

By: Shapiro S.B. No. 8  
(In the Senate - Filed July 29, 2005; July 29, 2005, read first time and referred to Committee on Education; August 5, 2005, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 2, 1 present not voting; August 5, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 8 By: Shapiro

A BILL TO BE ENTITLED  
AN ACT

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

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

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

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

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

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

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

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

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

PART B. EDUCATION FUNDING

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

CHAPTER 42. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

(b) The Foundation School Program consists of:

(1) two tiers that in combination provide for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The commissioner shall adjust the average daily attendance of a school district that has a significant percentage

of students who are migratory children as defined by 20 U.S.C. Section 6399.

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

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

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

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

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

(c) The funding elements must include:

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

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

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

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

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

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

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

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

(f) The study required by Subsection (e) must include a component on funding elements relating to special education programs and services. The special education component must include a review of the current funding elements relating to special education programs and services, an analysis of funding mechanisms used by other states, the solicitation and consideration of recommendations from persons with expertise in the area of special education, a review of best practices in the area of special education, and the development of recommendations for a funding system that supports success for students with disabilities and

that appropriately recognizes the variance in needs for specialized services, including related services, without providing fiscal incentives to improperly identify or fail to identify students who need special education services. Regardless of the date on which the report under Subsection (e) is required to be submitted, the board shall submit a report on the results of the special education component required by this subsection to the commissioner and the legislature not later than December 1, 2006. This subsection expires January 1, 2007.

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

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

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

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

[Sections 42.009-42.100 reserved for expansion]

#### SUBCHAPTER B. BASIC PROGRAM

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

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

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

[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;

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

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

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

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

(10) \$12,986, for a student who resides in a residential care and treatment facility, other than a state school,

whose parent or guardian does not reside in the district, and who receives educational services from a local school district; and  
 (11) \$7,726, for a student who resides in a state school.

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

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

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

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

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

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

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

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

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

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

pay the cost of the study of the funding elements for special education required by Section 42.006(f). After setting aside funds 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 allotments under this section, the commissioner may, each fiscal year:

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

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

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

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

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

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

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

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

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

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

(f) Notwithstanding any other provision of law, a district

may use funds allocated under this section to provide Saturday classes for students in grade levels one through four who fail to perform satisfactorily on an assessment instrument administered under Section 39.023 or otherwise fail to perform satisfactorily, as determined by the district. A district may contract with another entity to provide Saturday classes under this subsection.

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

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

(2) if the student is enrolled at or above the ninth grade level, \$1,000, but not less than the amount equal to 21 percent of the accreditation allotment under Section 42.101.

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

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

Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.

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

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

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

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

(3) courses designed for special education students.

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

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

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

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

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

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

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

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

a greater amount for any school year provided by appropriation.

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

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

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

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

[Sections 42.157-42.170 reserved for expansion]

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

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

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

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

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

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

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

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

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

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

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

[Sections 42.173-42.200 reserved for expansion]



## SUBCHAPTER D. TRANSPORTATION ALLOTMENT

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

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

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

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

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

Sec. 42.204. TRANSPORTATION OF SPECIAL EDUCATION STUDENTS. Districts may use a portion of their allotment under Section 42.151 to pay transportation costs for special education students, if 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 instructional facility, a school district other than a fast growth school district is entitled to an allotment of \$250 for each student in average daily attendance at the facility or a greater amount

provided by appropriation.

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

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

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

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

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

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

[Sections 42.226-42.250 reserved for expansion]

[Subchapter F reserved]

#### SUBCHAPTER G. ENRICHMENT PROGRAM

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

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

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

$$GYA = (GL \times AF \times DETR \times 100) - LR$$

where:

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

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

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

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

section; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Sections 42.255-42.300 reserved for expansion]

#### SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

(b) The Legislative Budget Board shall adopt a cost of education index based on a statistical analysis conducted on a revenue neutral basis that is designed to isolate the independent effects of uncontrollable factors on the compensation that school

districts must pay, including teacher salaries and other benefits. The analysis must include, at a minimum, variations in teacher characteristics, teacher work environments, and the economic and social conditions of the communities in which teachers reside.

(b-1) In this subsection, "teacher fixed effects index" means the teacher fixed effects index in the 2004 report commissioned by the Joint Select Committee on Public School Finance of the 78th Legislature, as adjusted so that there is not a greater difference between the highest index value and the lowest index value in the regional boundaries of a regional education service center than the difference that existed between the highest index value and lowest index value within the regional boundaries of that regional education service center under 19 T.A.C. Chapter 203, as that chapter existed on January 1, 2005. The commissioner shall increase the amount of the lowest adjustment in the regional boundaries of each regional education service center to satisfy the requirements of this subsection. Notwithstanding Subsection (a), the cost of education index for purposes of that subsection for the following school years is determined using the teacher fixed effects index in the following manner:

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

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

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

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

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

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

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

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

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

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

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

**Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT.**  
(a) The amounts of the accreditation allotments under Subchapter B and each special student allotment under Subchapter C of certain small and mid-sized school districts are adjusted in accordance

with this 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, minus the sum of the number of full-time equivalent students in a special education program in a mainstream instructional arrangement and the number of full-time equivalent students in a career and technology program; 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:

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

(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:

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

(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:

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

(2) for the 2007-2008 school year:

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

(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

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

(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) or (c-1)(1) for which the district is eligible; or

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

(2) for the 2007-2008 school year:

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

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

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

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

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

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

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

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

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

(b) The program shall be financed by:

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

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

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

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

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

Sec. 42.3051. STAFF COMPENSATION AND ADDITIONAL STATE AID. (a) For the 2006-2007 school year, a school district shall provide district employees compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the district that results in a total compensation increase for all district employees over the compensation paid in the 2005-2006 school year in an amount equal to the product of \$250 and the total 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.

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

(c) A school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled

to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) an amount equal to the product of \$3,000 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 of additional funds to which the district is entitled as a result of S.B. No. 8, Acts of the 79th Legislature, 2nd Called Session, 2005.

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

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

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

Sec. 42.3052. CRISIS INTERVENTION FUNDING. (a) To the extent consistent with this section, the commissioner may set aside funds appropriated to the agency for purposes of the Foundation School Program to provide temporary emergency assistance to a school district responding to flood, extreme weather conditions, 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:

$$LS = TR \times DPV$$

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.

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

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

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

Sec. 42.307. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE OF PROPERTY. (a) For purposes of Chapter 46 and this chapter, and to the extent money specifically authorized to be used under this

section is available, the commissioner shall adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in computing taxable values in excess of four percent of the tax base used in the preceding year.

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

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

Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Sec. 42.312. TEMPORARY LIMITATIONS ON AID.

(a) Notwithstanding any other provision of this subtitle, the commissioner shall withhold from a school district the amount of state funds 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 percentage of the amount described by Section 42.311(a):

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

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

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

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

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

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

(e) This section expires September 1, 2009.

#### Sec. 42.313. DISTRIBUTION OF TEXAS EDUCATION FUND.

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

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

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

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

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

19-1                   (5) the amount of a school district's enrichment  
19-2 program local revenue under Section 42.252.

19-3                   (b) Except as provided by this subsection, the commissioner  
19-4 shall base the determinations under Subsection (a) on the estimates  
19-5 provided to the legislature under Section 42.314 for each school  
19-6 district for each school year. The General Appropriations Act may  
19-7 provide alternate estimates of tax rates or total taxable value of  
19-8 property for each school district for each school year, in which  
19-9 case those estimates shall be used in making the determinations  
19-10 under Subsection (a). The commissioner shall reduce the  
19-11 entitlement of each district that has a final taxable value of  
19-12 property for the second year of a state fiscal biennium that is  
19-13 higher than the estimate under Section 42.314 or the General  
19-14 Appropriations Act, as applicable. A reduction under this  
19-15 subsection may not reduce the district's entitlement below the  
19-16 amount to which it is entitled at its actual taxable value of  
19-17 property.

19-18                   (c) Each school district is entitled to an amount equal to  
19-19 the difference for that district between the sum of Subsections  
19-20 (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and  
19-21 (a)(5).

19-22                   (c-1) Notwithstanding any other provision of this chapter,  
19-23 with the approval of the commissioner, a school district in which  
19-24 the number of students in average daily attendance increases as a  
19-25 result of enrolling students pursuant to an agreement to provide  
19-26 education services in cooperation with a public charter district or  
19-27 open-enrollment charter school is entitled to receive state revenue  
19-28 for the additional students in an amount not less than the  
19-29 district's total state and local revenue per student, including  
19-30 revenue from accreditation allotments and an enrichment program  
19-31 under Subchapter G, calculated on the basis of the district's  
19-32 average daily attendance prior to the enrollment of the additional  
19-33 students, or by the amount per student that the public charter  
19-34 district or open-enrollment charter school would have received if  
19-35 it enrolled the students, whichever is greater.

19-36                   (d) The commissioner shall approve warrants to each school  
19-37 district equaling the amount of its entitlement, except as provided  
19-38 by this section. Warrants for all money expended according to this  
19-39 chapter shall be approved and transmitted to treasurers or  
19-40 depositories of school districts in the same manner as warrants for  
19-41 state available fund payments are transmitted. The total amount of  
19-42 the warrants issued under this section may not exceed the total  
19-43 amount appropriated for Foundation School Program purposes for that  
19-44 fiscal year.

19-45                   (e) If a school district demonstrates to the satisfaction of  
19-46 the commissioner that the estimate of the district's tax rate,  
19-47 student enrollment, or taxable value of property used in  
19-48 determining the amount of state funds to which the district is  
19-49 entitled is so inaccurate as to result in undue financial hardship  
19-50 to the district, the commissioner may adjust funding to that  
19-51 district in that school year to the extent that funds are available  
19-52 for that year.

19-53                   (f) If the total amount appropriated for a year is less than  
19-54 the amount of money to which school districts are entitled for that  
19-55 year, the commissioner shall reduce the total amount of funds  
19-56 allocated to each district proportionately. The following fiscal  
19-57 year, a district's entitlement under this section is increased by  
19-58 an amount equal to the reduction made under this subsection.

19-59                   (g) Not later than March 1 of each year, the commissioner  
19-60 shall determine the actual amount of state funds to which each  
19-61 school district is entitled under this chapter for the current  
19-62 school year and shall compare that amount with the amount of the  
19-63 warrants issued to each district for that year. If the amount of  
19-64 the warrants differs from the amount to which a district is entitled  
19-65 because of variations in the district's tax rate, student  
19-66 enrollment, or taxable value of property, the commissioner shall  
19-67 adjust the district's entitlement for the next fiscal year  
19-68 accordingly.

19-69                   (g-1) Not later than March 1 of each even-numbered year, the

commissioner shall identify each school district in which the actual student enrollment for the current school year is at least three percent higher or lower than the estimate of student enrollment used to determine the amount of warrants issued to the district for that year. Subject to available funding, the commissioner shall adjust the district's entitlement for the next fiscal year so that the district receives, during that year, warrants in the amount to which the district would be entitled on the basis of a student enrollment that is three percent higher or lower, as applicable, than the estimate of student enrollment otherwise used to determine the district's entitlement. To the extent that money is available in the second year of a state fiscal biennium for adjustments under Subsection (g) and this subsection, the commissioner shall give priority to adjustments under this subsection.

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

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

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

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

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

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

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

(c) For purposes of this section, the agency shall use the estimate of student enrollment provided by the school district, unless the agency's review of the estimate indicates that it is inaccurate. The commissioner shall adopt criteria for use by the 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

21-1 statewide average wealth per student but not more than the  
 21-2 statewide average wealth per student.

21-3 (3) "Category 3 school district" means a school  
 21-4 district having a wealth per student of more than the statewide  
 21-5 average wealth per student.

21-6 (4) "Wealth per student" means the taxable property  
 21-7 values reported by the comptroller to the commissioner under  
 21-8 Section 42.306 divided by the number of students in average daily  
 21-9 attendance.

21-10 (b) Payments from the Texas education fund to each category  
 21-11 1 school district shall be made as follows:

21-12 (1) 15 percent of the yearly entitlement of the  
 21-13 district shall be paid in an installment to be made on or before the  
 21-14 25th day of September of a fiscal year;

21-15 (2) 80 percent of the yearly entitlement of the  
 21-16 district shall be paid in eight equal installments to be made on or  
 21-17 before the 25th day of October, November, December, January, March,  
 21-18 May, June, and July; and

21-19 (3) five percent of the yearly entitlement of the  
 21-20 district shall be paid in an installment to be made on or before the  
 21-21 25th day of February.

21-22 (c) Payments from the Texas education fund to each category  
 21-23 2 school district shall be made as follows:

21-24 (1) 22 percent of the yearly entitlement of the  
 21-25 district shall be paid in an installment to be made on or before the  
 21-26 25th day of September of a fiscal year;

21-27 (2) 18 percent of the yearly entitlement of the  
 21-28 district shall be paid in an installment to be made on or before the  
 21-29 25th day of October;

21-30 (3) 9.5 percent of the yearly entitlement of the  
 21-31 district shall be paid in an installment to be made on or before the  
 21-32 25th day of November;

21-33 (4) 7.5 percent of the yearly entitlement of the  
 21-34 district shall be paid in an installment to be made on or before the  
 21-35 25th day of April;

21-36 (5) five percent of the yearly entitlement of the  
 21-37 district shall be paid in an installment to be made on or before the  
 21-38 25th day of May;

21-39 (6) 10 percent of the yearly entitlement of the  
 21-40 district shall be paid in an installment to be made on or before the  
 21-41 25th day of June;

21-42 (7) 13 percent of the yearly entitlement of the  
 21-43 district shall be paid in an installment to be made on or before the  
 21-44 25th day of July; and

21-45 (8) 15 percent of the yearly entitlement of the  
 21-46 district shall be paid in an installment to be made after the fifth  
 21-47 day of September and not later than the 10th day of September of the  
 21-48 calendar year following the calendar year of the payment made under  
 21-49 Subdivision (1).

21-50 (d) Payments from the Texas education fund to each category  
 21-51 3 school district shall be made as follows:

21-52 (1) 45 percent of the yearly entitlement of the  
 21-53 district shall be paid in an installment to be made on or before the  
 21-54 25th day of September of a fiscal year;

21-55 (2) 35 percent of the yearly entitlement of the  
 21-56 district shall be paid in an installment to be made on or before the  
 21-57 25th day of October; and

21-58 (3) 20 percent of the yearly entitlement of the  
 21-59 district shall be paid in an installment to be made after the fifth  
 21-60 day of September and not later than the 10th day of September of the  
 21-61 calendar year following the calendar year of the payment made under  
 21-62 Subdivision (1).

21-63 (e) The amount of any installment required by this section  
 21-64 may be modified to provide a school district with the proper amount  
 21-65 to which the district may be entitled by law and to correct errors  
 21-66 in the allocation or distribution of funds. If an installment under  
 21-67 this section is required to be equal to other installments, the  
 21-68 amount of other installments may be adjusted to provide for that  
 21-69 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.

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

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

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

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

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

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

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

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

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

(b) If, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not purchased average daily attendance credit as provided by Subchapter D [~~successfully exercised one or more options under Section 41.003 that reduce the district's wealth per student to a level equal to or less than the equalized wealth level~~], the commissioner [~~shall order the detachment of property from that district as provided by Subchapter C. 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. Subsection (a), Section 41.006, Education Code, is amended to read as follows:

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

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

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

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

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

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

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

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

(a) A ~~[Except as provided by Subchapter C, a]~~ decision of the commissioner under this chapter is appealable under Section

7.057.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) In applying the selection criteria specified by Subsection (a), if more than two districts are to be consolidated, the commissioner shall select the third and each subsequent district to be consolidated by treating the district subject to Section 42.401 ~~[that has a property wealth greater than the~~



~~equalized wealth level]~~ and the district or districts previously selected for consolidation as one district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) For purposes of Subsection (b) ~~[this section]~~, local tax funds dedicated to a junior college district under Section

45.105(e), Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085.

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

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

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

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

(3) the district's current debt rate.

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

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

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

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

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

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

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

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

SECTION 1B.21. Effective on the 91st day after the last day

of the legislative session, Section 403.302, Government Code, is amended by amending Subsections (d) and (i) and adding Subsections (c-1), (c-2), and (d-1) to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

levied taxes at the rate the district levied in 2004;

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

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

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

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

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

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

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

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

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

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

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

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) ~~[(d)(12)]~~ subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) ~~[(d)(12)]~~ subtract from the market value as

estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

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

#### PART C. SCHOOL FACILITIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### PART D. SOCIAL SECURITY CONTRIBUTIONS

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

Sec. 606.0261. PAYMENT OF SCHOOL DISTRICT CONTRIBUTIONS.  
(a) Subject to Subsection (b), the state shall pay 50 percent of  
the total costs incurred by a school district in making  
contributions for social security coverage for the  
district's employees.

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

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

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

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

(c) Using funds appropriated for the purpose, the

commissioner of education shall distribute money to which school districts are entitled under this section in accordance with rules adopted by the commissioner.

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

## ARTICLE 2. EDUCATION EXCELLENCE

### PART A. EDUCATION EMPLOYEES

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

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

(1) communication during:

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

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

(2) ex parte communication relating to:

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

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

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

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

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

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

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

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

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

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

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

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

(i) This section expires September 1, 2010.

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

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

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

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

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

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

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

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

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

(1) the number of candidates who apply;

(2) the number of candidates admitted;

(3) the number of candidates retained;

(4) the number of candidates completing the program;

(5) the number of candidates employed in the profession after completing the program; and

(6) the number of candidates retained in the profession.

SECTION 2A.04. Subsection (a), Section 21.104, 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.05. 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) be represented by a representative of the teacher's choice;

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

(3) cross-examine adverse witnesses; and

(4) present evidence.



33-1 (c) After a hearing held under Subsection (b), the board of  
 33-2 trustees shall:

33-3 (1) take the appropriate action to discharge the  
 33-4 teacher or allow the teacher to complete the probationary contract  
 33-5 term; and

33-6 (2) notify the teacher in writing of its decision not  
 33-7 later than the 15th day after the date of the hearing.

33-8 (d) If the teacher does not request a hearing under  
 33-9 Subsection (b), the board of trustees shall take the appropriate  
 33-10 action to discharge the teacher and shall notify the teacher in  
 33-11 writing of that action not later than the 30th day after the date  
 33-12 the notice of proposed discharge for a financial exigency that  
 33-13 requires a reduction in personnel was sent to the teacher.

33-14 SECTION 2A.06. Subchapter E, Chapter 21, Education Code, is  
 33-15 amended by adding Section 21.2111 to read as follows:

33-16 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM  
 33-17 CONTRACT. (a) If the board of trustees proposes to discharge a  
 33-18 teacher under Section 21.211(a)(2), the board shall give written  
 33-19 notice of the proposed action to the teacher.

33-20 (b) If the teacher desires a hearing after receiving notice  
 33-21 of the proposed discharge, the teacher shall notify the board of  
 33-22 trustees in writing, not later than the 15th day after the date the  
 33-23 teacher receives the notice of the proposed action. The board shall  
 33-24 provide for a hearing to be held not later than the 15th day after  
 33-25 the date the board receives the request for a hearing unless the  
 33-26 parties agree in writing to a different date. The hearing must be  
 33-27 closed unless the teacher requests an open hearing. The hearing  
 33-28 must be conducted in accordance with rules adopted by the board. At  
 33-29 the hearing, the teacher may:

33-30 (1) be represented by a representative of the  
 33-31 teacher's choice;

33-32 (2) hear the evidence supporting the reason for the  
 33-33 discharge;

33-34 (3) cross-examine adverse witnesses; and

33-35 (4) present evidence.

33-36 (c) After the hearing, the board of trustees shall:

33-37 (1) take the appropriate action to discharge the  
 33-38 teacher or allow the teacher to complete the current contract term;  
 33-39 and

33-40 (2) notify the teacher in writing of its decision not  
 33-41 later than the 15th day after the date of the hearing.

33-42 (d) If the teacher does not request a hearing under  
 33-43 Subsection (b), the board of trustees shall take the appropriate  
 33-44 action to discharge the teacher and shall notify the teacher in  
 33-45 writing of that action not later than the 30th day after the date  
 33-46 the notice of proposed discharge for a financial exigency that  
 33-47 requires a reduction in personnel was sent to the teacher.

33-48 SECTION 2A.07. Section 21.251, Education Code, is amended  
 33-49 to read as follows:

33-50 Sec. 21.251. APPLICABILITY. (a) This subchapter applies  
 33-51 if a teacher requests a hearing after receiving notice of the  
 33-52 proposed decision to:

33-53 (1) terminate the teacher's continuing contract at any  
 33-54 time;

33-55 (2) except as provided by Subsection (b)(3), terminate  
 33-56 the teacher's probationary or term contract before the end of the  
 33-57 contract period; or

33-58 (3) suspend the teacher without pay.

33-59 (b) This subchapter does not apply to:

33-60 (1) a decision to terminate a teacher's employment at  
 33-61 the end of a probationary contract; ~~or~~

33-62 (2) a decision not to renew a teacher's term contract,  
 33-63 unless the board of trustees of the employing district has decided  
 33-64 to use the process prescribed by this subchapter for that purpose;  
 33-65 or

33-66 (3) a decision to terminate a teacher's probationary  
 33-67 contract or term contract before the end of the contract period for  
 33-68 a financial exigency that requires a reduction in personnel.

33-69 SECTION 2A.08. Subsection (a), Section 21.301, 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 probationary contract under Section 21.1041(c) or (d) or term contract under Section 21.2111(c) or (d), the teacher may appeal the decision by filing a petition for review with the commissioner.

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

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

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

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

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

~~[where:~~

~~["MS" is the minimum monthly salary;~~

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

~~["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>\$2,699</u> <del>[-.5656]</del>	<u>\$2,756</u> <del>[-.5790]</del>	<u>\$2,814</u> <del>[-.5924]</del>
<del>[Factor]</del>			
Years	3	4	5
Experience			
Monthly Salary	<u>\$2,871</u> <del>[-.6058]</del>	<u>\$2,992</u> <del>[-.6340]</del>	<u>\$3,113</u> <del>[-.6623]</del>
<del>[Factor]</del>			
Years	6	7	8
Experience			
Monthly Salary	<u>\$3,234</u> <del>[-.6906]</del>	<u>\$3,347</u> <del>[-.7168]</del>	<u>\$3,453</u> <del>[-.7416]</del>
<del>[Factor]</del>			
Years	9	10	11
Experience			
Monthly Salary	<u>\$3,554</u> <del>[-.7651]</del>	<u>\$3,648</u> <del>[-.7872]</del>	<u>\$3,739</u> <del>[-.8082]</del>
<del>[Factor]</del>			
Years	12	13	14
Experience			

35-1	Monthly Salary	<u>\$3,824</u> [ <del>-.8281</del> ]	<u>\$3,903</u> [ <del>-.8467</del> ]	<u>\$3,980</u> [ <del>-.8645</del> ]
35-2	[Factor]			
35-3	Years	15	16	17
35-4	Experience			
35-5	Monthly Salary	<u>\$4,051</u> [ <del>-.8811</del> ]	<u>\$4,119</u> [ <del>-.8970</del> ]	<u>\$4,183</u> [ <del>-.9119</del> ]
35-6	[Factor]			
35-7	Years	18	19	20 and over
35-8	Experience			
35-9	Monthly Salary	<u>\$4,243</u> [ <del>-.9260</del> ]	<u>\$4,301</u> [ <del>-.9394</del> ]	<u>\$4,355</u> [ <del>-.9520</del> ]
35-10	[Factor]			
35-11	(c-1) Subsection (c) applies beginning with the 2006-2007			
35-12	school year. For the 2005-2006 school year, the minimum monthly			
35-13	salary under this section is as follows:			
35-14	Years	<u>0</u>	<u>1</u>	<u>2</u>
35-15	Experience			
35-16	Monthly Salary	<u>\$2,574</u>	<u>\$2,631</u>	<u>\$2,689</u>
35-17	Years	<u>3</u>	<u>4</u>	<u>5</u>
35-18	Experience			
35-19	Monthly Salary	<u>\$2,746</u>	<u>\$2,867</u>	<u>\$2,988</u>
35-20	Years	<u>6</u>	<u>7</u>	<u>8</u>
35-21	Experience			
35-22	Monthly Salary	<u>\$3,109</u>	<u>\$3,222</u>	<u>\$3,328</u>
35-23	Years	<u>9</u>	<u>10</u>	<u>11</u>
35-24	Experience			
35-25	Monthly Salary	<u>\$3,429</u>	<u>\$3,523</u>	<u>\$3,614</u>
35-26	Years	<u>12</u>	<u>13</u>	<u>14</u>
35-27	Experience			
35-28	Monthly Salary	<u>\$3,699</u>	<u>\$3,778</u>	<u>\$3,855</u>
35-29	Years	<u>15</u>	<u>16</u>	<u>17</u>
35-30	Experience			
35-31	Monthly Salary	<u>\$3,926</u>	<u>\$3,994</u>	<u>\$4,058</u>
35-32	Years	<u>18</u>	<u>19</u>	<u>20 and over</u>
35-33	Experience			
35-34	Monthly Salary	<u>\$4,118</u>	<u>\$4,176</u>	<u>\$4,230</u>
35-35	(c-2) Notwithstanding Subsection (a), for the 2005-2006			
35-36	school year, a classroom teacher, full-time librarian, full-time			
35-37	counselor certified under Subchapter B, or full-time school nurse			
35-38	is entitled to a monthly salary that is at least equal to the sum of:			
35-39	(1) the monthly salary the employee would have			
35-40	received for the 2005-2006 school year under the district's salary			
35-41	schedule for the 2004-2005 school year, if that schedule had been in			
35-42	effect for the 2005-2006 school year, including any local			
35-43	supplement and any money representing a career ladder supplement			
35-44	the employee would have received in the 2005-2006 school year; and			
35-45	(2) \$150.			
35-46	(c-3) Notwithstanding Subsection (a), for the 2006-2007			
35-47	school year, a classroom teacher, full-time librarian, full-time			
35-48	counselor certified under Subchapter B, or full-time school nurse			
35-49	is entitled to a monthly salary that is at least equal to the sum of:			
35-50	(1) the monthly salary the employee would have			
35-51	received for the 2006-2007 school year under the district's salary			
35-52	schedule for the 2004-2005 school year, if that schedule had been in			
35-53	effect for the 2006-2007 school year, including any local			
35-54	supplement and any money representing a career ladder supplement			
35-55	the employee would have received in the 2006-2007 school year; and			
35-56	(2) \$275.			
35-57	(c-4) A school district that paid employees an additional			
35-58	amount during each of the 2003-2004 and 2004-2005 school years to			
35-59	compensate for reductions made in the health coverage or			
35-60	compensation supplementation provided by former Article 3.50-8,			
35-61	Insurance Code, may apply to the commissioner for authority to			
35-62	provide a lesser average compensation increase than the amount			
35-63	otherwise required by Subsection (c-2) or (c-3), to the extent			
35-64	equitable considering the additional amount provided by the			
35-65	district during the 2003-2004 and 2004-2005 school years. A			
35-66	determination by the commissioner under this subsection is final			
35-67	and may not be appealed. The commissioner may adopt rules to			
35-68	implement this subsection.			
35-69	(c-5) Subsections (c-1), (c-2), (c-3), (c-4), and this			

subsection expire September 1, 2007.

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

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

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

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

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

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

(3) skills required beyond basic teaching skills; and

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

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

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

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

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

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

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

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

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

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

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

(e) A school district is entitled to state funds in an amount equal to the sum of the salary supplements to which classroom teachers employed by the district are entitled under this section. Funding a school district receives under this section is in addition to any funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled

as soon as practicable after the end of the school year as determined by the commissioner. A district to which Chapter 41 applies is entitled to funding under this section. The commissioner shall determine the timing of the distribution of funds to a district that does not receive Foundation School Program payments.

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

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

(3) mentoring support through providers of mentor training.

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

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

SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

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

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

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

(1) encourage classroom teachers to:  
(A) teach at campuses with high percentages of educationally disadvantaged students;

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

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

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

(d) The commissioner shall adopt rules necessary to

implement this subchapter, including rules establishing criteria for awarding grants under Subsection (b). In adopting rules, the commissioner shall encourage local flexibility in designing incentive plans that promote student achievement.

Sec. 21.652. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

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

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

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

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

(e) A local incentive plan must:

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

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

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

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

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

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

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

39-1 charter school, or regional education service center as an  
 39-2 independent contractor.

39-3 (3) "Participating charter school" means a public  
 39-4 charter district ~~[an open-enrollment charter school]~~ established  
 39-5 under ~~[Subchapter D,]~~ Chapter 11A ~~[12,]~~ that participates in the  
 39-6 program established under Chapter 1579, Insurance Code.

39-7 (4) "Regional education service center" means a  
 39-8 regional education service center established under Chapter 8.

39-9 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

39-10 (a) The agency may adopt rules to implement this subchapter.

39-11 (b) The agency may enter into interagency contracts with any  
 39-12 other agency of this state for the purpose of assistance in  
 39-13 implementing this subchapter.

39-14 Sec. 22.103. DESIGNATION OF COMPENSATION AS HEALTH CARE  
 39-15 SUPPLEMENTATION. (a) An employee of a school ~~[ELIGIBILITY,~~  
 39-16 ~~WAITING PERIOD. A person is not eligible for a monthly distribution~~  
 39-17 ~~under this subchapter before the 91st day after the first day the~~  
 39-18 ~~person becomes an employee.]~~

39-19 ~~[Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the~~  
 39-20 ~~availability of funds, each month the agency shall deliver to each]~~  
 39-21 ~~district, [including a district that is ineligible for state aid~~  
 39-22 ~~under Chapter 42, each] other educational district that is a member~~  
 39-23 ~~of the Teacher Retirement System of Texas, [each] participating~~  
 39-24 ~~charter school, or [and each] regional education service center may~~  
 39-25 ~~elect to designate a portion of the employee's compensation to be~~  
 39-26 ~~used as health care supplementation under this subchapter.]~~

39-27 (b) The amount designated under this section may not exceed  
 39-28 the amount permitted under applicable federal law.

39-29 (c) This section does not apply to:

39-30 (1) an employee who is not covered by a cafeteria plan  
 39-31 or who is not eligible to pay health care premiums through a premium  
 39-32 conversion plan; or

39-33 (2) an administrator, as defined by the trustee,  
 39-34 employed by a school district, another educational district, a  
 39-35 participating charter school, or a regional education service  
 39-36 center ~~[state funds in an amount, as determined by the agency, equal~~  
 39-37 ~~to the product of the number of eligible employees employed by the~~  
 39-38 ~~district, school, or service center multiplied by the amount~~  
 39-39 ~~specified in the General Appropriations Act for purposes of this~~  
 39-40 ~~subchapter and divided by 12. The agency shall distribute funding~~  
 39-41 ~~to only one entity for employees who are employed by more than one~~  
 39-42 ~~entity listed in this section].~~

39-43 Sec. 22.104 ~~[22.105]~~. FUNDS HELD IN TRUST. All funds  
 39-44 received by a district, other educational district, participating  
 39-45 charter school, or regional education service center under this  
 39-46 subchapter are held in trust for the benefit of the employees on  
 39-47 whose behalf the district, school, or service center received the  
 39-48 funds.

39-49 Sec. 22.105. WRITTEN ELECTION REQUIRED. Each school year,  
 39-50 an active employee must elect in writing whether to designate a  
 39-51 portion of the employee's compensation to be used as health care  
 39-52 supplementation under this subchapter.

39-53 Sec. 22.106. ~~[RECOVERY OF DISTRIBUTIONS. The agency is~~  
 39-54 ~~entitled to recover from a district, other educational district,~~  
 39-55 ~~participating charter school, or regional education service center~~  
 39-56 ~~any amount distributed under this subchapter to which the district,~~  
 39-57 ~~school, or service center was not entitled.]~~

39-58 ~~[Sec. 22.107. DETERMINATION BY AGENCY FINAL. A~~  
 39-59 ~~determination by the agency under this subchapter is final and may~~  
 39-60 ~~not be appealed.]~~

39-61 ~~[Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each~~  
 39-62 ~~district, other educational district that is a member of the~~  
 39-63 ~~Teacher Retirement System of Texas, participating charter school,~~  
 39-64 ~~and regional education service center must distribute to its~~  
 39-65 ~~eligible employees the funding received under this subchapter. To~~  
 39-66 ~~receive the monthly distribution, an individual must meet the~~  
 39-67 ~~definition of an employee under Section 22.101 for that month.]~~

39-68 ~~[Sec. 22.109.]~~ USE OF DESIGNATED ~~[SUPPLEMENTAL]~~  
 39-69 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.16. 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 therapy, as determined by the State Board of Examiners for Speech-Language Pathology and Audiology; and

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

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

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

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

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

(d) This section:

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

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

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

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

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

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

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

SECTION 2A.18. Sections 21.104, 21.251, 21.301, and 21.303, Education Code, as amended by this Act, and Sections 21.1041 and 21.2111, Education Code, as added by this Act, apply only to a



41-1 discharge under a probationary or term contract for which written  
 41-2 notice of the proposed discharge is given to a teacher on or after  
 41-3 the effective date of this Act. A discharge under a probationary or  
 41-4 term contract for which written notice of the proposed discharge is  
 41-5 given to a teacher before the effective date of this Act is governed  
 41-6 by the law in effect when the notice is given, and the former law is  
 41-7 continued in effect for that purpose.

41-8 SECTION 2A.19. Subsection (a-1), Section 21.402, Education  
 41-9 Code, as added by this Act, does not apply to the salary of an  
 41-10 educator employed under a contract entered into before the  
 41-11 effective date of this Act.

41-12 SECTION 2A.20. Subsection (a-2), Section 21.402, Education  
 41-13 Code, as added by this Act, does not apply to the salary of an  
 41-14 educator employed under a contract entered into before the  
 41-15 effective date of this Act.

41-16 SECTION 2A.21. Subchapter N, Chapter 21, Education Code, as  
 41-17 added by this Act, applies beginning with the 2006-2007 school  
 41-18 year.

#### 41-19 PART B. STATE AND REGIONAL GOVERNANCE

41-20 SECTION 2B.01. Chapter 1, Education Code, is amended by  
 41-21 adding Section 1.005 to read as follows:

41-22 Sec. 1.005. EDUCATION RESEARCH CENTERS; SHARING STUDENT  
 41-23 INFORMATION. (a) In this section, "center" means a center for  
 41-24 education research authorized by this section.

41-25 (b) The commissioner of education and the commissioner of  
 41-26 higher education may establish not more than three centers for  
 41-27 education research for conducting research described by  
 41-28 Subsections (e) and (f).

41-29 (c) A center may be established as part of:  
 41-30 (1) the Texas Education Agency;  
 41-31 (2) the Texas Higher Education Coordinating Board; or  
 41-32 (3) a public junior college, public senior college or  
 41-33 university, or public state college, as those terms are defined by  
 41-34 Section 61.003.

41-35 (d) A center may be operated under a memorandum of  
 41-36 understanding between the commissioner of education, the  
 41-37 commissioner of higher education, and the governing board of an  
 41-38 educational institution described by Subsection (c)(3). The  
 41-39 memorandum of understanding must require the commissioner of  
 41-40 education, or a person designated by the commissioner, and the  
 41-41 commissioner of higher education, or a person designated by the  
 41-42 commissioner, to provide direct, joint supervision of the center  
 41-43 under this section.

41-44 (e) A center shall conduct research for the benefit of  
 41-45 education in this state, including research relating to the impact  
 41-46 of state and federal education programs, the performance of  
 41-47 educator preparation programs, public school finance, and the best  
 41-48 practices of school districts with regard to classroom instruction,  
 41-49 bilingual education programs, special language programs, and  
 41-50 business practices.

41-51 (f) The commissioner of education and the commissioner of  
 41-52 higher education:

41-53 (1) under the memorandum of understanding described by  
 41-54 Subsection (d), may require a center to conduct certain research  
 41-55 projects considered of particular importance to the state, as  
 41-56 determined by the commissioners; and

41-57 (2) not later than the 45th day before the date a  
 41-58 research project required to be conducted under this subsection is  
 41-59 scheduled to begin, shall notify the governor, the Legislative  
 41-60 Budget Board, and the governing body of the educational institution  
 41-61 in which the center is established that the research project is  
 41-62 required.

41-63 (g) In conducting research under this section, a center:  
 41-64 (1) may use data on student performance, including  
 41-65 data that is confidential under the Family Educational Rights and  
 41-66 Privacy Act of 1974 (20 U.S.C. Section 1232g), the center has  
 41-67 collected from the Texas Education Agency, the Texas Higher  
 41-68 Education Coordinating Board, the Educators' Professional  
 41-69 Practices Board, any public or private institution of higher

education, and any school district; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43-1 Sec. 7.008. ELECTRONIC STUDENT RECORDS SYSTEM. (a) In  
 43-2 this section, "institution of higher education" has the meaning  
 43-3 assigned by Section 61.003.

43-4 (b) Each school district, public charter district, and  
 43-5 institution of higher education shall participate in an electronic  
 43-6 student records system that satisfies standards approved by the  
 43-7 commissioner of education and the commissioner of higher education.

43-8 (c) The electronic student records system must permit an  
 43-9 authorized state or district official or an authorized  
 43-10 representative of an institution of higher education to  
 43-11 electronically transfer to and from an educational institution in  
 43-12 which the student is enrolled and retrieve student transcripts,  
 43-13 including information concerning a student's:

43-14 (1) course or grade completion;

43-15 (2) teachers of record;

43-16 (3) assessment instrument results; and

43-17 (4) receipt of special education services, including  
 43-18 placement in a special education program and the individualized  
 43-19 education program developed.

43-20 (d) The commissioner of education or the commissioner of  
 43-21 higher education may solicit and accept grant funds to maintain the  
 43-22 electronic student records system and to make the system available  
 43-23 to school districts, public charter districts, and institutions of  
 43-24 higher education.

43-25 (e) A private or independent institution of higher  
 43-26 education, as defined by Section 61.003, may participate in the  
 43-27 electronic student records system under this section. If a private  
 43-28 or independent institution of higher education elects to  
 43-29 participate, the institution must provide the funding to  
 43-30 participate in the system.

43-31 (f) Any person involved in the transfer and retrieval of  
 43-32 student information under this section is subject to any state or  
 43-33 federal law governing the release of or providing access to any  
 43-34 confidential information to the same extent as the educational  
 43-35 institution from which the data is collected. A person may not  
 43-36 release or distribute the data to any other person in a form that  
 43-37 contains confidential information.

43-38 (g) The electronic student records system shall be  
 43-39 implemented not later than the beginning of the 2006-2007 school  
 43-40 year. This subsection expires September 1, 2007.

43-41 SECTION 2B.05. Subchapter B, Chapter 7, Education Code, is  
 43-42 amended by adding Section 7.0211 to read as follows:

43-43 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may  
 43-44 receive gifts, grants, or donations from any public or private  
 43-45 source to perform any educational function the agency is authorized  
 43-46 to perform by law.

43-47 SECTION 2B.06. Section 7.028, Education Code, as renumbered  
 43-48 by Subdivision (9), Section 23.001, H.B. No. 2018, Acts of the 79th  
 43-49 Legislature, Regular Session, 2005, is amended to read as follows:

43-50 Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING.  
 43-51 (a) Except as provided by Section 29.001(5), 29.010(a), [39.074,  
 43-52 or 39.075, the agency may monitor compliance with requirements  
 43-53 applicable to a process or program provided by a school district,  
 43-54 campus, program, or school granted charters under Chapter 11A or  
 43-55 12, including the process described by Subchapter F, Chapter 11, or  
 43-56 a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,  
 43-57 Subchapter A, Chapter 37, or Section 38.003, and the use of funds  
 43-58 provided for such a program under Subchapter C, Chapter 42, only as  
 43-59 necessary to ensure:

43-60 (1) compliance with federal law and regulations;

43-61 (2) financial accountability, including compliance  
 43-62 with grant requirements; and

43-63 (3) data integrity for purposes of:

43-64 (A) the Public Education Information Management  
 43-65 System (PEIMS); and

43-66 (B) accountability under Chapter 39.

43-67 (b) The board of trustees of a school district or the  
 43-68 governing body of a public charter district [an open-enrollment  
 43-69 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;
- (5) previous history of compliance;
- (6) complaints issues; and
- (7) governance issues.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

Sec. 7.151. PERFORMANCE-BASED GRANT SYSTEM. (a) The agency shall implement a comprehensive performance-based grant system to collect and report grant performance and spending information and to use that information in making future grants.

(b) The grant system must:

(1) connect grant activities and funding to student academic performance; and

(2) provide for efficient grant application and reporting procedures for grant programs administered by the agency.

Sec. 7.152. GRANT PROGRAM PROCEDURES. The agency shall ensure that:

(1) the mission, purpose, and objectives of each agency grant program support student academic performance or another public education mission, objective, or goal specified under Sections 4.001 and 4.002;

(2) each agency grant program coordinates with other grant programs administered by the agency;

(3) grant programs with similar objectives have common performance measures; and

(4) the most efficient methods for coordinating grant objectives, grant activities, academic performance measures, and funding are used in the agency's grant application and reporting systems.

Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. The agency may use existing data to identify and notify an eligible school district or charter school of the opportunity to apply for a state-funded discretionary grant.

Sec. 7.154. APPLICATION FOR STATE-FUNDED FORMULA GRANTS. The agency shall develop one or more consolidated applications to be used by school districts and charter schools in applying for any state-funded formula grant administered by the agency.

Sec. 7.155. AVAILABILITY OF GRANT INFORMATION. The agency shall ensure that information relating to the grant system is available to the legislature and the public.

Sec. 7.156. BEST PRACTICES GRANT INFORMATION. (a) The agency, in coordination with regional education service centers, shall use data relating to grant programs, including grant spending and performance information, to identify successful grant programs. Based on the identification of successful grant programs, each regional education service center shall provide information concerning those programs to the school districts in the service center's region.

(b) This section applies beginning with the 2009-2010 school year. This subsection expires June 1, 2010.

Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. (a) In developing the performance-based grant system, the agency shall:

(1) identify each area of data collected for grant programs and the method in which the agency collects the data;

(2) determine whether grant data that a school district or charter school is required to collect is useful and supports:

(A) a grant program's objectives; and

(B) the goals for academic performance and accountability or another public education mission, objective, or goal;

(3) determine whether grant data is analyzed and disseminated efficiently; and

(4) review the agency's policies, procedures, and reporting requirements relating to grant programs administered by the agency to simplify and make more efficient the grant application, award, and reporting processes for school districts and charter schools.

(b) This section expires June 1, 2010.

Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL YEARS; STATUS REPORT. (a) Not later than January 1, 2007, the agency shall provide the legislature with a status report concerning the agency's development of the grant system. The report may suggest any statutory changes needed to facilitate a

46-1 full transition to a performance-based grant system.

46-2 (b) Beginning with the 2009-2010 school year, the agency  
 46-3 shall make the performance-based grant system fully available to  
 46-4 school districts and charter schools.

46-5 (c) This section expires June 1, 2010.

46-6 SECTION 2B.11. Subchapter A, Chapter 8, Education Code, is  
 46-7 amended by adding Section 8.0031 to read as follows:

46-8 Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS.

46-9 (a) The commissioner shall adopt rules prescribing training for  
 46-10 members of regional education service center boards of directors.  
 46-11 The training curriculum may include:

46-12 (1) an overview of this code and any rules adopted  
 46-13 under this code;

46-14 (2) a review of recent state and federal education  
 46-15 legislation, rules, and regulations;

46-16 (3) a review of the powers and duties of a regional  
 46-17 education service center board of directors; and

46-18 (4) a review of any statewide or regional strategic  
 46-19 planning applicable to regional education service centers.

46-20 (b) A member of a regional education service center board of  
 46-21 directors must complete any training required by commissioner rule.

46-22 SECTION 2B.12. Subsections (b), (c), and (d), Section  
 46-23 8.051, Education Code, are amended to read as follows:

46-24 (b) Each regional education service center shall annually  
 46-25 develop and submit to the commissioner for approval a plan for  
 46-26 improvement. Each plan must include the purposes and description  
 46-27 of the services the center will provide to:

46-28 (1) campuses rated academically unacceptable  
 46-29 ~~[identified as low-performing based on the indicators adopted]~~  
 46-30 under Section 39.072 [39.051];

46-31 (2) the lowest-performing campuses in the region; and

46-32 (3) other campuses.

46-33 (c) Each regional education service center shall provide  
 46-34 services that enable school districts to operate more efficiently  
 46-35 and economically, including collecting and disseminating:

46-36 (1) best practices information as provided by Section  
 46-37 7.010; and

46-38 (2) information concerning successful grant programs  
 46-39 to school districts as provided by Section 7.156.

46-40 (d) Each regional education service center shall maintain  
 46-41 core services for purchase by school districts and campuses. The  
 46-42 core services are:

46-43 (1) training and assistance in teaching each subject  
 46-44 area assessed under Section 39.023;

46-45 (2) training and assistance in providing each program  
 46-46 that qualifies for a special education, accelerated program,  
 46-47 transitional program, or gifted and talented student funding  
 46-48 allotment under Subchapter C, Chapter 42 [Section 42.151, 42.152,  
 46-49 42.153, or 42.156];

46-50 (3) assistance specifically designed for a school  
 46-51 district or campus rated academically unacceptable under Section  
 46-52 39.072 [39.072(a) or a campus whose performance is considered  
 46-53 unacceptable based on the indicators adopted under Section 39.051];

46-54 (4) training and assistance to teachers,  
 46-55 administrators, members of district boards of trustees, and members  
 46-56 of site-based decision-making committees;

46-57 (5) assistance specifically designed for a school  
 46-58 district that is considered out of compliance with state or federal  
 46-59 special education requirements, based on the agency's most recent  
 46-60 compliance review of the district's special education programs; and

46-61 (6) assistance in complying with state laws and rules.

46-62 SECTION 2B.13. Section 8.102, Education Code, is amended to  
 46-63 read as follows:

46-64 Sec. 8.102. DATA REPORTING. (a) Each regional education  
 46-65 service center shall report audited or budgeted financial  
 46-66 information and any other information requested by the commissioner  
 46-67 for use in assessing the performance of the center. The  
 46-68 commissioner shall develop a uniform system for regional education  
 46-69 service centers to report audited financial data, to report

information on the indicators adopted under Section 8.101, and to provide information on client satisfaction with services provided under Subchapter B.

(b) The uniform system for reporting required by Subsection (a) must require regional education service centers to:

(1) use standard accepted cost accounting practices approved by the commissioner for reporting all expenditures; and

(2) identify and report each expenditure separately by purpose as educational, support, or administrative.

SECTION 2B.14. Section 8.103, Education Code, is amended to read as follows:

Sec. 8.103. ANNUAL EVALUATION. (a) The commissioner shall conduct an annual evaluation of each executive director and regional education service center. Each evaluation must include:

(1) an audit of the center's finances;

(2) a review of the center's performance on the indicators adopted under Section 8.101;

(3) a review of client satisfaction with services provided under Subchapter B; and

(4) a review of any other factor the commissioner determines to be appropriate.

(b) In the audit conducted under Subsection (a)(1), the commissioner shall verify that the regional education service center has identified each expenditure separately by purpose as educational, support, or administrative as required by Section 8.102(b).

(c) The commissioner shall make the annual evaluation for a fiscal year available to the public not later than January 1 following that fiscal year. The commissioner shall provide a copy of the annual evaluation to any person who submits a written request to the commissioner.

SECTION 2B.15. Subchapter A, Chapter 11, Education Code, is amended by adding Section 11.003 to read as follows:

Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later than December 1, 2005, the commissioner shall evaluate the feasibility of including a uniform indicator under Section 39.202(b) that measures effective administrative management through the use of cooperative shared service arrangements. If the commissioner determines that the adoption of a uniform indicator described by this subsection is feasible, the commissioner by rule shall include the indicator in the financial accountability rating system under Subchapter I, Chapter 39, for school districts beginning with the 2006-2007 school year. This subsection expires September 1, 2007.

(b) Each regional education service center shall:

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

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

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

(d) The commissioner may:

(1) adopt by rule reasonable incentives to encourage school districts and public charter districts to enter into agreements for a cooperative shared service arrangement; and

(2) require a district or a public charter district to enter into an agreement for a cooperative shared service arrangement if the commissioner determines that the financial management performance of the district is unsatisfactory.

SECTION 2B.16. Subchapter A, Chapter 29, Education Code, is

amended by adding Sections 29.0162, 29.0163, and 29.0164 to read as follows:

Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE PROCESS HEARINGS. (a) The agency shall make available to a parent, student, school district, attorney, or other interested person, and shall place on the agency's Internet website, comprehensive, easily understood information concerning the special education due process hearing process.

(b) The information described by Subsection (a) must include:

(1) a description of the steps in the due process hearing process;

(2) the text of any applicable administrative, procedural, or evidentiary rule;

(3) a description of any notice requirements;

(4) an explanation of options for alternative dispute resolution, including mediation;

(5) an explanation of a resolution session;

(6) answers to frequently asked questions; and

(7) other sources of information, including electronic sources of information, such as special education case law available on the Internet.

Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION CONCERNING SPECIAL EDUCATION HEARING OFFICERS. (a) The agency shall collect and at least biennially analyze any information, including complaint information, relating to the performance of a special education hearing officer for use in assessing:

(1) the effectiveness of the due process hearing process; and

(2) the performance of a special education hearing officer.

(b) The agency shall use the information described by Subsection (a) in determining whether to renew a contract with a special education hearing officer.

Sec. 29.0164. SPECIAL EDUCATION HEARING OFFICER: CONFLICT OF INTEREST PROVISIONS. A special education hearing officer may not accept employment or compensation from a school district during a school year in which the hearing officer presides over a hearing to which the district is a party.

SECTION 2B.17. Section 37.008, Education Code, is amended by adding Subsection (o) to read as follows:

(o) For purposes of accountability under Chapter 39, a student placed in a disciplinary alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

SECTION 2B.18. Section 1551.101, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An individual who is a member of the State Board of Education is eligible to participate in the group benefits program as provided by Subsection (a).

#### PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

SECTION 2C.01. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.011 to read as follows:

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

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

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

(1) the amount of an award;



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

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

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

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

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

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

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

SECTION 2C.02. 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 regularly scheduled board of trustees meetings during a calendar year that the member is eligible to attend, unless the absence is excused by a majority vote of the board of trustees.

(b) If the superintendent of the school district has knowledge that a ground for removal under this section exists, the superintendent shall notify the board of trustees. On a determination that a potential ground for removal exists, the board shall notify the appropriate county or district attorney or the attorney general.

SECTION 2C.03. Section 11.163, Education Code, as amended by S.B. No. 387, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsections (c) and (d) to read as follows:

(c) The employment policy may:  
(1) specify the terms of employment with the district;  
or

(2) delegate to the superintendent the authority to determine the terms of employment with the district[, or

~~[(3) include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district].~~

(d) The employment policy must provide that not later than the 10th school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Section 21.003, other than a position that affects the safety and security of students as determined by the board of trustees, the district must provide to each current district employee:

(1) notice of the position by posting the position on:  
(A) a bulletin board at:  
(i) a place convenient to the public in the district's central administrative office; and  
(ii) the central administrative office of

each campus in the district during any time the office is open; or  
[and]

(B) the district's Internet website, if the district has a website; and

(2) a reasonable opportunity to apply for the position.

SECTION 2C.04. Subchapter E, Chapter 11, Education Code, is amended by adding Section 11.2011 to read as follows:

Sec. 11.2011. SUPERINTENDENTS: CONFLICT OF INTEREST PROVISIONS. (a) Except as provided by Subsection (b), a superintendent may not receive any financial benefit for personal services performed by the superintendent for any business entity that conducts business with or solicits business from the school district. Any financial benefit received by the superintendent for performing personal services for any other entity must be approved by the board of trustees on a case-by-case basis in an open meeting.

(b) Subsection (a) does not apply to personal services performed by a superintendent for an institution of higher education, as defined by Section 61.003, regional education service center, or professional association or organization if the superintendent provides notice to the board of trustees of the school district disclosing the agreement to perform the services.

SECTION 2C.05. Subchapter C, Chapter 29, Education Code, is amended by adding Sections 29.092, 29.093, and 29.0931 to read as follows:

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

(b) To enable school districts and public charter districts to provide supplemental programs and services for the benefit of students at risk of dropping out of school, the commissioner each school year shall award funds to a school district or public charter district in accordance with a streamlined and simplified grant process developed by the commissioner. To the extent practicable, the grant process developed by the commissioner under this subsection must comply with Subchapter E, Chapter 7.

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

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

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

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

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

(d) The commissioner may include grants under Section 7.024 as part of one or more consolidated grant application processes developed under this section. The commissioner shall ensure that a grant applied for under a consolidated application process under this section and awarded under Section 7.024 is used only for the purposes of Section 7.024.

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

(f) A school district or public charter district that receives an award of funds under this section may use the funds to provide academic and support services to students at risk of dropping out of school, including:

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

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

(3) after-school academic and support services;  
 (4) intensive instruction for preschool and school-age students of limited English proficiency;  
 (5) any academic or support services for pregnant or parenting students, including basic instruction and health and life skills training and support for pregnant or parenting students;  
 (6) community-based services designed to address the needs of students at risk of dropping out of school;  
 (7) programs or services designed to promote the involvement of parents of students at risk of dropping out of school; and  
 (8) services or programs promoting school and community collaboration to restructure schools for the successful achievement of all students, especially students at risk of dropping out of school.

(g) The agency shall make available research-based guidance to school districts and public charter districts to enable successful implementation of the academic and support services described by Subsection (f) that assist students at risk of dropping out of school to succeed in school.

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

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

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

(1) a methodology for assessing the cost-effectiveness of individual school districts and public charter districts in providing services to students at risk of dropping out of school;

(2) performance measures that can be used to assess the effectiveness of school districts and public charter districts in administering academic and social service programs for students at risk of dropping out of school;

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

(4) a statistical methodology for:  
 (A) controlling for differences among individual school districts and public charter districts that are not related to funding streams included in the cost-outcome analysis; and

(B) disaggregating data by peer groups;  
 (5) a methodology for computing the relative impact of funding sources on student achievement outcomes; and

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

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

(1) not later than December 1 of each year:  
 (A) report findings from the cost-outcome analysis to the lieutenant governor, the speaker of the house of

representatives, and the presiding officer of the standing committee of each house of the legislature with primary jurisdiction over public education, including data related to the feasibility of constructing a cost-effectiveness measure for school districts and public charter districts;

(B) make recommendations for the potential use of the data, including the best methods to disseminate the information to parents and school districts and public charter districts; and

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

(2) during the 2006-2007 school year, develop a plan to implement the cost-outcome methodology to assess the effectiveness of school districts and public charter districts in providing services during the 2007-2008 school year to students at risk of dropping out of school.

(d) During the state fiscal biennium beginning September 1, 2005, the commissioner shall retain an amount not to exceed \$500,000 from the total amount of funds allotted under the Foundation School Program to finance the comprehensive cost-outcome analysis and shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.313.

(e) This section expires September 1, 2010.

Sec. 29.0931. TEMPORARY PROVISION: COMMISSIONER'S COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a cost-outcome analysis methodology for use in assessing the effectiveness of school districts and public charter districts in providing services for students at risk of dropping out of school, as described by Section 29.081. The commissioner shall use the adopted methodology until the commissioner determines that an alternate methodology approved by the agency and the Legislative Budget Board under Section 29.093(b) more accurately portrays the cost-effectiveness of the analyzed services.

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

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

(2) a format for reporting all state, federal, local, and private sources of funding and total expenditures for supplemental services for students at risk of dropping out of school, reported by school district, public charter district, and statewide; and

(3) a system for scoring and ranking school districts and public charter districts, including criteria for establishing school district and public charter district peer groups for comparison purposes.

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

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

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

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

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

SECTION 2C.06. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.088 to read as follows:

Sec. 33.088. ELIGIBILITY OF STUDENTS PARTICIPATING IN JOINT CREDIT OR CONCURRENT ENROLLMENT PROGRAMS. A student otherwise eligible to participate in an extracurricular activity or a

University Interscholastic League competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided.

SECTION 2C.07. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.011 to read as follows:

Sec. 44.011. EXPENDITURES FOR DIRECT INSTRUCTIONAL ACTIVITIES. (a) A school district shall allocate at least 65 percent of the district's total available general fund revenue to fund direct instructional activities in the district. The commissioner by rule shall determine the manner in which a district's total available general fund revenue for purposes of this section is computed.

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

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

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

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

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

(b) For purposes of this section, whether an expenditure is an expenditure for direct instructional activities:

(1) shall be determined in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education; and

(2) must also include expenditures for any instructional or related service for a student with a disability, counseling services determined by appropriate school personnel to be necessary for instructional success, truant officers, speech pathology and audiology services, curriculum and instruction development, staff training, instruction-related technology, nurses, and library services.

(c) The commissioner shall adopt rules for purposes of this section in a manner consistent with Subsection (b) of this section, Section 44.0071, and standards used by the commissioner in the submission of relevant data to the National Center for Education Statistics of the United States Department of Education for the 2002-2003 school year. In adopting the rules, the commissioner may not include local school district revenue from sources other than state and local taxes, such as grants and donations, in the computation of a district's total available general fund revenue.

SECTION 2C.08. Section 44.0071, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Each fiscal year, a school district shall compute and report to the commissioner:

(1) the percentage of the district's total available general fund revenue ~~[expenditures]~~ for the preceding fiscal year that ~~was~~ ~~[were]~~ used to fund direct instructional activities; ~~[and]~~

(2) the percentage of the district's total available general fund revenue for the preceding fiscal year that was used to fund direct instructional activities related to courses that are subject to assessment under Subchapter B, Chapter 39; and

(3) the percentage of the district's full-time equivalent employees during the preceding fiscal year whose job function was to directly provide classroom instruction to students, determined by dividing the number of hours spent by employees in providing direct classroom instruction by the total number of hours worked by all district employees.

(a-1) The commissioner by rule shall determine the manner in which a district's total available general fund revenue for purposes of this section is computed.

SECTION 2C.09. Section 11.066, Education Code, as added by this Act, applies only to trustee attendance at a board of trustees meeting held on or after the effective date of this Act. Trustee attendance at a board of trustees meeting held before the effective date of this Act is governed by the law in effect when the meeting was held, and the former law is continued in effect for that purpose.

SECTION 2C.10. Section 11.2011, Education Code, as added by this Act, applies only to a contract between a superintendent of a school district and a business entity that is entered into, amended, or extended on or after September 1, 2006. A contract between a superintendent of a school district and a business entity that is entered into, amended, or extended before September 1, 2006, is governed by the law in effect on the date the contract is entered into, and the former law is continued in effect for that purpose.

SECTION 2C.11. Not later than January 1, 2007, the Texas Education Agency shall adopt a five-year plan to renovate the Public Education Information Management System (PEIMS) to provide for efficient and effective information storage and retrieval for the purposes of allocating scarce school resources. The renovation must include a redesign of the records layout.

#### 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. Subsection (j), Section 28.006, Education Code, is amended to read as follows:

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

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

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

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

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

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

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

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

SECTION 2D.06. Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.0822 to read as follows:

Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a) Notwithstanding Section 25.081 or 25.082, a school district may provide a flexible school day program for students in grades nine through 12 who have dropped out of school or who are at risk of dropping out of school as defined by Section 29.081.

(b) To enable a school district to provide a program under this section that meets the needs of students described by Subsection (a), a school district may:

(1) provide flexibility in the number of hours each day a student attends;

(2) provide flexibility in the number of days each week a student attends; or

(3) allow a student to enroll in less or more than a full course load.

(c) A course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Section 25.081 and the required length of school day under Section 25.082 or as specified by the commissioner for accelerated credit recovery.

(d) The commissioner may adopt rules for the administration of this section. The commissioner shall calculate average daily attendance for students served under this section. The commissioner shall allow accumulations of hours of instruction for

students whose schedule would not otherwise allow full state funding. Funding under this subsection shall be determined based on the number of instructional days in the district calendar and a seven-hour school day, but attendance may be cumulated over a school year, inclusive of any summer or vacation sessions. The attendance of students who accumulate less than the number of attendance hours required under this subsection shall be proportionately reduced for funding purposes. The commissioner may set maximum funding amounts for an individual course under this section.

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, [+

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

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

SECTION 2D.08. Subchapter G, Chapter 29, Education Code, is amended by adding Section 29.2021 to read as follows:

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

SECTION 2D.09. Subsection (f), Section 29.203, Education Code, is amended to read as follows:

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

SECTION 2D.10. Section 39.022, Education Code, is amended to read as follows:

Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement that achieves the goals provided under Section 4.002. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.

(b) The commissioner by rule shall provide for the administration of assessment instruments under this subchapter.



SECTION 2D.11. Section 39.023, Education Code, is amended by amending Subsections (a) through (e), (i), (j), (l), (m), and (n) and adding Subsections (a-1) and (b-1) to read as follows:

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as otherwise provided by this subchapter, all [All] students~~[, except students assessed under Subsection (b) or (l) or exempted under Section 39.027,]~~ shall be assessed in:

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

(2) reading, annually in grades three through nine;

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

(4) English language arts, in grades ~~[grade]~~ 10 and 11;

(5) social studies, in grades eight, ~~[and]~~ 10, and 11;

(6) science, in grades five, eight, ~~[and]~~ 10, and 11;

and

(7) any other subject and grade required by federal law.

(a-1) An assessment instrument under this section may include questions that test a broader range of knowledge and skills or that are at a higher difficulty level for the purpose of differentiating student achievement. A student may not be required to answer a question described by this subsection correctly to perform satisfactorily on the assessment instrument or to be promoted to the next grade level. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested until after the fifth school year the question is used on an assessment instrument administered under this section.

(b) The agency shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, who receives modified instruction in the essential knowledge and skills identified under Section 28.002 for the assessed subject but for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations [modifications], would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. The assessment instruments required under this subsection must assess essential knowledge and skills [and growth] in the subjects of reading, mathematics, and writing and any other subject required by federal law. A student's admission, review, and dismissal committee shall determine whether any allowable accommodation [modification] is necessary in administering to the student an assessment instrument required under this subsection or whether an alternate assessment instrument must be used to measure alternate academic achievement standards. A student's admission, review, and dismissal committee shall determine the high school graduation assessment requirements for a student in a special education program under Subchapter A, Chapter 29, and may use local alternative assessment instruments if multiple testing opportunities are not available for a student. To the extent practicable, the [The] assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a). The commissioner shall adopt rules to implement this subsection.

(b-1) The agency shall adopt or develop appropriate criterion-referenced instruments as required by federal law designed to measure alternate academic achievement standards for students in a special education program under Subchapter A, Chapter 29, with the most significant cognitive disabilities.

(c) The [agency shall also adopt] secondary exit-level assessment instruments designed to be administered to students in

grade 11 under Subsection (a) must ~~[to]~~ assess essential knowledge and skills in mathematics, English language arts, social studies, and science. The mathematics section must include at least Algebra I and geometry ~~[with the aid of technology]~~. The English language arts section must include at least English III and must include the assessment of essential knowledge and skills in writing. The social studies section must include early American and United States history. The science section must include at least biology and integrated chemistry and physics. The assessment instruments must be designed to assess a student's mastery of minimum skills necessary for high school graduation and readiness to enroll in an institution of higher education. ~~[If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection or whether the student should be exempted under Section 39.027(a)(2). The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of secondary exit-level assessment instruments.]~~ Each student who did not perform satisfactorily on any secondary exit-level assessment instrument when initially tested shall be given multiple opportunities to retake that assessment instrument. A student who performs at or above a level established by the Texas Higher Education Coordinating Board on the secondary exit-level assessment instruments is exempt from the requirements of Section 51.3062 ~~[51.306]~~. The performance level established by the Texas Higher Education Coordinating Board under this subsection represents the level of academic achievement indicating a student is prepared for college course work. The performance level may be used as an indicator to measure progress toward college preparedness of public school students in the state.

(d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable accommodation ~~[modification]~~ is necessary in administering to the student an end-of-course assessment instrument or whether the student should be exempted ~~[under Section 39.027(a)(2)]~~.

(e) Under rules adopted by the State Board of Education, ~~[every other year]~~ the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l) or Section 39.027 on or after August 1 after the second anniversary of the date ~~[after the last time]~~ the instrument was ~~[is]~~ administered ~~[for that school year]~~. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

(i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted or developed under this section ~~[those rules and each assessment instrument required under Subsection (d)]~~ must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.

(j) The commissioner shall develop a standardized end-of-course assessment instrument for Algebra I. The commissioner by rule may require a school district to administer the ~~[an]~~ end-of-course assessment instrument developed under this subsection ~~[in Algebra I]~~. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable

accommodation ~~[modification]~~ is necessary in administering to the student an end-of-course assessment instrument ~~[or whether the student should be exempted under Section 39.027(a)(2)]~~.

(l) The agency ~~[State Board of Education]~~ shall adopt or develop a Spanish version ~~[rules for the administration]~~ of the assessment instruments adopted under Subsection (a) for ~~[in Spanish to]~~ students in grades three through six who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027 ~~[39.027(a)(3) or (4)]~~. Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) or (b-1) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

(m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students in grades three through 10 are exempt from the administration of the assessment instruments under Section 39.027 ~~[39.027(a)(3) and (4)]~~. The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date. As necessary to comply with federal requirements, the commissioner by rule shall develop procedures under which a student who is exempt from the administration of an assessment instrument under Section 39.027 is administered a linguistically accommodated assessment instrument.

(n) This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) ~~[and its subsequent amendments]~~. The agency shall adopt or develop appropriate ~~[criterion-referenced]~~ assessment administration procedures, including accommodations for a ~~[instruments designed to assess the ability of and to be administered to each]~~ student to whom this subsection applies. The ~~[for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the]~~ committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders ~~[. The committee]~~ shall determine whether the ~~[any]~~ allowable accommodations are ~~[modification is]~~ necessary in administering to a student an assessment instrument required under this section ~~[subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a)]~~.

SECTION 2D.12. Subsections (a) and (c), Section 39.024, 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.13. Subsection (a), Section 39.025, Education Code, is amended to read as follows:

(a) A student may not receive a high school diploma until the student has performed satisfactorily on the secondary exit-level assessment instruments for English language arts, mathematics, social studies, and science administered under Section 39.023(a) ~~[39.023(c)]~~. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

SECTION 2D.14. Effective August 1, 2006, Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0261 to read as follows:

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In addition to the assessment instruments otherwise authorized or required by this subchapter:

(1) each school year and at state cost, a school district may administer to students in any two grade levels other than the 11th or 12th grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument; and

(2) high school students in the spring of the 11th grade or during the 12th grade may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes.

(b) The agency shall:

(1) select and approve vendors of the specific assessment instruments administered under this section; and

(2) pay all fees associated with the administration of the assessment instrument from funds allotted under the Foundation School Program, and the commissioner shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.313.

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

(d) A vendor that administers an assessment instrument for a district under this section shall report the results of the assessment instrument to the agency.

(e) Subsection (a)(2) does not prohibit a high school student in the spring of the 11th grade or during the 12th grade from selecting and taking, at the student's own expense, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes more than once.

SECTION 2D.15. Subsections (a), (e), and (g), Section 39.027, Education Code, are amended to read as follows:

(a) A student in grades three through 10 may be exempted from the administration of an assessment instrument under:

~~(1) [Section 39.023(a) or (b) if the student is eligible for a special education program under Section 29.003 and the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level;~~

~~[(2) Section 39.023(c) or (d) if the student is eligible for a special education program under Section 29.003 and:~~

~~[(A) the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level; or~~

~~[(B) the assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's~~

~~admission, review, and dismissal committee;~~

~~[(3)]~~ Section 39.023(a), (b), (b-1), or (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.16. 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 comparisons made under Subsection (a). Each school district shall provide the comparisons to each teacher for all students who were:

(1) assessed on an assessment instrument; and

(2) taught by that teacher in the subject for which the assessment instrument was administered.

(c) The school a student attends shall provide a record of the comparison made under this section and provided to the school under Subsection (b) in a written notice to the student's parents.

(d) To the extent practicable, the agency shall combine the report of the comparisons required under this section with the report of the student's performance on assessment instruments administered under Section 39.023.

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

SECTION 2D.17. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.035 to read as follows:

Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF

ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other employee, contractor, or volunteer of a school district or public charter district commits an offense if, for the primary purpose of influencing the results of an assessment instrument administered under this subchapter, the person intentionally:

(1) discriminates in school admissions based on a student's academic ability in a manner that is not otherwise permitted by law;

(2) refers a student to a special education program under Subchapter A, Chapter 29, or a bilingual or special language program under Subchapter B, Chapter 29, for the purpose of gaining an exemption for the student from the administration of the assessment instrument;

(3) requires or encourages a student to be absent from a school campus during the day on which the assessment instrument is administered at the campus;

(4) tampers with the assessment instrument or related materials to alter the results of the assessment instrument; or

(5) engages in any other action designed to alter the accuracy of the results of the assessment instrument.

(b) An offense under this section is a Class A misdemeanor.

(c) An offense under Subsection (a)(4) is in addition to any offense under Section 37.10(c)(2), Penal Code, arising from the same action.

SECTION 2D.18. Subsection (b), Section 39.051, Education Code, as amended by Chapters 433 and 805, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

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

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

(9) the number and percentage of students at risk of dropping out of school, the number and percentage of those students who are administered each assessment instrument required under

Section 39.023, the number and percentage of those students who perform satisfactorily on the assessment instruments, and the results of those students, grouped by number and percentage, on the assessment instruments, disaggregated by subject area and grade level;

(10) the number and percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

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

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

(13) ~~[(11)]~~ the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);

(14) ~~[39.027(a)(3) and (4)]~~ the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(15) for students of limited English proficiency, as defined by Section 29.052, a measure of progress toward English language proficiency, as determined by the commissioner, including the student's performance after transferring out of a bilingual education program or instruction in English as a second language; and

(16) the performance of students who are not educationally disadvantaged on an assessment instrument under Sections 39.023(a), (b), (c), and (1) and dropout rates and district completion rates for grades 9 through 12 for those students.

SECTION 2D.19. Subsection (b), Section 39.052, Education Code, is amended to read as follows:

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

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

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

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

(4) the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

SECTION 2D.20. Section 39.055, Education Code, is amended to read as follows:

Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT.

(a) The commissioner shall develop a process for auditing school district dropout records electronically. The commissioner shall also develop a system and standards for review of the audit or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, may be subject to a special accreditation investigation under Section 39.075 ~~[require on-site monitoring of dropout records. If the electronic audit of a district's dropout records indicates that a district is not at high risk of having inaccurate dropout records, the district may not be subject to on-site monitoring under this subsection. If the risk-based system indicates that a district is at high risk of~~

~~having inaccurate dropout records, the district is entitled to an opportunity to respond to the commissioner's determination before on-site monitoring may be conducted. The district must respond not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having inaccurate dropout records or if 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.21. 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;

(2) shall evaluate and consider:

(A) the results of any special accreditation investigation under Section 39.075; and

(B) the district's current special education monitoring or compliance status with the agency; and

(3) may consider:

(A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:

(i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(ii) the high school graduation requirements under Section 28.025; or

(iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;

(B) the effectiveness of the district's programs for special populations; and

(C) the effectiveness of the district's career and technology program.

(c) Based on a school district's performance under Subsection (b), the commissioner shall:

(1) assign a district an accreditation status of:

(A) accredited;

(B) accredited-warned; or

(C) accredited-probation; or

(2) revoke the accreditation of the district and order closure of the district under this subchapter.

(d) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation that the performance of the district is below a standard required under this section. The commissioner shall require the district to notify the parents of students enrolled in



the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.

(e) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

(f) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [ACCREDITATION STANDARDS]. (a) The commissioner [State Board of Education] shall adopt rules for assigning ~~[to evaluate the performance of school districts and to assign]~~ to each school district and campus a performance rating as follows:

(1) exemplary (meets or exceeds state exemplary standards);

(2) recognized (meets or exceeds required improvement or ~~[and]~~ within 10 percent of state exemplary standards);

(3) academically acceptable (below the exemplary and recognized standards but exceeds the academically unacceptable standards); or

(4) academically unacceptable (below the state clearly unacceptable performance standard and does not meet required improvement).

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

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

~~[(A) reporting data through the Public Education Information Management System (PEIMS);~~

~~[(B) the high school graduation requirements under Section 28.025; or~~

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

~~[(2) the effectiveness of the district's programs for special populations; and~~

~~[(3) the effectiveness of the district's career and technology programs.]~~

(c) The agency shall evaluate ~~[against state standards]~~ and ~~[shall]~~, not later than August 1 of each year, report the 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, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located]~~.

SECTION 2D.22. Subchapter D, Chapter 39, Education Code, is amended by adding Section 39.0722 to read as follows:

Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION.  
(a) In addition to school district performance ratings under Section 39.072, the commissioner shall annually rate districts according to the degree to which the districts prepare students for postsecondary success, including student performance on assessment instruments administered under Section 39.0261 and on the applicable indicators under Sections 39.051(b) and 39.0721. The commissioner shall consult with the P-16 Council established under Section 61.076 when adopting criteria under this section.

(b) The commissioner may adopt rules as necessary to administer this section.

SECTION 2D.23. Subsection (a), Section 39.075, Education Code, is amended to read as follows:

(a) The commissioner may ~~[shall]~~ authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instrument are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established monitoring or compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict

involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b); ~~[or]~~

(8) in response to questions concerning a program, including special education, that is required by federal law or for which the district receives federal funds;

(9) when an annual review indicates the academically unacceptable performance under Section 39.072 of one or more campuses in a district, except that the resulting investigation is limited to those campuses;

(10) in response to concerns regarding the integrity of data submitted to the agency;

(11) in response to allegations of a violation of student assessment procedures for assessment instruments adopted under Section 39.023; or

(12) as the commissioner otherwise determines necessary.

SECTION 2D.24. Subsection (c), Section 39.075, Education Code, as amended by Chapters 396 and 931, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(c) Based on the results of a special accreditation investigation, the commissioner may:

(1) take appropriate action under Subchapter G;

(2) raise or lower the district's accreditation status ~~[rating]~~; or

(3) take action under both Subdivisions (1) and (2).

SECTION 2D.25. Section 39.076, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (c) to read as follows:

(a) The agency shall adopt written procedures for conducting ~~[on-site]~~ investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(a-1) An investigation conducted under this subchapter may be an on-site, desk, or data-based investigation as determined by the commissioner.

(a-2) If conducting an on-site investigation, the investigators may obtain information from administrators, teachers, or parents of students enrolled in the school district. The commissioner shall adopt rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents a campus or district from screening the information.

(a-3) The agency may give written notice of any impending on-site investigation to the superintendent and the board of trustees of a school district.

(c) The investigators conducting an on-site investigation shall report the results of the investigation orally and in writing to the board of trustees of the district and, as appropriate, to campus administrators, and shall make recommendations concerning any necessary improvements or sources of aid, such as regional education service centers.

SECTION 2D.26. Subchapter D, Chapter 39, Education Code, is amended by adding Sections 39.077 and 39.078 to read as follows:

Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A school district or public charter district that wishes to challenge a decision to assign or lower an accreditation status, an academic performance rating, or a financial accountability rating must petition for an informal review as provided by Section 7.0571.

(b) A final decision by the commissioner to assign or lower an accreditation status, an academic performance rating, or a financial accountability rating following a review under Section

7.0571 is final and may not be appealed.

Sec. 39.078. RULES. (a) The commissioner may adopt rules as necessary to administer this subchapter.

(b) Unless a provision of this code clearly specifies otherwise, any rule adopted under Subsection (a) must apply accreditation requirements and academic performance ratings under this subchapter to:

(1) a public charter district in the same manner as the requirements and ratings are applied to a school district; and

(2) a campus operated by a public charter district in the same manner as the requirements and ratings are applied to a campus operated by a school district.

SECTION 2D.27. Effective August 1, 2006, Subchapter F, Chapter 39, Education Code, is amended by adding Section 39.113 to read as follows:

Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt rules to create an incentive award system for annual growth in student achievement. A school that achieves incremental growth in student achievement, as described in Subsection (b), is eligible for an award if the school:

(1) has a student population of at least 50 percent educationally disadvantaged students;

(2) achieves an accreditation performance rating of academically acceptable or better; and

(3) demonstrates superior growth in the academic performance of educationally disadvantaged students.

(b) The commissioner by rule shall adopt performance criteria to measure annual growth in student academic performance. The commissioner shall consider the following criteria, as applicable:

(1) annual growth in student achievement that contributes to closing performance gaps among various populations of students;

(2) improvements in student scores on the assessment instruments required under Section 39.023;

(3) growth in high school completion rates;

(4) improvement in student scores on college advanced placement tests; and

(5) any other factor that contributes to student achievement.

(c) From funds appropriated for the purposes of this section, the commissioner shall award grants to campuses that meet performance criteria adopted under Subsection (b). The commissioner shall allocate awards to campuses not later than December 1 of each year, based on growth in student achievement as measured for the preceding two school years.

(c-1) The commissioner shall award grants under this section beginning September 1, 2006. This subsection expires January 1, 2007.

(d) At least 75 percent of an award under this section must be used for additional teacher compensation at the campus level. The commissioner by rule shall provide for allocating awards under this subsection, including providing individual awards of at least \$3,000 for each teacher at a campus receiving an award under this subsection.

(e) Grants from funds appropriated for the award program may be awarded beginning with the 2006-2007 school year and may not exceed \$50 million in the 2006-2007 school year except as expressly authorized by the General Appropriations Act or other law.

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

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

(1) the performance of students in districts under this section on assessment instruments administered under Section 39.023;

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

(3) the districts' teacher attrition rates.

SECTION 2D.28. Section 39.131, Education Code, is amended to read as follows:

Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school district does not satisfy the accreditation criteria under Section 39.071, the academic performance standards under Section 39.072, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the 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 of the district for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the agency, and the sanctions that may be imposed under this section if the performance does not improve;

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

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

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

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

(7) appoint a conservator to oversee the operations of the district;

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

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, is ~~been~~ rated ~~as~~ academically unacceptable, or fails to satisfy financial accountability standards as determined by commissioner rule ~~[for a period of one year or more]~~, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has been rated academically unacceptable, or has failed to satisfy financial accountability standards as determined by commissioner rule, ~~revoke the district's accreditation and [been rated as academically unacceptable for a period of two years or more]:~~

(A) ~~order closure of the district and annex the district to one or more adjoining districts under Section 13.054;~~ or

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

(11) if a district has been rated ~~as~~ academically unacceptable for ~~[a period of]~~ two consecutive school years, including the current school year, ~~[or more]~~ due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

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

(B) restructuring the district or appropriate school campuses to improve identification of and service to 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, ~~for 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.29. 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:

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

(B) soliciting public comment on the initial steps being taken to improve performance;

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

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

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

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

(5) appoint a technical assistance team under Section 39.1321; or

(6) appoint a campus intervention team under Section 39.1321.

~~[(7) appoint a special campus intervention team to:~~

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

~~[(B) recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, staff development for instructional and administrative staff, intervention for individual administrators or teachers, waivers from state statute or rule, or other actions the team considers appropriate;~~

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

~~[(D) assist the commissioner in monitoring the~~

~~progress of the campus in implementing the campus plan for improvement of student achievement, or~~

~~[(8) if a campus has been a low-performing campus for a period of one year or more, appoint a board of managers composed of residents of the district to exercise the powers and duties of the board of trustees of the district in relation to the campus.]~~

~~[(b) If a campus has been a low-performing campus for a period of two consecutive years or more, the commissioner shall order the closure of the district or charter program on the campus or reconstitute the campus. In reconstituting the campus, a special campus intervention team shall be assembled for the purpose of deciding which educators may be retained at that campus. If an educator is not retained, the educator may be assigned to another position in the district.]~~

SECTION 2D.30. Subchapter G, Chapter 39, Education Code, is amended by adding Sections 39.1321, 39.1322, 39.1323, 39.1325, 39.1326, and 39.1327 to read as follows:

Sec. 39.1321. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION TEAMS. (a) If a campus is rated academically acceptable for the current school year but would be rated as academically unacceptable if performance standards to be used for the following school year were applied to the current school year, the commissioner shall select and assign a technical assistance team to assist the campus in executing a school improvement plan and any other school improvement strategies the commissioner determines appropriate.

(b) If a campus has been identified as academically unacceptable under Section 39.132, the commissioner shall appoint a campus intervention team.

(c) To the extent practicable, the commissioner shall select and assign the technical assistance team under Subsection (a) or the campus intervention team under Subsection (b) before the first day of instruction for the school year.

(d) The commissioner may determine when the services of a technical assistance team or campus intervention team are no longer needed at a campus under this section.

Sec. 39.1322. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A campus intervention team shall:

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

(2) recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, staff development for instructional and administrative staff, intervention for individual administrators or teachers, waivers from state statute or rule, or other actions the team considers appropriate;

(3) assist in the development of a school improvement plan for student achievement; and

(4) assist the commissioner in monitoring the progress of the campus in implementing the school improvement plan for improvement of student achievement.

(b) A campus intervention team assigned under Section 39.1321 to a campus shall conduct a comprehensive on-site evaluation of the campus to determine the cause for the campus's low performance and lack of progress. The team shall have wide latitude to determine what factors to assess and how to conduct the assessment. Some factors to be considered are:

(1) an assessment of the staff to determine the percentage of certified teachers who are teaching in their field, the number of teachers with less than three years of experience, and teacher turnover rates;

(2) compliance with the appropriate class-size rules and number of class-size waivers received;

(3) an assessment of the quality, quantity, and appropriateness of instructional materials, including the availability of technology-based instructional materials;

(4) a report on the parental involvement strategies and the effectiveness of the strategies;

(5) an assessment of the extent and quality of the

mentoring program provided for new teachers on the campus;

(6) an assessment of the type and quality of the professional development provided to the staff;

(7) a demographic analysis of the student population, including student demographics, at-risk populations, and special education percentages;

(8) a report of disciplinary incidents and school safety information;

(9) financial and accounting practices; and

(10) an assessment of the appropriateness of the curriculum and teaching strategies.

(c) On completing the evaluation under this section, the campus intervention team shall recommend actions, including:

(1) reallocation of resources;

(2) distribution of additional funds to the campus from funds set aside by the agency for purposes of assisting campuses in meeting standards specified in the intervention plan;

(3) technical assistance;

(4) changes in school procedures or operations;

(5) staff development for instructional and administrative staff;

(6) intervention for individual administrators or teachers;

(7) waivers from state statutes or rules; or

(8) other actions the campus intervention team considers appropriate.

(d) In executing a school improvement plan developed under Subsection (a)(3), the campus intervention team shall:

(1) assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, if appropriate, and financial management;

(2) provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and

(3) submit the school improvement plan to the commissioner for approval.

(e) A campus intervention team appointed under Section 39.1321(b):

(1) shall continue to work with a campus until:

(A) the campus is rated academically acceptable for a two-year period; or

(B) the campus is rated academically acceptable for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement; and

(2) may continually update the school improvement plan, with approval from the commissioner, to meet the needs of the campus.

(f) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Section 39.1321(b) is not fully implementing the campus intervention team's recommendations or school improvement plan, the commissioner may order the reconstitution of the campus, pursue alternative management of the campus as provided by Section 39.1326, or order closure of the campus.

**Sec. 39.1323. MANDATORY SANCTIONS.** (a) If a campus has been identified as academically unacceptable for a period of two consecutive school years, including the current school year, the commissioner shall order the reconstitution of the campus and assign a campus intervention team. In determining whether a campus is rated academically unacceptable for a second year under this subsection, dropout rates and completion rates may not be considered. In reconstituting the campus, a campus intervention team shall assist the campus in:

(1) developing a school improvement plan;

(2) obtaining approval of the plan from the



commissioner; and

(3) executing the plan on approval by the commissioner.

(b) The campus intervention team shall decide which educators may be retained at that campus. A principal who has been employed by the campus in that capacity during the two-year period described by Subsection (a) may not be retained at that campus. A teacher of a subject assessed by an assessment instrument under Section 39.023 may be retained only if the campus intervention team determines that a pattern exists of significant academic growth by students taught by the teacher. If an educator is not retained, the educator may be assigned to another position in the district.

(c) A campus subject to Subsection (a) shall implement the school improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or a board of managers to the district to ensure and oversee the implementation of the school improvement plan.

(d) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus subject to Subsection (a) is not fully implementing the school improvement plan, the commissioner may pursue alternative management of the campus as provided by Section 39.1326, or may order closure of the campus.

(e) If a campus is considered an academically unacceptable campus for more than two consecutive school years, the commissioner may order reconstitution or closure of the campus or pursue alternative management under Section 39.1326.

(f) If a campus is considered an academically unacceptable campus for the subsequent school year after the campus is reconstituted under this section, the commissioner shall pursue alternative management under Section 39.1326.

Sec. 39.1325. TRANSITIONAL SANCTIONS PROVISIONS. For the 2005-2006 school year, the commissioner shall assign a campus intervention team or a technical assistance team to a campus under Section 39.1321 on the basis of academic performance ratings for the 2004-2005 school year. The commissioner may impose a sanction 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.

(e) To qualify for consideration as a managing entity under this section, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals that have:

(1) documented success in whole school interventions that increased the educational and performance levels of students in academically unacceptable campuses;

(2) a proven record of effectiveness with programs assisting low-performing students;

(3) a proven ability to apply research-based school intervention strategies;

(4) a proven record of financial ability to perform under the management contract; and

(5) any other experience or qualifications the commissioner determines necessary.

(f) In selecting a managing entity under this section, the commissioner shall give preference to an entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

(g) The school district may negotiate the term of a management contract for not more than five years with an option to renew the contract. The management contract must include a provision describing the district's responsibilities in supporting the operation of the campus. The commissioner shall approve the contract before the contract is executed and, as appropriate, may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the management contract.

(h) A management contract under this section shall include provisions approved by the commissioner that require the managing entity to demonstrate improvement in campus performance, including negotiated performance measures. The performance measures must be consistent with the priorities of this chapter. The commissioner shall evaluate a managing entity's performance on the first and second anniversaries of the date of the management contract. If the evaluation fails to demonstrate improvement as negotiated under the contract by the first anniversary of the date of the management contract, the district may terminate the management contract, with the commissioner's consent, for nonperformance or breach of contract and select another provider from an approved list provided by the commissioner. If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall terminate the management contract and select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner. If the commissioner approves the district's operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

(i) Notwithstanding any other provision of this code, the funding for a campus operated by a managing entity must be equivalent to the funding of the other campuses in the district on a per student basis so that the managing entity receives the same funding the campus would otherwise have received.

(j) Each campus operated by a managing entity under this section is subject to this chapter in the same manner as any other campus in the district.

(k) The commissioner may adopt rules necessary to implement this section.

(l) With respect to the management of a campus under this section:

(1) a managing entity is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) any requirement in Chapter 551 or 552, Government Code, that applies to a school district or the board of trustees of a school district applies to a managing entity.

Sec. 39.1327. REVIEW OF SANCTIONS FOR CAMPUSES SERVING RESIDENTIAL FACILITIES. (a) A school district or public charter district may petition the commissioner to review an academically

unacceptable rating assigned to a campus if the campus predominantly served students residing in a residential facility during the rating period.

(b) If the commissioner determines that the basis for identifying the campus as academically unacceptable was limited to a condition that was not related to the educational purpose of the residential facility, the commissioner may take any of the following actions as the commissioner determines appropriate:

(1) change, modify, or suspend the academically unacceptable rating; or

(2) impose any sanction otherwise authorized under Section 39.131 or 39.132.

(c) The commissioner may consider a factor other than a factor used to assign a rating in evaluating a campus under this section. The commissioner may assign a campus intervention team under Section 39.1321 at the expense of the school district or public charter district as provided by Section 39.134 to develop a long-term intervention plan to improve services for students.

(d) On a determination that a campus subject to this section is appropriately meeting the educational needs of its students, the commissioner may waive revocation of a public charter district for a period not to exceed two years. A waiver under this subsection may be extended for additional two-year periods based on subsequent evaluations of the campus.

(e) This section does not limit the commissioner's ability to sanction a public charter district for the performance of a campus subject to this section or any other law.

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

SECTION 2D.31. Section 39.133, Education Code, is amended to read as follows:

Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall review annually the performance of a district or campus subject to a sanction under this subchapter to determine the appropriate actions to be implemented under this subchapter. The determination shall take into account the number, severity, and duration of the problems identified. ~~[The commissioner must review at least annually the performance of a district for which the accreditation rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance.]~~ If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

(b) The commissioner shall review at least annually the performance of a school district for which the academic performance rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance.

SECTION 2D.32. Subchapter G, Chapter 39, Education Code, is amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as follows:

Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In addition to other sanctions authorized under Sections 39.131 and 39.132, the commissioner may order a school district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, or governance deficiency. The commissioner's order may require the district or campus to:

(1) select an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or

(2) provide for the appropriate training of district staff or board of trustees members in the case of a district, or campus staff, in the case of a campus.

Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a) The commissioner may revoke the accreditation of a school district and order the closure of the district or a campus, as appropriate, under the following circumstances:

(1) the commissioner is authorized to close the district or campus under Section 39.131(a)(10) or 39.1322(f);

(2) the commissioner determines that the district is insolvent and unable to complete the school year; or

(3) the commissioner determines that the district has ceased operations for 11 or more instructional days during the current or most recent scheduled school year without the commissioner's authorization.

(b) The commissioner shall issue an order of closure under this section that includes provisions necessary for the continuation of the education of students enrolled in the district or campus, including annexation to one or more adjoining districts as provided by Section 13.054. An order of closure may:

(1) establish an effective date for accreditation revocation and closure that is not later than the first anniversary of the date of the order;

(2) provide for an interim board of managers to exercise the duties of the board of trustees of the district as designated by the commissioner;

(3) require enrollment or student services to be provided by another district as necessary to allow students enrolled in the closed district to complete a school year, and make adjustments in the state and federal funding to which the district would otherwise be entitled as determined by the commissioner; and

(4) require the preservation, transfer, or surrender of all student records and other records required for an audit of any state and federal funding provided to the district.

(c) A person who intentionally destroys, conceals, or tampers with a record that is required to be preserved, transferred, or surrendered under Subsection (b)(4) commits an offense punishable under Section 37.10(c)(2), Penal Code.

(d) A board of managers exercising authority under Subsection (b)(2) may exercise the authority of the board of trustees with regard to financial management of the district and personnel actions. The board of managers is not required to be composed of residents of the district.

(e) A public charter district ordered closed under this section is not entitled to a separate hearing concerning the revocation or nonrenewal of the charter under Section 11A.108.

(f) An open-enrollment charter school ordered closed under this section is not entitled to a separate hearing concerning the revocation or nonrenewal of the charter under Section 12.116. This subsection expires August 1, 2006.

Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A school district or public charter district that wishes to challenge a decision to impose a sanction under this subchapter, including a decision to close a district, school, or campus under Section 39.1332, must petition for an informal review as provided by Section 7.0571.

(b) A final decision by the commissioner to impose a sanction under this subchapter, including a decision to close a school district or a campus under Section 39.1332, following a review under Section 7.0571 is final and may not be appealed.

(c) A school district may not collaterally contest an academic performance rating or other accreditation standard as part of the review of a sanction under this subchapter if a review opportunity has already been provided for the academic performance rating.

SECTION 2D.33. Section 39.134, Education Code, is amended to read as follows:

Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing a monitor, conservator, management team, ~~or special~~ campus intervention team, technical assistance team, managing entity under Section 39.1326, or service provider under Section 39.1331 shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

(1) pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or

(2) recover the amount of the costs in the manner

provided for recovery of an overallocation of state funds under Section 42.317 ~~[42.258]~~.

SECTION 2D.34. Subchapter G, Chapter 39, Education Code, is amended by adding Section 39.1371 to read as follows:

Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is responsible for managing an intervention of a campus subject to sanctions under this subchapter.

(b) The agency shall:

(1) monitor the progress of technical assistance teams and campus intervention teams appointed by the commissioner under this subchapter; and

(2) supervise the activities of the managing entities under Section 39.1326.

(c) The agency shall:

(1) establish by rule and publish school improvement objectives;

(2) advocate for the increased use of research-based effective practices; and

(3) coordinate campus improvement activities of the agency and regional education service centers.

(d) The commissioner may contract for services under this section.

SECTION 2D.35. Subsection (a), Section 39.182, Education Code, as amended by S.B. No. 42, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

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

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

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

(3) a summary compilation of the percentage of graduating students who attain scores on the secondary exit-level assessment instruments required under Section 39.023(c) that are equivalent to a passing score on the assessment instrument required under Section 51.3062;

(4) a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(5) ~~[-(4)-]~~ a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(6) ~~[-(5)-]~~ a summary compilation of the progress ~~[overall performance]~~ of students at risk of dropping out of school, as defined by Section 29.081(d), including information described by the academic excellence indicators under Sections 39.051(b)(7), (8), (10), and (11), provided statewide and aggregated by district, on academic skills assessment instruments required by Section 39.023 and any other assessment instrument required by the commissioner ~~[with the number of those students exempted from the administration of those instruments and the basis~~

of the exemptions, aggregated by district, grade level, and subject area], with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(7) ~~[(6)]~~ an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023;

(8) ~~[(7)]~~ a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12;

(9) ~~[(8)]~~ a statement of:

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

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

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

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

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

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

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

(12) ~~[(11)]~~ a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

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

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

(13) ~~[(12)]~~ information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary alternative education program established under 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]~~;

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

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

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

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

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

(21) an evaluation of public charter districts, including:

(A) the academic performance of students enrolled in public charter districts, disaggregated by race, ethnicity, gender, and socioeconomic status;

(B) the costs of instruction, administration, and transportation incurred by public charter districts; and

(C) other issues, as determined by the commissioner ~~[(20) a comparison of the performance of open-enrollment charter schools and school districts on the academic excellence indicators specified in Section 39.051(b) and accountability measures adopted under Section 39.051(g), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as defined by Section 29.081(d), with the performance of school districts];~~

(22) ~~[(21)]~~ a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district;

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

(24) ~~[(22)]~~ any additional information considered important by the commissioner or the State Board of Education.

SECTION 2D.36. Subsection (b), Section 39.182, Education Code, is amended to read as follows:

(b) In reporting the information required by Subsection (a)(4) or (5) ~~[(a)(3) or (4)]~~, the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29, or a bilingual education or special language program under Subchapter B, Chapter 29.

SECTION 2D.37. Section 39.182, Education Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) The report must include an assessment of the impact of the performance-based grant system developed under Subchapter E, Chapter 7, on student academic performance, including:

(1) an analysis of performance and spending information relating to grants administered by the agency; and

(2) recommendations on any statutory changes needed for the agency to more effectively administer grant programs, including recommendations on whether to eliminate or modify inefficient grant programs, expand effective grant programs, or consolidate similar grant programs to maximize the effectiveness and efficiencies of those programs.

(b-2) Subsection (b-1) applies beginning January 1, 2009. This subsection expires February 1, 2009.

SECTION 2D.38. Section 39.183, Education Code, is amended to read as follows:

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

(1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including:

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

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

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

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

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

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

SECTION 2D.39. Subsection (a), Section 39.202, Education Code, is amended to read as follows:

(a) The commissioner shall, in consultation with the comptroller, develop and implement a financial accountability rating system for school districts in this state that distinguishes among districts' varying levels of financial performance and includes procedures for:

(1) providing additional transparency to public education finance; and

(2) enabling the commissioner and district administrators to provide meaningful financial oversight and improvement.

SECTION 2D.40. Subsection (b), Section 39.203, Education Code, is 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.41. 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.42. (a) Not later than the 2007-2008 school year, the Texas Education Agency shall collect information concerning:



(1) incremental growth in student achievement for purposes of Subdivision (8), Subsection (b), Section 39.051, Education Code, as amended by this Act; and

(2) the measure of progress toward English language proficiency for purposes of Subdivision (15), Subsection (b), Section 39.051, Education Code, as added by this Act.

(b) Not later than the 2008-2009 school year, the Texas Education Agency shall include, in evaluating the performance of school districts, campuses, and public charter districts under Subchapter D, Chapter 39, Education Code:

(1) incremental growth in student achievement under Subdivision (8), Subsection (b), Section 39.051, Education Code, as amended by this Act; and

(2) the measure of progress toward English language proficiency under Subdivision (15), Subsection (b), Section 39.051, Education Code, as added by this Act.

SECTION 2D.43. The commissioner of education shall develop and implement the reporting procedures for:

(1) districts to prepare and distribute annual financial management reports under Section 39.203, Education Code, as amended by this Act, beginning with the 2007-2008 school year; and

(2) campuses to provide financial information under Section 39.202, Education Code, as amended by this Act, beginning with the 2008-2009 school year.

#### PART E. INSTRUCTIONAL MATERIALS

SECTION 2E.01. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.030 to read as follows:

Sec. 7.030. REVIEW OF STATE-FUNDED AND FEDERALLY FUNDED GRANT PROGRAMS. (a) The agency shall conduct a review of state-funded and federally funded grant programs and incentives designed to improve student academic performance and shall actively determine the full extent to which funds awarded under those programs may be used to enhance or expand the use of technology in public schools. For purposes of removing barriers to and encouraging the use of technology in public schools, the commissioner may, as appropriate, issue a waiver to one or more schools.

(b) Not later than December 1, 2006, the agency shall submit a report regarding the findings of the review conducted under this section to the legislature. The report must include a summary of promising practices for current grant programs that leverage technology. This section expires January 15, 2007.

SECTION 2E.02. Subdivision (28), Subsection (b), Section 7.055, Education Code, is amended to read as follows:

(28) The commissioner shall perform duties relating to the funding, adoption, and purchase of instructional materials ~~[textbooks]~~ under Chapter 31.

SECTION 2E.03. Subsection (f), Section 7.056, Education Code, is amended to read as follows:

(f) A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.131 or 39.132 may receive an exemption or waiver under this section from any law or rule other than:

(1) a prohibition on conduct that constitutes a 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. Subdivision (23), Subsection (c), Section 7.102, 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. Subsections (a) and (c), Section 7.108, 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.

(2) "Political contribution" has the meaning assigned by Section 251.001, Election Code.

~~[(2) "Textbook" has the meaning assigned by Section 31.002.]~~

SECTION 2E.06. The heading to Section 7.112, Education Code, is amended to read as follows:

Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

SECTION 2E.07. Subsection (a), Section 7.112, Education Code, is amended to read as follows:

(a) A former member of the State Board of Education who is employed by or otherwise receives compensation from a [~~textbook~~] publisher of instructional materials may not, before the second anniversary of the date on which the person last served as a member of the State Board of Education:

(1) confer with a member of the board of trustees of a school district concerning instructional materials [~~a textbook~~] published by that [~~textbook~~] publisher; or

(2) appear at a meeting of the board of trustees on behalf of the [~~textbook~~] publisher.

SECTION 2E.08. Subdivision (2), Subsection (c), Section 7.112, Education Code, is amended to read as follows:

(2) "Instructional material" and "publisher" [~~"Publisher" and "textbook"~~] have the meanings assigned by Section 31.002.

SECTION 2E.09. Subsection (b), Section 11.158, Education Code, is 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. Subsection (a), Section 11.164, 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. Subsection (e), Section 19.007, 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. Subsections (a) and (c), Section 26.006, 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. Subsections (c) and (h), Section 28.002, 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. Subdivisions (1), (2), and (4), Section 31.002, 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, computer courseware, on-line services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means.

(2) "Publisher" means a person who prepares instructional materials for sale or distribution to educational institutions. The term includes an on-line service or a developer or distributor of [an] electronic instructional materials [textbook].

(4) "Technological equipment" means hardware, a device, or equipment necessary for:

(A) instructional use in the classroom, including to gain access to or enhance the use of ~~[an]~~ electronic instructional materials ~~[textbook]~~; or

(B) professional use by a classroom teacher.

SECTION 2E.17. Section 31.003, Education Code, is amended to read as follows:

Sec. 31.003. RULES. The State Board of Education shall ~~[may]~~ adopt rules, consistent with this chapter, for the approval [adoption], requisition, distribution, care, use, and disposal of instructional materials ~~[textbooks]~~.

SECTION 2E.18. The heading to Subchapter B, Chapter 31, Education Code, is amended to read as follows:

SUBCHAPTER B. STATE APPROVAL  
~~[FUNDING, ADOPTION, AND PURCHASE]~~

SECTION 2E.19. Section 31.021, Education Code, as amended by S.B. No. 151, Acts of the 79th Legislature, Regular Session, 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 through 31.0254 to read as follows:

Sec. 31.0251. SUBMISSION OF INSTRUCTIONAL MATERIALS; REVIEW. (a) A publisher may, in accordance with State Board of Education rule, submit an instructional material to the board 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) To promote efficiency in the correction of factual errors during the instructional materials review and approval process, the State Board of Education shall:

(1) to the extent practicable, conduct the review of instructional materials using page proofs or other appropriate draft versions of the instructional materials; and

(2) require the publisher to provide instructional materials, including page proofs, draft versions, or sample instructional materials, directly to state instructional materials review panel members in a timely manner before the members meet to conduct a complete and formal review of the materials.

(b) During the instructional materials review and approval process, the publisher of instructional materials proposed for adoption in this state shall promptly correct any factual errors discovered in the instructional materials. For purposes of this section, a factual error includes an objectively verifiable mistake, including an incorrect reference to a date, place, or person, an incorrect computational process or result, or similar incorrect provisions. A factual error does not include a difference in professional opinion, conclusion, emphasis, or perspective expressed in instructional materials.

(c) If the board believes that the content of an instructional material is factually inaccurate because the content is incomplete or expresses only one viewpoint or opinion that is not widely accepted in the academic community, the board shall appoint a panel of experts and scholars to determine whether the material is factually inaccurate.

(d) The board 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.

(e) 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 that occur later in the process.

Sec. 31.0253. APPROVAL BY STATE BOARD OF EDUCATION.

(a) The State Board of Education shall meet biannually to approve instructional materials submitted under Section 31.0251. The board must approve or reject each submitted instructional material not later than the second biannual meeting held for the purpose of approving instructional materials under this section after the date the instructional material was submitted.

(b) By majority vote, the board shall approve an instructional material submitted under Section 31.0251 unless the board determines, based on the board's own review, that the instructional material does not contain the essential knowledge and skills identified by the publisher in the submission. The board shall identify the essential knowledge and skills for a subject and grade level that an approved instructional material covers.

(c) Each approved instructional material must be free from factual errors.

(d) For each subject and grade level, the board shall list the approved instructional materials. The board shall periodically:

(1) review each list of approved instructional materials; and

(2) by majority vote, remove approved instructional materials that the board determines no longer cover the essential knowledge and skills.

Sec. 31.0254. PARALLEL REVIEW AND APPROVAL PROCESS FOR PRINTED AND TEXT-BASED ELECTRONIC INSTRUCTIONAL MATERIALS. The commissioner by rule shall adopt procedures to contemporaneously and separately review and approve printed instructional materials and text-based electronic instructional materials under the procedures provided by this subchapter.

SECTION 2E.21. Sections 31.026 through 31.030, Education Code, are amended to read as follows:

Sec. 31.026. CONTRACT; PRICE. (a) The Department of Information Resources may ~~[State Board of Education shall]~~ execute a contract ~~[-~~

~~[(1)]~~ for the purchase or licensing of each approved instructional material. The commissioner, with the assistance of the Department of Information Resources, the State Board of Education, and the office of the attorney general, shall develop model contracts that may be used by public schools for the purchase or licensing of instructional materials under this chapter ~~[adopted textbook other than an electronic textbook, and~~

~~[(2)]~~ for the purchase or licensing of each adopted electronic textbook].

(b) A contract for the purchase or licensing of instructional materials must require the publisher to provide all of the approved instructional materials ~~[the number of textbooks]~~ required by public schools ~~[school districts]~~ in this state for the term of the contract ~~[-, which must coincide with the board's adoption cycle]~~.

(c) As applicable, a contract must provide for the purchase or licensing of instructional materials ~~[a textbook]~~ at a ~~[specific]~~ price determined through negotiation between the publisher and the Department of Information Resources or the public school, as applicable, that does ~~[-, which may]~~ not exceed the lowest price paid by any other state or any school or school district. The price must be fixed for the term of the contract.

(d) The Department of Information Resources shall execute a blanket purchase order with the publisher of an approved instructional material. A school district may requisition

instructional materials under the purchase order.

(e) The agency and the Department of Information Resources shall enter into an interagency contract specifying each agency's duties regarding the purchasing and licensing of instructional materials.

(f) The contract may allow the publisher of an approved instructional material to update the material as provided by Section 31.033.

Sec. 31.027. INFORMATION TO PUBLIC SCHOOLS [~~SCHOOL DISTRICTS~~]; SAMPLE COPIES. (a) A publisher shall provide each public school [~~district and open-enrollment charter school~~] with information that fully describes each of the publisher's approved instructional materials. [~~adopted textbooks. On request of a school district, a publisher shall provide a sample copy of an adopted textbook.~~]

(b) A publisher shall provide at least two sample copies of each approved instructional material [~~adopted textbook~~] to be maintained at each regional education service center.

Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. (a) The State Board of Education may provide for [~~purchase~~] special instructional materials [~~textbooks~~] for the education of blind and visually impaired students in public schools. In addition, for a teacher who is blind or visually impaired, the board shall provide a teacher's edition in Braille or large type, as requested by the teacher, for each printed instructional material [~~textbook~~] the teacher uses in the instruction of students. The printed teacher edition must be available at the same time the printed student instructional materials [~~textbooks~~] become available.

(b) The publisher of an approved printed instructional material [~~adopted textbook~~] shall provide the agency with computerized [~~textbook~~] files for the production of Braille instructional materials [~~textbooks~~] or other versions of instructional materials [~~textbooks~~] to be used by students with disabilities, on request of the State Board of Education. A publisher shall arrange the computerized [~~textbook~~] files in one of several optional formats specified by the State Board of Education.

(c) The board shall require electronic instructional materials submitted for approval under Section 31.0251 to comply with the standards established under Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section 794d) [~~may also enter into agreements providing for the acceptance, requisition, and distribution of special textbooks and instructional aids pursuant to 20 U.S.C. Section 101 et seq.~~] for use by students enrolled in:

- (1) public schools; or
- (2) private nonprofit schools, if state funds, other than for administrative costs, are not involved.

(d) In this section:

(1) "Blind or visually impaired student" includes any student whose visual acuity is impaired to the extent that the student is unable to read the text [~~print~~] in [~~a~~] regularly approved instructional materials [~~adopted textbook~~] used in the student's class.

(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. Subsection (b), Section 31.031, 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 MATERIALS. The publisher of an approved electronic instructional material may offer the material to public schools on an annual subscription basis.

Sec. 31.033. UPDATING INSTRUCTIONAL MATERIALS. The publisher of an approved instructional material may, under the terms of a contract under Section 31.026, update the instructional material. The State Board of Education by rule shall provide for an expedited review process to determine the extent to which an updated instructional material:

(1) is aligned with the essential knowledge and skills for the subject and grade level; and

(2) does not contain factual errors.

SECTION 2E.24. Subchapter C, Chapter 31, Education Code, is amended by adding Sections 31.1012 and 31.1013 to read as follows:

Sec. 31.1012. LOCAL SELECTION AND PURCHASE. A school district shall:

(1) select the instructional materials to be used by the district; and

(2) using funds allotted under Section 32.005 or other funds that may be used for the purpose, purchase those materials:

(A) directly from the publisher of the materials;  
or

(B) through the Department of Information Resources, if the materials have been approved by the State Board of Education.

Sec. 31.1013. CERTIFICATION OF PROVISION OF INSTRUCTIONAL MATERIALS. Each school district shall annually certify to the agency that, for each subject in the required curriculum and each grade level, the district provides each student with instructional materials that are aligned with the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.

SECTION 2E.25. Section 31.102, Education Code, is amended to read as follows:

Sec. 31.102. TITLE AND CUSTODY. (a) Each instructional material ~~[textbook]~~ purchased as provided by this chapter is the property of this state.

(b) Subsection (a) applies to an electronic instructional material ~~[textbook]~~ only to the extent of any applicable licensing agreement.

(c) The board of trustees of a school district ~~[or the governing body of an open-enrollment charter school]~~ is the legal custodian of instructional materials ~~[textbooks]~~ purchased as provided by this chapter for the district ~~[or school]~~. The board of trustees shall distribute instructional materials ~~[textbooks]~~ to students in the manner that the board ~~[or governing body]~~ determines is most effective and economical.

SECTION 2E.26. Sections 31.104, 31.105, and 31.106, Education Code, are amended to read as follows:

Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of trustees of a school district ~~[or the governing body of an open-enrollment charter school]~~ may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials ~~[textbooks]~~ in a manner consistent with this chapter and rules adopted under this chapter.

(b) A school district ~~[or open-enrollment charter school]~~ may order replacements for instructional materials ~~[textbooks]~~



that have been lost or damaged directly from[+]

~~[(1) the textbook depository, or~~

~~[(2)] the [textbook] publisher of the instructional materials [or manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B)].~~

(c) Each instructional material [textbook] must state that the instructional material [textbook] is the property of or is licensed to this state, as appropriate. The board may require the publisher of a textbook that must be returned by a student under Subsection (d) to place a bar code with a unique identifying number on the textbook. Each instructional material [textbook], other than an electronic instructional material [textbook], must be covered by the student under the direction of the teacher. A student must return all instructional materials [textbooks] to the teacher at the end of the school year or when the student withdraws from school.

(d) Each student, or the student's parent or guardian, is responsible for each instructional material [textbook] not returned by the student. A student who fails to return all instructional materials [textbooks] forfeits the right to free instructional materials [textbooks] until each instructional material [textbook] previously issued but not returned is paid for by the student, parent, or guardian. As provided by policy of the board of trustees ~~[or governing body]~~, a school district ~~[or open-enrollment charter school]~~ may waive or reduce the payment requirement if the student is from a low-income family. The district ~~[or school]~~ shall allow the student to use 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 school district; or

(2) loan instructional materials to another school district ~~[textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund].~~

Sec. 31.106. USE OF LOCAL FUNDS. A ~~[In addition to any textbook selected under this chapter, a]~~ school district ~~[or open-enrollment charter school]~~ may use local funds to purchase any instructional materials [textbooks].

SECTION 2E.27. The heading to Section 31.151, Education Code, is amended to read as follows:

Sec. 31.151. DUTIES OF PUBLISHERS ~~[AND MANUFACTURERS]~~.

SECTION 2E.28. Subsections (a), (b), and (d), Section 31.151, Education Code, are amended to read as follows:

(a) A publisher ~~[or manufacturer]~~ of instructional materials [textbooks]:

(1) shall furnish any instructional material [textbook] the publisher ~~[or manufacturer]~~ offers in this state[7]

at a price that does not exceed the lowest price at which the publisher offers that instructional material [~~textbook~~] for adoption or sale to any state, public school, or school district in the United States;

(2) shall automatically reduce the price of an instructional material [~~a textbook~~] sold for use in a public school [~~district or open-enrollment charter school~~] to the extent that the price is reduced elsewhere in the United States;

(3) shall provide any instructional material [~~textbook~~] or ancillary item free of charge in this state to the same extent that the publisher [~~or manufacturer~~] provides the instructional material [~~textbook~~] or ancillary item free of charge to any state, public school, or school district in the United States;

(4) shall guarantee that each copy of an instructional material [~~a textbook~~] sold in this state is at least equal in quality to copies of that instructional material [~~textbook~~] sold elsewhere in the United States and is free from factual error;

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in instructional materials [~~textbooks~~] or enter into any understanding or combination to control prices or restrict competition in the sale of instructional materials [~~textbooks~~] for use in this state;

(6) shall~~+~~  
~~[(A) maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, other than on-line textbooks or on-line textbook components, consistent with State Board of Education rules, or~~

~~[(B)] deliver instructional materials~~ [~~textbooks~~] to a public school [~~district or open-enrollment charter school~~] without a delivery charge to the school [~~district, open-enrollment charter school,~~] or state~~[, if:~~

~~[(i) the publisher or manufacturer does not maintain or arrange with a depository in this state under Paragraph (A) and the publisher's or manufacturer's textbooks and related products are warehoused or otherwise stored less than 300 miles from a border of this state, or~~

~~[(ii) the textbooks are on-line textbooks or on-line textbook components];~~

(7) shall, at the time an order for instructional materials [~~textbooks~~] is acknowledged, provide to public [~~school districts or open-enrollment charter~~] schools an accurate shipping date for instructional materials [~~textbooks~~] that are back-ordered;

(8) shall guarantee delivery of instructional materials [~~textbooks~~] at least 10 business days before the opening day of school of the year for which the instructional materials [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~] are ordered by a date specified in the sales contract; and

(9) shall submit to the State Board of Education an affidavit certifying any instructional material [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026.

(b) The State Board of Education may impose a reasonable administrative penalty against a publisher [~~or manufacturer~~] who knowingly violates Subsection (a). The board shall provide for a hearing to be held to determine whether a penalty is to be imposed and, if so, the amount of the penalty. The board shall base the amount of the penalty on:

(1) the seriousness of the violation;

(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. Subsections (a), (b), and (d), Section 31.152, 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 training; or

(2) ancillary ~~[instructional]~~ materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

SECTION 2E.31. The heading to Section 31.153, Education Code, is amended to read as follows:

Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS ~~[TEXTBOOK] LAW~~.

SECTION 2E.32. Subsection (a), Section 31.153, Education Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly violates any law providing for the purchase or distribution of free instructional materials ~~[textbooks]~~ for the public schools.

SECTION 2E.33. Subchapter E, Chapter 31, Education Code, is amended to read as follows:

#### SUBCHAPTER E. DISPOSITION OF INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~

Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~. (a) The commissioner, with the approval of the State Board of Education, may provide for the disposition of:

(1) instructional materials ~~[textbooks]~~, other than electronic instructional materials ~~[textbooks]~~, that are no longer in acceptable condition to be used for instructional purposes; or

(2) discontinued instructional materials ~~[textbooks]~~, other than electronic instructional materials ~~[textbooks]~~.

(b) The commissioner, as provided by rules adopted by the State Board of Education, shall make available on request copies of discontinued instructional materials ~~[textbooks]~~, other than electronic instructional materials ~~[textbooks]~~, for use in libraries maintained in municipal and county jails and facilities of the institutional division of the Texas Department of Criminal Justice and other state agencies.

(c) The State Board of Education shall adopt rules under which a public school ~~[district or open-enrollment charter school]~~ may donate discontinued instructional materials ~~[textbooks]~~, other than electronic instructional materials ~~[textbooks]~~, to a student, to an adult education program, or to a nonprofit organization.

SECTION 2E.34. Subchapter A, Chapter 32, Education Code, is amended by adding Section 32.0011 to read as follows:

Sec. 32.0011. ADVISORY COMMITTEE FOR TECHNOLOGY AND IMPLEMENTATION. (a) An advisory committee for technology and implementation is created to assist the agency and permit the agency to monitor changing technology in business, industry, and education.

(b) Members of the advisory committee are appointed as follows:

(1) the commissioner, in consultation with the lieutenant governor, the speaker of the house of representatives,

and the presiding officers of the standing committees of the senate and the house of representatives with jurisdiction over the agency, shall appoint members from the business and education communities and public members; and

(2) the State Board of Education may appoint one member.

(c) The advisory committee is subject to Chapters 551 and 552, Government Code.

SECTION 2E.35. Sections 32.002 and 32.003, Education Code, are amended to read as follows:

Sec. 32.002. AUTHORITY OF PUBLIC SCHOOL [DISTRICT]. A public school [district] is not required by this subchapter to acquire or use technology that has been approved, selected, or contracted for by the State Board of Education or the commissioner.

Sec. 32.003. AUTHORITY OF COMMISSIONER TO CONTRACT. The commissioner may contract with developers of technology to supply technology for use by public schools [school districts] throughout this state.

SECTION 2E.36. Effective September 1, 2006, Section 32.005, Education Code, is amended by adding Subsection (d) to read as follows:

(d) This subsection applies only if the pilot project established under Section 54.2161 is implemented. In addition to amounts to which the district is entitled under Subsection (a), a school district is entitled to an amount sufficient for the district to pay the costs of textbooks for students participating in the pilot project established under Section 54.2161. This subsection expires August 15, 2009.

SECTION 2E.37. Effective September 1, 2007, Section 32.005, Education Code, is amended to read as follows:

Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY ALLOTMENT. (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.

(b) An allotment under this section may be used only to:

(1) provide for the purchase by school districts of instructional materials [~~electronic textbooks~~] or technological equipment that contributes to student learning; and

(2) pay for training educational personnel directly involved in student learning in the appropriate use of electronic instructional materials [~~textbooks~~] and for providing for access to technological equipment for instructional use.

(c) The allotment under this section may be paid from:

(1) the telecommunications infrastructure fund under Subchapter C, Chapter 57, Utilities Code;

(2) the available school fund; [~~or~~]

(3) the state instructional materials fund under Section 31.021; or

(4) any other fund that may be used for that purpose and that is identified in the General Appropriations Act as the source of payment of the allotment.

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,

93-1 to provide targeted technology programs.

93-2 (b) A targeted technology program must provide for each  
 93-3 student and teacher at a targeted campus or grade level on a  
 93-4 targeted campus:

93-5 (1) the provision of:

93-6 (A) wireless electronic mobile computing devices  
 93-7 or other technology devices that convey instruction;

93-8 (B) productivity software and hardware,  
 93-9 including writing, computation, presentation, printing, and  
 93-10 communication tools;

93-11 (C) electronic learning software aligned with  
 93-12 the essential knowledge and skills adopted by the State Board of  
 93-13 Education under Section 28.002;

93-14 (D) electronic library and other research tools;

93-15 (E) electronic assessment tools;

93-16 (F) electronic learning tools to improve  
 93-17 communications among students, teachers, school administrators,  
 93-18 parents, and the community;

93-19 (G) classroom management systems; and

93-20 (H) portable electronic instructional material  
 93-21 devices capable of supporting instructional material for each  
 93-22 subject in the foundation and enrichment curriculum;

93-23 (2) professional development for teachers to  
 93-24 integrate the tools and solutions described by Subdivision (1); or

93-25 (3) the provision of other infrastructure,  
 93-26 components, and technologies to support and enhance student  
 93-27 performance through individual instruction programs.

93-28 (c) The Legislative Budget Board shall:

93-29 (1) conduct a biennial study of the cost of school  
 93-30 district targeted technology programs, including the cost of  
 93-31 implementing those programs on a statewide basis; and

93-32 (2) based on the results of the study required by  
 93-33 Subdivision (1), make recommendations to the legislature before the  
 93-34 beginning of each regular session of the legislature concerning  
 93-35 statewide implementation of targeted technology programs.

93-36 (d) Each biennium, the Legislative Budget Board and the  
 93-37 commissioner shall jointly conduct a performance evaluation of  
 93-38 school district targeted technology programs.

93-39 SECTION 2E.39. Subchapter A, Chapter 32, Education Code, is  
 93-40 amended by adding Section 32.007 to read as follows:

93-41 Sec. 32.007. AGREEMENT WITH PUBLIC BROADCASTING STATION.

93-42 (a) The commissioner may enter into an agreement with a public  
 93-43 broadcasting station, or a consortium of public broadcasting  
 93-44 stations, under which the station or consortium will provide online  
 93-45 instructional content and educational materials.

93-46 (b) From funds appropriated to the agency, the commissioner  
 93-47 may, under an agreement entered into under Subsection (a), make  
 93-48 instructional materials available through public broadcasting  
 93-49 stations for purposes of instruction and professional development  
 93-50 and for use in providing adult-based education.

93-51 (c) An agreement entered into under Subsection (a) must, to  
 93-52 the extent practicable, provide access to instructional materials  
 93-53 and online content to persons located in all parts of this state.

93-54 (d) For purposes of providing high-quality online  
 93-55 instructional materials under this section, the commissioner may:

93-56 (1) use federal funds that may be used for those  
 93-57 purposes; or

93-58 (2) use unexpended balances of funds appropriated to  
 93-59 the agency for educational purposes, including adult education.

93-60 SECTION 2E.40. The heading to Section 32.154, Education  
 93-61 Code, as added by Chapter 834, Acts of the 78th Legislature, Regular  
 93-62 Session, 2003, is amended to read as follows:

93-63 Sec. 32.154. [~~DISTRICT OR~~] SCHOOL SELECTION.

93-64 SECTION 2E.41. Section 32.154, Education Code, as added by  
 93-65 Chapter 834, Acts of the 78th Legislature, Regular Session, 2003,  
 93-66 is amended by adding Subsection (a-1) and amending Subsection (b)  
 93-67 to read as follows:

93-68 (a-1) In addition to school districts and schools selected  
 93-69 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 district regularly assigns students who were enrolled in grade eight during the 2004-2005 school year at a district school participating in the pilot project. The agency shall establish criteria for expanding the pilot project under this subsection.

(b) Except as provided by Subsection (a-1), the ~~[The]~~ agency shall select the participating ~~[districts and]~~ schools for the pilot project based on each ~~[district's or]~~ school's need for the pilot project. In selecting participants, the agency shall consider the following criteria:

(1) whether the ~~[district or]~~ school has limited access to educational resources that could be improved through the use of wireless mobile computing devices and other technologies;

(2) whether the ~~[district or]~~ school has the following problems and whether those problems can be mitigated through the use of wireless mobile computing devices and other technologies:

(A) documented teacher shortages in critical areas;

(B) limited access to advanced placement courses;

(C) low rates of satisfactory performance on assessment instruments under Subchapter B, Chapter 39; and

(D) high dropout rates;

(3) the ~~[district's or]~~ school's readiness to incorporate technology into its classrooms;

(4) the possibility of obtaining a trained technology support staff and high-speed Internet services for the ~~[district or]~~ school; and

(5) the methods the ~~[district or]~~ school will use to measure the progress of the pilot project in the ~~[district or]~~ school in accordance with Section 32.155(e).

SECTION 2E.42. Section 32.156, Education Code, as added by Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~.

(a) The agency may develop and adopt strategies for making instructional materials ~~[textbooks]~~ available through the portal or through other means in an electronic format as an alternative or supplement to traditional instructional materials ~~[textbooks]~~.

(b) In developing and adopting strategies under this section, the agency shall seek to achieve a system under which a student may, in addition to ~~[a]~~ traditional instructional materials ~~[textbook]~~, be provided with secure Internet access to each instructional material ~~[textbook]~~ used by the student.

SECTION 2E.43. Subsection (b), Section 32.161, Education Code, is amended to read as follows:

(b) To the extent possible considering other statutory requirements, the commissioner and agency shall encourage the use of instructional materials ~~[textbook funds]~~ and technology allotment funds under Section 32.005 ~~[31.021(b)(2)]~~ in a manner that facilitates the development and use of the portal.

SECTION 2E.44. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0232 to read as follows:

Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) To the extent practicable and appropriate, the agency shall provide for assessment instruments required under Section 39.023 to be designed so that those assessment instruments can be computer-adaptive.

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

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

(d) As necessary to implement this section, the commissioner by rule may delay the release of assessment instrument questions and answer keys under Section 39.023(e).

(e) The agency shall implement this section not later than May 1, 2007. This subsection expires September 1, 2007.

SECTION 2E.45. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.046 to read as follows:

Sec. 44.046. PURCHASE OF INSTRUCTIONAL MATERIALS. Notwithstanding Section 44.031, a public school may purchase instructional materials, as defined by Section 31.002, under a blanket purchase order executed by the Department of Information Resources under Section 31.026.

SECTION 2E.46. (a) This section applies to an instructional material, as that term is defined by Section 31.002, Education Code, as amended by this part, including an electronic instructional material, adopted by the State Board of Education before January 1, 2005.

(b) A contract for the purchase or licensing of an instructional material described by Subsection (a) of this section continues in effect as a state contract for the contract term, and the former law is continued in effect for that purpose.

SECTION 2E.47. (a) Notwithstanding any other law, it is the intent of the legislature that:

(1) of the money appropriated for the provision of public school textbooks by H.B. No. 1, Acts of the 79th Legislature, 1st Called Session, 2005, \$295 million be used in providing textbooks for those grade levels and subjects specified by Proclamation 2002; and

(2) the Texas Education Agency provide for the delivery of textbooks to public school students for the 2005-2006 school year as soon as practicable after this section takes effect.

(b) This section takes effect on the 91st day after the last day of the legislative session, regardless of whether H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005, or similar legislation enacted by the 79th Legislature, 2nd Called Session, 2005, becomes law.

SECTION 2E.48. Texas Education Agency Rider 78 in Article III, Senate Bill No. 1, Acts of the 79th Legislature, Regular Session, 2005 (the General Appropriations Act), as amended by H.B. No. 1, Acts of the 79th Legislature, 1st Called Session, 2005, is amended to read as follows:

Rider 78. Textbook Proclamations. It is the intent of the Legislature that the State Board of Education forego the issuance of all Proclamations of textbook purchases until such time as the Legislature has implemented reforms to the system by which the state and school districts procure and purchase textbooks.

Contingent upon passage and enactment of House Bill 2, or similar legislation relating to public school finance by the 79th Legislature, 2nd [First] Called Session, 2005, or by a subsequent legislature that includes in the legislation reforms to the system by which the state and school districts procure and purchase textbooks, it is the intent of the Legislature that the State Board of Education rescind Proclamation 2004 and conduct activities related to instructional materials in accordance with the provisions of House Bill 2 or the similar legislation, as applicable.

SECTION 2E.49. Subdivision (3), Section 31.002, and Sections 31.022, 31.023, 31.024, 31.025, 31.101, 31.103, and 31.1031, Education Code, and Subsections (a) and (c), Section 32.154, Education Code, as added by Chapter 834, Acts of the 78th Legislature, Regular Session, 2003, are repealed.

#### PART F. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

SECTION 2F.01. Effective August 1, 2006, Subchapter B, Chapter 21, Education Code, is amended by adding Sections 21.0485 and 21.0486 to read as follows:

Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in a dual language education program, the 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 board shall issue the appropriate master language teacher certificate to each eligible person.

(c) To be eligible for a master language teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of experience teaching bilingual education, dual language instruction, or English as a second language;

(3) satisfactorily complete a knowledge-based course of instruction on second language acquisition and the science of teaching children language that includes training in language instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master language certification examination prescribed by the commissioner; and

(5) satisfy any other requirements prescribed by the commissioner.

SECTION 2F.02. Subsection (b), Section 21.050, Education Code, is amended to read as follows:

(b) The commissioner ~~[board]~~ may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. The commissioner ~~[board]~~ shall provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The commissioner ~~[board]~~ may adopt ~~[propose]~~ rules requiring additional credit hours for certification in bilingual education, dual language instruction, English as a second language, early childhood education, or special education.

SECTION 2F.03. Section 21.054, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Rules adopted under Subsection (a) must permit an educator to fulfill continuing education requirements by acquiring conversational skills in one or more languages other than English and academic language development in the subject area for which the educator provides instruction. The rules must permit educators to obtain language instruction through a variety of methods, including attendance at workshops offered by qualified entities and enrollment on a noncredit basis in courses offered by public or private colleges and universities.

SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.060 to read as follows:

Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION. On issuing an educator certificate to an educational aide or renewing such a certificate, the commissioner shall notify the person to whom the certificate is issued of the existence of the educational aide exemption under Section 54.214.

SECTION 2F.05. Section 28.0051, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The commissioner shall provide for the issuance of teaching certificates appropriate for dual language instruction to



teachers who:

(1) possess a speaking, reading, and writing language ability in a language other than English in which a dual language immersion program is offered; and

(2) meet the general requirements of Subchapter B, Chapter 21.

SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0052 to read as follows:

Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT.

(a) The commissioner shall establish a pilot project in school districts selected by the commissioner under which the agency examines dual language education programs and the effect of those programs on a student's ability to graduate from high school.

(b) In selecting school districts under Subsection (a), the commissioner shall:

(1) select districts that:

(A) will commit to at least a three-year dual language education program; and

(B) demonstrate a substantially equal enrollment of students with limited English proficiency and students whose primary language is English or, if a district does not have a sufficient number of limited English proficiency students to meet the equal enrollment standard, include the enrollment of students with limited English proficiency, students whose primary language is English, and bilingual students; and

(2) give preference to a district that:

(A) demonstrates the potential for expanding the program through middle school; and

(B) will implement the program at the kindergarten level.

(c) The commissioner by rule shall require a district to limit activities of the dual language education program during the first year of the program to planning activities, including:

(1) hiring and training teachers and ensuring teacher certification;

(2) establishing parental and community support for the program; and

(3) acquiring adequate learning materials in both program languages.

(d) From amounts appropriated to the agency, including foundation school program funds, the commissioner shall award grants to school districts that participate in the program. A grant under this section must be in an amount sufficient to pay the costs to the district of participating in the program, as determined by the commissioner. A determination of the commissioner under this subsection is final and may not be appealed.

(e) A school district that applies for the expansion of an existing dual language education program is eligible for a grant under Subsection (d).

(f) A school district may use a grant awarded under Subsection (d) for:

(1) classroom materials;

(2) tuition and textbook expenses for students seeking teacher certification under Section 21.0485; and

(3) other necessary costs of operating the program, as approved by the commissioner.

(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 transfer the student from the program without the student's parent's approval. The district must inform the student's parent of the student's transfer from the program. The school district or parent may appeal the decision under Section 29.064. The criteria for identification, assessment, and classification may include:

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

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

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

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

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

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

(2) satisfactory performance on the reading assessment instrument under Section 39.023(a)(2) or the English language arts assessment instrument under Section 39.023(a)(4), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second 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 exit 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 upon the determination by the language proficiency assessment committee that the student has reached all English language proficiency goals provided for under the student's individualized education program.

(i) On approval of the student's parent and the recommendation of the student's language proficiency assessment committee, 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; REENROLLMENT. (a) The language proficiency assessment committee shall reevaluate a student who is transferred out of a bilingual education or special language program under Section 29.056(g) if the student earns a failing grade in a subject in the foundation curriculum under Section 28.002(a)(1) during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

(b) During the first two school years after a student is transferred out of a bilingual education or special language program under Section 29.056(g), the language proficiency assessment committee shall review the student's performance and consider:

(1) the total amount of time the student was enrolled in a bilingual education or special language program;

(2) the student's grades each grading period in each subject in the foundation curriculum under Section 28.002(a)(1);

(3) the student's performance on each assessment instrument administered under Section 39.023(a) or (c);

(4) the number of credits the student has earned toward high school graduation, if applicable; and

(5) any disciplinary actions taken against the student under Subchapter A, Chapter 37.

(c) After an evaluation under this section, the language proficiency assessment committee may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

SECTION 2F.09. Effective August 1, 2006, Subchapter B, Chapter 29, Education Code, is amended by adding Section 29.065 to read as follows:

Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE PROFICIENCY. The commissioner by rule shall develop a longitudinal measure of progress toward English language proficiency under which a student of limited English proficiency is evaluated from the time the student enters public school until, for two consecutive school years, the student scores at a specific level determined by the commissioner on the reading assessment instrument under Section 39.023(a)(2) or the English language arts assessment instrument under Section 39.023(a)(4), as applicable. The commissioner shall:

(1) as part of the measure of progress, include student advancement from one proficiency level to a higher level under the reading proficiency in English assessment system developed under Section 39.027(e) and from the highest level under that assessment system to the level determined by the commissioner under this section on the reading assessment instrument under Section 39.023(a)(2) or the English language arts assessment instrument under Section 39.023(a)(4), as applicable; and

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

SECTION 2F.10. Not later than January 1, 2006, the commissioner of education shall adopt rules permitting an educator to fulfill continuing education requirements by requiring conversational skill in a language other than English, as required by Subsection (c), Section 21.054, Education Code, as added by this Act.

SECTION 2F.11. Not later than January 1, 2007, the commissioner of education shall adopt rules:

(1) establishing requirements and prescribing an examination for master language teacher certification as required by Section 21.0486, Education Code, as added by this Act; and

(2) establishing requirements and prescribing an examination for dual language instruction teacher certification as required by Subsection (b), Section 21.050, Education Code, as amended by this Act, and Subsection (d), Section 28.0051, Education Code, as added by this Act.

#### PART G. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

SECTION 2G.01. Subchapter D, Chapter 29, Education Code, is amended by adding Section 29.124 to read as follows:

Sec. 29.124. TEXAS GOVERNOR'S SCHOOLS. (a) In this section, "public senior college or university" has the meaning assigned by Section 61.003.

(b) A Texas governor's school is a summer residential program for high-achieving high school students. A governor's school program may include any or all of the following educational curricula:

(1) mathematics and science;

(2) humanities; or

(3) leadership and public policy.

(c) A public senior college or university may apply to the commissioner to administer a Texas governor's school program under this section. The commissioner shall give preference to a public senior college or university that applies in cooperation with a nonprofit association. The commissioner shall give additional preference if the nonprofit association receives private foundation funds that may be used to finance the program.

(d) The commissioner may approve an application under this section only if the applicant:

(1) applies within the period and in the manner required by rule adopted by the commissioner;

(2) submits a program proposal that includes:

(A) a curriculum consistent with Subsection (b);

(B) criteria for selecting students to participate in the program;

(C) a statement of the length of the program, which must be at least three weeks; and

(D) a statement of the location of the program;

(3) agrees to use a grant under this section only for the purpose of administering a program; and

(4) satisfies any other requirements established by rule adopted by the commissioner.

(e) From funds appropriated to the agency, the commissioner may make a grant in an amount not to exceed \$750,000 each year to public senior colleges or universities whose applications are approved under this section to pay the costs of administering a Texas governor's school program.

(f) The commissioner may adopt other rules necessary to 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 recommended or advanced high school program established under Section 28.025; and

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

SECTION 2G.03. Subsection (a), Section 39.053, Education Code, is amended to read as follows:

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

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

(2) the academic performance rating for the district ~~[as provided under Section 39.072(a)]~~ and ~~[the performance rating of]~~ each campus in the district ~~[as provided]~~ under Section 39.072 ~~[39.072(c)]~~;

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

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

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

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

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

(8) information relating to high academic achievement in the district, as determined by the district's performance on the indicators under Section 39.051(b-1).

SECTION 2G.04. (a) Not later than the 2006-2007 school year, the Texas Education Agency shall collect information concerning high academic achievement for purposes of Subsection (b-1), Section 39.051, Education Code, as added by this Act.

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

(c) Not later than the 2007-2008 school year, the Texas Education Agency shall include the information required by Subdivision (23), Subsection (a), Section 39.182, Education Code, as added by this Act, in the agency's comprehensive annual report under Section 39.182, Education Code.

#### PART H. PREKINDERGARTEN PROGRAMS

SECTION 2H.01. Section 29.1532, Education Code, is amended by adding Subsections (d), (e), (f), and (g) 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 prekindergarten expansion grant program funds to foster school readiness in children enrolled in those programs.

(g) All of the entities that choose to share or coordinate concerning use of a particular program site under this section shall enter into a joint memorandum of understanding. The memorandum of understanding must include the same or similar provision required by Section 29.160(c-1).

#### PART I. SCHOOL DISCIPLINE

SECTION 2I.01. Chapter 26, Education Code, is amended by adding Section 26.0083 to read as follows:

Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY ACTION. (a) A parent is entitled to notice from a school district or public charter district as provided by this section if the parent's child is removed from class under Section 37.006 for placement in a disciplinary alternative education program or under Section 37.007 for expulsion or placement in a juvenile justice alternative education program. A school district or public charter district shall make a good faith effort to provide the notice required by this subsection on the same day the parent's child is removed from class. If the district fails to provide the notice on that day, the district shall provide or mail the notice not later than 5 p.m. on the first business day after the day the student is removed from class.

(b) A noncustodial parent who has requested notice of disciplinary actions as provided by Section 37.0091 is entitled to notice under Subsection (a).

SECTION 2I.02. Subsection (b-1), Section 37.001, Education Code, as added by H.B. No. 283, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b-1) The methods adopted under Subsection (a)(8) must provide that, except as provided by federal law, including related regulations, a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

SECTION 2I.03. Section 37.004, Education Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) Notwithstanding any other provision of this subchapter, in a county with a juvenile justice alternative education program established under Section 37.011, the expulsion under a provision of Section 37.007 described by this subsection of a student with a disability who receives special education services must occur in accordance with this subsection and Subsection (f). The school district from which the student was expelled shall, in accordance with applicable federal law, provide the administrator of the juvenile justice alternative education program or the

administrator's designee with reasonable notice of the meeting of the student's admission, review, and dismissal committee to discuss the student's expulsion. A representative of the juvenile justice alternative education program may participate in the meeting to the extent that the meeting relates to the student's placement in the program. This subsection applies only to an expulsion under:

(1) Section 37.007(b), (c), or (f); or  
 (2) Section 37.007(d) as a result of conduct that contains the elements of any offense listed in Section 37.007(b)(2)(C) against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district.

(f) If, after placement of a student in a juvenile justice alternative education program under Subsection (e), the administrator of the program or the administrator's designee has concerns that the student's educational or behavioral needs cannot be met in the program, the administrator or designee shall immediately provide written notice of those concerns to the school district from which the student was expelled. The student's admission, review, and dismissal committee shall meet to reconsider the placement of the student in the program. The district shall, in accordance with applicable federal law, provide the administrator or designee with reasonable notice of the meeting, and a representative of the program may participate in the meeting to the extent that the meeting relates to the student's continued placement in the program.

SECTION 2I.04. Section 37.008, Education Code, is amended by amending Subsections (m) and (m-1) and adding Subsection (n) to read as follows:

(m) Notwithstanding Section 7.028, the ~~[The]~~ commissioner shall adopt rules necessary to evaluate ~~through an annual monitoring process [annually]~~ the performance of each district's disciplinary alternative education program established under this subchapter. The monitoring process ~~[evaluation]~~ required by this section may be electronic and shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Section ~~[Sections]~~ 39.023(a) and at least one indicator that measures student academic progress ~~[-e]~~. Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The agency shall integrate the monitoring process developed under Subsection (m) with the monitoring the agency is authorized to conduct under Section 7.028(a). The commissioner may ~~require [shall develop a process for evaluating]~~ a school district to contract at the district's expense in the manner provided by Section 39.134 with a public or private service provider for services determined by the commissioner to be necessary to:

(1) improve student performance;  
 (2) improve disciplinary alternative education program effectiveness; and  
 (3) ~~[electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to]~~ comply with disciplinary alternative education program state and federal requirements.

(n) ~~[The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of 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 disciplinary alternative education program data.

SECTION 2I.05. Subsections (b) and (c), Section 37.020, Education Code, 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 inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

#### PART J. CRIMINAL HISTORY RECORDS INFORMATION

SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0401 to read as follows:

Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The commissioner shall obtain a complete set of fingerprints from:

(1) each applicant for a certificate issued under this subchapter;

(2) each applicant for or holder of a teaching permit issued under this subchapter; and



(3) each person described by Section 11A.153 or Section 21.0032 for whom the commissioner has received information from a public charter district.

SECTION 2J.02. Subsection (c), Section 21.041, Education Code, is amended to read as follows:

(c) The commissioner by rule [board] shall set fees [propose a rule adopting a fee] for:

(1) the issuance and maintenance of each [an] educator certificate that is adequate to cover the cost of administration of this subchapter, including costs related to the operation of the board and any amount necessary to cover the cost of obtaining fingerprints under Section 21.0401 or conducting a national criminal background review and investigation under Sections 21.0032 and 22.082; and

(2) the cost of obtaining fingerprints from or conducting a national criminal background review of a holder of a teaching permit issued under this subchapter.

SECTION 2J.03. Section 22.082, Education Code, is amended to read as follows:

Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE EDUCATION AUTHORITIES [~~BOARD FOR EDUCATOR CERTIFICATION~~]. (a) The agency [State Board for Educator Certification] shall obtain from the Department of Public Safety [any law enforcement or criminal justice agency] all state and national criminal history record information that relates to:

(1) an applicant for or holder of a certificate or permit issued under Subchapter B, Chapter 21; or

(2) a person described by Section 11A.153 or 21.0032.

(b) The Educators' Professional Practices Board may obtain from the Department of Public Safety all criminal history record information that relates to a holder of a certificate issued under Subchapter B, Chapter 21.

(c) The agency shall require each applicant, holder, and person described by Subsection (a)(2) to pay any costs to the agency related to obtaining criminal history record information related to the person under this section.

SECTION 2J.04. Subsection (d), Section 22.083, Education Code, is amended to read as follows:

(d) The superintendent of a district or the director of a public charter district [~~an open-enrollment charter school~~], private school, regional education service center, or shared services arrangement shall promptly notify the Educators' Professional Practices [State] Board [~~for Educator Certification~~] in writing if the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history. The board shall notify the commissioner of the reported criminal history.

SECTION 2J.05. Sections 22.085 and 22.086, Education Code, are amended to read as follows:

Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES. A school district, public charter district [~~open-enrollment charter school~~], private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the agency [State Board for Educator Certification] or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The agency, the Educators' Professional Practices [State] Board [~~for Educator Certification~~], a school district, a public charter district [~~an open-enrollment charter school~~], a private school, a regional education service center, a shared services arrangement, or an employee of the agency, board, district, school, service center, or shared services arrangement is not civilly or criminally liable for making a report required under this subchapter.

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

(4) [~~(3)~~] shall be destroyed by the agency [~~board~~] after the information is used for the authorized purposes.

(c) The Texas Education Agency may keep on file with the department all fingerprints obtained by the agency under Section 21.0401, Education Code. The department shall notify the agency of the arrest of any person who has fingerprints on file with the department pursuant to that section.

(d) On receipt of notice from the department of an arrest of a person described by Section 11A.153 or 21.0032, Education Code, the Texas Education Agency shall notify the public charter district affected.

#### PART K. HEALTH AND SAFETY

SECTION 2K.01. Chapter 33, Education Code, is amended by adding Subchapter F to read as follows:

##### SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR ACTIVITIES

Sec. 33.201. APPLICABILITY. This subchapter applies to each public school in this state and to any other school in this state subject to University Interscholastic League regulations.

Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The commissioner by rule shall develop and adopt a safety training program as provided by this section. In developing the program, the commissioner may use materials available from the American Red Cross or another appropriate entity.

(b) The following persons must satisfactorily complete the safety training program:

(1) a coach, trainer, or sponsor for an extracurricular athletic activity;

(2) except as provided by Subsection (f), a physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity; and

(3) a director responsible for a school marching band.

(c) The safety training program must include:

(1) certification of participants by the American Red Cross, the American Heart Association, or a similar organization or the University Interscholastic League, as determined by the commissioner;

(2) annual training in:

(A) emergency action planning;

(B) cardiopulmonary resuscitation if the person is not required to obtain certification under Section 33.086;

(C) communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and

(D) recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and

(3) at least once each school year, a safety drill that incorporates the training described by Subdivision (2) and simulates various injuries described by Subdivision (2)(D).

(d) A student participating in an extracurricular athletic activity must receive training related to:

(1) recognizing the symptoms of injuries described by Subsection (c)(2)(D); and

(2) the risks of using supplements designed or marketed to enhance athletic performance.

(e) The safety training program and the training under Subsection (d) may each be conducted by a school or school district or by an organization described by Subsection (c)(1).

(f) A physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity is exempt from the requirements of Subsection (b) if the physician attends a continuing medical education course that specifically addresses emergency medicine for athletic team physicians.

Sec. 33.2021. COMPLETION OF UNIVERSITY INTERSCHOLASTIC LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an extracurricular athletic activity must complete the University Interscholastic League forms entitled "Preparticipation Physical Evaluation--Medical History" and "Acknowledgment of Rules." Each form must be signed by both the student and the student's parent or guardian.

(b) Each form described by Subsection (a) must clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by the University Interscholastic League as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by the University Interscholastic League.

(c) The "Preparticipation Physical Evaluation--Medical History" form described by Subsection (a) must contain the following statement:

"An individual answering in the affirmative to any question relating to a possible cardiovascular health issue, as identified on the form, should be restricted from further participation until the individual is examined by the individual's primary care physician. Ultimately, the individual may need to be evaluated by a cardiologist and/or undergo cardiac testing (including an echocardiogram and/or other heart-related examination) based on the assessment by the primary care physician."

Sec. 33.203. CERTAIN UNSAFE ATHLETIC ACTIVITIES PROHIBITED. A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participating in the activity to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon.

Sec. 33.204. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

(1) each student participating in the activity is adequately hydrated;

(2) any prescribed asthma medication for a student participating in the activity is readily available to the student;

(3) emergency lanes providing access to the practice or competition area are open and clear; and

(4) heatstroke prevention materials are readily available.

(b) If a student participating in an extracurricular athletic activity, including a practice or competition, is rendered unconscious during the activity, the student may not:

(1) return to the practice or competition during which the student was rendered unconscious; or

(2) continue to participate in any extracurricular athletic activity until the student receives written authorization from a physician.

Sec. 33.205. COMPLIANCE; ENFORCEMENT. (a) On request, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202.

(b) The superintendent of a school district or the director of a school subject to this subchapter shall maintain complete and accurate records of the district's or school's compliance with Section 33.202.

(c) A school campus that is determined by the school's superintendent or director to not be in compliance with Section 33.202 or 33.204 or this section shall discontinue all extracurricular athletic activities offered by the school campus, including all practices and competitions, until the superintendent or director determines that the school campus is in compliance.

Sec. 33.206. CONTACT INFORMATION. (a) The commissioner shall maintain an existing telephone number and an electronic mail address to allow a person to report a violation of this subchapter.

(b) Each school that offers an extracurricular athletic activity shall prominently display at the administrative offices of the school the telephone number and electronic mail address maintained under Subsection (a).

Sec. 33.207. NOTICE REQUIRED. (a) A school that offers an extracurricular athletic activity shall provide to each student participating in an extracurricular athletic activity and to the student's parent or guardian a copy of the text of Sections 33.201-33.206 and this section and a copy of the University Interscholastic League's parent information manual.

(b) A document required to be provided under this section may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

Sec. 33.208. INCORPORATION OF SAFETY REGULATIONS. The University Interscholastic League shall incorporate the provisions of Sections 33.203-33.207 into the league's constitution and contest rules.

Sec. 33.209. LIABILITY. The requirements of this subchapter are not considered ministerial acts for purposes of immunity from liability under Section 22.0511.

SECTION 2K.02. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.087 to read as follows:

Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL DEFIBRILLATORS. (a) Using existing funds and other resources available for the purpose, the agency and the University 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. Subsection (a), Section 34.008, 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. 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.06. Subsections (a) and (b), Section 38.015, 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;

(ii) the name and purpose of the medicine;

(iii) the prescribed dosage for the medicine;

(iv) the times at which or circumstances under which the medicine may be administered; and

(v) the period for which the medicine is prescribed.

SECTION 2K.07. Section 28.002, Education Code, as amended by S.B. No. 42, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (1-3) and adding Subsection (1-4) to read as follows:

(1-3)(1) This subsection may be cited as "Lauren's Law."

(2) The State Board of Education or ~~[7]~~ the Department of State Health Services ~~[, or a school district]~~ may not adopt any rule, policy, or program under Subsections (a), (k), (l), (1-1), or (1-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

(A) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or

(B) children at a school-designated function.  
 (1-4) Subsection (1-3) does not prohibit a school district from adopting a rule, policy, or program as described by that subsection.

SECTION 2K.08. Chapter 12, Agriculture Code, is amended by adding Section 12.041 to read as follows:

Sec. 12.041. SCHOOL BREAKFAST AND LUNCH PROGRAM. (a) The department, the Texas Education Agency, and the Health and Human Services Commission shall ensure that applicable information maintained by each entity is used on at least a quarterly basis to identify children who are categorically eligible for free meals under the national free or reduced-price breakfast and lunch program. In complying with this subsection, the department, agency, and commission shall use information that corresponds to the months of the year in which enrollment in the food stamp program is customarily higher than average.

(b) The department shall determine the feasibility of establishing a process under which school districts verify student eligibility for the national free or reduced-price breakfast and lunch program through a direct verification process that uses information maintained under the food stamp and Medicaid programs, as authorized by 42 U.S.C. Section 1758(b)(3), as amended by Section 105(a) of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. No. 108-265), and 7 C.F.R. Sections 245.6a(a)(1) and (3) and 245.6a(b)(3). If the department determines the process described by this subsection is feasible, the department may implement the process.

#### ARTICLE 3. CONFORMING AMENDMENTS

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

(a) The investment capital fund consists of money transferred to the fund as provided by Section ~~42.152(d)(4)~~ [42.152(1)]. The agency shall administer the fund. The purposes of this fund are to assist eligible public schools to implement practices and procedures consistent with deregulation and school restructuring in order to improve student achievement and to help schools identify and train parents and community leaders who will hold the school and the school district accountable for achieving high academic standards.

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

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

SECTION 3.03. Subsection (a), Section 11.158, Education Code, is amended to read as follows:

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

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

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

(3) a security deposit for the return of materials, supplies, or equipment;

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

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

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

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

(8) a reasonable fee, not to exceed the actual annual

111-1 maintenance cost, for the use of musical instruments and uniforms  
 111-2 owned or rented by the district;

111-3 (9) a fee for items of personal apparel that become the  
 111-4 property of the student and that are used in extracurricular  
 111-5 activities;

111-6 (10) a parking fee or a fee for an identification card;

111-7 (11) a fee for a driver training course, not to exceed  
 111-8 the actual district cost per student in the program for the current  
 111-9 school year;

111-10 (12) a fee for a course offered for credit that  
 111-11 requires the use of facilities not available on the school premises  
 111-12 or the employment of an educator who is not part of the school's  
 111-13 regular staff, if participation in the course is at the student's  
 111-14 option;

111-15 (13) a fee for a course offered during summer school,  
 111-16 except that the board may charge a fee for a course required for  
 111-17 graduation only if the course is also offered without a fee during  
 111-18 the regular school year;

111-19 (14) a reasonable fee for transportation of a student  
 111-20 who lives within two miles of the school the student attends to and  
 111-21 from that school, except that the board may not charge a fee for  
 111-22 transportation for which the school district receives funds under  
 111-23 Section 42.202 [~~42.155(d)~~]; or

111-24 (15) a reasonable fee, not to exceed \$50, for costs  
 111-25 associated with an educational program offered outside of regular  
 111-26 school hours through which a student who was absent from class  
 111-27 receives instruction voluntarily for the purpose of making up the  
 111-28 missed instruction and meeting the level of attendance required  
 111-29 under Section 25.092.

111-30 SECTION 3.04. Subsection (b), Section 12.013, Education  
 111-31 Code, is amended to read as follows:

111-32 (b) A home-rule school district is subject to:

111-33 (1) a provision of this title establishing a criminal  
 111-34 offense;

111-35 (2) a provision of this title relating to limitations  
 111-36 on liability; and

111-37 (3) a prohibition, restriction, or requirement, as  
 111-38 applicable, imposed by this title or a rule adopted under this  
 111-39 title, relating to:

111-40 (A) the Public Education Information Management  
 111-41 System (PEIMS) to the extent necessary to monitor compliance with  
 111-42 this subchapter as determined by the commissioner;

111-43 (B) educator certification under Chapter 21 and  
 111-44 educator rights under Sections 21.407, 21.408, and 22.001;

111-45 (C) criminal history records under Subchapter C,  
 111-46 Chapter 22;

111-47 (D) student admissions under Section 25.001;

111-48 (E) school attendance under Sections 25.085,  
 111-49 25.086, and 25.087;

111-50 (F) inter-district or inter-county transfers of  
 111-51 students under Subchapter B, Chapter 25;

111-52 (G) elementary class size limits under Section  
 111-53 25.112, in the case of any campus in the district that is considered  
 111-54 academically unacceptable [~~low-performing~~] under Section 39.132;

111-55 (H) high school graduation under Section 28.025;

111-56 (I) special education programs under Subchapter  
 111-57 A, Chapter 29;

111-58 (J) bilingual education under Subchapter B,  
 111-59 Chapter 29;

111-60 (K) prekindergarten programs under Subchapter E,  
 111-61 Chapter 29;

111-62 (L) safety provisions relating to the  
 111-63 transportation of students under Sections 34.002, 34.003, 34.004,  
 111-64 and 34.008;

111-65 (M) computation and distribution of state aid  
 111-66 under Chapters 31, 42, and 43;

111-67 (N) extracurricular activities under Section  
 111-68 33.081;

111-69 (O) health and safety under Chapter 38;

(P) public school accountability under Subchapters B, C, D, and G, Chapter 39;

(Q) equalization [~~equalized wealth~~] under Section 42.401 [~~Chapter 41~~];

(R) a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

(S) purchasing under Chapter 44.

SECTION 3.05. Subsection (f), Section 13.054, Education Code, is amended to read as follows:

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

SECTION 3.06. Subsections (a) and (b), Section 13.282, Education Code, are amended to read as follows:

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

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

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

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

SECTION 3.07. Subsection (h), Section 21.410, Education Code, is amended to read as follows:

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

SECTION 3.08. Subsection (h), Section 21.411, Education Code, is amended to read as follows:

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

SECTION 3.09. Subsection (h), Section 21.412, Education Code, is amended to read as follows:

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



Foundation School Program payments.

SECTION 3.10. Subsection (h), Section 21.413, Education Code, as added by Chapter 430, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

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

SECTION 3.11. Effective on the 91st day after the last day of the legislative session, Subsection (b), Section 21.453, Education Code, is amended to read as follows:

(b) The commissioner may allocate funds from the account to regional education service centers to provide staff development resources to school districts that:

(1) are rated academically unacceptable;  
 (2) have one or more campuses rated academically unacceptable [~~as low-performing~~]; or

(3) are otherwise in need of assistance as indicated by the academic performance of students, as determined by the commissioner.

SECTION 3.12. Effective on the 91st day after the last day of the legislative session, Subsection (c), Section 22.004, Education Code, as 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. Subsection (b), Section 29.008, 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.

SECTION 3.14. Subsection (d), Section 29.014, Education Code, is amended to read as follows:

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

(1) the cost of education adjustment under Section 42.301 [~~42.102~~] for the school district in which the district is geographically located; and

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

SECTION 3.15. Subsection (j), Section 29.087, Education Code, is amended to read as follows:

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

SECTION 3.16. Effective on the 91st day after the last day of the legislative session, Subsection (a), Section 29.161, Education Code, as added by S.B. No. 23, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) The State Center for Early Childhood Development, in conjunction with the P-16 Council established under Section 61.076 ~~[61.077]~~, shall develop and adopt a school readiness certification system for use in certifying the effectiveness of prekindergarten programs, Head Start and Early Head Start programs, government-subsidized child-care programs provided by nonprofit or for-profit entities, government-subsidized faith-based child-care programs, and other government-subsidized child-care programs in preparing children for kindergarten. The system shall be made available on a voluntary basis to program providers seeking to obtain certification as evidence of the quality of the program provided.

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

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

SECTION 3.18. Subsection (a), Section 33.002, Education Code, is amended to read as follows:

(a) This section applies only to a school district that receives funds as provided by Section 42.152(d)(3) ~~[42.152(i)]~~.

SECTION 3.19. Subsection (c), Section 34.002, Education Code, is amended to read as follows:

(c) A school district that fails or refuses to meet the safety standards for school buses established under this section is ineligible to share in the transportation allotment under Subchapter D, Chapter 42, ~~[Section 42.155]~~ until the first anniversary of the date the district begins complying with the safety standards.

SECTION 3.20. Section 37.0061, Education Code, is amended to read as follows:

Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN JUVENILE RESIDENTIAL FACILITIES. A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. ~~[If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.]~~

SECTION 3.21. Section 39.031, Education Code, is amended to read as follows:

Sec. 39.031. COST. (a) The commissioner shall set aside an appropriate amount from the Foundation School Program to pay the

cost of preparing, administering, or grading the assessment instruments and the ~~[shall be paid from the funds allotted under Section 42.152, and each district shall bear the cost in the same manner described for a reduction in allotments under Section 42.253. If a district does not receive an allotment under Section 42.152, the commissioner shall subtract the cost from the district's other foundation school fund allotments.]~~

~~[(b) The] cost of releasing the question and answer keys under Section 39.023(e) [shall be paid from amounts appropriated to the agency].~~

(b) After setting aside an appropriate amount in accordance with this section, the commissioner shall reduce each district's tier one allotments proportionately. A reduction in tier one allotments under this subsection does not affect the computation of the guaranteed amount of revenue per student per cent of tax effort under Section 42.252.

(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.

SECTION 3.22. Subsection (b), Section 43.002, Education Code, is amended to read as follows:

(b) Of the amounts available for transfer from the general revenue fund to the available school fund for the months of January and February of each fiscal year, no more than the amount necessary to enable the comptroller to distribute from the available school fund an amount equal to 9-1/2 percent of the estimated annual 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 the certified appraisal roll for the district required by Section 26.01(a), Tax Code. After receipt of the certified appraisal roll, the district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

(1) the rate proposed in the notice prepared using the estimate; or

(2) the district's rollback rate determined under Section 26.08, Tax Code, if applicable, using the certified appraisal roll.

SECTION 3.24. Subsection (a), Section 46.003, Education Code, is amended to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and

interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the greater of the number of students in average daily attendance, as determined under Section 42.005, in the district or 400;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount budgeted by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, ~~[or, if applicable, Section 42.2521,~~] divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code ~~[or, if applicable, Section 42.2521]~~.

SECTION 3.25. Subsection (g), Section 46.006, Education Code, is amended to read as follows:

(g) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, ~~[or, if applicable, Section 42.2521,~~] divided by the district's average daily attendance as determined under Section 42.005.

SECTION 3.26. Subsections (b), (e), and (f), Section 46.009, Education Code, are amended to read as follows:

(b) If the amount appropriated for purposes of this subchapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's Texas education ~~[foundation school]~~ fund allocations in the manner provided by Section 42.313(f) ~~[42.253(h)]~~.

(e) Section 42.317 ~~[42.258]~~ applies to payments under this subchapter.

(f) If a school district would have received a greater amount under this subchapter for the applicable school year using the adjusted value determined under Section 42.310 ~~[42.257]~~, the commissioner shall add the difference between the adjusted value and the amount the district received under this subchapter to subsequent distributions to the district under this subchapter.

SECTION 3.27. Section 46.013, Education Code, is amended to read as follows:

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. Subsection (a), Section 46.032, 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;

"EDGL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$35 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"EDTR" is the existing debt tax rate of the district, 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, under 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, under Section 42.2521]~~.

SECTION 3.29. Section 46.037, Education Code, is amended to read as follows:

Sec. 46.037. 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 3.30. Section 56.208, Education Code, is amended to read as follows:

Sec. 56.208. FUNDING. (a) The Early High School Graduation Scholarship program is financed under the Foundation School Program. ~~[Funding for the state tuition credits is not subject to the provisions of Sections 42.253(e) through (k).]~~

(b) The commissioner of education shall reduce the total annual amount of Texas education ~~[foundation school]~~ fund payments made to a school district by an amount equal to  $F \times A$ , where:

(1) "F" is the lesser of one or the quotient of the district's local share for the preceding school year under Section 42.306 ~~[42.252]~~ divided by the tier one allotment under Section 42.304 ~~[amount of money to which the district was entitled under Subchapters B and C, Chapter 42,]~~ for the preceding school year; and

(2) "A" is the amount of state tuition credits under this subchapter applied by institutions of higher education on behalf of eligible persons who graduated from the district that has not been used to compute a previous reduction under this subsection.

(c) A school district that does not receive Texas education ~~[foundation school]~~ fund payments during a year in which the commissioner would otherwise withhold money from the district under Subsection (b) shall remit an amount equal to the amount that would be withheld under Subsection (b) to the comptroller for deposit to the credit of the Texas education ~~[foundation school]~~ fund.

SECTION 3.31. Subsection (e), Section 105.301, Education Code, is amended to read as follows:

(e) The academy is not subject to the provisions of this code, or to the rules of the Texas Education Agency, regulating public schools, except that:

(1) professional employees of the academy are entitled to the limited liability of an employee under Section 22.0511, 22.0512, or 22.052;

(2) a student's attendance at the academy satisfies compulsory school attendance requirements; and

(3) for each student enrolled, the academy is entitled to allotments from the foundation school program under Chapter 42 as if the academy were a school district without a tier one local share for purposes of Section 42.306 ~~[42.253]~~.

SECTION 3.32. Subsection (f), Section 317.005, Government Code, is amended to read as follows:

(f) The governor or board may adopt an order under this section withholding or transferring any portion of the total amount appropriated to finance the foundation school program for a fiscal year. The governor or board may not adopt such an order if it would result in an allocation of money between particular programs or statutory allotments under the foundation school program contrary to the statutory proration formula provided by Section 42.313(f) ~~[42.253(h)]~~, Education Code. The governor or board may transfer an amount to the total amount appropriated to finance the foundation school program for a fiscal year and may increase the accreditation ~~[basic]~~ allotment. The governor or board may adjust allocations of

amounts between particular programs or statutory allotments under the foundation school program only for the purpose of conforming the allocations to actual pupil enrollments or attendance.

SECTION 3.33. Subsection (d), Section 403.093, Government Code, is amended to read as follows:

(d) The comptroller shall transfer from the general revenue fund to the Texas education [~~foundation school~~] fund an amount of money necessary to fund the foundation school program as provided 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. Subsection (k), Section 403.302, Government Code, is amended to read as follows:

(k) For purposes of Section 42.308 [~~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.

SECTION 3.35. Subdivision (1), Section 404.121, 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 for the expenditures and transfers.

SECTION 3.36. Subsection (c), Section 466.355, Government Code, is amended to read as follows:

(c) Each August the comptroller shall:

(1) estimate the amount to be transferred to the Texas education [~~foundation school~~] fund on or before September 15; and

(2) notwithstanding Subsection (b)(4), transfer the amount estimated in Subdivision (1) to the Texas education [~~foundation school~~] fund before August 25 [~~installment payments are made under Section 42.259, Education Code~~].

SECTION 3.37. Effective on the 91st day after the last day of the legislative session, Subsection (c), Section 822.201, Government Code, as 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) Excluded from salary and wages are:

(1) expense payments;  
 (2) allowances;  
 (3) payments for unused vacation or sick leave;  
 (4) maintenance or other nonmonetary compensation;  
 (5) fringe benefits;  
 (6) deferred compensation other than as provided by Subsection (b)(3);

(7) compensation that is not made pursuant to a valid employment agreement;

(8) payments received by an employee in a school year that exceed \$5,000 for teaching a driver education and traffic 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. Subsection (c), Section 2175.304, 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 in another manner. If more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the system, institution, or agency shall give preference to a public school that is considered academically unacceptable under Section 39.132, Education Code, ~~[low-performing by the commissioner of education]~~ or to a school district that has a relatively low [taxable] wealth per student, as determined by the commissioner of education ~~[that entitles the district to an allotment of state funds under Subchapter F, Chapter 42, Education Code]~~, or to the assistance organization designated by such a school district.

SECTION 3.39. Section 1579.251, Insurance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The state shall assist employees of participating school districts and charter schools in the purchase of group health coverage under this chapter by providing for each covered employee the amount of \$900 each state fiscal year or a greater amount as provided by the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools to pay contributions under a group health coverage plan for employees ~~[as provided by Sections 42.2514 and 42.260, Education Code]~~.

(c) A school district or charter school that does not participate in the program is entitled to state assistance computed and distributed as provided by Subsection (a). State funds received under this subsection must be used to pay for employee health coverage.

SECTION 3.40. Effective on the 91st day after the last day of the legislative session, Subsection (c), Section 302.006, Labor Code, is amended to read as follows:

(c) To be eligible to receive a scholarship awarded under this section, a person must:

(1) be employed in a child-care facility, as defined by Section 42.002, Human Resources Code;

(2) intend to obtain a credential, certificate, or degree specified in Subsection (b);

(3) agree to work for at least 18 additional months in a child-care facility, as defined by Section 42.002, Human Resources Code, that accepts federal Child Care Development Fund subsidies and that, at the time the person begins to fulfill the work requirement imposed by this subdivision, is located:

(A) within the attendance zone of a public school campus considered academically unacceptable ~~[low-performing]~~ under Section 39.132, Education Code; or

(B) in an economically disadvantaged community, as determined by the commission; and

(4) satisfy any other requirements adopted by the commission.



SECTION 3.41. Subsection (b), Section 6.02, Tax Code, is amended to read as follows:

(b) A taxing unit that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. To be effective, the choice must be approved by resolution of the board of directors of the district chosen. ~~[The choice of a school district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or C, Chapter 41, Education Code, unless:~~

~~[(1) the school district taxes property other than property annexed to the district under Subchapter C or C, Chapter 41, Education Code, in the same county as the annexed property; or~~

~~[(2) the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or C, Chapter 41, Education Code.]~~

SECTION 3.42. Subsection (a), Section 21.02, Tax Code, is amended to read as follows:

(a) Except as provided by ~~[Subsection (b) and]~~ Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit if:

(1) it is located in the unit on January 1 for more than a temporary period;

(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;

(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) the owner resides (for property not used for business purposes) or maintains the owner's ~~[his]~~ principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) ~~[of this section]~~.

SECTION 3.43. Section 313.029, Tax Code, is amended to read as follows:

Sec. 313.029. TAX RATE LIMITATION. If the governing body of a school district grants an application for a limitation on appraised value under this subchapter, for each of the first two tax years that begins after the date the application is approved, the governing body of the school district may not adopt a tax rate that exceeds the school district's rollback tax rate under Section 26.08, if applicable, for that year. If, in any tax year in which a restriction on the school district's tax rate under this section is in effect, the governing body approves a subsequent application for a limitation on appraised value under this section, the restriction on the school district's tax rate is extended until the first tax year that begins after the second anniversary of the date the subsequent application is approved.

SECTION 3.44. Except as otherwise provided by this Act, this article takes effect September 1, 2006.

#### ARTICLE 4. CHARTER SCHOOLS

SECTION 4.01. (a) Effective August 1, 2006, Subchapter D, Chapter 12, Education Code, is repealed.

(b) Except as provided by Section 11A.1041, Education Code, as added by this Act, each open-enrollment charter school operating or holding a charter to operate on August 1, 2006, shall be dissolved in accordance with Subchapter J, Chapter 11A, Education Code, as added by this Act.

SECTION 4.02. Subtitle C, Title 2, Education Code, is amended by adding Chapter 11A to read as follows:

#### CHAPTER 11A. PUBLIC CHARTER DISTRICTS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11A.001. DEFINITIONS. In this chapter:

(1) "Charter holder" means the entity to which a charter is granted under this chapter.

(2) "Governing body of a charter holder" means the



board of directors, board of trustees, or other governing body of a charter holder.

(3) "Governing body of a public charter district" means the board of directors, board of trustees, or other governing body of a public charter district. The term includes the governing body of a charter holder if that body acts as the governing body of the public charter district.

(4) "Management company" means a person, other than a charter holder, who provides management services for a public charter district.

(5) "Management services" means services related to the management or operation of a public charter district, including:

(A) planning, operating, supervising, and evaluating the public charter district's educational programs, services, and facilities;

(B) making recommendations to the governing body of the public charter district relating to the selection of school personnel;

(C) managing the public charter district's day-to-day operations as its administrative manager;

(D) preparing and submitting to the governing body of the public charter district a proposed budget;

(E) recommending policies to be adopted by the governing body of the public charter district, developing appropriate procedures to implement policies adopted by the governing body of the public charter district, and overseeing the implementation of adopted policies; and

(F) providing leadership for the attainment of student performance at the public charter district based on the indicators adopted under Section 39.051 or by the governing body of the public charter district.

(6) "Officer of a public charter district" means:

(A) the principal, director, or other chief operating officer of a public charter district or campus; or

(B) a person charged with managing the finances of a public charter district.

Sec. 11A.002. AUTHORIZATION. (a) In accordance with this chapter, the State Board of Education may grant a charter on the application of an eligible entity for a public charter district to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; or

(4) a governmental entity in this state.

(b) The State Board of Education may grant a charter for a public charter district only to an applicant that meets all financial, governing, and operational standards adopted by the commissioner under this chapter.

(c) The State Board of Education may not grant more than a total of 215 charters for public charter districts.

(d) An educator employed by a school district before the effective date of a charter for a public charter district operated at a school district facility may not be transferred to or employed by the public charter district over the educator's objection.

Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter district:

(1) shall provide instruction to and assess a number of students at a number of elementary or secondary grade levels, as provided by the charter, sufficient to permit the agency to assign an accountability rating under Chapter 39;

(2) is governed under the governing structure required by this chapter and described by the charter;

(3) retains authority to operate under the charter contingent on satisfactory student performance as provided by the charter in accordance with Section 11A.103; and

(4) does not have authority to impose taxes.

Sec. 11A.004. STATUS. A public charter district or campus is part of the public school system of this state.

Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related to operation of a public charter district, a public charter district is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers. Except as provided by Section 11A.154, a member of the governing body of a public charter district or of a charter holder is immune from liability to the same extent as a school district trustee.

Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL. A reference in law to an open-enrollment charter school means a public charter district or public charter campus, as applicable.

[Sections 11A.007-11A.050 reserved for expansion]

#### SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by Subsection (b) or (c), a public charter district is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) A public charter district is subject to this code and rules adopted under this code only to the extent the applicability to a public charter district of a provision of this code or a rule adopted under this code is specifically provided.

(c) Notwithstanding Subsection (a), a campus of a public charter district located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter district has the powers granted to schools under this title.

(b) A public charter district is subject to:

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

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

(A) the Public Education Information Management System (PEIMS) under Section 7.007;

(B) reporting an educator's misconduct under Section 21.006;

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

(D) reading instruments and accelerated reading instruction programs under Section 28.006;

(E) satisfactory performance on assessment instruments and to accelerated instruction under Section 28.0211;

(F) intensive programs of instruction under Section 28.0213;

(G) high school graduation under Section 28.025;

(H) special education programs under Subchapter A, Chapter 29, including a requirement that special education teachers obtain appropriate certification;

(I) bilingual education under Subchapter B, Chapter 29, including a requirement that bilingual education teachers obtain appropriate certification;

(J) prekindergarten programs under Subchapter E, Chapter 29;

(K) extracurricular activities under Section 33.081;

(L) discipline management practices or behavior management techniques under Section 37.0021;

(M) health and safety under Chapter 38; and

(N) public school accountability under

Subchapters B, C, D, G, and I, Chapter 39.

(c) A public charter district is entitled to the same level of services provided to school districts by regional education service centers. The commissioner shall adopt rules that provide for the representation of public charter districts on the boards of directors of regional education service centers.

(d) The commissioner may by rule permit a public charter district to voluntarily participate in any state program available to school districts, including a purchasing program, if the public charter district complies with all terms of the program.

Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC INFORMATION LAWS. (a) With respect to the operation of a public charter district, the governing body of a charter holder and the governing body of a public charter district are considered to be governmental bodies for purposes of Chapters 551 and 552, Government Code.

(b) With respect to the operation of a public charter district, any requirement in Chapter 551 or 552, Government Code, that applies to a school district, the board of trustees of a school district, or public school students applies to a public charter district, the governing body of a charter holder, the governing body of a public charter district, or students in attendance at a public charter district campus.

Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL GOVERNMENT RECORDS. (a) With respect to the operation of a public charter district, a public charter district is considered to be a local government for purposes of Subtitle C, Title 6, Local Government Code, and Subchapter J, Chapter 441, Government Code.

(b) Records of a public charter district, a charter holder, or a management company that relate to a public charter district are government records for all purposes under state law.

(c) Any requirement in Subtitle C, Title 6, Local Government Code, or Subchapter J, Chapter 441, Government Code, that applies to a school district, the board of trustees of a school district, or an officer or employee of a school district applies to a public charter district or management company, the governing body of a charter holder, the governing body of a public charter district, or an officer or employee of a public charter district or management company except that the records of a public charter district or management company that ceases to operate shall be transferred in the manner prescribed by Subsection (d).

(d) The records of a public charter district or management company that ceases to operate shall be transferred in the manner specified by the commissioner to a custodian designated by the commissioner. The commissioner may designate any appropriate entity to serve as custodian, including the agency, a regional education service center, or a school district. In designating a custodian, the commissioner 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.

(e) If the charter holder of a public charter district that ceases to operate or an officer or employee of the district or a management company refuses to transfer school records in the manner specified by the commissioner under Subsection (d), the commissioner may ask the attorney general to petition a court for recovery of the records. If the court grants the petition, the court shall award attorney's fees and court costs to the state.

(f) A record described by this section is a public school record for purposes of Section 37.10(c)(2), Penal Code.

Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC PURCHASING AND CONTRACTING. (a) This section applies to a public 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 degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code; and

(2) a teacher at a public charter district may serve as a member of the governing body of the charter holder or the governing body of the public charter district if the teachers serving on the governing body:

(A) do not constitute a quorum of the governing body or any committee of the governing body; and

(B) comply with the requirements of Sections 171.003-171.007, Local Government Code.

(b) To the extent consistent with this section, a requirement of 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.

(c) An employee who is not a teacher may serve as a member of the governing body of a charter holder or the governing body of a public charter district if:

(1) the charter holder operating the public charter district where the individual is employed and serves as a member of the governing body operated an open-enrollment charter school under Subchapter D, Chapter 12, on August 31, 2005;

(2) the individual was employed by the charter holder and serving as a member of the governing body on August 31, 2005, in compliance with former Section 12.1054; and

(3) the individual had been continuously so employed and serving since a date on or before January 1, 2005.

(d) If under Subsection (c) an individual continues to be employed and serve as a member of the governing body, the individual may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in the status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees. In addition, the individual may not hear, consider, or act on any grievance or complaint concerning the individual or a matter with which the individual has dealt in the individual's capacity as an employee.

Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public charter district, including the governing body of a public charter district and any district employee with final authority to hire a district employee, is subject to a prohibition, restriction,

or requirement, as applicable, imposed by state law or by a rule adopted under state law, relating to nepotism under Chapter 573, Government Code.

(b) Notwithstanding Subsection (a), a member of the governing body of a charter holder or public charter district may not be related in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another member of the governing body of the charter holder or public charter district.

(c) This section does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the charter holder operating the public charter district where the individual is employed or serves as a member of the governing body operated an open-enrollment charter school under Subchapter D, Chapter 12, on August 31, 2005;

(2) the individual was employed or serving in the position on August 31, 2005, in compliance with former Section 12.1055; and

(3) the individual has been continuously employed or serving since a date on or before January 1, 2005.

(d) If, under Subsection (c), an individual continues to be employed or serve in a position, the public official to whom the individual is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

[Sections 11A.058-11A.100 reserved for expansion]

#### SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

Sec. 11A.101. APPLICATION. (a) The State Board of Education shall adopt:

(1) an application form and a procedure that must be used to apply for a charter for a public charter district; and

(2) criteria to use in selecting a program for which to grant a charter.

(b) The application form must provide for including the information required under Section 11A.103 to be contained in a charter.

(c) The State Board of Education may approve or deny an application based on criteria it adopts and on financial, governing, and operational standards adopted by the commissioner under this chapter. The criteria the board adopts must include:

(1) criteria relating to improving student performance and encouraging innovative programs; and

(2) criteria relating to the educational benefit for students residing in the geographic area to be served by the proposed public charter district, as compared to any significant financial difficulty that a loss in enrollment may have on any school district whose enrollment is likely to be affected by the public charter district.

(d) A public charter district may not begin operating under this chapter unless the commissioner has certified that the applicant has acceptable administrative and accounting systems and procedures in place for the operation of the proposed public charter district.

Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The commissioner by rule shall adopt a procedure for providing notice to each member of the legislature that represents the geographic area to be served by the proposed public charter district, as determined by the commissioner, on receipt by the State Board of Education of an application for a charter for a public charter district under Section 11A.101.

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 Education to the charter holder.

Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner shall immediately grant a charter under this chapter to the following entities on or before August 1, 2006:

(1) an eligible entity holding a charter granted before September 1, 2002, under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2005, if:

(A) for fiscal years 2004 and 2005, the entity had total assets that exceeded total liabilities, as determined by the entity's annual audit report under Section 44.008;

(B) at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in mathematics, as determined by the school's assessment instrument results for the 2005-2006 school year; and

(C) at least 25 percent of all students enrolled at the entity's open-enrollment charter school and administered an assessment instrument under Section 39.023(a), (c), or (l) performed satisfactorily on the assessment instrument in reading or English language arts, as applicable, as determined by the school's assessment instrument results for the 2005-2006 school year;

(2) a governmental entity holding a charter under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2005;

(3) an eligible entity holding a charter under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2005, if at least 85 percent of students enrolled in the school reside in a residential facility; and

(4) an eligible entity granted a charter on or after September 1, 2002, under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2005.

(b) Assessment instrument results for fewer than five students are not considered for purposes of Subsection (a)(1)(B) or (C).

(c) The commissioner shall determine which entities are eligible for a charter under this section as soon as practicable.

(d) The content and terms of a charter granted to an eligible entity under this section must be the same as those under which the entity operated under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2005, except that where the terms conflict with this chapter, this chapter prevails.

(e) An eligible entity holding multiple charters prior to January 1, 2005, may not combine those charters into one charter for a public charter district but must retain each of those charters

127-1 which count towards the limit imposed under Section 11A.002(c).  
 127-2 (f) Section 11A.157 does not apply to an entity granted a  
 127-3 charter under this section.

127-4 (g) A decision of the commissioner under this section is not  
 127-5 subject to a hearing or an appeal to a district court.

127-6 (h) This section expires January 1, 2008.

127-7 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

127-8 (a) For purposes of Section 11A.1041(a), the commissioner shall  
 127-9 compute the percentage of students who performed satisfactorily on  
 127-10 an assessment instrument in a manner consistent with this section.

127-11 (b) The commissioner may only consider the performance of a  
 127-12 student who was enrolled as of the date for reporting enrollment for  
 127-13 the fall semester under the Public Education Information Management  
 127-14 System (PEIMS).

127-15 (c) In computing performance under this section, the  
 127-16 commissioner must:

127-17 (1) add the results for third through 11th grade  
 127-18 assessment instruments in English and third through sixth grade  
 127-19 assessment instruments in Spanish across grade levels tested at all  
 127-20 campuses operated by the charter holder and evaluate those results  
 127-21 for all students;

127-22 (2) combine the results for third through ninth grade  
 127-23 assessment instruments in reading and 10th and 11th grade  
 127-24 assessment instruments in English language arts and evaluate those  
 127-25 results as a single subject; and

127-26 (3) separately determine student performance for  
 127-27 reading and mathematics as a percentage equal to the sum of students  
 127-28 who performed satisfactorily on the specific subject area  
 127-29 assessment instrument in all grade levels tested at all campuses  
 127-30 operated by the charter holder divided by the number of students who  
 127-31 took the specific subject area assessment instrument in grade  
 127-32 levels tested at all campuses operated by the charter holder.

127-33 (d) To the extent consistent with this section, the  
 127-34 commissioner shall use the methodology used to compute passing  
 127-35 rates for reading and mathematics assessment instruments for  
 127-36 purposes of determining accountability ratings under Chapter 39 for  
 127-37 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

127-38 (e) This section expires January 1, 2008.

127-39 Sec. 11A.105. CHARTER GRANTED. Each charter the State  
 127-40 Board of Education grants for a public charter district must:

127-41 (1) satisfy this chapter; and

127-42 (2) include the information that is required under  
 127-43 Section 11A.103 consistent with the information provided in the  
 127-44 application and any modification the board requires.

127-45 Sec. 11A.106. REVISION. (a) A revision of a charter of a  
 127-46 public charter district may be made only with the approval of the  
 127-47 commissioner.

127-48 (b) Not more than once each year, a public charter district  
 127-49 may request approval to revise the maximum student enrollment  
 127-50 described by the district's charter.

127-51 (c) The commissioner may not approve a charter revision that  
 127-52 increases a public charter district's enrollment, increases the  
 127-53 grade levels offered, increases the number of campuses, or changes  
 127-54 the boundaries of the geographic area served by the program unless  
 127-55 the commissioner determines that:

127-56 (1) the public charter district has operated one or  
 127-57 more campuses for at least three school years;

127-58 (2) each campus operated by the public charter  
 127-59 district has been rated at least academically acceptable under  
 127-60 Subchapter D, Chapter 39, for each of its most recent three years of  
 127-61 operation;

127-62 (3) each campus operated by the public charter  
 127-63 district has achieved performance levels that are at least five  
 127-64 percentage points above the applicable accountability standard for  
 127-65 academically acceptable performance on statewide assessments under  
 127-66 Subchapter D, Chapter 39, as determined by the commissioner, for  
 127-67 all tested subjects for each of its most recent two years of  
 127-68 operation;

127-69 (4) the public charter district has been rated

superior, above standard, standard, or the equivalent, under the financial accountability system under Subchapter I, Chapter 39;

(5) during the three years preceding the proposed charter revision, the public charter district and its campuses have not been subject to an intervention or sanction under Subchapter G, Chapter 39, including an intervention or sanction related to:

(A) the quality of data or reports required by state or federal law or court order;

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

(C) the effectiveness of programs for special student populations; and

(6) the charter revision is in the best interest of students of this state.

(d) In making a determination under Subsection (c)(6), the commissioner shall review all available information relating to the charter holder, including the charter holder's:

(1) academic and financial performance;

(2) history of compliance with applicable laws;

(3) staffing, financial, and organizational data; and

(4) any other information regarding the charter holder's capacity to successfully implement the requested charter revision.

(e) The commissioner may not approve a charter revision that proposes an increase in:

(1) a public charter district's enrollment, unless the charter holder adopts a business plan for implementing the enrollment increase that includes components identified by the commissioner; or

(2) the grade levels offered by a public charter district, unless the charter holder adopts an educational plan for the additional grade levels that includes components identified by the commissioner.

(f) The commissioner may approve a charter revision authorizing a public charter district to serve students in a geographical area that is not contiguous with the existing boundaries of the district, but may not approve a statewide geographical boundary.

Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. (a) The commissioner may modify, place on probation, or revoke the charter of a public charter district if the commissioner determines under Section 11A.108 that the charter holder:

(1) committed a material violation of the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, welfare, or best interests of the students enrolled at the public charter district; or

(4) failed to comply with this chapter or another applicable law or rule.

(b) The commissioner shall revoke the charter of a public charter district without a hearing if:

(1) in two consecutive years, the public charter district:

(A) is rated academically unacceptable under Subchapter D, Chapter 39; or

(B) is rated financially unacceptable by the commissioner under Subchapter I, Chapter 39; or

(2) all campuses operated by the public charter district have been ordered closed under Section 39.131(a) or 39.1322(f).

(c) A revocation under Subsection (b)(1) is effective on January 1 following the school year in which the public charter district received a second unacceptable rating.

Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, OR REVOCATION. (a) The commissioner shall adopt a procedure to be used for modifying, placing on probation, or revoking the charter of a public charter district under Section



11A.107(a).

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder.

Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON 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 substantial interest in a management company if the person or a relative within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code:

(1) has a controlling interest in the company;

(2) owns more than 10 percent of the voting interest in the company;

(3) owns more than \$25,000 of the fair market value of the company;

(4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights

are included, in more than 10 percent of the profits, proceeds, or capital gains of the company;

(5) is a member of the board of directors or other governing body of the company;

(6) serves as an elected officer of the company; or

(7) is an employee of the company.

Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), Chapter 22, Business Organizations Code, or other law, on request of the commissioner, the attorney general shall bring suit against a member of the governing body of a charter holder for breach of a fiduciary duty by the member, including misapplication of public funds.

(b) The attorney general may bring suit under Subsection (a) for:

(1) damages;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies.

Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF CHARTER HOLDER. (a) The commissioner shall adopt rules prescribing training for members of governing bodies of charter holders.

(b) The rules adopted under Subsection (a) may:

(1) specify the minimum amount and frequency of the training;

(2) require the training to be provided by:

(A) the agency and regional education service centers;

(B) entities other than the agency and service centers, subject to approval by the commissioner; or

(C) both the agency, service centers, and other entities; and

(3) require training to be provided concerning:

(A) basic school law, including school finance;

(B) health and safety issues;

(C) accountability requirements related to the use of public funds; and

(D) other requirements relating to accountability to the public, such as open meetings requirements under Chapter 551, Government Code, and public information requirements under Chapter 552, Government Code.

Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder shall file with the commissioner a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner.

(b) Each public charter district shall file annually with the commissioner the following information in a form prescribed by the commissioner:

(1) the name, address, and telephone number of each officer and member of the governing body of the charter holder; and

(2) the amount of annual compensation the public charter district pays to each officer and member of the governing body.

Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During a public charter district's first year of operation, the charter holder shall submit quarterly financial reports to the commissioner. The commissioner by rule shall determine the form and content of the financial reports under this section.

Sec. 11A.158. PEIMS INFORMATION. The governing body of a public charter district shall comply with Section 7.007.

Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A management company that provides management services to a public charter district is liable for damages incurred by the state or a school district as a result of the failure of the company to comply with its contractual or other legal obligation to provide services

to the district.

(b) On request of the commissioner, the attorney general may bring suit on behalf of the state against a management company liable under Subsection (a) for:

(1) damages, including any state funding received by the company and any consequential damages suffered by the state;

(2) injunctive relief; or

(3) any other equitable remedy determined to be appropriate by the court.

(c) This section is cumulative of all other remedies and does not affect:

(1) the liability of a management company to the charter holder; or

(2) the liability of a charter holder, a member of the governing body of a charter holder, or a member of the governing body of a public charter district to the state.

Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

(a) The charter holder or the governing body of a public charter district may not accept a loan from a management company that has a contract to provide management services to:

(1) the district; or

(2) another public charter district that operates under a charter granted to the charter holder.

(b) A charter holder or the governing body of a public charter district that accepts a loan from a management company may not enter into a contract with that management company to provide management services to the district.

Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any contract, including a contract renewal, between a public charter district and a management company proposing to provide management services to the district must require the management company to maintain all records related to the management services separately from any other records of the management company.

Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS PROHIBITED. The commissioner may prohibit, deny renewal of, suspend, or revoke a contract between a public charter district and a management company providing management services to the district if the commissioner determines that the management company has:

(1) failed to provide educational or related services in compliance with the company's contractual or other legal obligation to any public charter district in this state or to any other similar entity in another state;

(2) failed to protect the health, safety, or welfare of the students enrolled at a public charter district served by the company;

(3) violated this chapter or a rule adopted under this chapter; or

(4) otherwise failed to comply with any contractual or other legal obligation to provide services to the district.

[Sections 11A.163-11A.200 reserved for expansion]

SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

Sec. 11A.201. STATE FUNDING. (a) To the extent consistent with Subsection (c), a charter holder is entitled to receive for the public charter district funding under Chapter 42 as if the public charter district were a school district without a local share for purposes of Section 42.306 and without any local revenue ("LR") for purposes of Section 42.252. In determining funding for a public charter district, adjustments under Sections 42.301, 42.302, and 42.303 and the district enrichment tax rate ("DETR") under Section 42.252 are based on the average adjustment and average district enrichment tax rate for the state.

(a-1) Notwithstanding Subsection (a), an entity granted a charter under Section 11A.1041 is entitled to receive funding for each student in weighted average daily attendance in an amount equal to the greater of the amount determined under Subsection (a) or the amount to which the entity was entitled for the 2003-2004 or 2004-2005 school year, as determined by the commissioner. A determination of the commissioner under this subsection is final and not subject to appeal. This subsection expires September 1,

2013.

(b) To the extent consistent with Subsection (c), a public charter district is entitled to funds that are available to school districts from the agency or the commissioner, including grants and other discretionary funding and any teacher incentive payments under Section 39.113, unless the statute authorizing the funding explicitly provides that a public charter district is not entitled to the funding.

(c) A charter holder is entitled to receive for a public charter district funding under this section only if the holder:

(1) provides information for the Public Education Information Management System (PEIMS) as required by this chapter;

(2) submits to the commissioner appropriate fiscal and financial records as required by this chapter and the commissioner; and

(3) receives an annual unqualified opinion in the standard report filed pursuant to Section 11A.210.

(d) The commissioner shall suspend the funding of a charter holder that fails to comply with Subsection (c) until the commissioner determines that the charter holder is in compliance or has cured any noncompliance and has adopted adequate procedures to prevent future noncompliance.

(e) The commissioner may adopt rules to provide and account for state funding of public charter districts under this section. A rule adopted under this section may be similar to a provision of this code that is not similar to Section 11A.052(b) if the commissioner determines that the rule is related to financing of public charter districts and is necessary or prudent to provide or account for state funds.

Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF SALARIES. (a) This section applies to a charter holder that on January 1, 2005, operated an open-enrollment charter school under former Subchapter D, Chapter 12.

(b) A charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) an amount equal to the product of \$3,000 multiplied by the number of classroom teachers, full-time librarians, and full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses appropriately licensed under Chapter 301, Occupations Code, who are employed by the charter holder at a public charter district; and

(2) the amount of additional money to which the charter holder is entitled as a result of S.B. No. 8, Acts of the 79th Legislature, 2nd Called Session, 2005.

(c) A charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) an amount equal to the product of \$2,000 multiplied by the number of classroom teachers, full-time librarians, and full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses appropriately licensed under Chapter 301, Occupations Code, who are employed by the charter holder at a public charter district; and

(2) the amount of additional money to which the charter holder is entitled as a result of S.B. No. 8, Acts of the 79th Legislature, 2nd Called Session, 2005.

(d) A charter holder is not entitled to funds under Subsection (b) or (c) if the amount of additional funds to which the charter holder is entitled as a result of S.B. No. 8, Acts of the 79th Legislature, 2nd Called Session, 2005, is sufficient to pay the amounts described by Subsection (b) or (c), as determined by the commissioner.

Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In this section, "instructional facility" has the meaning assigned by Section 46.001.

(b) A charter holder is initially eligible for

instructional facilities allotments in accordance with this section if:

(1) any campus of a public charter district for which the charter holder has been granted a license has for two consecutive school years been rated exemplary or recognized under Subchapter D, Chapter 39, or has performed at a comparable level, as determined by the commissioner for purposes of this section; and

(2) on the most recent audit of the financial operations of the district conducted pursuant to Section 11A.210, the district has satisfied generally accepted accounting standards of fiscal management as evidenced by an unqualified opinion in the standard report issued and filed pursuant to Section 11A.210.

(b-1) Notwithstanding Subsection (b), a charter holder is eligible for instructional facilities allotments for the 2006-2007 school year in accordance with this section if any campus of a public charter district for which the charter holder has been granted a license has been rated exemplary or recognized under Subchapter D, Chapter 39, for at least two of the 2003-2004, 2004-2005, and 2005-2006 school years.

(b-2) Subsection (b-1) and this subsection expire September 1, 2007.

(c) Once a public charter district satisfies the initial eligibility requirements under Subsection (b) and receives an allotment under this section, the district continues to remain eligible until the district receives an accountability rating of unacceptable under Subchapter D, Chapter 39, at which point the district is again subject to the eligibility requirements of Subsection (b).

(d) The commissioner annually shall review the eligibility of a public charter district campus for purposes of this section.

(e) Except as otherwise provided by this section, a charter holder is entitled to an annual allotment in an amount determined by the commissioner, not to exceed \$1,000 or a different amount provided by appropriation, for each student in average daily attendance during the preceding year at a campus of a public charter district that is eligible for an allotment under this section.

(f) A charter holder who receives funds under this section may use the funds only to:

(1) purchase real property on which to construct an instructional facility for a public charter district campus for which the funds were paid under Subsection (e);

(2) purchase, lease, construct, expand, or renovate instructional facilities for a public charter district campus for which the funds were paid under Subsection (e);

(3) pay debt service in connection with instructional facilities purchased or improved for a campus of the public charter district that meets the requirements under Subsection (b); or

(4) maintain and operate public charter district instructional facilities.

(g) A decision of the commissioner under Subsection (e) is final and may not be appealed.

(h) The commissioner shall by rule establish procedures to ensure that funds a charter holder claims to be using for purposes of Subsection (f)(3) are used only for that purpose.

Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received under Section 11A.201 or 11A.202 by a charter holder:

(1) are considered to be public funds for all purposes under state law;

(2) are held in trust by the charter holder for the benefit of this state and the students of the public charter district;

(3) may be used only for a purpose for which a school may use local funds under Section 45.105(c) in the case of funds received under Section 11A.201, and may be used only for a purpose specified under Section 11A.202(f) in the case of funds received under Section 11A.202; and

(4) pending their use, must be deposited into a bank, as defined by Section 45.201, with which the charter holder has entered into a depository contract under Section 11A.204.

(b) Funds deposited under Subsection (a)(4) may be directly deposited into an account controlled by a bond trustee acting for the charter holder pursuant to a bond indenture agreement requiring direct deposit.

(c) The commissioner shall adopt rules for identifying public funds in accordance with Subsection (a).

(d) The commissioner may bring an action in district court in Travis County for injunctive or other relief to enforce this section. In identifying public funds held by a charter holder, the court shall use the criteria adopted by the commissioner under Subsection (c). Except as otherwise provided by this subsection, the court shall enter any order under this subsection concerning public funds held by the charter holder necessary to best serve the interests of the students of a public charter district. In the case of a public charter district that has ceased to operate, the court shall enter any order under this subsection concerning public funds held by the charter holder necessary to best serve the interests of this state.

Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank selected as a school depository and the charter holder shall enter into a depository contract, bond, or other necessary instrument setting forth the duties and agreements pertaining to the depository, in a form and with the content prescribed by the State Board of Education.

(b) The depository bank shall attach to the contract and file with the charter holder a bond in an initial amount equal to the estimated highest daily balance, determined by the charter holder, of all deposits that the charter holder will have in the depository during the term of the contract, less any applicable Federal Deposit Insurance Corporation insurance. The bond must be payable to the charter holder and must be signed by the depository bank and by a surety company authorized to engage in business in this state. The depository bank shall increase the amount of the bond if the charter holder determines the increase is necessary to adequately protect the funds of the charter holder deposited with the depository bank.

(c) The bond shall be conditioned on:

(1) the faithful performance of all duties and obligations imposed by law on the depository;

(2) the payment on presentation of all checks or drafts on order of the charter holder, in accordance with its orders entered by the charter holder according to law;

(3) the payment on demand of any demand deposit in the depository;

(4) the payment, after the expiration of the period of notice required, of any time deposit in the depository;

(5) the faithful keeping of school funds by the depository and the accounting for the funds according to law; and

(6) the faithful paying over to the successor depository all balances remaining in the accounts.

(d) The bond and the surety on the bond must be approved by the charter holder. A premium on the depository bond may not be paid out of charter holder funds related to operation of the public charter district.

(e) The charter holder shall file a copy of the depository contract and bond with the agency.

(f) Instead of the bond required under Subsection (b), the depository bank may deposit or pledge, with the charter holder or with a trustee designated by the charter holder, approved securities, as defined by Section 45.201, in an amount sufficient to adequately protect the funds of the charter holder deposited with the depository bank. A depository bank may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the charter holder deposited with the depository bank. The charter holder shall periodically designate the amount of approved securities or the aggregate amount of the bond and approved securities necessary to adequately protect the charter holder. The charter holder may not designate an amount less than the balance of charter holder funds on

deposit with the depository bank from day to day, less any applicable Federal Deposit Insurance Corporation insurance. The depository bank may substitute approved securities on obtaining the approval of the charter holder. For purposes of this subsection, the approved securities are valued at their market value.

Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter holder who accepts state funds under Section 11A.201 or 11A.202 agrees to be subject to all requirements, prohibitions, and sanctions authorized under this chapter.

Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE FUNDS. (a) Property purchased or leased with funds received by a charter holder under Section 11A.201 or 11A.202:

(1) is considered to be public property for all purposes under state law;

(2) is held in trust by the charter holder for the benefit of this state and the students of the public charter district; and

(3) may be used only for a purpose for which a school district may use school district property.

(b) The commissioner shall:

(1) take possession and assume control of the property described by Subsection (a) of a public charter district that ceases to operate; and

(2) supervise the disposition of the property in accordance with law.

(c) This section does not affect the priority of a security interest in or lien on property established by a creditor in compliance with law if the security interest or lien arose in connection with the sale or lease of the property to the charter holder.

(d) The commissioner shall adopt rules for identifying public property in accordance with Subsection (a).

(e) The commissioner may bring an action in district court in Travis County for injunctive or other relief to enforce this section. In identifying public property held by a charter holder, the court shall use the criteria adopted by the commissioner under Subsection (d). Except as otherwise provided by this subsection, the court shall enter any order under this subsection concerning public property held by the charter holder necessary to best serve the interests of the students of a public charter district. In the case of a public charter district that has ceased to operate, the court shall enter any order under this subsection concerning public property held by the charter holder necessary to best serve the interests of this state. The court may order title to real or personal public property held by the charter holder transferred to a trust established for the purpose of managing the property or may make other disposition of the property necessary to best serve the interests of this state.

Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER DISTRICT LAND OR FACILITIES. A municipality to which a charter is granted under this chapter may borrow funds, issue obligations, or otherwise spend its funds to acquire land or acquire, construct, expand, or renovate school buildings or facilities and related improvements for its public charter district within the city limits of the municipality in the same manner the municipality is authorized to borrow funds, issue obligations, or otherwise spend its funds in connection with any other public works project.

Sec. 11A.208. FUNDING FOR INSTRUCTIONAL MATERIALS AND TECHNOLOGY. A public charter district is entitled to funding for instructional materials under Chapter 31 and technology under Subchapter A, Chapter 32, and is subject to those provisions as if the public charter district were a school district.

Sec. 11A.209. ANNUAL BUDGET. The governing body of a public charter district shall annually adopt a budget for the district.

Sec. 11A.210. ANNUAL AUDIT. The governing body of a public charter district shall conduct an annual audit in a manner that complies with Section 44.008.

[Sections 11A.211-11A.250 reserved for expansion]

SUBCHAPTER F. OPERATION OF PUBLIC CHARTER DISTRICT

Sec. 11A.251. ADMISSION POLICY. (a) Except as provided by this section, a public charter district may not discriminate in admission policy on the basis of sex, national origin, ethnicity, religion, disability, or academic, artistic, or athletic ability or the district the child would otherwise attend in accordance with this code.

(b) A public charter district admission policy may provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37.

(c) A public charter district admission policy may require a student to demonstrate artistic ability if the school specializes in performing arts.

Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to a public charter district campus, the governing body of the district shall:

(1) require the applicant to complete and submit an application not later than a reasonable deadline the district establishes; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the school:

(A) fill the available positions by lottery; or

(B) subject to Subsection (b), fill the available positions in the order in which applications received before the application deadline were received.

(b) A public charter district may fill applications for admission under Subsection (a)(2)(B) only if the district published a notice of the opportunity to apply for admission to the district. A notice published under this subsection must:

(1) state the application deadline;

(2) be published in a newspaper of general circulation in the community in which the district campus is located not later than the seventh day before the application deadline; and

(3) be made available on the public charter district's Internet website, if available.

(c) A public charter district may exempt an applicant from the requirements of Subsection (a)(2) if the applicant is:

(1) the child or grandchild of a member of the governing body of the charter holder at the time the district's charter was first granted;

(2) the child of an employee of the district or the charter holder; or

(3) a sibling of a student who is enrolled in the district.

(d) A public charter district that specializes in one or more performing arts may require an applicant to audition for admission to the school.

Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided by Subsection (b) or as otherwise determined impracticable by the commissioner, during a public charter district's first year of operation, the district must have a student enrollment of at least 100 and not more than 500 at any time during the school year.

(b) A public charter district may have a student enrollment of less than 100 if approved by the commissioner.

(c) Not later than a public charter district's third year of operation, at least 25 percent of the district's students must be enrolled in one or more grade levels for which assessment instruments are administered under Section 39.023(a).

(d) The commissioner may grant a waiver from the requirements of Subsection (c) for a public charter district that opens a campus serving prekindergarten or kindergarten students and agrees to:

(1) add at least one higher grade level class each school year after opening the campus; and

(2) until the campus complies with Subsection (c), adopt accountability measures to assess the performance of the students not assessed under Section 39.023(a).



(e) The commissioner may grant a waiver from the requirements of Subsection (c) for a public charter district that was operating an open-enrollment charter school campus on January 1, 2005, serving prekindergarten, kindergarten, and first, second, and third grade students if the public charter district:

(1) adopts one or more nationally norm-referenced assessment instruments approved by the commissioner;

(2) administers the assessment instruments to its second grade students at intervals and in the manner specified by commissioner rule; and

(3) meets the applicable standards for student performance on the assessment instruments, as determined by commissioner rule.

(f) The commissioner shall adopt rules necessary to implement this section.

Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public charter district may not charge tuition to an eligible student who applies for admission to the district under this chapter.

(b) The governing body of a public charter district may require a student to pay any fee that the board of trustees of a school district may charge under Section 11.158(a). The governing body may not require a student to pay a fee that the board of trustees of a school district may not charge under Section 11.158(b).

Sec. 11A.255. TRANSPORTATION. A public charter district shall provide transportation to each student attending the school to the same extent a school district is required by law to provide transportation to district students.

Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The governing body of a public charter district shall adopt a code of conduct for the district or for each campus in the district.

(b) The code of conduct must include:

(1) standards for student behavior, including the types of prohibited behaviors and the possible consequences of misbehavior; and

(2) the district's due process procedures regarding expulsion of a student.

(c) A final decision of the governing body of a public charter district regarding action taken under the code of conduct may not be appealed.

(d) A public charter district may not expel a student for a reason that is not authorized by Section 37.007 or specified in the district's code of conduct as conduct that may result in expulsion.

(e) Section 37.002 does not apply to a public charter district except to the extent specified by the governing body of the public charter district in the district's code of conduct.

[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, educational aide, administrator, or counselor, regardless of whether the applicant is certified under Subchapter B, Chapter 21.

Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS. (a) An employee of a public charter district who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

(b) For each employee of a public charter district covered under the system, the public charter district is responsible for making any contribution that otherwise would be the legal responsibility of a school district, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were a school district employee.

Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF. (a) This section applies to a charter holder that on January 1, 2005, operated an open-enrollment charter school under former Subchapter D, Chapter 12.

(b) Using state funds received by the charter holder for that purpose under Section 11A.2011, each school year a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for the employees of \$3,000.

(c) Using state funds received by the charter holder for that purpose under Section 11A.2011, each school year a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for the employees of \$2,000.

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

[Sections 11A.307-11A.350 reserved for expansion]

#### SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

Sec. 11A.351. AUDIT. (a) To the extent consistent with this section, the commissioner may audit the records of:

- (1) a public charter district or campus;
- (2) a charter holder; and
- (3) a management company.

(b) An audit under Subsection (a) must be limited to matters directly related to the management or operation of a public charter district, including any financial, student, and administrative records.

(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.

Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a subpoena to compel the attendance and testimony of a witness or the production of materials relevant to an audit or investigation under this chapter.

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

(c) If a person fails to comply with a subpoena issued under

139-1 this section, the commissioner, acting through the attorney  
 139-2 general, may file suit to enforce the subpoena in a district court  
 139-3 in Travis County or in the county in which the audit or  
 139-4 investigation is conducted. The court shall order compliance with  
 139-5 the subpoena if the court finds that good cause exists to issue the  
 139-6 subpoena.

139-7 (d) This section expires September 1, 2007.

139-8 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take  
 139-9 any of the actions described by Subsection (b) or by Section  
 139-10 39.131(a), to the extent the commissioner determines necessary, if  
 139-11 a public charter district, as determined by a report issued under  
 139-12 Section 39.076(b):

139-13 (1) commits a material violation of the district's  
 139-14 charter;

139-15 (2) fails to satisfy generally accepted accounting  
 139-16 standards of fiscal management; or

139-17 (3) fails to comply with this chapter or another  
 139-18 applicable rule or law.

139-19 (b) The commissioner may temporarily withhold funding,  
 139-20 suspend the authority of a public charter district to operate, or  
 139-21 take any other reasonable action the commissioner determines  
 139-22 necessary to protect the health, safety, or welfare of students  
 139-23 enrolled at a district campus based on evidence that conditions at  
 139-24 the district campus present a danger to the health, safety, or  
 139-25 welfare of the students.

139-26 (c) After the commissioner acts under Subsection (b), the  
 139-27 public charter district may not receive funding and may not resume  
 139-28 operating until a determination is made that:

139-29 (1) despite initial evidence, the conditions at the  
 139-30 district campus do not present a danger of material harm to the  
 139-31 health, safety, or welfare of students; or

139-32 (2) the conditions at the district campus that  
 139-33 presented a danger of material harm to the health, safety, or  
 139-34 welfare of students have been corrected.

139-35 (d) Not later than the third business day after the date the  
 139-36 commissioner acts under Subsection (b), the commissioner shall  
 139-37 provide the charter holder an opportunity for a hearing. This  
 139-38 subsection does not apply to an action taken by the commissioner  
 139-39 under Chapter 39.

139-40 (e) Immediately after a hearing under Subsection (d), the  
 139-41 commissioner must cease the action under Subsection (b) or initiate  
 139-42 action under Section 11A.108.

139-43 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN  
 139-44 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the  
 139-45 Foundation School Program, the commissioner shall reduce the total  
 139-46 amount of state funds allocated to each district from any source in  
 139-47 the same manner described for a reduction in allotments under  
 139-48 Section 42.313 and adopt and implement a program for supervising  
 139-49 the administration of assessment instruments under Section 39.023  
 139-50 during the 2005-2006 school year at an open-enrollment charter  
 139-51 school, other than a school operated by an entity described by  
 139-52 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent  
 139-53 of all students enrolled at the school and administered an  
 139-54 assessment instrument under Section 39.023(a), (c), or (l)  
 139-55 performed satisfactorily on:

139-56 (1) the assessment instrument in mathematics, as  
 139-57 determined by the school's assessment instrument results for the  
 139-58 2004-2005 school year; or

139-59 (2) the assessment instrument in reading or English  
 139-60 language arts, as applicable, as determined by the school's  
 139-61 assessment instrument results for the 2004-2005 school year.

139-62 (b) The program adopted under Subsection (a) must be  
 139-63 designed to:

139-64 (1) ensure that the location at which an assessment  
 139-65 instrument is administered is secure and under the supervision of  
 139-66 persons who do not have any interest in the results of the  
 139-67 assessment instrument; and

139-68 (2) provide direct supervision of:

139-69 (A) the transportation of the assessment

instrument materials to and from the location at which the instrument is administered; and

(B) the administration of the assessment instrument to students.

(c) The commissioner may adopt rules necessary to administer this section and may take any action that the commissioner determines necessary to ensure the integrity of the results of an assessment instrument administered at an open-enrollment charter school described by Subsection (a).

(d) After deducting the amount withheld under Subsection (a) from the total amount appropriated for the Foundation School Program, the commissioner shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.313.

(e) An open-enrollment charter school's failure to fully cooperate with the commissioner under this section is sufficient grounds for revocation of the district's charter, as determined by the commissioner.

(f) This section expires September 1, 2006.

Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The commissioner shall periodically consult with representatives of charter holders regarding the duties and mission of the agency relating to the operation of public charter districts. The commissioner shall determine the frequency of the consultations.

Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing in this chapter may be construed to limit the commissioner's authority under Chapter 39.

Sec. 11A.356. RULES. The commissioner may adopt rules for the administration of this chapter.

[Sections 11A.357-11A.400 reserved for expansion]

#### SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

Sec. 11A.401. AUTHORIZATION. (a) In this section, "eligible entity" means an organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(b) In accordance with this subchapter, the commissioner may authorize not more than three charter holders to grant a charter to an eligible entity to operate a blue ribbon charter campus if:

(1) the charter holder proposes to grant the blue ribbon charter to replicate a distinctive education program;

(2) the charter holder has demonstrated the ability to replicate the education program;

(3) the education program has been implemented by the charter holder for at least seven school years; and

(4) the charter school in which the charter holder has implemented the program has been rated recognized or exemplary under Section 39.072 for at least five school years.

(b-1) An eligible entity that assumed operation of an existing charter school program during the seven years preceding the proposed authorization under Subsection (b) may be authorized to grant a blue ribbon charter under Subsection (b) if:

(1) the performance level of the program at a campus before and after the entity assumed operation of the program meets the qualifications described by Subsection (b); and

(2) the entity has met the qualifications described by Subsection (b) since assuming operation of the program.

(c) A charter holder may grant a blue ribbon charter only to an applicant that meets any financial, governing, and operational standards adopted by the commissioner under this subchapter.

(d) A charter holder may grant not more than two blue ribbon charters under this subchapter.

Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue ribbon charter campus is considered a public charter district campus for purposes of state and federal law.

(b) A blue ribbon charter granted under this subchapter is not considered for purposes of the limit on the number of public charter districts imposed by Section 11A.002.

Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE RIBBON CHARTER CAMPUS. (a) The governing body of the public

141-1 charter district authorizing a blue ribbon charter is responsible  
 141-2 for the management and operation of the campus operated under a  
 141-3 blue ribbon charter. A blue ribbon charter campus is subject to the  
 141-4 rules and policies of the governing body of the charter holder that  
 141-5 granted the blue ribbon charter.

141-6 (b) For purposes of academic and financial accountability  
 141-7 and all other purposes under this chapter and Chapter 39, a blue  
 141-8 ribbon charter campus is considered a campus of the public charter  
 141-9 district operated by the charter holder that granted the blue  
 141-10 ribbon charter.

141-11 (c) A charter holder is entitled to receive funding for a  
 141-12 blue ribbon charter campus as if the blue ribbon charter campus were  
 141-13 a campus of the public charter district operated by the charter  
 141-14 holder.

141-15 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The  
 141-16 commissioner by rule shall adopt an application form and procedures  
 141-17 for a charter holder to apply for authorization to grant a blue  
 141-18 ribbon charter to an eligible entity under this subchapter.

141-19 (b) The application must specify:

141-20 (1) the criteria that will be used to grant blue ribbon  
 141-21 charters;

141-22 (2) procedures for governance and management of  
 141-23 campuses operating under a blue ribbon charter; and

141-24 (3) the performance standard by which continuation of  
 141-25 a blue ribbon charter will be determined.

141-26 (c) A determination by the commissioner regarding an  
 141-27 application under this section is final and may not be appealed.

141-28 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The  
 141-29 commissioner may revoke a charter holder's authorization to grant a  
 141-30 blue ribbon charter or operate a campus granted a blue ribbon  
 141-31 charter if the commissioner determines that the purposes of this  
 141-32 subchapter are not being satisfied.

141-33 (b) On revocation of a charter holder's authority under this  
 141-34 section, the charter holder shall:

141-35 (1) operate a campus granted a blue ribbon charter as a  
 141-36 standard campus of the charter holder under this chapter; or

141-37 (2) close the campus effective at the end of the school  
 141-38 year in which the commissioner revokes the authorization.

141-39 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter  
 141-40 granted under this subchapter must:

141-41 (1) describe the educational program to be offered,  
 141-42 which may be a general or specialized education program;

141-43 (2) provide that continuation of the charter is  
 141-44 contingent on satisfactory student performance under Subchapter B,  
 141-45 Chapter 39, and on compliance with other applicable accountability  
 141-46 provisions under Chapter 39;

141-47 (3) specify any basis, in addition to a basis  
 141-48 specified by this subchapter, on which the charter may be placed on  
 141-49 probation or revoked;

141-50 (4) prohibit discrimination in admission on the basis  
 141-51 of national origin, ethnicity, race, religion, or disability;

141-52 (5) describe the governing structure of the blue  
 141-53 ribbon charter campus;

141-54 (6) specify any procedure or requirement, in addition  
 141-55 to those under Chapter 38, that the campus will follow to ensure the  
 141-56 health and safety of students and employees; and

141-57 (7) describe the manner in which the campus and  
 141-58 charter holder granting the blue ribbon charter will comply with  
 141-59 financial and operational requirements, including requirements  
 141-60 related to the Public Education Information Management System  
 141-61 (PEIMS) under Section 11A.158 and the audit requirements under  
 141-62 Section 11A.210.

141-63 (b) A charter holder may reserve the right to approve  
 141-64 contracts, governance alterations, personnel decisions, and other  
 141-65 matters affecting the operation of the blue ribbon charter campus.

141-66 (c) A blue ribbon charter must specify the basis and  
 141-67 procedure to be used by the charter holder for placing the blue  
 141-68 ribbon charter campus on probation or revoking the charter, which  
 141-69 must include an opportunity for an informal review of the blue

ribbon charter campus and governing body of the campus by the charter holder. A charter holder's decision to place on probation or revoke a blue ribbon charter is final and may not be appealed.

Sec. 11A.407. FORM. A blue ribbon charter issued under this subchapter must be in the form and substance of a written contract signed by the president or equivalent officer of the governing body of the charter holder granting the blue ribbon charter and the president or equivalent officer of the governing body of the eligible entity to which the blue ribbon charter is granted.

Sec. 11A.408. REVISION. A blue ribbon charter granted under this subchapter may be revised with the approval of the charter holder that granted the charter.

[Sections 11A.409-11A.450 reserved for expansion]

#### SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER SCHOOLS

Sec. 11A.451. DEFINITIONS. In this subchapter:

(1) "Assets" means:

(A) public funds, as determined under Section 12.107, as that section existed on January 1, 2005; and

(B) public property, as determined under Section 12.128, as that section existed on January 1, 2005.

(2) "Records" means government records, as determined under Section 12.1052, as that section existed on January 1, 2005.

Sec. 11A.452. APPLICABILITY. The commissioner shall appoint a receiver under this subchapter for each open-enrollment charter school that on June 1, 2005, was operating under a charter issued under Subchapter D, Chapter 12, as that subchapter existed on January 1, 2005, and:

(1) is not authorized to operate as a public charter district under this chapter; or

(2) elects not to operate as a public charter district under this chapter.

Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a) The commissioner shall appoint a receiver to protect the assets and direct the dissolution of open-enrollment charter schools subject to this subchapter.

(b) The receiver shall execute a bond in an amount set by the commissioner to ensure the proper performance of the receiver's duties.

(c) Until discharged by the commissioner, the receiver shall perform the duties that the commissioner directs to preserve the assets and direct the dissolution of the open-enrollment charter school under this subchapter.

Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After appointment and execution of bond under Section 11A.453, the receiver shall take possession of:

(1) assets and records in the possession of the open-enrollment charter school specified by the commissioner; and

(2) any Foundation School Program funds and any other public funds received by the school's charter holder.

(b) On request of the receiver, the attorney general shall file a suit for attachment, garnishment, or involuntary bankruptcy and take any other action necessary for the dissolution of an open-enrollment charter school under this subchapter.

(c) If the charter holder of an open-enrollment charter school or an officer or employee of such a school refuses to transfer school assets or records to a receiver under this subsection, the receiver may ask the attorney general to petition a court for recovery of the assets or records. If the court grants the petition, the court shall award attorney's fees and court costs to the state.

(d) A record described by this section is a public school record for purposes of Section 37.10(c)(2), Penal Code.

Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall wind up the affairs of an open-enrollment charter school and, except as provided by Subsection (b), reduce its assets to cash for the purpose of discharging all existing liabilities and obligations of the school. In winding up the affairs of a school, the receiver shall cooperate in any bankruptcy proceeding affecting the school.

The receiver shall distribute any remaining balance to the commissioner.

(b) A receiver shall offer free of charge any equipment and supplies of an open-enrollment charter school dissolved under this subchapter to school districts, giving priority to districts based on the percentage of the charter school's students that reside in the districts.

(c) The commissioner shall use money in the foundation school fund and money received under this section to pay the costs described by Section 11A.458 and discharge liabilities and obligations of open-enrollment charter schools under this subchapter. The commissioner shall deposit any remaining balance in the foundation school fund.

Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of an open-enrollment charter school subject to this subchapter shall be transferred in the manner specified by the commissioner to a custodian designated by the commissioner. The commissioner may designate any appropriate entity to serve as custodian of records, including the agency, a regional education service center, or a school district. In designating a custodian, the commissioner 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 amended by adding Sections 12.1058 and 12.135 to read as follows:

Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT PROVISIONS. (a) An open-enrollment charter school is subject to Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303, 11A.304, 11A.352, 21.0032, and 21.058.

(b) The commissioner may bring an action for injunctive or other relief as provided by Section 11A.203(d) to enforce Section 12.107.

(c) For purposes of this section, a reference in a law described by this section to a public charter district means an open-enrollment charter school.

Sec. 12.135. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF. (a) This section applies to a charter holder that on January 1, 2005, operated an open-enrollment charter school.

(b) Using state funds received by the charter holder for that purpose under Subsection (d), each school year a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that

results in an average compensation increase for the employees of \$2,000.

(c) Using state funds received by the charter holder for that purpose under Subsection (e), each school year a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year shall provide employees of the charter holder, other than administrators, compensation in the form of annual salaries, incentives, or other compensation determined appropriate by the charter holder that results in an average compensation increase for the employees of \$1,000.

(d) In addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that participated in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year is entitled to state aid in an amount, as determined by the commissioner, 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 appropriately licensed under Chapter 301, Occupations Code, who are employed by the charter holder at an open-enrollment charter school.

(e) In addition to any amounts to which a charter holder is entitled under this chapter, a charter holder that did not participate in the program under Chapter 1579, Insurance Code, for the 2004-2005 school year is entitled to state aid in an amount, as determined by the commissioner, equal to the product of \$1,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses appropriately licensed under Chapter 301, Occupations Code, who are employed by the charter holder at an open-enrollment charter school.

(f) A payment under this section is in addition to wages the charter holder would otherwise pay the employee during the school year.

SECTION 4.04. Sections 12.152 and 12.156, Education Code, are amended to read as follows:

Sec. 12.152. AUTHORIZATION. ~~[(a)]~~ In accordance with this subchapter and Chapter 11A ~~[Subchapter D]~~, the State Board of Education may grant a charter on the application of a public senior college or university for a public ~~[an open-enrollment]~~ charter district ~~[school]~~ to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located.

Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a) Except as otherwise provided by this subchapter, Chapter 11A ~~[Subchapter D]~~ applies to a college or university charter school as though the college or university charter school were granted a charter under that chapter ~~[subchapter]~~.

(b) A charter granted under this subchapter is not considered for purposes of the limit on the number of public ~~[open-enrollment]~~ charter districts ~~[schools]~~ imposed by Section 11A.002 ~~[12.101(b)]~~.

(c) A college or university charter school is not subject to a prohibition, restriction, or requirement relating to:

- (1) open meetings and public information under Section 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.

(6) "Public charter district [~~Open-enrollment charter school~~]" means a public school authorized by [~~that has been granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION 4.06. Section 7.003, Education Code, is amended to read as follows:

Sec. 7.003. LIMITATION ON AUTHORITY. An educational function not specifically delegated to the agency or the board under this code is reserved to and shall be performed by school districts or [~~open-enrollment~~] charter schools.

SECTION 4.065. Subsection (b), Section 7.027, Education Code, as renumbered by H.B. No. 2018, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(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 4.07. Subdivision (17), Subsection (b), Section 7.055, Education Code, is amended to read as follows:

(17) The commissioner shall distribute funds to public charter districts [~~open-enrollment charter schools~~] as required under Chapter 11A [~~Subchapter D, Chapter 12~~].

SECTION 4.08. Subdivision (9), Subsection (c), Section 7.102, Education Code, is amended to read as follows:

(9) The board may grant a charter for a public charter district [~~an open-enrollment charter or approve a charter revision~~] 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. Subsections (b) and (c), Section 21.058, 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.

(c) A school district or public charter district ~~[open-enrollment charter school]~~ that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter shall:

(1) immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

(2) as soon as practicable, terminate the employment of the person in accordance with the person's contract and with this subchapter.

SECTION 4.12. Subsections (b) and (c), Section 22.083, Education Code, are amended to read as follows:

(b) A public charter district may ~~[An open-enrollment charter school shall]~~ obtain from the Department of Public Safety ~~[any law enforcement or criminal justice agency]~~ all criminal history record information that relates to:

(1) a person whom the district ~~[school]~~ intends to employ in any capacity; or

(2) a person who has indicated, in writing, an intention to serve as a volunteer with the district ~~[school]~~.

(c) A school district, public charter district ~~[open-enrollment charter school]~~, private school, regional education service center, or shared services arrangement may obtain from a federal or state ~~[any]~~ law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a volunteer or employee of the district, school, service center, or shared services arrangement; or

(2) an employee of or applicant for employment by a person that contracts with the district, school, service center, or shared services arrangement to provide services, if:

(A) the employee or applicant has or will have continuing duties related to the contracted services; and

(B) the duties are or will be performed on school property or at another location where students are regularly present.

SECTION 4.13. Effective August 1, 2006, Section 22.084, Education Code, is amended to read as follows:

Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided by Subsections (c) and (d), a school district, public charter district ~~[open-enrollment charter school]~~, private school, regional education service center, or shared services arrangement

that contracts with a person for transportation services shall obtain from the Department of Public Safety ~~[any law enforcement or criminal justice agency]~~ all criminal history record information that relates to:

- (1) a person employed by the person as a bus driver; or
- (2) a person the person intends to employ as a bus driver.

(b) Except as provided by Subsections (c) and (d), a person that contracts with a school district, public charter district ~~[open-enrollment charter school]~~, private school, regional education service center, or shared services arrangement to provide transportation services shall submit to the district, school, service center, or shared services arrangement the name and other identification data required to obtain criminal history record information of each person described by Subsection (a). If the district, school, service center, or shared services arrangement obtains information that a person described by Subsection (a) has been convicted of a felony or a misdemeanor involving moral turpitude, the district, school, service center, or shared services arrangement shall inform the chief personnel officer of the person with whom the district, school, service center, or shared services arrangement has contracted, and the person may not employ that person to drive 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.

(c) A commercial transportation company that contracts with a school district, public charter district ~~[open-enrollment charter school]~~, private school, regional education service center, or shared services arrangement to provide transportation services may obtain from a federal or state ~~[any]~~ law enforcement or criminal justice agency all criminal history record information that relates to:

- (1) a person employed by the commercial transportation company as a bus driver, bus monitor, or bus aide; or
- (2) a person the commercial transportation company 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
- (E) attending a required court appearance; or

(2) a ~~[, including traveling for that purpose. A school district shall excuse a student for]~~ temporary absence resulting from health care professionals if that student commences

classes or returns to school on the same day of the appointment.

(c) A student whose absence is excused under Subsection (b) ~~[this subsection]~~ may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b) ~~[this subsection]~~ shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

SECTION 4.15. Section 25.088, Education Code, is amended to read as follows:

Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school attendance officer may be selected by:

- (1) the county school trustees of any county;
- (2) the board of trustees of any school district or the boards of trustees of two or more school districts jointly; or
- (3) the governing body of a public charter district ~~[an open-enrollment charter school]~~.

SECTION 4.16. Subsection (a), Section 25.089, Education Code, is amended to read as follows:

(a) An attendance officer may be compensated from the funds of the county, independent school district, or public charter district ~~[open-enrollment charter school]~~, as applicable.

SECTION 4.17. Subsection (b), Section 25.090, Education Code, is amended to read as follows:

(b) If the governing body of a public charter district ~~[an open-enrollment charter school]~~ has not selected an attendance officer for a district campus, the duties of attendance officer shall be performed by the peace officers of the county in which the campus ~~[school]~~ is located.

SECTION 4.18. Subsections (d) and (e), Section 25.093, Education Code, are amended to read as follows:

(d) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of, as applicable:

(A) the school district in which the child attends school;

(B) the public charter district ~~[open-enrollment charter school]~~ the child attends; or

(C) the juvenile justice alternative education program that the child has been ordered to attend; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district or public charter district ~~[open-enrollment charter school]~~, as applicable.

SECTION 4.19. Subsections (a) and (b), Section 25.095, Education Code, are amended to read as follows:

(a) A school district or public charter district ~~[open-enrollment charter school]~~ shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period:

(1) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to prosecution under Section 25.094 or to referral to a juvenile court in a county with a population of less than 100,000 for conduct that violates that section.

(b) A school district or public charter district shall notify a student's parent if the student has been absent from

school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) the parent is subject to prosecution under Section 25.093; and

(2) request a conference between school officials and the parent to discuss the absences.

SECTION 4.20. Subsection (a), Section 25.0951, Education Code, as amended by H.B. No. 1575, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a school district or public charter district shall within seven school days of the student's last absence:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

SECTION 4.21. Subsection (b), Section 25.0951, Education Code, is amended to read as follows:

(b) If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), the school district or public charter district may:

(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

SECTION 4.22. Subsections (a), (c), (d), and (e), Section 26.0085, Education Code, are amended to read as follows:

(a) A school district or public charter district ~~[open-enrollment charter school]~~ that seeks to withhold information from a parent who has requested public information relating to the parent's child under Chapter 552, Government Code, and that files suit as described by Section 552.324, Government Code, to challenge a decision by the attorney general issued under Subchapter G, Chapter 552, Government Code, must bring the suit not later than the 30th calendar day after the date the school district or public charter district ~~[open-enrollment charter school]~~ receives the decision of the attorney general being challenged.

(c) Notwithstanding any other law, a school district or public charter district ~~[open-enrollment charter school]~~ may not appeal the decision of a court in a suit filed under Subsection (a). This subsection does not affect the right of a parent to appeal the decision.

(d) If the school district or public charter district ~~[open-enrollment charter school]~~ does not bring suit within the period established by Subsection (a), the school district or public charter district ~~[open-enrollment charter school]~~ shall comply with the decision of the attorney general.

(e) A school district or public charter district ~~[open-enrollment charter school]~~ that receives a request from a parent for public information relating to the parent's child shall comply with Chapter 552, Government Code. If an earlier deadline for bringing suit is established under Chapter 552, Government Code, Subsection (a) does not apply. This section does not affect the earlier deadline for purposes of Section 552.353(b)(3), Government Code, ~~[532.353(b)(3)]~~ for a suit brought by an officer

for public information.

SECTION 4.23. Subsection (j), Section 28.0211, Education Code, is amended to read as follows:

(j) A school district ~~[or open-enrollment charter school]~~ shall provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours.

SECTION 4.24. Subsection (f), Section 29.010, Education Code, is amended to read as follows:

(f) This section does not create an obligation for or impose a requirement on a school district ~~[or open-enrollment charter school]~~ that is not also created or imposed under another state law or a federal law.

SECTION 4.25. Subsections (a) and (c), Section 29.012, Education Code, are amended to read as follows:

(a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:

(1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is a public charter district ~~[an open-enrollment charter school]~~; or

(2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.

(c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the public charter district campus ~~[open-enrollment charter school]~~ in which the facility is located.

SECTION 4.26. Subsections (c), (d), and (e), Section 29.062, Education Code, are amended to read as follows:

(c) Not later than the 30th day after the date of an on-site monitoring inspection, the agency shall report its findings to the school district ~~[or open-enrollment charter school]~~ and to the division of accreditation.

(d) The agency shall notify a school district ~~[or open-enrollment charter school]~~ found in noncompliance in writing, not later than the 30th day after the date of the on-site monitoring. The district ~~[or open-enrollment charter school]~~ shall take immediate corrective action.

(e) If a school district ~~[or open-enrollment charter school]~~ fails to satisfy appropriate standards adopted by the commissioner for purposes of Subsection (a), the agency shall apply sanctions, which may include the removal of accreditation, loss of foundation school funds, or both.

SECTION 4.27. Subsections (a), (b), (b-1), (c), (e), (k), and (l), Section 29.087, Education Code, are amended to read as follows:

(a) The agency shall develop a process by which a school district or public charter district ~~[open-enrollment charter school]~~ may apply to the commissioner for authority to operate a program to prepare eligible students to take a high school equivalency examination.

(b) Any school district or public charter district ~~[open-enrollment charter school]~~ may apply for authorization to operate a program under this section. As part of the application process, the commissioner shall require a school district or public charter district ~~[or school]~~ to provide information regarding the operation of any similar program during the preceding five years.

(b-1) A school district or public charter district ~~[open-enrollment charter school]~~ authorized by the commissioner on or before August 31, 2003, to operate a program under this section may continue to operate that program in accordance with this section.

(c) A school district or public charter district ~~[open-enrollment charter school]~~ may not increase enrollment of students in a program authorized by this section by more than five percent of the number of students enrolled in the similar program

operated by the school district or public charter district ~~[or school]~~ during the 2000-2001 school year.

(e) A school district or public charter district ~~[open-enrollment charter school]~~ shall inform each student who has completed a program authorized by this section of the time and place at which the student may take the high school equivalency examination. Notwithstanding any provision of this section, a student may not take the high school equivalency examination except as authorized by Section 7.111.

(k) The board of trustees of a school district or the governing body ~~[board]~~ of a public charter district ~~[an open-enrollment charter school]~~ shall:

(1) hold a public hearing concerning the proposed application of the school district or public charter district ~~[or school]~~ before applying to operate a program authorized by this section; and

(2) subsequently hold a public hearing annually to review the performance of the program.

(l) The commissioner may revoke a school district's or public charter district's ~~[open-enrollment charter school's]~~ authorization under this section after consideration of relevant factors, including performance of students participating in the school district's or public charter district's ~~[or school's]~~ program on assessment instruments required under Chapter 39, the percentage of students participating in the school district's or public charter district's ~~[or school's]~~ program who complete the program and perform successfully on the high school equivalency examination, and other criteria adopted by the commissioner. A decision by the commissioner under this subsection is final and may not be appealed.

SECTION 4.28. Subsections (a) through (d), (i), and (j), Section 29.155, Education Code, are amended to read as follows:

(a) From amounts appropriated for the purposes of this section, the commissioner may make grants to school districts and public charter districts ~~[open-enrollment charter schools]~~ to implement or expand kindergarten and prekindergarten programs by:

(1) operating an existing half-day kindergarten or prekindergarten program on a full-day basis; or

(2) implementing a prekindergarten program at a campus that does not have a prekindergarten program.

(b) A school district or public charter district ~~[open-enrollment charter school]~~ may use funds received under this section to employ teachers and other personnel for a kindergarten or prekindergarten program and acquire curriculum materials or equipment, including computers, for use in kindergarten and prekindergarten programs.

(c) To be eligible for a grant under this section, a school district or public charter district ~~[open-enrollment charter school]~~ must apply to the commissioner in the manner and within the time prescribed by the commissioner.

(d) In awarding grants under this section, the commissioner shall give priority to districts and public charter districts ~~[open-enrollment charter schools]~~ in which the level of performance of students on the assessment instruments administered under Section 39.023 to students in grade three is substantially below the average level of performance on those assessment instruments for all school districts in the state.

(i) In carrying out the purposes of Subsection (g), a school district or public charter district ~~[open-enrollment charter school]~~ may use funds granted to the school district or public charter district ~~[or school]~~ under this section ~~[subsection]~~ in contracting with another entity, including a private entity.

(j) If a school district or public charter district ~~[open-enrollment charter school]~~ returns to the commissioner funds granted under this section, the commissioner may grant those funds to another entity, including a private entity, for the purposes of Subsection (g).

SECTION 4.29. Subsection (b), Section 29.905, Education Code, is amended to read as follows:

(b) The agency shall make the program available to a school on the request of the board of trustees of ~~[or]~~ the school district of which the school is a part, or if the school is a public charter district ~~[an open-enrollment charter school]~~, on the request of the governing body of the public charter district ~~[school]~~.

SECTION 4.30. Subchapter C, Chapter 32, Education Code, is amended by adding Section 32.1011 to read as follows:

Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS. This subchapter applies to a public charter district as if the public charter district were a school district.

SECTION 4.31. Section 32.102, Education Code, is amended to read as follows:

Sec. 32.102. AUTHORITY. (a) As provided by this subchapter, a school district ~~[or open-enrollment charter school]~~ may transfer to a student enrolled in the district ~~[or school]~~:

(1) any data processing equipment donated to the district ~~[or school]~~, including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.128, Government Code;

(2) any equipment purchased by the district ~~[or school]~~, to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district ~~[or school]~~.

(b) A school district ~~[or open-enrollment charter school]~~ may accept:

(1) donations of data processing equipment for transfer under this subchapter; and

(2) any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under this subchapter.

SECTION 4.32. 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 district ~~[or open-enrollment charter school]~~ must:

(1) adopt rules governing transfers under this subchapter, including provisions for technical assistance to the student by the district ~~[or school]~~;

(2) determine that the transfer serves a public purpose and benefits the district ~~[or school]~~; and

(3) remove from the equipment any offensive, confidential, or proprietary information, as determined by the district ~~[or school]~~.

SECTION 4.34. Section 32.105, Education Code, is amended to read as follows:

Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school district ~~[or open-enrollment charter school]~~ may spend public funds to:

(1) purchase, refurbish, or repair any data processing equipment transferred to a student under this subchapter; and

(2) store, transport, or transfer data processing equipment under this subchapter.

SECTION 4.35. Section 32.106, Education Code, is amended to read as follows:

Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided by Subsection (b), a student who receives data processing equipment from a school district ~~[or open-enrollment charter school]~~ under this subchapter shall return the equipment to the district ~~[or~~



~~school]~~ not later than the earliest of:

- (1) five years after the date the student receives the 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 a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
- (4) financial aid eligibility;
- (5) instruction on how to apply for federal financial aid;
- (6) the center for financial aid information established under Section 61.0776;
- (7) the automatic admission of certain students to general academic teaching institutions as provided by Section 51.803; and

(8) the eligibility and academic performance requirements for the TEXAS Grant as provided by Subchapter M, Chapter 56~~[, as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999]~~.

SECTION 4.37. Section 33.901, Education Code, is amended to read as follows:

Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of the students enrolled in one or more schools in a school district or enrolled in a public charter district campus ~~[an open-enrollment charter school]~~ are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing body of the district or the public charter district ~~[open-enrollment charter school]~~ shall participate in the program and make the benefits of the program available to all eligible students in the schools or campus ~~[school]~~.

SECTION 4.38. Subsection (e), Section 37.007, Education Code, is amended to read as follows:

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or public charter district ~~[open-enrollment charter school]~~, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

SECTION 4.39. Subsection (j), Section 37.008, Education Code, as amended by H.B. No. 603, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A school district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by a public charter district [~~an open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and the public charter district [~~school~~] provides to the school district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the 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. Subdivision (2), Subsection (a), Section 37.022, Education Code, as renumbered by Subdivision (16), Section 23.001, 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. Subsection (a), Section 44.008, 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. Subdivision (10), Section 53.02, Education Code, as amended by H.B. No. 2701, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(10) "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. Subsections (a), (c), (d), (f), and (g), Section 53.351, 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 facilities. The corporation may make expenditures from the fund described by Subsection (e) and may solicit and accept grants for deposit into the fund. In addition, Sections 53.131, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and govern the corporation and its procedures and bonds.

(d) The corporation shall adopt rules governing the issuance of bonds on behalf of an authorized ~~[open-enrollment]~~ charter school.

(f) A revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized ~~[open-enrollment]~~ charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

(g) An educational facility financed in whole or in part under this section is exempt from taxation if the facility:

(1) is owned by an authorized ~~[open-enrollment]~~ charter school;

(2) is held for the exclusive benefit of the school; and

(3) is held for the exclusive use of the students, faculty, and staff members of the school.

SECTION 4.47. Subsection (c), Section 411.097, Government Code, is amended to read as follows:

(c) A public charter district ~~[An open-enrollment charter school]~~ is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a member of the governing body of the public charter district ~~[school]~~, as defined by Section 11A.001 ~~[12.1012]~~, Education Code; or

(2) has agreed to serve as a member of the governing

body of the public charter district ~~[school]~~.

SECTION 4.48. Subsections (a) and (b), Section 2175.128, Government Code, are amended to read as follows:

(a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.125 or 2175.184, the state agency shall transfer the equipment to:

(1) a school district or public charter district ~~[open-enrollment charter school]~~ in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district or public charter district; or

(3) the Texas Department of Criminal Justice.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to:

(1) a school district or public charter district ~~[open-enrollment charter school]~~ in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district or public charter district; or

(3) the Texas Department of Criminal Justice.

SECTION 4.49. Subsection (a), Section 2306.630, Government Code, is amended to read as follows:

(a) Subject to Subsection (b), the following entities may apply to receive a grant for an eligible project under this subchapter:

(1) a private, nonprofit, tax-exempt organization listed in Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3));

(2) a public agency that operates a community-based youth employment training program;

(3) a community housing development organization certified by the state;

(4) an educational facility approved by the Texas Youth Commission;

(5) a corps-based community service organization;

(6) a public charter district ~~[an open-enrollment charter school]~~ approved by the State Board of Education ~~[Texas Education Agency]~~; or

(7) another entity authorized by board rule.

SECTION 4.50. Subdivision (6), Section 1575.002, 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. Subdivision (3), Section 1579.002, 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 of revenue, including taxes, assessments, service charges, grants

of state money, gifts, or other general sources from which funds are derived;

(2) the total disbursements of the fund, itemized by the nature of the expenditure; and

(3) the balance in the fund at the close of the fiscal year.

SECTION 4.53. Subsection (c), Section 140.006, Local Government Code, is amended to read as follows:

(c) The presiding officer of a school district shall submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, the financial statement shall be published in the manner provided by Subsections (a) and (b). The financial statement of a public charter district ~~[an open-enrollment charter school]~~ shall be made available in the manner provided by Chapter 552, Government Code.

SECTION 4.54. Subdivision (2), Section 375.303, Local Government Code, is amended to read as follows:

(2) "Eligible project" means a program authorized by Section 379A.051 and a project as defined by Sections 2(11) and 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes). Notwithstanding this definition, seeking a charter for or operating a public charter district ~~[an open-enrollment charter school]~~ authorized by Chapter 11A ~~[Subchapter D, Chapter 12]~~, Education Code, is ~~[shall]~~ not ~~[be]~~ an eligible project.

SECTION 4.55. Subsections (b) and (c), Section 375.308, Local Government Code, are amended to read as follows:

(b) An authority may not:

(1) issue bonds or notes without the prior approval of the governing body of the municipality that created the authority;

(2) seek a charter for or operate, within the boundaries of the authority, a public charter district ~~[an open-enrollment charter school]~~ authorized by Chapter 11A ~~[Subchapter D, Chapter 12]~~, Education Code; or

(3) levy ad valorem property taxes.

(c) A municipality may not seek a charter for or operate a public charter district ~~[an open-enrollment charter school]~~ authorized by Chapter 11A ~~[Subchapter D, Chapter 12]~~, Education Code, within the boundaries of the authority.

SECTION 4.56. Subdivision (15), Section 541.201, Transportation Code, is amended to read as follows:

(15) "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a school district, county school, public charter district ~~[open-enrollment charter school]~~, regional education service center, or shared services arrangement and that is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, or a school bus.

SECTION 4.57. Subdivision (9), Section 57.042, 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. Subdivision (2), Section 4, 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 through 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. Subsection (a), Section 21.0031, Education Code, is amended to read as follows:

(a) An employee's probationary, continuing, or term contract under this chapter is void if the employee:

(1) does not hold a certificate or permit issued under Subchapter B ~~[by the State Board for Educator Certification]~~; or

(2) fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.

SECTION 7.02. Subsections (a) through (e), Section 21.004, Education Code, are amended to read as follows:

(a) To the extent that funds are available, the agency~~[, the State Board for Educator Certification,]~~ and the Texas Higher Education Coordinating Board shall develop and implement programs to identify talented students and recruit those students and persons, including high school and undergraduate students, mid-career and retired professionals, honorably discharged and retired military personnel, and members of underrepresented gender and ethnic groups, into the teaching profession.

(b) From available funds, the agency~~[, the State Board for Educator Certification,]~~ and the Texas Higher Education Coordinating Board shall develop and distribute materials that emphasize the importance of the teaching profession and inform individuals about state-funded loan forgiveness and tuition assistance programs.

(c) The commissioner, in cooperation with the commissioner of higher education ~~[and the executive director of the State Board for Educator Certification]~~, shall annually identify the need for teachers in specific subject areas and geographic regions and among underrepresented groups. The commissioner shall give priority to developing and implementing recruitment programs to address those needs from the agency's discretionary funds.

(d) The agency~~[, the State Board for Educator Certification,]~~ and the Texas Higher Education Coordinating Board shall encourage the business community to cooperate with local schools to develop recruiting programs designed to attract and retain capable teachers, including programs to provide summer employment opportunities for teachers.

(e) The agency~~[, the State Board for Educator Certification,]~~ and the Texas Higher Education Coordinating Board shall encourage major education associations to cooperate in developing a long-range program promoting teaching as a career and to assist in identifying local activities and resources that may be used to promote the teaching profession.

SECTION 7.03. Section 21.006, Education Code, is amended by amending Subsections (a), (b), (c), (e), (f), and (g) and adding Subsection (h) to read as follows:

(a) In this section:

(1) "Abuse" ~~[, "abuse"]~~ has the meaning assigned by Section 261.001, Family Code, and includes any sexual conduct involving an educator and a student or minor.

(2) "Board" means the Educators' Professional Practices Board.

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the commissioner ~~[State Board for Educator Certification]~~ if the superintendent or director has reasonable cause to believe that:

(1) an educator employed by or seeking employment by the district, service center, or shared services arrangement has a

criminal record;

(2) an educator's employment at the district, service center, or shared services arrangement was terminated based on a determination that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.~~[, and its subsequent amendments]~~;

(C) illegally transferred, appropriated, or expended funds or other property of the district, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or

(3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to terminate the educator based on a determination that the educator engaged in misconduct described by Subdivision (2).

(c) The superintendent or director must notify the commissioner ~~[State Board for Educator Certification]~~ by filing a report with the commissioner ~~[board]~~ not later than the seventh day after the date the superintendent or director first learns about an alleged incident of misconduct described by Subsection (b). The report must be:

(1) in writing; and

(2) in a form prescribed by the board.

(e) A superintendent or director who in good faith and while acting in an official capacity files a report with the commissioner ~~[State Board for Educator Certification]~~ under this section is immune from civil or criminal liability that might otherwise be incurred or imposed.

(f) The board, acting on a recommendation of the commissioner, ~~[State Board for Educator Certification]~~ shall determine whether to impose sanctions against a superintendent or director who fails to file a report in violation of Subsection (c).

(g) The commissioner ~~[State Board for Educator Certification]~~ shall adopt ~~[propose]~~ rules as necessary to implement this section.

(h) The commissioner shall forward a report received under this section to the board for use as the commissioner determines appropriate in the execution of the board's duties.

SECTION 7.035. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.007 to read as follows:

Sec. 21.007. RECOMMENDATION TO SANCTION. The commissioner shall determine whether to recommend a sanction against an educator to the Educators' Professional Practices Board under this chapter. The board shall make a final determination regarding the imposition of a sanction under this chapter, except that the commissioner may impose any sanction through informal disposition by stipulation, agreed settlement, consent order, or default.

SECTION 7.04. Sections 21.031 and 21.032, Education Code, are amended to read as follows:

Sec. 21.031. PURPOSE. (a) The Educators' Professional Practices ~~[State]~~ Board ~~[for Educator Certification]~~ is established in the agency to ~~[recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall]~~ regulate and oversee ~~[all aspects of]~~ the ~~[certification, continuing education, and]~~ standards of conduct of public school educators.

(b) The commissioner shall adopt rules governing the certification of educators and continuing education for educators. In adopting ~~[In proposing]~~ rules under this subchapter, the commissioner ~~[board]~~ shall ensure that all candidates for certification or renewal of certification demonstrate the

knowledge and skills necessary to improve the performance of the diverse student population of this state.

Sec. 21.032. DEFINITION. In this subchapter, "board" means the Educators' Professional Practices [State] Board [~~for Educator Certification~~].

SECTION 7.05. The heading to Section 21.033, Education Code, is amended to read as follows:

Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [STATE] BOARD [~~FOR EDUCATOR CERTIFICATION~~].

SECTION 7.06. Section 21.033, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (d), (e), and (f) to read as follows:

(a) The board [State Board for Educator Certification] is composed of 11 [14] members [~~. The commissioner of education shall appoint an employee of the agency to represent the commissioner as a nonvoting member. The commissioner of higher education shall appoint an employee of the Texas Higher Education Coordinating Board to represent the commissioner as a nonvoting member. The governor shall appoint a dean of a college of education in this state as a nonvoting member. The remaining 11 members are appointed by the commissioner [governor with the advice and consent of the senate,~~] as follows:

(1) six [four] members must be classroom teachers, appointed as provided by Subsection (a-1) [employed in public schools];

(2) not more than two members of the board may [must] be [public] school administrators; and

(3) a number of other members consistent with this subsection who the commissioner determines are qualified [one member must be a public school counselor; and

~~[(4) four members must be citizens, three of whom are not and have not, in the five years preceding appointment, been employed by a public school district or by an educator preparation program in an institution of higher education and one of whom is not and has not been employed by a public school district or by an educator preparation program in an institution of higher education].~~

(a-1) In appointing a board member under Subsection (a)(1), the commissioner shall:

(1) appoint teachers with at least five years' experience as public school classroom teachers;

(2) give preference to teachers who have received state or national awards for teaching excellence; and

(3) provide an opportunity for professional educator associations to submit nominations for the appointment.

(d) The commissioner shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the commissioner.

(e) The agency shall provide administrative services for the board as necessary.

(f) A reference in law to the State Board for Educator Certification means the Educators' Professional Practices Board.

SECTION 7.07. Section 21.034, Education Code, is amended to read as follows:

Sec. 21.034. TERMS; VACANCY. (a) The board members [~~appointed by the governor~~] hold office for staggered terms of six years with the terms of one-third, or as near to one-third as possible, of the members expiring on February 1 of each odd-numbered year. [~~A member appointed by the commissioner of education or the commissioner of higher education serves at the will of the appointing commissioner.~~]

(b) In the event of a vacancy during a term of a member [~~appointed by the governor~~], the commissioner [governor] shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

(c) A vacancy arises if a member [~~appointed by the governor~~] no longer qualifies for the office to which the member was appointed, as determined by the commissioner.

SECTION 7.075. Section 21.035, Education Code, as amended



by H.B. No. 1116, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 21.035. APPLICATION OF SUNSET ACT. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires on the date prescribed by Section 7.004 for abolishment of the agency ~~[The Texas Education Agency shall provide the board's administrative functions and services]~~.

SECTION 7.08. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0391 to read as follows:

Sec. 21.0391. ADVISORY COMMITTEE. (a) The commissioner shall appoint an advisory committee composed of holders of each class of educator certificate and stakeholders as required under Chapter 2008, Government Code.

(b) The advisory committee shall recommend educator certification standards under Section 21.041(b)(4) and educator preparation program standards under Section 21.044 and propose rules under those sections to the commissioner through negotiated rulemaking under Chapter 2008, Government Code. For purposes of that chapter, the advisory committee is considered to be the negotiated rulemaking committee described by Section 2008.054, Government Code. As provided by Section 2008.058, Government Code, the commissioner may propose and adopt a rule that has not been recommended or proposed by the advisory committee.

(c) The commissioner may not finally adopt or amend a rule subject to this section unless the State Board of Education has failed to reject the rule or amendment by an affirmative vote of four-fifths of its members. A vote under this subsection may be conducted by mail ballot, provided that the State Board of Education has at least 30 days' written notice of the proposed final rule adoption.

(d) Members of the advisory committee serve at the will of the commissioner.

SECTION 7.09. Section 21.041, Education Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The board shall adopt rules that provide for the adoption and amendment of an educator's code of ethics.

(b) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules that:

(1) provide for the issuance and renewal of educator certificates ~~[regulation of educators and the general administration of this subchapter]~~ in a manner consistent with this subchapter;

(2) specify the classes of educator certificates to be 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 requirements a person must accomplish to obtain a certificate, enter an internship, or enter an induction-year program. The commissioner ~~[board]~~ shall specify the minimum academic qualifications required for a certificate.

SECTION 7.11. Subsections (b), (c), and (d), Section 21.045, Education Code, are amended to read as follows:

(b) Each educator preparation program shall submit data elements as required by the commissioner ~~[board]~~ for an annual performance report to ensure access and equity. At a minimum, the annual report must contain the performance data from Subsection (a) and the following information, disaggregated by sex and ethnicity:

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

(c) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules establishing performance standards for the Accountability System for Educator Preparation for accrediting educator preparation programs. At a minimum, performance standards must be based on Subsection (a). The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules for the sanction of educator preparation programs and shall annually review the accreditation status of each educator preparation program.

(d) The commissioner ~~[executive director of the board]~~ shall appoint an oversight team of educators to make recommendations and provide assistance to educator preparation programs that do not meet accreditation standards. If, after one year, an educator preparation program has not fulfilled the recommendations of the oversight team, the commissioner ~~[executive director]~~ shall appoint a person to administer and manage the operations of the program. If the program does not improve after two years, the commissioner ~~[board]~~ shall revoke the approval of the program to prepare educators for state certification.

SECTION 7.12. Subsections (c) and (d), Section 21.046, Education Code, are amended to read as follows:

(c) Because an effective principal is essential to school improvement, the commissioner ~~[board]~~ shall ensure that:

- (1) each candidate for certification as a principal is of the highest caliber; and
- (2) multi-level screening processes, validated comprehensive assessment programs, and flexible internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success.

(d) In creating the qualifications for certification as a principal, the commissioner ~~[board]~~ shall consider the knowledge, skills, and proficiencies for principals as developed by relevant national organizations and the State Board of Education.

SECTION 7.125. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0461 to read as follows:

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

- (1) assistant principal;
- (2) principal; or
- (3) superintendent.

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

- (1) hold a baccalaureate or advanced degree from an institution of higher education;
- (2) have significant management and leadership

experience, as determined by the board of trustees of the school district that will employ the person under the temporary certificate; and

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

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

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

(e) A certificate issued under this section:

(1) expires on the third anniversary of the date on which the certificate was issued; and

(2) is not renewable.

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

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

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

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

(1) mentoring; and

(2) intensive, high-quality professional development.

SECTION 7.13. Subsection (a), Section 21.048, Education Code, is amended to read as follows:

(a) The commissioner [~~board~~] shall adopt [~~propose~~] rules prescribing comprehensive examinations for each class of certificate issued by the board.

SECTION 7.14. Sections 21.0481 through 21.0484 and 21.049, Education Code, are amended to read as follows:

Sec. 21.0481. MASTER READING 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 reading performance, the commissioner [~~board~~] shall establish a master reading teacher certificate.

(b) The board shall issue a master reading teacher certificate to each eligible person.

(c) To be eligible for a master reading teacher certificate, a person must:

(1) hold a reading specialist certificate issued under this subchapter and satisfactorily complete a course of instruction as prescribed under Subdivision (2)(B); 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 the science of teaching children to read that includes training in:

(i) effective reading instruction techniques, including effective techniques for students whose primary language is a language other than English;

(ii) identification of dyslexia and related reading disorders and effective reading instruction techniques for students with those disorders; and

(iii) effective professional peer mentoring techniques;

(C) perform satisfactorily on the master reading teacher certification examination prescribed by the commissioner [~~board~~]; and

(D) satisfy any other requirements prescribed by

the commissioner [~~board~~].

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 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 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 science at elementary school grade levels;

(2) a master science teacher certificate to teach science at middle school grade levels; and

(3) a master science teacher certificate to teach science at high school grade levels.

(b) The board shall issue the appropriate master science teacher certificate to each eligible person.

(c) To be eligible for a master science 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 science that includes training in science instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master science 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 science faculty members at institutions of higher education.

Sec. 21.049. ALTERNATIVE CERTIFICATION. (a) To provide a continuing additional source of qualified educators, the commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules providing for educator certification programs as an alternative to traditional educator preparation programs. The rules may not provide that a person may be certified under this section only if there is a demonstrated shortage of educators in a school district or subject area.

(b) The commissioner ~~[board]~~ may not require a person employed as a teacher in a disciplinary ~~[an]~~ alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011 for at least three years to complete an alternative educator certification program adopted under this section before taking the appropriate certification examination.

SECTION 7.15. Subsection (a), Section 21.050, Education Code, is amended to read as follows:

(a) A person who applies for a teaching certificate for which commissioner ~~[board]~~ rules require a bachelor's degree must possess a bachelor's degree received with an academic major or interdisciplinary academic major, including reading, other than education, that is related to the curriculum as prescribed under Subchapter A, Chapter 28.

SECTION 7.16. Section 21.051, Education Code, is amended to read as follows:

Sec. 21.051. OPTIONS FOR FIELD EXPERIENCE AND INTERNSHIPS. The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules providing

flexible options for persons for any field experience or internship required for certification.

SECTION 7.17. Subsection (a), Section 21.054, Education Code, is amended to read as follows:

(a) The commissioner ~~[board]~~ shall adopt ~~[propose]~~ rules establishing a process for identifying continuing education courses and programs that fulfill educators' continuing education requirements.

SECTION 7.18. Section 21.056, Education Code, is amended to read as follows:

Sec. 21.056. ADDITIONAL CERTIFICATION. The commissioner ~~[board]~~ by rule shall provide for a certified educator to qualify for additional certification to teach at a grade level or in a subject area not covered by the educator's certificate upon satisfactory completion of an examination or other assessment of the educator's qualification.

SECTION 7.19. Subsection (d), Section 21.057, Education Code, is amended to read as follows:

(d) For purposes of this section, "inappropriately certified or uncertified teacher":

(1) includes:

(A) an individual serving on an emergency certificate issued under Section 21.041(b)(2); or

(B) an individual who does not hold any certificate or permit issued under this chapter and is not employed as specified by Subdivision (2)(E); and

(2) does not include an individual:

(A) who is a certified teacher assigned to teach a class or classes outside his or her area of certification, as determined by rules adopted ~~[proposed]~~ by the commissioner ~~[board]~~ in specifying the certificate required for each assignment;

(B) serving on a certificate issued due to a hearing impairment under Section 21.048;

(C) serving on a certificate issued pursuant to enrollment in an approved alternative certification program under Section 21.049;

(D) certified by another state or country and serving on a certificate issued under Section 21.052;

(E) serving on a school district teaching permit issued under Section 21.055; or

(F) employed under a waiver granted by the commissioner pursuant to Section 7.056.

SECTION 7.20. Subsection (d), Section 21.058, Education Code, is amended to read as follows:

(d) A person whose certificate is revoked under Subsection (b) may reapply for a certificate in accordance with commissioner ~~[board]~~ rules.

SECTION 7.21. Subsection (c), Section 21.105, 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 employed under a probationary contract who:

(1) resigns;

(2) fails without good cause to comply with Subsection (a) or (b); and

(3) fails to perform the contract.

SECTION 7.22. Subsection (c), Section 21.160, 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. Subsection (c), Section 21.210, 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.

SECTION 7.24. Section 21.503, Education Code, is amended to read as follows:

Sec. 21.503. ELIGIBILITY. A person is eligible for the program if the person:

(1) has served in the armed forces of the United States;

(2) is honorably discharged, retired, or released from active duty on or after October 1, 1990, after at least six years of continuous active duty service immediately before the discharge, retirement, or release;

(3) has received a baccalaureate or advanced degree from a public or private institution of higher education accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; and

(4) satisfies any other criteria for selection ~~[jointly]~~ prescribed by the agency ~~[and the State Board for Educator Certification]~~.

SECTION 7.25. Subsection (b), Section 21.504, Education Code, is amended to read as follows:

(b) The agency ~~[and the State Board for Educator Certification]~~ shall distribute the applications and information regarding the program.

SECTION 7.26. Subsection (c), Section 21.510, Education Code, is amended to read as follows:

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.508 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at a public or private institution of higher education approved by the agency ~~[State Board for Educator Certification]~~;

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

SECTION 7.27. Sections 21.551, 21.552, and 21.553, Education Code, are amended to read as follows:

Sec. 21.551. PURPOSES. The purposes of the alternative certification Teach for Texas Pilot Program are to:

(1) attract to the teaching profession persons who have expressed interest in teaching and to support the certification of those persons as teachers;

(2) recognize the importance of the certification process governed by the commissioner ~~[State Board for Educator Certification]~~ under Subchapter B, which requires verification of competence in subject area and professional knowledge and skills;

(3) encourage the creation and expansion of educator preparation programs that recognize the knowledge and skills gained

through previous educational and work-related experiences and that are delivered in a manner that recognizes individual circumstances, including the need to remain employed full-time while enrolled in the Teach for Texas Pilot Program; and

(4) provide annual stipends to postbaccalaureate teacher certification candidates.

Sec. 21.552. PROGRAM ESTABLISHED. The commissioner [~~State Board for Educator Certification~~] by rule shall establish the Teach for Texas Pilot Program consistent with the purposes provided by Section 21.551.

Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program must offer to participants financial incentives, including tuition assistance and loan forgiveness. In offering a financial incentive, the commissioner [~~State Board for Educator Certification~~] shall:

(1) require a contract between each participant who accepts a financial incentive and the agency [~~State Board for Educator Certification~~] under which the participant is obligated to teach in a public school in this state for a stated period after certification;

(2) provide financial incentives in proportion to the length of the period the participant is obligated by contract to teach after certification; and

(3) give special financial incentives to a participant who agrees in the contract to teach in an underserved area.

(b) Financial incentives may be paid only from funds appropriated specifically for that purpose and from gifts, grants, and donations solicited or accepted by the commissioner [~~State Board for Educator Certification~~] for that purpose.

(c) The commissioner [~~State Board for Educator Certification~~] shall adopt [~~propose~~] rules establishing criteria for awarding financial incentives under this section, including criteria for awarding financial incentives if there are more participants than funds available to provide the financial incentives.

SECTION 7.28. Subsection (b), Section 21.604, Education Code, is amended to read as follows:

(b) The agency [~~and the State Board for Educator Certification~~] shall distribute the applications and information regarding the program.

SECTION 7.29. Subsection (c), Section 21.609, Education Code, is amended to read as follows:

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.607 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education approved by the agency [~~State Board for Educator Certification~~];

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

SECTION 7.30. Subsection (b), Section 22.0512, Education Code, is amended to read as follows:

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the Educators' Professional Practices [~~State~~] Board [~~for Educator Certification~~] to enforce the



educator's code of ethics adopted under Section 21.041(a-1)  
[~~21.041(b)(8)~~].

SECTION 7.31. Subsections (a), (b), (c), and (e), Section 29.061, Education Code, are amended to read as follows:

(a) The commissioner [~~State Board for Educator Certification~~] shall provide for the issuance of teaching certificates appropriate for bilingual education instruction to teachers who possess a speaking, reading, and writing ability in a language other than English in which bilingual education programs are offered and who meet the general requirements of Chapter 21. The commissioner [~~board~~] shall also provide for the issuance of teaching certificates appropriate for teaching English as a second language. The commissioner [~~board~~] may issue emergency endorsements in bilingual education and in teaching English as a second language.

(b) A teacher assigned to a bilingual education program must be appropriately certified under Subchapter B, Chapter 21, for bilingual education [~~by the board~~].

(c) A teacher assigned to an English as a second language or other special language program must be appropriately certified under Subchapter B, Chapter 21, for English as a second language [~~by the board~~].

(e) The agency [~~State Board for Educator Certification~~] and the Texas Higher Education Coordinating Board shall develop a comprehensive plan for meeting the teacher supply needs created by the programs outlined in this subchapter.

SECTION 7.32. Subsections (b) and (c), Section 33.002, Education Code, are amended to read as follows:

(b) A school district with 500 or more students enrolled in elementary school grades shall employ a counselor certified under the rules of the commissioner [~~State Board for Educator Certification~~] for each elementary school in the district. A school district shall employ at least one counselor for every 500 elementary school students in the district.

(c) A school district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by:

(1) employing a part-time counselor certified under the rules of the commissioner [~~State Board for Educator Certification~~];

(2) employing a part-time teacher certified as a counselor under the rules of the commissioner [~~State Board for Educator Certification~~]; or

(3) entering into a shared services arrangement agreement with one or more school districts to share a counselor certified under the rules of the commissioner [~~State Board for Educator Certification~~].

SECTION 7.33. Subsection (g), Section 37.007, Education Code, as amended by H.B. No. 603, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The Educators' Professional Practices [~~State Board on recommendation of the commissioner~~] [~~for Educator Certification~~] may revoke or suspend the certification of an educator who intentionally violates this subsection.

SECTION 7.34. Section 61.0514, Education Code, is amended to read as follows:

Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the cooperation and advice of the commissioner of education [~~State Board for Educator Certification~~], shall adopt educator

preparation coursework guidelines that promote, to the greatest extent practicable, the integration of subject matter knowledge with classroom teaching strategies and techniques in order to maximize the effectiveness and efficiency of coursework required for certification under Subchapter B, Chapter 21.

SECTION 7.35. 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 commissioner of higher education and the commissioner of education shall serve as co-chairs of the council.

(j) The P-16 Council, in conjunction with the State Center for Early Childhood Development, shall develop and adopt a school readiness certification system as required by Section 29.161.

SECTION 7.36. Subsection (a), Section 1001.254, Education Code, is amended to read as follows:

(a) A temporary driver education instructor license may be issued authorizing a person to teach or provide classroom driver education training if the person:

(1) has completed the educational requirements prescribed by Section 1001.253(d)(1);

(2) holds a Texas teaching certificate with an effective date before February 1, 1986;

(3) meets all license requirements, other than successful completion of the examination required under rules adopted by the commissioner ~~[State Board for Educator Certification]~~ to revalidate the teaching certificate; and

(4) demonstrates, in a manner prescribed by the commissioner, the intention to comply with the examination requirement at the first available opportunity.

SECTION 7.37. Subsection (a), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the individual is a student, the superintendent shall promptly notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The Educators' Professional Practices ~~[State] Board [for Educator Certification]~~ may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in

conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by the superintendent or the superintendent's designee in making such a determination.

SECTION 7.38. Subsection (b), Article 42.018, Code of Criminal Procedure, is amended to read as follows:

(b) Not later than the fifth day after the date a person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, is convicted or granted deferred adjudication on the basis of an offense, the clerk of the court in which the conviction or deferred adjudication is entered shall provide to the Texas Education Agency and the Educators' Professional Practices ~~[State] Board [for Educator Certification]~~ written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

SECTION 7.39. Subsection (a), Section 654.011, Government Code, is amended to read as follows:

(a) The position classification plan and the salary rates and provisions in the General Appropriations Act apply to all hourly, part-time, temporary, and regular, full-time salaried employments in the state departments, agencies, or judicial entities specified in the articles of the General Appropriations Act that appropriate money to:

- (1) general government agencies;
- (2) health and human services agencies;
- (3) the judiciary, except for judges, district attorneys, and assistant district attorneys;
- (4) public safety and criminal justice agencies;
- (5) natural resources agencies;
- (6) business and economic development agencies;
- (7) regulatory agencies; and
- (8) agencies of public education, but only the Texas Education Agency, the Texas School for the Blind and Visually Impaired, ~~[the State Board for Educator Certification]~~, the Telecommunications Infrastructure Fund, and the Texas School for the Deaf.

SECTION 7.40. Subdivision (7), Section 821.001, Government Code, is amended to read as follows:

(7) "Employer" means any agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education and ~~[7] the Texas Education Agency [7, and the State Board for Educator Certification]~~.

SECTION 7.41. Section 821.103, Government Code, is amended to read as follows:

Sec. 821.103. REVOCATION ~~[CANCELLATION]~~ OF TEACHER CERTIFICATE. (a) After receiving notice from the board of trustees of an offense under Section 821.101 and after complying with Chapter 2001 and rules adopted by the Educators' Professional Practices ~~[State] Board [for Educator Certification]~~, the board ~~[State Board for Educator Certification]~~ may revoke ~~[cancel]~~ the teacher certificate of a person if the board ~~[State Board for Educator Certification]~~ determines that the person committed the offense.

(b) The Educators' Professional Practices ~~[executive director of the State] Board [for Educator Certification]~~ may enter into an agreed sanction.

(c) A criminal prosecution of an offender under Section 821.101 is not a prerequisite to action by the Educators' Professional Practices ~~[State] Board [for Educator Certification or its executive director]~~.

SECTION 7.42. Subsection (a), Section 2054.352, Government Code, as amended by S.B. No. 411, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

- 172-1 (1) Texas Board of Chiropractic Examiners;
- 172-2 (2) Court Reporters Certification Board;
- 172-3 (3) State Board of Dental Examiners;
- 172-4 (4) Texas Funeral Service Commission;
- 172-5 (5) Texas Board of Professional Land Surveying;
- 172-6 (6) Texas State Board of Medical Examiners;
- 172-7 (7) Board of Nurse Examiners;
- 172-8 (8) Texas Optometry Board;
- 172-9 (9) Texas Structural Pest Control Board;
- 172-10 (10) Texas State Board of Pharmacy;
- 172-11 (11) Executive Council of Physical Therapy and
- 172-12 Occupational Therapy Examiners;
- 172-13 (12) Texas State Board of Plumbing Examiners;
- 172-14 (13) Texas State Board of Podiatric Medical Examiners;
- 172-15 (14) Board of Tax Professional Examiners;
- 172-16 (15) Polygraph Examiners Board;
- 172-17 (16) Texas State Board of Examiners of Psychologists;
- 172-18 (17) State Board of Veterinary Medical Examiners;
- 172-19 (18) Texas Real Estate Commission;
- 172-20 (19) Texas Appraiser Licensing and Certification
- 172-21 Board;
- 172-22 (20) Texas Department of Licensing and Regulation;
- 172-23 (21) Texas State Board of Public Accountancy;
- 172-24 (22) Educators' Professional Practices [State] Board
- 172-25 [~~for Educator Certification~~];
- 172-26 (23) Texas Board of Professional Engineers;
- 172-27 (24) Department of State Health Services;
- 172-28 (25) Texas Board of Architectural Examiners;
- 172-29 (26) Texas Racing Commission;
- 172-30 (27) Commission on Law Enforcement Officer Standards
- 172-31 and Education; ~~and~~
- 172-32 (28) Texas Private Security Board; and
- 172-33 (29) Texas Education Agency.

172-34 SECTION 7.43. Subsection (b), Section 504.002, Occupations  
 172-35 Code, is amended to read as follows:

172-36 (b) This chapter does not apply to an activity or service of  
 172-37 a person who:

172-38 (1) is employed as a counselor by a federal  
 172-39 institution and is providing chemical dependency counseling within  
 172-40 the scope of the person's employment;

172-41 (2) except as provided by Section 504.1515 [~~504.057~~],  
 172-42 is a student, intern, or trainee pursuing a supervised course of  
 172-43 study in counseling at a regionally accredited institution of  
 172-44 higher education or training institution, if the person:

172-45 (A) is designated as a "counselor intern"; and

172-46 (B) is engaging in the activity or providing the  
 172-47 service as part of the course of study;

172-48 (3) is not a resident of this state, if the person:

172-49 (A) engages in the activity or provides the  
 172-50 service in this state for not more than 30 days during any year; and

172-51 (B) is authorized to engage in the activity or  
 172-52 provide the service under the law of the state of the person's  
 172-53 residence;

172-54 (4) is a licensed physician, psychologist,  
 172-55 professional counselor, or social worker;

172-56 (5) is a religious leader of a congregation providing  
 172-57 pastoral chemical dependency counseling within the scope of the  
 172-58 person's duties;

172-59 (6) is working for or providing counseling with a  
 172-60 program exempt under Subchapter C, Chapter 464, Health and Safety  
 172-61 Code; or

172-62 (7) is a school counselor certified under Subchapter  
 172-63 B, Chapter 21, Education Code [~~by the State Board for Educator~~  
 172-64 ~~Certification~~].

172-65 SECTION 7.44. Sections 21.036, 21.040, 21.042, and 21.047,  
 172-66 Education Code, are repealed.

172-67 SECTION 7.45. (a) The State Board for Educator  
 172-68 Certification is abolished, and all powers, duties, personnel,  
 172-69 property, assets, and obligations of the board are transferred to

the Educators' Professional Practices Board and the Texas Education Agency, as determined appropriate by the commissioner of education. The validity of a prior action of the State Board for Educator Certification is not affected by the abolishment, and any pending activities of the State Board for Educator Certification shall be deemed to have continued without interruption or material change.

(b) The powers and duties of the Educators' Professional Practices Board, as created by this Act, shall continue to be exercised by the State Board for Educator Certification until the initial appointees of the Educators' Professional Practices Board assume their offices, which may not be later than January 1, 2006.

(c) All rules of the State Board for Educator Certification relating to a transferred power or duty remain in effect as rules of the Educators' Professional Practices Board or commissioner of education, as appropriate, until amended or repealed by the board or commissioner.

(d) A contested case, rulemaking procedure, program, test, fee, contract, review, evaluation, sanction, act, or decision of the State Board for Educator Certification that is pending, completed, or in effect on the effective date of this Act shall be deemed that of the commissioner of education or the Educators' Professional Practices Board to the extent authorized by Subchapter B, Chapter 21, Education Code, as amended by this article, or other law, until and unless a change is expressly made by the commissioner or the board, as appropriate.

(e) As soon as practicable after the effective date of this article and not later than December 1, 2005, the commissioner of education shall make initial appointments to the Educators' Professional Practices Board. In making the initial appointments, the commissioner shall designate four members to serve terms expiring February 1, 2007, four members to serve terms expiring February 1, 2009, and three members to serve terms expiring February 1, 2011.

(f) A person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, as it existed on January 1, 2005, may continue to practice under that certificate until the certificate is renewed or replaced under Subchapter B, Chapter 21, Education Code, as amended by this article.

(g) The code of ethics adopted under Subchapter B, Chapter 21, Education Code, by the State Board for Educator Certification and in effect on the effective date of this article remains in effect until superseded by rules of the Educators' Professional Practices Board.

#### ARTICLE 8. TEXAS SCHOOL FOR THE DEAF

SECTION 8.01. Section 30.051, Education Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The Texas School for the Deaf is a state agency established to provide educational services to persons who are 21 years of age or younger on September 1 of any school year, ~~and~~ who are deaf or hard of hearing, and who may have one or more other disabilities. The school shall provide~~+~~

~~[(1)] comprehensive educational services, on a day or residential basis, and~~~~+~~

~~[(2)] short-term services to allow a student to better achieve educational results from services available in the community. The school is not intended to serve:~~

(1) students whose needs are appropriately addressed in a home or hospital setting or a residential treatment facility; or

(2) students whose primary, ongoing needs are related to a severe or profound emotional, behavioral, or cognitive deficit~~+, and~~

~~[(3) services for any student who is deaf or hard of hearing and also has an additional disability and who requires a specialized support program but does not require a residential treatment facility].~~

(e) If a school district or another educational entity requests an assessment of a student's educational or related needs

related to hearing impairment, the school may conduct an assessment and charge a reasonable fee for the assessment.

SECTION 8.02. Subsection (d), Section 30.053, Education Code, is amended to read as follows:

(d) The board shall annually establish the superintendent's salary. The annual salary ~~[must be based on not more than 230 days of service and]~~ may not exceed 120 percent of the annual salary of the highest paid instructional administrator at the school.

SECTION 8.03. Section 30.055, Education Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) The governing board of the school may enter into an employment contract with any employee who provides, or supervises any employee who provides, direct and regular educational services to students or who provides other professional, educational services. An employee employed under this subsection is not subject to Section 2252.901, Government Code. Each teacher shall be employed under a term contract as provided by Subchapter E, Chapter 21, or under a probationary contract as provided by Subchapter C, Chapter 21. An employee employed under a contract under this subsection:

(1) shall be paid in accordance with a salary structure adopted by the superintendent with the concurrence of the board that provides salaries, including assignment stipends, equal, on a daily-rate basis, to salaries, including assignment stipends, paid to employees employed in comparable positions by the Austin Independent School District;

(2) is not eligible for longevity pay under Subchapter D, Chapter 659, Government Code, and is not entitled to a paid day off from work on any national or state holiday;

(3) is eligible for sick leave accrual under the General Appropriations Act in each month in which at least one day of the month is included in the term of the employment contract and in any other month in which work is performed or paid leave is taken;

(4) may be permitted by the board to use a maximum of four days per contract term of accrued sick leave for personal reasons as designated by the board but the number of sick leave days not used for personal reasons during a contract term may not be carried forward to a subsequent contract term for use as personal leave;

(5) shall be paid the salary designated in the employment contract in 12 ~~[equal]~~ monthly installments if the employee chooses to be paid in that manner; ~~[and]~~

(6) shall work the hours established by the superintendent; and

(7) in addition to the contract salary received during the employee's first year of employment with the school and for the purpose of reducing a vacancy in a position that is difficult to fill because of the specialized nature and the limited number of qualified applicants, may be paid a salary supplement, not to exceed any salary supplement paid by the Austin Independent School District to an employee employed in a comparable position [board].

(g) The school may pay to a teacher or employee who provides services or supervises an employee who provides services as described by Subsection (b) and who is employed to provide short-term services under Section 30.051(a) a salary that, on a daily-rate basis, does not exceed the salary paid by the Austin Independent School District to an employee employed in a comparable position during the regular school year.

#### ARTICLE 9. REPEALER; EFFECTIVE DATE

SECTION 9.01. Effective on the 91st day after the last day of the legislative session, the following provisions are repealed:

(1) Sections 1, 2, and 3, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003;

(2) Section 4, S.B. No. 23, Acts of the 79th Legislature, Regular Session, 2005;

(3) Section 21.357, Subsections (b) and (e), Section 21.402, Subsection (h), Section 29.056, Subsections (b), (c), and

(f), Section 39.027, Subsection (d), Section 39.051, and Sections 39.073, 39.074, and 39.112, Education Code;

(4) Subsection (b), Section 1579.253, Insurance Code; and

(5) Subchapter O, Chapter 1581, Insurance Code.  
SECTION 9.02. Effective September 1, 2006, the following provisions are repealed:

(1) Subchapters B, C, E, F, and G, Chapter 41, Education Code;

(2) Chapter 42, Education Code, as it existed on January 1, 2006;

(3) Subsections (c) and (g), Section 29.203, Subsection (e), Section 39.024, Sections 41.001, 41.002, 41.003, 41.0031, and 41.007, Subsection (b), Section 41.009, Sections 41.011, 41.092, and 41.099, Subsection (b), Section 41.252, Subsections (c) and (d), Section 44.004, and Subsection (f), Section 105.301, Education Code;

(4) Subsection (j), Section 403.302, Government Code;

(5) Subsection (b), Section 1581.053, Insurance Code;

(6) Subchapter C, Chapter 1581, Insurance Code; and

(7) Subsection (g), Section 6.02, Subsection (m), Section 6.03, Subsection (b), Section 21.02, and Subsections (k), (l), and (m), Section 26.08, Tax Code.

SECTION 9.03. Except as otherwise specifically provided by this Act, this Act takes effect on the 91st day after the last day of the legislative session, but only if H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005, or similar legislation enacted by the 79th Legislature, 2nd Called Session, 2005, becomes law. If H.B. No. 3, Acts of the 79th Legislature, 2nd Called Session, 2005, or similar legislation enacted by the 79th Legislature, 2nd Called Session, 2005, does not become law, this Act has no effect.

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