

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 422
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Government Organization
4/25/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The 51st Legislature created the Central Education Agency in 1949, consisting of the State Board of Education (SBOE), the state commissioner of education (commissioner), and the state department of education (department). In 1995, the 74th Legislature abolished the Central Education Agency and transferred its duties to the Texas Education Agency (TEA) and specified powers and duties for the commissioner and SBOE separately. TEA's current mission is to provide leadership, guidance, and resources to help schools meet the educational needs of all students.

TEA and the regional education service centers are subject to the Sunset Act and will be abolished on September 1, 2005, unless continued by the legislature.

C.S.S.B. 422 contains the Sunset Advisory Commission's recommendations to continue TEA and several statutory recommendations that address areas needing improvement. In addition, C.S.S.B. 422 includes the Sunset Advisory Commission's recommendations to continue the regional education service centers and require training for the boards of directors.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1.07 (Section 7.0571, Education Code), SECTION 1.09 (Section 8.0031, Education Code), SECTION 1.11 (Section 12.005, Education Code), SECTION 1.22 (Section 33.202, Education Code), SECTION 1.30 (Section 39.076, Education Code), SECTION 1.31 (Section 39.078, Education Code), and SECTION 1.36 (Section 45.0561, Education Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is transferred to the commissioner of education in SECTION 1.27 (Section 39.072, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Education Agency is transferred to the Texas Commission of Licensing and Regulation in SECTION 2.04 (Section 1001.052, Education Code), SECTION 2.09 (Section 1001.055, Education Code), SECTION 2.10 (Section 1001.056, Education Code), and SECTION 2.13 (Section 1001.102, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is transferred to the Texas Commission of Licensing and Regulation in SECTION 2.08 (Section 1001.054, Education Code), SECTION 2.10 (Section 1001.056, Education Code), SECTION 2.13 (Section 1001.101, Education Code), SECTION 2.16 (Section 1001.106, Education Code), SECTION 2.17 (Section 1001.107, Education Code), and SECTION 2.18 (Section 1001.108, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS EDUCATION AGENCY AND REGIONAL EDUCATION SERVICE CENTERS

SECTION 1.01. Amends Section 5.001, Education Code, by adding Subdivision (1-a), to define "charter school."

SECTION 1.02. Amends Section 7.004, Education Code, as follows:

Sec. 7.004. SUNSET PROVISION. Provides that the Texas Education Agency (TEA) is subject to Chapter 325, Government Code (Texas Sunset Act), and, unless continued in existence as provided by that chapter, TEA is abolished on September 1, 2017, rather than 2005.

SECTION 1.03. Amends Subchapter A, Chapter 7, Education Code, by adding Section 7.010, as follows:

Sec. 7.010. BEST PRACTICES. (a) Requires TEA and the regional education service centers to solicit and collect from exemplary or recognized school districts and open-enrollment charter schools, as rated under Section 39.072, best practices information, and to disseminate that information. Requires TEA and the regional education service centers to enter into a memorandum of understanding that establishes the respective duties of TEA and the regional education service centers in soliciting, collecting, and disseminating the best practices information.

(b) Sets forth specific best practices information which is authorized to be included.

(c) Requires the best practices information to include information collected by TEA or a regional education service center concerning the effective use of online courses and sets forth specific information which must be included.

(d) Provides that TEA and the regional education service centers are not required to evaluate and are prohibited from endorsing the best practices information collected under this section.

(e) Requires TEA and the regional education service centers to develop incentives for school districts and open-enrollment charter schools to implement best practices.

SECTION 1.04. Redesignates and amends Section 7.027, Education Code, as added by Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, as Section 7.028, Education Code, as follows:

Sec. 7.028. LIMITATION ON COMPLIANCE MONITORING. Redesignated from existing text of Section 7.027. Deletes existing text relating to an exception to this section provided by Section 39.074.

SECTION 1.05. Amends Subchapter B, Chapter 7, Education Code, by adding Sections 7.032 and 7.033, as follows:

Sec. 7.032. RECORDS OF COMPLAINTS. Requires TEA to maintain a system to promptly and efficiently act on complaints filed with TEA that TEA has the authority to resolve. Sets forth specific information which must be maintained by TEA. Requires TEA to make information available describing its procedures for complaint investigation and resolution and to periodically notify the parties of the status of the complaint until final disposition of the complaint.

Sec. 7.033. COMPREHENSIVE MONITORING SYSTEM. Requires TEA, to the extent permissible under Section 7.028, to 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. Requires the system to incorporate performance and compliance information collected by various TEA divisions for each school district and charter school, including information relating to specific issues.

SECTION 1.06. Amends Sections 7.057(a) and (d), Education Code, as follows:

(a) Authorizes a person, except as provided by Subsection (e) or Section 7.0571, to appeal in writing to the commissioner if the person is aggrieved by certain laws or actions.

(d) Authorizes a person aggrieved by an action of TEA or decision of the commissioner, except as provided by Section 7.0571, Education Code, to appeal to a district court in Travis County.

SECTION 1.07. Amends Subchapter C, Chapter 7, Education Code, by adding Sections 7.0571, 7.061, 7.062, and 7.063, as follows:

Sec. 7.0571. **INFORMAL REVIEW BY COMMISSIONER.** Requires the commissioner to adopt rules under which a school district, open-enrollment charter school, or other person that wishes to challenge an agency decision made under Chapter 39, 41, 42, or 46, must petition the commissioner for an informal review by the commissioner of the decision. Authorizes the commissioner to limit a review under this section to a written submission of any issue identified by the commissioner. Provides that a final decision under this section is final and is prohibited from being appealed under Section 7.057 or any other law.

Sec. 7.061. **TECHNOLOGY POLICY.** Requires the commissioner to implement a policy requiring TEA to use appropriate technological solutions to improve TEA's ability to perform its functions. Requires said policy to ensure that the public is able to interact with TEA on the Internet.

Sec. 7.062. **NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION.** Requires the commissioner to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of TEA rules, and appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under TEA's jurisdiction. Requires TEA's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies. Requires the commissioner to designate a trained person to perform specific functions relating to the policy adopted under this section.

Sec. 7.063. **ASSESSMENT OF EDUCATOR WORKLOAD IN ADOPTION OF RULES.** Requires the commissioner, before adopting a new rule, to assess whether the proposed rule will impose additional paperwork requirements on educators and to attempt to minimize any such additional requirements.

SECTION 1.08. Amends Chapter 7, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. PERFORMANCE-BASED GRANT SYSTEM

Sec. 7.151. **PERFORMANCE-BASED GRANT SYSTEM.** Requires TEA to implement a comprehensive, performance-based grant system to collect and report grant performance and spending information in making future grants. Sets forth specific requirements for the grant system.

Sec. 7.152. **GRANT PROGRAM PROCEDURES.** Requires TEA to ensure that the mission, purpose, and objectives of each TEA grant program supports student academic performance or another public education mission, objective, or goal specified under Sections 4.001 and 4.002, Education Code, each TEA grant program coordinates with other grant programs administered by TEA, grant programs with similar objectives have common performance measures, and the most efficient method for coordinating grant objectives, grant activities, academic performance measures, and funding are used in TEA's grant application and reporting systems.

Sec. 7.153. GRANT ELIGIBILITY NOTIFICATION. Authorizes TEA to 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. Requires TEA to 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 TEA.

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

Sec. 7.156. BEST PRACTICES GRANT INFORMATION. Requires TEA, in coordination with regional education service centers, to use data relating to grant programs, including grant spending and performance information, to identify successful grant programs. Requires each regional education service center, based on the identification of successful grant programs, to provide information concerning those programs to the school districts in the service center's region. Provides that application of this section begins with the 2009-2010 school year and that this subsection expires June 1, 2010.

Sec. 7.157. DEVELOPMENT OF GRANT SYSTEM. Requires TEA, in developing the performance-based grant system, to identify each area of data collected for grant programs and the method in which TEA collects the data, determine whether grant data that a school district or charter school is required to collect is useful and supports certain objectives and goals, determine whether grant data is analyzed and disseminated efficiently, and review TEA's policies, procedures, and reporting requirements relating to grant programs administered by TEA to simplify and make more efficient certain processes. Provides that this section expires June 1, 2010.

Sec. 7.158. GRANT ADMINISTRATION DURING CERTAIN SCHOOL YEARS; STATUS REPORT. Requires TEA, not later than January 1, 2007, to provide the legislature with a status report concerning TEA's development of the grant system. Authorizes the report to suggest any statutory changes needed to facilitate a full transition to a performance-based grant system. Requires TEA, beginning with the 2009-2010 school year, to make the performance-based grant system fully available to school districts and charter schools. Provides that this section expires June 1, 2010.

SECTION 1.09. Amends Subchapter A, Chapter 8, Education Code, by adding Section 8.0031, as follows:

Sec. 8.0031. TRAINING FOR MEMBERS OF BOARD OF DIRECTORS. Requires the commissioner to adopt rules prescribing training requirements for members of regional education service center boards of directors. Authorizes specific curriculum to be included in the training curriculum. Requires a member of a regional education service center board of directors to complete any training required by commissioner rule.

SECTION 1.10. Amends Section 8.051(b), (c), and (d), Education Code, as follows:

(b) Requires each plan submitted under this subsection to include the purposes and description of the services a regional education service center will provide to campuses rated academically unacceptable under Section 39.072, rather than campuses identified as low-performing based on the indicators adopted under Section 39.051.

(c) Requires each regional education service center to provide services that enable school districts to operate more efficiently and economically, including collecting and disseminating best practices information as provided by Section 7.010 and information concerning successful grant programs to school districts as provided by Section 7.156.

(d) Requires each regional education service center to maintain core services for purchase by school districts and campuses, including assistance specifically designed for a school district or campus rated academically unacceptable under Section 39.072, rather

than 39.072(a) or a campus whose performance is considered unacceptable based on the indicators adopted under Section 39.051.

SECTION 1.11. Amends Subchapter A, Chapter 12, Education Code, by adding Sections 12.004 and 12.005, as follows:

Sec. 12.004. **MONITORING OF CERTAIN CHARTER SCHOOLS.** Provides that this section applies only to certain charter schools. Requires TEA to monitor a charter school to which this section applies to make certain assessments.

Sec. 12.005. **FINANCIAL ACCOUNTABILITY.** (a) Defines "parent" and "system."

(b) Requires the commissioner to develop and implement a financial accountability rating system for charter schools. Requires the system to include uniform indicators adopted by the commissioner by which to measure a charter school's financial management performance.

(c) Requires the commissioner to develop, as part of the system, a specific reporting procedure.

(d) Requires the annual financial management report to include specific information.

(e) Authorizes the report to include specific information.

(f) Requires the governing body of each charter school to hold a public hearing on the report and to provide notice of the hearing to the parents of students enrolled in the school. Requires notice of the hearing, in addition to other notice required by law, to be provided through specific media.

(g) Requires the governing body of the charter school, after the hearing, to provide the report to the parents of students enrolled in the school.

(h) Requires the commissioner to adopt rules as necessary for the administration of this section.

SECTION 1.12. Amends Section 12.013(b), Education Code, to provide that a home-rule school district is subject to elementary class size limits under Section 25.112, in the case of any campus in the district that is rated academically unacceptable under Section 39.072, rather than considered low-performing under Section 39.132.

SECTION 1.13. Amends Section 12.115, Education Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the action the commissioner takes under Subsection (a) to be based on specific factors, including the extent to which the school is in compliance with any state or federal programmatic or financial requirements applicable to the school.

(c) Prohibits this section from being construed to limit the commissioner's authority to impose a sanction under Subchapter G, Chapter 39.

SECTION 1.14. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1151, as follows:

Sec. 12.1151. **CLOSURE AND REVOCATION OR DENIAL OF RENEWAL BECAUSE OF UNSATISFACTORY PERFORMANCE.** Requires the commissioner to order the closure and revoke or deny the renewal of a charter of an open-enrollment charter school under Section 12.115 in certain circumstances. Provides that a hearing concerning the closure and revocation or denial of renewal of a charter of an open-enrollment charter school under this section is limited to specific issues and is prohibited

from being used to challenge the commissioner's final academic performance rating for the open-enrollment charter school or a campus operated under the charter.

SECTION 1.15. Amends Section 12.116, Education Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Amends the specific requirements for the location of a hearing under this subsection.

(d) Provides that a decision by the commissioner under this section is final and is prohibited from being appealed.

SECTION 1.16. Amends Section 21.453(b), Education Code, to make a conforming change.

SECTION 1.17. Amends Subchapter A, Chapter 29, Education Code, by adding Sections 29.0162 and 29.0163, as follows:

Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE PROCESS HEARINGS. Requires TEA to make available to a parent, student, school district, attorney, or other interested person, and to place on TEA's Internet website, comprehensive, easily understood information concerning the special education due process hearing process. Sets forth specific items to be included in the information.

Sec. 29.0163. COLLECTION AND ANALYSIS OF INFORMATION CONCERNING SPECIAL EDUCATION HEARING OFFICERS. Provides that Section 7.032 applies to any complaint regarding the conduct of a special education hearing officer. Requires TEA to 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 the effectiveness of the due process hearing process and the performance of a special education hearing officer. Requires TEA to use the information described by Subsection (b) in determining whether to renew a contract with a special education hearing officer.

SECTION 1.18. Amends Section 29.202(a), Education Code, to make conforming changes.

SECTION 1.19. Amends Subchapter H, Chapter 29, Education Code, by adding Section 29.258, as follows:

Sec. 29.258. DEVELOPMENT OF WORKPLACE LITERACY AND BASIC SKILLS CURRICULUM. (a) Defines "local workforce development board."

(b) Requires TEA to develop a demand-driven workplace literacy and basic skills curriculum aimed at assisting local workforce development boards to equip workers and job seekers with the skills necessary to compete for current and emerging jobs in this state.

(c) Sets forth specific requirements for TEA in developing the general curriculum required by Subsection (b).

(d) Requires TEA, based on the curriculum developed under this section, to adopt workforce basic skills credentials to be used to define, measure, and certify the mastery of the basic skills required by the curriculum developed under this section.

(e) Requires TEA, in addition to the curriculum developed under this section, to develop and implement a plan to encourage participants who successfully complete the curriculum to pursue postsecondary educational opportunities leading to certificates and degrees.

(f) Requires the Texas Workforce Commission to provide TEA with the resources, industry-specific information, and expertise needed by TEA in developing and implementing the curriculum under this section.

(g) Provides that this section expires September 1, 2007.

SECTION 1.20. Amends Section 31.025, Education Code, by adding Subsection (a-1), to require TEA to recommend to the State Board of Education (SBOE) a limit on the cost that may be paid from the state textbook fund for a textbook placed on the nonconforming list that is prorated in relation to the percentage of elements of the essential knowledge and skills of the subject and grade level that are missing from the textbook.

SECTION 1.21. Amends Sections 31.1011(a)-(c), Education Code, as follows:

(a) Requires the commissioner to implement a program that allows a school district or open-enrollment charter school, rather than a program to study the use of credits for textbooks, which is required to be designed to allow a participating school district or open-enrollment charter school, to receive credit for textbooks purchased at a cost below the cost limit established under Section 31.025(a).

(b) and (c) Makes conforming changes.

SECTION 1.22. Amends Chapter 33, Education Code, by adding Subchapter F, as follows:

SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR ACTIVITIES

Sec. 33.201. **APPLICABILITY.** Provides that 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) Requires the commissioner, by rule, to develop and adopt a safety training program as provided by this section. Authorizes the commissioner, in developing the program, to use materials available from the American Red Cross or another appropriate entity.

(b) Sets forth specific persons who must satisfactorily complete the safety training program.

(c) Sets forth specific certifications and training which must be included in the safety training program.

(d) Requires a student participating in an extracurricular athletic activity to receive specific training.

(e) Authorizes the safety training program and the training under Subsection (d) to each be conducted by a school or school district or by an organization described by Subsection (c)(1).

(f) Provides that a physician who is employed by a school or school district, or who volunteers to assist with an extracurricular 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. 33.203. **COMPLETION OF UNIVERSITY INTERSCHOLASTIC LEAGUE MEDICAL HISTORY FORM.** Requires each student participating in an extracurricular athletic activity to complete specific University Interscholastic League (UIL) forms, which must be signed by both the student and the student's parent or guardian. Requires each of those forms to clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by UIL as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by UIL. Requires the "Preparticipation Physical Evaluation--Medical History" form to contain a specific statement.

Sec. 33.204. CERTAIN UNSAFE ATHLETIC ACTIVITIES PROHIBITED. Prohibits a coach, trainer, or sponsor for an extracurricular athletic activity from encouraging or permitting 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. 33.205. CERTAIN SAFETY PRECAUTIONS REQUIRED. Requires a coach, trainer, or sponsor for an extracurricular athletic activity, at each athletic practice or competition, to ensure that certain safety precautions are met. Prohibits a student who is participating in any extracurricular athletic activity, including a practice or competition, if the student is rendered unconscious during the activity, from returning to the practice or competition during which the student was rendered unconscious or continuing to participate in any extracurricular athletic activity until the student receives written authorization from a physician.

Sec. 33.206. COMPLIANCE; ENFORCEMENT. Requires a school, on request, to 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. Requires the superintendent of a school district or the director of a school subject to this subchapter to maintain complete and accurate records of the district's or school's compliance with Section 33.202. Requires a school campus that is determined by the school's superintendent or director not to be in compliance with Section 33.202, 33.204, or 33.205, to discontinue all extracurricular 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. 33.207. CONTACT INFORMATION. Requires the commissioner to maintain an existing telephone number and an electronic mail address to allow a person to report a violation of this subchapter. Requires each school that offers an extracurricular athletic activity to prominently display at the administrative offices of the school the telephone number and electronic mail address maintained under Subsection (a).

Sec. 33.208. NOTICE REQUIRED. Requires a school that offers an extracurricular athletic activity to 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 33.201-33.207 and a copy of UIL's parent information manual.

Sec. 33.209. INCORPORATION OF SAFETY REGULATIONS. Requires UIL to incorporate the provisions of Sections 33.203-33.207 into the league's constitution and contest rules.

Sec. 33.210. IMMUNITY FROM LIABILITY. Provides that an action taken under this subchapter is not considered to be a ministerial act for purposes of Section 22.0511.

SECTION 1.23. Amends Subchapter D, Chapter 33, Education Code, by adding Section 33.087, as follows:

Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL DEFIBRILLATORS. Requires TEA and UIL, using existing funds and other resources available for the purpose, to 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 UIL member schools, and the possibility of receiving a bulk discount on such purchases. Requires TEA and UIL to submit a report describing the findings of the investigation to the legislature not later than June 1, 2006. Provides that this section expires July 1, 2006.

SECTION 1.24. Amends Subchapter B, Chapter 39, Education Code, by adding Section 39.0232, as follows:

Sec. 39.0232. SECURITY IN ADMINISTRATION OF ASSESSMENT INSTRUMENTS. Requires TEA to make every effort to ensure the appropriate administration of assessment instruments under Section 39.023 and to protect the integrity of the assessment program established under this subchapter.

SECTION 1.25. Amends Section 39.053(a), Education Code, to require the annual report required under this section to include the academic performance rating for a district and each campus in the district as provided under Section 39.072, rather than 39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(c) and to make nonsubstantive changes.

SECTION 1.26. Amends Section 39.055, Education Code, as follows:

Sec. 39.055. New heading: AUDIT OF DROPOUT RECORDS; REPORT. Authorizes the system developed by the commissioner under this section to be subject to a special accreditation investigation under Section 39.075. Deletes existing text relating to specific requirements for on-site monitoring of dropout records. Requires the commissioner to notify the superintendent, rather than 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.

SECTION 1.27. Amends Sections 39.071 and 39.072, Education Code, as follows:

Sec. 39.071. ACCREDITATION. (a) Creates this subsection from existing text. Provides that accreditation of a school district is determined in accordance with this section, rather than subchapter.

(b) Requires the commissioner, each year, to determine the accreditation status of each school district. Requires the commissioner to evaluate and consider specific factors in making such a determination.

(c) Requires the commissioner, based on a school district's performance under Subsection (b), to assign a district an accreditation status of accredited, accredited-warned, or accredited-probation, or revoke the accreditation of the district and order closure of the district under Section 39.1332.

(d) Requires the commissioner to 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. Requires the commissioner to 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) Prohibits a school district that is not accredited from receiving funds from the agency or holding itself out as operating a public school of this state.

(f) Prohibits this chapter from being 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. New heading: ACADEMIC ACCOUNTABILITY SYSTEM. (a) Requires the commissioner to adopt rules for assigning to each school district and campus a specific performance rating. Deletes existing text requiring the State Board of Education to adopt rules to evaluate the performance of school districts and to assign to each district a specific performance rating.

(b) Requires the academic excellence indicators adopted under Section 39.051(b), rather than Sections 39.051(b)(1) through (7) and the district's current special education compliance status with TEA, to be the main considerations of a school district or campus under this section. Deletes existing text authorizing additional

criteria in the rules to include consideration of certain other requirements and data.

(c) Requires TEA to evaluate and, not later than August 15 of each year, report the performance of each school district and campus. Deletes existing text relating to an evaluation of open-enrollment charter schools on the basis of specific performance indicators and makes conforming changes.

(d) Requires TEA to 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. Authorizes the commissioner to 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 acknowledgement.

(e) Requires each annual review to include an analysis of the indicators under Section 39.051 to determine district and campus performance in relation to state standards established for each indicator, required improvement as defined under Section 39.051(c), and comparable improvement as determined under Section 39.051(c).

(f) Authorizes the academic performance rating of a school district to be raised or lowered based on the district's performance or to be lowered based on the unacceptable performance of one or more campuses in the district. Authorizes the academic performance rating of a school district to also be lowered based on a determination that data provided to TEA by the district that is necessary for conducting an annual review under this section is unreliable.

(g) Requires the commissioner to notify a school district if the performance of the district or a campus in the district is below a standard required under this section. Requires the commissioner to 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) Provides that, notwithstanding any other provision of this code, for purposes of determining the performance of a school district or open-enrollment charter school under this chapter, including the academic performance rating, rather than accreditation status, of the district or school, a student attending a campus that is a 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, rather than a student confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission, is not considered to be a student of the school district or open-enrollment charter school serving the student, rather than of the school district in which the program or facility is physically located. Prohibits the performance of a student who attends such a campus from being used to determine the rating of the school district or open-enrollment charter school unless the campus is the only campus operated by the district or school. Deletes existing text providing that the performance of such a student is considered separately from the performance of students attending a school of the district in which the program or facility is physically located.

SECTION 1.28. Amends Section 39.075(a), Education Code, to authorize, rather than require, the commissioner to authorize special accreditation investigations to be conducted in certain circumstances. Amends the specific circumstances in which such investigations are authorized to be conducted.

SECTION 1.29. Reenacts and amends Section 39.075(c), Education Code, as amended by Chapters 396 and 931, Acts of the 77th Legislature, Regular Session, 1999, to authorize the

commissioner, based on the results of a special accreditation investigation, to raise or lower the district's accreditation status, rather than rating.

SECTION 1.30. Amends Section 39.076, Education Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (c), as follows:

(a) Requires TEA to adopt written procedures for conducting investigations, rather than on-site investigations, under this subchapter.

(a-1) Authorizes an investigation conducted under this subchapter to be an on-site, desk, or data-based investigation as determined by the commissioner.

(a-2) Authorizes the investigators, if conducting an on-site investigation, to obtain information from administrators, teachers, or parents of students enrolled in the school district. Requires the commissioner to adopt rules for obtaining information from parents and using that information in the investigator's report and obtaining information from teachers in a manner that prevents a campus or district from screening the information.

(a-3) Authorizes TEA to give written notice of any impending on-site investigation to the superintendent and the board of trustees of a school district.

(c) Requires the investigators conducting an on-site investigation to 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 to make recommendations concerning any necessary improvements or sources of aid, such as regional education service centers.

SECTION 1.31. Amends Subchapter D, Chapter 39, Education Code, by adding Sections 39.077 and 39.078, as follows:

Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. Requires a school district, open-enrollment charter school, or other person that wishes to challenge a decision to assign or lower an accreditation status, an academic performance rating, or a financial accountability rating to petition for an informal review as provided by Section 7.0571. Provides that 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 is prohibited from being appealed.

Sec. 39.078. RULES. Authorizes the commissioner to adopt rules as necessary to administer this subchapter.

SECTION 1.32. Amends Sections 39.131, 39.132, and 39.133, as follows:

Sec. 39.131. SANCTIONS FOR DISTRICTS. Requires the commissioner, 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, to take any of several specific actions. Amends the list of specific actions the commissioner is required to take under this section.

Sec. 39.132. SANCTIONS FOR CAMPUSES. Authorizes the commissioner, if a campus receives an academic performance rating of academically unacceptable under Section 39.072, to permit the campus to participate in an innovative redesign of the campus or take certain other actions. Deletes existing text providing that, if a campus performance is below any standard under Section 39.073(b), the campus is considered a low-performing campus. Requires the commissioner, if a campus has been rated academically unacceptable for two or more consecutive school years, including the current school year, to order the closure of the district or charter program on the campus or reconstitute the campus. Makes conforming changes.

Sec. 39.133. ANNUAL REVIEW. Requires the commissioner to review annually the performance of a district or campus subject to sanction under this subchapter to determine the appropriate actions to be implemented under this subchapter. Requires the

determination to take into account the number, severity, and duration of the problems identified. Deletes existing text requiring the commissioner to conduct an annual performance review of a district for which the accreditation rating has been lowered due to certain circumstances. Requires the commissioner to 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 prohibits the commissioner from raising the rating until the district has demonstrated improved student performance.

SECTION 1.33. Amends Subchapter G, Chapter 39, Education Code, by adding Sections 39.1331, 39.1332, and 39.1333, as follows:

Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. Authorizes the commissioner, in addition to other sanctions authorized under Sections 39.131 and 39.132, to 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. Authorizes the commissioner's order to require the district or campus to take specific actions.

Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS. (a) Authorizes the commissioner to revoke the accreditation of a school district and order the closure of the district or campus, as appropriate, under certain circumstances.

(b) Requires the commissioner to 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. Authorizes an order of closure to include specific provisions and make specific requirements.

(c) Provides that 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) Authorizes a board of managers exercising authority under Subsection (b)(2) to exercise the authority of the board of trustees with regard to financial management of the district and personnel actions. Provides that the board of managers is not required to be composed of residents of the district.

(e) Provides that 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.

Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. Requires a school district, open-enrollment charter school, or other person 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, to petition for an informal review as provided by Section 7.0571. Provides that 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. Prohibits a school district from collaterally contesting 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 1.34. Amends Section 39.134, Education Code, to require the costs of providing a service provider under Section 39.1331 to be paid by the district.

SECTION 1.35. Amends Section 39.182, Education Code, by adding Subsections (b-1), (b-2), and (b-3), as follows:

(b-1) Requires the report to include a summary of specific investigations and efforts made by TEA regarding the administration of assessment instruments.

(b-2) Requires the report to include an assessment of the impact of the performance based grant system developed under Subchapter E, Chapter 7, on student academic performance, including specific analyses and recommendations.

(b-3) Provides that Subsection (b-2) applies beginning January 1, 2009 and that this subsection expires February 1, 2009.

SECTION 1.36. Amends Subchapter C, Chapter 45, Education Code, by adding Section 45.0561, as follows:

Sec. 45.0561. **PRIORITY FOR CERTAIN BONDS.** Requires the commissioner, in determining which bonds to approve for guarantee under this subchapter, to give priority to a school district that has had bonds refunded and defeased under Subchapter D, Chapter 46. Authorizes the commissioner to adopt rules to administer this section.

SECTION 1.37. Amends Chapter 46, Education Code, by adding Subchapter D, as follows:

SUBCHAPTER D. REFUNDING TO INCREASE PERMANENT SCHOOL FUND CAPACITY

Sec. 46.091. **DEFINITIONS.** Defines "allocated revenue," "authority," "authority obligation," "credit agreement," and "obligation administrative expenses."

Sec. 46.092. **ISSUANCE OF AUTHORITY OBLIGATIONS.** (a) Authorizes the commissioner, if the commissioner determines it is feasible to refund eligible school district bonds as provided by this subchapter, to request that the Texas Public Finance Authority (authority) issue authority obligations necessary to accomplish the refunding. Requires the authority, on request of the commissioner, to issue authority obligations, in accordance with Title 9, Government Code, in a certain amount.

(b) Requires authority obligations and any related credit agreements to be secured by allocated revenue.

(c) Requires the commissioner's request for the issuance of authority obligations to state the maximum principal amount of bonds to be refunded under this subchapter, the maximum term of bonds to be refunded, and the amount of state assistance under Subchapter A or B to support the payment of the bonds to be refunded.

(d) Authorizes the authority to make certain determinations in order to best achieve the economic goals of this subchapter and accomplish the borrowing at the lowest practicable cost.

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

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

Sec. 46.093. **ELIGIBILITY OF BONDS FOR REFUNDING.** Provides that school district bonds are eligible for refunding under this subchapter if the district receives state assistance for payment of the bonds under Subchapter A or B and the principal and interest of the bonds are guaranteed by the permanent school fund under Subchapter C, Chapter 45.

Sec. 46.094. **IDENTIFICATION OF ELIGIBLE BONDS; NOTICE TO SCHOOL DISTRICTS.** (a) Requires the commissioner, if the commissioner determines it is

feasible to refund eligible school district bonds as provided by this subchapter, to periodically identify which outstanding bonds are eligible for refunding under this subchapter. Requires the commissioner to notify the school districts issuing the bonds of certain information relating to refunding of the bonds.

(b) Authorizes a school district, not later than the 45th day after the date the commissioner notifies the district under Subsection (a), to direct the commissioner to remove any of the district's eligible bonds from consideration for refunding under this subchapter. Provides that, if the district does not direct the commissioner to remove the district's bonds from consideration for refunding within the time prescribed by this subsection, the district is deemed to have consented to having the bonds refunded.

(c) Sets forth requirements for the notice under Subsection (a).

Sec. 46.095. **AGREEMENT BETWEEN COMMISSIONER AND AUTHORITY.** Requires the commissioner, to permit the authority to pledge allocated revenue to the payment of authority obligations, to enter into a specific agreement with the authority. Requires an agreement under this section to state that funding for allocated revenue is subject to legislative appropriation. Provides that a distribution to the authority under the agreement is considered to be a distribution for purposes of Section 46.009. Authorizes the commissioner, if the commissioner determines that the amount appropriated for any for allocated revenue is insufficient, to act under Section 46.009(b), to ensure the sufficiency of allocated revenue.

Sec. 46.096. **USE OF PROCEEDS OF AUTHORITY OBLIGATIONS.** Requires the authority to use the proceeds of authority obligations, less the cost of issuing those obligations, to refund and defease eligible bonds as requested by the commissioner. Authorizes the commissioner and the authority, on behalf of the districts issuing the bonds, to take certain actions. Requires the authority to provide to a school district whose bonds are refunded under this subchapter appropriate documentation showing that the bonds have been refunded and defeased.

Sec. 46.097. **PAYMENT OF OBLIGATION ADMINISTRATIVE EXPENSES.** Authorizes the authority, after paying the current debt service on authority obligations, to use allocated revenue to pay obligation administrative expenses.

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

(b) Requires the commissioner, if a school district elects not to reimburse the commissioner in the amount of the excess state assistance as required under Subsection (a), to direct the comptroller to withhold the amount of the excess from the succeeding payment of state assistance payable to the school district and credit the amount to the account or accounts from which the excess payment was made.

(c) Authorizes a school to reimburse the commissioner under this section from any lawfully available source.

(d) Provides that a reimbursement by a school district under this section is considered to be debt service attributable to the debt originally created by the school district's bonds that were refunded by the authority obligations.

(e) Provides that, on a pledge of allocated revenue to the authority obligations issued for the purpose of refunding school district bonds, the commissioner is subrogated to the rights of the holders of the refunded bonds as to entitlement to

payment by each district that issued refunded bonds, notwithstanding the defeasance of the refunded bonds.

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

Sec. 46.100. AUTHORITY OBLIGATIONS NOT A PLEDGE OF STATE'S CREDIT. Provides that authority obligations and any related credit agreements are not a debt of the state, a state agency, or a political subdivision of the state, or a pledge of the faith and credit or taxing power of the state, a state agency, or a political subdivision of the state. Provides that authority obligations and any related credit agreements are payable solely from allocated revenue pledged to the payment of those obligations. Prohibits the state from taking certain actions, subject to the limitations of this section and as long as authority obligations are outstanding. Provides that the reallocation of allocated revenue to secure authority obligations to refund school district bonds is consistent and in agreement with certain authorizations, restrictions, and statutory obligations.

SECTION 1.38. Amends Section 2175.304(c), Government Code, to make a conforming change.

SECTION 1.39. Amends Section 302.006(c), Labor Code, to make a conforming change.

SECTION 1.40. Repealer: Sections 8.010 (Sunset Provision), 31.1011(d) and (e) (Textbook Credits), 39.051(d) (Academic Excellence Indicators), 39.073 (Determining Accreditation Status), and 39.074 (On-Site Investigations), Education Code.

SECTION 1.41. Requires TEA, not later than September 1, 2007, to complete the requirements under Section 29.258, Education Code, as added by this Act.

SECTION 1.42. (a) Provides that, except as otherwise provided by this section, this article applies beginning with the 2005-2006 school year.

(b) Provides that Subchapter F, Chapter 33, Education Code, as added by this article, applies beginning with the 2006-2007 school year.

ARTICLE 2. DRIVER AND TRAFFIC SAFETY EDUCATION

SECTION 2.01. Amends Section 1001.001, Education Code, by amending Subdivisions (2), (3), (4), and (5), and adding Subdivision (13-a), to redefine "approved driving safety course," "course provider," and "department" and define "commission" and "executive director."

SECTION 2.02. Amends Section 1001.002(c), Education Code, to provide that a driver education course is exempt from this chapter, other than Section 1001.005, if the course is conducted by a school or training program that offers only instruction of purely avocational or recreational subjects as determined by the Texas Department of Licensing and Regulation (department), rather than the commissioner of education.

SECTION 2.03. Amends Sections 1001.003 and 1001.004, Education Code, as follows:

Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL BUSINESSES. Provides that it is the intent of the legislature that the Texas Commission of Licensing and Regulation (commission), rather than TEA, rules that affect driver training schools that qualify as small businesses be adopted and administered so as to have the least possible adverse economic effect on the schools.

Sec. 1001.004. COST OF ADMINISTERING CHAPTER. Requires the cost of administering this chapter to be included in the state budget allowance for the department, rather than TEA.

SECTION 2.04. Amends Sections 1001.051 and 1001.052, Education Code, as follows:

Sec. 1001.051. JURISDICTION OVER SCHOOLS. Makes conforming changes.

Sec. 1001.052. RULES. Requires the commission, rather than TEA, to adopt, rather than adopt and administer, comprehensive rules governing driving safety courses, including rules to ensure the integrity of approved driving safety courses and enhance program quality.

SECTION 2.05. Amends the heading to Section 1001.053, Education Code, to read as follows:

Sec. 1001.053. POWERS AND DUTIES OF DEPARTMENT.

SECTION 2.06. Amends Section 1001.053(a), Education Code, to require the department, rather than the commissioner, to administer this chapter, rather than the policies of this chapter, enforce minimum standards for driver training schools under this chapter, enforce rules adopted by the commission, rather than adopt and enforce rules, necessary to administer this chapter, and inspect, rather than visit, a driver training school or course provider. Deletes existing text requiring a visit to and reexamination of a driver training school or course provider for compliance with this chapter.

SECTION 2.07. Amends the heading to Section 1001.054, Education Code, to read as follows:

Sec. 1001.054. RULES RESTRICTING ADVERTISING.

SECTION 2.08. Amends Section 1001.054(c), Education Code, to authorize the commission, rather than commissioner, by rule, to restrict advertising by a branch location of a driver training school so that the location adequately identifies the primary location of the school in a solicitation.

SECTION 2.09. Amends Section 1001.055, Education Code, to make conforming changes.

SECTION 2.10. Amends Sections 1001.056(b), (c), (d), (e), and (g), Education Code, as follows:

(b) and (c) Makes conforming changes.

(d) Requires a certificate under this section to include an identifying number by which the department, a court, or the Department of Public Safety may verify its authenticity with the course provider and makes conforming changes.

(e) and (g) Makes conforming changes.

SECTION 2.11. Amends Section 1001.057, Education Code, to make a conforming change.

SECTION 2.12. Amends Subchapter B, Chapter 1001, Education Code, by adding Section 1001.058, as follows:

Sec. 1001.058. DESIGNATION OF PERSON TO ADMINISTER CHAPTER. Authorizes the executive director to designate a person knowledgeable in the administration of regulating driver training schools to administer this chapter for the department.

SECTION 2.13. Amends Sections 1001.101 and 1001.102, Education Code, to make conforming changes.

SECTION 2.14. Amends Sections 1001.103(b), (d), and (e), to authorize the commission, rather than to authorize the commissioner, notwithstanding Section 1001.056, Subchapter D, and Sections 1001.213 and 1001.303, to establish fees in connection with the programs under this section. Makes conforming changes.

SECTION 2.15. Amends Sections 1001.104 and 1001.105, Education Code, to make conforming changes.

SECTION 2.16. Amends Sections 1001.106(b), (c), and (d), Education Code, as follows:

(b) Makes a conforming changes.

(c) Provides that Subchapter F, Chapter 51, Occupations Code, Section 51.353, Occupations Code, and Section 1001.456 of this code, rather than Sections 1001.454, 1001.456, and 1001.553, do not apply to a violation of this section or a rule adopted under this section.

(d) Provides that Section 51.352, Occupations Code, and Sections 1001.501 and 1001.554 of this code, rather than Sections 1001.455(a)(6), 1001.501, 1001.551, 1001.552, and 1001.554, do not apply to a violation of this section.

SECTION 2.17. Amends Section 1001.107, Education Code, to make conforming changes.

SECTION 2.18. Amends Sections 1001.108(a) and (c), Education Code, to require the commission, in developing rules under this section, to consult with the Department of State Health Services, rather than the Texas Department of Health, and to make conforming changes.

SECTION 2.19. Amends Section 1001.151, Education Code, as follows:

Sec. 1001.151. APPLICATION, LICENSE, AND REGISTRATION FEES. (a) Requires the commission to establish, rather than collect, application, license, and registration fees. Requires the department to collect the application, license, and registration fees. Makes a conforming change.

(b) Requires the commission to establish a fee for an initial driver education school license and for each branch location, an initial driving safety school license, an initial course provider license, except that the commission may waive the fee if revenue received from the course provider is sufficient to cover the cost of licensing the course provider, the annual renewal for a course provider, driving safety school, driver education school, or branch location, except that the commission may waive the fee if revenue generated by the issuance of uniform certificates of course completion and driver education certificates is sufficient to cover the cost of administering this chapter and Article 45.0511, Code of Criminal Procedure, a change of address for a driver education school, a driving safety school, or course provider, a change of name of a driver education school or course provider or an owner of a driver education school or course provider or a driving safety school or owner of a driving safety school, each additional driver education or driving safety course at a driver training school, an application of a director, assistant director, or administrative staff member, and an application for approval of a driving safety course that has not been evaluated by the department. Deletes existing text providing for a fee and establishing a specific dollar amount or maximum dollar amount for each fee and makes conforming changes.

(c) Deletes existing text establishing a specific dollar amount for each fee required under this subsection and makes a conforming change.

(d) Makes a conforming change.

SECTION 2.20. Amends Section 1001.153, Education Code, to make conforming changes.

SECTION 2.21. Amends Section 1001.202(b), Education Code, to make a conforming change.

SECTION 2.22. Amends Sections 1001.203, 1001.204, 1001.205, and 1001.206, Education Code, as follows:

Sec. 1001.203. APPLICATION. Makes conforming changes.

Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION SCHOOL LICENSE. Requires the department to approve an application for a driver education school license if, on investigation of the premises of the school, it is determined that the school provides to each student before enrollment the department's name, mailing address, telephone number, and Internet website address, for the purpose of directing complaints to the department, and does not owe an administrative penalty for a violation of, rather than under, this chapter. Makes conforming changes.

Sec. 1001.205. REQUIREMENTS FOR DRIVING SAFETY SCHOOL LICENSE. Makes conforming changes.

Sec. 1001.206. REQUIREMENTS FOR COURSE PROVIDER LICENSE. Makes conforming changes.

SECTION 2.23. Amends Sections 1001.207(a) and (b), Education Code, to make conforming changes.

SECTION 2.24. Amends Section 1001.209(b), Education Code, to make conforming changes.

SECTION 2.25. Amends Section 1001.210, Education Code, to make a conforming change.

SECTION 2.26. Amends Sections 1001.211(a) and (b), Education Code, to make conforming changes.

SECTION 2.27. Amends Section 1001.212, Education Code, to make a conforming change.

SECTION 2.28. Amends Sections 1001.213(c) and (d), Education Code, to authorize the commission to establish fees for a new driver education school or course provider license under Subsection (b) and for each branch location that are different from the amounts established under Section 1001.151 if certain requirements are met. Deletes existing text providing that, instead of the fees required by Section 1001.151, the fee for a new driver education school or course provider license under Subsection (b) is \$500, plus \$200 for each branch location if certain requirements are met. Makes a conforming change.

SECTION 2.29. Amends Section 1001.214, Education Code, to make a conforming change.

SECTION 2.30. Amends Sections 1001.251, 1001.252, and 1001.253, Education Code, to make conforming changes.

SECTION 2.31. Amends Section 1001.254(a), Education Code, to make a conforming change.

SECTION 2.32. Amends Sections 1001.255(a), (b), and (c), Education Code, to make conforming changes.

SECTION 2.33. Amends Section 1001.256, Education Code, to make conforming changes.

SECTION 2.34. Amends the heading to Subchapter G, Chapter 1001, Education Code, to read as follows:

SUBCHAPTER G. LICENSE EXPIRATION

SECTION 2.35. Amends Section 1001.351(b), Education Code, to make conforming changes.

SECTION 2.36. Amends Sections 1001.354(a) and (b), Education Code, to make conforming changes.

SECTION 2.37. Amends Sections 1001.404(b) and (c), Education Code, to make conforming changes.

SECTION 2.38. Amends Sections 1001.451 and 1001.452, Education Code, to make conforming changes.

SECTION 2.39. Amends Sections 1001.453(d) and (e), Education Code, to make conforming changes.

SECTION 2.40. Amends Section 1001.456, Education Code, to authorize the department to perform specific actions if the department believes that a driver education school or instructor has violated this chapter or a rule or order of the commission or executive director. Makes conforming changes.

SECTION 2.41. Amends the heading to Subchapter L, Chapter 1001, Education Code, to read as follows:

SUBCHAPTER L. PENALTIES

SECTION 2.42. Amends Section 1001.555(b), Education Code, to make conforming changes.

SECTION 2.43. Amends Article 45.0511(b), Code of Criminal Procedure, to make a conforming change.

SECTION 2.44. Amends Section 51.308, Education Code, to make a conforming change.

SECTION 2.45. Amends Section 521.1655(a), Transportation Code, to authorize a driver education school licensed under Chapter 1001, Education Code, rather than the Texas Driver and Traffic Safety Education Act (Article 4413(29c), V.T.C.S.), to administer to a student of that school the vision, highway sign, and traffic law parts of the examination required by Section 521.161, Transportation Code.

SECTION 2.46. Amends Section 521.203, Transportation Code, to make a conforming change.

SECTION 2.47. Amends Sections 521.205(b) and (d), Transportation Code, to make conforming changes.

SECTION 2.48. Repealers: Sections 1001.001(1) (Definitions), 1001.053(b) and (c) (Powers and Duties of Commissioner), 1001.054(a) and (b) (Rules Restricting Advertising or Competitive Bidding), 1001.152 (Duty to Review and Recommend Adjustments in Fee Amounts), 1001.303 (Renewal of School or Course Provider License), 1001.304 (Renewal of Instructor License), 1001.454 (Revocation of or Placement of Conditions on School or Course Provider License), 1001.455 (Denial, Suspension, or Revocation of Instructor License), 1001.457 (Term of License Suspension), 1001.458 (Surrender of License), 1001.459 (Appeal and Request for Hearing), 1001.460 (Hearing), 1001.461 (Judicial Review), 1001.551 (Injunction in General), 1001.552 (Injunction Against School), and 1001.553 (Administrative Penalty), Education Code and Subchapter B, Chapter 543 (Dismissal of Certain Misdemeanor Charges on Completing Driving Safety Course), Transportation Code.

SECTION 2.49. (a) Requires the Texas Education Agency and the Texas Department of Licensing and Regulation, as soon as practicable after the effective date of this Act, to develop a transition plan for transferring the functions performed by the Texas Education Agency under Chapter 1001, Education Code, to the Texas Department of Licensing and Regulation. Requires the transition plan to include a timetable with specific steps and deadlines needed to complete the transfer.

(b) Transfers all activities, functions, rules, proceedings, funds, and property of the Texas Education Agency relating to Chapter 1001, Education Code, to the Texas Department of Licensing and Regulation on September 1, 2005, in accordance with the transition plan required under Subsection (a).

(c) Provides that, in accordance with the transition plan developed by the Texas Education Agency and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on September 1, 2005, all full-time equivalent employee

positions at the Texas Education Agency that primarily concern the administration of Chapter 1001, Education Code, become positions at the Texas Department of Licensing and Regulation. Requires the Texas Department of Licensing and Regulation, when filling the positions, to give first consideration to an applicant who, as of August 31, 2005, was a full-time employee at the Texas Education Agency primarily involved in administering Chapter 1001, Education Code.

(d) Authorizes the Texas Education Agency, before September 1, 2005, to agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Education Agency to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(e) Requires the Texas Education Agency, in the period beginning with the effective date of this Act and ending on September 1, 2005, to continue to perform functions and activities under Chapter 1001, Education Code, as if that chapter had not been amended by this Act, and provides that the former law is continued in effect for that purpose.

(f) Requires that if this Act does not take effect immediately, an action required to be taken under this section on or before September 1, 2005, by the Texas Education Agency or the Texas Department of Licensing and Regulation, be taken as soon as practicable after the effective date of this Act, but not later than November 1, 2005.

SECTION 2.50. Makes application of the changes in law made by this article, to a fee, prospective.

SECTION 2.51. Makes application of the changes in law made by this article, to a license, prospective.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: upon passage or September 1, 2005.