

By: Grusendorf, Keffer of Eastland, Hill

H.B. No. 2

Substitute the following for H.B. No. 2:

By: Grusendorf

C.S.H.B. No. 2

A BILL TO BE ENTITLED

AN ACT

relating to public education and public school finance matters.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

PART A. EDUCATION FUNDING

SECTION 1A.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.

1 Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. (a)

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

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

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

9 (b) The Foundation School Program consists of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 29.0821(b)(1) divided by the number of actual days of
2 instruction as permitted by Section 29.0821(b)(1); or

3 (3) for a district that operates under a flexible
4 school day program under Section 29.0822, the quotient of the sum of
5 attendance for each full-time equivalent day of instruction divided
6 by the minimum number of days of instruction as described under
7 Section 25.081(a).

8 (b) A school district that experiences a decline of more
9 than two percent in average daily attendance shall be funded on the
10 basis of an average daily attendance equal to 98 percent of the
11 actual average daily attendance of the preceding school year.

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

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

20 (e) An open-enrollment charter school is not entitled to
21 funding based on an adjustment under Subsection (b).

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

1 (b) Before each regular session of the legislature, the
2 board shall report the equalized funding elements to the
3 commissioner and the legislature.

4 (c) The funding elements must include:

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

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

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

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

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

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

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

1 (e) Notwithstanding Subsection (d), the board shall
2 contract for a comprehensive study of the funding elements. The
3 board shall report the results of the study to the commissioner and
4 the legislature not later than December 1, 2008. This subsection
5 expires January 1, 2009.

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

9 [Sections 42.008-42.100 reserved for expansion]

10 SUBCHAPTER B. BASIC PROGRAM

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

14 (1) \$4,550, if the student is enrolled below the ninth
15 grade level; or

16 (2) \$5,050, if the student is enrolled at or above the
17 ninth grade level.

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

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

23 [Sections 42.102-42.150 reserved for expansion]

24 SUBCHAPTER C. SPECIAL STUDENT ALLOTMENTS

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

27 (1) "Full-time equivalent student" means 30 hours of

1 contact a week between a student and special education program
2 personnel.

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

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

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

14 (1) \$17,370, for a student in a homebound
15 instructional arrangement;

16 (2) \$8,602, for a student in a hospital class
17 instructional arrangement;

18 (3) \$17,370, for a student in a speech therapy
19 instructional arrangement;

20 (4) \$8,602, for a student in a resource room
21 instructional arrangement;

22 (5) \$8,602, for a student in a self-contained, mild
23 and moderate, regular campus instructional arrangement;

24 (6) \$8,602, for a student in a self-contained, severe,
25 regular campus instructional arrangement;

26 (7) \$7,287, for a student in an off-home-campus
27 instructional arrangement;

1 (8) \$2,903, for a student in a nonpublic day school;

2 (9) \$5,533, for a student in a vocational adjustment
3 class;

4 (10) \$12,986, for a student who resides in a
5 residential care and treatment facility, other than a state school,
6 whose parent or guardian does not reside in the district, and who
7 receives educational services from a local school district; and

8 (11) \$7,726, for a student who resides in a state
9 school.

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

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

22 (f) The State Board of Education by rule shall prescribe the
23 qualifications a special education instructional arrangement must
24 meet in order to be funded as a particular instructional
25 arrangement under this chapter. In prescribing the qualifications
26 that a mainstream instructional arrangement must meet, the board
27 shall require that students with disabilities and their teachers

1 receive the direct, indirect, and support services that are
2 necessary to enrich the regular classroom and enable student
3 success.

4 (g) The State Board of Education shall adopt rules and
5 procedures governing contracts for residential placement of
6 special education students. The legislature shall provide by
7 appropriation for the state's share of the costs of those
8 placements.

9 (h) Funds allocated under this section, other than an
10 indirect cost allotment established under State Board of Education
11 rule, must be used in the special education program under
12 Subchapter A, Chapter 29.

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

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

24 (k) A school district that provides an extended year program
25 required by federal law for special education students who may
26 regress is entitled to receive, for each full-time equivalent
27 student in average daily attendance, funds in an amount equal to 75

1 percent, or a lesser percentage determined by the commissioner, of
 2 the sum of the accreditation allotment and the additional allotment
 3 for the student's instructional arrangement under this section for
 4 each day the program is provided divided by the number of days in
 5 the minimum school year. The total amount of state funding for
 6 extended year services under this subsection may not exceed \$10
 7 million per year. A school district may use funds received under
 8 this subsection only in providing an extended year program.

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

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

$$24 \quad \underline{APA = 877 \times ADA \times PR}$$

25 where:

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

27 "ADA" is the district's total number of students in average

1 daily attendance; and

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

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

14 (c) In addition to the allotment provided by Subsection (a),
15 the legislature may also provide funding by appropriation for any
16 program or activity formerly funded under Section 42.152, as that
17 section existed on January 1, 2005. Funding provided under this
18 subsection is not considered a special student allotment for
19 purposes of Sections 42.301 and 42.302 or any other provision in
20 this chapter that refers to special student allotments.

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

25 (1) \$500, if the student is enrolled below the ninth
26 grade level; or

27 (2) \$1,000, if the student is enrolled at or above the

1 ninth grade level.

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

4 Sec. 42.154. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT.
5 For each student in average daily attendance in an approved career
6 and technology education program in grades seven through 12, a
7 district is entitled to an annual allotment of \$178 for each annual
8 credit hour the student is enrolled in the program, or a greater
9 amount for any school year provided by appropriation.

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

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

23 [Sections 42.156-42.170 reserved for expansion]

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

1 amounts were allotted.

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

6 Sec. 42.172. MAINTENANCE OF EFFORT. (a) Notwithstanding
7 any other provision of this code, but subject to Subsection (b), a
8 school district may not spend in any school year for a program or
9 service listed below an amount per student in average daily
10 attendance that is less than the amount the district spent for that
11 program or service per student in average daily attendance during
12 the 2004-2005 school year:

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

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

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

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

27 (5) a gifted and talented program under Subchapter D,

1 Chapter 29.

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

7 [Sections 42.173-42.200 reserved for expansion]

8 SUBCHAPTER D. TRANSPORTATION ALLOTMENT

9 Sec. 42.201. TRANSPORTATION ALLOTMENT. (a) Subject to
10 Subsection (b), a school district is entitled to a transportation
11 allotment in an amount determined by whichever of the following
12 formulas results in the greatest allotment:

13 (1) TA = ADA x 100; or

14 (2) TA = ADA x 100 x (DMS/ADMS)

15 where:

16 "TA" is the allotment to which the district is entitled;

17 "ADA" is the number of students in average daily attendance
18 in the district;

19 "DMS" is the district number of square miles per student in
20 average daily attendance, which is computed by dividing the number
21 of square miles in the district by the number of students in average
22 daily attendance in the district; and

23 "ADMS" is the average district number of square miles per
24 student in average daily attendance, which is computed by dividing
25 the sum of each school district's number of square miles per student
26 in average daily attendance by the number of districts in the state.

27 (b) A school district may not receive a transportation

1 allotment that exceeds \$1,000 per student in average daily
2 attendance.

3 Sec. 42.202. TRANSPORTATION ALLOTMENT FOR TEXAS SCHOOL FOR
4 THE DEAF. The Texas School for the Deaf is entitled to an allotment
5 under this subchapter. The commissioner shall determine the
6 appropriate allotment.

7 Sec. 42.203. TRANSPORTATION ALLOTMENT FOR COUNTY
8 TRANSPORTATION SYSTEM. (a) If a school district participates in a
9 transportation system provided by a countywide school district, all
10 or part of the transportation allotment to which the district is
11 entitled under this subchapter may be provided directly to the
12 countywide school district in accordance with the terms of the
13 district's participation.

14 (b) A countywide school district must use funds received
15 under this section in providing transportation services on behalf
16 of the district.

17 Sec. 42.204. USE OF TRANSPORTATION ALLOTMENT. A school
18 district is not required to use funds allotted under this
19 subchapter in providing transportation services.

20 [Sections 42.205-42.220 reserved for expansion]

21 SUBCHAPTER E. NEW INSTRUCTIONAL FACILITY ALLOTMENT

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

26 Sec. 42.222. DEFINITION. In this subchapter,
27 "instructional facility" has the meaning assigned by Section

1 46.001.

2 Sec. 42.223. ALLOTMENT FOR FIRST YEAR OF OPERATION. For the
3 first school year in which students attend a new instructional
4 facility, a school district is entitled to an allotment of \$250 for
5 each student in average daily attendance at the facility or a
6 greater amount provided by appropriation.

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

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

19 Sec. 42.225. PRORATION OF ALLOTMENTS. If the total amount
20 of allotments to which school districts are entitled under this
21 subchapter for a school year exceeds the amount appropriated for
22 allotments under this subchapter, the commissioner shall reduce
23 each district's allotment under this subchapter in the manner
24 provided by Section 42.313(f).

25 Sec. 42.226. APPLICABILITY TO CERTAIN DISTRICTS. A school
26 district subject to Section 42.401 that elects to purchase average
27 daily attendance credit under Subchapter D, Chapter 41, is entitled

1 to a credit, in the amount of the allotments to which the district
2 is entitled under this subchapter, against the total amount
3 required under Section 41.093 for the district to purchase
4 attendance credits.

5 [Sections 42.227-42.240 reserved for expansion]

6 SUBCHAPTER F. INSTRUCTIONAL MATERIALS AND
7 TECHNOLOGY ALLOTMENT

8 Sec. 42.241. INSTRUCTIONAL MATERIALS AND TECHNOLOGY
9 ALLOTMENT. (a) For each student in average daily attendance, a
10 school district is entitled to an annual allotment of \$150.

11 (b) Funds allotted under this section may be used only to
12 purchase approved instructional materials, including online
13 instructional materials.

14 (c) This section applies beginning with the 2006-2007
15 school year. This subsection expires September 1, 2007.

16 [Sections 42.242-42.250 reserved for expansion]

17 SUBCHAPTER G. ENRICHMENT PROGRAM

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

24 Sec. 42.252. ALLOTMENT. (a) In this section, "wealth per
25 student" means a school district's taxable value of property, as
26 determined under Subchapter M, Chapter 403, Government Code,
27 divided by the number of students in attendance in the district, and

1 adjusted to reflect the effects of Subchapters C, D, and H.

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

7
$$\text{GYA} = (\text{A} \times \text{EF} \times \text{DETR} \times 100) - \text{LR}$$

8 where:

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

11 "A" is the quotient of the sum of the district's allotments
12 under Subchapters B, C, and D, as adjusted in accordance with
13 Subchapter H, divided by the number of cents used to determine the
14 district's local share under Section 42.306;

15 "EF" is the equity factor, which is determined by the
16 commissioner by dividing the amount of district enrichment tax
17 revenue per cent of tax effort available to a school district at the
18 90th percentile in wealth per student, as determined by the
19 commissioner in the manner provided by Subsection (c), by the
20 amount of "A" for a school district at the 90th percentile in wealth
21 per student, or a greater factor for any year provided by
22 appropriation;

23 "DETR" is the district enrichment tax rate of the school
24 district, which is determined by multiplying the district's adopted
25 tax rate by the ratio of the actual taxable value of the property in
26 the district for the current tax year divided by the taxable value
27 of property in the district for the preceding year as determined

1 under Subchapter M, Chapter 403, Government Code, and subtracting
2 \$1.00, except that a district whose adopted tax rate does not exceed
3 \$1.00 per \$100 of valuation is not entitled to enrichment revenue;
4 and

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

9 (c) Not later than March 1 of each year, the commissioner
10 shall make an initial determination of the amount of district
11 enrichment tax revenue per cent of tax effort available to a school
12 district at the 90th percentile in wealth per student, based on the
13 preliminary taxable values of property certified by the comptroller
14 under Section 403.302(g), Government Code, and the estimates of
15 student attendance in the General Appropriations Act. Not later
16 than July 15 of each year, the commissioner shall make a final
17 determination of the amount that reflects the final taxable values
18 of property certified by the comptroller under Subchapter M,
19 Chapter 403, Government Code. The commissioner's determination of
20 a final amount under this subsection may not be appealed.

21 (d) The amount to which a school district is entitled for a
22 school year as a result of the commissioner's determination under
23 Subsection (c) is not subject to subsequent adjustment on the
24 grounds that the amount of revenue available to a district at the
25 90th percentile in wealth per student, as determined based on
26 actual taxable property values and student attendance, differed
27 from the amount determined by the commissioner on the basis of

1 estimated taxable property values and student attendance.

2 Sec. 42.253. DISTRICT ENRICHMENT TAX. (a) The district
3 enrichment tax rate may not exceed \$0.10 per \$100 of valuation.

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

6 (1) for the 2005 tax year, the rate of \$0.02 per \$100
7 of valuation;

8 (2) for the 2006 tax year, the rate of \$0.04 per \$100
9 of valuation;

10 (3) for the 2007 tax year, the rate of \$0.06 per \$100
11 of valuation; and

12 (4) for the 2008 tax year, the rate of \$0.08 per \$100
13 of valuation.

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

17 (c) Subsection (a-1) and this subsection expire January 1,
18 2009.

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

26 [Sections 42.255-42.300 reserved for expansion]

1 SUBCHAPTER H. ADDITIONAL ADJUSTMENTS; FINANCING THE PROGRAM

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

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

19 (b-1) For the 2005-2006 school year, the cost of education
20 index for purposes of Subsection (a) is based on the average of the
21 teacher fixed effects index in the 2004 report commissioned by the
22 Joint Select Committee on Public School Finance of the 78th
23 Legislature and the index used to determine a school district's
24 adjustment for the 2004-2005 school year. For the 2006-2007 school
25 year, the cost of education index for purposes of Subsection (a) is
26 the teacher fixed effects index in the 2004 report commissioned by
27 the Joint Select Committee on Public School Finance of the 78th

1 Legislature. This subsection expires September 1, 2007.

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

6 Sec. 42.302. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. (a)
7 The amounts of the accreditation allotments under Subchapter B and
8 each special student allotment under Subchapter C of certain small
9 and mid-sized school districts are adjusted in accordance with this
10 section to reflect district costs related to the district's size.
11 In this section:

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

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

17 (3) "SA" is the sum of the district's accreditation
18 allotments under Subchapter B and each special student allotment
19 under Subchapter C.

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

25
$$A = ((1,600 - ADA) \times .0004) \times SA$$

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

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

$$4 \quad A = ((1,600 - ADA) \times .00025) \times SA$$

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

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

$$13 \quad (2) \quad A = ((5,000 - ADA) \times .000025) \times SA$$

14 Sec. 42.303. SPARSITY ADJUSTMENT. (a) Notwithstanding
15 Sections 42.101 and 42.302:

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

23 (2) a school district that offers a kindergarten
24 through grade eight program and whose preceding or current year's
25 average daily attendance was or is at least 50 students or that is
26 30 miles or more by bus route from the nearest high school district
27 is entitled to an adjusted accreditation allotment on the basis of

1 75 students in average daily attendance; and

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

8 (b) For purposes of computing an adjusted accreditation
9 allotment under Subsection (a)(1):

10 (1) the school district is entitled to an
11 accreditation allotment under Section 42.101(a)(1) determined by
12 dividing the number of students in actual average daily attendance
13 who are enrolled below the ninth grade level by the district's total
14 actual average daily attendance and multiplying the resulting
15 quotient by 130; and

16 (2) the school district is entitled to an
17 accreditation allotment under Section 42.101(a)(2) determined by
18 dividing the number of students in actual average daily attendance
19 who are enrolled at or above the ninth grade level by the district's
20 total actual average daily attendance and multiplying the resulting
21 quotient by 130.

22 Sec. 42.304. FINANCING: GENERAL RULE. (a) The sum of the
23 accreditation allotments under Subchapter B and the additional
24 allotments under Subchapters C, D, E, and F constitutes the tier one
25 allotments. The sum of the tier one allotments and the enrichment
26 program allotments under Subchapter G constitutes the total cost of
27 the Foundation School Program.

1 (b) The program shall be financed by:

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

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

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

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

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

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

$$21 \qquad \qquad \qquad \underline{LS = TR \times DPV}$$

22 where:

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

24 "TR" is the school district's adopted tax rate multiplied by
25 the ratio of the actual taxable value of the property in the
26 district for the current tax year divided by the taxable value of
27 property in the district for the preceding tax year as determined

1 under Subchapter M, Chapter 403, Government Code, provided that the
2 resulting rate may not exceed \$1.00 or a lesser rate for any school
3 year provided by appropriation; and

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

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

14 (c) A school district with a tax rate ("TR") of \$1.00 or the
15 maximum tax rate otherwise permitted under Subsection (a) by
16 appropriation is eligible to receive the full amount of the tier one
17 allotment to which the district is entitled under this chapter.

18 (d) If a school district's tax rate ("TR") is less than
19 \$1.00 or the maximum tax rate otherwise permitted under Subsection
20 (a) by appropriation, the district's tier one allotment is adjusted
21 by a percentage determined by dividing the district's tax rate
22 ("TR") by \$1.00 or the maximum tax rate otherwise permitted under
23 Subsection (a) by appropriation and multiplying the resulting
24 quotient by 100. The commissioner shall determine the amount of the
25 tier one allotment to which a district is entitled under this
26 subsection. The commissioner's determination is final and may not
27 be appealed.

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

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

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

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

20 Sec. 42.308. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION.
21 (a) In any school year, the commissioner may not provide funding
22 under this chapter based on a school district's taxable value of
23 property computed in accordance with Section 403.302(d)(2),
24 Government Code, unless:

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

27 (2) the commissioner determines that the total amount

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

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

10 (1) notwithstanding Section 42.313(b), reduce the
11 entitlement under this chapter of a school district whose final
12 taxable value of property is higher than the estimate under Section
13 42.314 and make payments to school districts accordingly; and

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

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

24 (d) If the commissioner determines that the amount of funds
25 available under Subsection (a)(1) or (2) does not at least equal the
26 total amount of state funding to which districts would be entitled
27 if state funding under this chapter were based on the taxable values

1 of property in school districts computed in accordance with Section
2 403.302(d)(2), Government Code, the commissioner may, to the extent
3 necessary, provide state funding based on a uniform lesser fraction
4 of the deduction under Section 403.302(d)(2), Government Code.

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

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

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

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

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

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

$$7 \qquad \qquad \qquad \text{ADPV} = \text{DPV} - (\text{TN}/.01)$$

8 where:

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

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

13 "TN" is the total amount of tuition required to be paid by the
14 district under Section 25.039 for the school year for which the
15 adjustment is made, not to exceed the amount specified by
16 commissioner rule under Section 25.039(b).

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

26 (b) If the district would have received a greater amount
27 from the Texas education fund for the applicable school year using

1 the adjusted value, the commissioner shall add the difference to
2 subsequent distributions to the district from the Texas education
3 fund. An adjustment does not affect the local share of any other
4 district.

5 Sec. 42.311. ADDITIONAL TRANSITIONAL AID. (a)

6 Notwithstanding any other provision of this subtitle, and provided
7 that a school district imposes a tax at a minimum rate specified by
8 the commissioner, a school district is entitled to the amount of
9 state revenue necessary to maintain state and local revenue per
10 student in average daily attendance in the amount equal to the sum
11 of:

12 (1) the greater of:

13 (A) the amount of state and local revenue per
14 student in average daily attendance for the maintenance and
15 operation of the district, to which the district was entitled for
16 the 2004-2005 school year under Chapter 42, or, if the district was
17 subject to Chapter 41, the amount to which the district was entitled
18 under that chapter, including any amounts the district received
19 under Rider 82, page III-23, Chapter 1330, Acts of the 78th
20 Legislature, Regular Session, 2003 (the General Appropriations
21 Act); or

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

1 2005, the amount to which the district would have been entitled
2 under that chapter, based on the funding elements in effect for the
3 2004-2005 school year and including any amounts described by Rider
4 82, page III-23, Chapter 1330, Acts of the 78th Legislature,
5 Regular Session, 2003 (the General Appropriations Act); and

6 (2) an amount equal to three percent of the greater of
7 the amounts described by Subdivision (1).

8 (b) The amount of revenue to which a school district is
9 entitled because of the technology allotment under Section 32.005
10 or the instructional materials and technology allotment under
11 Section 42.241 is not included in making a determination under
12 Subsection (a).

13 (c) The commissioner shall determine the minimum tax rate
14 for a school district under Subsection (a) on the basis of the tax
15 rate adopted by the district for maintenance and operations for the
16 2004-2005 school year.

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

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

23 Sec. 42.312. TEMPORARY LIMITATIONS ON AID. (a)
24 Notwithstanding any other provision of this subtitle, the
25 commissioner shall withhold from a school district the amount of
26 state funds necessary to ensure that the district does not receive
27 an amount of state and local revenue per student in average daily

1 attendance that is greater than the following percentage of the
2 greater of the amounts to which the district is entitled under
3 Section 42.311(a)(1):

4 (1) 108 percent for the 2005-2006 school year;

5 (2) 116 percent for the 2006-2007 school year; and

6 (3) 124 percent for the 2007-2008 school year.

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

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

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

15 (e) This section expires September 1, 2008.

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

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

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

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

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

27 (5) the amount of each district's enrichment program

1 local revenue under Section 42.252.

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

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

21 (d) The commissioner shall approve warrants to each school
22 district equaling the amount of its entitlement, except as provided
23 by this section. Warrants for all money expended according to this
24 chapter shall be approved and transmitted to treasurers or
25 depositories of school districts in the same manner as warrants for
26 state available fund payments are transmitted. The total amount of
27 the warrants issued under this section may not exceed the total

1 amount appropriated for Foundation School Program purposes for that
2 fiscal year.

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

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

17 (g) Not later than March 1 each year, the commissioner shall
18 determine the actual amount of state funds to which each school
19 district is entitled under this chapter for the current school year
20 and shall compare that amount with the amount of the warrants issued
21 to each district for that year. If the amount of the warrants
22 differs from the amount to which a district is entitled because of
23 variations in the district's tax rate, student enrollment, or
24 taxable value of property, the commissioner shall adjust the
25 district's entitlement for the next fiscal year accordingly.

26 (g-1) Not later than March 1 of each even-numbered year, the
27 commissioner shall identify each school district in which the

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

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

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

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

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

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

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

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

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

27 Sec. 42.316. PAYMENTS FROM TEXAS EDUCATION FUND. (a) In

1 this section:

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

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

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

12 (4) "Wealth per student" means the taxable property
13 values reported by the comptroller to the commissioner under
14 Section 42.306 divided by the number of students in average daily
15 attendance.

16 (b) Payments from the Texas education fund to each category
17 1 school district shall be made as follows:

18 (1) 15 percent of the yearly entitlement of the
19 district shall be paid in an installment to be made on or before the
20 25th day of September of a fiscal year;

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

25 (3) five percent of the yearly entitlement of the
26 district shall be paid in an installment to be made on or before the
27 25th day of February.

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

3 (1) 22 percent of the yearly entitlement of the
4 district shall be paid in an installment to be made on or before the
5 25th day of September of a fiscal year;

6 (2) 18 percent of the yearly entitlement of the
7 district shall be paid in an installment to be made on or before the
8 25th day of October;

9 (3) 9.5 percent of the yearly entitlement of the
10 district shall be paid in an installment to be made on or before the
11 25th day of November;

12 (4) 7.5 percent of the yearly entitlement of the
13 district shall be paid in an installment to be made on or before the
14 25th day of April;

15 (5) five percent of the yearly entitlement of the
16 district shall be paid in an installment to be made on or before the
17 25th day of May;

18 (6) 10 percent of the yearly entitlement of the
19 district shall be paid in an installment to be made on or before the
20 25th day of June;

21 (7) 13 percent of the yearly entitlement of the
22 district shall be paid in an installment to be made on or before the
23 25th day of July; and

24 (8) 15 percent of the yearly entitlement of the
25 district shall be paid in an installment to be made after the fifth
26 day of September and not later than the 10th day of September of the
27 calendar year following the calendar year of the payment made under

1 Subdivision (1).

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

4 (1) 45 percent of the yearly entitlement of the
5 district shall be paid in an installment to be made on or before the
6 25th day of September of a fiscal year;

7 (2) 35 percent of the yearly entitlement of the
8 district shall be paid in an installment to be made on or before the
9 25th day of October; and

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

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

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

26 Sec. 42.317. RECOVERY OF OVERALLOCATED FUNDS. (a) If a
27 school district has received an overallocation of state funds, the

1 agency shall, by withholding from subsequent allocations of state
2 funds or by requesting and obtaining a refund, recover from the
3 district an amount equal to the overallocation.

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

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

13 [Sections 42.318-42.400 reserved for expansion]

14 SUBCHAPTER I. ADDITIONAL EQUALIZATION

15 Sec. 42.401. DISTRICTS SUBJECT TO ADDITIONAL EQUALIZATION.

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

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

24 [Sections 42.402-42.500 reserved for expansion]

25 SUBCHAPTER J. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

26 Sec. 42.501. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)

27 The commissioner shall establish an educator excellence incentive

1 program under which school districts, in accordance with locally
2 developed plans approved by the commissioner, provide incentive
3 payments to employees who demonstrate superior success in adding
4 value to student achievement.

5 (b) Each year a school district shall use an amount equal to
6 at least one percent of the district's total state and local
7 expenditures for maintenance and operations to provide incentive
8 payments to employees in accordance with this subchapter.

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

10 (1) encourage classroom teachers to:

11 (A) teach at campuses with high percentages of
12 educationally disadvantaged students; or

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

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

18 (d) The commissioner shall adopt rules necessary to
19 implement this subchapter. In adopting rules, the commissioner
20 shall encourage local flexibility in designing incentive plans that
21 promote student achievement.

22 Sec. 42.502. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

23 (a) A school district shall develop a local incentive plan for
24 rewarding academic improvement and achievement in the district and
25 submit the plan to the commissioner for approval.

26 (b) A local incentive plan must be designed to reward
27 individuals, campuses, or organizational units such as grade levels

1 at elementary schools or academic departments at high schools.

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

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

12 (e) A local incentive plan must be developed through a
13 process that considers comments of classroom teachers in the
14 district.

15 Sec. 42.503. EMPLOYMENT CONTRACTS. (a) A school district
16 shall provide in employment contracts that qualifying employees may
17 receive an incentive payment under the local incentive plan.

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

21 Sec. 42.504. DECISION BY BOARD OF TRUSTEES. A decision by
22 the board of trustees or the board's designee in providing an
23 incentive payment under a local incentive plan approved under this
24 subchapter is final and may not be appealed.

25 SECTION 1A.02. The heading to Chapter 41, Education Code,
26 is amended to read as follows:

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

1 SECTION 1A.03. Section 41.004, Education Code, is amended
2 to read as follows:

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

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

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

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

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

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

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

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

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

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

23 SECTION 1A.04. Section 41.006(a), Education Code, is
24 amended to read as follows:

25 (a) The commissioner may adopt rules necessary for the
26 implementation of this chapter. The rules may provide for the
27 commissioner to make necessary adjustments to the provisions of

1 Chapter 42, including providing for the commissioner to make an
2 adjustment in the funding element established by Section 42.252
3 [~~42.302~~], at the earliest date practicable, to the amount the
4 commissioner believes, taking into consideration options exercised
5 by school districts under Section 42.401 [~~this chapter~~] and
6 estimates of student enrollments, will match appropriation levels.

7 SECTION 1A.05. Section 41.008(a), Education Code, is
8 amended to read as follows:

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

19 SECTION 1A.06. Section 41.009(a), Education Code, is
20 amended to read as follows:

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

26 SECTION 1A.07. Section 41.010, Education Code, is amended
27 to read as follows:

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

10 SECTION 1A.08. Section 41.013(a), Education Code, is
11 amended to read as follows:

12 (a) A [~~Except as provided by Subchapter G, a~~] decision of
13 the commissioner under this chapter is appealable under Section
14 7.057.

15 SECTION 1A.09. Section 41.091, Education Code, is amended
16 to read as follows:

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

22 (1) the difference between the district's local share
23 under Section 42.306 and the district's tier one allotment under
24 Section 42.304; or

25 (2) if the district adopts a maintenance and
26 operations tax at the maximum rate authorized in Section 42.306(a),
27 the amount equal to the percentage of the district's maintenance

1 and operations tax revenue that allows the district to have the
2 maximum revenue allowed under Section 42.312 for the applicable
3 year, or 35 percent of the district's total maintenance and
4 operations tax revenue beginning in the 2008-2009 school year
5 ~~[sufficient, in combination with any other actions taken under this~~
6 ~~chapter, to reduce the district's wealth per student to a level that~~
7 ~~is equal to or less than the equalized wealth level].~~

8 SECTION 1A.10. Section 41.093(a), Education Code, is
9 amended to read as follows:

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

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

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

20 SECTION 1A.11. Section 41.251, Education Code, is amended
21 to read as follows:

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

1 SECTION 1A.12. Section 41.252, Education Code, is amended
2 by amending Subsections (a) and (c) and adding Subsection (d) to
3 read as follows:

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

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

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

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

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

27 (5) fifth, to the district that has the lowest local

1 share percentage [~~wealth per student~~] and is located in the same
2 regional education service center area; and

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

6 (c) In applying the selection criteria specified by
7 Subsection (a), if more than two districts are to be consolidated,
8 the commissioner shall select the third and each subsequent
9 district to be consolidated by treating the district subject to
10 Section 42.401 [~~that has a property wealth greater than the~~
11 ~~equalized wealth level~~] and the district or districts previously
12 selected for consolidation as one district.

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

17 SECTION 1A.13. Section 41.257, Education Code, is amended
18 to read as follows:

19 Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS
20 AND TRANSPORTATION ALLOTMENT. The budget of the consolidated
21 district must apply the benefit of the adjustment or allotment to
22 the schools of the consolidating district to which Section 42.302,
23 42.303, or Subchapter D, Chapter 42, [~~42.103, 42.105, or 42.155~~]
24 would have applied in the event that the consolidated district
25 still qualifies as a small or sparse district.

26 SECTION 1A.14. Section 45.003(d), Education Code, is
27 amended to read as follows:

1 (d) A proposition submitted to authorize the levy of
2 maintenance taxes must include the question of whether the
3 governing board or commissioners court may levy, assess, and
4 collect annual ad valorem taxes for the further maintenance of
5 public schools, at a rate not to exceed the rate stated in the
6 proposition, which may be not more than the sum of \$1.00 [~~\$1.50~~] on
7 the \$100 valuation of taxable property in the district and \$0.10 on
8 the \$100 valuation of taxable property in the district for
9 enrichment [~~, stated in the proposition~~].

10 SECTION 1A.15. The heading to Section 26.08, Tax Code, is
11 amended to read as follows:

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

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

17 (a) Except as provided by Subsection (b), a school district
18 must obtain voter authorization in an election each time the
19 district adopts a tax rate for the maintenance and operations of the
20 district that exceeds the rate levied by the district in the
21 preceding tax year. Notwithstanding Section 45.003, Education
22 Code, any adopted tax rate that exceeds the sum of the maximum rates
23 for purposes of Sections 42.253 and 42.306(a), Education Code, must
24 be approved by two-thirds of the qualified voters voting in an
25 election held for that purpose.

26 (a-1) Except as provided by Subsection (a-2), (a-3), or
27 (a-4), for the 2005 tax year, a school district may not impose a tax

1 for the maintenance and operations of the district that exceeds the
2 greater of:

3 (1) the rate equal to 66 percent of the rate adopted by
4 the district for maintenance and operations for the 2004 tax year;
5 or

6 (2) the rate necessary to ensure that the district
7 receives the amount of revenue described by Sections 42.311(a)(1)
8 and (2), Education Code, provided that the rate may not exceed \$1.00
9 on the \$100 valuation of taxable property.

10 (a-2) For the 2005 tax year, a school district may, without
11 holding an additional election, impose a tax for the maintenance
12 and operations of the district at a rate that does not exceed the
13 lesser of \$1.00 or the sum of the rate authorized by Subsection
14 (a-1) and the rate of \$0.04 per \$100 valuation of taxable value,
15 provided that the rate imposed was previously authorized by voters
16 in an election held for that purpose. A school district may impose
17 a greater rate, not to exceed the sum of the maximum rates for
18 purposes of Sections 42.253 and 42.306(a), if the greater rate is
19 approved by a majority of the voters in an election held after the
20 effective date of H.B. No. 2, Acts of the 79th Legislature, Regular
21 Session, 2005.

22 (a-3) For the 2005 tax year, a school district permitted by
23 Subsection (a-1) to impose a tax for the maintenance and operations
24 of the district at the rate of \$1.00 on the \$100 valuation of
25 taxable property may impose a tax for the maintenance and
26 operations of the district at a higher rate if approved by the
27 voters in an election held after the effective date of H.B. No. 2,

1 Acts of the 79th Legislature, Regular Session, 2005.

2 (a-4) Notwithstanding any other provision of law, a school
3 district permitted by special law on January 1, 2005, to impose an
4 ad valorem tax for maintenance and operations at a rate greater than
5 \$1.50 on the \$100 valuation of taxable property in the district may:

6 (1) continue to impose a tax for the maintenance and
7 operations of the district at a rate not to exceed the rate that is
8 \$0.50 less than the rate adopted by the district for maintenance and
9 operations for the 2004 tax year, provided that, notwithstanding
10 any other provision of law, the tax authorized by this subdivision
11 may not be considered an enrichment tax rate for purposes of
12 Subchapter G, Chapter 42, Education Code; and

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

19 (a-5) Subsections (a-1), (a-2), and (a-3) and this
20 subsection expire January 1, 2006.

21 (b) If the governing body of a school district with a
22 maintenance and operations tax rate of less than \$1.00 on the \$100
23 valuation of property adopts a tax rate that exceeds the district's
24 rollback tax rate, the registered voters of the district at an
25 election held for that purpose must determine whether to approve
26 the adopted tax rate. When increased expenditure of money by a
27 school district is necessary to respond to a disaster, including a

1 tornado, hurricane, flood, or other calamity, but not including a
2 drought, that has impacted a school district and the governor has
3 requested federal disaster assistance for the area in which the
4 school district is located, an election is not required under this
5 section to approve the tax rate adopted by the governing body for
6 the year following the year in which the disaster occurs.

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

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

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

1 district are subject to Section 26.085.

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

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

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

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

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

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

1 Code].

2 SECTION 1A.17. Section 311.013, Tax Code, is amended by
3 adding Subsection (1) to read as follows:

4 (1) This subsection applies only to a reinvestment zone
5 created before January 1, 2005, for which a school district entered
6 into an agreement before that date to pay a portion of the tax
7 increment produced by the school district into the tax increment
8 fund established for the zone. In addition to the amount the school
9 district is otherwise required to pay into the tax increment fund
10 each year, the comptroller shall pay into the fund from any
11 available source an additional amount. The additional amount is
12 the amount by which the amount the district would have been required
13 to pay into the fund for the current year under the agreement if the
14 district levied taxes at the district's 2004 tax rate exceeds the
15 amount the district is otherwise required to pay into the fund for
16 the current year. This subsection ceases to apply to the
17 reinvestment zone on the later of the dates specified by Sections
18 311.017(a)(1) and (2) for the reinvestment zone.

19 PART B. SCHOOL DISTRICT EFFICIENCY

20 SECTION 1B.01. Subchapter A, Chapter 11, Education Code, is
21 amended by adding Section 11.003 to read as follows:

22 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) The
23 commissioner shall develop and implement a program allowing a
24 school district board of trustees to enter into an agreement with
25 another district or with another governmental entity in this state
26 for a cooperative arrangement regarding administrative or other
27 services, including transportation, food service, purchasing, and

1 payroll functions. The program may include reasonable incentives
2 to encourage districts to enter into an agreement, as determined by
3 the commissioner.

4 (b) An agreement under this section must contain an
5 explanation of how the consolidation would allow the participating
6 school districts and governmental entities to reduce costs, operate
7 more efficiently, and improve educational quality.

8 (c) The commissioner shall develop and implement the
9 program described by this section not later than January 1, 2006.
10 This subsection expires March 1, 2006.

11 SECTION 1B.02. Subchapter H, Chapter 45, Education Code, is
12 amended by adding Section 45.233 to read as follows:

13 Sec. 45.233. REVIEW OF TAX COLLECTIONS. The comptroller
14 shall periodically examine the effectiveness of school districts in
15 collecting district taxes.

16 ARTICLE 2. EDUCATION EXCELLENCE

17 PART A. EDUCATOR QUALITY

18 SECTION 2A.01. Section 21.045(a), Education Code, is
19 amended to read as follows:

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

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

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

1 (3) the growth in student achievement resulting from
2 teaching by graduates of individual educator preparation programs.

3 SECTION 2A.02. Subchapter B, Chapter 21, Education Code, is
4 amended by adding Section 21.0461 to read as follows:

5 Sec. 21.0461. TEMPORARY CERTIFICATE FOR SUPERINTENDENT OR
6 PRINCIPAL. (a) The board may issue a temporary certificate under
7 this section for:

8 (1) assistant principal;

9 (2) principal; or

10 (3) superintendent.

11 (b) A candidate for certification under this section must:

12 (1) hold a baccalaureate or advanced degree from an
13 institution of higher education;

14 (2) have significant management and leadership
15 experience, as determined by the board of trustees of the school
16 district that will employ the person under the temporary
17 certificate; and

18 (3) perform satisfactorily on the appropriate
19 examination prescribed under Section 21.048.

20 (c) A school district may require that a person who is
21 employed by the district and who holds a certificate issued under
22 this section complete a training program.

23 (d) A certificate issued to a person under this section is
24 valid only in the school district in which the person is initially
25 employed after receiving the certificate.

26 (e) A certificate issued under this section:

27 (1) expires on the third anniversary of the date on

1 which the certificate was issued; and

2 (2) is not renewable.

3 (f) The board shall issue a standard certificate to a person
4 who holds a temporary certificate issued under this section if the
5 school district employing the person under the temporary
6 certificate:

7 (1) has employed the person for at least three years in
8 the capacity for which the person seeks a standard certificate; and

9 (2) has recommended the person to the board and
10 favorably reviewed, primarily using objective measures of student
11 performance and improvement in the district, the person's
12 performance.

13 (g) A school district employing a person who holds a
14 temporary certificate issued under this section must provide the
15 person with intensive support during the person's first year of
16 employment with the district, including:

17 (1) mentoring; and

18 (2) intensive, high-quality professional development.

19 (h) For purposes of this section, the board by rule may
20 determine the criteria a school district board of trustees shall
21 use to determine whether a candidate for certification under this
22 section has significant management and leadership experience.

23 SECTION 2A.03. Section 21.054, Education Code, is amended
24 by amending Subsection (b) and adding Subsection (c) to read as
25 follows:

26 (b) Continuing education for principals must be based on an
27 individual assessment of the knowledge, skills, and proficiencies

1 necessary to perform successfully as a principal, as identified in
 2 Section 21.046. As part of a principal's compliance with
 3 continuing education requirements under this section, a principal
 4 must attend advanced management training courses or programs as
 5 prescribed by board rule. An individualized professional growth
 6 plan shall be developed as a result of the assessment and shall be
 7 used exclusively for professional growth purposes. The assessment
 8 results and the growth plan may only be released with the approval
 9 of the principal assessed. Each certified principal shall
 10 participate in the assessment process and professional growth
 11 activities at least once every five years.

12 (c) The board, in consultation with business schools,
 13 departments, or programs at institutions of higher education, shall
 14 propose rules to govern the approval and accountability of advanced
 15 management training courses or programs required under this
 16 section. In proposing a rule under this section, the board shall
 17 require that a person conducting a course or program have
 18 recognized expertise in business management.

19 SECTION 2A.04. Section 21.402, Education Code, is amended
 20 by amending Subsections (a), (c), and (d) and adding Subsections
 21 (c-1) and (c-2) to read as follows:

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

1
$$[MS = SF \times FS]$$

2 [where:

3 ["MS" is the minimum monthly salary,

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

6 ["FS" is the amount, as determined by the commissioner under
7 Subsection (b), of state and local funds per weighted student
8 available to a district eligible to receive state assistance under
9 Section 42.302 with an enrichment tax rate, as defined by Section
10 42.302, equal to the maximum rate authorized under Section 42.303,
11 except that the amount of state and local funds per weighted student
12 does not include the amount attributable to the increase in the
13 guaranteed level made by H.B. No. 3343, Acts of the 77th
14 Legislature, Regular Session, 2001].

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

17	Years Experience	0	1	2
18	<u>Monthly Salary</u>	<u>\$2,524</u> [-.5656]	<u>\$2,581</u> [-.5790]	<u>\$2,639</u> [-.5924]
19	[Factor]			
20	Years Experience	3	4	5
21	<u>Monthly Salary</u>	<u>\$2,696</u> [-.6058]	<u>\$2,817</u> [-.6340]	<u>\$2,938</u> [-.6623]
22	[Factor]			
23	Years Experience	6	7	8
24	<u>Monthly Salary</u>	<u>\$3,059</u> [-.6906]	<u>\$3,172</u> [-.7168]	<u>\$3,278</u> [-.7416]
25	[Factor]			
26	Years Experience	9	10	11
27	<u>Monthly Salary</u>	<u>\$3,379</u> [-.7651]	<u>\$3,473</u> [-.7872]	<u>\$3,564</u> [-.8082]

1	[Factor]			
2	Years Experience	12	13	14
3	Monthly Salary	<u>\$3,649</u> [-.8281]	<u>\$3,728</u> [-.8467]	<u>\$3,805</u> [-.8645]
4	[Factor]			
5	Years Experience	15	16	17
6	Monthly Salary	<u>\$3,876</u> [-.8811]	<u>\$3,944</u> [-.8970]	<u>\$4,008</u> [-.9119]
7	[Factor]			
8	Years Experience	18	19	20 and over
9	Monthly Salary	<u>\$4,068</u> [-.9260]	<u>\$4,126</u> [-.9394]	<u>\$4,180</u> [-.9520]
10	[Factor]			

11 (c-1) Notwithstanding Subsection (a), for the 2005-2006
 12 school year, a classroom teacher, full-time librarian, full-time
 13 counselor certified under Subchapter B, or full-time school nurse
 14 is entitled to a monthly salary that is at least equal to the sum of:

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

21 (2) \$100.

22 (c-2) Subsection (c-1) and this subsection expire September
 23 1, 2006.

24 (d) A classroom teacher, full-time librarian, full-time
 25 counselor certified under Subchapter B, or full-time school nurse
 26 employed by a school district in the 2005-2006 [~~2000-2001~~] school
 27 year is, as long as the employee is employed by the same district,

1 entitled to a salary that is at least equal to the salary the
2 employee received for the 2005-2006 [~~2000-2001~~] school year.

3 SECTION 2A.05. Subchapter I, Chapter 21, Education Code, is
4 amended by adding Section 21.4021 to read as follows:

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

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

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

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

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

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

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

24 SECTION 2A.06. Subchapter J, Chapter 21, Education Code, is
25 amended by adding Section 21.458 to read as follows:

26 Sec. 21.458. MENTORS. (a) Each school district may assign
27 a mentor teacher to each classroom teacher who has less than two

1 years of teaching experience if the mentor:

2 (1) teaches in the same school;

3 (2) to the extent practicable, teaches the same
4 subject or grade level, as applicable; and

5 (3) meets the qualifications prescribed by
6 commissioner rules adopted under Subsection (b).

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

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

14 (2) complete at least one day of induction provided by
15 the district; and

16 (3) have at least three complete years of teaching
17 experience with a proven record of assisting students, as a whole,
18 in achieving growth in performance.

19 (c) The commissioner shall develop proposed rules under
20 Subsection (b) by negotiated rulemaking as provided by Chapter
21 2008, Government Code.

22 (d) From the funds appropriated to the agency for purposes
23 of this section, the commissioner shall adopt rules and fund
24 mentoring support through providers of mentor training. In
25 adopting rules under this subsection, the commissioner shall rely
26 on research-based mentoring programs that, through external
27 evaluation, have demonstrated success.

1 SECTION 2A.07. Section 21.054, Education Code, as amended
2 by this Act, applies beginning with the 2006-2007 school year.

3 PART B. STATE GOVERNANCE

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

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

9 (b) The commissioner of education and the commissioner of
10 higher education, in consultation with the State Board for Educator
11 Certification, may establish not more than three centers for
12 education research for conducting research for the benefit of
13 education in this state, including research regarding the impact of
14 federal education programs.

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

16 (1) the Texas Education Agency;

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

18 (3) a public junior college, public senior college or
19 university, or public state college, as those terms are defined by
20 Section 61.003.

21 (d) A center may be operated under a memorandum of
22 understanding between the commissioner of education, the
23 commissioner of higher education, and the governing board of an
24 educational institution described by Subsection (c)(3). The
25 memorandum of understanding must require the commissioner of
26 education, or a person designated by the commissioner, and the
27 commissioner of higher education, or a person designated by the

1 commissioner, to provide direct, joint supervision of the center
2 under this section.

3 (e) In conducting research under this section, a center:

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

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

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

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

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

23 (g) This section does not authorize the disclosure of
24 student information that may not be disclosed under the Family
25 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
26 1232g).

27 (h) The commissioner of education and the commissioner of

1 higher education shall adopt rules as necessary to implement this
2 section.

3 SECTION 2B.02. Subchapter A, Chapter 7, Education Code, is
4 amended by adding Sections 7.007-7.009 to read as follows:

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

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

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

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

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

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

27 (d) The commissioner's rules must ensure that the Public

1 Education Information Management System links student performance
2 data to other related information for purposes of efficient and
3 effective allocation of school resources.

4 Sec. 7.008. STATEWIDE STUDENT ENROLLMENT, ATTENDANCE, AND
5 ACHIEVEMENT TRACKING SYSTEM. (a) Each school district shall
6 participate in a system meeting standards approved by the
7 commissioner to track each student enrolled in a public school in
8 this state. A student tracking system must:

9 (1) produce detailed reports for agency officials and
10 policy-makers and update information as applicable on each
11 student's:

12 (A) enrollment;

13 (B) attendance;

14 (C) achievement, including course or grade
15 completion and assessment instrument results;

16 (D) receipt of special education services,
17 including placement in a special education program and the
18 individualized education program developed;

19 (E) individual graduation plans; and

20 (F) specific reason for leaving a school or
21 school district, such as transferring, graduating, or dropping out
22 of school; and

23 (2) to facilitate the electronic transfer of student
24 records and the evaluation and improvement of educational programs
25 in the state, permit an authorized state or district official to
26 electronically retrieve information about a particular student as
27 necessary.

1 (b) Each school district shall use the student tracking
2 system.

3 (c) The commissioner may solicit and accept grant funds to
4 maintain the student tracking system and to make the system
5 available to school districts.

6 Sec. 7.009. CONTRACT FOR STUDENT TRACKING SYSTEM;
7 CONFIDENTIALITY OF STUDENT INFORMATION. (a) To assist school
8 districts in complying with Section 7.008, the agency may contract
9 with a public or private entity that develops tracking systems or
10 electronic transfer systems. The third-party contractor may
11 produce software or other electronic tools or host an Internet
12 website to collect and compile data and produce reports meeting
13 standards approved by the commissioner as provided by Section
14 7.008.

15 (b) In order to develop and evaluate the data, the
16 third-party contractor may collect data from each school district
17 under the contract, including data that is confidential under state
18 or federal law. Confidential data collected by the contractor does
19 not lose its character as confidential information because of its
20 collection by the contractor, and providing that data to the
21 contractor does not constitute a release of the information by the
22 school district.

23 (c) The contractor and its employees are subject to any
24 state or federal law governing the release of or providing access to
25 any confidential information to the same extent as the school
26 district from which the data is collected. The contractor may not
27 release or distribute the data to any other person in a form that

1 contains confidential information.

2 (d) Confidential information may be used by the contractor
3 solely for the purposes provided by Section 7.008 and must be
4 destroyed immediately when no longer needed for those purposes.

5 SECTION 2B.03. Subchapter B, Chapter 7, Education Code, is
6 amended by adding Section 7.0221 to read as follows:

7 Sec. 7.0221. FINANCIAL ACCOUNTING REPORT REQUIRED. (a)

8 The agency shall:

9 (1) use standard accepted cost accounting practices
10 for reporting all expenditures; and

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

13 (b) The commissioner shall prepare an annual cost
14 accounting report of all expenditures described by Subsection (a).

15 (c) The commissioner shall make the annual cost accounting
16 report for a fiscal year available to the public on the agency's
17 Internet website not later than January 1 following that fiscal
18 year. The commissioner shall provide a copy of the annual cost
19 accounting report to any person who submits a written request to the
20 commissioner.

21 SECTION 2B.04. Section 8.102, Education Code, is amended to
22 read as follows:

23 Sec. 8.102. DATA REPORTING. (a) Each regional education
24 service center shall report audited or budgeted financial
25 information and any other information requested by the commissioner
26 for use in assessing the performance of the center. The
27 commissioner shall develop a uniform system for regional education

1 service centers to report audited financial data, to report
2 information on the indicators adopted under Section 8.101, and to
3 provide information on client satisfaction with services provided
4 under Subchapter B.

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

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

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

11 SECTION 2B.05. Section 8.103, Education Code, is amended to
12 read as follows:

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

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

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

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

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

23 (b) In the audit conducted under Subsection (a)(1), the
24 commissioner shall verify that the regional education service
25 center has identified each expenditure separately by purpose as
26 educational, support, or administrative as required by Section
27 8.102(b).

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

6 PART C. SCHOOL DISTRICT GOVERNANCE AND OTHER OPERATIONS

7 SECTION 2C.01. Section 7.056(e), Education Code, is amended
8 to read as follows:

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

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

14 (2) a requirement imposed by federal law or rule,
15 including a requirement for special education or bilingual
16 education programs; or

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

19 (A) essential knowledge or skills under Section
20 28.002 or minimum graduation requirements under Section 28.025;

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

23 (C) extracurricular activities under Section
24 33.081;

25 (D) health and safety under Chapter 38;

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

27 (F) elementary school class size limits, except

1 as provided by Section 25.112;

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

4 (H) at-risk programs under Subchapter C, Chapter
5 29;

6 (I) prekindergarten programs under Subchapter E,
7 Chapter 29;

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

11 (K) special education programs under Subchapter
12 A, Chapter 29; ~~or~~

13 (L) bilingual education programs under
14 Subchapter B, Chapter 29; or

15 (M) the requirements for the first and last day
16 of instruction under Section 25.0811, except as provided by that
17 section.

18 SECTION 2C.02. (a) Section 11.059, Education Code, is
19 amended to read as follows:

20 Sec. 11.059. TERMS. (a) A trustee of an independent school
21 district serves a term of ~~[three or]~~ four years.

22 (b) ~~[Elections for trustees with three-year terms shall be~~
23 ~~held annually. The terms of one-third of the trustees, or as near~~
24 ~~to one-third as possible, expire each year.]~~

25 ~~[(c)]~~ Elections for trustees ~~[with four-year terms]~~ shall
26 be held on the uniform election date in November in even-numbered
27 years ~~[biennially]~~. The terms of one-half of the trustees, or as

1 near to one-half as possible, expire every two years.

2 (c) [~~(d)~~] A board policy must state the schedule on which
3 specific terms expire.

4 (b) Section 41.001(d), Election Code, is amended to read as
5 follows:

6 (d) A general election of officers of a city, school
7 district, junior college district, or hospital district may not be
8 held on the February or September uniform election date. A general
9 election of officers of an independent school district may not be
10 held on the February, May, or September uniform election date.

11 SECTION 2C.03. Section 11.201, Education Code, is amended
12 by adding Subsection (e) to read as follows:

13 (e) A superintendent may not receive any financial benefit
14 for personal services performed by the superintendent for any
15 business entity that conducts or solicits business with the school
16 district. Any financial benefit received by the superintendent for
17 performing personal services for any other entity must be approved
18 by the board of trustees on a case-by-case basis in an open meeting.

19 SECTION 2C.04. Section 25.002, Education Code, is amended
20 by amending Subsection (a) and adding Subsection (a-1) to read as
21 follows:

22 (a) If [~~Not later than the 30th day after the date~~] a parent
23 or other person with legal control of a child under a court order
24 enrolls the child in a public school, the parent or other person or
25 the school district in which the child most recently attended
26 school shall furnish to the school district:

27 (1) the child's birth certificate or another document

1 suitable as proof of the child's identity;

2 (2) a copy of the child's records from the school the
3 child most recently attended if the child has been previously
4 enrolled in a school in this state or another state; and

5 (3) a record showing that the child has the
6 immunizations as required under Section 38.001, in the case of a
7 child required under that section to be immunized, proof as
8 required by that section showing that the child is not required to
9 be immunized, or proof that the child is entitled to provisional
10 admission under that section and under rules adopted under that
11 section.

12 (a-1) Information a school district furnishes under
13 Subsection (a) must be furnished by the district not later than the
14 10th day after the date a request for the information is received by
15 the school district. Information a parent or other person with
16 legal control of a child under a court order furnishes under
17 Subsection (a) must be furnished by the parent or other person not
18 later than the 30th day after the date a child is enrolled in a
19 public school. If a parent or other person with legal control of a
20 child under a court order requests that a district transfer a
21 child's student records, the district to which the request is made
22 shall notify the parent or other person as soon as practicable that
23 the parent or other person may request and receive an unofficial
24 copy of the records for delivery in person to a school in another
25 district.

26 SECTION 2C.05. The heading to Section 25.0811, Education
27 Code, is amended to read as follows:

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

2 SECTION 2C.06. Section 25.0811(a), Education Code, is
3 amended to read as follows:

4 ~~[(a)]~~ A school district shall ~~[may not]~~ begin instruction
5 for students for a school year on the first Tuesday after Labor Day.
6 The school year must end not later than June 7 unless:

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

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

15 SECTION 2C.07. Section 42.002(a), Election Code, is amended
16 to read as follows:

17 (a) The county election precincts are the election
18 precincts for the following elections:

19 (1) the general election for state and county
20 officers;

21 (2) a special election ordered by the governor;

22 (3) a primary election; ~~and~~

23 (4) a countywide election ordered by the commissioners
24 court, county judge, or other county authority, except an election
25 subject to Section 42.062(2); and

26 (5) an election held by a school district on the
27 November uniform election date, as provided by Section 42.0621.

1 SECTION 2C.08. Subchapter C, Chapter 42, Election Code, is
2 amended by adding Section 42.0621 to read as follows:

3 Sec. 42.0621. PRECINCTS FOR NOVEMBER SCHOOL DISTRICT
4 ELECTION. (a) A school district that holds an election on the
5 November uniform election date shall use the regular county
6 election precincts.

7 (b) If an election precinct contains territory from more
8 than one school district or more than one district used to elect a
9 member of the governing body of a school district, election
10 officials shall take reasonable measures to ensure that a voter
11 voting at that precinct may not vote in an election in which the
12 voter is not entitled to vote.

13 (c) This section does not require a school district to
14 contract with a county under Section 31.092 or hold a joint election
15 with a county under Chapter 271.

16 (d) The secretary of state shall prescribe procedures to
17 implement this section.

18 SECTION 2C.09. Section 43.004, Election Code, is amended to
19 read as follows:

20 Sec. 43.004. DESIGNATION OF LOCATION: ELECTIONS OF OTHER
21 POLITICAL SUBDIVISIONS. (a) The governing body of each political
22 subdivision authorized to hold elections, other than a county,
23 shall designate the location of the polling place for each of its
24 election precincts.

25 (b) If a school district holds an election on the November
26 uniform election date, the school district shall designate as the
27 polling places for the election the regular county polling places

1 in the county election precincts that contain territory from the
2 school district.

3 SECTION 2C.10. (a) Section 11.059, Education Code, as
4 amended by this Act, applies to a school district trustee election
5 scheduled to be held on or after November 8, 2005.

6 (b) Except as provided by Subsection (c) of this section, a
7 school district trustee election that on the effective date of this
8 Act is scheduled to be held on November 8, 2005, or May 6, 2006, must
9 be held on November 7, 2006.

10 (c) If, under Subsection (b) of this section, the positions
11 of more than one-half of the trustees or as near to one-half as
12 possible would be scheduled for election on November 7, 2006, the
13 trustees holding those positions shall draw lots to determine, as
14 appropriate, which positions are subject to election in 2006 and
15 which are subject to election in 2008.

16 (d) To implement the changes made to Section 11.059,
17 Education Code, as amended by this Act, a person may serve a term as
18 school district trustee that is longer than the term for which the
19 person was elected.

20 PART D. ACCOUNTABILITY

21 SECTION 2D.01. Subchapter A, Chapter 7, Education Code, is
22 amended by adding Section 7.010 to read as follows:

23 Sec. 7.010. BEST PRACTICES; CLEARINGHOUSE. (a) The agency
24 shall establish an accessible online clearinghouse of information
25 relating to the best practices of school districts for curriculum
26 development, classroom instruction, bilingual education, special
27 language programs, and business practices. The information must be

1 accessible by school districts and interested members of the
2 public.

3 (b) The agency shall:

4 (1) allow each school district to submit examples of
5 the district's best practices for:

6 (A) curriculum development and classroom
7 instruction, including best practices regarding scope and sequence
8 of education;

9 (B) bilingual education and special language
10 programs; and

11 (C) business practices, including descriptions
12 of effective, efficient practices;

13 (2) organize the best practices for curriculum
14 development and classroom instruction by each grade level and each
15 subject in the required curriculum under Section 28.002;

16 (3) organize the best practices for business practices
17 with priority given to descriptions of effective, efficient
18 practices provided by districts rated exemplary or recognized under
19 Subchapter D, Chapter 39; and

20 (4) periodically update information described by this
21 section as the agency determines necessary to provide timely
22 information regarding best practices.

23 (c) The agency may include in the clearinghouse any
24 information that the agency determines to be relevant to the best
25 practices of school districts.

26 (d) Based on the measure of progress toward English language
27 proficiency under Section 29.065, the commissioner shall determine

1 which school districts offer the most effective bilingual education
2 and special language programs and make the information available as
3 provided by this section.

4 (e) The agency shall contract for the services of one or
5 more third-party contractors to develop a system of collecting and
6 evaluating best practices of school districts as provided by this
7 section. In addition to any other considerations required by law,
8 the agency must consider an applicant's demonstrated competence and
9 qualifications in analyzing school district practices in awarding a
10 contract under this subsection.

11 (f) The agency shall implement this section not later than
12 September 1, 2006. This subsection expires January 1, 2007.

13 SECTION 2D.02. Section 7.056(f), Education Code, is amended
14 to read as follows:

15 (f) A school district or campus that is required to develop
16 and implement a student achievement improvement plan under Section
17 39.131 or 39.132 or that is subject to Section 39.1321 or 39.1322
18 may receive an exemption or waiver under this section from any law
19 or rule other than:

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

22 (2) a requirement imposed by federal law or rule;

23 (3) a requirement, restriction, or prohibition
24 imposed by state law or rule relating to:

25 (A) public school accountability as provided by
26 Subchapters B, C, D, and G, Chapter 39; or

27 (B) educator rights and benefits under

1 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter
2 A, Chapter 22; or

3 (4) textbook selection under Chapter 31.

4 SECTION 2D.03. Subchapter A, Chapter 11, Education Code, is
5 amended by adding Section 11.004 to read as follows:

6 Sec. 11.004. APPLICABILITY OF TITLE TO EXEMPLARY DISTRICTS
7 AND CAMPUSES. A school district or campus rated exemplary under
8 Section 39.072 is subject only to the prohibitions, restrictions,
9 and requirements of this title that apply to an open-enrollment
10 charter school under Section 12.104(b).

11 SECTION 2D.04. Section 25.005(b), Education Code, is
12 amended to read as follows:

13 (b) A reciprocity agreement must:

14 (1) address procedures for:

15 (A) transferring student records;

16 (B) awarding credit for completed course work;

17 and

18 (C) permitting a student to satisfy the
19 requirements of Section 39.025 through successful performance on
20 comparable end-of-course or other exit-level assessment
21 instruments administered in another state; and

22 (2) include appropriate criteria developed by the
23 agency.

24 SECTION 2D.05. Section 28.002(h), Education Code, is
25 amended to read as follows:

26 (h) The State Board of Education and each school district
27 shall foster the continuation of the tradition of teaching United

1 States and Texas history and the free enterprise system in regular
2 subject matter, ~~and~~ in social studies, economics, and reading
3 courses, and in the adoption of textbooks. A primary purpose of the
4 public school curriculum is to prepare thoughtful, active citizens
5 who understand the importance of patriotism and can function
6 productively in a free enterprise society with appreciation for the
7 basic democratic values of our state and national heritage.

8 SECTION 2D.06. The heading to Section 28.0211, Education
9 Code, is amended to read as follows:

10 Sec. 28.0211. SATISFACTORY PERFORMANCE ON ASSESSMENT
11 INSTRUMENTS REQUIRED FOR PROMOTION TO CERTAIN GRADE LEVELS;
12 ACCELERATED INSTRUCTION.

13 SECTION 2D.07. Subchapter B, Chapter 28, Education Code, is
14 amended by adding Section 28.0215 to read as follows:

15 Sec. 28.0215. SATISFACTORY PERFORMANCE REQUIRED:
16 END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) A student may not
17 receive course credit for a course described by Section 39.023(c)
18 unless the student performs satisfactorily on the end-of-course
19 assessment instrument for the course.

20 (b) The commissioner may adopt rules establishing a
21 procedure for a student who did not perform satisfactorily on an
22 end-of-course assessment instrument to retake the assessment
23 instrument and obtain course credit.

24 SECTION 2D.08. Section 28.025, Education Code, is amended
25 by amending Subsections (c), (d), and (e) and adding Subsection (f)
26 to read as follows:

27 (c) A person may receive a diploma if the person is eligible

1 for a diploma under Section 28.0251. In other cases, a student may
2 graduate and receive a diploma only if[+]

3 [~~(1)~~] the student successfully completes:

4 (1) the curriculum requirements identified by the
5 State Board of Education under Subsection (a) [~~and complies with~~
6 ~~Section 39.025(a)~~]; or

7 (2) [~~the student successfully completes~~] an
8 individualized education program developed under Section 29.005.

9 (d) Except as provided by Section 39.0241, a person may not
10 receive a diploma unless the person complies with Section 39.025.
11 For each year in which a person must comply with Section 39.025 to
12 receive a diploma, a [A] school district may issue a certificate of
13 coursework completion to a student who successfully completes the
14 curriculum requirements identified by the State Board of Education
15 under Subsection (a) but who fails to comply with Section 39.025
16 [39.025(a)]. A school district may allow a student who receives a
17 certificate to participate in a graduation ceremony with students
18 receiving high school diplomas. This subsection ceases to apply on
19 the date the commissioner certifies that the implementation of
20 amendments made by H.B. No. 2, Acts of the 79th Legislature, Regular
21 Session, 2005, to Sections 39.023(a) and (c) and 39.051(b) is
22 complete under the transition plan adopted under Section 39.0241.
23 This subsection expires September 1, 2011.

24 (e) Each school district shall report the academic
25 achievement record of students who have completed a minimum,
26 recommended, or advanced high school program on transcript forms
27 adopted by the State Board of Education. The transcript forms

1 adopted by the board must be designed to clearly differentiate
2 between each of the high school programs.

3 (f) The transcript forms adopted by the State Board of
4 Education under Subsection (e) must be designed to [and] identify
5 whether a student received a diploma or a certificate of coursework
6 completion. This subsection expires September 1, 2011.

7 SECTION 2D.09. Section 29.081(b), Education Code, is
8 amended to read as follows:

9 (b) Each district shall provide accelerated instruction to
10 a student enrolled in the district who has taken an end-of-course
11 [the secondary exit-level] assessment instrument administered
12 under Section 39.023(c) and has not performed satisfactorily on the
13 assessment instrument [each section] or who is at risk of dropping
14 out of school.

15 SECTION 2D.10. Subchapter C, Chapter 29, Education Code, is
16 amended by adding Section 29.0822 to read as follows:

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

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

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

27 (2) provide flexibility in the number of days each

1 week a student attends; or

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

4 (c) A course offered in a program under this section must
5 provide for at least the same number of instructional hours as
6 required for a course offered in a program that meets the required
7 minimum number of instructional days under Section 25.081 and the
8 required length of school day under Section 25.082.

9 SECTION 2D.11. Section 29.187(b), Education Code, is
10 amended to read as follows:

11 (b) An award granted under this section is not in lieu of a
12 diploma [~~or certificate of coursework completion~~] issued under
13 Section 28.025.

14 SECTION 2D.12. Section 29.202, Education Code, is amended
15 to read as follows:

16 Sec. 29.202. ELIGIBILITY. (a) In this section, "adequate
17 yearly progress standard" means a standard:

18 (1) determined by the commissioner and approved by the
19 United States Department of Education as provided by the No Child
20 Left Behind Act of 2001 (Pub. L. No. 107-110); and

21 (2) used to measure various indicators of educational
22 success to determine the progress of a campus towards academic
23 achievement.

24 (b) A student is eligible to receive a public education
25 grant or to attend another public school in the district in which
26 the student resides under this subchapter if the student is
27 assigned to attend a public school campus:

1 (1) at which 50 percent or more of the students did not
2 perform satisfactorily on an assessment instrument administered
3 under Section 39.023(a) or (c) in any two of the preceding three
4 years; ~~[or]~~

5 (2) that was, at any time in the preceding three years,
6 considered low-performing under Section 39.132; or

7 (3) that has not met the adequate yearly progress
8 standard for the same indicator of educational success for the
9 preceding two years.

10 (c) [(b)] After a student has used a public education grant
11 to attend a school in a district other than the district in which
12 the student resides, [+

13 ~~[(1)]~~ the student does not become ineligible for the
14 grant if the school on which the student's initial eligibility is
15 based no longer meets the criteria under Subsection (b) ~~[(a); and~~

16 ~~[(2) the student becomes ineligible for the grant if~~
17 ~~the student is assigned to attend a school that does not meet the~~
18 ~~criteria under Subsection (a)].~~

19 SECTION 2D.13. Subchapter G, Chapter 29, Education Code, is
20 amended by adding Section 29.2021 to read as follows:

21 Sec. 29.2021. CONFLICT OF LAWS. To the extent of a conflict
22 between this subchapter and a provision of Section 1116, No Child
23 Left Behind Act of 2001 (20 U.S.C. Section 6316), the No Child Left
24 Behind Act of 2001 prevails.

25 SECTION 2D.14. Section 29.203(f), Education Code, is
26 amended to read as follows:

27 (f) The school district in which a student resides shall

1 provide each student attending a school in another district under
2 this subchapter transportation free of charge to and from the
3 school the student would otherwise attend, except as provided by
4 Section 1116, No Child Left Behind Act of 2001 (20 U.S.C. Section
5 6316).

6 SECTION 2D.15. Section 30.021(e), Education Code, is
7 amended to read as follows:

8 (e) The school shall cooperate with public and private
9 agencies and organizations serving students and other persons with
10 visual impairments in the planning, development, and
11 implementation of effective educational and rehabilitative service
12 delivery systems associated with educating students with visual
13 impairments. To maximize and make efficient use of state
14 facilities, funding, and resources, the services provided in this
15 area may include conducting a cooperative program with other
16 agencies to serve students who have graduated from high school by
17 completing all academic requirements applicable to students in
18 regular education, excluding satisfactory performance on the
19 end-of-course [~~exit-level~~] assessment instruments required by
20 commissioner rule under Section 39.023(c) [~~instrument~~], who are
21 younger than 22 years of age on September 1 of the school year and
22 who have identified needs related to vocational training,
23 independent living skills, orientation and mobility, social and
24 leisure skills, compensatory skills, or remedial academic skills.

25 SECTION 2D.16. Sections 30.104(b) and (c), Education Code,
26 are amended to read as follows:

27 (b) A student may graduate and receive a diploma from a

1 Texas Youth Commission educational program if[+]

2 [~~(1)~~] the student successfully completes:

3 (1) the curriculum requirements identified by the
4 State Board of Education under Section 28.025(a) [~~and complies with~~
5 ~~Section 39.025(a)~~]; or

6 (2) [~~the student successfully completes~~] the
7 curriculum requirements under Section 28.025(a) as modified by an
8 individualized education program developed under Section 29.005.

9 (c) Except as provided by Section 39.0241, a person may not
10 receive a diploma unless the person complies with Section 39.025.
11 For each year in which a person must comply with Section 39.025 to
12 receive a diploma, a [A] Texas Youth Commission educational program
13 may issue a certificate of course-work completion to a student who
14 successfully completes the curriculum requirements identified by
15 the State Board of Education under Section 28.025(a) but who fails
16 to comply with Section 39.025 [~~39.025(a)~~]. This subsection ceases
17 to apply on the date the commissioner certifies that the
18 implementation of the amendments made by H.B. No. 2, Acts of the
19 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and
20 (c) and 39.051(b) is complete under the transition plan adopted
21 under Section 39.0241. This subsection expires September 1, 2011.

22 SECTION 2D.17. Section 39.023, Education Code, is amended
23 by amending Subsections (a) and (c) and adding Subsection (a-1) to
24 read as follows:

25 (a) The agency shall adopt or develop appropriate
26 criterion-referenced assessment instruments designed to assess
27 essential knowledge and skills in reading, writing, mathematics,

1 social studies, and science. All students, except students
2 assessed under Subsection (b) or (1) or exempted under Section
3 39.027, shall be assessed in:

4 (1) mathematics, annually in grades three through
5 seven without the aid of technology and in grade [~~grades~~] eight
6 [~~through 11~~] with the aid of technology on any assessment
7 instruments that include algebra;

8 (2) reading, annually in grades three through eight
9 [~~nine~~];

10 (3) writing, including spelling and grammar, in grades
11 four and seven;

12 (4) [~~English language arts, in grade 10,~~
13 [~~5~~] social studies, in grade [~~grades~~] eight [~~and~~
14 ~~10~~];

15 (5) [~~6~~] science, in grades five and [~~7~~] eight [~~, and~~
16 ~~10~~]; and

17 (6) [~~7~~] any other subject and grade required by
18 federal law.

19 (a-1) An assessment instrument under this section may
20 include questions that test a broader range of knowledge and skills
21 or that are at a higher difficulty level for the purpose of
22 differentiating student achievement. A student may not be required
23 to answer a question described by this subsection correctly to
24 perform satisfactorily on the assessment instrument or to be
25 promoted to the next grade level. To ensure a valid bank of
26 questions for use each year, the agency is not required to release a
27 question that is being field-tested until after the fifth school

1 year the question is used on an assessment instrument administered
2 under this section.

3 (c) The agency shall also adopt end-of-course [~~secondary~~
4 ~~exit-level~~] assessment instruments for secondary-level courses in
5 Algebra I, Algebra II, Geometry, Biology, Chemistry, Physics,
6 Integrated Physics and Chemistry, English I, English II, English
7 III, World Geography, World History, United States History, and any
8 other course as determined by rule by the commissioner [~~designed to~~
9 ~~be administered to students in grade 11 to assess essential~~
10 ~~knowledge and skills in mathematics, English language arts, social~~
11 ~~studies, and science. The mathematics section must include at~~
12 ~~least Algebra I and geometry with the aid of technology. The~~
13 ~~English language arts section must include at least English III and~~
14 ~~must include the assessment of essential knowledge and skills in~~
15 ~~writing. The social studies section must include early American and~~
16 ~~United States history. The science section must include at least~~
17 ~~biology and integrated chemistry and physics. The assessment~~
18 ~~instruments must be designed to assess a student's mastery of~~
19 ~~minimum skills necessary for high school graduation and readiness~~
20 ~~to enroll in an institution of higher education)]. If a student is
21 in a special education program under Subchapter A, Chapter 29, the
22 student's admission, review, and dismissal committee shall
23 determine whether any allowable modification is necessary in
24 administering to the student an assessment instrument required
25 under this subsection or whether the student should be exempted
26 under Section 39.027(a)(2). The State Board of Education shall
27 administer the assessment instruments. The State Board of~~

1 Education shall adopt a schedule for the administration of
2 end-of-course [~~secondary exit-level~~] assessment instruments.
3 [~~Each student who did not perform satisfactorily on any secondary~~
4 ~~exit-level assessment instrument when initially tested shall be~~
5 ~~given multiple opportunities to retake that assessment~~
6 ~~instrument.~~] A student who performs at or above a level established
7 by the Texas Higher Education Coordinating Board on the
8 end-of-course [~~secondary exit-level~~] assessment instruments is
9 exempt from the requirements of Section 51.3062 [~~51.306~~]. The
10 performance level established by the Texas Higher Education
11 Coordinating Board under this subsection represents the level of
12 academic achievement indicating a student is prepared for college
13 course work. The performance level may be used as an indicator to
14 measure progress toward college preparedness of public school
15 students in this state.

16 SECTION 2D.18. Subchapter B, Chapter 39, Education Code, is
17 amended by adding Section 39.0232 to read as follows:

18 Sec. 39.0232. COMPUTER-ADAPTIVE ASSESSMENT. (a) The
19 agency shall provide for assessment instruments required under
20 Section 39.023 to be designed so that those assessment instruments
21 can be computer-adaptive.

22 (b) To the extent practicable and appropriate, the agency
23 shall require school districts to administer to students the
24 computer-adaptive assessment instruments.

25 (c) The agency shall implement this section not later than
26 March 1, 2006. This subsection expires September 1, 2006.

27 SECTION 2D.19. Section 39.024, Education Code, is amended

1 by amending Subsection (a) and adding Subsections (b) and (b-1) to
2 read as follows:

3 (a) Except as otherwise provided by this subsection, the
4 State Board of Education shall determine the level of performance
5 considered to be satisfactory on the assessment instruments. The
6 board may require a level of performance on assessment instruments
7 for determining district or campus performance under Subchapter D
8 that is higher than the level of performance considered to be
9 satisfactory for a student to be promoted from one grade level to
10 the next. The admission, review, and dismissal committee of a
11 student being assessed under Section 39.023(b) shall determine the
12 level of performance considered to be satisfactory on the
13 assessment instruments administered to that student in accordance
14 with criteria established by agency rule.

15 (b) In determining a level of performance under Subsection
16 (a), a level of performance is satisfactory only if at least 60
17 percent of all students perform satisfactorily on each section of
18 the assessment instrument required under this subchapter.

19 (b-1) Subsection (b) applies beginning with the 2006-2007
20 school year. This subsection expires September 1, 2007.

21 SECTION 2D.20. Subchapter B, Chapter 39, Education Code, is
22 amended by adding Section 39.0241 to read as follows:

23 Sec. 39.0241. TRANSITION PLAN FOR USE OF ASSESSMENT
24 INSTRUMENTS. (a) The commissioner shall by rule adopt a transition
25 plan to implement the amendments made by H.B. No. 2, Acts of the
26 79th Legislature, Regular Session, 2005, to Sections 39.023(a) and
27 (c) and 39.051(b)(5). The rules must provide for the

1 administration of end-of-course assessment instruments adopted
2 under Section 39.023(c) to begin as soon as practicable but not
3 later than the 2008-2009 school year. During the period under which
4 the transition to end-of-course assessment instruments is made:

5 (1) the commissioner may retain, administer, and use
6 for campus and district ratings under Subchapter D any assessment
7 instrument required by Section 39.023(a) or (c), as that section
8 existed before amendment by H.B. No. 2, Acts of the 79th
9 Legislature, Regular Session, 2005; and

10 (2) the agency may defer releasing assessment
11 instrument questions and answer keys as required by Section
12 39.023(e) to the extent necessary to develop additional assessment
13 instruments.

14 (b) Rules adopted under Subsection (a) must require that
15 each student who will be subject to the requirements implemented
16 under the amendments made by H.B. No. 2, Acts of the 79th
17 Legislature, Regular Session, 2005, to Section 39.023(c) is
18 entitled to notice of the specific requirements applicable to the
19 student. Notice under this subsection must be provided not later
20 than the date the student enters the ninth grade.

21 (c) A reference in this code to an end-of-course assessment
22 instrument administered under Section 39.023(c) includes a
23 secondary exit-level assessment instrument administered as
24 provided by Subsection (a).

25 (d) This section expires September 1, 2009.

26 SECTION 2D.21. Section 39.025, Education Code, is amended
27 by adding Subsections (d), (e), and (f) to read as follows:

1 (d) Notwithstanding Subsection (a), the commissioner by
2 rule shall adopt one or more alternative nationally recognized norm
3 referenced assessment instruments under this section to administer
4 to a student to qualify for a high school diploma if the student
5 enrolls after January 1 of the school year in which the student is
6 otherwise eligible to graduate:

7 (1) for the first time in a public school in this
8 state; or

9 (2) after an absence of at least four years from any
10 public school in this state.

11 (e) The commissioner shall establish a required performance
12 level for an assessment instrument adopted under Subsection (d)
13 that is at least as rigorous as the performance level for the
14 secondary exit-level assessment instrument for the same subject.

15 (f) This section ceases to apply on the date the
16 commissioner certifies that the implementation of the amendments
17 made by H.B. No. 2, Acts of the 79th Legislature, Regular Session,
18 2005, to Sections 39.023(a) and (c) and 39.051(b) is complete under
19 the transition plan adopted under Section 39.0241. This section
20 expires September 1, 2011.

21 SECTION 2D.22. Subchapter B, Chapter 39, Education Code, is
22 amended by adding Section 39.0261 to read as follows:

23 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In
24 addition to the assessment instruments otherwise authorized or
25 required by this subchapter, a school district shall administer to
26 high school students at grade levels determined by the commissioner
27 a valid, reliable, and nationally normed assessment instrument

1 that:

2 (1) assesses skills measured by generally recognized
3 tests or assessments used in college and university undergraduate
4 admissions, including the Scholastic Assessment Test (SAT) and the
5 American College Test (ACT); and

6 (2) provides a scaled score in the assessed areas of
7 reading, mathematics, and writing.

8 (b) The agency shall:

9 (1) select and approve vendors of one or more
10 assessment instruments administered under this section; and

11 (2) pay all costs associated with administration of
12 the assessment instruments using funds set aside under Subsection
13 (d).

14 (c) The agency shall compile the results of any assessment
15 instrument administered under this section and make the results
16 available through the Public Education Information Management
17 System (PEIMS).

18 (d) The commissioner shall set aside an appropriate amount
19 from the Foundation School Program to pay the costs associated with
20 administering assessment instruments under this section. After
21 setting aside the appropriate amount, the commissioner shall reduce
22 each district's tier one allotments proportionately. A reduction
23 in tier one allotments under this subsection does not affect the
24 computation of the guaranteed amount of revenue per student per
25 cent of tax effort under Section 42.252. Any amount set aside under
26 this subsection must be approved by the Legislative Budget Board
27 and the governor's office of budget, planning, and policy.

1 SECTION 2D.23. Subchapter B, Chapter 39, Education Code, is
2 amended by adding Section 39.034 to read as follows:

3 Sec. 39.034. MEASURE OF VALUE-ADDED STUDENT ACHIEVEMENT ON
4 ASSESSMENT INSTRUMENTS. (a) The commissioner by rule shall adopt a
5 method by which the agency may measure value-added student
6 achievement by tracking changes in a student's performance from one
7 school year to the next on an assessment instrument required under
8 this subchapter.

9 (b) Each year, for each student who takes an assessment
10 instrument required under Section 39.023(a), (b), or (l), the
11 agency shall use the method adopted under Subsection (a) to compare
12 the student's results on the assessment instrument to the student's
13 results on any assessment instrument for that subject the student
14 has taken during the preceding school year.

15 (c) The agency shall maintain a record of the comparisons
16 made under this section. Each year the agency shall:

17 (1) provide the record to the school the student
18 attends; and

19 (2) provide to each teacher a record of all students
20 who were:

21 (A) assessed on an assessment instrument; and

22 (B) taught by that teacher in the subject for
23 which the assessment instrument was administered.

24 (d) The commissioner shall implement this section not later
25 than September 1, 2006. This subsection expires January 1, 2008.

26 SECTION 2D.24. Section 39.051(b), Education Code, as
27 amended by Chapters 433 and 805, Acts of the 78th Legislature,

1 Regular Session, 2003, is reenacted and amended to read as follows:

2 (b) Performance on the indicators adopted under this
3 section shall be compared to state-established standards. The
4 degree of change from one school year to the next in performance on
5 each indicator adopted under this section shall also be considered.
6 The indicators must be based on information that is disaggregated
7 by race, ethnicity, gender, and socioeconomic status and must
8 include:

9 (1) the results of assessment instruments required
10 under Sections 39.023(a), (c), and (l), aggregated by grade level
11 and subject area;

12 (2) dropout rates, including dropout rates and
13 district completion rates for grade levels seven [~~9~~] through 12,
14 computed:

15 (A) as a longitudinal rate and an annual
16 completion rate by grade; and

17 (B) in accordance with standards and definitions
18 adopted by the National Center for Education Statistics of the
19 United States Department of Education;

20 (3) high school graduation rates, computed in
21 accordance with standards and definitions adopted in compliance
22 with the [~~federal~~] No Child Left Behind Act of 2001 (Pub. L. No.
23 107-110);

24 (4) student attendance rates;

25 (5) the percentage of graduating students who attain
26 scores on the end-of-course [~~secondary exit-level~~] assessment
27 instruments required under Subchapter B that are equivalent to a

1 passing score on the assessment [~~test~~] instrument required under
2 Section 51.3062 [~~51.306~~];

3 (6) the percentage of graduating students who meet the
4 course requirements established for the recommended high school
5 program by State Board of Education rule;

6 (7) the measure of progress toward English language
7 proficiency under Section 29.065, for students of limited English
8 proficiency, as defined by Section 29.052;

9 (8) value-added student achievement, as measured
10 under Section 39.034;

11 (9) the results of the Scholastic Assessment Test
12 (SAT), the American College Test (ACT), articulated postsecondary
13 degree programs described by Section 61.852, and certified
14 workforce training programs described by Chapter 311, Labor Code;

15 (10) [~~(8)~~] the percentage of students, aggregated by
16 grade level, provided accelerated instruction under Section
17 28.0211(c), the results of assessments administered under that
18 section, the percentage of students promoted through the grade
19 placement committee process under Section 28.0211, the subject of
20 the assessment instrument on which each student failed to perform
21 satisfactorily, and the performance of those students in the school
22 year following that promotion on the assessment instruments
23 required under Section 39.023;

24 (11) [~~(9)~~] for students who have failed to perform
25 satisfactorily on an assessment instrument required under Section
26 39.023(a) or (c), the numerical progress of those students on
27 subsequent assessment instruments required under those sections,

1 aggregated by grade level and subject area;

2 (12) [~~(10)~~] the percentage of students exempted, by
3 exemption category, from the assessment program generally
4 applicable under this chapter; [~~and~~]

5 (13) [~~(11)~~] the percentage of students of limited
6 English proficiency exempted from the administration of an
7 assessment instrument under Sections 39.027(a)(3) and (4);

8 (14) the percentage of students in a special education
9 program under Subchapter A, Chapter 29, assessed through assessment
10 instruments developed or adopted under Section 39.023(b); and

11 (15) the measure of reduction or increase in any
12 disparity between students at risk of dropping out of school, as
13 defined by Section 29.081, and all other students in:

14 (A) performance on assessment instruments
15 administered under Subchapter B; and

16 (B) high school graduation rates computed as
17 described by Subdivision (3).

18 SECTION 2D.25. Section 39.051(d), Education Code, is
19 amended to read as follows:

20 (d) Annually, the commissioner shall define exemplary,
21 recognized, and unacceptable performance for each academic
22 excellence indicator included under Subsections (b)(1) through (9)
23 [~~(6)~~] and shall project the standards for each of those levels of
24 performance for succeeding years. For the indicator under
25 Subsection (b)(10) [~~(b)(7)~~], the commissioner shall define
26 exemplary, recognized, and unacceptable performance based on
27 student performance for the period covering both the current and

1 preceding academic years. In defining exemplary, recognized, and
2 unacceptable performance for the indicators under Subsections
3 (b)(2) and (4) [~~(3)~~], the commissioner may not consider as a dropout
4 or as a student who has failed to attend school a student whose
5 failure to attend school results from:

6 (1) the student's expulsion under Section 37.007; and

7 (2) as applicable:

8 (A) adjudication as having engaged in delinquent
9 conduct or conduct indicating a need for supervision, as defined by
10 Section 51.03, Family Code; or

11 (B) conviction of and sentencing for an offense
12 under the Penal Code.

13 SECTION 2D.26. Section 39.052, Education Code, is amended
14 by amending Subsection (b) and adding Subsection (d) to read as
15 follows:

16 (b) The report card shall include the following
17 information:

18 (1) where applicable, the academic excellence
19 indicators adopted under Sections 39.051(b)(1) through (12) [~~(9)~~];

20 (2) average class size by grade level and subject;

21 (3) the administrative and instructional costs per
22 student, computed in a manner consistent with Section 44.0071;

23 (4) a summary of the district's significant
24 noninstructional expenditures, as determined under Section
25 44.0072; and

26 (5) [~~(4)~~] the district's instructional expenditures
27 ratio and instructional employees ratio computed under Section

1 44.0071, and the statewide average of those ratios, as determined
2 by the commissioner.

3 (d) The commissioner shall develop a methodology for
4 categorizing campuses that have similar demographic
5 characteristics into peer groups for comparison purposes. In
6 establishing criteria to categorize campuses under this section,
7 the commissioner shall consider:

8 (1) the percentage of low income or educationally
9 disadvantaged students;

10 (2) the percentage of underrepresented minority
11 populations; and

12 (3) any other factor the commissioner determines
13 appropriate.

14 SECTION 2D.27. Section 39.072, Education Code, is amended by
15 amending Subsection (a) and adding Subsection (c-1) to read as
16 follows:

17 (a) The commissioner [~~State Board of Education~~] shall adopt
18 rules to evaluate the performance of school districts and to assign
19 to each district a performance rating as follows:

20 (1) exemplary (meets or exceeds state exemplary
21 standards);

22 (2) recognized (meets or exceeds required improvement
23 and within 10 percent of state exemplary standards);

24 (3) academically acceptable (below the exemplary and
25 recognized standards but exceeds the academically unacceptable
26 standards); or

27 (4) academically unacceptable (below the state

1 clearly unacceptable performance standard and does not meet
2 required improvement).

3 (c-1) A public school campus is subject to Sections 39.1321
4 and 39.1322 if the campus:

5 (1) is rated in the bottom 10 percent in the agency's
6 evaluation under Subsection (c); and

7 (2) does not meet the adequate yearly progress
8 standard determined by the commissioner and approved by the United
9 States Department of Education as provided by the No Child Left
10 Behind Act of 2001 (Pub. L. No. 107-110).

11 SECTION 2D.28. Subchapter F, Chapter 39, Education Code, is
12 amended by adding Section 39.113 to read as follows:

13 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT
14 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt
15 rules to create an incentive award system for annual growth in
16 student achievement. A school that achieves incremental growth in
17 student achievement, as described in Subsection (b), is eligible
18 for an award if the school:

19 (1) has a student population of at least 50 percent
20 educationally disadvantaged students;

21 (2) achieves an accreditation performance rating of
22 academically acceptable or better; and

23 (3) demonstrates superior growth in the academic
24 performance of educationally disadvantaged students.

25 (b) The commissioner by rule shall adopt performance
26 criteria to measure annual growth in student academic performance.
27 The commissioner shall consider the following criteria, as

1 applicable:

2 (1) annual growth in student achievement that
3 contributes to closing performance gaps among various populations
4 of students;

5 (2) improvements in student scores on the assessment
6 instruments required under Section 39.023;

7 (3) growth in high school completion rates;

8 (4) improvement in student scores on college advanced
9 placement tests; and

10 (5) any other factor that contributes to student
11 achievement.

12 (c) From funds appropriated for the purposes of this
13 section, the commissioner shall award grants to campuses that meet
14 performance criteria adopted under Subsection (b). The
15 commissioner shall allocate awards to campuses not later than
16 December 1 of each year, based on growth in student achievement as
17 measured for the preceding two school years.

18 (c-1) The commissioner shall award grants under this
19 section beginning September 1, 2006. This subsection expires
20 January 1, 2007.

21 (d) At least 75 percent of an award under this section must
22 be used for additional teacher compensation at the campus level.
23 The commissioner by rule shall provide for allocating awards under
24 this subsection, including providing individual awards of at least
25 \$7,500 for each teacher at a campus receiving an award under this
26 subsection.

27 (e) Grants from funds appropriated for the award program may

1 not exceed \$100 million each year except as expressly authorized by
2 the General Appropriations Act or other law.

3 (f) A determination of the commissioner under this section
4 is final and may not be appealed.

5 SECTION 2D.29. Section 39.131, Education Code, is amended
6 by amending Subsection (a) and adding Subsection (c) to read as
7 follows:

8 (a) If a district does not satisfy the accreditation
9 criteria, the commissioner shall take any of the following actions,
10 listed in order of severity, to the extent the commissioner
11 determines necessary:

12 (1) issue public notice of the deficiency to the board
13 of trustees;

14 (2) order a hearing conducted by the board of trustees
15 of the district for the purpose of notifying the public of the
16 unacceptable performance, the improvements in performance expected
17 by the agency, and the sanctions that may be imposed under this
18 section if the performance does not improve;

19 (3) order the preparation of a student achievement
20 improvement plan that addresses each academic excellence indicator
21 for which the district's performance is unacceptable, the
22 submission of the plan to the commissioner for approval, and
23 implementation of the plan;

24 (4) order a hearing to be held before the commissioner
25 or the commissioner's designee at which the president of the board
26 of trustees of the district and the superintendent shall appear and
27 explain the district's low performance, lack of improvement, and

1 plans for improvement;

2 (5) arrange an on-site investigation of the district;

3 (6) appoint an agency monitor to participate in and
4 report to the agency on the activities of the board of trustees or
5 the superintendent;

6 (7) appoint a conservator to oversee the operations of
7 the district;

8 (8) appoint a management team to direct the operations
9 of the district in areas of unacceptable performance or require the
10 district to obtain certain services under a contract with another
11 person;

12 (9) if a district has been rated as academically
13 unacceptable for a period of one year or more, appoint a board of
14 managers to exercise the powers and duties of the board of trustees;

15 (10) if a district has been rated as academically
16 unacceptable for a period of two years or more:

17 (A) annex the district to one or more adjoining
18 districts under Section 13.054; or

19 (B) in the case of a home-rule school district
20 [~~or open-enrollment charter school~~], order closure of all programs
21 operated under the district's [~~or school's~~] charter; or

22 (11) if a district has been rated as academically
23 unacceptable for a period of two years or more due to the district's
24 dropout rates, impose sanctions designed to improve high school
25 completion rates, including:

26 (A) ordering the development of a dropout
27 prevention plan for approval by the commissioner;

1 (B) restructuring the district or appropriate
2 school campuses to improve identification of and service to
3 students who are at risk of dropping out of school, as defined by
4 Section 29.081;

5 (C) ordering lower student-to-counselor ratios
6 on school campuses with high dropout rates; and

7 (D) ordering the use of any other intervention
8 strategy effective in reducing dropout rates, including mentor
9 programs and flexible class scheduling.

10 (c) The commissioner shall order the closure of all programs
11 operated under the charter of an open-enrollment charter school if
12 a majority of the campuses operated by the charter holder have
13 received an unsatisfactory rating as determined by the commissioner
14 for a period of two years or more.

15 SECTION 2D.30. Subchapter G, Chapter 39, Education Code, is
16 amended by adding Sections 39.1321 and 39.1322 to read as follows:

17 Sec. 39.1321. SANCTIONS FOR LOWEST-PERFORMING CAMPUSES.

18 (a) This section applies only to a campus if the campus:

19 (1) is rated in the bottom 10 percent in the agency's
20 evaluation under Section 39.072(c); and

21 (2) does not meet the adequate yearly progress
22 standard determined by the commissioner and approved by the United
23 States Department of Education as provided by the No Child Left
24 Behind Act of 2001 (Pub. L. No. 107-110).

25 (b) Notwithstanding Sections 39.131 and 39.132, the
26 commissioner:

27 (1) shall take the actions described by this section

1 for a campus described by Subsection (a) that is rated in the bottom
2 five percent in the agency's evaluation under Section 39.072(c);
3 and

4 (2) may take the actions described by this section for
5 any other campus described by Subsection (a).

6 (c) The commissioner shall identify campuses subject to
7 this section under Subsection (b) not later than August 1 following
8 the school year in which the campus was rated. If a campus is rated
9 as described by Subsection (a) for one school year, the
10 commissioner, not later than October 1 after identifying the
11 campus, shall select and assign a technical assistance team to
12 assist the campus in executing a school improvement plan and any
13 other school improvement strategies the commissioner determines
14 appropriate, including providing supplemental services to students
15 as described by the No Child Left Behind Act of 2001 (Pub. L. No.
16 107-110).

17 (d) If a campus is rated as described by Subsection (a) for
18 two consecutive school years, the commissioner shall pursue
19 alternative management under Section 39.1322. The commissioner
20 shall identify a campus subject to this section under Subsection
21 (b) not later than November 1 of the school year following the
22 second consecutive school year in which the campus was rated as
23 described by Subsection (a).

24 Sec. 39.1322. MANAGEMENT OF LOWEST-PERFORMING CAMPUSES.

25 (a) A campus is subject to this section if for two consecutive
26 school years the campus:

27 (1) is rated in the bottom five percent in the agency's

1 evaluation under Section 39.072(c); and

2 (2) does not meet the adequate yearly progress
3 standard determined by the commissioner and approved by the United
4 States Department of Education as provided by the No Child Left
5 Behind Act of 2001 (Pub. L. No. 107-110).

6 (b) The commissioner shall solicit proposals from qualified
7 entities to assume management of a campus subject to this section
8 under a management contract with the agency.

9 (c) If the commissioner determines that the basis for the
10 rating for a campus under Subsection (a) is limited to a specific
11 condition that may be remedied with targeted technical assistance
12 from the agency, the commissioner:

13 (1) may provide the campus a one-year waiver under
14 this section; and

15 (2) shall provide the appropriate technical
16 assistance to remedy the specific condition.

17 (d) The commissioner shall solicit proposals under
18 Subsection (b) not later than November 30 of the school year
19 following the second consecutive school year in which the campus
20 was rated as described by Subsection (a). The commissioner shall
21 notify a qualified entity whose proposal has been accepted to
22 manage a campus under this section not later than the following
23 April 15. Control of the campus management shall be relinquished to
24 the managing entity under this section within a reasonable period
25 after the end of the school year.

26 (e) To qualify for consideration as a managing entity under
27 this section, a person must have:

1 (1) documented success in whole school interventions
2 that increased the educational and performance levels of students
3 in low-performing campuses;

4 (2) a proven record of effectiveness with programs
5 assisting low-performing students;

6 (3) a proven ability to apply scientifically based
7 research to school intervention strategies; and

8 (4) any other factor the commissioner determines
9 necessary.

10 (f) The commissioner may negotiate the term of a management
11 contract for not more than five years with an option to renew the
12 contract. The commissioner shall negotiate a memorandum of
13 understanding between the commissioner, the managing entity, and
14 the board of trustees of the school district in which the campus is
15 located. The memorandum of understanding must have the same term as
16 the management contract and include a provision describing the
17 district's responsibilities in supporting the operation of the
18 campus. The commissioner, as appropriate, may require the district
19 to support the campus in the same manner as the district was
20 required to support the campus before the execution of the
21 management contract.

22 (g) The commissioner shall require a provision, including
23 negotiated performance measures, in the management contract to
24 demonstrate improvement in campus performance. The performance
25 measures must be consistent with the priorities of this chapter.
26 The commissioner shall evaluate the managing entity's performance
27 on the first and second anniversary of the date of the management

1 contract. If the evaluation fails to demonstrate improvement as
2 negotiated under the contract, the commissioner may terminate the
3 management contract for nonperformance or breach of contract and
4 shall solicit proposals from qualified entities to assume
5 management of a campus as provided by this section. If campus
6 performance continues to be rated in the bottom 10 percent in the
7 agency's evaluation under Section 39.072(c) on the third
8 anniversary of the initial contract date or any annual date after
9 that date, the commissioner may terminate the management contract
10 with the managing entity for nonperformance or breach of contract
11 and solicit proposals from qualified entities as provided by this
12 section.

13 (h) Notwithstanding any other provision of this code, the
14 funding for a campus operated by a managing entity must be
15 equivalent to the funding of the other campuses in the district on a
16 per student basis so that the managing entity receives the same
17 funding the campus would otherwise have received.

18 (i) Each campus operated by a managing entity under this
19 section is subject to this chapter in the same manner as any other
20 campus in the district.

21 SECTION 2D.31. Subchapter G, Chapter 39, Education Code, is
22 amended by adding Section 39.1371 to read as follows:

23 Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is
24 responsible for managing an intervention of a campus subject to
25 sanctions under this subchapter.

26 (b) To be employed as an intervention manager in the school
27 intervention management division, a person must demonstrate:

1 (1) a proven ability to implement whole school
2 interventions that increase the educational and performance levels
3 of students in low-performing campuses;

4 (2) a proven record of effectiveness with programs
5 assisting low-performing students;

6 (3) a proven ability to apply scientifically based
7 research to school intervention strategies; and

8 (4) any other factor the commissioner determines
9 necessary.

10 (c) The agency shall monitor the progress of special campus
11 intervention teams appointed by the commissioner under this
12 subchapter and provide semiannual reports to the commissioner on
13 the status of performance improvement.

14 (d) The agency shall supervise the activities of the
15 management entities under Section 39.1322 and provide semiannual
16 reports to the commissioner on the status of performance
17 improvement.

18 (e) The agency shall:

19 (1) establish by rule and publish school improvement
20 objectives;

21 (2) advocate for the increased use of research-based
22 effective practices; and

23 (3) coordinate campus improvement activities of the
24 agency and regional education service centers.

25 (f) The commissioner may contract for services under this
26 section.

27 SECTION 2D.32. Sections 39.182(a) and (b), Education Code,

1 are amended to read as follows:

2 (a) Not later than December 1 of each year, the agency shall
3 prepare and deliver to the governor, the lieutenant governor, the
4 speaker of the house of representatives, each member of the
5 legislature, the Legislative Budget Board, and the clerks of the
6 standing committees of the senate and house of representatives with
7 primary jurisdiction over the public school system a comprehensive
8 report covering the preceding school year and containing:

9 (1) an evaluation of the achievements of the state
10 educational program in relation to the statutory goals for the
11 public education system under Section 4.002;

12 (2) an evaluation of the status of education in the
13 state as reflected by the academic excellence indicators adopted
14 under Section 39.051;

15 (3) a summary compilation of the percentage of
16 graduating students who attain scores on the end-of-course
17 assessment instruments required under Section 39.023(c) that are
18 equivalent to a passing score on the assessment instrument required
19 under Section 51.3062;

20 (4) a summary compilation of overall student
21 performance on academic skills assessment instruments required by
22 Section 39.023 with the number and percentage of students exempted
23 from the administration of those instruments and the basis of the
24 exemptions, aggregated by grade level, subject area, campus, and
25 district, with appropriate interpretations and analysis, and
26 disaggregated by race, ethnicity, gender, and socioeconomic
27 status;

1 (5) [~~(4)~~] a summary compilation of overall
2 performance of students placed in a disciplinary [~~an~~] alternative
3 education program established under Section 37.008 on academic
4 skills assessment instruments required by Section 39.023 with the
5 number of those students exempted from the administration of those
6 instruments and the basis of the exemptions, aggregated by
7 district, grade level, and subject area, with appropriate
8 interpretations and analysis, and disaggregated by race,
9 ethnicity, gender, and socioeconomic status;

10 (6) [~~(5)~~] a summary compilation of overall performance
11 of students at risk of dropping out of school, as defined by Section
12 29.081(d), on academic skills assessment instruments required by
13 Section 39.023 with the number of those students exempted from the
14 administration of those instruments and the basis of the
15 exemptions, aggregated by district, grade level, and subject area,
16 with appropriate interpretations and analysis, and disaggregated
17 by race, ethnicity, gender, and socioeconomic status;

18 (7) [~~(6)~~] an evaluation of the correlation between
19 student grades and student performance on academic skills
20 assessment instruments required by Section 39.023;

21 (8) [~~(7)~~] a statement of the dropout rate of students
22 in grade levels 7 through 12, expressed in the aggregate and by
23 grade level, and a statement of the completion rates of students for
24 grade levels 9 through 12;

25 (9) [~~(8)~~] a statement of:

26 (A) the completion rate of students who enter
27 grade level 9 and graduate not more than four years later;

1 (B) the completion rate of students who enter
2 grade level 9 and graduate, including students who require more
3 than four years to graduate;

4 (C) the completion rate of students who enter
5 grade level 9 and not more than four years later receive a high
6 school equivalency certificate;

7 (D) the completion rate of students who enter
8 grade level 9 and receive a high school equivalency certificate,
9 including students who require more than four years to receive a
10 certificate; and

11 (E) the number and percentage of all students who
12 have not been accounted for under Paragraph (A), (B), (C), or (D);

13 (10) [~~(9)~~] a statement of the projected
14 cross-sectional and longitudinal dropout rates for grade levels 9
15 through 12 for the next five years, assuming no state action is
16 taken to reduce the dropout rate;

17 (11) [~~(10)~~] a description of a systematic, measurable
18 plan for reducing the projected cross-sectional and longitudinal
19 dropout rates to five percent or less for the 1997-1998 school year;

20 (12) [~~(11)~~] a summary of the information required by
21 Section 29.083 regarding grade level retention of students and
22 information concerning:

23 (A) the number and percentage of students
24 retained; and

25 (B) the performance of retained students on
26 assessment instruments required under Section 39.023(a);

27 (13) [~~(12)~~] information, aggregated by district type

1 and disaggregated by race, ethnicity, gender, and socioeconomic
2 status, on:

3 (A) the number of students placed in a
4 disciplinary [~~an~~] alternative education program established under
5 Section 37.008;

6 (B) the average length of a student's placement
7 in a disciplinary [~~an~~] alternative education program established
8 under Section 37.008;

9 (C) the academic performance of students on
10 assessment instruments required under Section 39.023(a) during the
11 year preceding and during the year following placement in a
12 disciplinary [~~an~~] alternative education program; and

13 (D) the dropout rates of students who have been
14 placed in a disciplinary [~~an~~] alternative education program
15 established under Section 37.008;

16 (14) [~~(13)~~] a list of each school district or campus
17 that does not satisfy performance standards, with an explanation of
18 the actions taken by the commissioner to improve student
19 performance in the district or campus and an evaluation of the
20 results of those actions;

21 (15) [~~(14)~~] an evaluation of the status of the
22 curriculum taught in public schools, with recommendations for
23 legislative changes necessary to improve or modify the curriculum
24 required by Section 28.002;

25 (16) [~~(15)~~] a description of all funds received by and
26 each activity and expenditure of the agency;

27 (17) [~~(16)~~] a summary and analysis of the

1 instructional expenditures ratios and instructional employees
2 ratios of school districts computed under Section 44.0071;

3 (18) [~~(17)~~] a summary of the effect of deregulation,
4 including exemptions and waivers granted under Section 7.056 or
5 11.004 [~~39.112~~];

6 (19) [~~(18)~~] a statement of the total number and length
7 of reports that school districts and school district employees must
8 submit to the agency, identifying which reports are required by
9 federal statute or rule, state statute, or agency rule, and a
10 summary of the agency's efforts to reduce overall reporting
11 requirements;

12 (20) [~~(19)~~] a list of each school district that is not
13 in compliance with state special education requirements,
14 including:

15 (A) the period for which the district has not
16 been in compliance;

17 (B) the manner in which the agency considered the
18 district's failure to comply in determining the district's
19 accreditation status; and

20 (C) an explanation of the actions taken by the
21 commissioner to ensure compliance and an evaluation of the results
22 of those actions;

23 (21) [~~(20)~~] a comparison of the performance of
24 open-enrollment charter schools and school districts on the
25 academic excellence indicators specified in Section 39.051(b) and
26 accountability measures adopted under Section 39.051(g), with a
27 separately aggregated comparison of the performance of

1 open-enrollment charter schools predominantly serving students at
2 risk of dropping out of school, as defined by Section 29.081(d),
3 with the performance of school districts; ~~and~~

4 (22) a statement of the percentage of students scoring
5 at the proficient and advanced levels on the National Assessment of
6 Educational Progress; and

7 (23) [~~(21)~~] any additional information considered
8 important by the commissioner or the State Board of Education.

9 (b) In reporting the information required by Subsection
10 (a)(4) or (5) [~~(a)(3) or (4)~~], the agency may separately aggregate
11 the performance data of students enrolled in a special education
12 program under Subchapter A, Chapter 29, or a bilingual education or
13 special language program under Subchapter B, Chapter 29.

14 SECTION 2D.33. Section 39.183, Education Code, is amended
15 to read as follows:

16 Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The
17 agency shall prepare and deliver to the governor, the lieutenant
18 governor, the speaker of the house of representatives, each member
19 of the legislature, the Legislative Budget Board, and the clerks of
20 the standing committees of the senate and house of representatives
21 with primary jurisdiction over the public school system a regional
22 and district level report covering the preceding two school years
23 and containing:

24 (1) a summary of school district compliance with the
25 student/teacher ratios and class-size limitations prescribed by
26 Sections 25.111 and 25.112, including:

27 (A) the number of campuses and classes at each

1 campus granted an exception from Section 25.112; and

2 (B) the performance rating under Subchapter D of
3 each campus granted an exception from Section 25.112;

4 (2) a summary of the exemptions and waivers granted to
5 school districts under Section 7.056 or 11.004 [~~39.112~~] and a
6 review of the effectiveness of each campus or district following
7 deregulation;

8 (3) an evaluation of the performance of the system of
9 regional education service centers based on the indicators adopted
10 under Section 8.101 and client satisfaction with services provided
11 under Subchapter B, Chapter 8;

12 (4) an evaluation of accelerated instruction programs
13 offered under Section 28.006, including an assessment of the
14 quality of such programs and the performance of students enrolled
15 in such programs; and

16 (5) the number of classes at each campus that are
17 currently being taught by individuals who are not certified in the
18 content areas of their respective classes.

19 SECTION 2D.34. Section 39.202, Education Code, is amended
20 to read as follows:

21 Sec. 39.202. DEVELOPMENT AND IMPLEMENTATION. (a) The
22 commissioner shall, in consultation with the comptroller, develop
23 and implement a financial accountability rating system for school
24 districts in this state that will:

25 (1) provide additional transparency to public
26 education finance;

27 (2) establish financial accountability standards

1 commensurate with academic standards reaching to the campus level;
2 and

3 (3) enable the commissioner and district
4 administrators to provide meaningful financial oversight and
5 improvement.

6 (b) The system must include standards [~~uniform indicators~~]
7 adopted by the commissioner by which to measure a district's
8 financial management performance. The commissioner shall develop a
9 uniform system for reporting district and campus financial
10 information. The commissioner by rule shall require each district
11 to use standard accepted cost accounting practices for reporting
12 district and campus level expenditures.

13 (c) The uniform system adopted under Subsection (b) must
14 include standards to determine a district's actual financial
15 expenditures for each campus. A district must identify and report
16 each expenditure separately and may not report district-wide
17 averages or use other allocation formulas other than district level
18 expenditures for overhead or administrative costs, which may be
19 allocated to campuses. Required reporting standards include:

20 (1) reporting actual expenditures for personnel
21 employed at the campus, identified separately by administrative,
22 instructional, and support assignments;

23 (2) reporting actual operations and maintenance
24 expenses incurred on the campus;

25 (3) reporting costs allocated to each campus for
26 shared services and district support;

27 (4) identifying expenditures by administrative,

1 instructional, or support services; and

2 (5) any additional information required by the
3 commissioner to ensure reporting of actual educational costs for
4 specific campuses.

5 (d) The commissioner shall develop and implement:

6 (1) procedures based on standards developed under
7 Subsection (c) for reporting campus financial information; and

8 (2) a format for campus financial statements.

9 (e) A district and campus shall report information at least
10 quarterly each year.

11 (f) The essential purposes to be accomplished by the
12 financial accountability system are to:

13 (1) collect, store, and maintain appropriate data that
14 is timely and accurate for administering the public education
15 system;

16 (2) use a software application that provides a
17 comprehensive measurement and control system capable of providing
18 relevant and timely financial performance information as described
19 by Subsection (g);

20 (3) use the measurement and control systems described
21 by Subdivision (2) to evaluate and set appropriate financial
22 performance standards;

23 (4) provide access to financial analysis and reporting
24 to a broad range of interested parties, including agency staff,
25 district administrators and staff, the board of trustees of school
26 districts, state officials, parents, and other public interest
27 groups;

1 (5) allocate appropriate resources to implement and
2 maintain the financial accountability system; and

3 (6) provide longitudinal trend and comparison data at
4 the district and campus levels.

5 (g) The software application used for the financial
6 accountability system under this section must be designed to
7 systematically evaluate school districts, component campuses, and
8 open-enrollment charter schools. The system must:

9 (1) identify a district or campus that achieves a high
10 level of academic performance and operates in a cost-effective
11 manner as a basis for financial best practices analysis and
12 financial performance standards development;

13 (2) provide a timely summary and detailed financial
14 analysis of information for school districts and open-enrollment
15 charter schools;

16 (3) provide information and analysis on student
17 demographics, teacher demographics, and academic performance to
18 correlate with resource allocation;

19 (4) report financial analysis information for all
20 state, region, district, and campus levels;

21 (5) provide information to develop financial and
22 staffing models that accommodate differences in student
23 demographics and regional cost variation, including an analysis of
24 variances to actual costs;

25 (6) collect, store, and maintain at least five years
26 of historical data and perform longitudinal analysis on that data;

27 (7) use individual districts, campuses, and peer

1 groups to compare and rank financial performance results, identify
2 performance gaps, and measure annual progress in closing
3 performance gaps; and

4 (8) provide performance indices and performance
5 levels compatible with the agency's Performance Based Monitoring
6 Analysis System.

7 SECTION 2D.35. Section 39.203(b), Education Code, is
8 amended to read as follows:

9 (b) The annual financial management report must include:

10 (1) a description of the district's financial
11 management performance based on a comparison, provided by the
12 agency, of the district's performance on the standards [~~indicators~~]
13 adopted under Section 39.202 [~~39.202(b)~~] to:

14 (A) state-established standards; and

15 (B) the district's previous performance on the
16 standards adopted under Section 39.202 [~~indicators~~]; [~~and~~]

17 (2) a description of the district's actual
18 expenditures for each campus for the standards described by Section
19 39.202(c) and any difference between those campus expenditures the
20 foundation school program allotments received for the campus;

21 (3) the individual campus financial statements
22 required by Section 39.202; and

23 (4) any descriptive information required by the
24 commissioner.

25 SECTION 2D.36. Subchapter A, Chapter 44, Education Code, is
26 amended by adding Section 44.0072 to read as follows:

27 Sec. 44.0072. NONINSTRUCTIONAL EXPENDITURES. (a) Each

1 fiscal year, a school district shall compute and report through the
2 Public Education Information Management System (PEIMS) to the
3 commissioner:

4 (1) the district's significant noninstructional
5 expenditures for the preceding fiscal year, as determined by the
6 commissioner; and

7 (2) any money spent by the district during the
8 preceding fiscal year:

9 (A) on dues or contributions to a
10 noninstructional group, club, committee, organization, or
11 association, including dues or contributions used for the purpose
12 of lobbying; and

13 (B) on expenditures directly to a lobbyist for
14 the sole purpose of lobbying.

15 (b) The commissioner may determine, in a manner consistent
16 with Section 44.0071, whether an expenditure is noninstructional.

17 SECTION 2D.37. Section 51.3062(q), Education Code, is
18 amended to read as follows:

19 (q) A student who has achieved scores [~~a score~~] set by the
20 board on end-of-course assessment instruments [~~an exit-level~~
21 ~~assessment instrument~~] required under Section 39.023 is exempt from
22 the requirements of this section. The exemption is effective for
23 the three-year period following the date a student takes the last
24 assessment instrument required for purposes of this section and
25 achieves the standard set by the board. This subsection does not
26 apply during any period for which the board designates the
27 end-of-course assessment instruments [~~exit-level assessment~~

1 ~~instrument~~] required under Section 39.023 as the primary assessment
2 instrument under this section, except that the three-year period
3 described by this subsection remains in effect for students who
4 qualify for an exemption under this subsection [~~section~~] before
5 that period.

6 SECTION 2D.38. (a) Not later than the 2006-2007 school
7 year, the Texas Education Agency shall collect information
8 concerning:

9 (1) the measure of progress toward English language
10 proficiency for purposes of Section 39.051(b)(7), Education Code,
11 as amended by this Act; and

12 (2) value-added student achievement for purposes of
13 Section 39.051(b)(8), Education Code, as amended by this Act.

14 (b) Not later than the 2007-2008 school year, the Texas
15 Education Agency shall include, in evaluating the performance of
16 school districts, campuses, and open-enrollment charter schools
17 under Subchapter D, Chapter 39, Education Code:

18 (1) the measure of progress toward English language
19 proficiency under Section 39.051(b)(7), Education Code, as amended
20 by this Act; and

21 (2) value-added student achievement under Section
22 39.051(b)(8), Education Code, as amended by this Act.

23 SECTION 2D.39. The commissioner of education shall:

24 (1) develop a methodology for categorizing campuses
25 for comparison purposes under Section 39.052(d), Education Code, as
26 added by this Act, not later than January 1, 2006; and

27 (2) develop and implement the reporting procedures

1 for:

2 (A) districts to prepare and distribute annual
3 financial management reports under Section 39.203, Education Code,
4 as amended by this Act, beginning with the 2006-2007 school year;
5 and

6 (B) campuses to provide financial information
7 under Section 39.202, Education Code, as amended by this Act,
8 beginning with the 2007-2008 school year.

9 PART E. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAMS

10 SECTION 2E.01. Section 28.006(j), Education Code, is
11 amended to read as follows:

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

21 SECTION 2E.02. Section 29.056(g), Education Code, is
22 amended to read as follows:

23 (g) A district may transfer a student of limited English
24 proficiency out of a bilingual education or special language
25 program for the first time or a subsequent time if the student is
26 able to participate equally in a regular all-English instructional
27 program as determined by:

1 (1) tests administered at the end of each school year
2 to determine the extent to which the student has developed oral and
3 written language proficiency and specific language skills in both
4 the student's primary language and English;

5 (2) satisfactory performance on the reading
6 assessment instrument under Section 39.023(a) or the English I or
7 II assessment instrument under Section 39.023(c), as applicable,
8 with the assessment instrument administered in English, or, if the
9 student is enrolled in the first or second grade, an achievement
10 score at or above the 40th percentile in the reading and language
11 arts sections of an English standardized test approved by the
12 agency; and

13 (3) other indications of a student's overall progress,
14 including criterion-referenced test scores, subjective teacher
15 evaluation, and parental evaluation.

16 SECTION 2E.03. Subchapter B, Chapter 29, Education Code, is
17 amended by adding Section 29.065 to read as follows:

18 Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE
19 PROFICIENCY. The commissioner by rule shall develop a longitudinal
20 measure of progress toward English language proficiency under which
21 a student of limited English proficiency is evaluated from the time
22 the student enters public school until, for two consecutive school
23 years, the student scores at a specific level determined by the
24 commissioner on the reading assessment instrument under Section
25 39.023(a) or the English I or II assessment instrument under
26 Section 39.023(c), as applicable. The commissioner shall:

27 (1) as part of the measure of progress, include

1 student advancement from one proficiency level to a higher level
2 under the reading proficiency in English assessment system
3 developed under Section 39.027(e) and from the highest level under
4 that assessment system to the level determined by the commissioner
5 under this section on the reading assessment instrument under
6 Section 39.023(a) or the English I or II assessment instrument
7 under Section 39.023(c), as applicable; and

8 (2) to the extent practicable in developing the
9 measure of progress, use applicable research and analysis done in
10 developing an annual measurable achievement objective as required
11 by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section
12 6842).

13 SECTION 2E.04. Sections 39.072(b) and (c), Education Code,
14 are amended to read as follows:

15 (b) The academic excellence indicators adopted under
16 Sections 39.051(b)(1) through (10) [~~(7)~~] and the district's current
17 special education compliance status with the agency shall be the
18 main considerations of the agency in the rating of the district
19 under this section. Additional criteria in the rules may include
20 consideration of:

21 (1) compliance with statutory requirements and
22 requirements imposed by rule of the State Board of Education under
23 specific statutory authority that relate to:

24 (A) reporting data through the Public Education
25 Information Management System (PEIMS);

26 (B) the high school graduation requirements
27 under Section 28.025; or

1 (C) an item listed in Sections
2 7.056(e)(3)(C)-(I) that applies to the district;

3 (2) the effectiveness of the district's programs for
4 special populations; and

5 (3) the effectiveness of the district's career and
6 technology programs.

7 (c) The agency shall evaluate against state standards and
8 shall, not later than August 1 of each year, report the performance
9 of each campus in a district and each open-enrollment charter
10 school on the basis of the campus's performance on the indicators
11 adopted under Sections 39.051(b)(1) through (10) [~~(7)~~].
12 Consideration of the effectiveness of district programs under
13 Subsection (b)(2) or (3) must be based on data collected through the
14 Public Education Information Management System for purposes of
15 accountability under this chapter and include the results of
16 assessments required under Section 39.023.

17 SECTION 2E.05. Sections 39.073(a) and (b), Education Code,
18 are amended to read as follows:

19 (a) The agency shall annually review the performance of each
20 district and campus on the indicators adopted under Sections
21 39.051(b)(1) through (10) [~~(7)~~] and determine if a change in the
22 accreditation status of the district is warranted. The
23 commissioner may determine how all indicators adopted under Section
24 39.051(b) may be used to determine accountability ratings and to
25 select districts and campuses for acknowledgment.

26 (b) Each annual review shall include an analysis of the
27 indicators under Sections 39.051(b)(1) through (10) [~~(6)~~] to

1 determine district and campus performance in relation to:

2 (1) standards established for each indicator;

3 (2) required improvement as defined under Section
4 39.051(c); and

5 (3) comparable improvement as defined by Section
6 39.051(c).

7 SECTION 2E.06. Section 39.074(e), Education Code, is
8 amended to read as follows:

9 (e) If an annual review indicates low performance on one or
10 more of the indicators under Sections 39.051(b)(1) through (10)
11 [~~(7)~~] of one or more campuses in a district, the agency may conduct
12 an on-site evaluation of those campuses only.

13 PART F. HIGH ACADEMIC ACHIEVEMENT PROGRAMS

14 SECTION 2F.01. Subchapter D, Chapter 29, Education Code, is
15 amended by adding Section 29.127 to read as follows:

16 Sec. 29.127. TEXAS GOVERNOR'S SCHOOLS. (a) In this
17 section, "public senior college or university" has the meaning
18 assigned by Section 61.003.

19 (b) A Texas governor's school is a summer residential
20 program for high-achieving high school students. A Texas
21 governor's school program may include any or all of the following
22 educational curricula:

23 (1) mathematics and science;

24 (2) humanities; or

25 (3) leadership and public policy.

26 (c) A public senior college or university may apply to the
27 commissioner to administer a Texas governor's school program under

1 this section. The commissioner shall give preference to a public
2 senior college or university that applies in cooperation with a
3 nonprofit association. The commissioner shall give additional
4 preference if the nonprofit association receives foundation school
5 funds that may be used to finance the program.

6 (d) The commissioner may approve an application under this
7 section only if the applicant:

8 (1) applies within the period and in the manner
9 required by rule adopted by the commissioner;

10 (2) submits a program proposal that includes:

11 (A) a curriculum consistent with Subsection (b);

12 (B) criteria for selecting students to
13 participate in the program;

14 (C) a statement of the length of the program,
15 which must be at least three weeks; and

16 (D) a statement of the location of the program;

17 (3) agrees to use a grant under this section only for
18 the purpose of administering a program; and

19 (4) satisfies any other requirements established by
20 rule adopted by the commissioner.

21 (e) From funds appropriated for the purpose, the
22 commissioner may make a grant to pay the costs of administering a
23 Texas governor's school program to a public senior college or
24 university whose application is approved under this section.

25 (f) The commissioner may adopt other rules necessary to
26 implement this section.

27 SECTION 2F.02. Section 39.051, Education Code, is amended

1 by adding Subsection (b-1) to read as follows:

2 (b-1) In addition to the indicators adopted under
3 Subsection (b), the State Board of Education shall adopt the
4 following indicators relating to high academic achievement to be
5 considered in assigning a district an exemplary performance rating
6 under Section 39.072:

7 (1) the percentage of students, disaggregated by race,
8 ethnicity, gender, and socioeconomic status, who are enrolled in an
9 educational program for gifted and talented students;

10 (2) student results on advanced placement and
11 international baccalaureate examinations, including the percentage
12 of students scoring three or higher on the advanced placement
13 examinations and the percentage of students scoring four or higher
14 on the international baccalaureate examinations;

15 (3) student results on the Scholastic Assessment Test
16 (SAT) and the American College Test (ACT);

17 (4) the percentage of students scoring in the top five
18 percent on nationally recognized norm-referenced assessment
19 instruments;

20 (5) the percentage of high school students enrolled in
21 an advanced course;

22 (6) the percentage of students achieving commended
23 performance, as determined by the State Board of Education, on an
24 assessment instrument required under Section 39.023(a), (c), or
25 (1);

26 (7) the percentage of students completing the
27 recommended or advanced high school program established under

1 Section 28.025; and

2 (8) the percentage of the district's graduating
3 students who enroll in an institution of higher education for the
4 academic year following graduation.

5 SECTION 2F.03. Section 39.053(a), Education Code, is
6 amended to read as follows:

7 (a) Each board of trustees shall publish an annual report
8 describing the educational performance of the district and of each
9 campus in the district that includes uniform student performance
10 and descriptive information as determined under rules adopted by
11 the commissioner. The annual report must also include:

12 (1) campus performance objectives established under
13 Section 11.253 and the progress of each campus toward those
14 objectives, which shall be available to the public;

15 (2) the performance rating for the district as
16 provided under Section 39.072(a) and the performance rating of each
17 campus in the district as provided under Section 39.072(c);

18 (3) the district's current special education
19 compliance status with the agency;

20 (4) a statement of the number, rate, and type of
21 violent or criminal incidents that occurred on each district
22 campus, to the extent permitted under the Family Educational Rights
23 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

24 (5) information concerning school violence prevention
25 and violence intervention policies and procedures that the district
26 is using to protect students; ~~and~~

27 (6) the findings that result from evaluations

1 conducted under the Safe and Drug-Free Schools and Communities Act
2 of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent
3 amendments; ~~and~~

4 (7) information received under Section 51.403(e) for
5 each high school campus in the district, presented in a form
6 determined by the commissioner; and

7 (8) information relating to high academic achievement
8 in the district, as determined by the district's performance on the
9 indicators under Section 39.051(b-1).

10 SECTION 2F.04. Section 39.072, Education Code, is amended
11 by adding Subsection (c-1) to read as follows:

12 (c-1) For purposes of assigning a district, campus, or
13 open-enrollment charter school a performance rating of exemplary
14 under this section, the agency shall consider the district's,
15 campus's, or school's performance on the indicators relating to
16 high academic achievement under Section 39.051(b-1). This
17 information is in addition to any other indicators or factors
18 considered by the agency in assigning a performance rating.

19 SECTION 2F.05. Section 39.0721(c), Education Code, is
20 amended to read as follows:

21 (c) The performance standards on which a gold performance
22 rating is based should include:

23 (1) student proficiency on:

24 (A) assessment instruments administered under
25 Sections 39.023(a), (c), and (1); and

26 (B) other measures of proficiency determined by
27 the commissioner;

1 (2) student performance on one or more nationally
2 recognized norm-referenced assessment instruments;

3 (3) improvement in student performance;

4 (4) performance on indicators relating to high
5 academic achievement under Section 39.051(b-1);

6 (5) [~~(4)~~] in the case of middle or junior high school
7 campuses, student proficiency in mathematics, including algebra;
8 and

9 (6) [~~(5)~~] in the case of high school campuses:

10 (A) the extent to which graduating students are
11 academically prepared to attend institutions of higher education;

12 (B) the percentage of students who take advanced
13 placement tests and student performance on those tests; and

14 (C) the percentage of students who take and
15 successfully complete advanced academic courses or college-level
16 course work offered through dual credit programs provided under
17 agreements between high schools and institutions of higher
18 education.

19 SECTION 2F.06. (a) Not later than the 2006-2007 school
20 year, the Texas Education Agency shall collect information
21 concerning high academic achievement for purposes of Section
22 39.051(b-1), Education Code, as added by this Act.

23 (b) Not later than the 2007-2008 school year, the Texas
24 Education Agency shall include information concerning high
25 academic achievement for purposes of Section 39.051(b-1),
26 Education Code, as added by this Act, in evaluating the performance
27 of school districts, campuses, and open-enrollment charter schools

1 under Subchapter D, Chapter 39, Education Code.

2 (c) Not later than the 2007-2008 school year, the Texas
3 Education Agency shall include the information required by Section
4 39.182(a)(21), Education Code, as amended by this Act, in the
5 agency's comprehensive annual report under Section 39.182,
6 Education Code.

7 ARTICLE 3. CONFORMING AMENDMENTS

8 SECTION 3.01. Section 7.024(a), Education Code, is amended
9 to read as follows:

10 (a) The investment capital fund consists of money
11 appropriated by the legislature for that purpose [~~transferred to~~
12 ~~the fund as provided by Section 42.152(1)~~]. The agency shall
13 administer the fund. The purposes of this fund are to assist
14 eligible public schools to implement practices and procedures
15 consistent with deregulation and school restructuring in order to
16 improve student achievement and to help schools identify and train
17 parents and community leaders who will hold the school and the
18 school district accountable for achieving high academic standards.

19 SECTION 3.02. Section 7.055(b)(34), Education Code, is
20 amended to read as follows:

21 (34) The commissioner shall perform duties in
22 connection with equalization actions [~~the equalized wealth level~~]
23 under Chapter 41.

24 SECTION 3.03. Section 8.051(d), Education Code, is amended
25 to read as follows:

26 (d) Each regional education service center shall maintain
27 core services for purchase by school districts and campuses. The

1 core services are:

2 (1) training and assistance in teaching each subject
3 area assessed under Section 39.023;

4 (2) training and assistance in providing:

5 (A) each program that qualifies for a funding
6 allotment under Section 42.151, 42.152, or 42.153 [~~or 42.156~~]; or

7 (B) a gifted and talented program under
8 Subchapter D, Chapter 29;

9 (3) assistance specifically designed for a school
10 district rated academically unacceptable under Section 39.072(a)
11 or a campus whose performance is considered unacceptable based on
12 the indicators adopted under Section 39.051;

13 (4) training and assistance to teachers,
14 administrators, members of district boards of trustees, and members
15 of site-based decision-making committees;

16 (5) assistance specifically designed for a school
17 district that is considered out of compliance with state or federal
18 special education requirements, based on the agency's most recent
19 compliance review of the district's special education programs; and

20 (6) assistance in complying with state laws and rules.

21 SECTION 3.04. Section 11.158(a), Education Code, is amended
22 to read as follows:

23 (a) The board of trustees of an independent school district
24 may require payment of:

25 (1) a fee for materials used in any program in which
26 the resultant product in excess of minimum requirements becomes, at
27 the student's option, the personal property of the student, if the

1 fee does not exceed the cost of materials;

2 (2) membership dues in student organizations or clubs
3 and admission fees or charges for attending extracurricular
4 activities, if membership or attendance is voluntary;

5 (3) a security deposit for the return of materials,
6 supplies, or equipment;

7 (4) a fee for personal physical education and athletic
8 equipment and apparel, although any student may provide the
9 student's own equipment or apparel if it meets reasonable
10 requirements and standards relating to health and safety
11 established by the board;

12 (5) a fee for items of personal use or products that a
13 student may purchase at the student's option, such as student
14 publications, class rings, annuals, and graduation announcements;

15 (6) a fee specifically permitted by any other statute;

16 (7) a fee for an authorized voluntary student health
17 and accident benefit plan;

18 (8) a reasonable fee, not to exceed the actual annual
19 maintenance cost, for the use of musical instruments and uniforms
20 owned or rented by the district;

21 (9) a fee for items of personal apparel that become the
22 property of the student and that are used in extracurricular
23 activities;

24 (10) a parking fee or a fee for an identification card;

25 (11) a fee for a driver training course, not to exceed
26 the actual district cost per student in the program for the current
27 school year;

1 (12) a fee for a course offered for credit that
2 requires the use of facilities not available on the school premises
3 or the employment of an educator who is not part of the school's
4 regular staff, if participation in the course is at the student's
5 option;

6 (13) a fee for a course offered during summer school,
7 except that the board may charge a fee for a course required for
8 graduation only if the course is also offered without a fee during
9 the regular school year;

10 (14) a reasonable fee for transportation of a student
11 who lives within two miles of the school the student attends to and
12 from that school[, ~~except that the board may not charge a fee for~~
13 ~~transportation for which the school district receives funds under~~
14 ~~Section 42.155(d)~~]; or

15 (15) a reasonable fee, not to exceed \$50, for costs
16 associated with an educational program offered outside of regular
17 school hours through which a student who was absent from class
18 receives instruction voluntarily for the purpose of making up the
19 missed instruction and meeting the level of attendance required
20 under Section 25.092.

21 SECTION 3.05. Section 12.013(b), Education Code, is amended
22 to read as follows:

23 (b) A home-rule school district is subject to:

24 (1) a provision of this title establishing a criminal
25 offense;

26 (2) a provision of this title relating to limitations
27 on liability; and

1 (3) a prohibition, restriction, or requirement, as
2 applicable, imposed by this title or a rule adopted under this
3 title, relating to:

4 (A) the Public Education Information Management
5 System (PEIMS) to the extent necessary to monitor compliance with
6 this subchapter as determined by the commissioner;

7 (B) educator certification under Chapter 21 and
8 educator rights under Sections 21.407, 21.408, and 22.001;

9 (C) criminal history records under Subchapter C,
10 Chapter 22;

11 (D) student admissions under Section 25.001;

12 (E) school attendance under Sections 25.085,
13 25.086, and 25.087;

14 (F) inter-district or inter-county transfers of
15 students under Subchapter B, Chapter 25;

16 (G) elementary class size limits under Section
17 25.112, in the case of any campus in the district that is considered
18 low-performing under Section 39.132;

19 (H) high school graduation under Section 28.025;

20 (I) special education programs under Subchapter
21 A, Chapter 29;

22 (J) bilingual education under Subchapter B,
23 Chapter 29;

24 (K) prekindergarten programs under Subchapter E,
25 Chapter 29;

26 (L) safety provisions relating to the
27 transportation of students under Sections 34.002, 34.003, 34.004,

1 and 34.008;

2 (M) computation and distribution of state aid
3 under Chapters 31, 42, and 43;

4 (N) extracurricular activities under Section
5 33.081;

6 (O) health and safety under Chapter 38;

7 (P) public school accountability under
8 Subchapters B, C, D, and G, Chapter 39;

9 (Q) equalization [~~equalized wealth~~] under
10 Section 42.401 [~~Chapter 41~~];

11 (R) a bond or other obligation or tax rate under
12 Chapters 42, 43, and 45; and

13 (S) purchasing under Chapter 44.

14 SECTION 3.06. Section 12.106(a), Education Code, is amended
15 to read as follows:

16 (a) A charter holder is entitled to receive for the
17 open-enrollment charter school funding under Chapter 42 as if the
18 school were a school district without a tier one local share for
19 purposes of Section 42.306 [~~42.253~~] and without any local revenue
20 ("LR") for purposes of Section 42.252 [~~42.302~~]. In determining
21 funding for an open-enrollment charter school:

22 (1) the adjustment [~~adjustments~~] under Section
23 42.301 is [~~Sections 42.102, 42.103, 42.104, and 42.105 and the~~
24 ~~district enrichment tax rate ("DTR") under Section 42.302 are based~~
25 ~~on~~] the [average] adjustment, if any, for the school district in
26 which the school is located;

27 (2) the adjustments under Sections 42.302 and 42.303

1 are the average adjustments under those sections for the state; and

2 (3) the district enrichment tax rate under Section
3 42.252 is the average district enrichment tax rate for the state, as
4 estimated at the beginning of the school year, and provided that the
5 amount of state funding for each student is not subject to
6 adjustment after the beginning of the school year due to changes in
7 the property value or collection rates for the state.

8 SECTION 3.07. Section 13.054(f), Education Code, is amended
9 to read as follows:

10 (f) For five years beginning with the school year in which
11 the annexation occurs, the commissioner shall annually adjust the
12 local share [~~fund assignment~~] of a district to which territory is
13 annexed under this section by multiplying the enlarged district's
14 local share [~~fund assignment~~] computed under Section 42.306
15 [~~42.252~~] by a fraction, the numerator of which is the number of
16 students residing in the district preceding the date of the
17 annexation and the denominator of which is the number of students
18 residing in the district as enlarged on the date of the annexation.

19 SECTION 3.08. Sections 13.282(a) and (b), Education Code,
20 are amended to read as follows:

21 (a) The amount of incentive aid payments may not exceed the
22 difference between:

23 (1) the sum of the entitlements computed under Section
24 42.313 [~~42.253~~] that would have been paid to the districts included
25 in the reorganized district if the districts had not been
26 consolidated; and

27 (2) the amount to which the reorganized district is

1 entitled under Section 42.313 [~~42.253~~].

2 (b) If the reorganized district is not eligible for an
3 entitlement under Section 42.313 [~~42.253~~], the amount of the
4 incentive aid payments may not exceed the sum of the entitlements
5 computed under Section 42.313 [~~42.253~~] for which the districts
6 included in the reorganized district were eligible in the school
7 year when they were consolidated.

8 SECTION 3.09. Section 21.410(h), Education Code, is amended
9 to read as follows:

10 (h) A grant a school district receives under this section is
11 in addition to any funding the district receives under Chapter 42.
12 The commissioner shall distribute funds under this section with the
13 Foundation School Program payment to which the district is entitled
14 as soon as practicable after the end of the school year as
15 determined by the commissioner. A district to which Section 42.401
16 [~~Chapter 41~~] applies is entitled to the grants paid under this
17 section. The commissioner shall determine the timing of the
18 distribution of grants to a district that does not receive
19 Foundation School Program payments.

20 SECTION 3.10. Section 21.411(h), Education Code, is amended
21 to read as follows:

22 (h) A grant a school district receives under this section is
23 in addition to any funding the district receives under Chapter 42.
24 The commissioner shall distribute funds under this section with the
25 Foundation School Program payment to which the district is entitled
26 as soon as practicable after the end of the school year as
27 determined by the commissioner. A district to which Section 42.401

1 [~~Chapter 41~~] applies is entitled to the grants paid under this
2 section. The commissioner shall determine the timing of the
3 distribution of grants to a district that does not receive
4 Foundation School Program payments.

5 SECTION 3.11. Section 21.412(h), Education Code, is amended
6 to read as follows:

7 (h) A grant a school district receives under this section is
8 in addition to any funding the district receives under Chapter 42.
9 The commissioner shall distribute funds under this section with the
10 Foundation School Program payment to which the district is entitled
11 as soon as practicable after the end of the school year as
12 determined by the commissioner. A district to which Section 42.401
13 [~~Chapter 41~~] applies is entitled to the grants paid under this
14 section. The commissioner shall determine the timing of the
15 distribution of grants to a district that does not receive
16 Foundation School Program payments.

17 SECTION 3.12. Section 21.413(h), Education Code, as added
18 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular
19 Session, 2003, is amended to read as follows:

20 (h) A grant a school district receives under this section is
21 in addition to any funding the district receives under Chapter 42.
22 The commissioner shall distribute funds under this section with the
23 Foundation School Program payment to which the district is entitled
24 as soon as practicable after the end of the school year as
25 determined by the commissioner. A district to which Section 42.401
26 [~~Chapter 41~~] applies is entitled to the grants paid under this
27 section. The commissioner shall determine the timing of the

1 distribution of grants to a district that does not receive
2 Foundation School Program payments.

3 SECTION 3.13. Section 22.004(c), Education Code, is amended
4 to read as follows:

5 (c) The cost of the coverage provided under the program
6 described by Subsection (a) shall be paid by the state, the
7 district, and the employees in the manner provided by Chapter 1579
8 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided
9 under a plan adopted under Subsection (b) shall be shared by the
10 employees and the district using the contributions by the state
11 described by Subchapter F, Chapter 1579 [~~Section 9, Article~~
12 ~~3.50-7~~], Insurance Code [~~, or by Article 3.50-8, Insurance Code~~].

13 SECTION 3.14. Section 29.008(b), Education Code, is amended
14 to read as follows:

15 (b) Except as provided by Subsection (c), costs of an
16 approved contract for residential placement may be paid from a
17 combination of federal, state, and local funds. The local share of
18 the total contract cost for each student is that portion of the
19 local tax effort that exceeds the district's local share [~~fund~~
20 ~~assignment~~] under Section 42.306 [~~42.252~~], divided by the average
21 daily attendance in the district. If the contract involves a
22 private facility, the state share of the total contract cost is that
23 amount remaining after subtracting the local share. If the
24 contract involves a public facility, the state share is that amount
25 remaining after subtracting the local share from the portion of the
26 contract that involves the costs of instructional and related
27 services. For purposes of this subsection, "local tax effort"

1 means the total amount of money generated by taxes imposed for debt
2 service and maintenance and operation less any amounts paid into a
3 tax increment fund under Chapter 311, Tax Code.

4 SECTION 3.15. Section 29.014(d), Education Code, is amended
5 to read as follows:

6 (d) The accreditation [~~basic~~] allotment for a student
7 enrolled in a district to which this section applies is adjusted by:

8 (1) the cost of education adjustment under Section
9 42.301 [~~42.102~~] for the school district in which the district is
10 geographically located; and

11 (2) any other appropriate factor adopted by the
12 commissioner [~~the weight for a homebound student under Section~~
13 ~~42.151(a)~~].

14 SECTION 3.16. Section 29.087(j), Education Code, is amended
15 to read as follows:

16 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and
17 46, a student attending a program authorized by this section may be
18 counted in attendance only for the actual number of hours each
19 school day the student attends the program, in accordance with
20 Sections 25.081 and 25.082.

21 SECTION 3.17. Section 29.203(b), Education Code, is amended
22 to read as follows:

23 (b) A school district is entitled to the allotment provided
24 by Section 42.155 [~~42.157~~] for each eligible student using a public
25 education grant. [~~If the district has a wealth per student greater~~
26 ~~than the guaranteed wealth level but less than the equalized wealth~~
27 ~~level, a school district is entitled under rules adopted by the~~

1 ~~commissioner to additional state aid in an amount equal to the~~
2 ~~difference between the cost to the district of providing services~~
3 ~~to a student using a public education grant and the sum of the state~~
4 ~~aid received because of the allotment under Section 42.157 and~~
5 ~~money from the available school fund attributable to the student.]~~

6 SECTION 3.18. Effective September 1, 2006, Section
7 31.025(a), Education Code, is amended to read as follows:

8 (a) The State Board of Education shall set a limit on the
9 cost that may be paid using state funds [~~from the state textbook~~
10 ~~fund~~] for a textbook placed on the conforming or nonconforming list
11 for a particular subject and grade level. The board may not reject
12 a textbook for placement on the conforming or nonconforming list
13 because the textbook's price exceeds the limit established under
14 this subsection.

15 SECTION 3.19. Effective September 1, 2006, Section 31.1031,
16 Education Code, is amended to read as follows:

17 Sec. 31.1031. SHORTAGE OF REQUISITIONED TEXTBOOKS. If a
18 school district or open-enrollment charter school does not have a
19 sufficient number of copies of a textbook used by the district or
20 school for use during the following school year, and a sufficient
21 number of additional copies will not be available from the
22 depository or the publisher within the time specified by Section
23 31.151(a)(8), the district or school is entitled to:

24 (1) be reimbursed by the state [~~from the state~~
25 ~~textbook fund~~], at a rate and in the manner provided by State Board
26 of Education or commissioner rule, for the purchase of a sufficient
27 number of used adopted textbooks; or

1 (2) return currently used textbooks to the
2 commissioner in exchange for sufficient copies, if available, of
3 other textbooks on the conforming or nonconforming list to be used
4 during the following school year.

5 SECTION 3.20. Effective September 1, 2006, Section 31.105,
6 Education Code, is amended to read as follows:

7 Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a
8 school district or governing body of an open-enrollment charter
9 school may sell textbooks, other than electronic textbooks, to a
10 student or another school at the state contract price. The district
11 shall send money from the sale of textbooks to the commissioner as
12 required by the commissioner. The commissioner shall deposit the
13 money in the Texas education [~~state textbook~~] fund.

14 SECTION 3.21. Effective September 1, 2006, Section
15 31.151(d), Education Code, is amended to read as follows:

16 (d) A penalty collected under this section shall be
17 deposited to the credit of the Texas education [~~state textbook~~]
18 fund.

19 SECTION 3.22. Effective September 1, 2006, Section
20 31.152(b), Education Code, is amended to read as follows:

21 (b) A school trustee, administrator, or teacher commits an
22 offense if the person accepts a gift, favor, or service that:

23 (1) is given to the person or the person's school;

24 (2) might reasonably tend to influence a trustee,
25 administrator, or teacher in the selection of a textbook; and

26 (3) could not be lawfully purchased with funds from
27 the allotment provided by Section 42.241 [~~state textbook fund~~].

1 SECTION 3.23. Section 32.005, Education Code, is amended by
2 amending Subsection (a) and adding Subsection (d) to read as
3 follows:

4 (a) Each school district is entitled to an allotment of \$70
5 [~~\$30~~] for each student in average daily attendance or a different
6 amount for any year provided by appropriation.

7 (d) This section expires August 1, 2006.

8 SECTION 3.24. Section 32.161(b), Education Code, is amended
9 to read as follows:

10 (b) To the extent possible considering other statutory
11 requirements, the commissioner and agency shall encourage the use
12 of textbook funds and any other funds provided to school districts
13 for technology [~~and technology allotment funds under Section~~
14 ~~31.021(b)(2)~~] in a manner that facilitates the development and use
15 of the portal.

16 SECTION 3.25. Section 34.002(c), Education Code, is amended
17 to read as follows:

18 (c) A school district that fails or refuses to meet the
19 safety standards for school buses established under this section is
20 ineligible to share in the transportation allotment under
21 Subchapter D, Chapter 42, [Section 42.155] until the first
22 anniversary of the date the district begins complying with the
23 safety standards.

24 SECTION 3.26. Section 37.0061, Education Code, is amended
25 to read as follows:

26 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
27 JUVENILE RESIDENTIAL FACILITIES. A school district that provides

1 education services to pre-adjudicated and post-adjudicated
2 students who are confined by court order in a juvenile residential
3 facility operated by a juvenile board is entitled to count such
4 students in the district's average daily attendance for purposes of
5 receipt of state funds under the Foundation School Program. [~~If the
6 district has a wealth per student greater than the guaranteed
7 wealth level but less than the equalized wealth level, the district
8 in which the student is enrolled on the date a court orders the
9 student to be confined to a juvenile residential facility shall
10 transfer to the district providing education services an amount
11 equal to the difference between the average Foundation School
12 Program costs per student of the district providing education
13 services and the sum of the state aid and the money from the
14 available school fund received by the district that is attributable
15 to the student for the portion of the school year for which the
16 district provides education services to the student.~~]

17 SECTION 3.27. Section 39.031, Education Code, is amended to
18 read as follows:

19 Sec. 39.031. COST. (a) The commissioner shall set aside an
20 appropriate amount from the Foundation School Program to pay the
21 cost of preparing, administering, or grading the assessment
22 instruments and the [~~shall be paid from the funds allotted under
23 Section 42.152, and each district shall bear the cost in the same
24 manner described for a reduction in allotments under Section
25 42.253. If a district does not receive an allotment under Section
26 42.152, the commissioner shall subtract the cost from the
27 district's other foundation school fund allotments.~~]

1 ~~[(b) The]~~ cost of releasing the question and answer keys
2 under Section 39.023(e) ~~[shall be paid from amounts appropriated~~
3 ~~to the agency]~~.

4 (b) After setting aside an appropriate amount in accordance
5 with this section, the commissioner shall reduce each district's
6 tier one allotments proportionately. A reduction in tier one
7 allotments under this subsection does not affect the computation of
8 the guaranteed amount of revenue per student per cent of tax effort
9 under Section 42.252.

10 (c) Any amount set aside under this section must be approved
11 by the Legislative Budget Board and the governor's office of
12 budget, planning, and policy.

13 SECTION 3.28. Section 39.134, Education Code, is amended to
14 read as follows:

15 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
16 a monitor, conservator, management team, or special campus
17 intervention team shall be paid by the district. If the district
18 fails or refuses to pay the costs in a timely manner, the
19 commissioner may:

20 (1) pay the costs using amounts withheld from any
21 funds to which the district is otherwise entitled; or

22 (2) recover the amount of the costs in the manner
23 provided for recovery of an overallocation of state funds under
24 Section 42.317 ~~[42.258]~~.

25 SECTION 3.29. Section 43.002(b), Education Code, is amended
26 to read as follows:

27 (b) Of the amounts available for transfer from the general

1 revenue fund to the available school fund for the months of January
 2 and February of each fiscal year, no more than the amount necessary
 3 to enable the comptroller to distribute from the available school
 4 fund an amount equal to 9-1/2 percent of the estimated annual
 5 available school fund apportionment to category 1 school districts,
 6 as defined by Section 42.316 [~~42.259~~], and 3-1/2 percent of the
 7 estimated annual available school fund apportionment to category 2
 8 school districts, as defined by Section 42.316 [~~42.259~~], may be
 9 transferred from the general revenue fund to the available school
 10 fund. Any remaining amount that would otherwise be available for
 11 transfer for the months of January and February shall be
 12 transferred from the general revenue fund to the available school
 13 fund in equal amounts in June and in August of the same fiscal year.

14 SECTION 3.30. Section 44.004, Education Code, is amended by
 15 adding Subsection (b-1) and amending Subsections (e) and (i) to
 16 read as follows:

17 (b-1) The notice of the public meeting to discuss and adopt
 18 the budget and the proposed tax rate may not be smaller than
 19 one-quarter page of a standard-size or a tabloid-size newspaper,
 20 and the headline on the notice must be in 18-point or larger type.

21 (e) A person who owns taxable property in a school district
 22 is entitled to an injunction restraining the collection of taxes by
 23 the district if the district has not complied with the requirements
 24 of Subsections (b) and (b-1) [~~(c)~~] and [~~(d)~~, ~~and~~], if applicable,
 25 Subsection (i), and the failure to comply was not in good faith. An
 26 action to enjoin the collection of taxes must be filed before the
 27 date the school district delivers substantially all of its tax

1 bills.

2 (i) A school district that uses a certified estimate, as
3 authorized by Subsection (h), may adopt a budget at the public
4 meeting designated in the notice prepared using the estimate, but
5 the district may not adopt a tax rate before the district receives
6 the certified appraisal roll for the district required by Section
7 26.01(a), Tax Code. After receipt of the certified appraisal roll,
8 the district must publish a revised notice and hold another public
9 meeting before the district may adopt a tax rate that exceeds:

10 (1) the rate proposed in the notice prepared using the
11 estimate; or

12 (2) the district's rollback rate determined under
13 Section 26.08, Tax Code, if applicable, using the certified
14 appraisal roll.

15 SECTION 3.31. Section 46.003(a), Education Code, is amended
16 to read as follows:

17 (a) For each year, except as provided by Sections 46.005 and
18 46.006, a school district is guaranteed a specified amount per
19 student in state and local funds for each cent of tax effort, up to
20 the maximum rate under Subsection (b), to pay the principal of and
21 interest on eligible bonds issued to construct, acquire, renovate,
22 or improve an instructional facility. The amount of state support
23 is determined by the formula:

24
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

25 where:

26 "FYA" is the guaranteed facilities yield amount of state
27 funds allocated to the district for the year;

1 "FYL" is the dollar amount guaranteed level of state and
2 local funds per student per cent of tax effort, which is \$35 or a
3 greater amount for any year provided by appropriation;

4 "ADA" is the greater of the number of students in average
5 daily attendance, as determined under Section 42.005, in the
6 district or 400;

7 "BTR" is the district's bond tax rate for the current year,
8 which is determined by dividing the amount budgeted by the district
9 for payment of eligible bonds by the quotient of the district's
10 taxable value of property as determined under Subchapter M, Chapter
11 403, Government Code, [~~or, if applicable, Section 42.2521,~~] divided
12 by 100; and

13 "DPV" is the district's taxable value of property as
14 determined under Subchapter M, Chapter 403, Government Code [~~, or,~~
15 ~~if applicable, Section 42.2521~~].

16 SECTION 3.32. Section 46.006(g), Education Code, is amended
17 to read as follows:

18 (g) In this section, "wealth per student" means a school
19 district's taxable value of property as determined under Subchapter
20 M, Chapter 403, Government Code, [~~or, if applicable, Section~~
21 ~~42.2521,~~] divided by the district's average daily attendance as
22 determined under Section 42.005.

23 SECTION 3.33. Sections 46.009(b), (e), and (f), Education
24 Code, are amended to read as follows:

25 (b) If the amount appropriated for purposes of this
26 subchapter for a year is less than the total amount determined under
27 Subsection (a) for that year, the commissioner shall:

1 (1) transfer from the Foundation School Program to the
2 instructional facilities program the amount by which the total
3 amount determined under Subsection (a) exceeds the amount
4 appropriated; and

5 (2) reduce each district's Texas education [~~foundation~~
6 ~~school~~] fund allocations in the manner provided by Section
7 42.313(f) [~~42.253(h)~~].

8 (e) Section 42.317 [~~42.258~~] applies to payments under this
9 subchapter.

10 (f) If a school district would have received a greater
11 amount under this subchapter for the applicable school year using
12 the adjusted value determined under Section 42.310 [~~42.257~~], the
13 commissioner shall add the difference between the adjusted value
14 and the amount the district received under this subchapter to
15 subsequent distributions to the district under this subchapter.

16 SECTION 3.34. Section 46.013, Education Code, is amended to
17 read as follows:

18 Sec. 46.013. MULTIPLE ALLOTMENTS PROHIBITED. A school
19 district is not entitled to state assistance under this subchapter
20 based on taxes with respect to which the district receives state
21 assistance under Subchapter G [~~F~~], Chapter 42.

22 SECTION 3.35. Section 46.032(a), Education Code, is amended
23 to read as follows:

24 (a) Each school district is guaranteed a specified amount
25 per student in state and local funds for each cent of tax effort to
26 pay the principal of and interest on eligible bonds. The amount of
27 state support, subject only to the maximum amount under Section

1 46.034, is determined by the formula:

2
$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

3 where:

4 "EDA" is the amount of state funds to be allocated to the
5 district for assistance with existing debt;

6 "EDGL" is the dollar amount guaranteed level of state and
7 local funds per student per cent of tax effort, which is \$35 or a
8 greater amount for any year provided by appropriation;

9 "ADA" is the number of students in average daily attendance,
10 as determined under Section 42.005, in the district;

11 "EDTR" is the existing debt tax rate of the district, which is
12 determined by dividing the amount budgeted by the district for
13 payment of eligible bonds by the quotient of the district's taxable
14 value of property as determined under Subchapter M, Chapter 403,
15 Government Code, [~~or, if applicable, under Section 42.2521,~~]
16 divided by 100; and

17 "DPV" is the district's taxable value of property as
18 determined under Subchapter M, Chapter 403, Government Code [~~or,~~
19 ~~if applicable, under Section 42.2521~~].

20 SECTION 3.36. Section 46.037, Education Code, is amended to
21 read as follows:

22 Sec. 46.037. MULTIPLE ALLOTMENTS PROHIBITED. A school
23 district is not entitled to state assistance under this subchapter
24 based on taxes with respect to which the district receives state
25 assistance under Subchapter G [~~F~~], Chapter 42.

26 SECTION 3.37. Section 56.208, Education Code, is amended to
27 read as follows:

1 Sec. 56.208. FUNDING. (a) The Early High School Graduation
2 Scholarship program is financed under the Foundation School
3 Program. [~~Funding for the state tuition credits is not subject to~~
4 ~~the provisions of Sections 42.253(e) through (k).~~]

5 (b) The commissioner of education shall reduce the total
6 annual amount of Texas education [~~foundation school~~] fund payments
7 made to a school district by an amount equal to $F \times A$, where:

8 (1) "F" is the lesser of one or the quotient of the
9 district's local share for the preceding school year under Section
10 42.306 [~~42.252~~] divided by the tier one allotment under Section
11 42.304 [~~amount of money to which the district was entitled under~~
12 ~~Subchapters B and C, Chapter 42,~~] for the preceding school year; and

13 (2) "A" is the amount of state tuition credits under
14 this subchapter applied by institutions of higher education on
15 behalf of eligible persons who graduated from the district that has
16 not been used to compute a previous reduction under this
17 subsection.

18 (c) A school district that does not receive Texas education
19 [~~foundation school~~] fund payments during a year in which the
20 commissioner would otherwise withhold money from the district under
21 Subsection (b) shall remit an amount equal to the amount that would
22 be withheld under Subsection (b) to the comptroller for deposit to
23 the credit of the Texas education [~~foundation school~~] fund.

24 SECTION 3.38. Section 105.301(e), Education Code, is
25 amended to read as follows:

26 (e) The academy is not subject to the provisions of this
27 code, or to the rules of the Texas Education Agency, regulating

1 public schools, except that:

2 (1) professional employees of the academy are entitled
3 to the limited liability of an employee under Section 22.0511,
4 22.0512, or 22.052;

5 (2) a student's attendance at the academy satisfies
6 compulsory school attendance requirements; and

7 (3) for each student enrolled, the academy is entitled
8 to allotments from the foundation school program under Chapter 42
9 as if the academy were a school district without a tier one local
10 share for purposes of Section 42.306 [~~42.253~~].

11 SECTION 3.39. Section 403.093(d), Government Code, is
12 amended to read as follows:

13 (d) The comptroller shall transfer from the general revenue
14 fund to the Texas education [~~foundation school~~] fund an amount of
15 money necessary to fund the foundation school program as provided
16 by Chapter 42, Education Code. The comptroller shall make the
17 transfers in installments as necessary to comply with Section
18 42.316 [~~42.259~~], Education Code. An installment must be made not
19 earlier than two days before the date an installment to school
20 districts is required by Section 42.316 [~~42.259~~], Education Code,
21 and must not exceed the amount necessary for that payment.

22 SECTION 3.40. Section 403.302(k), Government Code, is
23 amended to read as follows:

24 (k) For purposes of Section 42.308 [~~42.2522~~], Education
25 Code, the comptroller shall certify to the commissioner of
26 education:

27 (1) a final value for each school district computed

1 without any deduction for residence homestead exemptions granted
2 under Section 11.13(n), Tax Code; and

3 (2) a final value for each school district computed
4 after deducting one-half the total dollar amount of residence
5 homestead exemptions granted under Section 11.13(n), Tax Code.

6 SECTION 3.41. Section 404.121(1), Government Code, is
7 amended to read as follows:

8 (1) "Cash flow deficit" for any period means the
9 excess, if any, of expenditures paid and transfers made from the
10 general revenue fund in the period, including payments provided by
11 Section 42.316 [~~42.259~~], Education Code, over taxes and other
12 revenues deposited to the fund in the period, other than revenues
13 deposited pursuant to Section 403.092, that are legally available
14 for the expenditures and transfers.

15 SECTION 3.42. Section 466.355(c), Government Code, is
16 amended to read as follows:

17 (c) Each August the comptroller shall:

18 (1) estimate the amount to be transferred to the Texas
19 education [~~foundation school~~] fund on or before September 15; and

20 (2) notwithstanding Subsection (b)(4), transfer the
21 amount estimated in Subdivision (1) to the Texas education
22 [~~foundation school~~] fund before August 25 [~~installment payments are~~
23 ~~made under Section 42.259, Education Code~~].

24 SECTION 3.43. Section 822.201(c), Government Code, is
25 amended to read as follows:

26 (c) Excluded from salary and wages are:

27 (1) expense payments;

- 1 (2) allowances;
- 2 (3) payments for unused vacation or sick leave;
- 3 (4) maintenance or other nonmonetary compensation;
- 4 (5) fringe benefits;
- 5 (6) deferred compensation other than as provided by
- 6 Subsection (b)(3);
- 7 (7) compensation that is not made pursuant to a valid
- 8 employment agreement;
- 9 (8) payments received by an employee in a school year
- 10 that exceed \$5,000 for teaching a driver education and traffic
- 11 safety course that is conducted outside regular classroom hours;
- 12 (9) the benefit replacement pay a person earns as a
- 13 result of a payment made under Subchapter B or C, Chapter 661;
- 14 (10) amounts received under the educator excellence
- 15 incentive program under Subchapter J, Chapter 42, Education Code
- 16 ~~[contributions to a health reimbursement arrangement account~~
- 17 ~~received by an employee under Article 3.50-8, Insurance Code]; and~~
- 18 (11) any compensation not described by Subsection (b).

19 SECTION 3.44. Section 2175.304(c), Government Code, is

20 amended to read as follows:

21 (c) The procedures established under Subsection (b) must

22 give preference to transferring the property directly to a public

23 school or school district or to an assistance organization

24 designated by the school district before disposing of the property

25 in another manner. If more than one public school or school

26 district or assistance organization seeks to acquire the same

27 property on substantially the same terms, the system, institution,

1 or agency shall give preference to a public school that is
2 considered low-performing by the commissioner of education or to a
3 school district that has a relatively low ~~[taxable]~~ wealth per
4 student, as determined by the commissioner of education ~~[that~~
5 ~~entitles the district to an allotment of state funds under~~
6 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance
7 organization designated by such a school district.

8 SECTION 3.45. Section 1579.251, Insurance Code, is amended
9 by amending Subsection (a) and adding Subsection (c) to read as
10 follows:

11 (a) The state shall assist employees of participating
12 school districts and charter schools in the purchase of group
13 health coverage under this chapter by providing for each covered
14 employee the amount of \$900 each state fiscal year or a greater
15 amount as provided by the General Appropriations Act. The state
16 contribution shall be distributed through the school finance
17 formulas under Chapters 41 and 42, Education Code, and used by
18 school districts and charter schools to pay contributions under a
19 group health coverage plan for employees ~~[as provided by Sections~~
20 ~~42.2514 and 42.260, Education Code]~~.

21 (c) A school district or charter school that does not
22 participate in the program is entitled to state assistance computed
23 and distributed as provided by Subsection (a). State funds
24 received under this subsection must be used to pay for employee
25 health coverage.

26 SECTION 3.46. Section 1581.702, Insurance Code, is amended
27 to read as follows:

1 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
2 additional support for a school district to which this section
3 applies in an amount computed by multiplying the total amount of
4 supplemental compensation that district employees would have
5 received [~~by district employees~~] under Chapter 1580, as it existed
6 on January 1, 2005, by 0.062.

7 SECTION 3.47. Section 6.02(b), Tax Code, is amended to read
8 as follows:

9 (b) A taxing unit that has boundaries extending into two or
10 more counties may choose to participate in only one of the appraisal
11 districts. In that event, the boundaries of the district chosen
12 extend outside the county to the extent of the unit's boundaries.
13 To be effective, the choice must be approved by resolution of the
14 board of directors of the district chosen. [~~The choice of a school~~
15 ~~district to participate in a single appraisal district does not~~
16 ~~apply to property annexed to the school district under Subchapter C~~
17 ~~or G, Chapter 41, Education Code, unless:~~

18 ~~[(1) the school district taxes property other than~~
19 ~~property annexed to the district under Subchapter C or G, Chapter~~
20 ~~41, Education Code, in the same county as the annexed property; or~~

21 ~~[(2) the annexed property is contiguous to property in~~
22 ~~the school district other than property annexed to the district~~
23 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

24 SECTION 3.48. Section 21.02(a), Tax Code, is amended to
25 read as follows:

26 (a) Except as provided by [~~Subsection (b) and~~] Sections
27 21.021, 21.04, and 21.05, tangible personal property is taxable by

1 a taxing unit if:

2 (1) it is located in the unit on January 1 for more
3 than a temporary period;

4 (2) it normally is located in the unit, even though it
5 is outside the unit on January 1, if it is outside the unit only
6 temporarily;

7 (3) it normally is returned to the unit between uses
8 elsewhere and is not located in any one place for more than a
9 temporary period; or

10 (4) the owner resides (for property not used for
11 business purposes) or maintains the owner's [~~his~~] principal place
12 of business in this state (for property used for business purposes)
13 in the unit and the property is taxable in this state but does not
14 have a taxable situs pursuant to Subdivisions (1) through (3) [~~of~~
15 ~~this section~~].

16 SECTION 3.49. Section 313.029, Tax Code, is amended to read
17 as follows:

18 Sec. 313.029. TAX RATE LIMITATION. If the governing body of
19 a school district grants an application for a limitation on
20 appraised value under this subchapter, for each of the first two tax
21 years that begins after the date the application is approved, the
22 governing body of the school district may not adopt a tax rate that
23 exceeds the school district's rollback tax rate under Section
24 26.08, if applicable, for that year. If, in any tax year in which a
25 restriction on the school district's tax rate under this section is
26 in effect, the governing body approves a subsequent application for
27 a limitation on appraised value under this section, the restriction

1 on the school district's tax rate is extended until the first tax
2 year that begins after the second anniversary of the date the
3 subsequent application is approved.

4 SECTION 3.50. Section 39.901(d), Utilities Code, is amended
5 to read as follows:

6 (d) Not later than May 1 of each year, subject to Section
7 39.903(b), the commission shall transfer from the system benefit
8 fund to the Texas education [~~foundation school~~] fund the amount
9 determined by the Texas Education Agency under Subsection (b) to
10 the extent that funds are available. Amounts transferred from the
11 system benefit fund under this section may be appropriated only for
12 the support of the Foundation School Program and are available, in
13 addition to any amounts allocated by the General Appropriations
14 Act, to finance actions under Section 42.307 [~~41.002(b) or~~
15 ~~42.2521~~], Education Code.

16 ARTICLE 4. REPEALER; APPLICABILITY; EFFECTIVE DATE

17 SECTION 4.01. (a) Sections 1-3 and 57, Chapter 201, Acts of
18 the 78th Legislature, Regular Session, 2003, are repealed.

19 (b) Chapter 313, Acts of the 78th Legislature, Regular
20 Session, 2003, is repealed.

21 (c) Section 1.01, Chapter 366, Acts of the 78th Legislature,
22 Regular Session, 2003, is repealed.

23 (d) The following provisions of the Education Code are
24 repealed:

- 25 (1) Subchapters B, C, E, F, and G, Chapter 41;
26 (2) Chapter 42, as it existed on January 1, 2005; and
27 (3) Sections 21.357, 21.402(b) and (e), 25.0811(b) and

1 (c), 29.203(c) and (g), 33.002, 39.023(j), 39.024(e), 39.112,
2 41.001, 41.002, 41.003, 41.0031, 41.007, 41.009(b), 41.011,
3 41.092, 41.099, 41.252(b), 44.004(c) and (d), and 105.301(f).

4 (e) Effective September 1, 2006, Section 31.021, Education
5 Code, is repealed.

6 (f) Section 403.302(j), Government Code, is repealed.

7 (g) The following provisions of the Insurance Code are
8 repealed:

9 (1) Section 1579.253(b);

10 (2) Chapter 1580;

11 (3) Section 1581.053(b); and

12 (4) Subchapter C, Chapter 1581.

13 (h) Sections 21.02(b) and 26.08(k), (l), and (m), Tax Code,
14 are repealed.

15 SECTION 4.02. Except as otherwise provided by this Act,
16 this Act applies beginning with the 2005-2006 school year.

17 SECTION 4.03. Except as otherwise provided by this Act,
18 this Act takes effect September 1, 2005. This Act takes effect only
19 if H.B. No. 3, Acts of the 79th Legislature, Regular Session, 2005,
20 becomes law. If that bill does not become law, this Act has no
21 effect.