4) ~~[textbook]~~ selection of instructional materials under Chapter 31.

SECTION 2E.04. Section 7.102(c)(23), Education Code, is amended to read as follows:

(23) The board shall approve ~~[adopt]~~ and purchase or license instructional materials ~~[textbooks]~~ as provided by Chapter 31 and adopt rules required by that chapter.

SECTION 2E.05. Sections 7.108(a) and (c), Education Code, are amended to read as follows:

(a) A person interested in selling bonds of any type or a person engaged in manufacturing, shipping, selling, or advertising instructional materials ~~[textbooks]~~ or otherwise connected with the instructional material ~~[textbook]~~ business commits an offense if the person makes or authorizes a political contribution to or takes part in, directly or indirectly, the campaign of any person seeking election to or serving on the board.

(c) In this section:

(1) "Instructional material" has the meaning assigned by Section 31.002.

1 (2) "Political contribution" has the meaning assigned
2 by Section 251.001, Election Code.

3 ~~[(2) "Textbook" has the meaning assigned by Section~~
4 ~~31.002.]~~

5 SECTION 2E.06. The heading to Section 7.112, Education
6 Code, is amended to read as follows:

7 Sec. 7.112. REPRESENTATION OF ~~[TEXTBOOK]~~ PUBLISHER OF
8 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

9 SECTION 2E.07. Section 7.112(a), Education Code, is amended
10 to read as follows:

11 (a) A former member of the State Board of Education who is
12 employed by or otherwise receives compensation from a ~~[textbook]~~
13 publisher of instructional materials may not, before the second
14 anniversary of the date on which the person last served as a member
15 of the State Board of Education:

16 (1) confer with a member of the board of trustees of a
17 school district concerning instructional materials ~~[a textbook]~~
18 published by that ~~[textbook]~~ publisher; or

19 (2) appear at a meeting of the board of trustees on
20 behalf of the ~~[textbook]~~ publisher.

21 SECTION 2E.08. Section 7.112(c)(2), Education Code, is
22 amended to read as follows:

23 (2) "Instructional material" and "publisher"
24 ~~["Publisher" and "textbook"]~~ have the meanings assigned by Section
25 31.002.

26 SECTION 2E.09. Section 11.158(b), Education Code, is
27 amended to read as follows:

(b) The board may not charge fees for:

(1) instructional materials [~~textbooks~~], workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under this code;

(2) field trips required as a part of a basic education program or course;

(3) any specific form of dress necessary for any required educational program or diplomas;

(4) the payment of instructional costs for necessary school personnel employed in any course or educational program required for graduation;

(5) library materials [~~books~~] required to be used for any educational course or program, other than fines for lost, damaged, or overdue materials [~~books~~];

(6) admission to any activity the student is required to attend as a prerequisite to graduation;

(7) admission to or examination in any required educational course or program; or

(8) lockers.

SECTION 2E.10. Section 11.164(a), Education Code, is amended to read as follows:

(a) The board of trustees of each school district shall limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. A classroom teacher may not be required to prepare any written information other than:

(1) any report concerning the health, safety, or

welfare of a student;

(2) a report of a student's grade on an assignment or examination;

(3) a report of a student's academic progress in a class or course;

(4) a report of a student's grades at the end of each grade reporting period;

(5) a ~~[textbook]~~ report on instructional materials;

(6) a unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;

(7) an attendance report;

(8) any report required for accreditation review;

(9) any information required by a school district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or

(10) any information specifically required by law, rule, or regulation.

SECTION 2E.11. Section 19.007(e), Education Code, is amended to read as follows:

(e) The district may participate in the instructional materials ~~[textbook]~~ program under Chapter 31.

SECTION 2E.12. Sections 26.006(a) and (c), Education Code, are amended to read as follows:

(a) A parent is entitled to:

(1) review all teaching materials, instructional materials [~~textbooks~~], and other teaching aids used in the classroom of the parent's child; and

(2) review each test administered to the parent's child after the test is administered.

(c) A student's parent is entitled to request that the public school [~~district or open-enrollment charter school~~] the student attends allow the student to take home any instructional materials [~~textbook~~] used by the student. Subject to the availability of the instructional materials [~~a textbook~~], the [~~district or~~] school shall honor the request. A student who takes home instructional materials [~~a textbook~~] must return the instructional materials [~~textbook~~] to school at the beginning of the next school day if requested to do so by the student's teacher. In this subsection, "instructional material" [~~"textbook"~~] has the meaning assigned by Section 31.002.

SECTION 2E.13. Sections 28.002(c) and (h), Education Code, are amended to read as follows:

(c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials [~~textbooks~~] under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. As a condition of accreditation, the board shall require each district to provide instruction in the

essential knowledge and skills at appropriate grade levels.

(h) The State Board of Education and each school district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter and in reading courses and in the adoption of instructional materials [~~textbooks~~]. A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

SECTION 2E.14. The heading to Chapter 31, Education Code, is amended to read as follows:

CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

SECTION 2E.15. Section 31.001, Education Code, is amended to read as follows:

Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. Instructional materials [~~Textbooks~~] selected for use in the public schools shall be furnished without cost to the students attending those schools in accordance with Section 3(b), Article VII, Texas Constitution.

SECTION 2E.16. Sections 31.002(1), (2), and (4), Education Code, are amended to read as follows:

(1) "Instructional material" [~~"Electronic textbook"~~] means a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook, supplementary materials, computer software, [interactive videodisc, magnetic media, DVD, CD-ROM,

1 computer courseware, on-line services, or an electronic medium, or
2 other means of conveying information to the student or otherwise
3 contributing to the learning process through electronic means.

4 (2) "Publisher" means a person who prepares
5 instructional materials for sale or distribution to educational
6 institutions. The term includes an on-line service or a developer
7 or distributor of [~~an~~] electronic instructional materials
8 [~~textbook~~].

9 (4) "Technological equipment" means hardware, a
10 device, or equipment necessary for:

11 (A) instructional use in the classroom,
12 including to gain access to or enhance the use of [~~an~~] electronic
13 instructional materials [~~textbook~~]; or

14 (B) professional use by a classroom teacher.

15 SECTION 2E.17. Section 31.003, Education Code, is amended
16 to read as follows:

17 Sec. 31.003. RULES. The State Board of Education shall
18 [~~may~~] adopt rules, consistent with this chapter, for the approval
19 [~~adoption~~], requisition, distribution, care, use, and disposal of
20 instructional materials [~~textbooks~~].

21 SECTION 2E.18. The heading to Subchapter B, Chapter 31,
22 Education Code, is amended to read as follows:

23 SUBCHAPTER B. STATE APPROVAL

24 [~~FUNDING, ADOPTION, AND PURCHASE~~]

25 SECTION 2E.19. Section 31.021, Education Code, as amended
26 by S.B. No. 151, Acts of the 79th Legislature, Regular Session,
27 2005, is amended to read as follows:

Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]
FUND. (a) The state instructional materials [~~textbook~~] fund
consists of:

(1) an amount set aside by the State Board of Education
from the available school fund, computed in accordance with this
section; and

(2) [~~all funds accruing from the state's sale of~~
~~disused textbooks; and~~

[~~(3)~~] all amounts lawfully paid into the fund from any
other source.

(b) The State Board of Education shall annually set aside
out of the available school fund of the state an amount sufficient
for the instructional materials allotment to provide public [~~board,~~
~~school districts, and open-enrollment charter~~] schools with the
funds required to purchase and distribute the necessary
instructional materials [~~textbooks~~] for the use of the students of
this state for the following school year. The board shall determine
the amount of the available school fund to set aside for the state
instructional materials [~~textbook~~] fund based on the amount of the
instructional materials and technology allotment under Section
32.005(a). [~~+~~

[~~(1) a report by the commissioner issued on July 1 or,~~
~~if that date is a Saturday or Sunday, on the following Monday,~~
~~stating the amount of unobligated money in the fund,~~

[~~(2) the commissioner's estimate, based on textbooks~~
~~selected under Section 31.101 and on attendance reports submitted~~
~~under Section 31.103 by school districts and open-enrollment~~

~~charter schools, of the amount of funds, in addition to funds reported under Subdivision (1), that will be necessary for purchase and distribution of textbooks for the following school year, and~~
~~[(3) any amount the board determines should be set aside for emergency purposes caused by unexpected increases in attendance.]~~

(c) This subsection applies only if the pilot project established under Section 54.2161 is implemented~~[, and expires August 15, 2009]~~. In addition to the amount set aside under Subsection (b), the State Board of Education shall annually set aside out of the available school fund an amount sufficient for each school district with one or more students entitled to free textbooks under the pilot project established under Section 54.2161 to pay the costs of those textbooks as required by Section 31.031 for the following school year. The board shall determine the amount of the available school fund to set aside for the state instructional materials ~~[textbook]~~ fund for purposes of this subsection based on the commissioner's estimate of the amount that will be necessary to pay the costs of textbooks as required under Section 31.031. This subsection expires August 31, 2006.

(d) Money transferred to the state instructional materials ~~[textbook]~~ fund remains in the fund until spent and does not lapse to the state at the end of the fiscal year.

~~[(e) All necessary expenses incurred under this chapter shall be paid from the state textbook fund on invoices approved by the commissioner.]~~

SECTION 2E.20. Subchapter B, Chapter 31, Education Code, is

amended by adding Sections 31.0251, 31.0252, and 31.0253 to read as follows:

Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS; REVIEW. (a) A publisher may at any time submit an instructional material to the State Board of Education for approval. As part of a submission, a publisher must include a statement that identifies in writing the essential knowledge and skills for a subject and grade level as determined by the board under Section 28.002 that the instructional material covers.

(b) The board shall:

(1) review each instructional material submitted for approval as provided by Section 31.0253;

(2) determine whether the instructional material covers the essential knowledge and skills identified in the submission; and

(3) identify the degree to which the instructional material complies with the essential knowledge and skills.

Sec. 31.0252. CORRECTION OF FACTUAL ERRORS. (a) The State Board of Education shall adopt rules authorizing the imposition of an administrative penalty in the manner provided by Section 31.151 against a publisher who knowingly fails to promptly correct any factual errors discovered by the board in the instructional materials submitted by the publisher.

(b) In setting the amount of any penalty to be imposed under this section, the board shall consider the stage of the instructional materials review and approval process at which the failure occurs and set progressively higher penalties for failures

1 that occur later in the process.

2 Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION. (a)
3 The State Board of Education shall meet biannually to approve
4 instructional materials submitted under Section 31.0251. The board
5 must approve or reject each submitted instructional material not
6 later than the second biannual meeting held for the purpose of
7 approving instructional materials under this section after the date
8 the instructional material was submitted.

9 (b) By majority vote, the board shall approve an
10 instructional material submitted under Section 31.0251 unless the
11 board determines, based on the board's own review, that the
12 instructional material does not contain the essential knowledge and
13 skills identified by the publisher in the submission. The board
14 shall identify the essential knowledge and skills for a subject and
15 grade level that an approved instructional material covers.

16 (c) Each approved instructional material must be free from
17 factual errors.

18 (d) For each subject and grade level, the board shall list
19 the approved instructional materials. The board shall
20 periodically:

21 (1) review each list of approved instructional
22 materials; and

23 (2) by majority vote, remove approved instructional
24 materials that the board determines no longer cover the essential
25 knowledge and skills.

26 SECTION 2E.21. Sections 31.026-31.030, Education Code, are
27 amended to read as follows:

1 Sec. 31.026. CONTRACT; PRICE. (a) The Department of
 2 Information Resources may [~~State Board of Education shall~~] execute
 3 a contract[+]

4 [~~(1)~~] for the purchase or licensing of each approved
 5 instructional material. The commissioner, with the assistance of
 6 the Department of Information Resources, the State Board of
 7 Education, and the office of the attorney general, shall develop
 8 model contracts that may be used by public schools for the purchase
 9 or licensing of instructional materials under this chapter [~~adopted~~
 10 ~~textbook other than an electronic textbook; and~~

11 [~~(2)~~ ~~for the purchase or licensing of each adopted~~
 12 ~~electronic textbook~~].

13 (b) A contract for the purchase or licensing of
 14 instructional materials must require the publisher to provide all
 15 of the approved instructional materials [~~the number of textbooks~~]
 16 required by public schools [~~school districts~~] in this state for the
 17 term of the contract[, ~~which must coincide with the board's~~
 18 ~~adoption cycle~~].

19 (c) As applicable, a contract must provide for the purchase
 20 or licensing of instructional materials [~~a textbook~~] at a
 21 [~~specific~~] price determined through negotiation between the
 22 publisher and the Department of Information Resources or the public
 23 school, as applicable, that does [, ~~which may~~] not exceed the lowest
 24 price paid by any other state or any school or school district. The
 25 price must be fixed for the term of the contract.

26 (d) The Department of Information Resources shall execute a
 27 blanket purchase order with the publisher of an approved

1 instructional material. A school district may requisition
 2 instructional materials under the purchase order.

3 (e) The agency and the Department of Information Resources
 4 shall enter into an interagency contract specifying each agency's
 5 duties regarding the purchasing and licensing of instructional
 6 materials.

7 (f) The contract may allow the publisher of an approved
 8 instructional material to update the material as provided by
 9 Section 31.033.

10 Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL~~
 11 ~~DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each
 12 public school [~~district and open-enrollment charter school~~] with
 13 information that fully describes each of the publisher's approved
 14 instructional materials. [~~adopted textbooks. On request of a~~
 15 ~~school district, a publisher shall provide a sample copy of an~~
 16 ~~adopted textbook.~~]

17 (b) A publisher shall provide at least two sample copies of
 18 each approved instructional material [~~adopted textbook~~] to be
 19 maintained at each regional education service center.

20 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].
 21 (a) The State Board of Education may provide for [~~purchase~~] special
 22 instructional materials [~~textbooks~~] for the education of blind and
 23 visually impaired students in public schools. In addition, for a
 24 teacher who is blind or visually impaired, the board shall provide a
 25 teacher's edition in Braille or large type, as requested by the
 26 teacher, for each printed instructional material [~~textbook~~] the
 27 teacher uses in the instruction of students. The printed teacher

1 edition must be available at the same time the printed student
2 instructional materials [~~textbooks~~] become available.

3 (b) The publisher of an approved printed instructional
4 material [~~adopted textbook~~] shall provide the agency with
5 computerized [~~textbook~~] files for the production of Braille
6 instructional materials [~~textbooks~~] or other versions of
7 instructional materials [~~textbooks~~] to be used by students with
8 disabilities, on request of the State Board of Education. A
9 publisher shall arrange the computerized [~~textbook~~] files in one of
10 several optional formats specified by the State Board of Education.

11 (c) The board shall require electronic instructional
12 materials submitted for approval under Section 31.0251 to comply
13 with the standards established under Section 508, Rehabilitation
14 Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements~~
15 ~~providing for the acceptance, requisition, and distribution of~~
16 ~~special textbooks and instructional aids pursuant to 20 U.S.C.~~
17 ~~Section 101 et seq.~~] for use by students enrolled in:

- 18 (1) public schools; or
- 19 (2) private nonprofit schools, if state funds, other
20 than for administrative costs, are not involved.

21 (d) In this section:

22 (1) "Blind or visually impaired student" includes any
23 student whose visual acuity is impaired to the extent that the
24 student is unable to read the text [~~print~~] in [~~a~~] regularly approved
25 instructional materials [~~adopted textbook~~] used in the student's
26 class.

27 (2) "Special instructional materials" [~~textbook~~]

means instructional materials [~~a textbook~~] in Braille, large type or any other medium or any apparatus that conveys information to a student or otherwise contributes to the learning process.

Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The board shall approve instructional materials [~~purchase or otherwise acquire textbooks~~] for use in bilingual education classes.

Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The State Board of Education shall adopt rules to ensure that used instructional materials [~~textbooks~~] sold to public schools [~~school districts and open-enrollment charter schools~~] are not sample copies that contain factual errors. The rules may provide for the imposition of an administrative penalty in accordance with Section 31.151 against a seller of used instructional materials [~~textbooks~~] who knowingly violates this section.

SECTION 2E.22. Section 31.031(b), Education Code, as added by S.B. No. 151, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b) From the amount set aside by the State Board of Education under Section 31.021(c) or allocated to a school district under Section 32.005(c), the school district that a student entitled to free textbooks under the pilot project established by Section 54.2161 attends shall pay the costs of each textbook the student requires for a course described by Section 54.2161(b)(2).

SECTION 2E.23. Subchapter B, Chapter 31, Education Code, is amended by adding Sections 31.032 and 31.033 to read as follows:

Sec. 31.032. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL

1 MATERIALS. The publisher of an approved electronic instructional
2 material may offer the material to public schools on an annual
3 subscription basis.

4 Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The
5 publisher of an approved instructional material may, under the
6 terms of a contract under Section 31.026, update the instructional
7 material. The State Board of Education by rule shall provide for an
8 expedited review process to determine the extent to which an
9 updated instructional material:

10 (1) is aligned with the essential knowledge and skills
11 for the subject and grade level; and

12 (2) does not contain factual errors.

13 SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is
14 amended by adding Sections 31.1012 and 31.1013 to read as follows:

15 Sec. 31.1012. LOCAL SELECTION AND PURCHASE. A school
16 district shall:

17 (1) select the instructional materials to be used by
18 the district; and

19 (2) using funds allotted under Section 32.005 or other
20 funds that may be used for the purpose, purchase those materials:

21 (A) directly from the publisher of the materials;
22 or

23 (B) through the Department of Information
24 Resources, if the materials have been approved by the State Board of
25 Education.

26 Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL
27 MATERIALS. Each school district shall annually certify to the

1 agency that, for each subject in the required curriculum and each
 2 grade level, the district provides each student with instructional
 3 materials that are aligned with the essential knowledge and skills
 4 adopted by the State Board of Education for that subject and grade
 5 level.

6 SECTION 2E.25. Section 31.102, Education Code, is amended
 7 to read as follows:

8 Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional
 9 material [~~textbook~~] purchased as provided by this chapter is the
 10 property of this state.

11 (b) Subsection (a) applies to an electronic instructional
 12 material [~~textbook~~] only to the extent of any applicable licensing
 13 agreement.

14 (c) The board of trustees of a school district [~~or the~~
 15 ~~governing body of an open-enrollment charter school~~] is the legal
 16 custodian of instructional materials [~~textbooks~~] purchased as
 17 provided by this chapter for the district [~~or school~~]. The board of
 18 trustees shall distribute instructional materials [~~textbooks~~] to
 19 students in the manner that the board [~~or governing body~~]
 20 determines is most effective and economical.

21 SECTION 2E.26. Sections 31.104-31.106, Education Code, are
 22 amended to read as follows:

23 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of
 24 trustees of a school district [~~or the governing body of an~~
 25 ~~open-enrollment charter school~~] may delegate to an employee the
 26 authority to requisition, distribute, and manage the inventory of
 27 instructional materials [~~textbooks~~] in a manner consistent with

1 this chapter and rules adopted under this chapter.

2 (b) A school district [~~or open-enrollment charter school~~]
3 may order replacements for instructional materials [~~textbooks~~]
4 that have been lost or damaged directly from[+]

5 [~~(1) the textbook depository, or~~
6 [~~(2)~~] the [~~textbook~~] publisher of the instructional
7 materials [~~or manufacturer if the textbook publisher or~~
8 ~~manufacturer does not have a designated textbook depository in this~~
9 ~~state under Section 31.151(a)(6)(B)]~~].

10 (c) Each instructional material [~~textbook~~] must state that
11 the instructional material [~~textbook~~] is the property of or is
12 licensed to this state, as appropriate. The board may require the
13 publisher of a textbook that must be returned by a student under
14 Subsection (d) to place a bar code with a unique identifying number
15 on the textbook. Each instructional material [~~textbook~~], other
16 than an electronic instructional material [~~textbook~~], must be
17 covered by the student under the direction of the teacher. A student
18 must return all instructional materials [~~textbooks~~] to the teacher
19 at the end of the school year or when the student withdraws from
20 school.

21 (d) Each student, or the student's parent or guardian, is
22 responsible for each instructional material [~~textbook~~] not
23 returned by the student. A student who fails to return all
24 instructional materials [~~textbooks~~] forfeits the right to free
25 instructional materials [~~textbooks~~] until each instructional
26 material [~~textbook~~] previously issued but not returned is paid for
27 by the student, parent, or guardian. As provided by policy of the

board of trustees [~~or governing body~~], a school district [~~or open-enrollment charter school~~] may waive or reduce the payment requirement if the student is from a low-income family. The district [~~or school~~] shall allow the student to use instructional materials [~~textbooks~~] at school during each school day. If an instructional material [~~a textbook~~] is not returned or paid for, the district [~~or school~~] may withhold the student's records. A district [~~or school~~] may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma.

(e) The board of trustees of a school district may not require an employee of the district to pay for an instructional material [~~a textbook~~] or instructional technology that is stolen, misplaced, or not returned by a student.

Sec. 31.105. SALE, EXCHANGE, OR LOAN OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. (a) The board of trustees of a school district [~~or governing body of an open-enrollment charter school~~] may sell instructional materials [~~textbooks~~], other than electronic instructional materials [~~textbooks~~], to a student or another school at a [~~the state contract~~] price determined by board rule. Money [~~The district shall send money~~] from the sale of instructional materials may be used only to purchase items that may be purchased lawfully using the allotment provided by Section 32.005.

(b) Subject to any applicable licensing agreement, the board of trustees of a school district may:

(1) exchange instructional materials with another

1 school district; or

2 (2) loan instructional materials to another school
3 district [~~textbooks to the commissioner as required by the~~
4 ~~commissioner. The commissioner shall deposit the money in the~~
5 ~~state textbook fund~~].

6 Sec. 31.106. USE OF LOCAL FUNDS. A [~~In addition to any~~
7 ~~textbook selected under this chapter, a~~] school district [~~or~~
8 ~~open-enrollment charter school~~] may use local funds to purchase any
9 instructional materials [~~textbooks~~].

10 SECTION 2E.27. The heading to Section 31.151, Education
11 Code, is amended to read as follows:

12 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

13 SECTION 2E.28. Sections 31.151(a), (b), and (d), Education
14 Code, are amended to read as follows:

15 (a) A publisher [~~or manufacturer~~] of instructional
16 materials [~~textbooks~~]:

17 (1) shall furnish any instructional material
18 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state[7]
19 at a price that does not exceed the lowest price at which the
20 publisher offers that instructional material [~~textbook~~] for
21 adoption or sale to any state, public school, or school district in
22 the United States;

23 (2) shall automatically reduce the price of an
24 instructional material [~~a textbook~~] sold for use in a public school
25 [~~district or open-enrollment charter school~~] to the extent that the
26 price is reduced elsewhere in the United States;

27 (3) shall provide any instructional material

1 ~~[textbook]~~ or ancillary item free of charge in this state to the
 2 same extent that the publisher ~~[or manufacturer]~~ provides the
 3 instructional material ~~[textbook]~~ or ancillary item free of charge
 4 to any state, public school, or school district in the United
 5 States;

6 (4) shall guarantee that each copy of an instructional
 7 material ~~[a textbook]~~ sold in this state is at least equal in
 8 quality to copies of that instructional material ~~[textbook]~~ sold
 9 elsewhere in the United States and is free from factual error;

10 (5) may not become associated or connected with,
 11 directly or indirectly, any combination in restraint of trade in
 12 instructional materials ~~[textbooks]~~ or enter into any
 13 understanding or combination to control prices or restrict
 14 competition in the sale of instructional materials ~~[textbooks]~~ for
 15 use in this state;

16 (6) shall~~+~~
 17 ~~[(A) maintain a depository in this state or~~
 18 ~~arrange with a depository in this state to receive and fill orders~~
 19 ~~for textbooks, other than on-line textbooks or on-line textbook~~
 20 ~~components, consistent with State Board of Education rules, or~~
 21 ~~[(B)] deliver~~ instructional materials
 22 ~~[textbooks]~~ to a public school ~~[district or open-enrollment charter~~
 23 ~~school]~~ without a delivery charge to the school ~~[district,~~
 24 ~~open-enrollment charter school,]~~ or state~~[, if:~~

25 ~~[(i) the publisher or manufacturer does not~~
 26 ~~maintain or arrange with a depository in this state under Paragraph~~
 27 ~~(A) and the publisher's or manufacturer's textbooks and related~~

1 ~~products are warehoused or otherwise stored less than 300 miles~~
2 ~~from a border of this state; or~~

3 ~~[(ii) the textbooks are on-line textbooks~~
4 ~~or on-line textbook components];~~

5 (7) shall, at the time an order for instructional
6 materials [~~textbooks~~] is acknowledged, provide to public [~~school~~
7 ~~districts or open-enrollment charter~~] schools an accurate shipping
8 date for instructional materials [~~textbooks~~] that are
9 back-ordered;

10 (8) shall guarantee delivery of instructional
11 materials [~~textbooks~~] at least 10 business days before the opening
12 day of school of the year for which the instructional materials
13 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]
14 are ordered by a date specified in the sales contract; and

15 (9) shall submit to the State Board of Education an
16 affidavit certifying any instructional material [~~textbook~~] the
17 publisher [~~or manufacturer~~] offers in this state to be free of
18 factual errors at the time the publisher executes the contract
19 required by Section 31.026.

20 (b) The State Board of Education may impose a reasonable
21 administrative penalty against a publisher [~~or manufacturer~~] who
22 knowingly violates Subsection (a). The board shall provide for a
23 hearing to be held to determine whether a penalty is to be imposed
24 and, if so, the amount of the penalty. The board shall base the
25 amount of the penalty on:

26 (1) the seriousness of the violation;

27 (2) any history of a previous violation;

- (3) the amount necessary to deter a future violation;
- (4) any effort to correct the violation; and
- (5) any other matter justice requires.

(d) A penalty collected under this section shall be deposited to the credit of the state instructional materials ~~[textbook]~~ fund.

SECTION 2E.29. The heading to Section 31.152, Education Code, is amended to read as follows:

Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~.

SECTION 2E.30. Sections 31.152(a), (b), and (d), Education Code, are amended to read as follows:

(a) A school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any instructional materials ~~[textbooks]~~ used in the schools with which the person is associated as a trustee, administrator, or teacher.

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

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

(2) might reasonably tend to influence a trustee, administrator, or teacher in the selection of instructional materials ~~[a textbook]~~; and

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

(d) In this section, "gift, favor, or service" does not include:

(1) staff development, in-service, or teacher

1 training; or

2 (2) ancillary [~~instructional~~] materials, such as maps
3 or worksheets, that convey information to the student or otherwise
4 contribute to the learning process.

5 SECTION 2E.31. The heading to Section 31.153, Education
6 Code, is amended to read as follows:

7 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS
8 [~~TEXTBOOK~~] LAW.

9 SECTION 2E.32. Section 31.153(a), Education Code, is
10 amended to read as follows:

11 (a) A person commits an offense if the person knowingly
12 violates any law providing for the purchase or distribution of free
13 instructional materials [~~textbooks~~] for the public schools.

14 SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is
15 amended to read as follows:

16 SUBCHAPTER E. DISPOSITION OF
17 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

18 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS
19 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State
20 Board of Education, may provide for the disposition of:

21 (1) instructional materials [~~textbooks~~], other than
22 electronic instructional materials [~~textbooks~~], that are no longer
23 in acceptable condition to be used for instructional purposes; or

24 (2) discontinued instructional materials [~~textbooks~~],
25 other than electronic instructional materials [~~textbooks~~].

26 (b) The commissioner, as provided by rules adopted by the
27 State Board of Education, shall make available on request copies of

1 discontinued instructional materials [~~textbooks~~], other than
2 electronic instructional materials [~~textbooks~~], for use in
3 libraries maintained in municipal and county jails and facilities
4 of the institutional division of the Texas Department of Criminal
5 Justice and other state agencies.

6 (c) The State Board of Education shall adopt rules under
7 which a public school [~~district or open-enrollment charter school~~]
8 may donate discontinued instructional materials [~~textbooks~~], other
9 than electronic instructional materials [~~textbooks~~], to a student,
10 to an adult education program, or to a nonprofit organization.

11 SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is
12 amended by adding Section 32.0011 to read as follows:

13 Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND
14 IMPLEMENTATION. (a) An advisory committee for technology and
15 implementation is created to assist the agency and permit the
16 agency to monitor changing technology in business, industry, and
17 education.

18 (b) Members of the advisory committee are appointed as
19 follows:

20 (1) the commissioner, in consultation with the
21 lieutenant governor, the speaker of the house of representatives,
22 and the presiding officers of the standing committees of the senate
23 and the house of representatives with jurisdiction over the agency,
24 shall appoint members from the business and education communities
25 and public members; and

26 (2) the State Board of Education may appoint one
27 member.

1 (c) The advisory committee is subject to Chapters 551 and
2 552, Government Code.

3 SECTION 2E.35. Sections 32.002 and 32.003, Education Code,
4 are amended to read as follows:

5 Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [~~DISTRICT~~]. A
6 public school [~~district~~] is not required by this subchapter to
7 acquire or use technology that has been approved, selected, or
8 contracted for by the State Board of Education or the commissioner.

9 Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The
10 commissioner may contract with developers of technology to supply
11 technology for use by public schools [~~school districts~~] throughout
12 this state.

13 SECTION 2E.36. Effective September 1, 2006, Section 32.005,
14 Education Code, is amended to read as follows:

15 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
16 ALLOTMENT. (a) Each school district is entitled to an allotment of
17 \$100 [~~\$30~~] for each student in average daily attendance or a
18 different amount for any year provided by appropriation.

19 (a-1) From the funds a school district receives under
20 Subsection (a), the district shall use an amount equal to \$50 for
21 each student in average daily attendance to fund targeted
22 technology programs under Section 32.006. A school district shall
23 use funds for targeted technology programs in a manner that allows
24 each student and teacher assigned to a targeted campus, grade level
25 on a campus, or specific educational program to benefit from a
26 targeted technology program. The commissioner shall adopt rules
27 concerning the use of funds under this subsection. This subsection

1 expires August 31, 2007.

2 (b) An allotment under this section may be used only to:

3 (1) provide for the purchase by school districts of
4 instructional materials [~~electronic textbooks~~] or technological
5 equipment that contributes to student learning; and

6 (2) pay for training educational personnel directly
7 involved in student learning in the appropriate use of electronic
8 instructional materials [~~textbooks~~] and for providing for access to
9 technological equipment for instructional use.

10 (c) The allotment under this section may be paid from:

11 (1) the telecommunications infrastructure fund under
12 Subchapter C, Chapter 57, Utilities Code;

13 (2) the available school fund; [~~or~~]

14 (3) the state instructional materials fund under
15 Section 31.021; or

16 (4) any other fund that may be used for that purpose
17 and that is identified in the General Appropriations Act as the
18 source of payment of the allotment.

19 (d) This subsection applies only if the pilot project
20 established under Section 54.2161 is implemented. In addition to
21 amounts to which the district is entitled under Subsection (a), a
22 school district is entitled to an amount sufficient for the
23 district to pay the costs of textbooks for students participating
24 in the pilot project established under Section 54.2161. This
25 subsection expires August 15, 2009.

26 SECTION 2E.37. Effective September 1, 2007, Section 32.005,
27 Education Code, is amended by amending Subsection (a) and adding

Subsection (a-1) to read as follows:

(a) Each school district is entitled to an allotment of \$150 [~~\$30~~] for each student in average daily attendance or a different amount for any year provided by appropriation.

(a-1) From the funds a school district receives under Subsection (a), the district shall use an amount equal to \$60 for each student in average daily attendance to fund targeted technology programs under Section 32.006. A school district shall use funds for targeted technology programs in a manner that allows each student and teacher assigned to a targeted campus, grade level on a campus, or specific educational program to benefit from a targeted technology program. The commissioner shall adopt rules concerning the use of funds under this subsection.

SECTION 2E.38. Subchapter A, Chapter 32, Education Code, is amended by adding Section 32.006 to read as follows:

Sec. 32.006. TARGETED TECHNOLOGY PROGRAMS. (a) Each school district shall use funds designated for targeted technology programs under Section 32.005(a-1) in accordance with this section and in a manner consistent with the long-range plan developed by the State Board of Education under Section 32.001 and the district's own technology plan. A school district may use funds from other sources, including grants, donations, and state and federal funds, to provide targeted technology programs.

(b) A targeted technology program must provide for each student and teacher at a targeted campus or grade level on a targeted campus:

(1) the provision of:

1 (A) wireless electronic mobile computing devices
2 or other technology devices that convey instruction;

3 (B) productivity software and hardware,
4 including writing, computation, presentation, printing, and
5 communication tools;

6 (C) electronic learning software aligned with
7 the essential knowledge and skills adopted by the State Board of
8 Education under Section 28.002;

9 (D) library and other research tools;

10 (E) electronic assessment tools;

11 (F) electronic learning tools to improve
12 communications among students, teachers, school administrators,
13 parents, and the community; and

14 (G) classroom management systems;

15 (2) professional development for teachers to
16 integrate the tools and solutions described by Subdivision (1); or

17 (3) the provision of other infrastructure,
18 components, and technologies to support and enhance student
19 performance through individual instruction programs.

20 (c) The Legislative Budget Board shall:

21 (1) conduct a biennial study of the cost of school
22 district targeted technology programs, including the cost of
23 implementing those programs on a statewide basis; and

24 (2) based on the results of the study required by
25 Subdivision (1), make recommendations to the legislature before the
26 beginning of each regular session of the legislature concerning
27 statewide implementation of targeted technology programs.

1 (d) Each biennium, the Legislative Budget Board and the
2 commissioner shall jointly conduct a performance evaluation of
3 school district targeted technology programs.

4 SECTION 2E.39. Subchapter A, Chapter 32, Education Code, is
5 amended by adding Section 32.007 to read as follows:

6 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

7 (a) The commissioner may enter into an agreement with a public
8 broadcasting station, or a consortium of public broadcasting
9 stations, under which the station or consortium will provide online
10 instructional content and educational materials.

11 (b) From funds appropriated to the agency, the commissioner
12 may, under an agreement entered into under Subsection (a), make
13 instructional materials available through public broadcasting
14 stations for purposes of instruction and professional development
15 and for use in providing adult-based education.

16 (c) An agreement entered into under Subsection (a) must, to
17 the extent practicable, provide access to instructional materials
18 and online content to persons located in all parts of this state.

19 (d) For purposes of providing high-quality online
20 instructional materials under this section, the commissioner may:

21 (1) use federal funds that may be used for those
22 purposes; or

23 (2) use unexpended balances of funds appropriated to
24 the agency for educational purposes, including adult education.

25 SECTION 2E.391. Subchapter A, Chapter 32, Education Code,
26 is amended by adding Section 32.008 to read as follows:

27 Sec. 32.008. TECHNOLOGY GRANTS. (a) From amounts

1 appropriated for the purpose, the commissioner shall make grants as
2 provided by this section to school districts on behalf of eligible
3 campuses and to eligible open-enrollment charter schools. A grant
4 under this section must be in the amount of \$300 for each student
5 enrolled at an eligible campus or eligible open-enrollment charter
6 school.

7 (b) To be eligible for a grant under this section, a public
8 school must:

9 (1) be identified by the agency as meeting the goals of
10 the long-range plan for technology under Section 32.001; and

11 (2) certify to the commissioner that the school will
12 commit to using, for a purpose specified by Subsection (c), other
13 funds available to the school in an amount equal to \$50 for each
14 student enrolled at the school.

15 (c) A grant under this section may be used only to:

16 (1) provide for the purchase by public schools of:

17 (A) wireless electronic mobile computing devices
18 or other technology devices that convey instruction;

19 (B) productivity software and hardware,
20 including writing, computation, presentation, printing, and
21 communication tools;

22 (C) electronic learning software aligned with
23 the essential knowledge and skills adopted by the State Board of
24 Education under Section 28.002;

25 (D) library and other research tools;

26 (E) electronic assessment tools;

27 (F) electronic learning tools to improve

communications among students, teachers, school administrators, parents, and the community; and

(G) classroom and school management systems;

(2) provide professional development for teachers to integrate the tools and solutions described by Subdivision (1); and

(3) acquire other infrastructure, components, and technologies necessary to support and enhance student performance.

(d) To receive a grant under this section, a school district or open-enrollment charter school must apply in the time and manner specified by commissioner rule. A grant under this section is for a period of two school years and may be renewed as provided by commissioner rule. The commissioner shall ensure that public schools that are awarded grants under this section reflect the demographic and geographic diversity of this state.

SECTION 2E.40. The heading to Section 32.154, Education Code, as added by Chapter 834, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

SECTION 2E.41. Section 32.154, Education Code, as added by Chapter 834, Acts of the 78th Legislature, Regular Session, 2003, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) In addition to school districts and schools selected before September 1, 2005, for participation in the technology immersion pilot project, the agency shall expand the program by selecting for participation in the pilot project for the 2005-2006 and subsequent school years each high school to which a school

1 district regularly assigns students who were enrolled in grade
2 eight during the 2004-2005 school year at a district school
3 participating in the pilot project. The agency shall establish
4 criteria for expanding the pilot project under this subsection.

5 (b) Except as provided by Subsection (a-1), the ~~[The]~~ agency
6 shall select the participating ~~[districts and]~~ schools for the
7 pilot project based on each ~~[district's or]~~ school's need for the
8 pilot project. In selecting participants, the agency shall
9 consider the following criteria:

10 (1) whether the ~~[district or]~~ school has limited
11 access to educational resources that could be improved through the
12 use of wireless mobile computing devices and other technologies;

13 (2) whether the ~~[district or]~~ school has the following
14 problems and whether those problems can be mitigated through the
15 use of wireless mobile computing devices and other technologies:

16 (A) documented teacher shortages in critical
17 areas;

18 (B) limited access to advanced placement
19 courses;

20 (C) low rates of satisfactory performance on
21 assessment instruments under Subchapter B, Chapter 39; and

22 (D) high dropout rates;

23 (3) the ~~[district's or]~~ school's readiness to
24 incorporate technology into its classrooms;

25 (4) the possibility of obtaining a trained technology
26 support staff and high-speed Internet services for the ~~[district~~
27 ~~or]~~ school; and

1 (5) the methods the [~~district or~~] school will use to
2 measure the progress of the pilot project in the [~~district or~~]
3 school in accordance with Section 32.155(e).

4 SECTION 2E.42. Section 32.156, Education Code, as added by
5 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,
6 is amended to read as follows:

7 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

8 (a) The agency may develop and adopt strategies for making
9 instructional materials [~~textbooks~~] available through the portal
10 or through other means in an electronic format as an alternative or
11 supplement to traditional instructional materials [~~textbooks~~].

12 (b) In developing and adopting strategies under this
13 section, the agency shall seek to achieve a system under which a
14 student may, in addition to [~~a~~] traditional instructional materials
15 [~~textbook~~], be provided with secure Internet access to each
16 instructional material [~~textbook~~] used by the student.

17 SECTION 2E.43. Section 32.161(b), Education Code, is
18 amended to read as follows:

19 (b) To the extent possible considering other statutory
20 requirements, the commissioner and agency shall encourage the use
21 of instructional materials [~~textbook funds~~] and technology
22 allotment funds under Section 32.005 [~~31.021(b)(2)~~] in a manner
23 that facilitates the development and use of the portal.

24 SECTION 2E.44. Subchapter B, Chapter 39, Education Code, is
25 amended by adding Section 39.0232 to read as follows:

26 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the
27 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. Sections 31.002(3), 31.022, 31.023, 31.024,
21 31.025, 31.101, 31.103, and 31.1031, Education Code, and Sections
22 32.154(a) and (c), Education Code, as added by Chapter 834, Acts of
23 the 78th Legislature, Regular Session, 2003, are repealed.

24 PART F. BILINGUAL EDUCATION AND SPECIAL
25 LANGUAGE PROGRAMS

26 SECTION 2F.01. Effective August 1, 2006, Subchapter B,
27 Chapter 21, Education Code, is amended by adding Sections 21.0485

and 21.0486 to read as follows:

Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in a dual language education program, the commissioner shall establish a dual language education teaching certificate.

(b) The commissioner shall adopt rules establishing the training requirements, including the minimum academic qualifications, a person must accomplish to obtain a certificate under this section.

(c) The commissioner shall adopt rules establishing the requirements for a teacher who receives training in a foreign country to obtain a certificate under this section.

Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student performance in English and other languages, the commissioner shall establish:

(1) a master language teacher certificate to teach bilingual education, dual language instruction, or English as a second language at elementary school grade levels;

(2) a master language teacher certificate to teach bilingual education, dual language instruction, or English as a second language at middle school grade levels; and

(3) a master language teacher certificate to teach dual language instruction at high school grade levels.

(b) The commissioner shall issue the appropriate master

1 language teacher certificate to each eligible person.

2 (c) To be eligible for a master language 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 experience teaching
7 bilingual education, dual language instruction, or English as a
8 second language;

9 (3) satisfactorily complete a knowledge-based course
10 of instruction on second language acquisition and the science of
11 teaching children language that includes training in language
12 instruction and professional peer mentoring techniques that,
13 through scientific testing, have been proven effective;

14 (4) perform satisfactorily on the appropriate master
15 language certification examination prescribed by the commissioner;
16 and

17 (5) satisfy any other requirements prescribed by the
18 commissioner.

19 SECTION 2F.02. Section 21.050(b), Education Code, is
20 amended to read as follows:

21 (b) The commissioner [~~board~~] may not require more than 18
22 semester credit hours of education courses at the baccalaureate
23 level for the granting of a teaching certificate. The commissioner
24 [~~board~~] shall provide for a minimum number of semester credit hours
25 of internship to be included in the hours needed for certification.
26 The commissioner [~~board~~] may adopt [~~propose~~] rules requiring
27 additional credit hours for certification in bilingual education,

1 dual language instruction, English as a second language, early
2 childhood education, or special education.

3 SECTION 2F.03. Section 21.054, Education Code, is amended
4 by adding Subsection (c) to read as follows:

5 (c) Rules adopted under Subsection (a) must permit an
6 educator to fulfill continuing education requirements by acquiring
7 conversational skills in one or more languages other than English
8 and academic language development in the subject area for which the
9 educator provides instruction. The rules must permit educators to
10 obtain language instruction through a variety of methods, including
11 attendance at workshops offered by qualified entities and
12 enrollment on a noncredit basis in courses offered by public or
13 private colleges and universities.

14 SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is
15 amended by adding Section 21.060 to read as follows:

16 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.
17 On issuing an educator certificate to an educational aide or
18 renewing such a certificate, the commissioner shall notify the
19 person to whom the certificate is issued of the existence of the
20 educational aide exemption under Section 54.214.

21 SECTION 2F.05. Section 28.0051, Education Code, is amended
22 by adding Subsection (d) to read as follows:

23 (d) The commissioner shall provide for the issuance of
24 teaching certificates appropriate for dual language instruction to
25 teachers who:

26 (1) possess a speaking, reading, and writing language
27 ability in a language other than English in which a dual language

1 immersion program is offered; and

2 (2) meet the general requirements of Subchapter B,
3 Chapter 21.

4 SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is
5 amended by adding Section 28.0052 to read as follows:

6 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)
7 The commissioner shall establish a pilot project in school
8 districts selected by the commissioner under which the agency
9 examines dual language education programs and the effect of those
10 programs on a student's ability to graduate from high school.

11 (b) In selecting school districts under Subsection (a), the
12 commissioner shall:

13 (1) select districts that:

14 (A) will commit to at least a three-year dual
15 language education program; and

16 (B) demonstrate a substantially equal enrollment
17 of students with limited English proficiency and students whose
18 primary language is English or, if a district does not have a
19 sufficient number of limited English proficiency students to meet
20 the equal enrollment standard, include the enrollment of students
21 with limited English proficiency, students whose primary language
22 is English, and bilingual students; and

23 (2) give preference to a district that:

24 (A) demonstrates the potential for expanding the
25 program through middle school; and

26 (B) will implement the program at the
27 kindergarten level.

1 (c) The commissioner by rule shall require a district to
2 limit activities of the dual language education program during the
3 first year of the program to planning activities, including:

4 (1) hiring and training teachers and ensuring teacher
5 certification;

6 (2) establishing parental and community support for
7 the program; and

8 (3) acquiring adequate learning materials in both
9 program languages.

10 (d) From amounts appropriated to the agency, including
11 foundation school program funds, the commissioner shall award
12 grants to school districts that participate in the program. A grant
13 under this section must be in an amount sufficient to pay the costs
14 to the district of participating in the program, as determined by
15 the commissioner. A determination of the commissioner under this
16 subsection is final and may not be appealed.

17 (e) A school district that applies for the expansion of an
18 existing dual language education program is eligible for a grant
19 under Subsection (d).

20 (f) A school district may use a grant awarded under
21 Subsection (d) for:

22 (1) classroom materials;

23 (2) tuition and textbook expenses for students seeking
24 teacher certification under Section 21.0485; and

25 (3) other necessary costs of operating the program, as
26 approved by the commissioner.

27 (f-1) During the 2006-2007 school year, the commissioner

may award grants to school districts under this section only for the purpose of planning activities described by Subsection (c) in an amount not to exceed two percent of the total amount required to fully implement the pilot program for the 2007-2008 school year. This subsection expires September 1, 2008.

(g) Grants under this section may not exceed \$13 million for each biennium.

(h) The agency shall report to the legislature describing the agency's activities under the pilot project, the effect of the project on grade-level completion, and the recommendations arising from the project. The agency shall submit an interim report under this subsection not later than January 1, 2009, and a final report not later than January 1, 2011.

(i) This section expires August 1, 2011.

SECTION 2F.07. Section 29.056, Education Code, is amended by amending Subsections (a), (d), and (g) and adding Subsections (g-1) and (i) to read as follows:

(a) The agency shall establish standardized criteria for the identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. Except as provided by this subsection, the ~~The~~ student's parent must approve a student's entry into the program, exit from the program, or placement in the program. A school district shall provide notice to the student's parent that the district intends to transfer the student from the program. If the student's parent fails to respond to the notice on or before the 30th day after the date the notice is provided, the district may

1 transfer the student from the program without the student's
2 parent's approval. The district must inform the student's parent of
3 the student's transfer from the program. The school district or
4 parent may appeal the decision under Section 29.064. The criteria
5 for identification, assessment, and classification may include:

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

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

23 (3) the results of an agency-approved proficiency test
24 in the primary language administered to all students identified
25 under Subdivision (2) as being of limited English proficiency to
26 determine the level of primary language proficiency, with students
27 in kindergarten or grade 1 being administered an oral primary

1 language proficiency test and students in grades 2 through 12 being
2 administered an oral and written primary language proficiency test.

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

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

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

22 (2) satisfactory performance on the reading
23 assessment instrument under Section 39.023(a)(2) or the English
24 language arts assessment instrument under Section 39.023(a)(4), as
25 applicable, with the assessment instrument administered in
26 English, or, if the student is enrolled in the first or second
27 grade, an achievement score at or above the 40th percentile in the

reading and language arts sections of an English standardized test approved by the agency; and

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

(g-1) A school district may transfer a student of limited English proficiency who is eligible for special education services under Subchapter A out of a bilingual education or special language program and into a special education program if the language proficiency assessment committee and the student's admission, review, and dismissal committee agree that the student has a learning disability and would be better served in a special education program. The student's admission, review, and dismissal committee must document that the student has a learning disability that cannot be addressed effectively in a bilingual education or special language program and that the student's learning disability is not due to the student's limited English proficiency. The commissioner by rule shall adopt criteria for a school district to use in transferring a student under this subsection.

(i) On approval of the student's parent, a school district may allow a student of limited English proficiency who meets the criteria for being transferred out of a bilingual education or special language program to continue participating in the program.

SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is amended by adding Section 29.0561 to read as follows:

Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;

1 REENROLLMENT. (a) The language proficiency assessment committee
 2 shall reevaluate a student who is transferred out of a bilingual
 3 education or special language program under Section 29.056(g) if
 4 the student earns a failing grade in a subject in the foundation
 5 curriculum under Section 28.002(a)(1) during any grading period in
 6 the first two school years after the student is transferred to
 7 determine whether the student should be reenrolled in a bilingual
 8 education or special language program.

9 (b) During the first two school years after a student is
 10 transferred out of a bilingual education or special language
 11 program under Section 29.056(g), the language proficiency
 12 assessment committee shall review the student's performance and
 13 consider:

14 (1) the total amount of time the student was enrolled
 15 in a bilingual education or special language program;

16 (2) the student's grades each grading period in each
 17 subject in the foundation curriculum under Section 28.002(a)(1);

18 (3) the student's performance on each assessment
 19 instrument administered under Section 39.023(a) or (c);

20 (4) the number of credits the student has earned
 21 toward high school graduation, if applicable; and

22 (5) any disciplinary actions taken against the student
 23 under Subchapter A, Chapter 37.

24 (c) After an evaluation under this section, the language
 25 proficiency assessment committee may require intensive instruction
 26 for the student or reenroll the student in a bilingual education or
 27 special language program.

1 SECTION 2F.09. Effective August 1, 2006, Subchapter B,
2 Chapter 29, Education Code, is amended by adding Section 29.065 to
3 read as follows:

4 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
5 PROFICIENCY. The commissioner by rule shall develop a longitudinal
6 measure of progress toward English language proficiency under which
7 a student of limited English proficiency is evaluated from the time
8 the student enters public school until, for two consecutive school
9 years, the student scores at a specific level determined by the
10 commissioner on the reading assessment instrument under Section
11 39.023(a)(2) or the English language arts assessment instrument
12 under Section 39.023(a)(4), as applicable. The commissioner shall:

13 (1) as part of the measure of progress, include
14 student advancement from one proficiency level to a higher level
15 under the reading proficiency in English assessment system
16 developed under Section 39.027(e) and from the highest level under
17 that assessment system to the level determined by the commissioner
18 under this section on the reading assessment instrument under
19 Section 39.023(a)(2) or the English language arts assessment
20 instrument under Section 39.023(a)(4), as applicable; and

21 (2) to the extent practicable in developing the
22 measure of progress, use applicable research and analysis done in
23 developing an annual measurable achievement objective as required
24 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
25 6842)).

26 SECTION 2F.10. Not later than January 1, 2006, the
27 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 Section 21.054(c), Education Code, as added by this Act.

4 SECTION 2F.11. Not later than January 1, 2007, the
5 commissioner shall adopt rules:

6 (1) establishing requirements and prescribing an
7 examination for master language teacher certification as required
8 by Section 21.0486, Education Code, as added by this Act; and

9 (2) establishing requirements and prescribing an
10 examination for dual language instruction teacher certification as
11 required by Section 21.050(b), Education Code, as amended by this
12 Act, and Section 28.0051(d), Education Code, as added by this Act.

13 PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

14 SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is
15 amended by adding Section 29.124 to read as follows:

16 Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this
17 section, "public senior college or university" has the meaning
18 assigned by Section 61.003.

19 (b) A Texas governor's school is a summer residential
20 program for high-achieving high school students. A governor's
21 school program may include any or all of the following educational
22 curricula:

23 (1) mathematics and science;

24 (2) humanities; or

25 (3) leadership and public policy.

26 (c) A public senior college or university may apply to the
27 commissioner to administer a Texas governor's school program under

1 this section. The commissioner shall give preference to a public
2 senior college or university that applies in cooperation with a
3 nonprofit association. The commissioner shall give additional
4 preference if the nonprofit association receives private
5 foundation funds that may be used to finance the program.

6 (d) The commissioner may approve an application under this
7 section only if the applicant:

8 (1) applies within the period and in the manner
9 required by rule adopted by the commissioner;

10 (2) submits a program proposal that includes:

11 (A) a curriculum consistent with Subsection (b);

12 (B) criteria for selecting students to
13 participate in the program;

14 (C) a statement of the length of the program,
15 which must be at least three weeks; and

16 (D) a statement of the location of the program;

17 (3) agrees to use a grant under this section only for
18 the purpose of administering a program; and

19 (4) satisfies any other requirements established by
20 rule adopted by the commissioner.

21 (e) From funds appropriated to the agency, the commissioner
22 may make a grant in an amount not to exceed \$750,000 each year to
23 public senior colleges or universities whose applications are
24 approved under this section to pay the costs of administering a
25 Texas governor's school program.

26 (f) The commissioner may adopt other rules necessary to
27 implement this section.

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

(b-1) In addition to the indicators adopted under Subsection (b), the commissioner shall consider adopting and may adopt the following indicators relating to high academic achievement in assigning a district an exemplary performance rating under Section 39.072:

(1) the percentage of students, disaggregated by race, ethnicity, gender, and socioeconomic status, who are enrolled in an educational program for gifted and talented students;

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

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

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

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

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

(7) the percentage of students completing the

1 recommended or advanced high school program established under
2 Section 28.025; and

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

6 SECTION 2G.03. Section 39.053(a), Education Code, is
7 amended to read as follows:

8 (a) Each board of trustees shall publish an annual report
9 describing the educational performance of the district and of each
10 campus in the district that includes uniform student performance
11 and descriptive information as determined under rules adopted by
12 the commissioner. The annual report must also include:

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

16 (2) the academic performance rating for the district
17 ~~[as provided under Section 39.072(a)]~~ and ~~[the performance rating~~
18 ~~of]~~ each campus in the district ~~[as provided]~~ under Section 39.072
19 ~~[39.072(c)]~~;

20 (3) the district's current special education
21 compliance status with the agency;

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

26 (5) information concerning school violence prevention
27 and violence intervention policies and procedures that the district

1 is using to protect students; ~~and~~

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

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

9 (8) information relating to high academic achievement
10 in the district, as determined by the district's performance on the
11 indicators under Section 39.051(b-1).

12 SECTION 2G.04. (a) Not later than the 2006-2007 school
13 year, the Texas Education Agency shall collect information
14 concerning high academic achievement for purposes of Section
15 39.051(b-1), Education Code, as added by this Act.

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

22 (c) Not later than the 2007-2008 school year, the Texas
23 Education Agency shall include the information required by Section
24 39.182(a)(23), Education Code, as added by this Act, in the
25 agency's comprehensive annual report under Section 39.182,
26 Education Code.

PART H. PREKINDERGARTEN PROGRAMS

SECTION 2H.01. Section 29.1532, Education Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) Before a school district may implement a prekindergarten program, the district shall:

(1) investigate the possibility of sharing program sites with existing child-care programs licensed by the Department of Family and Protective Services and existing federal Head Start programs; and

(2) coordinate use of any sites to the greatest extent possible.

(e) A school district shall implement to the greatest extent possible coordinated use of licensed child-care and Head Start sites with existing prekindergarten programs.

(f) The commissioner may adopt rules relating to the operation of prekindergarten and early childhood care and education programs that receive state funds to foster school readiness in children enrolled in those programs.

SECTION 2H.02. Section 61.076, Education Code, as amended by H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b) The P-16 Council is composed of the commissioner of education, the commissioner of higher education, the executive director of the Texas Workforce Commission, ~~[the executive director of the State Board for Educator Certification,~~] and the commissioner of assistive and rehabilitative services. The

1 commissioner of higher education and the commissioner of education
2 shall serve as co-chairs of the council.

3 (j) The P-16 Council, in conjunction with the State Center
4 for Early Childhood Development, shall develop and adopt a school
5 readiness certification system as required by Section 29.161.

6 PART I. SCHOOL DISCIPLINE

7 SECTION 2I.01. Chapter 26, Education Code, is amended by
8 adding Section 26.0083 to read as follows:

9 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY
10 ACTION. (a) A parent is entitled to notice from a school district
11 or public charter district as provided by this section if the
12 parent's child is removed from class under Section 37.006 for
13 placement in a disciplinary alternative education program or under
14 Section 37.007 for expulsion or placement in a juvenile justice
15 alternative education program. A school district or public charter
16 district shall make a good faith effort to provide the notice
17 required by this subsection on the same day the parent's child is
18 removed from class. If the district fails to provide the notice on
19 that day, the district shall provide or mail the notice not later
20 than 5 p.m. on the first business day after the day the student is
21 removed from class.

22 (b) A noncustodial parent who has requested notice of
23 disciplinary actions as provided by Section 37.0091 is entitled to
24 notice under Subsection (a).

25 SECTION 2I.02. Section 37.004, Education Code, is amended
26 by adding Subsections (e) and (f) to read as follows:

27 (e) Notwithstanding any other provision of this subchapter,

1 in a county with a juvenile justice alternative education program
2 established under Section 37.011, the expulsion under a provision
3 of Section 37.007 described by this subsection of a student with a
4 disability who receives special education services must occur in
5 accordance with this subsection and Subsection (f). The school
6 district from which the student was expelled shall, in accordance
7 with applicable federal law, provide the administrator of the
8 juvenile justice alternative education program or the
9 administrator's designee with reasonable notice of the meeting of
10 the student's admission, review, and dismissal committee to discuss
11 the student's expulsion. A representative of the juvenile justice
12 alternative education program may participate in the meeting to the
13 extent that the meeting relates to the student's placement in the
14 program. This subsection applies only to an expulsion under:

15 (1) Section 37.007(b), (c), or (f); or

16 (2) Section 37.007(d) as a result of conduct that
17 contains the elements of any offense listed in Section
18 37.007(b)(2)(C) against any employee or volunteer in retaliation
19 for or as a result of the person's employment or association with a
20 school district.

21 (f) If, after placement of a student in a juvenile justice
22 alternative education program under Subsection (e), the
23 administrator of the program or the administrator's designee has
24 concerns that the student's educational or behavioral needs cannot
25 be met in the program, the administrator or designee shall
26 immediately provide written notice of those concerns to the school
27 district from which the student was expelled. The student's

1 admission, review, and dismissal committee shall meet to reconsider
2 the placement of the student in the program. The district shall, in
3 accordance with applicable federal law, provide the administrator
4 or designee with reasonable notice of the meeting, and a
5 representative of the program may participate in the meeting to the
6 extent that the meeting relates to the student's continued
7 placement in the program.

8 SECTION 2I.03. Section 37.008, Education Code, is amended
9 by amending Subsections (m) and (m-1) and adding Subsection (n) to
10 read as follows:

11 (m) Notwithstanding Section 7.028, the ~~[The]~~ commissioner
12 shall adopt rules necessary to evaluate through an annual
13 monitoring process ~~[annually]~~ the performance of each district's
14 disciplinary alternative education program established under this
15 subchapter. The monitoring process ~~[evaluation]~~ required by this
16 section may be electronic and shall be based on indicators defined
17 by the commissioner, but must include student performance on
18 assessment instruments required under Section ~~[Sections]~~ 39.023(a)
19 and at least one indicator that measures student academic progress
20 ~~[and (c)]~~. Academically, the mission of disciplinary alternative
21 education programs shall be to enable students to perform at grade
22 level.

23 (m-1) The agency shall integrate the monitoring process
24 developed under Subsection (m) with the monitoring the agency is
25 authorized to conduct under Section 7.028(a). The commissioner may
26 require ~~[shall develop a process for evaluating]~~ a school district
27 to contract at the district's expense in the manner provided by

1 Section 39.134 with a public or private service provider for
2 services determined by the commissioner to be necessary to:

3 (1) improve student performance;

4 (2) improve disciplinary alternative education
5 program effectiveness; and

6 (3) [electronically. The commissioner shall also
7 develop a system and standards for review of the evaluation or use
8 systems already available at the agency. The system must be
9 designed to identify districts that are at high risk of having
10 inaccurate disciplinary alternative education program data or of
11 failing to] comply with disciplinary alternative education program
12 state and federal requirements.

13 (n) [The commissioner shall notify the board of trustees of
14 a district of any objection the commissioner has to the district's
15 disciplinary alternative education program data or of a violation
16 of a law or rule revealed by the data, including any violation of
17 disciplinary alternative education program requirements, or of any
18 recommendation by the commissioner concerning the data. If the
19 data reflect that a penal law has been violated, the commissioner
20 shall notify the county attorney, district attorney, or criminal
21 district attorney, as appropriate, and the attorney general.] The
22 commissioner is entitled to access to all district records the
23 commissioner considers necessary or appropriate for the review,
24 analysis, or approval of disciplinary alternative education
25 program data.

26 SECTION 2I.04. Sections 37.020(b) and (c), Education Code,
27 are amended to read as follows:

(b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the student was enrolled in a special education program under Subchapter A, Chapter 29, at the time of the placement;

(3) information indicating whether the placement was based on:

(A) conduct violating the student code of conduct adopted under Section 37.001;

(B) conduct for which a student may be removed from class under Section 37.002(b);

(C) conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or

(D) conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 37.008(j);

(4) [~~(3)~~] the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

(5) [~~(4)~~] the number of placements that were inconsistent with the guidelines included in the student code of

conduct under Section 37.001(a)(5).

(c) For each expulsion under Section 37.007, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating whether the student was enrolled in a special education program under Subchapter A, Chapter 29, at the time of the expulsion;

(3) information indicating whether the expulsion was based on:

(A) conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) conduct for which expulsion is permitted under Section 37.007;

(4) ~~[(3)]~~ the number of full or partial days the student was expelled;

(5) ~~[(4)]~~ information indicating whether:

(A) the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) the student was placed in a disciplinary alternative education program; or

(C) the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(6) ~~[(5)]~~ the number of expulsions that were

1 inconsistent with the guidelines included in the student code of
2 conduct under Section 37.001(a)(5).

3 PART J. CRIMINAL HISTORY RECORDS INFORMATION

4 SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is
5 amended by adding Section 21.0401 to read as follows:

6 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
7 commissioner shall obtain a complete set of fingerprints from:

8 (1) each applicant for a certificate issued under this
9 subchapter;

10 (2) each applicant for or holder of a teaching permit
11 issued under this subchapter; and

12 (3) each person described by Section 11A.153 or
13 Section 21.0032 for whom the commissioner has received information
14 from a public charter district.

15 SECTION 2J.02. Section 21.041(c), Education Code, is
16 amended to read as follows:

17 (c) The commissioner by rule ~~[board]~~ shall set fees ~~[propose~~
18 ~~a rule adopting a fee]~~ for:

19 (1) the issuance and maintenance of each [an] educator
20 certificate that is adequate to cover the cost of administration of
21 this subchapter, including costs related to the operation of the
22 board and any amount necessary to cover the cost of obtaining
23 fingerprints under Section 21.0401 or conducting a national
24 criminal background review and investigation under Sections
25 21.0032 and 22.082; and

26 (2) the cost of obtaining fingerprints from or
27 conducting a national criminal background review of a holder of a

1 teaching permit issued under this subchapter.

2 SECTION 2J.03. Section 22.082, Education Code, is amended
3 to read as follows:

4 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
5 EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The
6 agency [~~State Board for Educator Certification~~] shall obtain from
7 the Department of Public Safety [~~any law enforcement or criminal~~
8 ~~justice agency~~] all state and national criminal history record
9 information that relates to:

10 (1) an applicant for or holder of a certificate or
11 permit issued under Subchapter B, Chapter 21; or

12 (2) a person described by Section 11A.153 or 21.0032.

13 (b) The Educators' Professional Practices Board may obtain
14 from the Department of Public Safety all criminal history record
15 information that relates to a holder of a certificate issued under
16 Subchapter B, Chapter 21.

17 (c) The agency shall require each applicant, holder, and
18 person described by Subsection (a)(2) to pay any costs to the agency
19 related to obtaining criminal history record information related to
20 the person under this section.

21 SECTION 2J.04. Section 22.083(d), Education Code, is
22 amended to read as follows:

23 (d) The superintendent of a district or the director of a
24 public charter district [~~an open-enrollment charter school~~],
25 private school, regional education service center, or shared
26 services arrangement shall promptly notify the Educators'
27 Professional Practices [~~State~~] Board [~~for Educator Certification~~]

1 in writing if the person obtains or has knowledge of information
 2 showing that an applicant for or holder of a certificate issued
 3 under Subchapter B, Chapter 21, has a reported criminal history.
 4 The board shall notify the commissioner of the reported criminal
 5 history.

6 SECTION 2J.05. Sections 22.085 and 22.086, Education Code,
 7 are amended to read as follows:

8 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.
 9 A school district, public charter district [~~open-enrollment~~
 10 ~~charter school~~], private school, regional education service
 11 center, or shared services arrangement may discharge an employee if
 12 the district or school obtains information of the employee's
 13 conviction of a felony or of a misdemeanor involving moral
 14 turpitude that the employee did not disclose to the agency [~~State~~
 15 ~~Board for Educator Certification~~] or the district, school, service
 16 center, or shared services arrangement. An employee discharged
 17 under this section is considered to have been discharged for
 18 misconduct for purposes of Section 207.044, Labor Code.

19 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency,
 20 the Educators' Professional Practices [~~State~~] Board [~~for Educator~~
 21 ~~Certification~~], a school district, a public charter district [~~an~~
 22 ~~open-enrollment charter school~~], a private school, a regional
 23 education service center, a shared services arrangement, or an
 24 employee of the agency, board, district, school, service center, or
 25 shared services arrangement is not civilly or criminally liable for
 26 making a report required under this subchapter.

27 SECTION 2J.06. Section 411.090, Government Code, is amended

to read as follows:

Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
AND FINGERPRINTS: STATE EDUCATIONAL AUTHORITIES [~~BOARD FOR~~
~~EDUCATOR CERTIFICATION~~]. (a) The Texas Education Agency [~~State~~
~~Board for Educator Certification~~] is entitled to obtain from the
department any criminal history record information maintained by
the department about:

(1) a person who has applied or expressed to the
commissioner an intention to apply [~~board~~] for a certificate or
permit or holds a certificate or permit under Subchapter B, Chapter
21, Education Code; or

(2) a person described by Section 11A.153 or 21.0032,
Education Code.

(b) Criminal history record information obtained by the
agency [~~board~~] under Subsection (a):

(1) may be used for any purpose related to the issuance
or [~~7~~] denial [~~7~~, ~~suspension, or cancellation~~] of a certificate issued
under Subchapter B, Chapter 21, Education Code, or for any purpose
authorized by Section 11A.153 or 21.0032, Education Code [~~by the~~
~~board~~];

(2) may be provided to the Educators' Professional
Practices Board to be used for any purpose related to the suspension
or revocation of a certificate issued under Subchapter B, Chapter
21, Education Code;

(3) may not be released to any other person except on
court order or with the consent of the subject of the criminal
history record information [~~applicant for a certificate~~]; and

1 (4) ~~[(3)]~~ shall be destroyed by the agency ~~[board]~~
2 after the information is used for the authorized purposes.

3 (c) The Texas Education Agency may keep on file with the
4 department all fingerprints obtained by the agency under Section
5 21.0401, Education Code. The department shall notify the agency of
6 the arrest of any person who has fingerprints on file with the
7 department pursuant to that section.

8 (d) On receipt of notice from the department of an arrest of
9 a person described by Section 11A.153 or 21.0032, Education Code,
10 the Texas Education Agency shall notify the public charter district
11 affected.

12 PART K. HEALTH AND SAFETY

13 SECTION 2K.01. Chapter 33, Education Code, is amended by
14 adding Subchapter F to read as follows:

15 SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN
16 EXTRACURRICULAR ACTIVITIES

17 Sec. 33.201. APPLICABILITY. This subchapter applies to
18 each public school in this state and to any other school in this
19 state subject to University Interscholastic League regulations.

20 Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The
21 commissioner by rule shall develop and adopt a safety training
22 program as provided by this section. In developing the program, the
23 commissioner may use materials available from the American Red
24 Cross or another appropriate entity.

25 (b) The following persons must satisfactorily complete the
26 safety training program:

27 (1) a coach, trainer, or sponsor for an

1 extracurricular athletic activity;

2 (2) except as provided by Subsection (f), a physician
3 who is employed by a school or school district or who volunteers to
4 assist with an extracurricular athletic activity; and

5 (3) a director responsible for a school marching band.

6 (c) The safety training program must include:

7 (1) certification of participants by the American Red
8 Cross, the American Heart Association, or a similar organization or
9 the University Interscholastic League, as determined by the
10 commissioner;

11 (2) annual training in:

12 (A) emergency action planning;

13 (B) cardiopulmonary resuscitation if the person
14 is not required to obtain certification under Section 33.086;

15 (C) communicating effectively with 9-1-1
16 emergency service operators and other emergency personnel; and

17 (D) recognizing symptoms of potentially
18 catastrophic injuries, including head and neck injuries,
19 concussions, injuries related to second impact syndrome, asthma
20 attacks, heatstroke, cardiac arrest, and injuries requiring use of
21 a defibrillator; and

22 (3) at least once each school year, a safety drill that
23 incorporates the training described by Subdivision (2) and
24 simulates various injuries described by Subdivision (2)(D).

25 (d) A student participating in an extracurricular athletic
26 activity must receive training related to:

27 (1) recognizing the symptoms of injuries described by

1 Subsection (c)(2)(D); and

2 (2) the risks of using supplements designed or
3 marketed to enhance athletic performance.

4 (e) The safety training program and the training under
5 Subsection (d) may each be conducted by a school or school district
6 or by an organization described by Subsection (c)(1).

7 (f) A physician who is employed by a school or school
8 district or who volunteers to assist with an extracurricular
9 athletic activity is exempt from the requirements of Subsection (b)
10 if the physician attends a continuing medical education course that
11 specifically addresses emergency medicine for athletic team
12 physicians.

13 Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC
14 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an
15 extracurricular athletic activity must complete the University
16 Interscholastic League forms entitled "Preparticipation Physical
17 Evaluation--Medical History" and "Acknowledgment of Rules." Each
18 form must be signed by both the student and the student's parent or
19 guardian.

20 (b) Each form described by Subsection (a) must clearly state
21 that failure to accurately and truthfully answer all questions on a
22 form required by statute or by the University Interscholastic
23 League as a condition for participation in an extracurricular
24 athletic activity subjects a signer of the form to penalties
25 determined by the University Interscholastic League.

26 (c) The "Preparticipation Physical Evaluation--Medical
27 History" form described by Subsection (a) must contain the

1 following statement:

2 "An individual answering in the affirmative to
3 any question relating to a possible cardiovascular
4 health issue, as identified on the form, should be
5 restricted from further participation until the
6 individual is examined by the individual's primary
7 care physician. Ultimately, the individual may need
8 to be evaluated by a cardiologist and/or undergo
9 cardiac testing (including an echocardiogram and/or
10 other heart-related examination) based on the
11 assessment by the primary care physician."

12 Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES
13 PROHIBITED. A coach, trainer, or sponsor for an extracurricular
14 athletic activity may not encourage or permit a student
15 participating in the activity to engage in any unreasonably
16 dangerous athletic technique that unnecessarily endangers the
17 health of a student, including using a helmet or any other sports
18 equipment as a weapon.

19 Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A
20 coach, trainer, or sponsor for an extracurricular athletic activity
21 shall at each athletic practice or competition ensure that:

22 (1) each student participating in the activity is
23 adequately hydrated;

24 (2) any prescribed asthma medication for a student
25 participating in the activity is readily available to the student;

26 (3) emergency lanes providing access to the practice
27 or competition area are open and clear; and

1 (4) heatstroke prevention materials are readily
2 available.

3 (b) If a student participating in an extracurricular
4 athletic activity, including a practice or competition, is rendered
5 unconscious during the activity, the student may not:

6 (1) return to the practice or competition during which
7 the student was rendered unconscious; or

8 (2) continue to participate in any extracurricular
9 athletic activity until the student receives written authorization
10 from a physician.

11 Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a
12 school shall make available to the public proof of compliance for
13 each person enrolled in, employed by, or volunteering for the
14 school who is required to receive safety training described by
15 Section 33.202.

16 (b) The superintendent of a school district or the director
17 of a school subject to this subchapter shall maintain complete and
18 accurate records of the district's or school's compliance with
19 Section 33.202.

20 (c) A school campus that is determined by the school's
21 superintendent or director to not be in compliance with Section
22 33.202 or 33.204 or this section shall discontinue all
23 extracurricular athletic activities offered by the school campus,
24 including all practices and competitions, until the superintendent
25 or director determines that the school campus is in compliance.

26 Sec. 33.206. CONTACT INFORMATION. (a) The commissioner
27 shall maintain an existing telephone number and an electronic mail

1 address to allow a person to report a violation of this subchapter.

2 (b) Each school that offers an extracurricular athletic
3 activity shall prominently display at the administrative offices of
4 the school the telephone number and electronic mail address
5 maintained under Subsection (a).

6 Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an
7 extracurricular athletic activity shall provide to each student
8 participating in an extracurricular athletic activity and to the
9 student's parent or guardian a copy of the text of Sections
10 33.201-33.206 and this section and a copy of the University
11 Interscholastic League's parent information manual.

12 (b) A document required to be provided under this section
13 may be provided in an electronic format unless otherwise requested
14 by a student, parent, or guardian.

15 Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The
16 University Interscholastic League shall incorporate the provisions
17 of Sections 33.203-33.207 into the league's constitution and
18 contest rules.

19 Sec. 33.209. LIABILITY. The requirements of this
20 subchapter are not considered ministerial acts for purposes of
21 immunity from liability under Section 22.0511.

22 SECTION 2K.02. Subchapter D, Chapter 33, Education Code, is
23 amended by adding Section 33.087 to read as follows:

24 Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL
25 DEFIBRILLATORS. (a) Using existing funds and other resources
26 available for the purpose, the agency and the University
27 Interscholastic League shall jointly investigate the availability

of federal, state, local, and private funds for purchasing automated external defibrillators, as defined by Section 779.001, Health and Safety Code, for use by University Interscholastic League member schools, and the possibility of receiving a bulk discount on such purchases.

(b) The agency and the University Interscholastic League shall submit a report describing the findings of the investigation to the legislature not later than June 1, 2006.

(c) This section expires July 1, 2006.

SECTION 2K.03. The heading to Section 34.008, Education Code, is amended to read as follows:

Sec. 34.008. CONTRACT WITH TRANSIT AUTHORITY, ~~[OR]~~ COMMERCIAL TRANSPORTATION COMPANY, OR JUVENILE BOARD.

SECTION 2K.04. Section 34.008(a), Education Code, is amended to read as follows:

(a) A board of county school trustees or school district board of trustees may contract with a mass transit authority, ~~[or]~~ a commercial transportation company, or a juvenile board for all or any part of a district's public school transportation if the authority, ~~[or]~~ company, or board:

(1) requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and

(2) uses only those school buses or mass transit authority buses in transporting 15 or more public school students that meet or exceed safety standards for school buses established under Section 34.002, Education Code.

SECTION 2K.05. Chapter 34, Education Code, is amended by adding Section 34.012 to read as follows:

Sec. 34.012. FUNDING FOR SAFETY OR LAP BELTS. (a) A person may offer to donate safety or lap belts or money for the purchase of safety or lap belts for a school district's school buses.

(b) The board of trustees of a school district shall consider any offer made by a person under Subsection (a). The board of trustees may accept or decline the offer after adequate consideration.

(c) The board of trustees may acknowledge a person who donates safety or lap belts or money for the purchase of safety or lap belts for a school bus under this section by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

SECTION 2K.06. The heading to Section 38.015, Education Code, is amended to read as follows:

Sec. 38.015. SELF-ADMINISTRATION OF PRESCRIPTION ASTHMA OR ANAPHYLAXIS MEDICINE BY STUDENTS.

SECTION 2K.07. Sections 38.015(a) and (b), Education Code, are amended to read as follows:

(a) In this section:

(1) "Parent" includes a person standing in parental relation.

(2) "Self-administration of prescription asthma or anaphylaxis medicine" means a student's discretionary use of prescription asthma or anaphylaxis medicine.

(b) A student with asthma or anaphylaxis is entitled to possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

(1) the prescription [~~asthma~~] medicine has been prescribed for that student as indicated by the prescription label on the medicine;

(2) the student has demonstrated to the student's physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;

(3) the self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and

(4) [~~(3)~~] a parent of the student provides to the school:

(A) a written authorization, signed by the parent, for the student to self-administer the prescription [~~asthma~~] medicine while on school property or at a school-related event or activity; and

(B) a written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:

(i) that the student has asthma or anaphylaxis and is capable of self-administering the prescription [~~asthma~~] medicine;

- 1 (ii) the name and purpose of the medicine;
2 (iii) the prescribed dosage for the
3 medicine;
4 (iv) the times at which or circumstances
5 under which the medicine may be administered; and
6 (v) the period for which the medicine is
7 prescribed.

8 ARTICLE 3. CONFORMING AMENDMENTS

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

11 (a) The investment capital fund consists of money
12 transferred to the fund as provided by Section 42.152(d)(4)
13 [~~42.152(1)~~]. The agency shall administer the fund. The purposes of
14 this fund are to assist eligible public schools to implement
15 practices and procedures consistent with deregulation and school
16 restructuring in order to improve student achievement and to help
17 schools identify and train parents and community leaders who will
18 hold the school and the school district accountable for achieving
19 high academic standards.

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

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

25 SECTION 3.03. Section 11.158(a), Education Code, is amended
26 to read as follows:

27 (a) The board of trustees of an independent school district

1 may require payment of:

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

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

9 (3) a security deposit for the return of materials,
10 supplies, or equipment;

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

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

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

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

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

25 (9) a fee for items of personal apparel that become the
26 property of the student and that are used in extracurricular
27 activities;

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

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

5 (12) a fee for a course offered for credit that
6 requires the use of facilities not available on the school premises
7 or the employment of an educator who is not part of the school's
8 regular staff, if participation in the course is at the student's
9 option;

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

14 (14) a reasonable fee for transportation of a student
15 who lives within two miles of the school the student attends to and
16 from that school, except that the board may not charge a fee for
17 transportation for which the school district receives funds under
18 Section 42.202 [~~42.155(d)~~]; or

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

25 SECTION 3.04. Section 12.013(b), Education Code, is amended
26 to read as follows:

27 (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;

(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. Section 13.054(f), 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

1 residing in the district as enlarged on the date of the annexation.

2 SECTION 3.06. Sections 13.282(a) and (b), Education Code,
3 are amended to read as follows:

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

6 (1) the sum of the entitlements computed under Section
7 42.313 [~~42.253~~] that would have been paid to the districts included
8 in the reorganized district if the districts had not been
9 consolidated; and

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

12 (b) If the reorganized district is not eligible for an
13 entitlement under Section 42.313 [~~42.253~~], the amount of the
14 incentive aid payments may not exceed the sum of the entitlements
15 computed under Section 42.313 [~~42.253~~] for which the districts
16 included in the reorganized district were eligible in the school
17 year when they were consolidated.

18 SECTION 3.07. Section 21.410(h), Education Code, is amended
19 to read as follows:

20 (h) A grant a school district receives under this section is
21 in addition to any funding the district receives under Chapter 42.
22 The commissioner shall distribute funds under this section with the
23 Foundation School Program payment to which the district is entitled
24 as soon as practicable after the end of the school year as
25 determined by the commissioner. A district to which Section 42.401
26 [~~Chapter 41~~] applies is entitled to the grants paid under this
27 section. The commissioner shall determine the timing of the

1 distribution of grants to a district that does not receive
2 Foundation School Program payments.

3 SECTION 3.08. Section 21.411(h), Education Code, is amended
4 to read as follows:

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

15 SECTION 3.09. Section 21.412(h), Education Code, is amended
16 to read as follows:

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

27 SECTION 3.10. Section 21.413(h), Education Code, as added

1 by Chapter 430, Acts of the 78th Legislature, Regular Session,
2 2003, is amended to read as follows:

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

13 SECTION 3.11. Effective on the 91st day after the last day
14 of the legislative session, Section 21.453(b), Education Code, is
15 amended to read as follows:

16 (b) The commissioner may allocate funds from the account to
17 regional education service centers to provide staff development
18 resources to school districts that:

- 19 (1) are rated academically unacceptable;
20 (2) have one or more campuses rated academically
21 unacceptable ~~[as low-performing]~~; or
22 (3) are otherwise in need of assistance as indicated
23 by the academic performance of students, as determined by the
24 commissioner.

25 SECTION 3.12. Effective on the 91st day after the last day
26 of the legislative session, Section 22.004(c), Education Code, as
27 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th

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

(c) The cost of the coverage provided under the program described by Subsection (a) shall be paid by the state, the district, and the employees in the manner provided by Subchapter F, Chapter 1579, Insurance Code. The cost of coverage provided under a plan adopted under Subsection (b) shall be shared by the employees and the district using the contributions by the state described by Subchapter F, Chapter 1579, Insurance Code, or compensation designated for health care supplementation under Subchapter D.

SECTION 3.13. Section 29.008(b), Education Code, is amended to read as follows:

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

1 SECTION 3.14. Section 29.014(d), Education Code, is amended
2 to read as follows:

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

5 (1) the cost of education adjustment under Section
6 42.301 [~~42.102~~] for the school district in which the district is
7 geographically located; and

8 (2) any other appropriate factor adopted by the
9 commissioner [~~the weight for a homebound student under Section~~
10 ~~42.151(a)~~].

11 SECTION 3.15. Section 29.087(j), Education Code, is amended
12 to read as follows:

13 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
14 46, a student attending a program authorized by this section may be
15 counted in attendance only for the actual number of hours each
16 school day the student attends the program, in accordance with
17 Sections 25.081 and 25.082.

18 SECTION 3.16. Effective on the 91st day after the last day
19 of the legislative session, Section 29.161(a), Education Code, as
20 added by S.B. No. 23, Acts of the 79th Legislature, Regular Session,
21 2005, is amended to read as follows:

22 (a) The State Center for Early Childhood Development, in
23 conjunction with the P-16 Council established under Section 61.076
24 [~~61.077~~], shall develop and adopt a school readiness certification
25 system for use in certifying the effectiveness of prekindergarten
26 programs, Head Start and Early Head Start programs,
27 government-subsidized child-care programs provided by nonprofit or

1 for-profit entities, government-subsidized faith-based child-care
2 programs, and other government-subsidized child-care programs in
3 preparing children for kindergarten. The system shall be made
4 available on a voluntary basis to program providers seeking to
5 obtain certification as evidence of the quality of the program
6 provided.

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

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

19 SECTION 3.18. Section 33.002(a), Education Code, is amended
20 to read as follows:

21 (a) This section applies only to a school district that
22 receives funds as provided by Section 42.152(d)(3) [~~42.152(i)~~].

23 SECTION 3.19. Section 34.002(c), Education Code, is amended
24 to read as follows:

25 (c) A school district that fails or refuses to meet the
26 safety standards for school buses established under this section is
27 ineligible to share in the transportation allotment under

1 Subchapter D, Chapter 42, [~~Section 42.155~~] until the first
2 anniversary of the date the district begins complying with the
3 safety standards.

4 SECTION 3.20. Section 37.0061, Education Code, is amended
5 to read as follows:

6 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
7 JUVENILE RESIDENTIAL FACILITIES. A school district that provides
8 education services to pre-adjudicated and post-adjudicated
9 students who are confined by court order in a juvenile residential
10 facility operated by a juvenile board is entitled to count such
11 students in the district's average daily attendance for purposes of
12 receipt of state funds under the Foundation School Program. [~~If the~~
13 ~~district has a wealth per student greater than the guaranteed~~
14 ~~wealth level but less than the equalized wealth level, the district~~
15 ~~in which the student is enrolled on the date a court orders the~~
16 ~~student to be confined to a juvenile residential facility shall~~
17 ~~transfer to the district providing education services an amount~~
18 ~~equal to the difference between the average Foundation School~~
19 ~~Program costs per student of the district providing education~~
20 ~~services and the sum of the state aid and the money from the~~
21 ~~available school fund received by the district that is attributable~~
22 ~~to the student for the portion of the school year for which the~~
23 ~~district provides education services to the student.~~]

24 SECTION 3.21. Section 39.031, Education Code, is amended to
25 read as follows:

26 Sec. 39.031. COST. (a) The commissioner shall set aside an
27 appropriate amount from the Foundation School Program to pay the

1 cost of preparing, administering, or grading the assessment
 2 instruments and the ~~[shall be paid from the funds allotted under~~
 3 ~~Section 42.152, and each district shall bear the cost in the same~~
 4 ~~manner described for a reduction in allotments under Section~~
 5 ~~42.253. If a district does not receive an allotment under Section~~
 6 ~~42.152, the commissioner shall subtract the cost from the~~
 7 ~~district's other foundation school fund allotments.~~

8 ~~[(b) The]~~ cost of releasing the question and answer keys
 9 under Section 39.023(e) ~~[shall be paid from amounts appropriated to~~
 10 ~~the agency].~~

11 (b) After setting aside an appropriate amount in accordance
 12 with this section, the commissioner shall reduce each district's
 13 tier one allotments proportionately. A reduction in tier one
 14 allotments under this subsection does not affect the computation of
 15 the guaranteed amount of revenue per student per cent of tax effort
 16 under Section 42.252.

17 (c) Any amount set aside under this section must be approved
 18 by the Legislative Budget Board and the governor's office of
 19 budget, planning, and policy.

20 SECTION 3.22. Section 43.002(b), Education Code, is amended
 21 to read as follows:

22 (b) Of the amounts available for transfer from the general
 23 revenue fund to the available school fund for the months of January
 24 and February of each fiscal year, no more than the amount necessary
 25 to enable the comptroller to distribute from the available school
 26 fund an amount equal to 9-1/2 percent of the estimated annual
 27 available school fund apportionment to category 1 school districts,

as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the estimated annual available school fund apportionment to category 2 school districts, as defined by Section 42.316 [~~42.259~~], may be transferred from the general revenue fund to the available school fund. Any remaining amount that would otherwise be available for transfer for the months of January and February shall be transferred from the general revenue fund to the available school fund in equal amounts in June and in August of the same fiscal year.

SECTION 3.23. Section 44.004, Education Code, is amended by amending Subsections (e) and (i) and adding Subsection (b-1) to read as follows:

(b-1) The notice of the public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type.

(e) A person who owns taxable property in a school district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements of Subsections (b) and (b-1) [~~-(c)-~~] and [~~(d), and~~], if applicable, Subsection (i), and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date the school district delivers substantially all of its tax bills.

(i) A school district that uses a certified estimate, as authorized by Subsection (h), may adopt a budget at the public meeting designated in the notice prepared using the estimate, but the district may not adopt a tax rate before the district receives

1 the certified appraisal roll for the district required by Section
2 26.01(a), Tax Code. After receipt of the certified appraisal roll,
3 the district must publish a revised notice and hold another public
4 meeting before the district may adopt a tax rate that exceeds:

5 (1) the rate proposed in the notice prepared using the
6 estimate; or

7 (2) the district's rollback rate determined under
8 Section 26.08, Tax Code, if applicable, using the certified
9 appraisal roll.

10 SECTION 3.24. Section 46.003(a), Education Code, is amended
11 to read as follows:

12 (a) For each year, except as provided by Sections 46.005 and
13 46.006, a school district is guaranteed a specified amount per
14 student in state and local funds for each cent of tax effort, up to
15 the maximum rate under Subsection (b), to pay the principal of and
16 interest on eligible bonds issued to construct, acquire, renovate,
17 or improve an instructional facility. The amount of state support
18 is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

20 where:

21 "FYA" is the guaranteed facilities yield amount of state
22 funds allocated to the district for the year;

23 "FYL" is the dollar amount guaranteed level of state and
24 local funds per student per cent of tax effort, which is \$35 or a
25 greater amount for any year provided by appropriation;

26 "ADA" is the greater of the number of students in average
27 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. Section 46.006(g), 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. Sections 46.009(b), (e), and (f), 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:

Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school district is not entitled to state assistance under this subchapter based on taxes with respect to which the district receives state assistance under Subchapter G [~~F~~], Chapter 42.

SECTION 3.28. Section 46.032(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal of and interest on eligible bonds. The amount of state support, subject only to the maximum amount under Section 46.034, is determined by the formula:

$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

where:

"EDA" is the amount of state funds to be allocated to the district for assistance with existing debt;

1 "EDGL" is the dollar amount guaranteed level of state and
2 local funds per student per cent of tax effort, which is \$35 or a
3 greater amount for any year provided by appropriation;

4 "ADA" is the number of students in average daily attendance,
5 as determined under Section 42.005, in the district;

6 "EDTR" is the existing debt tax rate of the district, which is
7 determined by dividing the amount budgeted by the district for
8 payment of eligible bonds by the quotient of the district's taxable
9 value of property as determined under Subchapter M, Chapter 403,
10 Government Code, ~~[or, if applicable, under Section 42.2521,~~
11 divided by 100; and

12 "DPV" is the district's taxable value of property as
13 determined under Subchapter M, Chapter 403, Government Code~~[, or,~~
14 ~~if applicable, under Section 42.2521].~~

15 SECTION 3.29. Section 46.037, Education Code, is amended to
16 read as follows:

17 Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school
18 district is not entitled to state assistance under this subchapter
19 based on taxes with respect to which the district receives state
20 assistance under Subchapter G ~~[F]~~, Chapter 42.

21 SECTION 3.30. Section 56.208, Education Code, is amended to
22 read as follows:

23 Sec. 56.208. FUNDING. (a) The Early High School Graduation
24 Scholarship program is financed under the Foundation School
25 Program. ~~[Funding for the state tuition credits is not subject to~~
26 ~~the provisions of Sections 42.253(c) through (k).]~~

27 (b) The commissioner of education shall reduce the total

1 annual amount of Texas education [~~foundation school~~] fund payments
2 made to a school district by an amount equal to $F \times A$, where:

3 (1) "F" is the lesser of one or the quotient of the
4 district's local share for the preceding school year under Section
5 42.306 [~~42.252~~] divided by the tier one allotment under Section
6 42.304 [~~amount of money to which the district was entitled under~~
7 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

8 (2) "A" is the amount of state tuition credits under
9 this subchapter applied by institutions of higher education on
10 behalf of eligible persons who graduated from the district that has
11 not been used to compute a previous reduction under this
12 subsection.

13 (c) A school district that does not receive Texas education
14 [~~foundation school~~] fund payments during a year in which the
15 commissioner would otherwise withhold money from the district under
16 Subsection (b) shall remit an amount equal to the amount that would
17 be withheld under Subsection (b) to the comptroller for deposit to
18 the credit of the Texas education [~~foundation school~~] fund.

19 SECTION 3.31. Section 105.301(e), Education Code, is
20 amended to read as follows:

21 (e) The academy is not subject to the provisions of this
22 code, or to the rules of the Texas Education Agency, regulating
23 public schools, except that:

24 (1) professional employees of the academy are entitled
25 to the limited liability of an employee under Section 22.0511,
26 22.0512, or 22.052;

27 (2) a student's attendance at the academy satisfies

1 compulsory school attendance requirements; and

2 (3) for each student enrolled, the academy is entitled
3 to allotments from the foundation school program under Chapter 42
4 as if the academy were a school district without a tier one local
5 share for purposes of Section 42.306 [~~42.253~~].

6 SECTION 3.32. Section 317.005(f), Government Code, is
7 amended to read as follows:

8 (f) The governor or board may adopt an order under this
9 section withholding or transferring any portion of the total amount
10 appropriated to finance the foundation school program for a fiscal
11 year. The governor or board may not adopt such an order if it would
12 result in an allocation of money between particular programs or
13 statutory allotments under the foundation school program contrary
14 to the statutory proration formula provided by Section 42.313(f)
15 [~~42.253(h)~~], Education Code. The governor or board may transfer an
16 amount to the total amount appropriated to finance the foundation
17 school program for a fiscal year and may increase the accreditation
18 [~~basic~~] allotment. The governor or board may adjust allocations of
19 amounts between particular programs or statutory allotments under
20 the foundation school program only for the purpose of conforming
21 the allocations to actual pupil enrollments or attendance.

22 SECTION 3.33. Section 403.093(d), Government Code, is
23 amended to read as follows:

24 (d) The comptroller shall transfer from the general revenue
25 fund to the Texas education [~~foundation school~~] fund an amount of
26 money necessary to fund the foundation school program as provided
27 by Chapter 42, Education Code. The comptroller shall make the

transfers in installments as necessary to comply with Section 42.316 [~~42.259~~], Education Code. An installment must be made not earlier than two days before the date an installment to school districts is required by Section 42.316 [~~42.259~~], Education Code, and must not exceed the amount necessary for that payment.

SECTION 3.34. Section 403.302(k), Government Code, is amended to read as follows:

(k) For purposes of Sections 41.0012 and 42.308 [~~Section 42.2522~~], Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code; [~~and~~]

(2) a final value for each school district computed after deducting one-half the total dollar amount of residence homestead exemptions granted under Section 11.13(n), Tax Code; and

(3) a final value for each school district computed after deducting the total dollar amount of residence homestead exemptions granted under Section 11.13(n), Tax Code.

SECTION 3.35. Section 404.121(1), Government Code, is amended to read as follows:

(1) "Cash flow deficit" for any period means the excess, if any, of expenditures paid and transfers made from the general revenue fund in the period, including payments provided by Section 42.316 [~~42.259~~], Education Code, over taxes and other revenues deposited to the fund in the period, other than revenues deposited pursuant to Section 403.092, that are legally available

1 for the expenditures and transfers.

2 SECTION 3.36. Section 466.355(c), Government Code, is
3 amended to read as follows:

4 (c) Each August the comptroller shall:

5 (1) estimate the amount to be transferred to the Texas
6 education [~~foundation school~~] fund on or before September 15; and

7 (2) notwithstanding Subsection (b)(4), transfer the
8 amount estimated in Subdivision (1) to the Texas education
9 [~~foundation school~~] fund before August 25 [~~installment payments are~~
10 ~~made under Section 42.259, Education Code~~].

11 SECTION 3.37. Effective on the 91st day after the last day
12 of the legislative session, Section 822.201(c), Government Code, as
13 amended by S.B. No. 1691 and S.B. No. 1863, Acts of the 79th
14 Legislature, Regular Session, 2005, is amended to read as follows:

15 (c) Excluded from salary and wages are:

16 (1) expense payments;

17 (2) allowances;

18 (3) payments for unused vacation or sick leave;

19 (4) maintenance or other nonmonetary compensation;

20 (5) fringe benefits;

21 (6) deferred compensation other than as provided by
22 Subsection (b)(3);

23 (7) compensation that is not made pursuant to a valid
24 employment agreement;

25 (8) payments received by an employee in a school year
26 that exceed \$5,000 for teaching a driver education and traffic
27 safety course that is conducted outside regular classroom hours;

(9) the benefit replacement pay a person earns as a result of a payment made under Subchapter B or C, Chapter 661;

(10) any compensation designated as health care supplementation ~~[amount received]~~ by an employee under Subchapter D, Chapter 22, Education Code, subject to the following annual limits:

(A) \$1,000, for an employee entitled to the minimum salary under Section 21.402, Education Code; and

(B) \$500, for any other school employee entitled under Section 22.103, Education Code, to designate a portion of the employee's compensation to be used as health care supplementation;

(11) any amount received by an employee under former Article 3.50-8, Insurance Code, former Chapter 1580, Insurance Code, or Rider 9, Page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act); ~~[and]~~

(12) amounts received under the educator excellence incentive program under Subchapter N, Chapter 21, Education Code;
and

(13) [~~(11)~~] any compensation not described by Subsection (b).

SECTION 3.38. Section 2175.304(c), Government Code, is amended to read as follows:

(c) The procedures established under Subsection (b) must give preference to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property

1 in another manner. If more than one public school or school
 2 district or assistance organization seeks to acquire the same
 3 property on substantially the same terms, the system, institution,
 4 or agency shall give preference to a public school that is
 5 considered academically unacceptable under Section 39.132,
 6 Education Code, ~~[low-performing by the commissioner of education]~~
 7 or to a school district that has a relatively low ~~[taxable]~~ wealth
 8 per student, as determined by the commissioner of education ~~[that~~
 9 ~~entitles the district to an allotment of state funds under~~
 10 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance
 11 organization designated by such a school district.

12 SECTION 3.39. Section 1579.251, Insurance Code, is amended
 13 by amending Subsection (a) and adding Subsection (c) to read as
 14 follows:

15 (a) The state shall assist employees of participating
 16 school districts and charter schools in the purchase of group
 17 health coverage under this chapter by providing for each covered
 18 employee the amount of \$900 each state fiscal year or a greater
 19 amount as provided by the General Appropriations Act. The state
 20 contribution shall be distributed through the school finance
 21 formulas under Chapters 41 and 42, Education Code, and used by
 22 school districts and charter schools to pay contributions under a
 23 group health coverage plan for employees ~~[as provided by Sections~~
 24 ~~42.2514 and 42.260, Education Code]~~.

25 (c) A school district or charter school that does not
 26 participate in the program is entitled to state assistance computed
 27 and distributed as provided by Subsection (a). State funds

1 received under this subsection must be used to pay for employee
2 health coverage.

3 SECTION 3.40. Effective on the 91st day after the last day
4 of the legislative session, Section 302.006(c), Labor Code, is
5 amended to read as follows:

6 (c) To be eligible to receive a scholarship awarded under
7 this section, a person must:

8 (1) be employed in a child-care facility, as defined
9 by Section 42.002, Human Resources Code;

10 (2) intend to obtain a credential, certificate, or
11 degree specified in Subsection (b);

12 (3) agree to work for at least 18 additional months in
13 a child-care facility, as defined by Section 42.002, Human
14 Resources Code, that accepts federal Child Care Development Fund
15 subsidies and that, at the time the person begins to fulfill the
16 work requirement imposed by this subdivision, is located:

17 (A) within the attendance zone of a public school
18 campus considered academically unacceptable [~~low-performing~~] under
19 Section 39.132, Education Code; or

20 (B) in an economically disadvantaged community,
21 as determined by the commission; and

22 (4) satisfy any other requirements adopted by the
23 commission.

24 SECTION 3.41. Section 6.02(b), Tax Code, is amended to read
25 as follows:

26 (b) A taxing unit that has boundaries extending into two or
27 more counties may choose to participate in only one of the appraisal

1 districts. In that event, the boundaries of the district chosen
2 extend outside the county to the extent of the unit's boundaries.
3 To be effective, the choice must be approved by resolution of the
4 board of directors of the district chosen. ~~[The choice of a school~~
5 ~~district to participate in a single appraisal district does not~~
6 ~~apply to property annexed to the school district under Subchapter C~~
7 ~~or G, Chapter 41, Education Code, unless:~~

8 ~~[(1) the school district taxes property other than~~
9 ~~property annexed to the district under Subchapter C or G, Chapter~~
10 ~~41, Education Code, in the same county as the annexed property; or~~

11 ~~[(2) the annexed property is contiguous to property in~~
12 ~~the school district other than property annexed to the district~~
13 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

14 SECTION 3.42. Section 21.02(a), Tax Code, is amended to
15 read as follows:

16 (a) Except as provided by ~~[Subsection (b) and]~~ Sections
17 21.021, 21.04, and 21.05, tangible personal property is taxable by
18 a taxing unit if:

19 (1) it is located in the unit on January 1 for more
20 than a temporary period;

21 (2) it normally is located in the unit, even though it
22 is outside the unit on January 1, if it is outside the unit only
23 temporarily;

24 (3) it normally is returned to the unit between uses
25 elsewhere and is not located in any one place for more than a
26 temporary period; or

27 (4) the owner resides (for property not used for

1 business purposes) or maintains the owner's [~~his~~] principal place
2 of business in this state (for property used for business purposes)
3 in the unit and the property is taxable in this state but does not
4 have a taxable situs pursuant to Subdivisions (1) through (3) [~~of~~
5 ~~this section~~].

6 SECTION 3.43. Section 313.029, Tax Code, is amended to read
7 as follows:

8 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
9 a school district grants an application for a limitation on
10 appraised value under this subchapter, for each of the first two tax
11 years that begins after the date the application is approved, the
12 governing body of the school district may not adopt a tax rate that
13 exceeds the school district's rollback tax rate under Section
14 26.08, if applicable, for that year. If, in any tax year in which a
15 restriction on the school district's tax rate under this section is
16 in effect, the governing body approves a subsequent application for
17 a limitation on appraised value under this section, the restriction
18 on the school district's tax rate is extended until the first tax
19 year that begins after the second anniversary of the date the
20 subsequent application is approved.

21 SECTION 3.44. Except as otherwise provided by this Act,
22 this article takes effect September 1, 2006.

23 ARTICLE 4. CHARTER SCHOOLS

24 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,
25 Chapter 12, Education Code, is repealed.

26 (b) Except as provided by Section 11A.1041, Education Code,
27 as added by this Act, each open-enrollment charter school operating

1 or holding a charter to operate on August 1, 2006, shall be
2 dissolved in accordance with Subchapter J, Chapter 11A, Education
3 Code, as added by this Act.

4 SECTION 4.02. Subtitle C, Title 2, Education Code, is
5 amended by adding Chapter 11A to read as follows:

6 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 11A.001. DEFINITIONS. In this chapter:

9 (1) "Charter holder" means the entity to which a
10 charter is granted under this chapter.

11 (2) "Governing body of a charter holder" means the
12 board of directors, board of trustees, or other governing body of a
13 charter holder.

14 (3) "Governing body of a public charter district"
15 means the board of directors, board of trustees, or other governing
16 body of a public charter district. The term includes the governing
17 body of a charter holder if that body acts as the governing body of
18 the public charter district.

19 (4) "Management company" means a person, other than a
20 charter holder, who provides management services for a public
21 charter district.

22 (5) "Management services" means services related to
23 the management or operation of a public charter district,
24 including:

25 (A) planning, operating, supervising, and
26 evaluating the public charter district's educational programs,
27 services, and facilities;

1 (B) making recommendations to the governing body
2 of the public charter district relating to the selection of school
3 personnel;

4 (C) managing the public charter district's
5 day-to-day operations as its administrative manager;

6 (D) preparing and submitting to the governing
7 body of the public charter district a proposed budget;

8 (E) recommending policies to be adopted by the
9 governing body of the public charter district, developing
10 appropriate procedures to implement policies adopted by the
11 governing body of the public charter district, and overseeing the
12 implementation of adopted policies; and

13 (F) providing leadership for the attainment of
14 student performance at the public charter district based on the
15 indicators adopted under Section 39.051 or by the governing body of
16 the public charter district.

17 (6) "Officer of a public charter district" means:

18 (A) the principal, director, or other chief
19 operating officer of a public charter district or campus; or

20 (B) a person charged with managing the finances
21 of a public charter district.

22 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this
23 chapter, the State Board of Education may grant a charter on the
24 application of an eligible entity for a public charter district to
25 operate in a facility of a commercial or nonprofit entity, an
26 eligible entity, or a school district, including a home-rule school
27 district. In this subsection, "eligible entity" means:

1 (1) an institution of higher education as defined
2 under Section 61.003;

3 (2) a private or independent institution of higher
4 education as defined under Section 61.003;

5 (3) an organization that is exempt from federal income
6 taxation under Section 501(a), Internal Revenue Code of 1986, as an
7 organization described by Section 501(c)(3) of that code; or

8 (4) a governmental entity in this state.

9 (b) The State Board of Education may grant a charter for a
10 public charter district only to an applicant that meets all
11 financial, governing, and operational standards adopted by the
12 commissioner under this chapter.

13 (c) The State Board of Education may not grant more than a
14 total of 215 charters for public charter districts.

15 (d) An educator employed by a school district before the
16 effective date of a charter for a public charter district operated
17 at a school district facility may not be transferred to or employed
18 by the public charter district over the educator's objection.

19 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter
20 district:

21 (1) shall provide instruction to and assess a number
22 of students at a number of elementary or secondary grade levels, as
23 provided by the charter, sufficient to permit the agency to assign
24 an accountability rating under Chapter 39;

25 (2) is governed under the governing structure required
26 by this chapter and described by the charter;

27 (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

1 adopted under this code is specifically provided.

2 (c) Notwithstanding Subsection (a), a campus of a public
3 charter district located in whole or in part in a municipality with
4 a population of 20,000 or less is not subject to a municipal zoning
5 ordinance governing public schools.

6 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter
7 district has the powers granted to schools under this 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

1 A, Chapter 29, including a requirement that special education
2 teachers obtain appropriate certification;

3 (I) bilingual education under Subchapter B,
4 Chapter 29, including a requirement that bilingual education
5 teachers obtain appropriate certification;

6 (J) prekindergarten programs under Subchapter E,
7 Chapter 29;

8 (K) extracurricular activities under Section
9 33.081;

10 (L) discipline management practices or behavior
11 management techniques under Section 37.0021;

12 (M) health and safety under Chapter 38; and

13 (N) public school accountability under
14 Subchapters B, C, D, G, and I, Chapter 39.

15 (c) A public charter district is entitled to the same level
16 of services provided to school districts by regional education
17 service centers. The commissioner shall adopt rules that provide
18 for the representation of public charter districts on the boards of
19 directors of regional education service centers.

20 (d) The commissioner may by rule permit a public charter
21 district to voluntarily participate in any state program available
22 to school districts, including a purchasing program, if the public
23 charter district complies with all terms of the program.

24 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC
25 INFORMATION LAWS. (a) With respect to the operation of a public
26 charter district, the governing body of a charter holder and the
27 governing body of a public charter district are considered to be

1 governmental bodies for purposes of Chapters 551 and 552,
2 Government Code.

3 (b) With respect to the operation of a public charter
4 district, any requirement in Chapter 551 or 552, Government Code,
5 that applies to a school district, the board of trustees of a school
6 district, or public school students applies to a public charter
7 district, the governing body of a charter holder, the governing
8 body of a public charter district, or students in attendance at a
9 public charter district campus.

10 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL
11 GOVERNMENT RECORDS. (a) With respect to the operation of a public
12 charter district, a public charter district is considered to be a
13 local government for purposes of Subtitle C, Title 6, Local
14 Government Code, and Subchapter J, Chapter 441, Government Code.

15 (b) Records of a public charter district, a charter holder,
16 or a management company that relate to a public charter district are
17 government records for all purposes under state law.

18 (c) Any requirement in Subtitle C, Title 6, Local Government
19 Code, or Subchapter J, Chapter 441, Government Code, that applies
20 to a school district, the board of trustees of a school district, or
21 an officer or employee of a school district applies to a public
22 charter district or management company, the governing body of a
23 charter holder, the governing body of a public charter district, or
24 an officer or employee of a public charter district or management
25 company except that the records of a public charter district or
26 management company that ceases to operate shall be transferred in
27 the manner prescribed by Subsection (d).

1 (d) The records of a public charter district or management
2 company that ceases to operate shall be transferred in the manner
3 specified by the commissioner to a custodian designated by the
4 commissioner. The commissioner may designate any appropriate
5 entity to serve as custodian, including the agency, a regional
6 education service center, or a school district. In designating a
7 custodian, the commissioner shall ensure that the transferred
8 records, including student and personnel records, are transferred
9 to a custodian capable of:

- 10 (1) maintaining the records;
11 (2) making the records readily accessible to students,
12 parents, former school employees, and other persons entitled to
13 access; and
14 (3) complying with applicable state or federal law
15 restricting access to the records.

16 (e) If the charter holder of a public charter district that
17 ceases to operate or an officer or employee of the district or a
18 management company refuses to transfer school records in the manner
19 specified by the commissioner under Subsection (d), the
20 commissioner may ask the attorney general to petition a court for
21 recovery of the records. If the court grants the petition, the
22 court shall award attorney's fees and court costs to the state.

23 (f) A record described by this section is a public school
24 record for purposes of Section 37.10(c)(2), Penal Code.

25 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC
26 PURCHASING AND CONTRACTING. (a) This section applies to a public
27 charter district unless the district's charter otherwise describes

procedures for purchasing and contracting and the procedures are approved by the State Board of Education.

(b) A public charter district is considered to be:

(1) a governmental entity for purposes of:

(A) Subchapter D, Chapter 2252, Government Code;

and

(B) Subchapter B, Chapter 271, Local Government Code;

(2) a political subdivision for purposes of Subchapter A, Chapter 2254, Government Code; and

(3) a local government for purposes of Sections 2256.009-2256.016, Government Code.

(c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to a public charter district, the governing body of a charter holder, or the governing body of a public charter district.

Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF INTEREST. (a) A member of the governing body of a charter holder, a member of the governing body of a public charter district, or an officer of a public charter district is considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter:

(1) a member of the governing body of a charter holder or a member of the governing body or officer of a public charter district is considered to have a substantial interest in a business entity if a person related to the member or officer in the third

1 degree by consanguinity or affinity, as determined under Chapter
2 573, Government Code, has a substantial interest in the business
3 entity under Section 171.002, Local Government Code; and

4 (2) a teacher at a public charter district may serve as
5 a member of the governing body of the charter holder or the
6 governing body of the public charter district if the teachers
7 serving on the governing body:

8 (A) do not constitute a quorum of the governing
9 body or any committee of the governing body; and

10 (B) comply with the requirements of Sections
11 171.003-171.007, Local Government Code.

12 (b) To the extent consistent with this section, a
13 requirement of a law listed in this section that applies to a school
14 district or the board of trustees of a school district applies to a
15 public charter district, the governing body of a charter holder, or
16 the governing body of a public charter district.

17 (c) An employee who is not a teacher may serve as a member of
18 the governing body of a charter holder or the governing body of a
19 public charter district if:

20 (1) the charter holder operating the public charter
21 district where the individual is employed and serves as a member of
22 the governing body operated an open-enrollment charter school under
23 Subchapter D, Chapter 12, on August 31, 2005;

24 (2) the individual was employed by the charter holder
25 and serving as a member of the governing body on August 31, 2005, in
26 compliance with former Section 12.1054; and

27 (3) the individual had been continuously so employed

1 and serving since a date on or before January 1, 2005.

2 (d) If under Subsection (c) an individual continues to be
3 employed and serve as a member of the governing body, the individual
4 may not participate in any deliberation or voting on the
5 appointment, reappointment, confirmation of the appointment or
6 reappointment, employment, reemployment, change in the status,
7 compensation, or dismissal of the individual if that action applies
8 only to the individual and is not taken regarding a bona fide class
9 or category of employees. In addition, the individual may not hear,
10 consider, or act on any grievance or complaint concerning the
11 individual or a matter with which the individual has dealt in the
12 individual's capacity as an employee.

13 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public
14 charter district, including the governing body of a public charter
15 district and any district employee with final authority to hire a
16 district employee, is subject to a prohibition, restriction, or
17 requirement, as applicable, imposed by state law or by a rule
18 adopted under state law, relating to nepotism under Chapter 573,
19 Government Code.

20 (b) Notwithstanding Subsection (a), a member of the
21 governing body of a charter holder or public charter district may
22 not be related in the third degree by consanguinity or affinity, as
23 determined under Chapter 573, Government Code, to another member of
24 the governing body of the charter holder or public charter
25 district.

26 (c) This section does not apply to an appointment,
27 confirmation of an appointment, or vote for an appointment or

1 confirmation of an appointment of an individual to a position if:

2 (1) the charter holder operating the public charter
3 district where the individual is employed or serves as a member of
4 the governing body operated an open-enrollment charter school under
5 Subchapter D, Chapter 12, on August 31, 2005;

6 (2) the individual was employed or serving in the
7 position on August 31, 2005, in compliance with former Section
8 12.1055; and

9 (3) the individual has been continuously employed or
10 serving since a date on or before January 1, 2005.

11 (d) If, under Subsection (c), an individual continues to be
12 employed or serve in a position, the public official to whom the
13 individual is related in a prohibited degree may not participate in
14 any deliberation or voting on the appointment, reappointment,
15 confirmation of the appointment or reappointment, employment,
16 reemployment, change in status, compensation, or dismissal of the
17 individual if that action applies only to the individual and is not
18 taken regarding a bona fide class or category of employees.

19 [Sections 11A.058-11A.100 reserved for expansion]

20 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

21 Sec. 11A.101. APPLICATION. (a) The State Board of
22 Education shall adopt:

23 (1) an application form and a procedure that must be
24 used to apply for a charter for a public charter district; and

25 (2) criteria to use in selecting a program for which to
26 grant a charter.

27 (b) The application form must provide for including the

1 information required under Section 11A.103 to be contained in a
2 charter.

3 (c) The State Board of Education may approve or deny an
4 application based on criteria it adopts and on financial,
5 governing, and operational standards adopted by the commissioner
6 under this chapter. The criteria the board adopts must include:

7 (1) criteria relating to improving student
8 performance and encouraging innovative programs; and

9 (2) criteria relating to the educational benefit for
10 students residing in the geographic area to be served by the
11 proposed public charter district, as compared to any significant
12 financial difficulty that a loss in enrollment may have on any
13 school district whose enrollment is likely to be affected by the
14 public charter district.

15 (d) A public charter district may not begin operating under
16 this chapter unless the commissioner has certified that the
17 applicant has acceptable administrative and accounting systems and
18 procedures in place for the operation of the proposed public
19 charter district.

20 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The
21 commissioner by rule shall adopt a procedure for providing notice
22 to each member of the legislature that represents the geographic
23 area to be served by the proposed public charter district, as
24 determined by the commissioner, on receipt by the State Board of
25 Education of an application for a charter for a public charter
26 district under Section 11A.101.

27 Sec. 11A.103. CONTENT. (a) Each charter granted under this

chapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) establish educational goals, which must include acceptable student performance as determined under Chapter 39;

(3) specify the grade levels to be offered, which must be sufficient to permit the agency to assign an accountability rating under Chapter 39;

(4) describe the facilities to be used;

(5) describe the geographical area served by the program, which may not be statewide; and

(6) specify any type of enrollment criteria to be used.

(b) A charter holder of a public charter district shall consider including in the district's charter a requirement that the district develop and administer personal graduation plans under Section 28.0212.

(c) The terms of a charter may not include plans for future increases in student enrollment, grade levels, campuses, or geographical area, except that:

(1) the charter may contain a plan for adding grade levels as necessary to comply with Section 11A.253(c) or (d); and

(2) the commissioner may approve such an increase in a charter revision request under Section 11A.106.

Sec. 11A.104. FORM. A charter for a public charter district shall be in the form of a license issued by the State Board of

1 Education to the charter holder.

2 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN
3 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner
4 shall immediately grant a charter under this chapter to the
5 following entities on or before August 1, 2006:

6 (1) an eligible entity holding a charter granted
7 before September 1, 2002, under Subchapter D, Chapter 12, as that
8 subchapter existed on January 1, 2005, if:

9 (A) for fiscal years 2004 and 2005, the entity
10 had total assets that exceeded total liabilities, as determined by
11 the entity's annual audit report under Section 44.008;

12 (B) at least 25 percent of all students enrolled
13 at the entity's open-enrollment charter school and administered an
14 assessment instrument under Section 39.023(a), (c), or (l)
15 performed satisfactorily on the assessment instrument in
16 mathematics, as determined by the school's assessment instrument
17 results for the 2005-2006 school year; and

18 (C) at least 25 percent of all students enrolled
19 at the entity's open-enrollment charter school and administered an
20 assessment instrument under Section 39.023(a), (c), or (l)
21 performed satisfactorily on the assessment instrument in reading or
22 English language arts, as applicable, as determined by the school's
23 assessment instrument results for the 2005-2006 school year;

24 (2) a governmental entity holding a charter under
25 Subchapter D, Chapter 12, as that subchapter existed on January 1,
26 2005;

27 (3) an eligible entity holding a charter under

1 Subchapter D, Chapter 12, as that subchapter existed on January 1,
2 2005, if at least 85 percent of students enrolled in the school
3 reside in a residential facility; and

4 (4) an eligible entity granted a charter on or after
5 September 1, 2002, under Subchapter D, Chapter 12, as that
6 subchapter existed on January 1, 2005.

7 (b) Assessment instrument results for fewer than five
8 students are not considered for purposes of Subsection (a)(1)(B) or
9 (C).

10 (c) The commissioner shall determine which entities are
11 eligible for a charter under this section as soon as practicable.

12 (d) The content and terms of a charter granted to an
13 eligible entity under this section must be the same as those under
14 which the entity operated under Subchapter D, Chapter 12, as that
15 subchapter existed on January 1, 2005, except that where the terms
16 conflict with this chapter, this chapter prevails.

17 (e) An eligible entity holding multiple charters prior to
18 January 1, 2005, may not combine those charters into one charter for
19 a public charter district but must retain each of those charters
20 which count towards the limit imposed under Section 11A.002(c).

21 (f) Section 11A.157 does not apply to an entity granted a
22 charter under this section.

23 (g) A decision of the commissioner under this section is not
24 subject to a hearing or an appeal to a district court.

25 (h) This section expires January 1, 2008.

26 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

27 (a) For purposes of Section 11A.1041(a), the commissioner shall

1 compute the percentage of students who performed satisfactorily on
2 an assessment instrument in a manner consistent with this section.

3 (b) The commissioner may only consider the performance of a
4 student who was enrolled as of the date for reporting enrollment for
5 the fall semester under the Public Education Information Management
6 System (PEIMS).

7 (c) In computing performance under this section, the
8 commissioner must:

9 (1) add the results for third through 11th grade
10 assessment instruments in English and third through sixth grade
11 assessment instruments in Spanish across grade levels tested at all
12 campuses operated by the charter holder and evaluate those results
13 for all students;

14 (2) combine the results for third through ninth grade
15 assessment instruments in reading and 10th and 11th grade
16 assessment instruments in English language arts and evaluate those
17 results as a single subject; and

18 (3) separately determine student performance for
19 reading and mathematics as a percentage equal to the sum of students
20 who performed satisfactorily on the specific subject area
21 assessment instrument in all grade levels tested at all campuses
22 operated by the charter holder divided by the number of students who
23 took the specific subject area assessment instrument in grade
24 levels tested at all campuses operated by the charter holder.

25 (d) To the extent consistent with this section, the
26 commissioner shall use the methodology used to compute passing
27 rates for reading and mathematics assessment instruments for

purposes of determining accountability ratings under Chapter 39 for the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

(e) This section expires January 1, 2008.

Sec. 11A.105. CHARTER GRANTED. Each charter the State Board of Education grants for a public charter district must:

(1) satisfy this chapter; and

(2) include the information that is required under Section 11A.103 consistent with the information provided in the application and any modification the board requires.

Sec. 11A.106. REVISION. (a) A revision of a charter of a public charter district may be made only with the approval of the commissioner.

(b) Not more than once each year, a public charter district may request approval to revise the maximum student enrollment described by the district's charter.

(c) The commissioner may not approve a charter revision that increases a public charter district's enrollment, increases the grade levels offered, increases the number of campuses, or changes the boundaries of the geographic area served by the program unless the commissioner determines that:

(1) the public charter district has operated one or more campuses for at least three school years;

(2) each campus operated by the public charter district has been rated at least academically acceptable under Subchapter D, Chapter 39, for each of its most recent three years of operation;

(3) each campus operated by the public charter

1 district has achieved performance levels that are at least five
2 percentage points above the applicable accountability standard for
3 academically acceptable performance on statewide assessments under
4 Subchapter D, Chapter 39, as determined by the commissioner, for
5 all tested subjects for each of its most recent two years of
6 operation;

7 (4) the public charter district has been rated
8 superior, above standard, standard, or the equivalent, under the
9 financial accountability system under Subchapter I, Chapter 39;

10 (5) during the three years preceding the proposed
11 charter revision, the public charter district and its campuses have
12 not been subject to an intervention or sanction under Subchapter G,
13 Chapter 39, including an intervention or sanction related to:

14 (A) the quality of data or reports required by
15 state or federal law or court order;

16 (B) high school graduation requirements under
17 Section 28.025; or

18 (C) the effectiveness of programs for special
19 student populations; and

20 (6) the charter revision is in the best interest of
21 students of this state.

22 (d) In making a determination under Subsection (c)(6), the
23 commissioner shall review all available information relating to the
24 charter holder, including the charter holder's:

25 (1) academic and financial performance;

26 (2) history of compliance with applicable laws;

27 (3) staffing, financial, and organizational data; and

1 (4) any other information regarding the charter
2 holder's capacity to successfully implement the requested charter
3 revision.

4 (e) The commissioner may not approve a charter revision that
5 proposes an increase in:

6 (1) a public charter district's enrollment, unless the
7 charter holder adopts a business plan for implementing the
8 enrollment increase that includes components identified by the
9 commissioner; or

10 (2) the grade levels offered by a public charter
11 district, unless the charter holder adopts an educational plan for
12 the additional grade levels that includes components identified by
13 the commissioner.

14 (f) The commissioner may approve a charter revision
15 authorizing a public charter district to serve students in a
16 geographical area that is not contiguous with the existing
17 boundaries of the district, but may not approve a statewide
18 geographical boundary.

19 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON
20 PROBATION, OR REVOCATION. (a) The commissioner may modify, place
21 on probation, or revoke the charter of a public charter district if
22 the commissioner determines under Section 11A.108 that the charter
23 holder:

24 (1) committed a material violation of the charter;
25 (2) failed to satisfy generally accepted accounting
26 standards of fiscal management;

27 (3) failed to protect the health, safety, welfare, or

1 best interests of the students enrolled at the public charter
2 district; or

3 (4) failed to comply with this chapter or another
4 applicable law or rule.

5 (b) The commissioner shall revoke the charter of a public
6 charter district without a hearing if:

7 (1) in two consecutive years, the public charter
8 district:

9 (A) is rated academically unacceptable under
10 Subchapter D, Chapter 39; or

11 (B) is rated financially unacceptable by the
12 commissioner under Subchapter I, Chapter 39; or

13 (2) all campuses operated by the public charter
14 district have been ordered closed under Section 39.131(a) or
15 39.1322(f).

16 (c) A revocation under Subsection (b)(1) is effective on
17 January 1 following the school year in which the public charter
18 district received a second unacceptable rating.

19 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON
20 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a
21 procedure to be used for modifying, placing on probation, or
22 revoking the charter of a public charter district under Section
23 11A.107(a).

24 (b) The procedure adopted under Subsection (a) must provide
25 an opportunity for a hearing to the charter holder.

26 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON
27 PROBATION, OR REVOCATION. A charter holder may appeal a

modification, placement on probation, or revocation under this subchapter only in the manner provided by the applicable procedures adopted by the commissioner under Section 11A.108. The charter holder may not otherwise appeal to the commissioner and may not appeal to a district court.

Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.

If the commissioner revokes a charter of a public charter district, if a district is ordered closed under Chapter 39, or if a public charter district surrenders its charter, the district may not:

(1) continue to operate under this chapter; or

(2) receive state funds under this chapter.

[Sections 11A.111-11A.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.

The governing body of a charter holder is responsible for the management, operation, and accountability of the public charter district, regardless of whether the governing body delegates the governing body's powers and duties to another person.

Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER

HOLDER. The governing body of a charter holder must be composed of at least five members.

Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF

GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a person may not serve as a member of the governing body of a charter holder, as a member of the governing body of a public charter

district, or as an officer or employee of a public charter district
if the person:

(1) has been convicted of a felony or a misdemeanor
involving moral turpitude;

(2) has been convicted of an offense listed in Section
37.007(a);

(3) has been convicted of an offense listed in Article
62.01(5), Code of Criminal Procedure; or

(4) has a substantial interest in a management
company.

(b) A person who has been convicted of an offense described
by Subsection (a)(1), (2), or (3) may serve as a member of the
governing body of a charter holder, as a member of the governing
body of a public charter district, or as an officer or employee of a
public charter district if the commissioner determines that the
person is fit to serve in that capacity. In making a determination
under this subsection, the commissioner shall consider:

(1) the factors described by Section 53.022,
Occupations Code, for determining the extent to which a conviction
relates to an occupation;

(2) the factors described by Section 53.023,
Occupations Code, for determining the fitness of a person to
perform the duties and discharge the responsibilities of an
occupation; and

(3) other appropriate factors, as determined by the
commissioner.

(c) For purposes of Subsection (a)(4), a person has a

1 substantial interest in a management company if the person or a
2 relative within the third degree by consanguinity or affinity, as
3 determined under Chapter 573, Government Code:

4 (1) has a controlling interest in the company;

5 (2) owns more than 10 percent of the voting interest in
6 the company;

7 (3) owns more than \$25,000 of the fair market value of
8 the company;

9 (4) has a direct or indirect participating interest by
10 shares, stock, or otherwise, regardless of whether voting rights
11 are included, in more than 10 percent of the profits, proceeds, or
12 capital gains of the company;

13 (5) is a member of the board of directors or other
14 governing body of the company;

15 (6) serves as an elected officer of the company; or

16 (7) is an employee of the company.

17 Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF
18 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit
19 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil
20 Statutes), Chapter 22, Business Organizations Code, or other law,
21 on request of the commissioner, the attorney general shall bring
22 suit against a member of the governing body of a charter holder for
23 breach of a fiduciary duty by the member, including misapplication
24 of public funds.

25 (b) The attorney general may bring suit under Subsection (a)
26 for:

27 (1) damages;

1 (2) injunctive relief; or

2 (3) any other equitable remedy determined to be
3 appropriate by the court.

4 (c) This section is cumulative of all other remedies.

5 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF
6 CHARTER HOLDER. (a) The commissioner shall adopt rules
7 prescribing training for members of governing bodies of charter
8 holders.

9 (b) The rules adopted under Subsection (a) may:

10 (1) specify the minimum amount and frequency of the
11 training;

12 (2) require the training to be provided by:

13 (A) the agency and regional education service
14 centers;

15 (B) entities other than the agency and service
16 centers, subject to approval by the commissioner; or

17 (C) both the agency, service centers, and other
18 entities; and

19 (3) require training to be provided concerning:

20 (A) basic school law, including school finance;

21 (B) health and safety issues;

22 (C) accountability requirements related to the
23 use of public funds; and

24 (D) other requirements relating to
25 accountability to the public, such as open meetings requirements
26 under Chapter 551, Government Code, and public information
27 requirements under Chapter 552, Government Code.

1 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder
2 shall file with the commissioner a copy of its articles of
3 incorporation and bylaws, or comparable documents if the charter
4 holder does not have articles of incorporation or bylaws, within
5 the period and in the manner prescribed by the commissioner.

6 (b) Each public charter district shall file annually with
7 the commissioner the following information in a form prescribed by
8 the commissioner:

9 (1) the name, address, and telephone number of each
10 officer and member of the governing body of the charter holder; and

11 (2) the amount of annual compensation the public
12 charter district pays to each officer and member of the governing
13 body.

14 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During
15 a public charter district's first year of operation, the charter
16 holder shall submit quarterly financial reports to the
17 commissioner. The commissioner by rule shall determine the form
18 and content of the financial reports under this section.

19 Sec. 11A.158. PEIMS INFORMATION. The governing body of a
20 public charter district shall comply with Section 7.007.

21 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A
22 management company that provides management services to a public
23 charter district is liable for damages incurred by the state or a
24 school district as a result of the failure of the company to comply
25 with its contractual or other legal obligation to provide services
26 to the district.

27 (b) On request of the commissioner, the attorney general may

1 bring suit on behalf of the state against a management company
2 liable under Subsection (a) for:

3 (1) damages, including any state funding received by
4 the company and any consequential damages suffered by the state;

5 (2) injunctive relief; or

6 (3) any other equitable remedy determined to be
7 appropriate by the court.

8 (c) This section is cumulative of all other remedies and
9 does not affect:

10 (1) the liability of a management company to the
11 charter holder; or

12 (2) the liability of a charter holder, a member of the
13 governing body of a charter holder, or a member of the governing
14 body of a public charter district to the state.

15 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

16 (a) The charter holder or the governing body of a public charter
17 district may not accept a loan from a management company that has a
18 contract to provide management services to:

19 (1) the district; or

20 (2) another public charter district that operates
21 under a charter granted to the charter holder.

22 (b) A charter holder or the governing body of a public
23 charter district that accepts a loan from a management company may
24 not enter into a contract with that management company to provide
25 management services to the district.

26 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any
27 contract, including a contract renewal, between a public charter

1 district and a management company proposing to provide management
2 services to the district must require the management company to
3 maintain all records related to the management services separately
4 from any other records of the management company.

5 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS
6 PROHIBITED. The commissioner may prohibit, deny renewal of,
7 suspend, or revoke a contract between a public charter district and
8 a management company providing management services to the district
9 if the commissioner determines that the management company has:

10 (1) failed to provide educational or related services
11 in compliance with the company's contractual or other legal
12 obligation to any public charter district in this state or to any
13 other similar entity in another state;

14 (2) failed to protect the health, safety, or welfare
15 of the students enrolled at a public charter district served by the
16 company;

17 (3) violated this chapter or a rule adopted under this
18 chapter; or

19 (4) otherwise failed to comply with any contractual or
20 other legal obligation to provide services to the district.

21 [Sections 11A.163-11A.200 reserved for expansion]

22 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

23 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent
24 with Subsection (c), a charter holder is entitled to receive for the
25 public charter district funding under Chapter 42 as if the public
26 charter district were a school district without a local share for
27 purposes of Section 42.306 and without any local revenue ("LR") for

1 purposes of Section 42.252. In determining funding for a public
2 charter district, adjustments under Sections 42.301, 42.302, and
3 42.303 and the district enrichment tax rate ("DETR") under Section
4 42.252 are based on the average adjustment and average district
5 enrichment tax rate for the state.

6 (a-1) Notwithstanding Subsection (a), an entity granted a
7 charter under Section 11A.1041 is entitled to receive funding for
8 each student in weighted average daily attendance in an amount
9 equal to the greater of the amount determined under Subsection (a)
10 or the amount to which the entity was entitled for the 2003-2004 or
11 2004-2005 school year, as determined by the commissioner. A
12 determination of the commissioner under this subsection is final
13 and not subject to appeal. This subsection expires September 1,
14 2013.

15 (b) To the extent consistent with Subsection (c), a public
16 charter district is entitled to funds that are available to school
17 districts from the agency or the commissioner, including grants and
18 other discretionary funding and any teacher incentive payments
19 under Section 39.113, unless the statute authorizing the funding
20 explicitly provides that a public charter district is not entitled
21 to the funding.

22 (c) A charter holder is entitled to receive for a public
23 charter district funding under this section only if the holder:

24 (1) provides information for the Public Education
25 Information Management System (PEIMS) as required by this chapter;

26 (2) submits to the commissioner appropriate fiscal and
27 financial records as required by this chapter and the commissioner;

1 and

2 (3) receives an annual unqualified opinion in the
3 standard report filed pursuant to Section 11A.210.

4 (d) The commissioner shall suspend the funding of a charter
5 holder that fails to comply with Subsection (c) until the
6 commissioner determines that the charter holder is in compliance or
7 has cured any noncompliance and has adopted adequate procedures to
8 prevent future noncompliance.

9 (e) The commissioner may adopt rules to provide and account
10 for state funding of public charter districts under this section. A
11 rule adopted under this section may be similar to a provision of
12 this code that is not similar to Section 11A.052(b) if the
13 commissioner determines that the rule is related to financing of
14 public charter districts and is necessary or prudent to provide or
15 account for state funds.

16 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF
17 SALARIES. (a) This section applies to a charter holder that on
18 January 1, 2005, operated an open-enrollment charter school under
19 former Subchapter D, Chapter 12.

20 (b) A charter holder that participated in the program under
21 Chapter 1579, Insurance Code, for the 2004-2005 school year is
22 entitled to state aid in an amount, as determined by the
23 commissioner, equal to the difference, if any, between:

24 (1) an amount equal to the product of \$2,500
25 multiplied by the number of classroom teachers, full-time
26 librarians, and full-time counselors certified under Subchapter B,
27 Chapter 21, and full-time school nurses appropriately licensed

1 under Chapter 301, Occupations Code, who are employed by the
2 charter holder at a public charter district; and

3 (2) the amount of additional money to which the
4 charter holder is entitled as a result of S.B. No. 8, Acts of the
5 79th Legislature, 2nd Called Session, 2005.

6 (c) A charter holder that did not participate in the program
7 under Chapter 1579, Insurance Code, for the 2004-2005 school year
8 is entitled to state aid in an amount, as determined by the
9 commissioner, equal to the difference, if any, between:

10 (1) an amount equal to the product of \$1,500
11 multiplied by the number of classroom teachers, full-time
12 librarians, and full-time counselors certified under Subchapter B,
13 Chapter 21, and full-time school nurses appropriately licensed
14 under Chapter 301, Occupations Code, who are employed by the
15 charter holder at a public charter district; and

16 (2) the amount of additional money to which the
17 charter holder is entitled as a result of S.B. No. 8, Acts of the
18 79th Legislature, 2nd Called Session, 2005.

19 (d) A charter holder is not entitled to funds under
20 Subsection (b) or (c) if the amount of additional funds to which the
21 charter holder is entitled as a result of S.B. No. 8, Acts of the
22 79th Legislature, 2nd Called Session, 2005, is sufficient to pay
23 the amounts described by Subsection (b) or (c), as determined by the
24 commissioner.

25 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In
26 this section, "instructional facility" has the meaning assigned by
27 Section 46.001.

1 (b) A charter holder is initially eligible for
2 instructional facilities allotments in accordance with this
3 section if:

4 (1) any campus of a public charter district for which
5 the charter holder has been granted a license has for two
6 consecutive school years been rated exemplary or recognized under
7 Subchapter D, Chapter 39, or has performed at a comparable level, as
8 determined by the commissioner for purposes of this section; and

9 (2) on the most recent audit of the financial
10 operations of the district conducted pursuant to Section 11A.210,
11 the district has satisfied generally accepted accounting standards
12 of fiscal management as evidenced by an unqualified opinion in the
13 standard report issued and filed pursuant to Section 11A.210.

14 (b-1) Notwithstanding Subsection (b), a charter holder is
15 eligible for instructional facilities allotments for the 2006-2007
16 school year in accordance with this section if any campus of a
17 public charter district for which the charter holder has been
18 granted a license has been rated exemplary or recognized under
19 Subchapter D, Chapter 39, for at least two of the 2003-2004,
20 2004-2005, and 2005-2006 school years.

21 (b-2) Subsection (b-1) and this subsection expire September
22 1, 2007.

23 (c) Once a public charter district satisfies the initial
24 eligibility requirements under Subsection (b) and receives an
25 allotment under this section, the district continues to remain
26 eligible until the district receives an accountability rating of
27 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

1 of Subsection (f)(3) are used only for that purpose.

2 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received
3 under Section 11A.201 or 11A.202 by a charter holder:

4 (1) are considered to be public funds for all purposes
5 under state law;

6 (2) are held in trust by the charter holder for the
7 benefit of this state and the students of the public charter
8 district;

9 (3) may be used only for a purpose for which a school
10 may use local funds under Section 45.105(c) in the case of funds
11 received under Section 11A.201, and may be used only for a purpose
12 specified under Section 11A.202(f) in the case of funds received
13 under Section 11A.202; and

14 (4) pending their use, must be deposited into a bank,
15 as defined by Section 45.201, with which the charter holder has
16 entered into a depository contract under Section 11A.204.

17 (b) Funds deposited under Subsection (a)(4) may be directly
18 deposited into an account controlled by a bond trustee acting for
19 the charter holder pursuant to a bond indenture agreement requiring
20 direct deposit.

21 (c) The commissioner shall adopt rules for identifying
22 public funds in accordance with Subsection (a).

23 (d) The commissioner may bring an action in district court
24 in Travis County for injunctive or other relief to enforce this
25 section. In identifying public funds held by a charter holder, the
26 court shall use the criteria adopted by the commissioner under
27 Subsection (c). Except as otherwise provided by this subsection,

1 the court shall enter any order under this subsection concerning
2 public funds held by the charter holder necessary to best serve the
3 interests of the students of a public charter district. In the case
4 of a public charter district that has ceased to operate, the court
5 shall enter any order under this subsection concerning public funds
6 held by the charter holder necessary to best serve the interests of
7 this state.

8 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank
9 selected as a school depository and the charter holder shall enter
10 into a depository contract, bond, or other necessary instrument
11 setting forth the duties and agreements pertaining to the
12 depository, in a form and with the content prescribed by the State
13 Board of Education.

14 (b) The depository bank shall attach to the contract and
15 file with the charter holder a bond in an initial amount equal to
16 the estimated highest daily balance, determined by the charter
17 holder, of all deposits that the charter holder will have in the
18 depository during the term of the contract, less any applicable
19 Federal Deposit Insurance Corporation insurance. The bond must be
20 payable to the charter holder and must be signed by the depository
21 bank and by a surety company authorized to engage in business in
22 this state. The depository bank shall increase the amount of the
23 bond if the charter holder determines the increase is necessary to
24 adequately protect the funds of the charter holder deposited with
25 the depository bank.

26 (c) The bond shall be conditioned on:

27 (1) the faithful performance of all duties and

1 obligations imposed by law on the depository;

2 (2) the payment on presentation of all checks or
3 drafts on order of the charter holder, in accordance with its orders
4 entered by the charter holder according to law;

5 (3) the payment on demand of any demand deposit in the
6 depository;

7 (4) the payment, after the expiration of the period of
8 notice required, of any time deposit in the depository;

9 (5) the faithful keeping of school funds by the
10 depository and the accounting for the funds according to law; and

11 (6) the faithful paying over to the successor
12 depository all balances remaining in the accounts.

13 (d) The bond and the surety on the bond must be approved by
14 the charter holder. A premium on the depository bond may not be
15 paid out of charter holder funds related to operation of the public
16 charter district.

17 (e) The charter holder shall file a copy of the depository
18 contract and bond with the agency.

19 (f) Instead of the bond required under Subsection (b), the
20 depository bank may deposit or pledge, with the charter holder or
21 with a trustee designated by the charter holder, approved
22 securities, as defined by Section 45.201, in an amount sufficient
23 to adequately protect the funds of the charter holder deposited
24 with the depository bank. A depository bank may give a bond and
25 deposit or pledge approved securities in an aggregate amount
26 sufficient to adequately protect the funds of the charter holder
27 deposited with the depository bank. The charter holder shall

1 periodically designate the amount of approved securities or the
2 aggregate amount of the bond and approved securities necessary to
3 adequately protect the charter holder. The charter holder may not
4 designate an amount less than the balance of charter holder funds on
5 deposit with the depository bank from day to day, less any
6 applicable Federal Deposit Insurance Corporation insurance. The
7 depository bank may substitute approved securities on obtaining the
8 approval of the charter holder. For purposes of this subsection,
9 the approved securities are valued at their market value.

10 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter
11 holder who accepts state funds under Section 11A.201 or 11A.202
12 agrees to be subject to all requirements, prohibitions, and
13 sanctions authorized under this chapter.

14 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE
15 FUNDS. (a) Property purchased or leased with funds received by a
16 charter holder under Section 11A.201 or 11A.202:

17 (1) is considered to be public property for all
18 purposes under state law;

19 (2) is held in trust by the charter holder for the
20 benefit of this state and the students of the public charter
21 district; and

22 (3) may be used only for a purpose for which a school
23 district may use school district property.

24 (b) The commissioner shall:

25 (1) take possession and assume control of the property
26 described by Subsection (a) of a public charter district that
27 ceases to operate; and

1 (2) supervise the disposition of the property in
2 accordance with law.

3 (c) This section does not affect the priority of a security
4 interest in or lien on property established by a creditor in
5 compliance with law if the security interest or lien arose in
6 connection with the sale or lease of the property to the charter
7 holder.

8 (d) The commissioner shall adopt rules for identifying
9 public property in accordance with Subsection (a).

10 (e) The commissioner may bring an action in district court
11 in Travis County for injunctive or other relief to enforce this
12 section. In identifying public property held by a charter holder,
13 the court shall use the criteria adopted by the commissioner under
14 Subsection (d). Except as otherwise provided by this subsection,
15 the court shall enter any order under this subsection concerning
16 public property held by the charter holder necessary to best serve
17 the interests of the students of a public charter district. In the
18 case of a public charter district that has ceased to operate, the
19 court shall enter any order under this subsection concerning public
20 property held by the charter holder necessary to best serve the
21 interests of this state. The court may order title to real or
22 personal public property held by the charter holder transferred to
23 a trust established for the purpose of managing the property or may
24 make other disposition of the property necessary to best serve the
25 interests of this state.

26 Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER
27 DISTRICT LAND OR FACILITIES. A municipality to which a charter is

1 granted under this chapter may borrow funds, issue obligations, or
2 otherwise spend its funds to acquire land or acquire, construct,
3 expand, or renovate school buildings or facilities and related
4 improvements for its public charter district within the city limits
5 of the municipality in the same manner the municipality is
6 authorized to borrow funds, issue obligations, or otherwise spend
7 its funds in connection with any other public works project.

8 Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND
9 TECHNOLOGY. A public charter district is entitled to funding for
10 instructional materials under Chapter 31 and technology under
11 Subchapter A, Chapter 32, and is subject to those provisions as if
12 the public charter district were a school district.

13 Sec. 11A.209. ANNUAL BUDGET. The governing body of a public
14 charter district shall annually adopt a budget for the district.

15 Sec. 11A.210. ANNUAL AUDIT. The governing body of a public
16 charter district shall conduct an annual audit in a manner that
17 complies with Section 44.008.

18 [Sections 11A.211-11A.250 reserved for expansion]

19 SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

20 Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by
21 this section, a public charter district may not discriminate in
22 admission policy on the basis of sex, national origin, ethnicity,
23 religion, disability, or academic, artistic, or athletic ability or
24 the district the child would otherwise attend in accordance with
25 this code.

26 (b) A public charter district admission policy may provide
27 for the exclusion of a student who has a documented history of a

1 criminal offense, a juvenile court adjudication, or discipline
2 problems under Subchapter A, Chapter 37.

3 (c) A public charter district admission policy may require a
4 student to demonstrate artistic ability if the school specializes
5 in performing arts.

6 Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to
7 a public charter district campus, the governing body of the
8 district shall:

9 (1) require the applicant to complete and submit an
10 application not later than a reasonable deadline the district
11 establishes; and

12 (2) on receipt of more acceptable applications for
13 admission under this section than available positions in the
14 school:

15 (A) fill the available positions by lottery; or

16 (B) subject to Subsection (b), fill the available
17 positions in the order in which applications received before the
18 application deadline were received.

19 (b) A public charter district may fill applications for
20 admission under Subsection (a)(2)(B) only if the district published
21 a notice of the opportunity to apply for admission to the district.
22 A notice published under this subsection must:

23 (1) state the application deadline;

24 (2) be published in a newspaper of general circulation
25 in the community in which the district campus is located not later
26 than the seventh day before the application deadline; and

27 (3) be made available on the public charter district's

1 Internet website, if available.

2 (c) A public charter district may exempt an applicant from
3 the requirements of Subsection (a)(2) if the applicant is:

4 (1) the child or grandchild of a member of the
5 governing body of the charter holder at the time the district's
6 charter was first granted;

7 (2) the child of an employee of the district or the
8 charter holder; or

9 (3) a sibling of a student who is enrolled in the
10 district.

11 (d) A public charter district that specializes in one or
12 more performing arts may require an applicant to audition for
13 admission to the school.

14 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided
15 by Subsection (b) or as otherwise determined impracticable by the
16 commissioner, during a public charter district's first year of
17 operation, the district must have a student enrollment of at least
18 100 and not more than 500 at any time during the school year.

19 (b) A public charter district may have a student enrollment
20 of less than 100 if approved by the commissioner.

21 (c) Not later than a public charter district's third year of
22 operation, at least 25 percent of the district's students must be
23 enrolled in one or more grade levels for which assessment
24 instruments are administered under Section 39.023(a).

25 (d) The commissioner may grant a waiver from the
26 requirements of Subsection (c) for a public charter district that
27 opens a campus serving prekindergarten or kindergarten students and

1 agrees to:

2 (1) add at least one higher grade level class each
3 school year after opening the campus; and

4 (2) until the campus complies with Subsection (c),
5 adopt accountability measures to assess the performance of the
6 students not assessed under Section 39.023(a).

7 (e) The commissioner may grant a waiver from the
8 requirements of Subsection (c) for a public charter district that
9 was operating an open-enrollment charter school campus on January
10 1, 2005, serving prekindergarten, kindergarten, and first, second,
11 and third grade students if the public charter district:

12 (1) adopts one or more nationally norm-referenced
13 assessment instruments approved by the commissioner;

14 (2) administers the assessment instruments to its
15 second grade students at intervals and in the manner specified by
16 commissioner rule; and

17 (3) meets the applicable standards for student
18 performance on the assessment instruments, as determined by
19 commissioner rule.

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

22 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public
23 charter district may not charge tuition to an eligible student who
24 applies for admission to the district under this chapter.

25 (b) The governing body of a public charter district may
26 require a student to pay any fee that the board of trustees of a
27 school district may charge under Section 11.158(a). The governing

1 body may not require a student to pay a fee that the board of
2 trustees of a school district may not charge under Section
3 11.158(b).

4 Sec. 11A.255. TRANSPORTATION. A public charter district
5 shall provide transportation to each student attending the school
6 to the same extent a school district is required by law to provide
7 transportation to district students.

8 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY
9 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The
10 governing body of a public charter district shall adopt a code of
11 conduct for the district or for each campus in the district.

12 (b) The code of conduct must include:

13 (1) standards for student behavior, including the
14 types of prohibited behaviors and the possible consequences of
15 misbehavior; and

16 (2) the district's due process procedures regarding
17 expulsion of a student.

18 (c) A final decision of the governing body of a public
19 charter district regarding action taken under the code of conduct
20 may not be appealed.

21 (d) A public charter district may not expel a student for a
22 reason that is not authorized by Section 37.007 or specified in the
23 district's code of conduct as conduct that may result in expulsion.

24 (e) Section 37.002 does not apply to a public charter
25 district except to the extent specified by the governing body of the
26 public charter district in the district's code of conduct.

27 [Sections 11A.257-11A.300 reserved for expansion]

SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. (a) Except as otherwise required by this section or chapter, a person employed as a teacher by a public charter district must hold a high school diploma.

(b) To the extent required by federal law, including 20 U.S.C. Section 7801(11), a person employed as a teacher by a public charter district must hold a baccalaureate degree.

Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE QUALIFICATIONS. (a) Each public charter district shall provide to the parent or guardian of each student enrolled at a campus in the district written notice of the qualifications of each professional employee, including each teacher, employed at the campus.

(b) The notice must include:

(1) any professional or educational degree held by the employee;

(2) a statement of any certification under Subchapter B, Chapter 21, held by the employee; and

(3) any relevant experience of the employee.

Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The governing body of a public charter district shall obtain a complete set of fingerprints from each person described by Section 21.0032(a).

Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF CERTAIN APPLICANTS. A public charter district must comply with Section 21.0032 before employing or otherwise securing the services of a person as a teacher, teacher intern or trainee, librarian,

1 educational aide, administrator, or counselor, regardless of
2 whether the applicant is certified under Subchapter B, Chapter 21.

3 Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF
4 TEXAS. (a) An employee of a public charter district who qualifies
5 for membership in the Teacher Retirement System of Texas shall be
6 covered under the system to the same extent a qualified employee of
7 a school district is covered.

8 (b) For each employee of a public charter district covered
9 under the system, the public charter district is responsible for
10 making any contribution that otherwise would be the legal
11 responsibility of a school district, and the state is responsible
12 for making contributions to the same extent it would be legally
13 responsible if the employee were a school district employee.

14 Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.
15 (a) This section applies to a charter holder that on January 1,
16 2005, operated an open-enrollment charter school under former
17 Subchapter D, Chapter 12.

18 (b) Using state funds received by the charter holder for
19 that purpose under Section 11A.2011, a charter holder that
20 participated in the program under Chapter 1579, Insurance Code, for
21 the 2004-2005 school year each school year shall provide classroom
22 teachers, full-time librarians, full-time counselors certified
23 under Subchapter B, Chapter 21, and full-time school nurses
24 appropriately licensed under Chapter 301, Occupations Code,
25 employed by the charter holder compensation in the form of annual
26 salaries, incentives, or other compensation determined appropriate
27 by the charter holder that results in an average compensation

1 increase for the employees of \$2,500.

2 (c) Using state funds received by the charter holder for
3 that purpose under Section 11A.2011, a charter holder that did not
4 participate in the program under Chapter 1579, Insurance Code, for
5 the 2004-2005 school year each school year shall provide classroom
6 teachers, full-time librarians, full-time counselors certified
7 under Subchapter B, Chapter 21, and full-time school nurses
8 appropriately licensed under Chapter 301, Occupations Code,
9 employed by the charter holder compensation in the form of annual
10 salaries, incentives, or other compensation determined appropriate
11 by the charter holder that results in an average compensation
12 increase for the employees of \$1,500.

13 (d) A payment under this section is in addition to wages the
14 charter holder would otherwise pay the employee during the school
15 year.

16 [Sections 11A.307-11A.350 reserved for expansion]

17 SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

18 Sec. 11A.351. AUDIT. (a) To the extent consistent with
19 this section, the commissioner may audit the records of:

20 (1) a public charter district or campus;

21 (2) a charter holder; and

22 (3) a management company.

23 (b) An audit under Subsection (a) must be limited to matters
24 directly related to the management or operation of a public charter
25 district, including any financial, student, and administrative
26 records.

27 (c) Unless the commissioner has specific cause to conduct an

additional audit, the commissioner may not conduct more than one on-site audit of a public charter district under this section during any fiscal year, including any audit of financial, student, and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with a public charter district is not considered an audit of the district.

[Section 11A.352 reserved for expansion]

Sec. 11A.353. SANCTIONS. (a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.131(a), to the extent the commissioner determines necessary, if a public charter district, as determined by a report issued under Section 39.076(b):

(1) commits a material violation of the district's charter;

(2) fails to satisfy generally accepted accounting standards of fiscal management; or

(3) fails to comply with this chapter or another applicable rule or law.

(b) The commissioner may temporarily withhold funding, suspend the authority of a public charter district to operate, or take any other reasonable action the commissioner determines necessary to protect the health, safety, or welfare of students enrolled at a district campus based on evidence that conditions at the district campus present a danger to the health, safety, or welfare of the students.

(c) After the commissioner acts under Subsection (b), the public charter district may not receive funding and may not resume

1 operating until a determination is made that:

2 (1) despite initial evidence, the conditions at the
3 district campus do not present a danger of material harm to the
4 health, safety, or welfare of students; or

5 (2) the conditions at the district campus that
6 presented a danger of material harm to the health, safety, or
7 welfare of students have been corrected.

8 (d) Not later than the third business day after the date the
9 commissioner acts under Subsection (b), the commissioner shall
10 provide the charter holder an opportunity for a hearing. This
11 subsection does not apply to an action taken by the commissioner
12 under Chapter 39.

13 (e) Immediately after a hearing under Subsection (d), the
14 commissioner must cease the action under Subsection (b) or initiate
15 action under Section 11A.108.

16 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN
17 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the
18 Foundation School Program, the commissioner shall reduce the total
19 amount of state funds allocated to each district from any source in
20 the same manner described for a reduction in allotments under
21 Section 42.313 and adopt and implement a program for supervising
22 the administration of assessment instruments under Section 39.023
23 during the 2005-2006 school year at an open-enrollment charter
24 school, other than a school operated by an entity described by
25 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent
26 of all students enrolled at the school and administered an
27 assessment instrument under Section 39.023(a), (c), or (l)

1 performed satisfactorily on:

2 (1) the assessment instrument in mathematics, as
3 determined by the school's assessment instrument results for the
4 2004-2005 school year; or

5 (2) the assessment instrument in reading or English
6 language arts, as applicable, as determined by the school's
7 assessment instrument results for the 2004-2005 school year.

8 (b) The program adopted under Subsection (a) must be
9 designed to:

10 (1) ensure that the location at which an assessment
11 instrument is administered is secure and under the supervision of
12 persons who do not have any interest in the results of the
13 assessment instrument; and

14 (2) provide direct supervision of:

15 (A) the transportation of the assessment
16 instrument materials to and from the location at which the
17 instrument is administered; and

18 (B) the administration of the assessment
19 instrument to students.

20 (c) The commissioner may adopt rules necessary to
21 administer this section and may take any action that the
22 commissioner determines necessary to ensure the integrity of the
23 results of an assessment instrument administered at an
24 open-enrollment charter school described by Subsection (a).

25 (d) After deducting the amount withheld under Subsection
26 (a) from the total amount appropriated for the Foundation School
27 Program, the commissioner shall reduce the total amount of state

1 funds allocated to each district from any source in the same manner
2 described for a reduction in allotments under Section 42.313.

3 (e) An open-enrollment charter school's failure to fully
4 cooperate with the commissioner under this section is sufficient
5 grounds for revocation of the district's charter, as determined by
6 the commissioner.

7 (f) This section expires September 1, 2006.

8 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The
9 commissioner shall periodically consult with representatives of
10 charter holders regarding the duties and mission of the agency
11 relating to the operation of public charter districts. The
12 commissioner shall determine the frequency of the consultations.

13 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing
14 in this chapter may be construed to limit the commissioner's
15 authority under Chapter 39.

16 Sec. 11A.356. RULES. The commissioner may adopt rules for
17 the administration of this chapter.

18 [Sections 11A.357-11A.400 reserved for expansion]

19 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

20 Sec. 11A.401. AUTHORIZATION. (a) In this section,
21 "eligible entity" means an organization that is exempt from
22 taxation under Section 501(a), Internal Revenue Code of 1986, as an
23 organization described by Section 501(c)(3) of that code.

24 (b) In accordance with this subchapter, the commissioner
25 may authorize not more than three charter holders to grant a charter
26 to an eligible entity to operate a blue ribbon charter campus if:

27 (1) the charter holder proposes to grant the blue

1 ribbon charter to replicate a distinctive education program;

2 (2) the charter holder has demonstrated the ability to
3 replicate the education program;

4 (3) the education program has been implemented by the
5 charter holder for at least seven school years; and

6 (4) the charter school in which the charter holder has
7 implemented the program has been rated recognized or exemplary
8 under Section 39.072 for at least five school years.

9 (b-1) An eligible entity that assumed operation of an
10 existing charter school program during the seven years preceding
11 the proposed authorization under Subsection (b) may be authorized
12 to grant a blue ribbon charter under Subsection (b) if:

13 (1) the performance level of the program at a campus
14 before and after the entity assumed operation of the program meets
15 the qualifications described by Subsection (b); and

16 (2) the entity has met the qualifications described by
17 Subsection (b) since assuming operation of the program.

18 (c) A charter holder may grant a blue ribbon charter only to
19 an applicant that meets any financial, governing, and operational
20 standards adopted by the commissioner under this subchapter.

21 (d) A charter holder may grant not more than two blue ribbon
22 charters under this subchapter.

23 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue
24 ribbon charter campus is considered a public charter district
25 campus for purposes of state and federal law.

26 (b) A blue ribbon charter granted under this subchapter is
27 not considered for purposes of the limit on the number of public

1 charter districts imposed by Section 11A.002.

2 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE
3 RIBBON CHARTER CAMPUS. (a) The governing body of the public
4 charter district authorizing a blue ribbon charter is responsible
5 for the management and operation of the campus operated under a
6 blue ribbon charter. A blue ribbon charter campus is subject to the
7 rules and policies of the governing body of the charter holder that
8 granted the blue ribbon charter.

9 (b) For purposes of academic and financial accountability
10 and all other purposes under this chapter and Chapter 39, a blue
11 ribbon charter campus is considered a campus of the public charter
12 district operated by the charter holder that granted the blue
13 ribbon charter.

14 (c) A charter holder is entitled to receive funding for a
15 blue ribbon charter campus as if the blue ribbon charter campus were
16 a campus of the public charter district operated by the charter
17 holder.

18 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The
19 commissioner by rule shall adopt an application form and procedures
20 for a charter holder to apply for authorization to grant a blue
21 ribbon charter to an eligible entity under this subchapter.

22 (b) The application must specify:

23 (1) the criteria that will be used to grant blue ribbon
24 charters;

25 (2) procedures for governance and management of
26 campuses operating under a blue ribbon charter; and

27 (3) the performance standard by which continuation of

1 a blue ribbon charter will be determined.

2 (c) A determination by the commissioner regarding an
3 application under this section is final and may not be appealed.

4 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The
5 commissioner may revoke a charter holder's authorization to grant a
6 blue ribbon charter or operate a campus granted a blue ribbon
7 charter if the commissioner determines that the purposes of this
8 subchapter are not being satisfied.

9 (b) On revocation of a charter holder's authority under this
10 section, the charter holder shall:

11 (1) operate a campus granted a blue ribbon charter as a
12 standard campus of the charter holder under this chapter; or

13 (2) close the campus effective at the end of the school
14 year in which the commissioner revokes the authorization.

15 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter
16 granted under this subchapter must:

17 (1) describe the educational program to be offered,
18 which may be a general or specialized education program;

19 (2) provide that continuation of the charter is
20 contingent on satisfactory student performance under Subchapter B,
21 Chapter 39, and on compliance with other applicable accountability
22 provisions under Chapter 39;

23 (3) specify any basis, in addition to a basis
24 specified by this subchapter, on which the charter may be placed on
25 probation or revoked;

26 (4) prohibit discrimination in admission on the basis
27 of national origin, ethnicity, race, religion, or disability;

1 (5) describe the governing structure of the blue
2 ribbon charter campus;

3 (6) specify any procedure or requirement, in addition
4 to those under Chapter 38, that the campus will follow to ensure the
5 health and safety of students and employees; and

6 (7) describe the manner in which the campus and
7 charter holder granting the blue ribbon charter will comply with
8 financial and operational requirements, including requirements
9 related to the Public Education Information Management System
10 (PEIMS) under Section 11A.158 and the audit requirements under
11 Section 11A.210.

12 (b) A charter holder may reserve the right to approve
13 contracts, governance alterations, personnel decisions, and other
14 matters affecting the operation of the blue ribbon charter campus.

15 (c) A blue ribbon charter must specify the basis and
16 procedure to be used by the charter holder for placing the blue
17 ribbon charter campus on probation or revoking the charter, which
18 must include an opportunity for an informal review of the blue
19 ribbon charter campus and governing body of the campus by the
20 charter holder. A charter holder's decision to place on probation
21 or revoke a blue ribbon charter is final and may not be appealed.

22 Sec. 11A.407. FORM. A blue ribbon charter issued under this
23 subchapter must be in the form and substance of a written contract
24 signed by the president or equivalent officer of the governing body
25 of the charter holder granting the blue ribbon charter and the
26 president or equivalent officer of the governing body of the
27 eligible entity to which the blue ribbon charter is granted.

1 (b) The receiver shall execute a bond in an amount set by the
2 commissioner to ensure the proper performance of the receiver's
3 duties.

4 (c) Until discharged by the commissioner, the receiver
5 shall perform the duties that the commissioner directs to preserve
6 the assets and direct the dissolution of the open-enrollment
7 charter school under this subchapter.

8 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After
9 appointment and execution of bond under Section 11A.453, the
10 receiver shall take possession of:

11 (1) assets and records in the possession of the
12 open-enrollment charter school specified by the commissioner; and

13 (2) any Foundation School Program funds and any other
14 public funds received by the school's charter holder.

15 (b) On request of the receiver, the attorney general shall
16 file a suit for attachment, garnishment, or involuntary bankruptcy
17 and take any other action necessary for the dissolution of an
18 open-enrollment charter school under this subchapter.

19 (c) If the charter holder of an open-enrollment charter
20 school or an officer or employee of such a school refuses to
21 transfer school assets or records to a receiver under this
22 subsection, the receiver may ask the attorney general to petition a
23 court for recovery of the assets or records. If the court grants
24 the petition, the court shall award attorney's fees and court costs
25 to the state.

26 (d) A record described by this section is a public school
27 record for purposes of Section 37.10(c)(2), Penal Code.

1 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall
2 wind up the affairs of an open-enrollment charter school and,
3 except as provided by Subsection (b), reduce its assets to cash for
4 the purpose of discharging all existing liabilities and obligations
5 of the school. In winding up the affairs of a school, the receiver
6 shall cooperate in any bankruptcy proceeding affecting the school.
7 The receiver shall distribute any remaining balance to the
8 commissioner.

9 (b) A receiver shall offer free of charge any equipment and
10 supplies of an open-enrollment charter school dissolved under this
11 subchapter to school districts, giving priority to districts based
12 on the percentage of the charter school's students that reside in
13 the districts.

14 (c) The commissioner shall use money in the foundation
15 school fund and money received under this section to pay the costs
16 described by Section 11A.458 and discharge liabilities and
17 obligations of open-enrollment charter schools under this
18 subchapter. The commissioner shall deposit any remaining balance
19 in the foundation school fund.

20 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of
21 an open-enrollment charter school subject to this subchapter shall
22 be transferred in the manner specified by the commissioner to a
23 custodian designated by the commissioner. The commissioner may
24 designate any appropriate entity to serve as custodian of records,
25 including the agency, a regional education service center, or a
26 school district. In designating a custodian, the commissioner
27 shall ensure that the transferred records, including student and

personnel records, are transferred to a custodian capable of:

(1) maintaining the records;

(2) making the records readily accessible to students, parents, former school employees, and other persons entitled to access; and

(3) complying with applicable state or federal law restricting access to the records.

(b) The commissioner is entitled to access to any records transferred to a custodian under this section as the commissioner determines necessary for auditing, investigative, or monitoring purposes.

Sec. 11A.457. LIABILITY. A receiver is not personally liable for actions taken by the receiver under this subchapter.

Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may authorize reimbursement of reasonable costs related to the receivership, including:

(1) payment of fees to the receiver for the receiver's services; and

(2) payment of fees to attorneys, accountants, or any other person that provides goods or services necessary to the operation of the receivership.

Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The competitive bidding requirements of this code and the contracting requirements of Chapter 2155, Government Code, do not apply to the appointment of a receiver, attorney, accountant, or other person appointed under this subchapter.

SECTION 4.03. Subchapter D, Chapter 12, Education Code, is

1 amended by adding Sections 12.1058 and 12.135 to read as follows:

2 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT
3 PROVISIONS. (a) An open-enrollment charter school is subject to
4 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,
5 11A.304, 11A.352, 21.0032, and 21.058.

6 (b) The commissioner may bring an action for injunctive or
7 other relief as provided by Section 11A.203(d) to enforce Section
8 12.107.

9 (c) For purposes of this section, a reference in a law
10 described by this section to a public charter district means an
11 open-enrollment charter school.

12 Sec. 12.135. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

13 (a) This section applies to a charter holder that on January 1,
14 2005, operated an open-enrollment charter school.

15 (b) Using state funds received by the charter holder for
16 that purpose under Subsection (d), a charter holder that
17 participated in the program under Chapter 1579, Insurance Code, for
18 the 2004-2005 school year each school year shall provide classroom
19 teachers, full-time librarians, full-time counselors certified
20 under Subchapter B, Chapter 21, and full-time school nurses
21 appropriately licensed under Chapter 301, Occupations Code,
22 employed by the charter holder compensation in the form of annual
23 salaries, incentives, or other compensation determined appropriate
24 by the charter holder that results in an average compensation
25 increase for the employees of \$2,000.

26 (c) Using state funds received by the charter holder for
27 that purpose under Subsection (e), a charter holder that did not

1 participate in the program under Chapter 1579, Insurance Code, for
2 the 2004-2005 school year each school year shall provide classroom
3 teachers, full-time librarians, full-time counselors certified
4 under Subchapter B, Chapter 21, and full-time school nurses
5 appropriately licensed under Chapter 301, Occupations Code,
6 employed by the charter holder compensation in the form of annual
7 salaries, incentives, or other compensation determined appropriate
8 by the charter holder that results in an average compensation
9 increase for the employees of \$1,000.

10 (d) In addition to any amounts to which a charter holder is
11 entitled under this chapter, a charter holder that participated in
12 the program under Chapter 1579, Insurance Code, for the 2004-2005
13 school year is entitled to state aid in an amount, as determined by
14 the commissioner, equal to the product of \$2,000 multiplied by the
15 number of classroom teachers, full-time librarians, full-time
16 counselors certified under Subchapter B, Chapter 21, and full-time
17 school nurses appropriately licensed under Chapter 301,
18 Occupations Code, who are employed by the charter holder at an
19 open-enrollment charter school.

20 (e) In addition to any amounts to which a charter holder is
21 entitled under this chapter, a charter holder that did not
22 participate in the program under Chapter 1579, Insurance Code, for
23 the 2004-2005 school year is entitled to state aid in an amount, as
24 determined by the commissioner, equal to the product of \$1,000
25 multiplied by the number of classroom teachers, full-time
26 librarians, full-time counselors certified under Subchapter B,
27 Chapter 21, and full-time school nurses appropriately licensed

1 under Chapter 301, Occupations Code, who are employed by the
2 charter holder at an open-enrollment charter school.

3 (f) A payment under this section is in addition to wages the
4 charter holder would otherwise pay the employee during the school
5 year.

6 SECTION 4.04. Sections 12.152 and 12.156, Education Code,
7 are amended to read as follows:

8 Sec. 12.152. AUTHORIZATION. ~~[(a)]~~ In accordance with this
9 subchapter and Chapter 11A ~~[Subchapter D]~~, the State Board of
10 Education may grant a charter on the application of a public senior
11 college or university for a public ~~[an open-enrollment]~~ charter
12 district ~~[school]~~ to operate on the campus of the public senior
13 college or university or in the same county in which the campus of
14 the public senior college or university is located.

15 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)
16 Except as otherwise provided by this subchapter, Chapter 11A
17 ~~[Subchapter D]~~ applies to a college or university charter school as
18 though the college or university charter school were granted a
19 charter under that chapter ~~[subchapter]~~.

20 (b) A charter granted under this subchapter is not
21 considered for purposes of the limit on the number of public
22 ~~[open-enrollment]~~ charter districts ~~[schools]~~ imposed by Section
23 11A.002 ~~[12.101(b)]~~.

24 (c) A college or university charter school is not subject to
25 a prohibition, restriction, or requirement relating to:

26 (1) open meetings and public information under Section
27 11A.053;

- (2) maintenance of records under Section 11A.054;
- (3) purchasing and contracting under Section 11A.055;
- (4) conflict of interest under Section 11A.056;
- (5) nepotism under Section 11A.057;
- (6) composition of a governing body under Section 11A.152;
- (7) restrictions on serving as a member of a governing body or as an officer or employee under Section 11A.153;
- (8) liability of members of a governing body under Section 11A.154;
- (9) training for members of a governing body under Section 11A.155;
- (10) bylaws and annual reports under Section 11A.156;
- (11) quarterly financial reports under Section 11A.157; and
- (12) depository bond and security requirements under Section 11A.204.

(d) A college or university charter school and the governing body of the school are subject to regulations and procedures that govern a public senior college or university relating to open meetings, records retention, purchasing, contracting, conflicts of interest, and nepotism.

SECTION 4.05. Section 5.001, Education Code, is amended by adding Subdivision (5-a) and amending Subdivision (6) to read as follows:

(5-a) "Public charter campus" means a campus operated by a public charter district.

1 (6) "Public charter district [~~Open-enrollment charter~~
2 ~~school~~]" means a public school authorized by [~~that has been~~
3 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

4 SECTION 4.06. Section 7.003, Education Code, is amended to
5 read as follows:

6 Sec. 7.003. LIMITATION ON AUTHORITY. An educational
7 function not specifically delegated to the agency or the board
8 under this code is reserved to and shall be performed by school
9 districts or [~~open-enrollment~~] charter schools.

10 SECTION 4.065. Section 7.027(b), Education Code, as added
11 by Chapter 201, Acts of the 78th Legislature, Regular Session,
12 2003, is amended to read as follows:

13 (b) The board of trustees of a school district or the
14 governing body of a public charter district [~~an open-enrollment~~
15 ~~charter school~~] has primary responsibility for ensuring that the
16 district [~~or school~~] complies with all applicable requirements of
17 state educational programs.

18 SECTION 4.07. Section 7.055(b)(17), Education Code, is
19 amended to read as follows:

20 (17) The commissioner shall distribute funds to public
21 charter districts [~~open-enrollment charter schools~~] as required
22 under Chapter 11A [~~Subchapter D, Chapter 12~~].

23 SECTION 4.08. Section 7.102(c)(9), Education Code, is
24 amended to read as follows:

25 (9) The board may grant a charter for a public charter
26 district [~~an open-enrollment charter or approve a charter revision~~]
27 as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION 4.09. Section 12.002, Education Code, is amended to read as follows:

Sec. 12.002. CLASSES OF CHARTER. The classes of charter under this chapter are:

(1) a home-rule school district charter as provided by Subchapter B;

(2) a campus or campus program charter as provided by Subchapter C; or

(3) a college or university ~~[an open-enrollment]~~ charter as provided by Subchapter E ~~[D]~~.

SECTION 4.10. Effective August 1, 2006, Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.0032 to read as follows:

Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or serve as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor for a public charter district unless the person has been cleared by the agency following a national criminal history record review and investigation under this section.

(b) Before or immediately after employing or securing the services of a person described by Subsection (a), a public charter district shall send to the agency the person's fingerprints and social security number. The person may be employed or serve pending action by the agency.

(c) The agency shall review and investigate the person's national criminal history record information, educator

certification discipline history in any state, and other information in the same manner as a review or investigation conducted regarding an initial application for educator certification. If the agency finds the person would not be eligible for educator certification, the agency shall notify the public charter district in writing that the person may not be employed or serve in a capacity described by Subsection (a).

(d) On receipt of written notice under Subsection (c), a public charter district may not employ or permit the person to serve unless the person timely submits a written appeal under this section. The agency shall conduct an appeal under this subsection in the same manner as an appeal regarding the denial of an initial application for educator certification.

SECTION 4.11. Sections 21.058(b) and (c), Education Code, are amended to read as follows:

(b) Notwithstanding Section 21.041(b)(7), not later than the fifth day after the date the board receives notice under Article 42.018, Code of Criminal Procedure, of the conviction of a person described by Section 21.0032 or who holds a certificate under this subchapter, the board shall:

(1) revoke the certificate or clearance held by the person; and

(2) provide to the person and to any school district or public charter district ~~[open-enrollment charter school]~~ employing the person at the time of revocation written notice of:

(A) the revocation; and

(B) the basis for the revocation.

1 (c) A school district or public charter district
2 ~~[open-enrollment charter school]~~ that receives notice under
3 Subsection (b) of the revocation of a certificate issued under this
4 subchapter shall:

5 (1) immediately remove the person whose certificate
6 has been revoked from campus or from an administrative office, as
7 applicable, to prevent the person from having any contact with a
8 student; and

9 (2) as soon as practicable, terminate the employment
10 of the person in accordance with the person's contract and with this
11 subchapter.

12 SECTION 4.12. Sections 22.083(b) and (c), Education Code,
13 are amended to read as follows:

14 (b) A public charter district may ~~[An open-enrollment~~
15 ~~charter school shall]~~ obtain from the Department of Public Safety
16 ~~[any law enforcement or criminal justice agency]~~ all criminal
17 history record information that relates to:

18 (1) a person whom the district ~~[school]~~ intends to
19 employ in any capacity; or

20 (2) a person who has indicated, in writing, an
21 intention to serve as a volunteer with the district ~~[school]~~.

22 (c) A school district, public charter district
23 ~~[open-enrollment charter school]~~, private school, regional
24 education service center, or shared services arrangement may obtain
25 from a federal or state ~~[any]~~ law enforcement or criminal justice
26 agency all criminal history record information that relates to:

27 (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

1 transportation services shall submit to the district, school,
 2 service center, or shared services arrangement the name and other
 3 identification data required to obtain criminal history record
 4 information of each person described by Subsection (a). If the
 5 district, school, service center, or shared services arrangement
 6 obtains information that a person described by Subsection (a) has
 7 been convicted of a felony or a misdemeanor involving moral
 8 turpitude, the district, school, service center, or shared services
 9 arrangement shall inform the chief personnel officer of the person
 10 with whom the district, school, service center, or shared services
 11 arrangement has contracted, and the person may not employ that
 12 person to drive a bus on which students are transported without the
 13 permission of the board of trustees of the district or service
 14 center, the governing body of the public charter district
 15 ~~[open-enrollment charter school]~~, or the chief executive officer of
 16 the private school or shared services arrangement.

17 (c) A commercial transportation company that contracts with
 18 a school district, public charter district ~~[open-enrollment~~
 19 ~~charter school]~~, private school, regional education service
 20 center, or shared services arrangement to provide transportation
 21 services may obtain from a federal or state ~~[any]~~ law enforcement or
 22 criminal justice agency all criminal history record information
 23 that relates to:

24 (1) a person employed by the commercial transportation
 25 company as a bus driver, bus monitor, or bus aide; or

26 (2) a person the commercial transportation company
 27 intends to employ as a bus driver, bus monitor, or bus aide.

(d) If the commercial transportation company obtains information that a person employed or to be employed by the company has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the public charter district [~~open-enrollment charter school~~], or the chief executive officer of the private school or shared services arrangement. Subsections (a) and (b) do not apply if information is obtained as provided by Subsection (c).

SECTION 4.14. Section 25.087, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) [~~purpose of~~] observing religious holy days;
(B) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship or to take part in a naturalization oath ceremony;

(C) attending an appointment with the student's probation officer;

(D) attending an adoption proceeding involving the student; or

1 (E) attending a required court appearance; or

2 (2) a [~~, including traveling for that purpose. A~~
3 ~~school district shall excuse a student for~~] temporary absence
4 resulting from health care professionals if that student commences
5 classes or returns to school on the same day of the appointment.

6 (c) A student whose absence is excused under Subsection (b)
7 [~~this subsection~~] may not be penalized for that absence and shall be
8 counted as if the student attended school for purposes of
9 calculating the average daily attendance of students in the school
10 district. A student whose absence is excused under Subsection (b)
11 [~~this subsection~~] shall be allowed a reasonable time to make up
12 school work missed on those days. If the student satisfactorily
13 completes the school work, the day of absence shall be counted as a
14 day of compulsory attendance.

15 SECTION 4.15. Section 25.088, Education Code, is amended to
16 read as follows:

17 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school
18 attendance officer may be selected by:

- 19 (1) the county school trustees of any county;
20 (2) the board of trustees of any school district or the
21 boards of trustees of two or more school districts jointly; or
22 (3) the governing body of a public charter district
23 [~~an open-enrollment charter school~~].

24 SECTION 4.16. Section 25.089(a), Education Code, is amended
25 to read as follows:

26 (a) An attendance officer may be compensated from the funds
27 of the county, independent school district, or public charter

1 district [~~open-enrollment charter school~~], as applicable.

2 SECTION 4.17. Section 25.090(b), Education Code, is amended
3 to read as follows:

4 (b) If the governing body of a public charter district [~~an~~
5 ~~open-enrollment charter school~~] has not selected an attendance
6 officer for a district campus, the duties of attendance officer
7 shall be performed by the peace officers of the county in which the
8 campus [~~school~~] is located.

9 SECTION 4.18. Sections 25.093(d) and (e), Education Code,
10 are amended to read as follows:

11 (d) A fine collected under this section shall be deposited
12 as follows:

13 (1) one-half shall be deposited to the credit of the
14 operating fund of, as applicable:

15 (A) the school district in which the child
16 attends school;

17 (B) the public charter district [~~open-enrollment~~
18 ~~charter school~~] the child attends; or

19 (C) the juvenile justice alternative education
20 program that the child has been ordered to attend; and

21 (2) one-half shall be deposited to the credit of:

22 (A) the general fund of the county, if the
23 complaint is filed in the justice court or the constitutional
24 county court; or

25 (B) the general fund of the municipality, if the
26 complaint is filed in municipal court.

27 (e) At the trial of any person charged with violating this

1 section, the attendance records of the child may be presented in
2 court by any authorized employee of the school district or public
3 charter district [~~open-enrollment charter school~~], as applicable.

4 SECTION 4.19. Sections 25.095(a) and (b), Education Code,
5 are amended to read as follows:

6 (a) A school district or public charter district
7 [~~open-enrollment charter school~~] shall notify a student's parent in
8 writing at the beginning of the school year that if the student is
9 absent from school on 10 or more days or parts of days within a
10 six-month period in the same school year or on three or more days or
11 parts of days within a four-week period:

12 (1) the student's parent is subject to prosecution
13 under Section 25.093; and

14 (2) the student is subject to prosecution under
15 Section 25.094 or to referral to a juvenile court in a county with a
16 population of less than 100,000 for conduct that violates that
17 section.

18 (b) A school district or public charter district shall
19 notify a student's parent if the student has been absent from
20 school, without excuse under Section 25.087, on three days or parts
21 of days within a four-week period. The notice must:

22 (1) inform the parent that:

23 (A) it is the parent's duty to monitor the
24 student's school attendance and require the student to attend
25 school; and

26 (B) the parent is subject to prosecution under
27 Section 25.093; and

1 (2) request a conference between school officials and
2 the parent to discuss the absences.

3 SECTION 4.20. Section 25.0951(a), Education Code, as
4 amended by H.B. No. 1575, Acts of the 79th Legislature, Regular
5 Session, 2005, is amended to read as follows:

6 (a) If a student fails to attend school without excuse on 10
7 or more days or parts of days within a six-month period in the same
8 school year, a school district or public charter district shall
9 within seven school days of the student's last absence:

10 (1) file a complaint against the student or the
11 student's parent or both in a county, justice, or municipal court
12 for an offense under Section 25.093 or 25.094, as appropriate, or
13 refer the student to a juvenile court in a county with a population
14 of less than 100,000 for conduct that violates Section 25.094; or

15 (2) refer the student to a juvenile court for conduct
16 indicating a need for supervision under Section 51.03(b)(2), Family
17 Code.

18 SECTION 4.21. Section 25.0951(b), Education Code, is
19 amended to read as follows:

20 (b) If a student fails to attend school without excuse on
21 three or more days or parts of days within a four-week period but
22 does not fail to attend school for the time described by Subsection
23 (a), the school district or public charter district may:

24 (1) file a complaint against the student or the
25 student's parent or both in a county, justice, or municipal court
26 for an offense under Section 25.093 or 25.094, as appropriate, or
27 refer the student to a juvenile court in a county with a population

1 of less than 100,000 for conduct that violates Section 25.094; or

2 (2) refer the student to a juvenile court for conduct
3 indicating a need for supervision under Section 51.03(b)(2), Family
4 Code.

5 SECTION 4.22. Sections 26.0085(a), (c), (d), and (e),
6 Education Code, are amended to read as follows:

7 (a) A school district or public charter district
8 ~~[open-enrollment charter school]~~ that seeks to withhold
9 information from a parent who has requested public information
10 relating to the parent's child under Chapter 552, Government Code,
11 and that files suit as described by Section 552.324, Government
12 Code, to challenge a decision by the attorney general issued under
13 Subchapter G, Chapter 552, Government Code, must bring the suit not
14 later than the 30th calendar day after the date the school district
15 or public charter district ~~[open-enrollment charter school]~~
16 receives the decision of the attorney general being challenged.

17 (c) Notwithstanding any other law, a school district or
18 public charter district ~~[open-enrollment charter school]~~ may not
19 appeal the decision of a court in a suit filed under Subsection (a).
20 This subsection does not affect the right of a parent to appeal the
21 decision.

22 (d) If the school district or public charter district
23 ~~[open-enrollment charter school]~~ does not bring suit within the
24 period established by Subsection (a), the school district or public
25 charter district ~~[open-enrollment charter school]~~ shall comply
26 with the decision of the attorney general.

27 (e) A school district or public charter district

1 ~~[open-enrollment charter school]~~ that receives a request from a
2 parent for public information relating to the parent's child shall
3 comply with Chapter 552, Government Code. If an earlier deadline
4 for bringing suit is established under Chapter 552, Government
5 Code, Subsection (a) does not apply. This section does not affect
6 the earlier deadline for purposes of Section 552.353(b)(3),
7 Government Code, ~~[552.353(b)(3)]~~ for a suit brought by an officer
8 for public information.

9 SECTION 4.23. Section 28.0211(j), Education Code, is
10 amended to read as follows:

11 (j) A school district ~~[or open-enrollment charter school]~~
12 shall provide students required to attend accelerated programs
13 under this section with transportation to those programs if the
14 programs occur outside of regular school hours.

15 SECTION 4.24. Section 29.010(f), Education Code, is amended
16 to read as follows:

17 (f) This section does not create an obligation for or impose
18 a requirement on a school district ~~[or open-enrollment charter~~
19 ~~school]~~ that is not also created or imposed under another state law
20 or a federal law.

21 SECTION 4.25. Sections 29.012(a) and (c), Education Code,
22 are amended to read as follows:

23 (a) Except as provided by Subsection (b)(2), not later than
24 the third day after the date a person 22 years of age or younger is
25 placed in a residential facility, the residential facility shall:

26 (1) if the person is three years of age or older,
27 notify the school district in which the facility is located, unless

1 the facility is a public charter district [~~an open-enrollment~~
2 ~~charter school~~]; or

3 (2) if the person is younger than three years of age,
4 notify a local early intervention program in the area in which the
5 facility is located.

6 (c) For purposes of enrollment in a school, a person who
7 resides in a residential facility is considered a resident of the
8 school district or geographical area served by the public charter
9 district campus [~~open-enrollment charter school~~] in which the
10 facility is located.

11 SECTION 4.26. Sections 29.062(c)-(e), Education Code, are
12 amended to read as follows:

13 (c) Not later than the 30th day after the date of an on-site
14 monitoring inspection, the agency shall report its findings to the
15 school district [~~or open-enrollment charter school~~] and to the
16 division of accreditation.

17 (d) The agency shall notify a school district [~~or~~
18 ~~open-enrollment charter school~~] found in noncompliance in writing,
19 not later than the 30th day after the date of the on-site
20 monitoring. The district [~~or open-enrollment charter school~~] shall
21 take immediate corrective action.

22 (e) If a school district [~~or open-enrollment charter~~
23 ~~school~~] fails to satisfy appropriate standards adopted by the
24 commissioner for purposes of Subsection (a), the agency shall apply
25 sanctions, which may include the removal of accreditation, loss of
26 foundation school funds, or both.

27 SECTION 4.27. Sections 29.087(a)-(c), (e), (k), and (l),

1 Education Code, are amended to read as follows:

2 (a) The agency shall develop a process by which a school
3 district or public charter district [~~open-enrollment charter~~
4 ~~school~~] may apply to the commissioner for authority to operate a
5 program to prepare eligible students to take a high school
6 equivalency examination.

7 (b) Any school district or public charter district
8 [~~open-enrollment charter school~~] may apply for authorization to
9 operate a program under this section. As part of the application
10 process, the commissioner shall require a school district or public
11 charter district [~~or school~~] to provide information regarding the
12 operation of any similar program during the preceding five years.

13 (b-1) A school district or public charter district
14 [~~open-enrollment charter school~~] authorized by the commissioner on
15 or before August 31, 2003, to operate a program under this section
16 may continue to operate that program in accordance with this
17 section.

18 (c) A school district or public charter district
19 [~~open-enrollment charter school~~] may not increase enrollment of
20 students in a program authorized by this section by more than five
21 percent of the number of students enrolled in the similar program
22 operated by the school district or public charter district [~~or~~
23 ~~school~~] during the 2000-2001 school year.

24 (e) A school district or public charter district
25 [~~open-enrollment charter school~~] shall inform each student who has
26 completed a program authorized by this section of the time and place
27 at which the student may take the high school equivalency

1 examination. Notwithstanding any provision of this section, a
2 student may not take the high school equivalency examination except
3 as authorized by Section 7.111.

4 (k) The board of trustees of a school district or the
5 governing body [~~board~~] of a public charter district [~~an~~
6 ~~open-enrollment charter school~~] shall:

7 (1) hold a public hearing concerning the proposed
8 application of the school district or public charter district [~~or~~
9 ~~school~~] before applying to operate a program authorized by this
10 section; and

11 (2) subsequently hold a public hearing annually to
12 review the performance of the program.

13 (l) The commissioner may revoke a school district's or
14 public charter district's [~~open-enrollment charter school's~~]
15 authorization under this section after consideration of relevant
16 factors, including performance of students participating in the
17 school district's or public charter district's [~~or school's~~]
18 program on assessment instruments required under Chapter 39, the
19 percentage of students participating in the school district's or
20 public charter district's [~~or school's~~] program who complete the
21 program and perform successfully on the high school equivalency
22 examination, and other criteria adopted by the commissioner. A
23 decision by the commissioner under this subsection is final and may
24 not be appealed.

25 SECTION 4.28. Sections 29.155(a)-(d), (i), and (j),
26 Education Code, are amended to read as follows:

27 (a) From amounts appropriated for the purposes of this

1 section, the commissioner may make grants to school districts and
2 public charter districts [~~open-enrollment charter schools~~] to
3 implement or expand kindergarten and prekindergarten programs by:

4 (1) operating an existing half-day kindergarten or
5 prekindergarten program on a full-day basis; or

6 (2) implementing a prekindergarten program at a campus
7 that does not have a prekindergarten program.

8 (b) A school district or public charter district
9 [~~open-enrollment charter school~~] may use funds received under this
10 section to employ teachers and other personnel for a kindergarten
11 or prekindergarten program and acquire curriculum materials or
12 equipment, including computers, for use in kindergarten and
13 prekindergarten programs.

14 (c) To be eligible for a grant under this section, a school
15 district or public charter district [~~open-enrollment charter~~
16 ~~school~~] must apply to the commissioner in the manner and within the
17 time prescribed by the commissioner.

18 (d) In awarding grants under this section, the commissioner
19 shall give priority to districts and public charter districts
20 [~~open-enrollment charter schools~~] in which the level of performance
21 of students on the assessment instruments administered under
22 Section 39.023 to students in grade three is substantially below
23 the average level of performance on those assessment instruments
24 for all school districts in the state.

25 (i) In carrying out the purposes of Subsection (g), a school
26 district or public charter district [~~open-enrollment charter~~
27 ~~school~~] may use funds granted to the school district or public

1 charter district [~~or school~~] under this section [~~subsection~~] in
2 contracting with another entity, including a private entity.

3 (j) If a school district or public charter district
4 [~~open-enrollment charter school~~] returns to the commissioner funds
5 granted under this section, the commissioner may grant those funds
6 to another entity, including a private entity, for the purposes of
7 Subsection (g).

8 SECTION 4.29. Section 29.905(b), Education Code, is amended
9 to read as follows:

10 (b) The agency shall make the program available to a school
11 on the request of the board of trustees of [~~or~~] the school district
12 of which the school is a part, or if the school is a public charter
13 district [~~an open-enrollment charter school~~], on the request of the
14 governing body of the public charter district [~~school~~].

15 SECTION 4.30. Subchapter C, Chapter 32, Education Code, is
16 amended by adding Section 32.1011 to read as follows:

17 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.
18 This subchapter applies to a public charter district as if the
19 public charter district were a school district.

20 SECTION 4.31. Section 32.102, Education Code, is amended to
21 read as follows:

22 Sec. 32.102. AUTHORITY. (a) As provided by this
23 subchapter, a school district [~~or open-enrollment charter school~~]
24 may transfer to a student enrolled in the district [~~or school~~]:

25 (1) any data processing equipment donated to the
26 district [~~or school~~], including equipment donated by:

27 (A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.128, Government Code;

(2) any equipment purchased by the district [~~or school~~], to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district [~~or school~~].

(b) A school district [~~or open-enrollment charter school~~] may accept:

(1) donations of data processing equipment for transfer under this subchapter; and

(2) any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under this subchapter.

SECTION 4.32. Section 32.103, Education Code, is amended to read as follows:

Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is eligible to receive data processing equipment under this subchapter only if the student does not otherwise have home access to data processing equipment, as determined by the student's school district [~~or open-enrollment charter school~~].

(b) In transferring data processing equipment to students, a school district [~~or open-enrollment charter school~~] shall give preference to educationally disadvantaged students.

SECTION 4.33. Section 32.104, Education Code, is amended to read as follows:

Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before transferring data processing equipment to a student, a school

1 district [~~or open-enrollment charter school~~] must:

2 (1) adopt rules governing transfers under this
3 subchapter, including provisions for technical assistance to the
4 student by the district [~~or school~~];

5 (2) determine that the transfer serves a public
6 purpose and benefits the district [~~or school~~]; and

7 (3) remove from the equipment any offensive,
8 confidential, or proprietary information, as determined by the
9 district [~~or school~~].

10 SECTION 4.34. Section 32.105, Education Code, is amended to
11 read as follows:

12 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school
13 district [~~or open-enrollment charter school~~] may spend public funds
14 to:

15 (1) purchase, refurbish, or repair any data processing
16 equipment transferred to a student under this subchapter; and

17 (2) store, transport, or transfer data processing
18 equipment under this subchapter.

19 SECTION 4.35. Section 32.106, Education Code, is amended to
20 read as follows:

21 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided
22 by Subsection (b), a student who receives data processing equipment
23 from a school district [~~or open-enrollment charter school~~] under
24 this subchapter shall return the equipment to the district [~~or~~
25 ~~school~~] not later than the earliest of:

26 (1) five years after the date the student receives the
27 equipment;

(2) the date the student graduates;

(3) the date the student transfers to another school district ~~[or open-enrollment charter school]~~; or

(4) the date the student withdraws from school.

(b) Subsection (a) does not apply if, at the time the student is required to return the data processing equipment under that subsection, the district ~~[or school]~~ determines that the equipment has no marketable value.

SECTION 4.36. Section 33.007, Education Code, is amended to read as follows:

Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a) Each counselor at an elementary, middle, or junior high school, including a public charter district ~~[an open-enrollment charter school]~~ offering those grades, shall advise students and their parents or guardians regarding the importance of higher education, coursework designed to prepare students for higher education, and financial aid availability and requirements.

(b) During the first school year a student is enrolled in a high school or at the high school level in a public charter district ~~[an open-enrollment charter school]~~, and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must include information regarding:

(1) the importance of higher education;

(2) the advantages of completing the recommended or advanced high school program adopted under Section 28.025(a);

(3) the disadvantages of taking courses to prepare for

1 a high school equivalency examination relative to the benefits of
2 taking courses leading to a high school diploma;

3 (4) financial aid eligibility;

4 (5) instruction on how to apply for federal financial
5 aid;

6 (6) the center for financial aid information
7 established under Section 61.0776;

8 (7) the automatic admission of certain students to
9 general academic teaching institutions as provided by Section
10 51.803; and

11 (8) the eligibility and academic performance
12 requirements for the TEXAS Grant as provided by Subchapter M,
13 Chapter 56[~~, as added by Chapter 1590, Acts of the 76th Legislature,~~
14 ~~Regular Session, 1999~~].

15 SECTION 4.37. Section 33.901, Education Code, is amended to
16 read as follows:

17 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of
18 the students enrolled in one or more schools in a school district or
19 enrolled in a public charter district campus [~~an open-enrollment~~
20 ~~charter school~~] are eligible for free or reduced-price breakfasts
21 under the national school breakfast program provided for by the
22 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing
23 body of the district or the public charter district
24 [~~open-enrollment charter school~~] shall participate in the program
25 and make the benefits of the program available to all eligible
26 students in the schools or campus [~~school~~].

27 SECTION 4.38. Section 37.007(e), Education Code, is amended

1 to read as follows:

2 (e) In accordance with 20 U.S.C. Section 7151, a local
3 educational agency, including a school district, home-rule school
4 district, or public charter district [~~open-enrollment charter~~
5 ~~school~~], shall expel a student who brings a firearm, as defined by
6 18 U.S.C. Section 921, to school. The student must be expelled from
7 the student's regular campus for a period of at least one year,
8 except that:

9 (1) the superintendent or other chief administrative
10 officer of the school district or of the other local educational
11 agency, as defined by 20 U.S.C. Section 7801, may modify the length
12 of the expulsion in the case of an individual student;

13 (2) the district or other local educational agency
14 shall provide educational services to an expelled student in a
15 disciplinary alternative education program as provided by Section
16 37.008 if the student is younger than 10 years of age on the date of
17 expulsion; and

18 (3) the district or other local educational agency may
19 provide educational services to an expelled student who is 10 years
20 of age or older in a disciplinary alternative education program as
21 provided in Section 37.008.

22 SECTION 4.39. Section 37.008(j), Education Code, as amended
23 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
24 2005, is amended to read as follows:

25 (j) If a student placed in a disciplinary alternative
26 education program enrolls in another school district before the
27 expiration of the period of placement, the board of trustees of the

1 district requiring the placement shall provide to the district in
 2 which the student enrolls, at the same time other records of the
 3 student are provided, a copy of the placement order. The district
 4 in which the student enrolls shall inform each educator who will
 5 have responsibility for, or will be under the direction and
 6 supervision of an educator who will have responsibility for, the
 7 instruction of the student of the contents of the placement order.
 8 Each educator shall keep the information received under this
 9 subsection confidential from any person not entitled to the
 10 information under this subsection, except that the educator may
 11 share the information with the student's parent or guardian as
 12 provided for by state or federal law. The district in which the
 13 student enrolls may continue the disciplinary alternative
 14 education program placement under the terms of the order or may
 15 allow the student to attend regular classes without completing the
 16 period of placement. A school district may take any action
 17 permitted by this subsection if:

18 (1) the student was placed in a disciplinary
 19 alternative education program by a public charter district [~~an~~
 20 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and
 21 the public charter district [~~school~~] provides to the school
 22 district a copy of the placement order; or

23 (2) the student was placed in a disciplinary
 24 alternative education program by a school district in another state
 25 and:

26 (A) the out-of-state district provides to the
 27 school district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the school district in which the student is enrolling.

SECTION 4.40. Section 37.022(a)(2), Education Code, as renumbered by Section 23.001(16), H.B. No. 2018, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(2) "District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or a public charter district [~~an open-enrollment charter school~~].

SECTION 4.41. Section 44.008(a), Education Code, is amended to read as follows:

(a) The board of school trustees of each school district shall have its school district fiscal accounts audited annually at district expense by a certified or public accountant holding a permit from the Texas State Board of Public Accountancy. Except as determined impracticable by the commissioner, the accountant must have completed at least one peer-reviewed audit of a school district, governmental entity, quasi-governmental entity, or nonprofit corporation and received an unqualified opinion from the peer review. The audit must be completed following the close of each fiscal year.

SECTION 4.42. Section 46.012, Education Code, is amended to read as follows:

Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An open-enrollment charter school~~] is not entitled to an allotment

under this subchapter.

SECTION 4.43. Section 46.036, Education Code, is amended to read as follows:

Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS ~~[OPEN-ENROLLMENT CHARTER SCHOOLS]~~. A public charter district ~~[An open-enrollment charter school]~~ is not entitled to an allotment under this subchapter.

SECTION 4.44. Section 53.02(13), Education Code, is amended to read as follows:

(13) "Authorized charter school" means a public charter district ~~[an open-enrollment charter school]~~ that holds a charter granted under Chapter 11A ~~[Subchapter D, Chapter 12]~~.

SECTION 4.45. The heading to Section 53.351, Education Code, is amended to read as follows:

Sec. 53.351. BONDS FOR AUTHORIZED ~~[OPEN-ENROLLMENT]~~ CHARTER SCHOOL FACILITIES.

SECTION 4.46. Sections 53.351(a), (c), (d), (f), and (g), Education Code, are amended to read as follows:

(a) The Texas Public Finance Authority shall establish a nonprofit corporation to issue revenue bonds on behalf of authorized ~~[open-enrollment]~~ charter schools for the acquisition, construction, repair, or renovation of educational facilities of those schools.

(c) The corporation has all powers granted under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) for the purpose of aiding authorized ~~[open-enrollment]~~ charter schools in providing educational

1 facilities. The corporation may make expenditures from the fund
2 described by Subsection (e) and may solicit and accept grants for
3 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,
4 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and
5 govern the corporation and its procedures and bonds.

6 (d) The corporation shall adopt rules governing the
7 issuance of bonds on behalf of an authorized [~~open-enrollment~~]
8 charter school.

9 (f) A revenue bond issued under this section is not a debt of
10 the state or any state agency, political corporation, or political
11 subdivision of the state and is not a pledge of the faith and credit
12 of any of these entities. A revenue bond is payable solely from the
13 revenue of the authorized [~~open-enrollment~~] charter school on whose
14 behalf the bond is issued. A revenue bond issued under this section
15 must contain on its face a statement to the effect that:

16 (1) neither the state nor a state agency, political
17 corporation, or political subdivision of the state is obligated to
18 pay the principal of or interest on the bond; and

19 (2) neither the faith and credit nor the taxing power
20 of the state or any state agency, political corporation, or
21 political subdivision of the state is pledged to the payment of the
22 principal of or interest on the bond.

23 (g) An educational facility financed in whole or in part
24 under this section is exempt from taxation if the facility:

25 (1) is owned by an authorized [~~open-enrollment~~]
26 charter school;

27 (2) is held for the exclusive benefit of the school;

1 and

2 (3) is held for the exclusive use of the students,
3 faculty, and staff members of the school.

4 SECTION 4.47. Section 411.097(c), Government Code, is
5 amended to read as follows:

6 (c) A public charter district [~~An open-enrollment charter~~
7 ~~school~~] is entitled to obtain from the department criminal history
8 record information maintained by the department that relates to a
9 person who:

10 (1) is a member of the governing body of the public
11 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],
12 Education Code; or

13 (2) has agreed to serve as a member of the governing
14 body of the public charter district [~~school~~].

15 SECTION 4.48. Sections 2175.128(a) and (b), Government
16 Code, are amended to read as follows:

17 (a) If a disposition of a state agency's surplus or salvage
18 data processing equipment is not made under Section 2175.125 or
19 2175.184, the state agency shall transfer the equipment to:

20 (1) a school district or public charter district
21 [~~open-enrollment charter school~~] in this state under Subchapter C,
22 Chapter 32, Education Code;

23 (2) an assistance organization specified by the school
24 district or public charter district; or

25 (3) the Texas Department of Criminal Justice.

26 (b) If a disposition of the surplus or salvage data
27 processing equipment of a state eleemosynary institution or an

1 institution or agency of higher education is not made under other
2 law, the institution or agency shall transfer the equipment to:

3 (1) a school district or public charter district
4 [~~open-enrollment charter school~~] in this state under Subchapter C,
5 Chapter 32, Education Code;

6 (2) an assistance organization specified by the school
7 district or public charter district; or

8 (3) the Texas Department of Criminal Justice.

9 SECTION 4.49. Section 2306.630(a), Government Code, is
10 amended to read as follows:

11 (a) Subject to Subsection (b), the following entities may
12 apply to receive a grant for an eligible project under this
13 subchapter:

14 (1) a private, nonprofit, tax-exempt organization
15 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26
16 U.S.C. Section 501(c)(3));

17 (2) a public agency that operates a community-based
18 youth employment training program;

19 (3) a community housing development organization
20 certified by the state;

21 (4) an educational facility approved by the Texas
22 Youth Commission;

23 (5) a corps-based community service organization;

24 (6) a public charter district [~~an open-enrollment~~
25 ~~charter school~~] approved by the State Board of Education [~~Texas~~
26 ~~Education Agency~~]; or

27 (7) another entity authorized by board rule.

SECTION 4.50. Section 1575.002(6), Insurance Code, is amended to read as follows:

(6) "Public school" means:

(A) a school district;

(B) another educational district whose employees are members of the Teacher Retirement System of Texas;

(C) a regional education service center established under Chapter 8, Education Code; or

(D) a public charter district ~~[an open-enrollment charter school]~~ established under Chapter 11A ~~[Subchapter D, Chapter 12]~~, Education Code.

SECTION 4.51. Section 1579.002(3), Insurance Code, is amended to read as follows:

(3) "Charter school" means a public charter district ~~[an open-enrollment charter school]~~ established under Chapter 11A ~~[Subchapter D, Chapter 12]~~, Education Code.

SECTION 4.52. Section 140.005, Local Government Code, is amended to read as follows:

Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD, OR OTHER DISTRICT. The governing body of a school district, public charter district ~~[open-enrollment charter school]~~, junior college district, or a district or authority organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

(1) the total receipts of the fund, itemized by source

1 of revenue, including taxes, assessments, service charges, grants
2 of state money, gifts, or other general sources from which funds are
3 derived;

4 (2) the total disbursements of the fund, itemized by
5 the nature of the expenditure; and

6 (3) the balance in the fund at the close of the fiscal
7 year.

8 SECTION 4.53. Section 140.006(c), Local Government Code, is
9 amended to read as follows:

10 (c) The presiding officer of a school district shall submit
11 a financial statement prepared under Section 140.005 to a daily,
12 weekly, or biweekly newspaper published within the boundaries of
13 the district. If a daily, weekly, or biweekly newspaper is not
14 published within the boundaries of the school district, the
15 financial statement shall be published in the manner provided by
16 Subsections (a) and (b). The financial statement of a public
17 charter district [~~an open-enrollment charter school~~] shall be made
18 available in the manner provided by Chapter 552, Government Code.

19 SECTION 4.54. Section 375.303(2), Local Government Code, is
20 amended to read as follows:

21 (2) "Eligible project" means a program authorized by
22 Section 379A.051 and a project as defined by Sections 2(11) and
23 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,
24 Vernon's Texas Civil Statutes). Notwithstanding this definition,
25 seeking a charter for or operating a public charter district [~~an~~
26 ~~open-enrollment charter school~~] authorized by Chapter 11A
27 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an

1 eligible project.

2 SECTION 4.55. Sections 375.308(b) and (c), Local Government
3 Code, are amended to read as follows:

4 (b) An authority may not:

5 (1) issue bonds or notes without the prior approval of
6 the governing body of the municipality that created the authority;

7 (2) seek a charter for or operate, within the
8 boundaries of the authority, a public charter district [~~an~~
9 ~~open-enrollment charter school~~] authorized by Chapter 11A
10 [~~Subchapter D, Chapter 12~~], Education Code; or

11 (3) levy ad valorem property taxes.

12 (c) A municipality may not seek a charter for or operate a
13 public charter district [~~an open-enrollment charter school~~]
14 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education
15 Code, within the boundaries of the authority.

16 SECTION 4.56. Section 541.201(15), Transportation Code, is
17 amended to read as follows:

18 (15) "School activity bus" means a bus designed to
19 accommodate more than 15 passengers, including the operator, that
20 is owned, operated, rented, or leased by a school district, county
21 school, public charter district [~~open-enrollment charter school~~],
22 regional education service center, or shared services arrangement
23 and that is used to transport public school students on a
24 school-related activity trip, other than on routes to and from
25 school. The term does not include a chartered bus, a bus operated
26 by a mass transit authority, or a school bus.

27 SECTION 4.57. Section 57.042(9), Utilities Code, is amended

to read as follows:

(9) "Public school" means a public elementary or secondary school, including a public charter district [~~an open-enrollment charter school~~], a home-rule school district school, and a school with a campus or campus program charter.

SECTION 4.58. Section 4(2), Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) "Educational institution" means a school district or a public charter district [~~an open-enrollment charter school~~].

SECTION 4.59. The following laws are repealed:

(1) Section 12.106, Education Code; and

(2) Section 40, Chapter 1504, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 4.60. Notwithstanding the repeal of Sections 12.107 and 12.128, Education Code, by this Act, those sections continue to apply to state funds and property received or purchased by an open-enrollment charter school before August 1, 2006.

SECTION 4.61. The changes in law made by Sections 4.04-4.60 of this article apply beginning August 1, 2006, except that Sections 4.10, 4.11, 4.41, and 4.59 apply beginning on the 91st day after the last day of the legislative session.

[ARTICLES 5-6 RESERVED]

ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR CERTIFICATION;
TRANSFER OF POWERS AND DUTIES

SECTION 7.01. Section 21.0031(a), Education Code, is amended to read as follows:

1 (a) An employee's probationary, continuing, or term
2 contract under this chapter is void if the employee:

3 (1) does not hold a certificate or permit issued under
4 Subchapter B [~~by the State Board for Educator Certification~~]; or

5 (2) fails to fulfill the requirements necessary to
6 extend the employee's temporary or emergency certificate or permit.

7 SECTION 7.02. Sections 21.004(a)-(e), Education Code, are
8 amended to read as follows:

9 (a) To the extent that funds are available, the agency[~~, the~~
10 ~~State Board for Educator Certification,~~] and the Texas Higher
11 Education Coordinating Board shall develop and implement programs
12 to identify talented students and recruit those students and
13 persons, including high school and undergraduate students,
14 mid-career and retired professionals, honorably discharged and
15 retired military personnel, and members of underrepresented gender
16 and ethnic groups, into the teaching profession.

17 (b) From available funds, the agency[~~, the State Board for~~
18 ~~Educator Certification,~~] and the Texas Higher Education
19 Coordinating Board shall develop and distribute materials that
20 emphasize the importance of the teaching profession and inform
21 individuals about state-funded loan forgiveness and tuition
22 assistance programs.

23 (c) The commissioner, in cooperation with the commissioner
24 of higher education [~~and the executive director of the State Board~~
25 ~~for Educator Certification~~], shall annually identify the need for
26 teachers in specific subject areas and geographic regions and among
27 underrepresented groups. The commissioner shall give priority to

1 developing and implementing recruitment programs to address those
2 needs from the agency's discretionary funds.

3 (d) The agency [~~, the State Board for Educator~~
4 ~~Certification,~~] and the Texas Higher Education Coordinating Board
5 shall encourage the business community to cooperate with local
6 schools to develop recruiting programs designed to attract and
7 retain capable teachers, including programs to provide summer
8 employment opportunities for teachers.

9 (e) The agency [~~, the State Board for Educator~~
10 ~~Certification,~~] and the Texas Higher Education Coordinating Board
11 shall encourage major education associations to cooperate in
12 developing a long-range program promoting teaching as a career and
13 to assist in identifying local activities and resources that may be
14 used to promote the teaching profession.

15 SECTION 7.03. Section 21.006, Education Code, is amended by
16 amending Subsections (a)-(c) and (e)-(g) and adding Subsection (h)
17 to read as follows:

18 (a) In this section:

19 (1) "Abuse" [~~, "abuse"~~] has the meaning assigned by
20 Section 261.001, Family Code, and includes any sexual conduct
21 involving an educator and a student or minor.

22 (2) "Board" means the Educators' Professional
23 Practices Board.

24 (b) In addition to the reporting requirement under Section
25 261.101, Family Code, the superintendent or director of a school
26 district, regional education service center, or shared services
27 arrangement shall notify the commissioner [~~State Board for Educator~~

1 ~~Certification~~] if the superintendent or director has reasonable
2 cause to believe that:

3 (1) an educator employed by or seeking employment by
4 the district, service center, or shared services arrangement has a
5 criminal record;

6 (2) an educator's employment at the district, service
7 center, or shared services arrangement was terminated based on a
8 determination that the educator:

9 (A) abused or otherwise committed an unlawful act
10 with a student or minor;

11 (B) possessed, transferred, sold, or distributed
12 a controlled substance, as defined by Chapter 481, Health and
13 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~
14 ~~subsequent amendments~~];

15 (C) illegally transferred, appropriated, or
16 expended funds or other property of the district, service center,
17 or shared services arrangement;

18 (D) attempted by fraudulent or unauthorized
19 means to obtain or alter a professional certificate or license for
20 the purpose of promotion or additional compensation; or

21 (E) committed a criminal offense or any part of a
22 criminal offense on school property or at a school-sponsored event;
23 or

24 (3) the educator resigned and reasonable evidence
25 supports a recommendation by the superintendent or director to
26 terminate the educator based on a determination that the educator
27 engaged in misconduct described by Subdivision (2).

1 (c) The superintendent or director must notify the
2 commissioner [~~State Board for Educator Certification~~] by filing a
3 report with the commissioner [~~board~~] not later than the seventh day
4 after the date the superintendent or director first learns about an
5 alleged incident of misconduct described by Subsection (b). The
6 report must be:

7 (1) in writing; and

8 (2) in a form prescribed by the board.

9 (e) A superintendent or director who in good faith and while
10 acting in an official capacity files a report with the commissioner
11 [~~State Board for Educator Certification~~] under this section is
12 immune from civil or criminal liability that might otherwise be
13 incurred or imposed.

14 (f) The board, acting on a recommendation of the
15 commissioner, [~~State Board for Educator Certification~~] shall
16 determine whether to impose sanctions against a superintendent or
17 director who fails to file a report in violation of Subsection (c).

18 (g) The commissioner [~~State Board for Educator~~
19 ~~Certification~~] shall adopt [~~propose~~] rules as necessary to
20 implement this section.

21 (h) The commissioner shall forward a report received under
22 this section to the board for use as the commissioner determines
23 appropriate in the execution of the board's duties.

24 SECTION 7.035. Subchapter A, Chapter 21, Education Code, is
25 amended by adding Section 21.007 to read as follows:

26 Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner
27 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~~]

1 BOARD [~~FOR EDUCATOR CERTIFICATION~~].

2 SECTION 7.06. Section 21.033, Education Code, is amended by
3 amending Subsection (a) and adding Subsections (a-1), (d), (e), and
4 (f) to read as follows:

5 (a) The board [~~State Board for Educator Certification~~] is
6 composed of 11 [~~14~~] members[~~. The commissioner of education shall~~
7 ~~appoint an employee of the agency to represent the commissioner as a~~
8 ~~nonvoting member. The commissioner of higher education shall~~
9 ~~appoint an employee of the Texas Higher Education Coordinating~~
10 ~~Board to represent the commissioner as a nonvoting member. The~~
11 ~~governor shall appoint a dean of a college of education in this~~
12 ~~state as a nonvoting member. The remaining 11 members are]~~
13 appointed by the commissioner [~~governor with the advice and consent~~
14 ~~of the senate,~~] as follows:

15 (1) six [~~four~~] members must be classroom teachers,
16 appointed as provided by Subsection (a-1) [~~employed in public~~
17 ~~schools~~];

18 (2) not more than two members of the board may [~~must~~]
19 be [~~public~~] school administrators; and

20 (3) a number of other members consistent with this
21 subsection who the commissioner determines are qualified [~~one~~
22 ~~member must be a public school counselor, and~~

23 [~~(4) four members must be citizens, three of whom are~~
24 ~~not and have not, in the five years preceding appointment, been~~
25 ~~employed by a public school district or by an educator preparation~~
26 ~~program in an institution of higher education and one of whom is not~~
27 ~~and has not been employed by a public school district or by an~~

1 ~~educator preparation program in an institution of higher~~
2 ~~education]~~.

3 (a-1) In appointing a board member under Subsection (a)(1),
4 the commissioner shall:

5 (1) appoint teachers with at least five years'
6 experience as public school classroom teachers;

7 (2) give preference to teachers who have received
8 state or national awards for teaching excellence; and

9 (3) provide an opportunity for professional educator
10 associations to submit nominations for the appointment.

11 (d) The commissioner shall designate a member of the board
12 as the presiding officer of the board to serve in that capacity at
13 the pleasure of the commissioner.

14 (e) The agency shall provide administrative services for
15 the board as necessary.

16 (f) A reference in law to the State Board for Educator
17 Certification means the Educators' Professional Practices Board.

18 SECTION 7.07. Section 21.034, Education Code, is amended to
19 read as follows:

20 Sec. 21.034. TERMS; VACANCY. (a) The board members
21 ~~[appointed by the governor]~~ hold office for staggered terms of six
22 years with the terms of one-third, or as near to one-third as
23 possible, of the members expiring on February 1 of each
24 odd-numbered year. ~~[A member appointed by the commissioner of~~
25 ~~education or the commissioner of higher education serves at the~~
26 ~~will of the appointing commissioner.]~~

27 (b) In the event of a vacancy during a term of a member

1 ~~[appointed by the governor]~~, the commissioner ~~[governor]~~ shall
2 appoint a replacement who meets the qualifications of the vacated
3 office to fill the unexpired portion of the term.

4 (c) A vacancy arises if a member ~~[appointed by the governor]~~
5 no longer qualifies for the office to which the member was
6 appointed, as determined by the commissioner.

7 SECTION 7.075. Section 21.035, Education Code, as amended
8 by H.B. No. 1116, Acts of the 79th Legislature, Regular Session,
9 2005, is amended to read as follows:

10 Sec. 21.035. APPLICATION OF SUNSET ACT. The board is
11 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
12 continued in existence as provided by that chapter, the board is
13 abolished and this subchapter expires on the date prescribed by
14 Section 7.004 for abolishment of the agency. [The Texas Education
15 Agency shall provide the board's administrative functions and
16 services.]

17 SECTION 7.08. Subchapter B, Chapter 21, Education Code, is
18 amended by adding Section 21.0391 to read as follows:

19 Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner
20 shall appoint an advisory committee composed of holders of each
21 class of educator certificate and stakeholders as required under
22 Chapter 2008, Government Code.

23 (b) The advisory committee shall recommend educator
24 certification standards under Section 21.041(b)(4) and educator
25 preparation program standards under Section 21.044 and propose
26 rules under those sections to the commissioner through negotiated
27 rulemaking under Chapter 2008, Government Code. For purposes of

1 that chapter, the advisory committee is considered to be the
 2 negotiated rulemaking committee described by Section 2008.054,
 3 Government Code. As provided by Section 2008.058, Government Code,
 4 the commissioner may propose and adopt a rule that has not been
 5 recommended or proposed by the advisory committee.

6 (c) The commissioner may not finally adopt or amend a rule
 7 subject to this section unless the State Board of Education has
 8 failed to reject the rule or amendment by an affirmative vote of
 9 four-fifths of its members. A vote under this subsection may be
 10 conducted by mail ballot, provided that the State Board of
 11 Education has at least 30 days' written notice of the proposed final
 12 rule adoption.

13 (d) Members of the advisory committee serve at the will of
 14 the commissioner.

15 SECTION 7.09. Section 21.041, Education Code, is amended by
 16 adding Subsection (a-1) and amending Subsection (b) to read as
 17 follows:

18 (a-1) The board shall adopt rules that provide for the
 19 adoption and amendment of an educator's code of ethics.

20 (b) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules
 21 that:

22 (1) provide for the issuance and renewal of educator
 23 certificates ~~[regulation of educators and the general~~
 24 ~~administration of this subchapter]~~ in a manner consistent with this
 25 subchapter;

26 (2) specify the classes of educator certificates to be
 27 issued, including emergency certificates;

(3) specify the period for which each class of educator certificate is valid;

(4) specify the requirements for the issuance and renewal of an educator certificate;

(5) provide for the issuance of an educator certificate to a person who holds a similar certificate issued by another state or foreign country, subject to Section 21.052;

(6) provide for special or restricted certification of educators, including certification of instructors of American Sign Language;

(7) provide for disciplinary proceedings, including:
 (A) the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code; and
 (B) enforcement of an educator's code of ethics adopted by the board;

~~(8) [provide for the adoption, amendment, and enforcement of an educator's code of ethics;~~

~~[(9)]~~ provide for continuing education requirements;
[and]

(9) [(10)] provide for certification of persons performing appraisals under Subchapter H; and

(10) provide for the regulation of educators in a manner consistent with this subchapter.

SECTION 7.10. Section 21.044, Education Code, is amended to read as follows:

Sec. 21.044. EDUCATOR PREPARATION. The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules establishing the training

1 requirements a person must accomplish to obtain a certificate,
2 enter an internship, or enter an induction-year program. The
3 commissioner [~~board~~] shall specify the minimum academic
4 qualifications required for a certificate.

5 SECTION 7.11. Sections 21.045(b)-(d), Education Code, are
6 amended to read as follows:

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

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

20 (c) The commissioner [~~board~~] shall adopt [~~propose~~] rules
21 establishing performance standards for the Accountability System
22 for Educator Preparation for accrediting educator preparation
23 programs. At a minimum, performance standards must be based on
24 Subsection (a). The commissioner [~~board~~] shall adopt [~~propose~~]
25 rules for the sanction of educator preparation programs and shall
26 annually review the accreditation status of each educator
27 preparation program.

1 (d) The commissioner [~~executive director of the board~~]
2 shall appoint an oversight team of educators to make
3 recommendations and provide assistance to educator preparation
4 programs that do not meet accreditation standards. If, after one
5 year, an educator preparation program has not fulfilled the
6 recommendations of the oversight team, the commissioner [~~executive~~
7 ~~director~~] shall appoint a person to administer and manage the
8 operations of the program. If the program does not improve after
9 two years, the commissioner [~~board~~] shall revoke the approval of
10 the program to prepare educators for state certification.

11 SECTION 7.12. Sections 21.046(c) and (d), Education Code,
12 are amended to read as follows:

13 (c) Because an effective principal is essential to school
14 improvement, the commissioner [~~board~~] shall ensure that:

15 (1) each candidate for certification as a principal is
16 of the highest caliber; and

17 (2) multi-level screening processes, validated
18 comprehensive assessment programs, and flexible internships with
19 successful mentors exist to determine whether a candidate for
20 certification as a principal possesses the essential knowledge,
21 skills, and leadership capabilities necessary for success.

22 (d) In creating the qualifications for certification as a
23 principal, the commissioner [~~board~~] shall consider the knowledge,
24 skills, and proficiencies for principals as developed by relevant
25 national organizations and the State Board of Education.

26 SECTION 7.125. Subchapter B, Chapter 21, Education Code, is
27 amended by adding Section 21.0461 to read as follows:

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

4 (1) assistant principal;

5 (2) principal; or

6 (3) superintendent.

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

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

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

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

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

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

22 (e) A certificate issued under this section:

23 (1) expires on the third anniversary of the date on
24 which the certificate was issued; and

25 (2) is not renewable.

26 (f) The commissioner shall issue a standard certificate to a
27 person who holds a temporary certificate issued under this section

1 if the school district employing the person under the temporary
2 certificate:

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

5 (2) has recommended the person to the commissioner and
6 favorably reviewed, primarily using objective measures of student
7 performance and improvement in the district, the person's
8 performance.

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

13 (1) mentoring; and

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

15 SECTION 7.13. Section 21.048(a), Education Code, is amended
16 to read as follows:

17 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
18 prescribing comprehensive examinations for each class of
19 certificate issued by the board.

20 SECTION 7.14. Sections 21.0481, 21.0482, 21.0483, 21.0484,
21 and 21.049, Education Code, are amended to read as follows:

22 Sec. 21.0481. MASTER READING TEACHER CERTIFICATION. (a)
23 To ensure that there are teachers with special training to work with
24 other teachers and with students in order to improve student
25 reading performance, the commissioner [~~board~~] shall establish a
26 master reading teacher certificate.

27 (b) The commissioner [~~board~~] shall issue a master reading

1 teacher certificate to each eligible person.

2 (c) To be eligible for a master reading teacher certificate,
3 a person must:

4 (1) hold a reading specialist certificate issued under
5 this subchapter and satisfactorily complete a course of instruction
6 as prescribed under Subdivision (2)(B); 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 the science of teaching
13 children to read that includes training in:

14 (i) effective reading instruction
15 techniques, including effective techniques for students whose
16 primary language is a language other than English;

17 (ii) identification of dyslexia and related
18 reading disorders and effective reading instruction techniques for
19 students with those disorders; and

20 (iii) effective professional peer
21 mentoring techniques;

22 (C) perform satisfactorily on the master reading
23 teacher certification examination prescribed by the commissioner
24 [~~board~~]; and

25 (D) satisfy any other requirements prescribed by
26 the commissioner [~~board~~].

27 Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student mathematics performance, the commissioner [~~board~~] shall establish:

(1) a master mathematics teacher certificate to teach mathematics at elementary school grade levels;

(2) a master mathematics teacher certificate to teach mathematics at middle school grade levels; and

(3) a master mathematics teacher certificate to teach mathematics at high school grade levels.

(b) The commissioner [~~board~~] shall issue the appropriate master mathematics teacher certificate to each eligible person.

(c) To be eligible for a master mathematics teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of teaching experience;

(3) satisfactorily complete a knowledge-based course of instruction on the science of teaching children mathematics that includes training in mathematics instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master mathematics teacher certification examination prescribed by the commissioner [~~board~~]; and

(5) satisfy any other requirements prescribed by the commissioner [~~board~~].

(d) The course of instruction prescribed under Subsection

(c)(3) shall be developed by the commissioner [~~board~~] in consultation with mathematics and science faculty members at institutions of higher education.

Sec. 21.0483. MASTER TECHNOLOGY TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to increase the use of technology in each classroom, the commissioner [~~board~~] shall establish a master technology teacher certificate.

(b) The commissioner [~~board~~] shall issue a master technology teacher certificate to each eligible person.

(c) To be eligible for a master technology teacher certificate, a person must:

(1) hold a technology applications or Technology Education certificate issued under this subchapter, satisfactorily complete the course of instruction prescribed under Subdivision (2)(B), and satisfactorily perform on the examination prescribed under Subdivision (2)(C); or

(2) hold a teaching certificate issued under this subchapter and:

(A) have at least three years of teaching experience;

(B) satisfactorily complete a knowledge-based and skills-based course of instruction on interdisciplinary technology applications and the science of teaching technology that includes training in:

(i) effective technology instruction techniques, including applications designed to meet the

educational needs of students with disabilities;

(ii) classroom teaching methodology that engages student learning through the integration of technology;

(iii) digital learning competencies, including Internet research, graphics, animation, website mastering, and video technologies;

(iv) curriculum models designed to prepare teachers to facilitate an active student learning environment; and

(v) effective professional peer mentoring techniques;

(C) satisfactorily perform on an examination developed in cooperation with the Telecommunications Infrastructure Fund Board and administered at the conclusion of the course of instruction prescribed under Paragraph (B); and

(D) satisfy any other requirements prescribed by the commissioner ~~[board]~~.

(d) The commissioner ~~[board]~~ may provide technology applications training courses under Subsection (c)(2)(B) in cooperation with:

(1) regional education service centers; and

(2) other public or private entities, including any state council on technology.

Sec. 21.0484. MASTER SCIENCE TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student science performance, the commissioner ~~[board]~~ shall establish:

(1) a master science teacher certificate to teach

1 science at elementary school grade levels;

2 (2) a master science teacher certificate to teach
3 science at middle school grade levels; and

4 (3) a master science teacher certificate to teach
5 science at high school grade levels.

6 (b) The commissioner [~~board~~] shall issue the appropriate
7 master science teacher certificate to each eligible person.

8 (c) To be eligible for a master science teacher certificate,
9 a person must:

10 (1) hold a teaching certificate issued under this
11 subchapter;

12 (2) have at least three years of teaching experience;

13 (3) satisfactorily complete a knowledge-based course
14 of instruction on the science of teaching children science that
15 includes training in science instruction and professional peer
16 mentoring techniques that, through scientific testing, have been
17 proven effective;

18 (4) perform satisfactorily on the appropriate master
19 science teacher certification examination prescribed by the
20 commissioner [~~board~~]; and

21 (5) satisfy any other requirements prescribed by the
22 commissioner [~~board~~].

23 (d) The course of instruction prescribed under Subsection
24 (c)(3) shall be developed by the commissioner [~~board~~] in
25 consultation with science faculty members at institutions of higher
26 education.

27 Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a

1 continuing additional source of qualified educators, the
2 commissioner [~~board~~] shall adopt [~~propose~~] rules providing for
3 educator certification programs as an alternative to traditional
4 educator preparation programs. The rules may not provide that a
5 person may be certified under this section only if there is a
6 demonstrated shortage of educators in a school district or subject
7 area.

8 (b) The commissioner [~~board~~] may not require a person
9 employed as a teacher in a disciplinary [~~an~~] alternative education
10 program under Section 37.008 or a juvenile justice alternative
11 education program under Section 37.011 for at least three years to
12 complete an alternative educator certification program adopted
13 under this section before taking the appropriate certification
14 examination.

15 SECTION 7.15. Section 21.050(a), Education Code, is amended
16 to read as follows:

17 (a) A person who applies for a teaching certificate for
18 which commissioner [~~board~~] rules require a bachelor's degree must
19 possess a bachelor's degree received with an academic major or
20 interdisciplinary academic major, including reading, other than
21 education, that is related to the curriculum as prescribed under
22 Subchapter A, Chapter 28.

23 SECTION 7.16. Section 21.051, Education Code, is amended to
24 read as follows:

25 Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS.
26 The commissioner [~~board~~] shall adopt [~~propose~~] rules providing
27 flexible options for persons for any field experience or internship

1 required for certification.

2 SECTION 7.17. Section 21.054(a), Education Code, is amended
3 to read as follows:

4 (a) The commissioner [~~board~~] shall adopt [~~propose~~] rules
5 establishing a process for identifying continuing education
6 courses and programs that fulfill educators' continuing education
7 requirements.

8 SECTION 7.18. Section 21.056, Education Code, is amended to
9 read as follows:

10 Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner
11 [~~board~~] by rule shall provide for a certified educator to qualify
12 for additional certification to teach at a grade level or in a
13 subject area not covered by the educator's certificate upon
14 satisfactory completion of an examination or other assessment of
15 the educator's qualification.

16 SECTION 7.19. Section 21.057(d), Education Code, is amended
17 to read as follows:

18 (d) For purposes of this section, "inappropriately
19 certified or uncertified teacher":

20 (1) includes:

21 (A) an individual serving on an emergency
22 certificate issued under Section 21.041(b)(2); or

23 (B) an individual who does not hold any
24 certificate or permit issued under this chapter and is not employed
25 as specified by Subdivision (2)(E); and

26 (2) does not include an individual:

27 (A) who is a certified teacher assigned to teach

1 a class or classes outside his or her area of certification, as
2 determined by rules adopted [~~proposed~~] by the commissioner [~~board~~]
3 in specifying the certificate required for each assignment;

4 (B) serving on a certificate issued due to a
5 hearing impairment under Section 21.048;

6 (C) serving on a certificate issued pursuant to
7 enrollment in an approved alternative certification program under
8 Section 21.049;

9 (D) certified by another state or country and
10 serving on a certificate issued under Section 21.052;

11 (E) serving on a school district teaching permit
12 issued under Section 21.055; or

13 (F) employed under a waiver granted by the
14 commissioner pursuant to Section 7.056.

15 SECTION 7.20. Section 21.058(d), Education Code, is amended
16 to read as follows:

17 (d) A person whose certificate is revoked under Subsection
18 (b) may reapply for a certificate in accordance with commissioner
19 [~~board~~] rules.

20 SECTION 7.21. Section 21.105(c), Education Code, is amended
21 to read as follows:

22 (c) On written complaint by the employing district and
23 recommendation by the commissioner, the Educators' Professional
24 Practices [~~State~~] Board [~~for Educator Certification~~] may impose
25 sanctions against a teacher employed under a probationary contract
26 who:

27 (1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

SECTION 7.22. Section 21.160(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district and recommendation by the commissioner, the Educators' Professional Practices [State] Board [~~for Educator Certification~~] may impose sanctions against a teacher who is employed under a continuing contract that obligates the district to employ the person for the following school year and who:

(1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

SECTION 7.23. Section 21.210(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district and recommendation by the commissioner, the Educators' Professional Practices [State] Board [~~for Educator Certification~~] may impose sanctions against a teacher who is employed under a term contract that obligates the district to employ the person for the following school year and who:

(1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

1 SECTION 7.24. Section 21.503, Education Code, is amended to
2 read as follows:

3 Sec. 21.503. ELIGIBILITY. A person is eligible for the
4 program if the person:

5 (1) has served in the armed forces of the United
6 States;

7 (2) is honorably discharged, retired, or released from
8 active duty on or after October 1, 1990, after at least six years of
9 continuous active duty service immediately before the discharge,
10 retirement, or release;

11 (3) has received a baccalaureate or advanced degree
12 from a public or private institution of higher education accredited
13 by a regional accrediting agency or group that is recognized by a
14 nationally recognized accreditation board; and

15 (4) satisfies any other criteria for selection
16 ~~[jointly]~~ prescribed by the agency ~~[and the State Board for~~
17 ~~Educator Certification]~~.

18 SECTION 7.25. Section 21.504(b), Education Code, is amended
19 to read as follows:

20 (b) The agency ~~[and the State Board for Educator~~
21 ~~Certification]~~ shall distribute the applications and information
22 regarding the program.

23 SECTION 7.26. Section 21.510(c), Education Code, is amended
24 to read as follows:

25 (c) For purposes of this section, a participant in the
26 program is not considered to be in violation of an agreement under
27 Section 21.508 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 a public or private institution of higher
3 education approved by the agency [~~State Board for Educator~~
4 ~~Certification~~];

5 (2) is serving on active duty as a member of the armed
6 forces of the United States;

7 (3) is temporarily totally disabled for a period not
8 to exceed three years as established by sworn affidavit of a
9 qualified physician;

10 (4) is unable to secure employment for a period not to
11 exceed one year because of care required by a disabled spouse;

12 (5) is seeking and unable to find full-time employment
13 as a teacher in a public elementary or secondary school for a single
14 period not to exceed 27 months; or

15 (6) satisfies the provisions of any additional
16 reimbursement exception adopted by the agency.

17 SECTION 7.27. Sections 21.551, 21.552, and 21.553,
18 Education Code, are amended to read as follows:

19 Sec. 21.551. PURPOSES. The purposes of the alternative
20 certification Teach for Texas Pilot Program are to:

21 (1) attract to the teaching profession persons who
22 have expressed interest in teaching and to support the
23 certification of those persons as teachers;

24 (2) recognize the importance of the certification
25 process governed by the commissioner [~~State Board for Educator~~
26 ~~Certification~~] under Subchapter B, which requires verification of
27 competence in subject area and professional knowledge and skills;

1 (3) encourage the creation and expansion of educator
2 preparation programs that recognize the knowledge and skills gained
3 through previous educational and work-related experiences and that
4 are delivered in a manner that recognizes individual circumstances,
5 including the need to remain employed full-time while enrolled in
6 the Teach for Texas Pilot Program; and

7 (4) provide annual stipends to postbaccalaureate
8 teacher certification candidates.

9 Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State~~
10 ~~Board for Educator Certification~~] by rule shall establish the Teach
11 for Texas Pilot Program consistent with the purposes provided by
12 Section 21.551.

13 Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program
14 must offer to participants financial incentives, including tuition
15 assistance and loan forgiveness. In offering a financial
16 incentive, the commissioner [~~State Board for Educator~~
17 ~~Certification~~] shall:

18 (1) require a contract between each participant who
19 accepts a financial incentive and the agency [~~State Board for~~
20 ~~Educator Certification~~] under which the participant is obligated to
21 teach in a public school in this state for a stated period after
22 certification;

23 (2) provide financial incentives in proportion to the
24 length of the period the participant is obligated by contract to
25 teach after certification; and

26 (3) give special financial incentives to a participant
27 who agrees in the contract to teach in an underserved area.

1 (b) Financial incentives may be paid only from funds
2 appropriated specifically for that purpose and from gifts, grants,
3 and donations solicited or accepted by the commissioner [~~State~~
4 ~~Board for Educator Certification~~] for that purpose.

5 (c) The commissioner [~~State Board for Educator~~
6 ~~Certification~~] shall adopt [~~propose~~] rules establishing criteria
7 for awarding financial incentives under this section, including
8 criteria for awarding financial incentives if there are more
9 participants than funds available to provide the financial
10 incentives.

11 SECTION 7.28. Section 21.604(b), Education Code, is amended
12 to read as follows:

13 (b) The agency [~~and the State Board for Educator~~
14 ~~Certification~~] shall distribute the applications and information
15 regarding the program.

16 SECTION 7.29. Section 21.609(c), Education Code, is amended
17 to read as follows:

18 (c) For purposes of this section, a participant in the
19 program is not considered to be in violation of an agreement under
20 Section 21.607 during any period in which the participant:

21 (1) is pursuing a full-time course of study related to
22 the field of teaching at an institution of higher education
23 approved by the agency [~~State Board for Educator Certification~~];

24 (2) is serving on active duty as a member of the armed
25 forces of the United States;

26 (3) is temporarily totally disabled for a period not
27 to exceed three years as established by affidavit of a qualified

1 physician;

2 (4) is unable to secure employment for a period not to
3 exceed one year because of care required by a disabled spouse;

4 (5) is seeking and unable to find full-time employment
5 as a teacher in a public elementary or secondary school for a single
6 period not to exceed 27 months; or

7 (6) satisfies the provisions of any additional
8 reimbursement exception adopted by the agency.

9 SECTION 7.30. Section 22.0512(b), Education Code, is
10 amended to read as follows:

11 (b) In this section, "disciplinary proceeding" means:

12 (1) an action brought by the school district employing
13 a professional employee of a school district to discharge or
14 suspend the employee or terminate or not renew the employee's term
15 contract; or

16 (2) an action brought by the Educators' Professional
17 Practices [State] Board [~~for Educator Certification~~] to enforce the
18 educator's code of ethics adopted under Section 21.041(a-1)
19 [~~21.041(b)(8)~~].

20 SECTION 7.31. Sections 29.061(a)-(c) and (e), Education
21 Code, are amended to read as follows:

22 (a) The commissioner [~~State Board for Educator~~
23 ~~Certification~~] shall provide for the issuance of teaching
24 certificates appropriate for bilingual education instruction to
25 teachers who possess a speaking, reading, and writing ability in a
26 language other than English in which bilingual education programs
27 are offered and who meet the general requirements of Chapter 21.

1 The commissioner [~~board~~] shall also provide for the issuance of
2 teaching certificates appropriate for teaching English as a second
3 language. The commissioner [~~board~~] may issue emergency
4 endorsements in bilingual education and in teaching English as a
5 second language.

6 (b) A teacher assigned to a bilingual education program must
7 be appropriately certified under Subchapter B, Chapter 21, for
8 bilingual education [~~by the board~~].

9 (c) A teacher assigned to an English as a second language or
10 other special language program must be appropriately certified
11 under Subchapter B, Chapter 21, for English as a second language [~~by~~
12 ~~the board~~].

13 (e) The agency [~~State Board for Educator Certification~~] and
14 the Texas Higher Education Coordinating Board shall develop a
15 comprehensive plan for meeting the teacher supply needs created by
16 the programs outlined in this subchapter.

17 SECTION 7.32. Sections 33.002(b) and (c), Education Code,
18 are amended to read as follows:

19 (b) A school district with 500 or more students enrolled in
20 elementary school grades shall employ a counselor certified under
21 the rules of the commissioner [~~State Board for Educator~~
22 ~~Certification~~] for each elementary school in the district. A
23 school district shall employ at least one counselor for every 500
24 elementary school students in the district.

25 (c) A school district with fewer than 500 students enrolled
26 in elementary school grades shall provide guidance and counseling
27 services to elementary school students by:

1 (1) employing a part-time counselor certified under
2 the rules of the commissioner [~~State Board for Educator~~
3 ~~Certification~~];

4 (2) employing a part-time teacher certified as a
5 counselor under the rules of the commissioner [~~State Board for~~
6 ~~Educator Certification~~]; or

7 (3) entering into a shared services arrangement
8 agreement with one or more school districts to share a counselor
9 certified under the rules of the commissioner [~~State Board for~~
10 ~~Educator Certification~~].

11 SECTION 7.33. Section 37.007(g), Education Code, as amended
12 by H.B. No. 603, Acts of the 79th Legislature, Regular Session,
13 2005, is amended to read as follows:

14 (g) In addition to any notice required under Article 15.27,
15 Code of Criminal Procedure, a school district shall inform each
16 educator who has responsibility for, or is under the direction and
17 supervision of an educator who has responsibility for, the
18 instruction of a student who has engaged in any violation listed in
19 this section of the student's misconduct. Each educator shall keep
20 the information received under this subsection confidential from
21 any person not entitled to the information under this subsection,
22 except that the educator may share the information with the
23 student's parent or guardian as provided for by state or federal
24 law. The Educators' Professional Practices [~~State~~] Board on
25 recommendation of the commissioner [~~for Educator Certification~~]
26 may revoke or suspend the certification of an educator who
27 intentionally violates this subsection.

1 SECTION 7.34. Section 61.0514, Education Code, is amended
2 to read as follows:

3 Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the
4 cooperation and advice of the commissioner of education [~~State~~
5 ~~Board for Educator Certification~~], shall adopt educator
6 preparation coursework guidelines that promote, to the greatest
7 extent practicable, the integration of subject matter knowledge
8 with classroom teaching strategies and techniques in order to
9 maximize the effectiveness and efficiency of coursework required
10 for certification under Subchapter B, Chapter 21.

11 SECTION 7.35. Section 1001.254(a), Education Code, is
12 amended to read as follows:

13 (a) A temporary driver education instructor license may be
14 issued authorizing a person to teach or provide classroom driver
15 education training if the person:

16 (1) has completed the educational requirements
17 prescribed by Section 1001.253(d)(1);

18 (2) holds a Texas teaching certificate with an
19 effective date before February 1, 1986;

20 (3) meets all license requirements, other than
21 successful completion of the examination required under rules
22 adopted by the commissioner [~~State Board for Educator~~
23 ~~Certification~~] to revalidate the teaching certificate; and

24 (4) demonstrates, in a manner prescribed by the
25 commissioner, the intention to comply with the examination
26 requirement at the first available opportunity.

27 SECTION 7.36. Article 15.27(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) A law enforcement agency that arrests any person or
3 refers a child to the office or official designated by the juvenile
4 board who the agency believes is enrolled as a student in a public
5 primary or secondary school, for an offense listed in Subsection
6 (h), shall attempt to ascertain whether the person is so enrolled.
7 If the law enforcement agency ascertains that the individual is
8 enrolled as a student in a public primary or secondary school, the
9 agency shall orally notify the superintendent or a person
10 designated by the superintendent in the school district in which
11 the student is enrolled of that arrest or referral within 24 hours
12 after the arrest or referral is made, or on the next school day. If
13 the law enforcement agency cannot ascertain whether the individual
14 is enrolled as a student, the agency shall orally notify the
15 superintendent or a person designated by the superintendent in the
16 school district in which the student is believed to be enrolled of
17 that arrest or detention within 24 hours after the arrest or
18 detention, or on the next school day. If the individual is a
19 student, the superintendent shall promptly notify all
20 instructional and support personnel who have responsibility for
21 supervision of the student. All personnel shall keep the
22 information received in this subsection confidential. The
23 Educators' Professional Practices [State] Board [~~for Educator~~
24 ~~Certification~~] may revoke or suspend the certification of personnel
25 who intentionally violate this subsection. Within seven days after
26 the date the oral notice is given, the law enforcement agency shall
27 mail written notification, marked "PERSONAL and CONFIDENTIAL" on

1 the mailing envelope, to the superintendent or the person
2 designated by the superintendent. Both the oral and written notice
3 shall contain sufficient details of the arrest or referral and the
4 acts allegedly committed by the student to enable the
5 superintendent or the superintendent's designee to determine
6 whether there is a reasonable belief that the student has engaged in
7 conduct defined as a felony offense by the Penal Code. The
8 information contained in the notice may be considered by the
9 superintendent or the superintendent's designee in making such a
10 determination.

11 SECTION 7.37. Article 42.018(b), Code of Criminal
12 Procedure, is amended to read as follows:

13 (b) Not later than the fifth day after the date a person who
14 holds a certificate issued under Subchapter B, Chapter 21,
15 Education Code, is convicted or granted deferred adjudication on
16 the basis of an offense, the clerk of the court in which the
17 conviction or deferred adjudication is entered shall provide to the
18 Texas Education Agency and the Educators' Professional Practices
19 [State] Board [for Educator Certification] written notice of the
20 person's conviction or deferred adjudication, including the
21 offense on which the conviction or deferred adjudication was based.

22 SECTION 7.38. Section 654.011(a), Government Code, is
23 amended to read as follows:

24 (a) The position classification plan and the salary rates
25 and provisions in the General Appropriations Act apply to all
26 hourly, part-time, temporary, and regular, full-time salaried
27 employments in the state departments, agencies, or judicial

1 entities specified in the articles of the General Appropriations
2 Act that appropriate money to:

- 3 (1) general government agencies;
- 4 (2) health and human services agencies;
- 5 (3) the judiciary, except for judges, district
6 attorneys, and assistant district attorneys;
- 7 (4) public safety and criminal justice agencies;
- 8 (5) natural resources agencies;
- 9 (6) business and economic development agencies;
- 10 (7) regulatory agencies; and
- 11 (8) agencies of public education, but only the Texas
12 Education Agency, the Texas School for the Blind and Visually
13 Impaired, ~~[the State Board for Educator Certification]~~, the
14 Telecommunications Infrastructure Fund, and the Texas School for
15 the Deaf.

16 SECTION 7.39. Section 821.001(7), Government Code, is
17 amended to read as follows:

18 (7) "Employer" means any agents or agencies in the
19 state responsible for public education, including the governing
20 board of any school district created under the laws of this state,
21 any county school board, the board of trustees, the board of regents
22 of any college or university, or any other legally constituted
23 board or agency of any public school, but excluding the State Board
24 of Education and~~[7]~~ the Texas Education Agency~~[, and the State~~
25 ~~Board for Educator Certification]~~.

26 SECTION 7.40. Section 821.103, Government Code, is amended
27 to read as follows:

1 Sec. 821.103. REVOCATION ~~[CANCELLATION]~~ OF TEACHER
2 CERTIFICATE. (a) After receiving notice from the board of
3 trustees of an offense under Section 821.101 and after complying
4 with Chapter 2001 and rules adopted by the Educators' Professional
5 Practices ~~[State]~~ Board ~~[for Educator Certification]~~, the board
6 ~~[State Board for Educator Certification]~~ may revoke ~~[cancel]~~ the
7 teacher certificate of a person if the board ~~[State Board for~~
8 ~~Educator Certification]~~ determines that the person committed the
9 offense.

10 (b) The Educators' Professional Practices ~~[executive~~
11 ~~director of the State]~~ Board ~~[for Educator Certification]~~ may enter
12 into an agreed sanction.

13 (c) A criminal prosecution of an offender under Section
14 821.101 is not a prerequisite to action by the Educators'
15 Professional Practices ~~[State]~~ Board ~~[for Educator Certification~~
16 ~~or its executive director]~~.

17 SECTION 7.41. Section 2054.352(a), Government Code, as
18 amended by S.B. No. 411, Acts of the 79th Legislature, Regular
19 Session, 2005, is amended to read as follows:

20 (a) The following licensing entities shall participate in
21 the system established under Section 2054.353:

- 22 (1) Texas Board of Chiropractic Examiners;
- 23 (2) Court Reporters Certification Board;
- 24 (3) State Board of Dental Examiners;
- 25 (4) Texas Funeral Service Commission;
- 26 (5) Texas Board of Professional Land Surveying;
- 27 (6) Texas State Board of Medical Examiners;

- 1 (7) Board of Nurse Examiners;
- 2 (8) Texas Optometry Board;
- 3 (9) Texas Structural Pest Control Board;
- 4 (10) Texas State Board of Pharmacy;
- 5 (11) Executive Council of Physical Therapy and
- 6 Occupational Therapy Examiners;
- 7 (12) Texas State Board of Plumbing Examiners;
- 8 (13) Texas State Board of Podiatric Medical Examiners;
- 9 (14) Board of Tax Professional Examiners;
- 10 (15) Polygraph Examiners Board;
- 11 (16) Texas State Board of Examiners of Psychologists;
- 12 (17) State Board of Veterinary Medical Examiners;
- 13 (18) Texas Real Estate Commission;
- 14 (19) Texas Appraiser Licensing and Certification
- 15 Board;
- 16 (20) Texas Department of Licensing and Regulation;
- 17 (21) Texas State Board of Public Accountancy;
- 18 (22) Educators' Professional Practices [State] Board
- 19 [~~for Educator Certification~~];
- 20 (23) Texas Board of Professional Engineers;
- 21 (24) Department of State Health Services;
- 22 (25) Texas Board of Architectural Examiners;
- 23 (26) Texas Racing Commission;
- 24 (27) Commission on Law Enforcement Officer Standards
- 25 and Education; [~~and~~]
- 26 (28) Texas Private Security Board; and
- 27 (29) Texas Education Agency.

SECTION 7.42. Section 504.002(b), Occupations Code, is amended to read as follows:

(b) This chapter does not apply to an activity or service of a person who:

(1) is employed as a counselor by a federal institution and is providing chemical dependency counseling within the scope of the person's employment;

(2) except as provided by Section 504.1515 [~~504.057~~], is a student, intern, or trainee pursuing a supervised course of study in counseling at a regionally accredited institution of higher education or training institution, if the person:

(A) is designated as a "counselor intern"; and

(B) is engaging in the activity or providing the service as part of the course of study;

(3) is not a resident of this state, if the person:

(A) engages in the activity or provides the service in this state for not more than 30 days during any year; and

(B) is authorized to engage in the activity or provide the service under the law of the state of the person's residence;

(4) is a licensed physician, psychologist, professional counselor, or social worker;

(5) is a religious leader of a congregation providing pastoral chemical dependency counseling within the scope of the person's duties;

(6) is working for or providing counseling with a program exempt under Subchapter C, Chapter 464, Health and Safety

1 Code; or

2 (7) is a school counselor certified under Subchapter
3 B, Chapter 21, Education Code [~~by the State Board for Educator~~
4 ~~Certification~~].

5 SECTION 7.43. Sections 21.036, 21.040, 21.042, and 21.047,
6 Education Code, are repealed.

7 SECTION 7.44. (a) The State Board for Educator
8 Certification is abolished, and all powers, duties, personnel,
9 property, assets, and obligations of the board are transferred to
10 the Educators' Professional Practices Board and the Texas Education
11 Agency, as determined appropriate by the commissioner of education.
12 The validity of a prior action of the State Board for Educator
13 Certification is not affected by the abolishment, and any pending
14 activities of the State Board for Educator Certification shall be
15 deemed to have continued without interruption or material change.

16 (b) The powers and duties of the Educators' Professional
17 Practices Board, as created by this Act, shall continue to be
18 exercised by the State Board for Educator Certification until the
19 initial appointees of the Educators' Professional Practices Board
20 assume their offices, which may not be later than January 1, 2006.

21 (c) All rules of the State Board for Educator Certification
22 relating to a transferred power or duty remain in effect as rules of
23 the Educators' Professional Practices Board or commissioner of
24 education, as appropriate, until amended or repealed by the board
25 or commissioner.

26 (d) A contested case, rulemaking procedure, program, test,
27 fee, contract, review, evaluation, sanction, act, or decision of

1 the State Board for Educator Certification that is pending,
2 completed, or in effect on the effective date of this Act shall be
3 deemed that of the commissioner of education or the Educators'
4 Professional Practices Board to the extent authorized by Subchapter
5 B, Chapter 21, Education Code, as amended by this article, or other
6 law, until and unless a change is expressly made by the commissioner
7 or the board, as appropriate.

8 (e) As soon as practicable after the effective date of this
9 article and not later than December 1, 2005, the commissioner shall
10 make initial appointments to the Educators' Professional Practices
11 Board. In making the initial appointments, the commissioner shall
12 designate four members to serve terms expiring February 1, 2007,
13 four members to serve terms expiring February 1, 2009, and three
14 members to serve terms expiring February 1, 2011.

15 (f) A person who holds a certificate issued under Subchapter
16 B, Chapter 21, Education Code, as it existed on January 1, 2005, may
17 continue to practice under that certificate until the certificate
18 is renewed or replaced under Subchapter B, Chapter 21, Education
19 Code, as amended by this article.

20 (g) The code of ethics adopted under Subchapter B, Chapter
21 21, Education Code, by the State Board for Educator Certification
22 and in effect on the effective date of this article remains in
23 effect until superseded by rules of the Educators' Professional
24 Practices Board.

25 ARTICLE 8. REPEALER; EFFECTIVE DATE

26 SECTION 8.01. Effective on the 91st day after the last day
27 of the legislative session, the following provisions are repealed:

1 (1) Sections 1-3, Chapter 201, Acts of the 78th
2 Legislature, Regular Session, 2003;

3 (2) Section 4, S.B. No. 23, Acts of the 79th
4 Legislature, Regular Session, 2005;

5 (3) Sections 21.357, 21.402(b) and (e), 29.056(h),
6 39.027(b), (c), and (f), 39.051(d), 39.073, 39.074, and 39.112,
7 Education Code;

8 (4) Section 1579.253(b), Insurance Code; and

9 (5) Subchapter O, Chapter 1581, Insurance Code.

10 SECTION 8.02. Effective on the 91st day after the last day
11 of the legislative session, Sections 25.0811(b) and (c), Education
12 Code, are repealed.

13 SECTION 8.03. Effective September 1, 2006, the following
14 provisions are repealed:

15 (1) Subchapters B, C, E, F, and G, Chapter 41,
16 Education Code;

17 (2) Chapter 42, Education Code, as it existed on
18 January 1, 2006;

19 (3) Sections 29.203(c) and (g), 39.024(e), 41.001,
20 41.002, 41.003, 41.0031, 41.007, 41.009(b), 41.011, 41.092,
21 41.099, 41.252(b), 44.004(c) and (d), and 105.301(f), Education
22 Code;

23 (4) Section 403.302(j), Government Code;

24 (5) Section 1581.053(b), Insurance Code;

25 (6) Subchapter C, Chapter 1581, Insurance Code; and

26 (7) Sections 6.02(g), 6.03(m), 21.02(b) and 26.08(k),
27 (l), and (m), Tax Code.

1 SECTION 8.04. (a) Except as otherwise provided by this Act,
2 and subject to Subsection (b) of this section, this Act takes effect
3 on the 91st day after the last day of the legislative session.

4 (b) Notwithstanding any other provision of this Act, this
5 Act takes effect only if H.B. No. 3, Acts of the 79th Legislature,
6 2nd Called Session, 2005, or similar legislation enacted by the
7 79th or a subsequent legislature that specifically references this
8 section, becomes law. If H.B. No. 3, Acts of the 79th Legislature,
9 2nd Called Session, 2005, or similar legislation enacted by the
10 79th or a subsequent legislature that specifically references this
11 section, does not become law, this Act has no effect.