

1-1 By: Grusendorf, Keffer of Eastland, Hill H.B. No. 2  
1-2 (Senate Sponsor-Shapiro)  
1-3 (In the Senate - Received from the House March 14, 2005;  
1-4 March 22, 2005, read first time and referred to Committee on  
1-5 Education; May 2, 2005, reported adversely, with favorable  
1-6 Committee Substitute by the following vote: Yeas 5, Nays 0,  
1-7 2 present not voting; May 2, 2005, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 2 By: Shapiro

1-9 A BILL TO BE ENTITLED  
1-10 AN ACT

1-11 relating to public education, public school finance matters, and the  
1-12 imposition of a state ad valorem tax; imposing criminal penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE 1. PUBLIC SCHOOL FINANCE

1-15 PART A. EDUCATION FUNDING AND SCHOOL PROPERTY TAX RELIEF

1-16 SECTION 1A.01. Sections 41.002(a) and (e), Education Code,  
1-17 are amended to read as follows:

1-18 (a) A school district may not have a wealth per student that  
1-19 exceeds \$339,000 [~~\$305,000~~].

1-20 (e) Notwithstanding Subsection (a), and except as provided  
1-21 by Subsection (g), in accordance with a determination of the  
1-22 commissioner, the wealth per student that a school district may  
1-23 have after exercising an option under Section 41.003(2) or (3) may  
1-24 not be less than the amount needed to maintain state and local  
1-25 revenue in an amount equal to state and local revenue per weighted  
1-26 student for maintenance and operation of the district for the  
1-27 1992-1993 school year less the district's current year distribution  
1-28 per weighted student from the available school fund, other than  
1-29 amounts distributed under Chapter 31, if the district imposes an  
1-30 effective tax rate for maintenance and operation of the district  
1-31 equal to the greater of the district's current tax rate or the  
1-32 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~  
1-33 ~~on the \$100 valuation of taxable property~~].

1-34 SECTION 1A.02. Section 41.157(d), Education Code, is  
1-35 amended to read as follows:

1-36 (d) Notwithstanding Section 45.003, the consolidated taxing  
1-37 district may levy, assess, and collect a maintenance tax for the  
1-38 benefit of the component districts at a rate that exceeds the  
1-39 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~  
1-40 ~~per \$100 valuation of taxable property~~] to the extent necessary to  
1-41 pay contracted obligations on the lease purchase of permanent  
1-42 improvements to real property entered into on or before May 12,  
1-43 1993. The proposition to impose taxes at the necessary rate must be  
1-44 submitted to the voters in the manner provided by Section 45.003.

1-45 SECTION 1A.03. Section 42.005(a), Education Code, is  
1-46 amended to read as follows:

1-47 (a) In this chapter, average daily attendance is:

1-48 (1) the quotient of the sum of attendance for each day  
1-49 of the minimum number of days of instruction as described under  
1-50 Section 25.081(a) divided by the minimum number of days of  
1-51 instruction; ~~or~~

1-52 (2) for a district that operates under a flexible year  
1-53 program under Section 29.0821, the quotient of the sum of  
1-54 attendance for each actual day of instruction as permitted by  
1-55 Section 29.0821(b)(1) divided by the number of actual days of  
1-56 instruction as permitted by Section 29.0821(b)(1); or

1-57 (3) for a district that operates under a flexible  
1-58 school day program under Section 29.0822, the quotient of the sum of  
1-59 attendance for each full-time equivalent day of instruction divided  
1-60 by the minimum number of days of instruction as described under  
1-61 Section 25.081(a).

1-62 SECTION 1A.04. Subchapter A, Chapter 42, Education Code, is  
1-63 amended by adding Section 42.008 to read as follows:

2-1 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each  
 2-2 regular session of the legislature, the Legislative Budget Board  
 2-3 shall submit to the commissioner and the legislature a report that  
 2-4 includes:

2-5 (1) a description of the amount of all spending on  
 2-6 primary and secondary education in this state, disaggregated by  
 2-7 federal, state, and local spending and spending by private  
 2-8 entities; and

2-9 (2) an analysis of the state's portion of spending.

2-10 SECTION 1A.05. Section 42.2512, Education Code, is amended  
 2-11 by adding Subsection (a-1) to read as follows:

2-12 (a-1) In addition to any amounts to which a school district  
 2-13 is entitled under Section 42.2541, a school district, including a  
 2-14 school district that is otherwise ineligible for state aid under  
 2-15 this chapter, is entitled to state aid in an amount, as determined  
 2-16 by the commissioner, equal to the product of the following amount,  
 2-17 as applicable, multiplied by the number of classroom teachers,  
 2-18 full-time librarians, full-time counselors certified under  
 2-19 Subchapter B, Chapter 21, and full-time school nurses employed by  
 2-20 the district and entitled to a minimum salary under Section 21.402:

2-21 (1) \$1,500; or

2-22 (2) \$2,000, if H.B. No. 3, Acts of the 79th  
 2-23 Legislature, Regular Session, 2005, takes effect immediately.

2-24 SECTION 1A.06. Section 42.252(a), Education Code, is  
 2-25 amended to read as follows:

2-26 (a) Each school district's share of the Foundation School  
 2-27 Program is determined by the following formula:

$$LFA = TR \times DPV$$

2-28 where:

2-29 "LFA" is the school district's local share;

2-30 "TR" is a tax rate which for each hundred dollars of valuation  
 2-31 is an effective tax rate of \$0.76 [~~\$0.86~~]; and

2-32 "DPV" is the taxable value of property in the school district  
 2-33 for the preceding tax year determined under Subchapter M, Chapter  
 2-34 403, Government Code.

2-35 SECTION 1A.07. Section 42.253, Education Code, is amended  
 2-36 by adding Subsection (e-2) to read as follows:

2-37 (e-2) For the 2005-2006 school year, the limit authorized by  
 2-38 Subsection (e) is reduced by \$0.20. This subsection expires  
 2-39 September 1, 2006.

2-40 SECTION 1A.08. Subchapter E, Chapter 42, Education Code, is  
 2-41 amended by adding Sections 42.2541 and 42.2542 to read as follows:

2-42 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
 2-43 section, "weighted average daily attendance" has the meaning  
 2-44 assigned by Section 42.302.

2-45 (b) Notwithstanding Section 42.253, a school district is  
 2-46 entitled to the amount of state revenue necessary to maintain state  
 2-47 and local revenue in an amount equal to the sum of:

2-48 (1) the amount of state and local revenue per student  
 2-49 in weighted average daily attendance for maintenance and operation  
 2-50 of the district that the district received for the 2004-2005 school  
 2-51 year, including any amounts the district received under Rider 82,  
 2-52 page III-23, Chapter 1330, Acts of the 78th Legislature, Regular  
 2-53 Session, 2003 (the General Appropriations Act); and

2-54 (2) an amount equal to \$37 per weighted student in  
 2-55 average daily attendance.

2-56 (c) The commissioner may increase the amount to which a  
 2-57 school district is entitled under Subsection (b) as the  
 2-58 commissioner determines necessary.

2-59 (d) The commissioner shall determine the amount of state  
 2-60 funds to which a school district is entitled under this section,  
 2-61 including the amount per student in weighted average daily  
 2-62 attendance, and shall make that determination available to the  
 2-63 Legislative Budget Board. The commissioner's determination is  
 2-64 final and may not be appealed.

2-65 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID. (a)  
 2-66 Notwithstanding any other provision of this subtitle, for the  
 2-67 2005-2006 school year, the commissioner shall withhold from a  
 2-68 school district the amount of state funds necessary to ensure that  
 2-69

3-1 the district does not receive an amount of state and local revenue  
 3-2 per student in weighted average daily attendance that is greater  
 3-3 than 103 percent of the amount to which the district is entitled  
 3-4 under Section 42.2541(b)(1).

3-5 (b) The commissioner shall determine the amount of state  
 3-6 funds required to be withheld under this section. The  
 3-7 commissioner's determination is final and may not be appealed.

3-8 (c) This section expires September 1, 2006.

3-9 SECTION 1A.09. Subchapter E, Chapter 42, Education Code, is  
 3-10 amended by adding Section 42.261 to read as follows:

3-11 Sec. 42.261. USE OF CERTAIN REVENUE FOR ENHANCED SUPPORT  
 3-12 STAFF COMPENSATION. (a) Beginning with the 2005-2006 school year,  
 3-13 a school district must use state and local maintenance and  
 3-14 operations revenue to provide enhanced compensation to district  
 3-15 support staff.

3-16 (b) The commissioner shall adopt rules necessary to  
 3-17 implement this section. The rules must ensure compensation provided  
 3-18 to district support staff described by Section 22.007 is increased  
 3-19 by the amounts specified by that section.

3-20 SECTION 1A.10. Section 42.302, Education Code, is amended  
 3-21 by amending Subsection (a) and adding Subsection (a-1) to read as  
 3-22 follows:

3-23 (a) Each school district is guaranteed a specified amount  
 3-24 per weighted student in state and local funds for each cent of tax  
 3-25 effort over that required for the district's local fund assignment  
 3-26 up to the maximum level specified in this subchapter. The amount of  
 3-27 state support, subject only to the maximum amount under Section  
 3-28 42.303, is determined by the formula:

$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

3-29 where:

3-31 "GYA" is the guaranteed yield amount of state funds to be  
 3-32 allocated to the district;

3-33 "GL" is the dollar amount guaranteed level of state and local  
 3-34 funds per weighted student per cent of tax effort, which is the  
 3-35 amount of district tax revenue per weighted student, per cent of tax  
 3-36 effort available to a school district at the 90th percentile in  
 3-37 wealth per student, as determined by the commissioner [~~\$27.14~~] or a  
 3-38 greater amount for any year provided by appropriation;

3-39 "WADA" is the number of students in weighted average daily  
 3-40 attendance, which is calculated by dividing the sum of the school  
 3-41 district's allotments under Subchapters B and C, less any allotment  
 3-42 to the district for transportation, any allotment under Section  
 3-43 42.158, and 50 percent of the adjustment under Section 42.102, by  
 3-44 the basic allotment for the applicable year;

3-45 "DTR" is the district [~~enrichment~~] tax rate of the school  
 3-46 district, which is determined by subtracting the amounts specified  
 3-47 by Subsection (b) from the total amount of maintenance and  
 3-48 operations taxes collected by the school district for the  
 3-49 applicable school year and dividing the difference by the quotient  
 3-50 of the district's taxable value of property as determined under  
 3-51 Subchapter M, Chapter 403, Government Code, or, if applicable,  
 3-52 under Section 42.2521, divided by 100; and

3-53 "LR" is the local revenue, which is determined by multiplying  
 3-54 "DTR" by the quotient of the district's taxable value of property as  
 3-55 determined under Subchapter M, Chapter 403, Government Code, or, if  
 3-56 applicable, under Section 42.2521, divided by 100.

3-57 (a-1) In this section, "wealth per student" means a school  
 3-58 district's taxable value of property as determined under Subchapter  
 3-59 M, Chapter 403, Government Code, divided by the number of students  
 3-60 in weighted average daily attendance in the district.

3-61 SECTION 1A.11. Section 42.303, Education Code, is amended  
 3-62 to read as follows:

3-63 Sec. 42.303. LIMITATION ON [~~ENRICHMENT~~] TAX RATE. (a) The  
 3-64 district [~~enrichment~~] tax rate ("DTR") under Section 42.302 may not  
 3-65 exceed \$0.69 [~~\$0.64~~] per \$100 of valuation, or a greater amount for  
 3-66 any year provided by appropriation.

3-67 (b) Notwithstanding Subsection (a), for the 2005 tax year,  
 3-68 the district tax rate ("DTR") under Section 42.302 may not exceed  
 3-69 \$0.54 per \$100 of valuation. This subsection expires September 1,

4-1 2006.

4-2 SECTION 1A.12. Section 45.003, Education Code, is amended  
4-3 by amending Subsection (d) and adding Subsections (e) and (f) to  
4-4 read as follows:

4-5 (d) A proposition submitted to authorize the levy of  
4-6 maintenance taxes must include the question of whether the  
4-7 governing board or commissioners court may levy, assess, and  
4-8 collect annual ad valorem taxes for the further maintenance of  
4-9 public schools, at a rate not to exceed the rate, which may be not  
4-10 more than \$1.45 [~~\$1.50~~] on the \$100 valuation of taxable property in  
4-11 the district, stated in the proposition.

4-12 (e) Notwithstanding Subsection (d), for the 2005 and 2006  
4-13 tax years, a school district may not impose a maintenance tax at a  
4-14 rate that exceeds \$1.30 per \$100 of valuation. A district may not  
4-15 exceed the rate described by this subsection in a subsequent school  
4-16 year unless authorized by a majority of the qualified voters of the  
4-17 district voting at an election held for that purpose.

4-18 (f) An election held before January 1, 2005, authorizing a  
4-19 maintenance tax at a rate of at least \$1.30 on the \$100 valuation of  
4-20 taxable property in the district is sufficient to authorize a rate  
4-21 of \$1.30 or less for the 2005 tax year or a subsequent tax year.

4-22 SECTION 1A.13. Sections 45.006(b) and (f), Education Code,  
4-23 are amended to read as follows:

4-24 (b) Notwithstanding Section 45.003, a school district may  
4-25 levy, assess, and collect maintenance taxes at a rate that exceeds  
4-26 the maximum maintenance tax rate permitted under Section 45.003  
4-27 [~~\$1.50 per \$100 valuation of taxable property~~] if:

4-28 (1) additional ad valorem taxes are necessary to pay a  
4-29 debt of the district that:

4-30 (A) resulted from the rendition of a judgment  
4-31 against the district before May 1, 1995;

4-32 (B) is greater than \$5 million;

4-33 (C) decreases a property owner's ad valorem tax  
4-34 liability;

4-35 (D) requires the district to refund to the  
4-36 property owner the difference between the amount of taxes paid by  
4-37 the property owner and the amount of taxes for which the property  
4-38 owner is liable; and

4-39 (E) is payable according to the judgment in more  
4-40 than one of the district's fiscal years; and

4-41 (2) the additional taxes are approved by the voters of  
4-42 the district at an election held for that purpose.

4-43 (f) The governing body of a school district that adopts a  
4-44 tax rate that exceeds the maximum maintenance tax rate permitted  
4-45 under Section 45.003 [~~\$1.50 per \$100 valuation of taxable property~~]  
4-46 may set the amount of the exemption from taxation authorized by  
4-47 Section 11.13(n), Tax Code, at any time before the date the  
4-48 governing body adopts the district's tax rate for the tax year in  
4-49 which the election approving the additional taxes is held.

4-50 PART B. EDUCATION FUNDING AND STATE PROPERTY TAX

4-51 SECTION 1B.01. Section 42.002(b), Education Code, is  
4-52 amended to read as follows:

4-53 (b) The Foundation School Program consists of:

4-54 (1) a basic program, as provided by this chapter, that  
4-55 provides for [~~two tiers that in combination provide for:~~

4-56 [~~(A)~~] sufficient financing for all school  
4-57 districts to provide a basic program of education that is rated  
4-58 academically acceptable or higher under Section 39.072 and meets  
4-59 other applicable legal standards; [~~and~~

4-60 (2) an enrichment program, as provided by Subchapter  
4-61 F, that includes a guaranteed yield component to provide [~~(B)~~]  
4-62 substantially equal access to funds to provide an enriched program;  
4-63 and

4-64 (3) [~~(2)~~] a facilities component as provided by  
4-65 Chapter 46.

4-66 SECTION 1B.02. Section 42.007, Education Code, is amended  
4-67 by amending Subsection (c) and adding Subsection (e) to read as  
4-68 follows:

4-69 (c) The funding elements must include:

5-1 (1) an accreditation [~~a basic~~] allotment for the  
 5-2 purposes of Section 42.101 that [~~when combined with the guaranteed~~  
 5-3 ~~yield component provided by Subchapter F,~~] represents the cost per  
 5-4 student of a regular education program that meets all mandates of  
 5-5 law and regulation;

5-6 (2) adjustments designed to reflect the variation in  
 5-7 known resource costs and costs of education beyond the control of  
 5-8 school districts;

5-9 (3) appropriate program cost differentials and other  
 5-10 funding elements for the programs authorized under Subchapter C,  
 5-11 with the program funding level expressed as dollar amounts and as  
 5-12 weights applied to the adjusted accreditation [~~basic~~] allotment for  
 5-13 the appropriate year;

5-14 (4) the maximum guaranteed level of qualified state  
 5-15 and local funds per student for the purposes of the enrichment  
 5-16 program under Subchapter F;

5-17 (5) the enrichment [~~and facilities~~] tax rate under  
 5-18 Subchapter F;

5-19 (6) the computation of students in weighted average  
 5-20 daily attendance under Section 42.302; and

5-21 (7) the amount to be appropriated for the school  
 5-22 facilities assistance program under Chapter 46.

5-23 (e) Notwithstanding Subsection (d), the board shall  
 5-24 contract for a comprehensive study of the funding elements. The  
 5-25 board shall report the results of the study to the commissioner and  
 5-26 the legislature not later than December 1, 2006. This subsection  
 5-27 expires January 1, 2007.

5-28 SECTION 1B.03. The heading to Subchapter B, Chapter 42,  
 5-29 Education Code, is amended to read as follows:

5-30 SUBCHAPTER B. BASIC PROGRAM [~~ENTITLEMENT~~]

5-31 SECTION 1B.04. Section 42.101, Education Code, is amended  
 5-32 to read as follows:

5-33 Sec. 42.101. ACCREDITATION [~~BASIC~~] ALLOTMENT. For each  
 5-34 student in average daily attendance, not including the time  
 5-35 students spend each day in special education programs in an  
 5-36 instructional arrangement other than mainstream or career and  
 5-37 technology education programs, for which an additional allotment is  
 5-38 made under Subchapter C, a district is entitled to an accreditation  
 5-39 allotment of \$4,300 [~~\$2,537~~]. A greater amount for any school year  
 5-40 may be provided by appropriation.

5-41 SECTION 1B.05. Section 42.102, Education Code, is amended  
 5-42 to read as follows:

5-43 Sec. 42.102. COST OF EDUCATION ADJUSTMENT. (a) The  
 5-44 accreditation [~~basic~~] allotment for each district is adjusted to  
 5-45 reflect the geographic variation in known resource costs and costs  
 5-46 of education due to factors beyond the control of the school  
 5-47 district. The amount of the adjustment is 71 percent of the total  
 5-48 amount that would result from application of the cost of education  
 5-49 index adopted under this section, or a greater amount for any year  
 5-50 provided by appropriation.

5-51 (b) Except as provided by Subsection (c), the [~~The~~] cost of  
 5-52 education adjustment is determined using the average of the three  
 5-53 most recent index recomputations and adjustments adopted by the  
 5-54 Legislative Budget Board under Subsection (d) [~~cost of education~~  
 5-55 ~~index adjustment adopted by the foundation school fund budget~~  
 5-56 ~~committee and contained in Chapter 203, Title 19, Texas~~  
 5-57 ~~Administrative Code, as that chapter existed on March 26, 1997].~~

5-58 (b-1) Except as provided by Subsection (c), the cost of  
 5-59 education index to be used in determining the cost of education  
 5-60 adjustment for the following school years is determined by the  
 5-61 following formulas:

5-62 (1) for the 2006-2007 school year:

5-63  $CEI = (TFE + (5 \times PCEI)) / 6$

5-64 (2) for the 2007-2008 school year:

5-65  $CEI = ((2 \times TFE) + (4 \times PCEI)) / 6$

5-66 (3) for the 2008-2009 school year:

5-67  $CEI = ((2 \times TFE) + (3 \times PCEI) + LBBA) / 6$

5-68 (4) for the 2009-2010 school year:

5-69  $CEI = ((2 \times TFE) + (2 \times PCEI) + (2 \times LBBA)) / 6$

- 6-1 (5) for the 2010-2011 school year:  
 6-2 CEI = ((2 x TFE) + PCEI + (3 x LBBB))/6; and  
 6-3 (6) for the 2011-2012 school year:  
 6-4 CEI = ((2 x TFE) + (4 x LBBB))/6

6-5 where:

6-6 "CEI" is the index to be used;  
 6-7 "TFE" is the teacher fixed effects index in the 2004 report  
 6-8 commissioned by the Joint Select Committee on Public School Finance  
 6-9 of the 78th Legislature;

6-10 "PCEI" is the index applied during the 2005-2006 school year;

6-11 "LBBA" is the index adopted by the Legislative Budget Board  
 6-12 in accordance with Subsection (d) for the state fiscal biennium  
 6-13 beginning September 1, 2008; and

6-14 "LBBB" is the index adopted by the Legislative Budget Board  
 6-15 in accordance with Subsection (d) for the state fiscal biennium  
 6-16 beginning September 1, 2010.

6-17 (c) If the adjustment provided by this section for a school  
 6-18 year is less than the adjustment to which a school district would  
 6-19 have been entitled using the index applied during the 2005-2006  
 6-20 school year, the district's adjustment shall be computed using the  
 6-21 index applied during the 2005-2006 school year.

6-22 (d) The Legislative Budget Board shall:

6-23 (1) conduct a study each biennium and recompute the  
 6-24 cost of education index; and

6-25 (2) adopt adjustments as the board determines are  
 6-26 necessary to ensure that the cost of education index reflects  
 6-27 current variations in known resource costs and costs of education,  
 6-28 including costs related to social security, due to factors beyond  
 6-29 the control of a school district.

6-30 (e) The board's determination under Subsection (d) is final  
 6-31 and may not be appealed.

6-32 (f) Subsection (b) applies beginning with the 2012-2013  
 6-33 school year. Subsection (b-1) and this subsection expire September  
 6-34 1, 2013.

6-35 SECTION 1B.06. Section 42.103, Education Code, is amended  
 6-36 by amending Subsections (a), (c), and (d) and adding Subsections  
 6-37 (c-1), (c-2), (d-1), and (f) to read as follows:

6-38 (a) The accreditation [~~basic~~] allotment for certain small  
 6-39 and mid-sized districts is adjusted in accordance with this  
 6-40 section. In this section:

6-41 (1) "SA" [~~AA~~] is the district's size-adjusted  
 6-42 accreditation [~~adjusted~~] allotment per student;

6-43 (2) "ADA" is the number of students in average daily  
 6-44 attendance for which the district is entitled to an allotment under  
 6-45 Section 42.101; and

6-46 (3) "AA" [~~ABA~~] is the adjusted accreditation [~~basic~~]  
 6-47 allotment determined under Section 42.102.

6-48 (c) The accreditation [~~basic~~] allotment of a school  
 6-49 district that [~~contains less than 300 square miles and~~] has not more  
 6-50 than 1,600 students in average daily attendance is adjusted by  
 6-51 applying the following formula, or the formula under Subsection (d)  
 6-52 if that results in a greater allotment:

$$6-53 \quad SA = (1 + ((1,600 - ADA) \times .0004)) \times AA$$

$$6-54 \quad [AA = (1 + ((1,600 - ADA) \times .00025)) \times ABA]$$

6-55 (c-1) Notwithstanding Subsection (c), the accreditation  
 6-56 allotment of a school district that has not more than 1,600 students  
 6-57 in average daily attendance is adjusted for the following school  
 6-58 years by applying the following formulas, or the appropriate  
 6-59 formula under Subsection (d-1) if that results in a greater  
 6-60 allotment:

6-61 (1) for the 2006-2007 school year:

$$6-62 \quad SA = (1 + ((1,600 - ADA) \times .00027)) \times AA$$

6-63 (2) for the 2007-2008 school year:

$$6-64 \quad SA = (1 + ((1,600 - ADA) \times .00029)) \times AA$$

6-65 (3) for the 2008-2009 school year:

$$6-66 \quad SA = (1 + ((1,600 - ADA) \times .00031)) \times AA$$

6-67 (4) for the 2009-2010 school year:

$$6-68 \quad SA = (1 + ((1,600 - ADA) \times .00033)) \times AA; \text{ and}$$

6-69 (5) for the 2010-2011 school year:

7-1  $SA = (1 + ((1,600 - ADA) \times .00036)) \times AA$   
 7-2 (c-2) Notwithstanding Subsection (c-1), for the 2006-2007,  
 7-3 2007-2008, 2008-2009, 2009-2010, or 2010-2011 school year, the  
 7-4 accreditation allotment of a school district that contains at least  
 7-5 300 square miles and has not more than 1,600 students in average  
 7-6 daily attendance is adjusted by applying the following formula, or  
 7-7 the appropriate formula under Subsection (d-1) if that results in a  
 7-8 greater allotment:

7-9  $SA = (1 + ((1,600 - ADA) \times .0004)) \times AA$

7-10 (d) The accreditation [~~basic~~] allotment of a school  
 7-11 district that offers a kindergarten through grade 12 program and  
 7-12 has less than 5,000 students in average daily attendance is  
 7-13 adjusted by applying the formula, of the following formulas, that  
 7-14 results in the greatest adjusted allotment:

7-15 (1) the formula in Subsection [~~(b) or~~] (c) [~~for which~~  
 7-16 ~~the district is eligible~~]; or

7-17 (2)  $SA = (1 + ((5,000 - ADA) \times .00004)) \times AA$

7-18 [ $AA = (1 + ((5,000 - ADA) \times .000025)) \times ABA$ ].

7-19 (d-1) Notwithstanding Subsection (d), the accreditation  
 7-20 allotment of a school district that offers a kindergarten through  
 7-21 grade 12 program and has less than 5,000 students in average daily  
 7-22 attendance is adjusted for the following school years by applying  
 7-23 the following formulas, or the formula under Subsection (c) if that  
 7-24 results in a greater allotment:

7-25 (1) for the 2006-2007 school year:

7-26  $SA = (1 + ((5,000 - ADA) \times .000027)) \times AA$

7-27 (2) for the 2007-2008 school year:

7-28  $SA = (1 + ((5,000 - ADA) \times .000029)) \times AA$

7-29 (3) for the 2008-2009 school year:

7-30  $SA = (1 + ((5,000 - ADA) \times .000031)) \times AA$

7-31 (4) for the 2009-2010 school year:

7-32  $SA = (1 + ((5,000 - ADA) \times .000033)) \times AA$ ; and

7-33 (5) for the 2010-2011 school year:

7-34  $SA = (1 + ((5,000 - ADA) \times .000036)) \times AA$

7-35 (f) Subsections (c) and (d) apply beginning with the  
 7-36 2011-2012 school year. Subsections (c-1), (c-2), and (d-1) and  
 7-37 this subsection expire September 1, 2012.

7-38 SECTION 1B.07. Sections 42.104, 42.105, and 42.106,  
 7-39 Education Code, are amended to read as follows:

7-40 Sec. 42.104. USE OF SMALL OR MID-SIZED DISTRICT ADJUSTMENT  
 7-41 IN CALCULATING SPECIAL ALLOTMENTS. In determining the amount of a  
 7-42 special allotment under Subchapter C for a district to which  
 7-43 Section 42.103 applies, a district's adjusted accreditation  
 7-44 [~~basic~~] allotment is considered to be the district's adjusted  
 7-45 accreditation allotment determined under Section 42.103.

7-46 Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding  
 7-47 Sections 42.101, 42.102, and 42.103, a school district that has  
 7-48 fewer than 130 students in average daily attendance shall be  
 7-49 provided an adjusted accreditation [~~basic~~] allotment on the basis  
 7-50 of 130 students in average daily attendance if it offers a  
 7-51 kindergarten through grade 12 program and has preceding or current  
 7-52 year's average daily attendance of at least 90 students or is 30  
 7-53 miles or more by bus route from the nearest high school district. A  
 7-54 district offering a kindergarten through grade 8 program whose  
 7-55 preceding or current year's average daily attendance was at least  
 7-56 50 students or which is 30 miles or more by bus route from the  
 7-57 nearest high school district shall be provided an adjusted  
 7-58 accreditation [~~basic~~] allotment on the basis of 75 students in  
 7-59 average daily attendance. An average daily attendance of 60  
 7-60 students shall be the basis of providing the adjusted accreditation  
 7-61 [~~basic~~] allotment if a district offers a kindergarten through grade  
 7-62 6 program and has preceding or current year's average daily  
 7-63 attendance of at least 40 students or is 30 miles or more by bus  
 7-64 route from the nearest high school district.

7-65 Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT  
 7-66 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the  
 7-67 taxable value of property of a school district that contracts for  
 7-68 students residing in the district to be educated in another  
 7-69 district under Section 25.039(a) is adjusted by applying the

8-1 formula:

8-2 
$$ADPV = DPV - \frac{TN}{MTR} [(\frac{TN}{.015})]$$

8-3 where:

8-4 "ADPV" is the district's adjusted taxable value of property;  
8-5 "DPV" is the taxable value of property in the district for the  
8-6 preceding tax year determined under Subchapter M, Chapter 403,  
8-7 Government Code; ~~and~~

8-8 "TN" is the total amount of tuition required to be paid by the  
8-9 district under Section 25.039 for the school year for which the  
8-10 adjustment is made, not to exceed the amount specified by  
8-11 commissioner rule under Section 25.039(b); and

8-12 "MTR" is the maximum maintenance tax rate permitted under  
8-13 Section 45.003, expressed as a rate to be applied to the total  
8-14 valuation of taxable property.

8-15 SECTION 1B.08. Sections 42.151(a), (b), (e), (g), and (k),  
8-16 Education Code, are amended to read as follows:

8-17 (a) For each student in average daily attendance in a  
8-18 special education program under Subchapter A, Chapter 29, in a  
8-19 mainstream instructional arrangement, a school district is  
8-20 entitled to an annual allotment equal to the adjusted accreditation  
8-21 ~~[basic]~~ allotment multiplied by 1.1. For each full-time equivalent  
8-22 student in average daily attendance in a special education program  
8-23 under Subchapter A, Chapter 29, in an instructional arrangement  
8-24 other than a mainstream instructional arrangement, a district is  
8-25 entitled to an annual allotment equal to the adjusted accreditation  
8-26 ~~[basic]~~ allotment multiplied by a weight determined according to  
8-27 instructional arrangement as follows:

8-28	Homebound . . . . .	5.0
8-29	Hospital class . . . . .	3.0
8-30	Speech therapy . . . . .	5.0
8-31	Resource room . . . . .	3.0
8-32	Self-contained, mild and moderate, regular campus . . . . .	3.0
8-33	Self-contained, severe, regular campus . . . . .	3.0
8-34	Off home campus . . . . .	2.7
8-35	Nonpublic day school . . . . .	1.7
8-36	Vocational adjustment class . . . . .	2.3

8-37 (b) A special instructional arrangement for students with  
8-38 disabilities residing in care and treatment facilities, other than  
8-39 state schools, whose parents or guardians do not reside in the  
8-40 district providing education services shall be established under  
8-41 the rules of the commissioner ~~[State Board of Education]~~. The  
8-42 funding weight for this arrangement shall be 4.0 for those students  
8-43 who receive their education service on a local school district  
8-44 campus. A special instructional arrangement for students with  
8-45 disabilities residing in state schools shall be established under  
8-46 the rules of the commissioner ~~[State Board of Education]~~ with a  
8-47 funding weight of 2.8.

8-48 (e) The commissioner ~~[State Board of Education]~~ by rule  
8-49 shall prescribe the qualifications an instructional arrangement  
8-50 must meet in order to be funded as a particular instructional  
8-51 arrangement under this section. In prescribing the qualifications  
8-52 that a mainstream instructional arrangement must meet, the  
8-53 commissioner ~~[board]~~ shall establish requirements that students  
8-54 with disabilities and their teachers receive the direct, indirect,  
8-55 and support services that are necessary to enrich the regular  
8-56 classroom and enable student success.

8-57 (g) The commissioner ~~[State Board of Education]~~ shall adopt  
8-58 rules and procedures governing contracts for residential placement  
8-59 of special education students. The legislature shall provide by  
8-60 appropriation for the state's share of the costs of those  
8-61 placements.

8-62 (k) A school district that provides an extended year program  
8-63 required by federal law for special education students who may  
8-64 regress is entitled to receive funds in an amount equal to 75  
8-65 percent, or a lesser percentage determined by the commissioner, of  
8-66 the adjusted accreditation ~~[basic]~~ allotment ~~[or adjusted~~  
8-67 ~~allotment, as applicable,]~~ for each full-time equivalent student in  
8-68 average daily attendance, multiplied by the amount designated for  
8-69 the student's instructional arrangement under this section, for



each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed \$10 million per year. A school district may use funds received under this section only in providing an extended year program.

SECTION 1B.09. Sections 42.152(a), (e), (h), and (k), Education Code, are amended to read as follows:

(a) For each student who is educationally disadvantaged or who is a student who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the adjusted accreditation [basic] allotment multiplied by 0.2, and by 2.41 for each full-time equivalent student who is in a remedial and support program under Section 29.081 because the student is pregnant.

(e) The commissioner may:

(1) retain a portion of the total amount allotted under Subsection (a) that the commissioner considers appropriate to finance [intensive accelerated instruction programs and] study guides provided under Section 39.024(c) [Sections 39.024(b) and (c)]; and

(2) reduce each district's basic program [tier one] allotments in the same manner described for a reduction in allotments under Section 42.253.

(h) After deducting the amount withheld under Subsection (f) from the total amount appropriated for the allotment under Subsection (a), the commissioner shall reduce each district's basic program [tier one] allotments in the same manner described for a reduction in allotments under Section 42.253 and shall allocate funds to each district accordingly.

(k) After deducting the amount withheld under Subsection (i) from the total amount appropriated for the allotment under Subsection (a), the commissioner shall reduce each district's basic program [tier one] allotments in the same manner described for a reduction in allotments under Section 42.253.

SECTION 1B.10. Section 42.153, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (d) to read as follows:

(a) Except as provided by Subsection (a-1), for [For] each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment equal to the adjusted accreditation [basic] allotment multiplied by 0.1.

(a-1) This subsection applies only to funding for students who have been enrolled in a bilingual education or special language program for less than three years. The commissioner by rule shall determine a method for determining whether a student has been enrolled in a program for less than three years. For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, who has been enrolled in the program for less than three years, a district is entitled to an annual allotment equal to the adjusted accreditation allotment multiplied by a weight according to the grade level at which the student entered the program, as follows:

Prekindergarten-Grade 2 . . . . .	0.12
Grades 3-5 . . . . .	0.18
Grades 6-8 . . . . .	0.24
Grades 9-12 . . . . .	0.3

(d) A district is not entitled to an allotment under this section for a student who meets the criteria for transferring out of the district's bilingual education or special language program but continues participating in the program under Section 29.056(i).

SECTION 1B.11. Sections 42.154(a) and (e), Education Code, are amended to read as follows:

(a) For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades nine through 12 or in career and technology education programs for students with disabilities in grades seven through 12, a district is entitled to an annual allotment equal to the adjusted

10-1 accreditation [~~basic~~] allotment multiplied by a weight of 1.35.

10-2 (e) Out of the total statewide allotment for career and  
10-3 technology education under this section, the commissioner shall set  
10-4 aside an amount specified in the General Appropriations Act, which  
10-5 may not exceed an amount equal to one percent of the total amount  
10-6 appropriated, to support regional career and technology education  
10-7 planning. After deducting the amount set aside under this  
10-8 subsection from the total amount appropriated for career and  
10-9 technology education under this section, the commissioner shall  
10-10 reduce each district's basic program [~~tier one~~] allotments in the  
10-11 same manner described for a reduction in allotments under Section  
10-12 42.253.

10-13 SECTION 1B.12. Sections 42.156(a) and (d), Education Code,  
10-14 are amended to read as follows:

10-15 (a) For each identified student a school district serves in  
10-16 a program for gifted and talented students that the district  
10-17 certifies to the commissioner as complying with Subchapter D,  
10-18 Chapter 29, a district is entitled to an annual allotment equal to  
10-19 the district's adjusted accreditation [~~basic~~] allotment as  
10-20 determined under Section 42.102 or Section 42.103, as applicable,  
10-21 multiplied by .12 for each school year or a greater amount provided  
10-22 by appropriation.

10-23 (d) If the amount of state funds for which school districts  
10-24 are eligible under this section exceeds the amount of state funds  
10-25 appropriated in any year for the programs, the commissioner shall  
10-26 reduce each district's basic program [~~tier one~~] allotments in the  
10-27 same manner described for a reduction in allotments under Section  
10-28 42.253.

10-29 SECTION 1B.13. Section 42.157(a), Education Code, is  
10-30 amended to read as follows:

10-31 (a) Except as provided by Subsection (b), for each student  
10-32 in average daily attendance who is using a public education grant  
10-33 under Subchapter G, Chapter 29, to attend school in a district other  
10-34 than the district in which the student resides, the district in  
10-35 which the student attends school is entitled to an annual allotment  
10-36 equal to the adjusted accreditation [~~basic~~] allotment multiplied by  
10-37 a weight of 0.1.

10-38 SECTION 1B.14. Section 42.251, Education Code, is amended  
10-39 to read as follows:

10-40 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the  
10-41 accreditation [~~basic~~] allotment under Subchapter B and the special  
10-42 allotments under Subchapter C, computed in accordance with this  
10-43 chapter, constitute the basic program [~~tier one~~] allotments. The  
10-44 sum of the basic program [~~tier one~~] allotments and the enrichment  
10-45 program [~~guaranteed yield~~] allotments under Subchapter F, computed  
10-46 in accordance with this chapter, constitute the total cost of the  
10-47 Foundation School Program.

10-48 (b) The program shall be financed by:

10-49 (1) revenue generated by the state ad valorem tax  
10-50 under Section 3-a, Article VIII, Texas Constitution;

10-51 (2) ad valorem tax revenue generated by a [~~an~~  
10-52 equalized] uniform school district effort;

10-53 (3) [~~(2)~~] ad valorem tax revenue generated by local  
10-54 school district effort for an enrichment program in accordance with  
10-55 Subchapter F in excess of the [~~equalized~~] uniform school district  
10-56 effort;

10-57 (4) [~~(3)~~] state available school funds distributed in  
10-58 accordance with law; and

10-59 (5) [~~(4)~~] state funds appropriated for the purposes of  
10-60 public school education and allocated to each district in an amount  
10-61 sufficient to finance the cost of each district's Foundation School  
10-62 Program not covered by other funds specified in this subsection.

10-63 SECTION 1B.15. Section 42.2512(a), Education Code, is  
10-64 amended to read as follows:

10-65 (a) In addition to any amounts to which a school district is  
10-66 entitled under Section 42.2541, a [~~A school~~] district [~~, including~~  
10-67 ~~a school district that is otherwise ineligible for state aid under~~  
10-68 ~~this chapter,~~] is entitled to state aid in an amount, as determined  
10-69 by the commissioner, equal to the [~~difference, if any, between:~~

11-1 ~~[(1) an amount equal to the]~~ product of the following  
 11-2 amount, as applicable, [~~\$3,000~~] multiplied by the number of  
 11-3 classroom teachers, full-time librarians, full-time counselors  
 11-4 certified under Subchapter B, Chapter 21, and full-time school  
 11-5 nurses employed by the district and entitled to a minimum salary  
 11-6 under Section 21.402:

11-7 (1) \$3,000; or  
 11-8 (2) \$3,500, if H.B. No. 3, Acts of the 79th  
 11-9 Legislature, Regular Session, 2005, takes effect immediately [~~and~~

11-10 ~~[(2) an amount equal to 80 percent of the amount of~~  
 11-11 ~~additional funds to which the district is entitled due to the~~  
 11-12 ~~increases made by S.B. No. 4, Acts of the 76th Legislature, Regular~~  
 11-13 ~~Session, 1999, to:~~

11-14 [~~(A) the equalized wealth level under Section~~  
 11-15 ~~41.002,~~

11-16 [~~(B) the basic allotment under Section 42.101,~~  
 11-17 ~~and~~

11-18 [~~(C) the guaranteed level of state and local~~  
 11-19 ~~funds per weighted student per cent of tax effort under Section~~  
 11-20 ~~42.302].~~

11-21 SECTION 1B.16. Section 42.2515(a), Education Code, is  
 11-22 amended to read as follows:

11-23 (a) For each school year, a school district [~~, including a~~  
 11-24 ~~school district that is otherwise ineligible for state aid under~~  
 11-25 ~~this chapter,~~] is entitled to state aid in an amount equal to the  
 11-26 amount of all tax credits credited against ad valorem taxes of the  
 11-27 district in that year under Subchapter D, Chapter 313, Tax Code.

11-28 SECTION 1B.17. The heading to Section 42.252, Education  
 11-29 Code, is amended to read as follows:

11-30 Sec. 42.252. LOCAL SHARE OF BASIC PROGRAM COST [~~(TIER~~  
 11-31 ~~ONE)]~~.

11-32 SECTION 1B.18. Section 42.252, Education Code, is amended  
 11-33 by amending Subsections (a) and (d) and adding Subsection (a-1) to  
 11-34 read as follows:

11-35 (a) Each school district's share of the basic program under  
 11-36 the Foundation School Program is determined by the following  
 11-37 formula:

$$LFA = TR \times DPV$$

11-38 where:

11-39 "LFA" is the school district's local share;

11-40 "TR" is a tax rate which for each hundred dollars of valuation  
 11-41 is, except as provided by Subsection (a-1), an adopted [~~effective~~]  
 11-42 tax rate of \$0.25 [~~\$0.86~~]; and

11-43 "DPV" is the taxable value of property in the school district  
 11-44 for the preceding tax year determined under Subchapter M, Chapter  
 11-45 403, Government Code.

11-46 (a-1) If the commissioner determines that a school district  
 11-47 can generate tax revenue in an amount equal to the amount of the  
 11-48 district's basic program entitlement under this chapter at an  
 11-49 adopted tax rate less than \$0.25 for each \$100 of taxable value of  
 11-50 property, the rate determined by the commissioner is the tax rate  
 11-51 ("TR") described by Subsection (a) for purposes of determining the  
 11-52 district's share of the Foundation School Program. If the district  
 11-53 adopts a tax rate greater than the rate determined by the  
 11-54 commissioner, the district's permissible enrichment tax rate under  
 11-55 Section 42.303 is reduced one cent for each cent by which the rate  
 11-56 adopted by the district exceeds the rate determined by the  
 11-57 commissioner. If the district adopts a tax rate less than the rate  
 11-58 determined by the commissioner, the amount of the district's basic  
 11-59 program entitlement under this chapter is reduced by four percent  
 11-60 for each cent by which the rate determined by the commissioner  
 11-61 exceeds the rate adopted by the district.

11-62 (d) A school district must raise its total local share of  
 11-63 the Foundation School Program to be eligible to receive foundation  
 11-64 school fund payments. If the district adopts a tax rate less than  
 11-65 the rate sufficient to raise its total local share, the amount of  
 11-66 the district's basic program entitlement under this chapter is  
 11-67 reduced by four percent for each cent by which the rate sufficient  
 11-68 to raise its total local share exceeds the rate adopted by the  
 11-69 district.

12-1 district.

12-2 SECTION 1B.19. Section 42.2521(a), Education Code, is  
12-3 amended to read as follows:

12-4 (a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this  
12-5 chapter, and to the extent money specifically authorized to be used  
12-6 under this section is available, the commissioner shall adjust the  
12-7 taxable value of property in a school district that, due to factors  
12-8 beyond the control of the board of trustees, experiences a rapid  
12-9 decline in the tax base used in calculating taxable values in excess  
12-10 of four percent of the tax base used in the preceding year.

12-11 SECTION 1B.20. Section 42.253, Education Code, is amended  
12-12 by amending Subsections (a) and (g)-(i) and adding Subsections  
12-13 (e-2) and (m) to read as follows:

12-14 (a) For each school year the commissioner shall determine:

12-15 (1) the amount of money to which a school district is  
12-16 entitled under Subchapters B and C;

12-17 (2) the amount of money to which a school district is  
12-18 entitled under Subchapter F;

12-19 (3) the amount of money allocated to the district from  
12-20 the available school fund;

12-21 (4) the amount of each district's basic program [~~tier~~  
12-22 ~~one~~] local share under Section 42.252; and

12-23 (5) the amount of each district's enrichment program  
12-24 [~~tier two~~] local revenue [~~share~~] under Section 42.302.

12-25 (e-2) For the 2006-2007 school year, the limit authorized by  
12-26 Subsection (e) is an amount equal to the sum of the rate described  
12-27 by Section 42.252 and the rate described by Section 42.303(c)(1).  
12-28 This subsection expires September 1, 2007.

12-29 (g) If a school district demonstrates to the satisfaction of  
12-30 the commissioner that the estimate of the district's tax rate,  
12-31 student enrollment, or taxable value of property used in  
12-32 determining the amount of state funds to which the district is  
12-33 entitled are so inaccurate as to result in undue financial hardship  
12-34 to the district, the commissioner may adjust funding to that  
12-35 district in that school year to the extent that funds are available  
12-36 for that year [~~, including funds in the reserve account. Funds in~~  
12-37 ~~the reserve account may not be used under this subsection until any~~  
12-38 ~~reserve funds have been used for purposes of Subsection (f)].~~

12-39 (h) If the total amount appropriated for a year for the  
12-40 Foundation School Program is less than the amount of money to which  
12-41 school districts are entitled for that year [~~legislature fails~~  
12-42 ~~during the regular session to enact the transfer and appropriation~~  
12-43 ~~proposed under Subsection (f) and there are not funds available~~  
12-44 ~~under Subsection (j)], the commissioner shall reduce the total  
12-45 amount of state funds allocated to each district from any source by  
12-46 an amount determined by a method under which the application of the  
12-47 same number of cents of increase in enrichment tax rate in all  
12-48 districts applied to the taxable value of property of each  
12-49 district, as determined under Subchapter M, Chapter 403, Government  
12-50 Code, together with any state aid generated by those taxes, results  
12-51 in a total amount of levy and aid equal to the total reduction. The  
12-52 following fiscal year, a district's entitlement under this section  
12-53 is increased by an amount equal to the reduction made under this  
12-54 subsection.~~

12-55 (i) Not later than March 1 each year, the commissioner shall  
12-56 determine the actual amount of state funds to which each school  
12-57 district is entitled under [~~the allocation formulas in~~] this  
12-58 chapter for the current school year and shall compare that amount  
12-59 with the amount of the warrants issued to each district for that  
12-60 year. If the amount of the warrants differs from the amount to  
12-61 which a district is entitled because of variations in the  
12-62 district's tax rate, student enrollment, or taxable value of  
12-63 property, the commissioner shall adjust the district's entitlement  
12-64 for the next fiscal year accordingly.

12-65 (m) Payments from the foundation school fund to each school  
12-66 district shall be made as follows:

12-67 (1) 15 percent of the yearly entitlement of the  
12-68 district shall be paid in an installment to be made on or before the  
12-69 25th day of September of a fiscal year;

13-1 (2) 80 percent of the yearly entitlement of the  
 13-2 district shall be paid in eight equal installments to be made on or  
 13-3 before the 25th day of October, November, December, January, March,  
 13-4 May, June, and July; and

13-5 (3) five percent of the yearly entitlement of the  
 13-6 district shall be paid in an installment to be made after the fifth  
 13-7 day of September and not later than the 10th day of September of the  
 13-8 calendar year following the calendar year of the payment made under  
 13-9 Subdivision (1).

13-10 SECTION 1B.21. Sections 42.2531(a)-(c), Education Code,  
 13-11 are amended to read as follows:

13-12 (a) The commissioner may make adjustments to amounts due to  
 13-13 a school district under this chapter or Chapter 46, ~~[or to amounts~~  
 13-14 ~~necessary for a district to comply with the requirements of Chapter~~  
 13-15 ~~41,~~] as provided by this section.

13-16 (b) A school district that has a major taxpayer, as  
 13-17 determined by the commissioner, that because of a protest of the  
 13-18 valuation of the taxpayer's property fails to pay all or a portion  
 13-19 of the ad valorem taxes due to the district may apply to the  
 13-20 commissioner to have the district's taxable value of property or ad  
 13-21 valorem tax collections adjusted for purposes of this chapter or  
 13-22 Chapter ~~[41 or]~~ 46. The commissioner may make the adjustment only  
 13-23 to the extent the commissioner determines that making the  
 13-24 adjustment will not:

13-25 (1) in the fiscal year in which the adjustment is made,  
 13-26 cause the amount to which school districts are entitled under this  
 13-27 chapter to exceed the amount appropriated for purposes of the  
 13-28 Foundation School Program for that year; and

13-29 (2) if the adjustment is made in the first year of a  
 13-30 state fiscal biennium, cause the amount to which school districts  
 13-31 are entitled under this chapter for the second year of the biennium  
 13-32 to exceed the amount appropriated for purposes of the Foundation  
 13-33 School Program for that year.

13-34 (c) The commissioner shall recover the benefit of any  
 13-35 adjustment made under this section by making offsetting adjustments  
 13-36 in the school district's taxable value of property or ad valorem tax  
 13-37 collections for purposes of this chapter or Chapter ~~[41 or]~~ 46 on a  
 13-38 final determination of the taxable value of property that was the  
 13-39 basis of the original adjustment, or in the second school year  
 13-40 following the year in which the adjustment is made, whichever is  
 13-41 earlier.

13-42 SECTION 1B.22. Subchapter E, Chapter 42, Education Code, is  
 13-43 amended by adding Sections 42.2541 and 42.2542 to read as follows:

13-44 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
 13-45 section, "weighted average daily attendance" has the meaning  
 13-46 assigned by Section 42.302.

13-47 (b) Notwithstanding Section 42.253, a school district is  
 13-48 entitled to the amount of state revenue necessary to maintain state  
 13-49 and local revenue in an amount equal to the sum of:

13-50 (1) the amount of state and local revenue per student  
 13-51 in weighted average daily attendance for maintenance and operation  
 13-52 of the district that the district received for the 2005-2006 school  
 13-53 year; and

13-54 (2) an amount equal to \$98 per weighted student in  
 13-55 average daily attendance.

13-56 (c) The commissioner may increase the amount to which a  
 13-57 school district is entitled under Subsection (b) as the  
 13-58 commissioner determines necessary.

13-59 (d) The commissioner shall:

13-60 (1) compute and publish the amount of state and local  
 13-61 revenue per student in weighted average daily attendance to which a  
 13-62 district is entitled under Subsection (b) for the 2006-2007 school  
 13-63 year; and

13-64 (2) use that amount per student in weighted average  
 13-65 daily attendance in determining the amount to which a district is  
 13-66 entitled under this section in subsequent school years.

13-67 (e) The commissioner shall determine the amount of state  
 13-68 funds to which a school district is entitled under this section,  
 13-69 including the amount per student in weighted average daily

14-1 attendance, and shall make that determination available to the  
 14-2 Legislative Budget Board. The commissioner's determination is  
 14-3 final and may not be appealed.

14-4 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID. (a)  
 14-5 Notwithstanding any other provision of this subtitle, the  
 14-6 commissioner shall withhold from a school district the amount of  
 14-7 state funds necessary to ensure that the district does not receive  
 14-8 an amount of state and local revenue per student in weighted average  
 14-9 daily attendance that is greater than the following percentage of  
 14-10 the amount to which the district is entitled under Section  
 14-11 42.2541(b)(1):

14-12 (1) 108 percent for the 2006-2007 school year;

14-13 (2) 116 percent for the 2007-2008 school year; and

14-14 (3) 124 percent for the 2008-2009 school year.

14-15 (b) The commissioner shall determine the amount of state  
 14-16 funds required to be withheld under this section. The  
 14-17 commissioner's determination is final and may not be appealed.

14-18 (c) Any amount to which a school district is entitled under  
 14-19 Subchapter F is not included in determining the amount that a  
 14-20 district may receive under this section.

14-21 (d) This section expires September 1, 2009.

14-22 SECTION 1B.23. Chapter 42, Education Code, is amended by  
 14-23 adding Subchapter F to read as follows:

14-24 SUBCHAPTER F. ENRICHMENT PROGRAM

14-25 Sec. 42.301. PURPOSE. The purpose of the enrichment  
 14-26 program is to provide each school district with the opportunity to  
 14-27 supplement the basic program at a level of its own choice. An  
 14-28 allotment under this subchapter may be used for any legal purpose  
 14-29 other than capital outlay or debt service.

14-30 Sec. 42.302. ALLOTMENT. (a) In this section, "wealth per  
 14-31 student" means a school district's taxable value of property as  
 14-32 determined under Subchapter M, Chapter 403, Government Code,  
 14-33 divided by the number of students in weighted average daily  
 14-34 attendance in the district.

14-35 (b) Each school district is guaranteed a specified amount  
 14-36 per student in state and local funds for each cent of enrichment tax  
 14-37 effort up to the maximum level specified in this subchapter. The  
 14-38 amount of state support is determined by the formula:

$$14-39 \quad \text{EGYA} = (\text{EGL} \times \text{WADA} \times \text{DETR} \times 100) - \text{LR}$$

14-40 where:

14-41 "EGYA" is the guaranteed yield amount of state enrichment  
 14-42 funds to be allocated to the district;

14-43 "EGL" is the dollar amount guaranteed level of state and  
 14-44 local funds per student per cent of tax effort, which is the amount  
 14-45 of district enrichment tax revenue per cent of tax effort available  
 14-46 to a school district at the 98th percentile in wealth per student,  
 14-47 as determined by the commissioner;

14-48 "WADA" is the number of students in weighted average daily  
 14-49 attendance, which is computed by dividing the sum of the school  
 14-50 district's allotments under Subchapters B and C, less any allotment  
 14-51 to the district for transportation, any allotment to the district  
 14-52 under Section 42.158, and 50 percent of the adjustment under  
 14-53 Section 42.102, by the accreditation allotment for the applicable  
 14-54 year;

14-55 "DETR" is the district enrichment tax rate of the school  
 14-56 district, which is determined by dividing the total amount of  
 14-57 enrichment taxes collected by the school district for the  
 14-58 applicable school year by the district's taxable value of property  
 14-59 for the preceding year as determined under Subchapter M, Chapter  
 14-60 403, Government Code, divided by 100; and

14-61 "LR" is the local revenue, which is determined by multiplying  
 14-62 "DETR" by the quotient of the district's taxable value of property  
 14-63 for the preceding year as determined under Subchapter M, Chapter  
 14-64 403, Government Code.

14-65 (c) The percentile in wealth per student described by  
 14-66 Subsection (b) for purposes of determining the dollar amount  
 14-67 guaranteed level of state and local funds per student per cent of  
 14-68 tax effort ("EGL") applies beginning with the 2012-2013 school  
 14-69 year. For the 2006-2007 through 2011-2012 school years, EGL is

15-1 determined as follows:

15-2 (1) for the 2006-2007 school year, EGL is determined  
 15-3 using the 92nd percentile in wealth per student;

15-4 (2) for the 2007-2008 school year, EGL is determined  
 15-5 using the 93rd percentile in wealth per student;

15-6 (3) for the 2008-2009 school year, EGL is determined  
 15-7 using the 94th percentile in wealth per student;

15-8 (4) for the 2009-2010 school year, EGL is determined  
 15-9 using the 95th percentile in wealth per student;

15-10 (5) for the 2010-2011 school year, EGL is determined  
 15-11 using the 96th percentile in wealth per student; and

15-12 (6) for the 2011-2012 school year, EGL is determined  
 15-13 using the 97th percentile in wealth per student.

15-14 (d) This subsection and Subsection (c) expire September 1,  
 15-15 2012.

15-16 Sec. 42.303. ENRICHMENT TAX. (a) Subject to Section  
 15-17 42.304, the board of trustees of a school district may impose an  
 15-18 annual ad valorem tax for the further maintenance of the public  
 15-19 schools in the district.

15-20 (b) Except as provided by Section 42.252(a-1), the district  
 15-21 enrichment tax rate may not exceed \$0.15 for each \$100 of taxable  
 15-22 value of property.

15-23 (c) Notwithstanding Subsection (b) but subject to Sections  
 15-24 42.252(a-1) and 42.306:

15-25 (1) for the 2006 tax year, the district enrichment tax  
 15-26 rate may not exceed \$0.05 for each \$100 of taxable value of  
 15-27 property; and

15-28 (2) for the 2007 and 2008 tax years, the district  
 15-29 enrichment tax rate may not exceed \$0.10 for each \$100 of taxable  
 15-30 value of property.

15-31 (d) This subsection and Subsection (c) expire January 1,  
 15-32 2009.

15-33 Sec. 42.304. ENRICHMENT TAX ELECTION. (a) Except as  
 15-34 provided by Section 42.306, a school district may not impose an  
 15-35 enrichment tax under Section 42.303 unless authorized by a majority  
 15-36 of the qualified voters of the district voting at an election held  
 15-37 for that purpose.

15-38 (b) A proposition submitted to authorize the imposition of  
 15-39 an enrichment tax must include the question of whether the board of  
 15-40 trustees may impose annual ad valorem taxes for the further  
 15-41 enrichment of public schools at a rate not to exceed the rate stated  
 15-42 in the proposition.

15-43 (c) A district may tax at a rate below the rate authorized in  
 15-44 an election under this section and does not need additional  
 15-45 authority to increase the rate up to the rate authorized in the  
 15-46 election.

15-47 Sec. 42.305. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON  
 15-48 MILITARY RESERVATION OR AT STATE SCHOOL. The amount to which a  
 15-49 school district is entitled under this subchapter in a school  
 15-50 district located on a federal military installation or at Moody  
 15-51 State School is computed using the average district enrichment tax  
 15-52 rate and property value per student of school districts in the  
 15-53 county, as determined by the commissioner.

15-54 Sec. 42.306. ENRICHMENT TAX AVAILABLE TO CERTAIN DISTRICTS  
 15-55 WITHOUT ELECTION. (a) To the extent consistent with Subsection  
 15-56 (b), if a school district's maintenance and operations tax rate for  
 15-57 the 2004 tax year exceeded a rate of \$1.50 for each \$100 of taxable  
 15-58 value of property, the district is entitled to impose an ad valorem  
 15-59 tax under Section 42.303 without holding an election under Section  
 15-60 42.304.

15-61 (b) The enrichment tax authorized by this section may not  
 15-62 exceed a rate equal to the lesser of:

15-63 (1) \$0.15 for each \$100 of taxable value of property;  
 15-64 or

15-65 (2) a rate equal to the amount by which the district's  
 15-66 maintenance and operations tax rate for the 2004 tax year exceeded a  
 15-67 rate of \$1.50 for each \$100 of taxable value of property.

15-68 (c) The portion of an enrichment tax imposed by a school  
 15-69 district under this section that exceeds the rate permitted by

Subsection (b) is subject to voter approval under Section 42.304.

(d) The portion of an enrichment tax imposed by a school district under this section that exceeds the rate permitted by Subsection (b) is subject to the limits of Section 42.303(c). This subsection expires January 1, 2009.

SECTION 1B.24. Section 45.003(d), Education Code, is amended to read as follows:

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate, which may be not more than \$0.25 [~~\$1.50~~] on the \$100 valuation of taxable property in the district, stated in the proposition.

SECTION 1B.25. This part applies beginning with the 2006-2007 school year, except that Section 42.253(h), Education Code, as amended in this part, applies beginning with the 2005-2006 school year.

PART C. SCHOOL FACILITIES

SECTION 1C.01. Section 46.033, Education Code, is amended to read as follows:

Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if:

(1) the district made payments on the bonds during the 2004-2005 [~~2002-2003~~] school year or taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; and

(2) the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

SECTION 1C.02. Section 46.034(c), Education Code, is amended to read as follows:

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the 2004-2005 [~~2002-2003~~] school year or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

ARTICLE 2. EDUCATION EXCELLENCE

PART A. EDUCATION EMPLOYEES

SECTION 2A.01. Section 11.201, Education Code, is amended by adding Subsection (e) to read as follows:

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

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

Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR PRINCIPALS. (a) The agency shall develop and operate a school leadership pilot program for principals in accordance with this section.

(b) The agency shall operate the program in cooperation with a nonprofit corporation that has substantial experience in developing best practices to improve leadership skills, student achievement, student graduation rates, and teacher retention.

(c) The agency shall consult appropriate departments at institutions of higher education to develop program course work that focuses on management and business training.

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



17-1 (e) A principal of a campus rated academically  
 17-2 unacceptable, as well as any person employed to replace that  
 17-3 principal, shall participate in the program and complete the  
 17-4 program requirements not later than a date determined by the  
 17-5 commissioner.

17-6 (f) To pay the costs of administering the program, the  
 17-7 commissioner shall retain a portion of the total amount of funds  
 17-8 allotted under the Foundation School Program that the commissioner  
 17-9 considers appropriate to finance activities under this section and  
 17-10 shall reduce the total amount of state funds allocated to each  
 17-11 district from any source in the same manner described for a  
 17-12 reduction in allotments under Section 42.253.

17-13 (g) To implement and administer the program, the  
 17-14 commissioner may accept grants, gifts, and donations from public  
 17-15 and private entities.

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

17-18 (i) This section expires September 1, 2010.

17-19 SECTION 2A.03. Section 21.045, Education Code, is amended  
 17-20 by amending Subsections (a) and (b) and adding Subsection (e) to  
 17-21 read as follows:

17-22 (a) The board shall propose rules establishing standards to  
 17-23 govern the approval and continuing accountability of all educator  
 17-24 preparation programs based on information that is disaggregated  
 17-25 with respect to sex and ethnicity and that includes:

17-26 (1) results of the certification examinations  
 17-27 prescribed under Section 21.048(a); ~~and~~

17-28 (2) performance based on the appraisal system for  
 17-29 beginning teachers adopted by the board;

17-30 (3) performance of students taught by beginning  
 17-31 teachers, as determined on the basis of annual individual student  
 17-32 growth in achievement, as measured under Section 39.034, and any  
 17-33 other factor considered appropriate by the board; and

17-34 (4) retention rates of beginning teachers in the  
 17-35 profession.

17-36 (b) Each educator preparation program shall submit data  
 17-37 elements as required by the board for an annual performance report  
 17-38 to ensure access and equity. At a minimum, the annual report must  
 17-39 contain the performance data from Subsection (a), other than the  
 17-40 data required for purposes of Subsection (a)(3), and the following  
 17-41 information, disaggregated by sex and ethnicity:

17-42 (1) the number of candidates who apply;

17-43 (2) the number of candidates admitted;

17-44 (3) the number of candidates retained;

17-45 (4) the number of candidates completing the program;

17-46 (5) the number of candidates employed in the  
 17-47 profession after completing the program; and

17-48 (6) the number of candidates retained in the  
 17-49 profession.

17-50 (e) The agency shall annually submit student performance  
 17-51 data to the board for purposes of Subsection (a)(3). The agency  
 17-52 shall provide the data to the board in a manner that protects the  
 17-53 names of individual students and otherwise complies with the  
 17-54 confidentiality requirements prescribed by Section 39.030.

17-55 SECTION 2A.04. Section 21.104(a), Education Code, is  
 17-56 amended to read as follows:

17-57 (a) A teacher employed under a probationary contract may be  
 17-58 discharged at any time for:

17-59 (1) good cause as determined by the board of trustees;  
 17-60 or

17-61 (2) a financial exigency that requires a reduction in  
 17-62 personnel [~~, good cause being the failure to meet the accepted~~  
 17-63 ~~standards of conduct for the profession as generally recognized and~~  
 17-64 ~~applied in similarly situated school districts in this state].~~

17-65 SECTION 2A.05. Subchapter C, Chapter 21, Education Code, is  
 17-66 amended by adding Section 21.1041 to read as follows:

17-67 Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER  
 17-68 PROBATIONARY CONTRACT. (a) If the board of trustees proposes to  
 17-69 discharge a teacher under Section 21.104(a)(2), the board shall

18-1 give written notice of the proposed action to the teacher.

18-2 (b) If the teacher desires a hearing after receiving notice  
 18-3 of the proposed discharge, the teacher shall notify the board of  
 18-4 trustees in writing, not later than the 15th day after the date the  
 18-5 teacher receives the notice of the proposed action. The board shall  
 18-6 provide for a hearing to be held not later than the 15th day after  
 18-7 the date the board receives the request for a hearing unless the  
 18-8 parties agree in writing to a different date. The hearing must be  
 18-9 closed unless the teacher requests an open hearing. The hearing  
 18-10 must be conducted in accordance with rules adopted by the board. At  
 18-11 the hearing, the teacher may:

18-12 (1) be represented by a representative of the  
 18-13 teacher's choice;

18-14 (2) hear the evidence supporting the reason for the  
 18-15 discharge;

18-16 (3) cross-examine adverse witnesses; and

18-17 (4) present evidence.

18-18 (c) After a hearing held under Subsection (b), the board of  
 18-19 trustees shall:

18-20 (1) take the appropriate action to discharge the  
 18-21 teacher or allow the teacher to complete the probationary contract  
 18-22 term; and

18-23 (2) notify the teacher in writing of its decision not  
 18-24 later than the 15th day after the date of the hearing.

18-25 (d) If the teacher does not request a hearing under  
 18-26 Subsection (b), the board of trustees shall take the appropriate  
 18-27 action to discharge the teacher and shall notify the teacher in  
 18-28 writing of that action not later than the 30th day after the date  
 18-29 the notice of proposed discharge for a financial exigency that  
 18-30 requires a reduction in personnel was sent to the teacher.

18-31 SECTION 2A.06. Subchapter E, Chapter 21, Education Code, is  
 18-32 amended by adding Section 21.2111 to read as follows:

18-33 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM  
 18-34 CONTRACT. (a) If the board of trustees proposes to discharge a  
 18-35 teacher under Section 21.211(a)(2), the board shall give written  
 18-36 notice of the proposed action to the teacher.

18-37 (b) If the teacher desires a hearing after receiving notice  
 18-38 of the proposed discharge, the teacher shall notify the board of  
 18-39 trustees in writing, not later than the 15th day after the date the  
 18-40 teacher receives the notice of the proposed action. The board shall  
 18-41 provide for a hearing to be held not later than the 15th day after  
 18-42 the date the board receives the request for a hearing unless the  
 18-43 parties agree in writing to a different date. The hearing must be  
 18-44 closed unless the teacher requests an open hearing. The hearing  
 18-45 must be conducted in accordance with rules adopted by the board. At  
 18-46 the hearing, the teacher may:

18-47 (1) be represented by a representative of the  
 18-48 teacher's choice;

18-49 (2) hear the evidence supporting the reason for the  
 18-50 discharge;

18-51 (3) cross-examine adverse witnesses; and

18-52 (4) present evidence.

18-53 (c) After the hearing, the board of trustees shall:

18-54 (1) take the appropriate action to discharge the  
 18-55 teacher or allow the teacher to complete the current contract term;  
 18-56 and

18-57 (2) notify the teacher in writing of its decision not  
 18-58 later than the 15th day after the date of the hearing.

18-59 (d) If the teacher does not request a hearing under  
 18-60 Subsection (b), the board of trustees shall take the appropriate  
 18-61 action to discharge the teacher and shall notify the teacher in  
 18-62 writing of that action not later than the 30th day after the date  
 18-63 the notice of proposed discharge for a financial exigency that  
 18-64 requires a reduction in personnel was sent to the teacher.

18-65 SECTION 2A.07. Section 21.251, Education Code, is amended  
 18-66 to read as follows:

18-67 Sec. 21.251. APPLICABILITY. (a) This subchapter applies  
 18-68 if a teacher requests a hearing after receiving notice of the  
 18-69 proposed decision to:

19-1 (1) terminate the teacher's continuing contract at any  
19-2 time;

19-3 (2) except as provided by Subsection (b)(3), terminate  
19-4 the teacher's probationary or term contract before the end of the  
19-5 contract period; or

19-6 (3) suspend the teacher without pay.

19-7 (b) This subchapter does not apply to:

19-8 (1) a decision to terminate a teacher's employment at  
19-9 the end of a probationary contract; ~~[or]~~

19-10 (2) a decision not to renew a teacher's term contract,  
19-11 unless the board of trustees of the employing district has decided  
19-12 to use the process prescribed by this subchapter for that purpose;  
19-13 or

19-14 (3) a decision to terminate a teacher's probationary  
19-15 contract or term contract before the end of the contract period for  
19-16 a financial exigency that requires a reduction in personnel.

19-17 SECTION 2A.08. Section 21.301(a), Education Code, is  
19-18 amended to read as follows:

19-19 (a) Not later than the 20th day after the date the board of  
19-20 trustees or board subcommittee announces its decision under Section  
19-21 21.259, ~~[or]~~ the board advises the teacher of its decision not to  
19-22 renew the teacher's contract under Section 21.208, or the board  
19-23 advises the teacher of its decision to terminate the teacher's  
19-24 probationary contract under Section 21.1041(c) or (d) or term  
19-25 contract under Section 21.2111(c) or (d), the teacher may appeal  
19-26 the decision by filing a petition for review with the commissioner.

19-27 SECTION 2A.09. Section 21.303(a), Education Code, is  
19-28 amended to read as follows:

19-29 (a) If the board of trustees decided not to renew a  
19-30 teacher's term contract or decided to terminate a teacher's  
19-31 probationary contract under Section 21.1041(c) or (d) or term  
19-32 contract under Section 21.2111(c) or (d), the commissioner may not  
19-33 substitute the commissioner's judgment for that of the board of  
19-34 trustees unless the decision was arbitrary, capricious, or unlawful  
19-35 or is not supported by substantial evidence.

19-36 SECTION 2A.10. Section 21.402, Education Code, is amended  
19-37 by amending Subsections (a), (c), and (d) and adding Subsections  
19-38 (a-1), (a-2), (c-1), (c-2), and (d-1) to read as follows:

19-39 (a) Except as provided by Subsection (a-1), (a-2), (d), (e),  
19-40 or (f), a school district must pay each classroom teacher,  
19-41 full-time librarian, full-time counselor certified under  
19-42 Subchapter B, or full-time school nurse not less than the minimum  
19-43 monthly salary, based on the employee's level of experience,  
19-44 determined by the following formula:

19-45 
$$MS = SF \times \underline{AA} \text{ [FS]}$$

19-46 where:

19-47 "MS" is the minimum monthly salary;

19-48 "SF" is the applicable salary factor specified by Subsection  
19-49 (c); and

19-50 "AA" is the accreditation allotment under Section 42.101  
19-51 [~~"FS" is the amount, as determined by the commissioner under~~  
19-52 ~~Subsection (b), of state and local funds per weighted student~~  
19-53 ~~available to a district eligible to receive state assistance under~~  
19-54 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~  
19-55 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~  
19-56 ~~except that the amount of state and local funds per weighted student~~  
19-57 ~~does not include the amount attributable to the increase in the~~  
19-58 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~  
19-59 ~~Legislature, Regular Session, 2001].~~

19-60 (a-1) A school district is not required to pay the minimum  
19-61 salary determined under Subsection (a) to an educator who receives  
19-62 a service retirement annuity under Chapter 824, Government Code.

19-63 (a-2) A school district is not required to pay the minimum  
19-64 salary determined under Subsection (a) to an educator who does not  
19-65 hold a lifetime or standard certificate and who holds a  
19-66 probationary, temporary, or emergency educator certificate.

19-67 (c) The salary factors per step are as follows:

19-68 Years Experience	0	1	2
19-69 Salary Factor	<u>.6451</u> [ <del>.5656</del> ]	<u>.6584</u> [ <del>.5790</del> ]	<u>.6719</u> [ <del>.5924</del> ]

20-1	Years Experience	3	4	5
20-2	Salary Factor	<u>.6851</u> [ <del>-.6058</del> ]	<u>.7133</u> [ <del>-.6340</del> ]	<u>.7414</u> [ <del>-.6623</del> ]
20-3	Years Experience	6	7	8
20-4	Salary Factor	<u>.7695</u> [ <del>-.6906</del> ]	<u>.7958</u> [ <del>-.7168</del> ]	<u>.8205</u> [ <del>-.7416</del> ]
20-5	Years Experience	9	10	11
20-6	Salary Factor	<u>.8440</u> [ <del>-.7651</del> ]	<u>.8658</u> [ <del>-.7872</del> ]	<u>.8870</u> [ <del>-.8082</del> ]
20-7	Years Experience	12	13	14
20-8	Salary Factor	<u>.9067</u> [ <del>-.8281</del> ]	<u>.9251</u> [ <del>-.8467</del> ]	<u>.9430</u> [ <del>-.8645</del> ]
20-9	Years Experience	15	16	17
20-10	Salary Factor	<u>.9595</u> [ <del>-.8811</del> ]	<u>.9753</u> [ <del>-.8970</del> ]	<u>.9902</u> [ <del>-.9119</del> ]
20-11	Years Experience	18	19	20 and over
20-12	Salary Factor	<u>1.004</u> [ <del>-.9260</del> ]	<u>1.018</u> [ <del>-.9394</del> ]	<u>1.030</u> [ <del>-.9520</del> ]

20-13 (c-1) Notwithstanding Subsection (a), for the 2006-2007  
 20-14 school year, a classroom teacher, full-time librarian, full-time  
 20-15 counselor certified under Subchapter B, or full-time school nurse  
 20-16 is entitled to a monthly salary that is at least equal to the sum of:

20-17 (1) the monthly salary the employee would have  
 20-18 received for the 2005-2006 school year under the district's salary  
 20-19 schedule for the 2004-2005 school year, if that schedule had been in  
 20-20 effect for the 2005-2006 school year, including any local  
 20-21 supplement and any money representing a career ladder supplement  
 20-22 the employee would have received in the 2005-2006 school year; and

20-23 (2) \$350.

20-24 (c-2) Subsections (c) and (c-1) apply beginning with the  
 20-25 2006-2007 school year, but only if the constitutional amendment  
 20-26 proposed by .J.R. No.     , 79th Legislature, Regular Session,  
 20-27 2005, is approved by the voters and H.B. No. 3, Acts of the 79th  
 20-28 Legislature, Regular Session, 2005, takes effect immediately. As  
 20-29 necessary, for the 2005-2006 and 2006-2007 school years, the  
 20-30 commissioner shall compute salary factors under Subsection (c) and  
 20-31 amounts under Subsection (c-1)(2) to reflect the following monthly  
 20-32 salary increases, relative to the preceding school year, for those  
 20-33 employees:

20-34 (1) for the 2005-2006 school year:  
 20-35 (A) if H.B. No. 3, Acts of the 79th Legislature,  
 20-36 Regular Session, 2005, does not take effect immediately, \$150; and  
 20-37 (B) if H.B. No. 3, Acts of the 79th Legislature,  
 20-38 Regular Session, 2005, takes effect immediately, \$200; and

20-39 (2) for the 2006-2007 school year:  
 20-40 (A) if the constitutional amendment proposed by  
 20-41 .J.R. No.     , 79th Legislature, Regular Session, 2005, is  
 20-42 approved by the voters, \$150; and  
 20-43 (B) if the constitutional amendment proposed by  
 20-44 .J.R. No.     , 79th Legislature, Regular Session, 2005, is not  
 20-45 approved by the voters, those employees are not entitled to an  
 20-46 additional salary increase.

20-47 (d) A classroom teacher, full-time librarian, full-time  
 20-48 counselor certified under Subchapter B, or full-time school nurse  
 20-49 employed by a school district in the 2006-2007 [~~2000-2001~~] school  
 20-50 year is, as long as the employee is employed by the same district,  
 20-51 entitled to a salary that is at least equal to the salary the  
 20-52 employee received for the 2006-2007 [~~2000-2001~~] school year.

20-53 (d-1) A classroom teacher, full-time librarian, full-time  
 20-54 counselor certified under Subchapter B, or full-time nurse may  
 20-55 elect to receive not more than \$1,000 of the person's annual salary  
 20-56 as health care supplementation as provided by Chapter 1580,  
 20-57 Insurance Code.

20-58 SECTION 2A.11. Subchapter J, Chapter 21, Education Code, is  
 20-59 amended by adding Section 21.458 to read as follows:

20-60 Sec. 21.458. MENTORS. (a) Each school district may assign  
 20-61 a mentor teacher to each classroom teacher who has less than two  
 20-62 years of teaching experience if the mentor:

20-63 (1) teaches in the same school;  
 20-64 (2) to the extent practicable, teaches the same  
 20-65 subject or grade level, as applicable; and  
 20-66 (3) meets the qualifications prescribed by  
 20-67 commissioner rules adopted under Subsection (b).

20-68 (b) The commissioner shall adopt rules necessary to  
 20-69 administer this section, including rules concerning the duties and

21-1 qualifications of a teacher who serves as a mentor. The rules  
 21-2 concerning qualifications must require that to serve as a mentor a  
 21-3 teacher must:

21-4 (1) complete a research-based mentor and induction  
 21-5 training program approved by the commissioner;

21-6 (2) complete a mentor training program provided by the  
 21-7 district; and

21-8 (3) have at least three complete years of teaching  
 21-9 experience with a proven record of assisting students, as a whole,  
 21-10 in achieving growth in performance.

21-11 (c) The commissioner shall develop proposed rules under  
 21-12 Subsection (b) by negotiated rulemaking as provided by Chapter  
 21-13 2008, Government Code.

21-14 (d) From the funds appropriated to the agency for purposes  
 21-15 of this section, the commissioner shall adopt rules and provide  
 21-16 funding to school districts that assign mentor teachers under this  
 21-17 section. Funding provided to districts under this subsection may  
 21-18 be used only for providing:

21-19 (1) mentor teacher stipends;

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

21-22 (3) mentoring support through providers of mentor  
 21-23 training.

21-24 (e) In adopting rules under Subsection (d), the  
 21-25 commissioner shall rely on research-based mentoring programs that,  
 21-26 through external evaluation, have demonstrated success.

21-27 SECTION 2A.12. Chapter 21, Education Code, is amended by  
 21-28 adding Subchapter N to read as follows:

21-29 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

21-30 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)  
 21-31 The commissioner shall establish an educator excellence incentive  
 21-32 program under which school districts, in accordance with locally  
 21-33 developed plans approved by the commissioner, provide incentive  
 21-34 payments to employees whose students demonstrate successful annual  
 21-35 individual student growth in achievement.

21-36 (b) From funds appropriated for the purpose of this  
 21-37 subchapter, the commissioner shall award incentive payments to each  
 21-38 school district with a local incentive plan approved by the  
 21-39 commissioner. The commissioner shall distribute the incentive  
 21-40 payments each year to a qualifying school district on the basis of  
 21-41 the district's actual average daily attendance for the preceding  
 21-42 school year. The total amount of incentive payments made to school  
 21-43 districts from funds appropriated for the incentive program under  
 21-44 this subchapter may not exceed \$100 million each fiscal year.

21-45 (b-1) The commissioner may not award incentive payments to  
 21-46 school districts under this subchapter before the 2006-2007 school  
 21-47 year. This subsection expires September 1, 2007.

21-48 (c) Except as provided by Subsections (d) and (e), each year  
 21-49 a school district shall use funds received by the district under  
 21-50 this subchapter to provide campus-based incentive payments in  
 21-51 accordance with this subchapter.

21-52 (d) A school district with an enrollment of less than 1,600  
 21-53 may use all of the funds received under this subchapter to provide  
 21-54 stipends under Subsection (e).

21-55 (e) A school district may use an amount not to exceed 50  
 21-56 percent of the funds received under this subchapter to provide  
 21-57 stipends to:

21-58 (1) teachers who are certified in a curriculum subject  
 21-59 area in which the district is experiencing a shortage of qualified  
 21-60 teachers, as determined by the commissioner; and

21-61 (2) teachers who are assigned, during the first three  
 21-62 years of the assignment, to a campus that is difficult to staff,  
 21-63 according to standards established by the board of trustees of the  
 21-64 district, including a rural or academically unacceptable campus.

21-65 (f) The commissioner shall adopt rules necessary to  
 21-66 implement this subchapter. In adopting rules, the commissioner  
 21-67 shall:

21-68 (1) include criteria and guidelines for evaluating  
 21-69 local incentive plans; and

22-1 (2) encourage local flexibility in designing local  
 22-2 incentive plans that promote student achievement.

22-3 Sec. 21.652. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

22-4 (a) A school district shall develop a local incentive plan for  
 22-5 rewarding successful annual individual student growth in  
 22-6 achievement in the district and submit the plan to the commissioner  
 22-7 for approval.

22-8 (b) A local incentive plan must be designed to reward  
 22-9 campuses.

22-10 (c) The primary criteria for making incentive payments to  
 22-11 employees under a local incentive plan must be based on objective  
 22-12 measures of student achievement, including a measure of annual  
 22-13 individual student growth in achievement under Section 39.034, and  
 22-14 the plan must provide for incentive payments to be awarded on the  
 22-15 basis of high achievement, incremental growth in achievement, or  
 22-16 both. A local incentive plan may also consider other indicators of  
 22-17 employee performance, such as teacher evaluations conducted by  
 22-18 principals or parents.

22-19 (d) A local incentive plan must:

22-20 (1) be developed through a process that includes  
 22-21 participation of classroom teachers in the school district; and

22-22 (2) be approved by the district-level planning and  
 22-23 decision-making committee.

22-24 (e) The campus-level planning and decision-making committee  
 22-25 shall determine the appropriate distribution of funds received by a  
 22-26 campus under this subchapter.

22-27 Sec. 21.653. EMPLOYMENT CONTRACTS. (a) A school district  
 22-28 shall provide in employment contracts that qualifying employees may  
 22-29 receive an incentive payment under the local incentive plan.

22-30 (b) The school district shall indicate that any incentive  
 22-31 payment distributed is considered a bonus for performance and not  
 22-32 an entitlement as part of an employee's salary.

22-33 Sec. 21.654. DECISION REGARDING INCENTIVE PAYMENTS. A  
 22-34 decision in providing an incentive payment under a local incentive  
 22-35 plan approved under this subchapter is final and may not be  
 22-36 appealed.

22-37 SECTION 2A.13. Subchapter A, Chapter 22, Education Code, is  
 22-38 amended by adding Section 22.007 to read as follows:

22-39 Sec. 22.007. WAGE INCREASE FOR SUPPORT STAFF. (a) A school  
 22-40 district each school year shall pay each full-time district  
 22-41 employee, other than an administrator or an employee subject to the  
 22-42 minimum salary schedule under Section 21.402, an amount at least  
 22-43 equal to \$1,000.

22-44 (b) A school district each school year shall pay each  
 22-45 part-time district employee, other than an administrator, an amount  
 22-46 at least equal to \$500.

22-47 (c) A full-time employee entitled to a wage increase under  
 22-48 this section may elect to receive not more than \$1,000 of the  
 22-49 person's annual wages as health care supplementation as provided by  
 22-50 Chapter 1580, Insurance Code. A part-time employee entitled to a  
 22-51 wage increase under this section may elect to receive not more than  
 22-52 \$500 of the person's annual wages as health care supplementation as  
 22-53 provided by Chapter 1580, Insurance Code.

22-54 (d) A payment under this section is in addition to wages the  
 22-55 district would otherwise pay the employee during the school year.

22-56 SECTION 2A.14. Effective September 1, 2006, Subchapter D,  
 22-57 Chapter 54, Education Code, is amended by adding Section 54.220 to  
 22-58 read as follows:

22-59 Sec. 54.220. CHILDREN OF CLASSROOM TEACHERS. (a) In this  
 22-60 section:

22-61 (1) "Child" means a child of any age, including an  
 22-62 adult child. The term includes an adopted child.

22-63 (2) "Classroom teacher" has the meaning assigned by  
 22-64 Section 5.001.

22-65 (b) For purposes of this section, a person is another  
 22-66 person's child if the other person is the person's natural or  
 22-67 adoptive parent, managing or possessory conservator, or legal  
 22-68 guardian.

22-69 (c) The governing board of an institution of higher

23-1 education shall exempt from the payment of tuition or from the  
 23-2 payment of required fees for an academic year an eligible  
 23-3 undergraduate student who is a child of an eligible classroom  
 23-4 teacher and is designated by the classroom teacher to receive the  
 23-5 exemption.

23-6 (d) A classroom teacher is eligible to designate the  
 23-7 teacher's child to receive an exemption under this section for an  
 23-8 academic year if, at the beginning of the academic year, the teacher  
 23-9 is employed full-time as a classroom teacher by a school district in  
 23-10 this state and maintains that employment throughout the school year  
 23-11 that corresponds to the academic year.

23-12 (e) An undergraduate student is eligible for an exemption  
 23-13 for an academic year under this section only if the student is a  
 23-14 resident of this state for purposes of Subchapter B or is otherwise  
 23-15 entitled to pay tuition and fees at the rate provided for residents  
 23-16 of this state. A student who receives an exemption for an initial  
 23-17 academic period is eligible for an exemption for a subsequent  
 23-18 academic period only if the student has earned an overall grade  
 23-19 point average of at least 2.5 on a four-point scale or the  
 23-20 equivalent on course work previously attempted at institutions of  
 23-21 higher education.

23-22 (f) On the completion of a classroom teacher's 15th year of  
 23-23 service, the teacher earns either an exemption from the payment of  
 23-24 tuition or an exemption from the payment of required fees for one  
 23-25 academic year for the benefit of one child. For each year of  
 23-26 service that exceeds 15 years, the classroom teacher earns an  
 23-27 additional tuition exemption or an additional fee exemption for one  
 23-28 academic year for the benefit of one child. The classroom teacher  
 23-29 may elect the type of exemption the child may receive under this  
 23-30 section at the time the teacher designates the child to receive the  
 23-31 exemption. The exemption earned by a classroom teacher for one year  
 23-32 of service may be used for the benefit of only one child. Years of  
 23-33 service as a classroom teacher are not required to be consecutive.  
 23-34 A classroom teacher may not designate a child to receive an  
 23-35 exemption under this section for an academic year unless the  
 23-36 teacher's most recent five years of service were in this state.

23-37 (g) A classroom teacher with at least 19 years of service  
 23-38 may elect to use any earned but unused exemptions toward the payment  
 23-39 of both the tuition and the required fees of one child during an  
 23-40 academic year or to use the unused exemptions toward the payment of  
 23-41 the tuition or the required fees, or both tuition and fees as  
 23-42 permitted by the number of unclaimed exemptions, of more than one  
 23-43 child during an academic year. Two classroom teachers may  
 23-44 aggregate years of service to earn one or more exemptions for the  
 23-45 benefit of one or more of their children in common, but each  
 23-46 classroom teacher must maintain eligibility under Subsection (d)  
 23-47 during the academic period for which the exemption is used.

23-48 (h) If an undergraduate student fails to meet any  
 23-49 eligibility requirement of Subsection (e) for an academic period,  
 23-50 the student may not receive an exemption under this section for that  
 23-51 academic period. An undergraduate student may become eligible to  
 23-52 receive the exemption in a subsequent academic period of the same  
 23-53 academic year if the student reestablishes eligibility before that  
 23-54 period begins.

23-55 (i) If a classroom teacher whose child receives an exemption  
 23-56 earned by the teacher under this section does not remain employed as  
 23-57 required by Subsection (d), the student may not receive an  
 23-58 exemption for a subsequent academic period of the same academic  
 23-59 year under this section until the next academic period that begins  
 23-60 after the classroom teacher reestablishes eligibility under  
 23-61 Subsection (d).

23-62 (j) An institution of higher education may require an  
 23-63 undergraduate student to pay prorated tuition or required fees, as  
 23-64 applicable, for an academic period if the student's eligibility for  
 23-65 the exemption under Subsection (e) or the teacher's eligibility for  
 23-66 the exemption under Subsection (d) is lost during that period.

23-67 (k) An undergraduate student is not eligible to receive an  
 23-68 exemption under this section if the person:

23-69 (1) subject to Subsection (l), has previously received

24-1 an exemption under this section for four academic years at any  
 24-2 institution or institutions of higher education; or

24-3 (2) has received a baccalaureate degree.

24-4 (1) An undergraduate student who, for any reason other than  
 24-5 a loss of relevant eligibility of the student or the classroom  
 24-6 teacher, fails to use an exemption from the payment of tuition or an  
 24-7 exemption from the payment of required fees in one or more academic  
 24-8 periods in the academic year for which the student is designated to  
 24-9 receive the exemption may carry forward and use that exemption in an  
 24-10 academic period of substantially similar length in a subsequent  
 24-11 academic year. The student may use only one exemption for each  
 24-12 academic period under this subsection unless the use of more than  
 24-13 one exemption is permitted under Subsection (g).

24-14 (m) The Texas Higher Education Coordinating Board shall  
 24-15 adopt:

24-16 (1) rules prescribing procedures by which a classroom  
 24-17 teacher may designate a child to receive an exemption under this  
 24-18 section, including rules relating to the determination of a  
 24-19 student's eligibility for an exemption or a classroom teacher's  
 24-20 eligibility to designate a child to receive an exemption;

24-21 (2) rules to allow an otherwise eligible student to  
 24-22 receive an exemption under this section if the student is unable to  
 24-23 satisfy the grade point average requirement of Subsection (e)  
 24-24 solely as a result of a hardship or other good cause; and

24-25 (3) a uniform application form for an exemption under  
 24-26 this section.

24-27 (n) The legislature shall account in the General  
 24-28 Appropriations Act for the exemptions authorized by this section in  
 24-29 a manner that provides a corresponding increase in the general  
 24-30 revenue funds appropriated to the institution granting an  
 24-31 exemption.

24-32 (o) Notwithstanding any other provision of this section,  
 24-33 only the following undergraduate students who meet the eligibility  
 24-34 requirements of Subsection (e) are eligible to receive an exemption  
 24-35 under this section:

24-36 (1) in the 2006-2007 academic year, a student who has  
 24-37 completed less than 30 semester credit hours at any institution of  
 24-38 higher education;

24-39 (2) in the 2007-2008 academic year, a student who has  
 24-40 completed less than 60 semester credit hours at any institution of  
 24-41 higher education; and

24-42 (3) in the 2008-2009 academic year, a student who has  
 24-43 completed less than 90 semester credit hours at any institution of  
 24-44 higher education.

24-45 (p) This subsection and Subsection (o) expire September 1,  
 24-46 2009.

24-47 SECTION 2A.15. Sections 401.314(a)-(d), Occupations Code,  
 24-48 are amended to read as follows:

24-49 (a) The board shall waive the licensing requirements under  
 24-50 this chapter and issue a limited license to practice in the public  
 24-51 schools as a fully licensed speech-language pathologist to an  
 24-52 applicant who:

24-53 ~~(1) [was eligible for a waiver of licensing~~  
 24-54 ~~requirements under Section 13(a), Chapter 381, Acts of the 68th~~  
 24-55 ~~Legislature, Regular Session, 1983, as amended by Chapter 448, Acts~~  
 24-56 ~~of the 69th Legislature, Regular Session, 1985;~~

24-57 ~~[(2) for the two years preceding January 1, 1996, was~~  
 24-58 ~~employed by a school district as a speech-language therapist;~~

24-59 ~~[(3) submits with the person's application a written~~  
 24-60 ~~statement by the superintendent of the school district employing~~  
 24-61 ~~the person, certifying that the district has not been able to employ~~  
 24-62 ~~as a speech-language pathologist a person who meets the licensing~~  
 24-63 ~~requirements imposed under this chapter;~~

24-64 ~~[(4)] holds a baccalaureate degree in communication~~  
 24-65 ~~disorders (speech-language) from an accredited institution of~~  
 24-66 ~~higher education; and~~

24-67 ~~(2) is certified by the Texas Education Agency in~~  
 24-68 ~~speech and hearing therapy or, in the judgment of the board,~~  
 24-69 ~~satisfies equivalent requirements[; and~~



25-1 ~~[(5) successfully completes the examination required~~  
 25-2 ~~under Section 401.305].~~

25-3 (b) The Texas Education Agency [~~board~~] shall determine and  
 25-4 monitor the [~~waive the licensing~~] requirements for certification  
 25-5 [~~imposed~~] under this section, provided that an applicant must have  
 25-6 training in [~~chapter and issue a limited license to practice in the~~  
 25-7 public schools as a fully licensed speech-language pathologist to a  
 25-8 person who]:

25-9 (1) the unique aspects of speech disorders in students  
 25-10 who are at least three years of age, but not older than 12 years of  
 25-11 age [~~meets the requirements of Subsections (a)(2)-(5)]~~; and

25-12 (2) services that support educational programs for  
 25-13 students described by Subdivision (1) [~~is enrolled in a program of~~  
 25-14 study toward a master's degree with a major in at least one of the  
 25-15 areas of communicative sciences or disorders from a program  
 25-16 accredited by the American Speech-Language-Hearing Association in  
 25-17 a regionally accredited college or university].

25-18 (c) A [~~Beginning September 1, 1998, and biennially after~~  
 25-19 that date, a] person certified [~~licensed~~] under this section may  
 25-20 provide speech-language pathology services only:

25-21 (1) in a school setting; and

25-22 (2) to a student who is at least three years of age,  
 25-23 but not older than 12 years of age [~~Subsection (b) must demonstrate~~  
 25-24 in a manner prescribed by the board that the person has successfully  
 25-25 completed in the preceding two-year period at least 12 hours of  
 25-26 course work toward completing a master's degree described by  
 25-27 Subsection (b)(2)].

25-28 (d) A person certified [~~who holds a limited license issued~~]  
 25-29 under this section may provide any service permitted or not  
 25-30 specifically prohibited by the Individuals with Disabilities  
 25-31 Education Improvement Act of 2004 (20 U.S.C. Section 1400 et seq.)  
 25-32 [~~apply for a full license as provided by this chapter~~].

25-33 SECTION 2A.16. Section 11.201(e), Education Code, as added  
 25-34 by this Act, applies only to a contract between a superintendent of  
 25-35 a school district and a business entity that is entered into on or  
 25-36 after September 1, 2005. A contract between a superintendent of a  
 25-37 school district and a business entity that is entered into before  
 25-38 September 1, 2005, is governed by the law in effect on the date the  
 25-39 contract is entered into, and the former law is continued in effect  
 25-40 for that purpose.

25-41 SECTION 2A.17. (a) As soon as possible after September 1,  
 25-42 2005, the State Board for Educator Certification shall review the  
 25-43 rules adopted under Section 21.044, Education Code, relating to  
 25-44 educator training requirements and revise those rules as necessary  
 25-45 to ensure that the training requirements are sufficient to produce  
 25-46 educators capable of:

25-47 (1) satisfying the increased standards for highly  
 25-48 qualified educators prescribed by the No Child Left Behind Act of  
 25-49 2001 (Pub. L. No. 107-110);

25-50 (2) complying with certification standards in this  
 25-51 state; and

25-52 (3) teaching students in a manner that results in the  
 25-53 highest level of student performance.

25-54 (b) In conducting the review required by Subsection (a) of  
 25-55 this section, the State Board for Educator Certification shall give  
 25-56 specific attention to the degree to which educator training  
 25-57 requirements prepare educators to serve students of limited English  
 25-58 proficiency and students with learning disabilities.

25-59 SECTION 2A.18. Sections 21.104, 21.251, 21.301, and  
 25-60 21.303, Education Code, as amended by this Act, and Sections  
 25-61 21.1041 and 21.2111, Education Code, as added by this Act, apply  
 25-62 only to a discharge under a probationary or term contract for which  
 25-63 written notice of the proposed discharge is given to a teacher on or  
 25-64 after September 1, 2005. A discharge under a probationary or term  
 25-65 contract for which written notice of the proposed discharge is  
 25-66 given to a teacher before September 1, 2005, is governed by the law  
 25-67 in effect when the notice is given, and the former law is continued  
 25-68 in effect for that purpose.

25-69 SECTION 2A.19. Section 21.402(a-1), Education Code, as

26-1 added by this Act, does not apply to the salary of an educator  
 26-2 employed under a contract entered into before the effective date of  
 26-3 this Act.

26-4 SECTION 2A.20. Section 21.402(a-2), Education Code, as  
 26-5 added by this Act, does not apply to the salary of an educator  
 26-6 employed under a contract entered into before the effective date of  
 26-7 this Act.

26-8 SECTION 2A.21. The Texas Higher Education Coordinating  
 26-9 Board shall adopt rules and forms for the administration of Section  
 26-10 54.220, Education Code, as added by this Act, not later than January  
 26-11 1, 2006.

26-12 PART B. ADMINISTRATIVE EFFICIENCY

26-13 SECTION 2B.01. Subchapter A, Chapter 7, Education Code, is  
 26-14 amended by adding Section 7.008 to read as follows:

26-15 Sec. 7.008. ELECTRONIC STUDENT RECORDS SYSTEM. (a) In this  
 26-16 section, "institution of higher education" has the meaning assigned  
 26-17 by Section 61.003.

26-18 (b) Each school district, open-enrollment charter school,  
 26-19 and institution of higher education shall participate in an  
 26-20 electronic student records system that satisfies standards  
 26-21 approved by the commissioner of education and the commissioner of  
 26-22 higher education.

26-23 (c) The electronic student records system must permit an  
 26-24 authorized state, district, or school official or an authorized  
 26-25 representative of an institution of higher education to  
 26-26 electronically transfer and retrieve student information generally  
 26-27 found in student transcripts, including information concerning a  
 26-28 student's course or grade completion and assessment instrument  
 26-29 results, to and from an educational institution in which the  
 26-30 student is enrolled.

26-31 (d) The commissioner of education or the commissioner of  
 26-32 higher education may solicit and accept grant funds to maintain the  
 26-33 electronic student records system and to make the system available  
 26-34 to school districts, open-enrollment charter schools, and  
 26-35 institutions of higher education.

26-36 (e) A private or independent institution of higher  
 26-37 education, as defined by Section 61.003, may participate in the  
 26-38 electronic student records system under this section. If a private  
 26-39 or independent institution of higher education elects to  
 26-40 participate, the institution must provide the funding to  
 26-41 participate in the system.

26-42 (f) Any person involved in the transfer and retrieval of  
 26-43 student information under this section is subject to any state or  
 26-44 federal law governing the release of or providing access to any  
 26-45 confidential information to the same extent as the educational  
 26-46 institution from which the data is collected. A person may not  
 26-47 release or distribute the data to any other person in a form that  
 26-48 contains confidential information.

26-49 (g) The electronic student records system shall be  
 26-50 implemented not later than the beginning of the 2006-2007 school  
 26-51 year. This subsection expires September 1, 2007.

26-52 SECTION 2B.02. Subchapter A, Chapter 7, Education Code, is  
 26-53 amended by adding Section 7.011 to read as follows:

26-54 Sec. 7.011. STATEWIDE FUNDS MANAGEMENT INFORMATION SYSTEM  
 26-55 FOR AT-RISK STUDENT SERVICES. (a) In this section, "student at  
 26-56 risk of dropping out of school" has the meaning described by Section  
 26-57 29.081.

26-58 (b) The agency shall develop a management information  
 26-59 system for funds awarded and allocated to school districts and  
 26-60 open-enrollment charter schools for the purpose of providing  
 26-61 services to students at risk of dropping out of school.

26-62 (c) The funds management information system must produce  
 26-63 complete, accurate, and timely reports for agency officials and  
 26-64 policy makers. The reports must provide information on funding for  
 26-65 services for students at risk of dropping out of school, statewide  
 26-66 and aggregated by school district, including the following  
 26-67 information:

- 26-68 (1) the amount of an award;
- 26-69 (2) the beginning and ending period of a grant or

27-1 award;  
 27-2 (3) expenditures related to an award; and  
 27-3 (4) any amount of an award that was not distributed  
 27-4 because of a school district's failure to use awarded funds to  
 27-5 provide needed services during the funding period.

27-6 (d) The commissioner shall adopt rules as necessary to  
 27-7 administer this section. The rules adopted under this subsection  
 27-8 must ensure that:

27-9 (1) the funds management information system includes:  
 27-10 (A) the information described by Subsection (c)  
 27-11 for all funding sources for services described by Section 29.092  
 27-12 for students at risk of dropping out of school, excluding funding  
 27-13 information relating to a compensatory, intensive, or accelerated  
 27-14 instruction program under Section 29.081, a disciplinary  
 27-15 alternative education program established under Section 37.008, or  
 27-16 a program eligible under Title I of the Elementary and Secondary  
 27-17 Education Act of 1965, as provided by Pub. L. No. 103-382; and

27-18 (B) all state funds and federal pass-through  
 27-19 funds targeting students at risk of dropping out of school;

27-20 (2) the system is compatible with and is regularly  
 27-21 reconciled with the agency's central accounting system; and

27-22 (3) aggregate funding information is readily  
 27-23 available to agency personnel and policy makers, including  
 27-24 aggregate funding information relating to a compensatory,  
 27-25 intensive, or accelerated instruction program under Section  
 27-26 29.081, a disciplinary alternative education program established  
 27-27 under Section 37.008, or a program eligible under Title I of the  
 27-28 Elementary and Secondary Education Act of 1965, as provided by Pub.  
 27-29 L. No. 103-382.

27-30 SECTION 2B.03. Subchapter A, Chapter 11, Education Code, is  
 27-31 amended by adding Section 11.003 to read as follows:

27-32 Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later  
 27-33 than December 1, 2005, the commissioner shall evaluate the  
 27-34 feasibility of including a uniform indicator under Section  
 27-35 39.202(b) that measures effective administrative management  
 27-36 through the use of cooperative shared service arrangements. If the  
 27-37 commissioner determines that the adoption of a uniform indicator  
 27-38 described by this subsection is feasible, the commissioner by rule  
 27-39 shall include the indicator in the financial accountability rating  
 27-40 system under Subchapter I, Chapter 39, for school districts  
 27-41 beginning with the 2006-2007 school year. This subsection expires  
 27-42 September 1, 2007.

27-43 (b) Each regional education service center shall:

27-44 (1) notify each school district served by the center  
 27-45 regarding the opportunities available through the center for  
 27-46 cooperative shared service arrangements within the center's  
 27-47 service area; and

27-48 (2) evaluate the need for cooperative shared service  
 27-49 arrangements within the center's service area and consider  
 27-50 expanding center-sponsored cooperative shared service  
 27-51 arrangements.

27-52 (c) Each regional education service center shall assist a  
 27-53 school district board of trustees in entering into an agreement  
 27-54 with another district or political subdivision, a regional  
 27-55 education service center, or an institution of higher education as  
 27-56 defined by Section 61.003, for a cooperative shared service  
 27-57 arrangement regarding administrative services, including  
 27-58 transportation, food service, purchasing, and payroll functions.

27-59 (d) The commissioner may require a district or an  
 27-60 open-enrollment charter school to enter into an agreement for a  
 27-61 cooperative shared service arrangement if the commissioner  
 27-62 determines that the financial management performance of the  
 27-63 district or school is unsatisfactory.

27-64 SECTION 2B.04. Subchapter A, Chapter 28, Education Code, is  
 27-65 amended by adding Section 28.0022 to read as follows:

27-66 Sec. 28.0022. CURRICULUM MANAGEMENT ASSISTANCE. (a) The  
 27-67 commissioner shall identify available curriculum management  
 27-68 materials recommended by school districts that may be used to  
 27-69 assist school districts in:

28-1 (1) understanding the depth and complexity of the  
 28-2 essential knowledge and skills identified under Section 28.002(c)  
 28-3 for each subject in the foundation curriculum under Section  
 28-4 28.002(a)(1); and

28-5 (2) based on learning standards:  
 28-6 (A) developing model instructional plans and  
 28-7 diagnostic tools;

28-8 (B) aligning curriculum objectives to district  
 28-9 instructional resources; and

28-10 (C) differentiating instruction in recognition  
 28-11 of the needs of individual students.

28-12 (b) Unless otherwise prohibited by law, the commissioner  
 28-13 may use federal funds to implement this section.

28-14 (c) Not later than January 1, 2007, the commissioner shall  
 28-15 prepare and submit to the legislature a report that describes in  
 28-16 detail:

28-17 (1) the curriculum management materials identified  
 28-18 under Subsection (a);

28-19 (2) the costs associated with making the materials  
 28-20 available to school districts; and

28-21 (3) the manner in which technological applications may  
 28-22 be used to make the materials available and allow school districts  
 28-23 to use the materials.

28-24 (d) Subsection (c) and this subsection expire January 31,  
 28-25 2007.

28-26 SECTION 2B.05. Subchapter C, Chapter 29, Education Code, is  
 28-27 amended by adding Sections 29.092, 29.093, and 29.094 to read as  
 28-28 follows:

28-29 Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES  
 28-30 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this  
 28-31 section, "student at risk of dropping out of school" has the meaning  
 28-32 described by Section 29.081.

28-33 (b) To enable school districts and open-enrollment charter  
 28-34 schools to provide supplemental programs and services for the  
 28-35 benefit of students at risk of dropping out of school, the  
 28-36 commissioner each school year shall award funds to a school  
 28-37 district or open-enrollment charter school in accordance with a  
 28-38 streamlined and simplified grant process developed by the  
 28-39 commissioner.

28-40 (c) The commissioner shall consolidate funding from the  
 28-41 following currently funded programs and types of services,  
 28-42 excluding early childhood care and education programs and  
 28-43 accelerated reading or mathematics initiatives under Section  
 28-44 28.006, 28.007, or 28.0211:

28-45 (1) an optional extended year program under Section  
 28-46 29.082;

28-47 (2) a basic skills program for high school students  
 28-48 under Section 29.086;

28-49 (3) a summer school program of instruction for  
 28-50 students of limited English proficiency; and

28-51 (4) a grant for pregnancy-related services, including  
 28-52 a pregnancy, education, and parenting program.

28-53 (d) The commissioner may redistribute the funding of  
 28-54 programs described under Subsection (c) as necessary to accomplish  
 28-55 the purpose of improving the achievement of students at risk of  
 28-56 dropping out of school.

28-57 (e) A school district or open-enrollment charter school  
 28-58 that receives an award of funds under this section may use the funds  
 28-59 to provide academic and support services to students at risk of  
 28-60 dropping out of school, including:

28-61 (1) services designed to provide intensive academic  
 28-62 instruction to increase student success and high school completion;

28-63 (2) services designed to provide intensive academic  
 28-64 instruction for and reduce the dropout rate of students at risk of  
 28-65 dropping out of school;

28-66 (3) after-school academic and support services;

28-67 (4) intensive instruction for preschool and  
 28-68 school-age students of limited English proficiency;

28-69 (5) any academic or support services for pregnant or

29-1 parenting students, including basic instruction and health and life  
 29-2 skills training and support for pregnant or parenting students;

29-3 (6) community-based services designed to address the  
 29-4 needs of students at risk of dropping out of school;

29-5 (7) programs or services designed to promote the  
 29-6 involvement of parents of students at risk of dropping out of  
 29-7 school; and

29-8 (8) services or programs promoting school and  
 29-9 community collaboration to restructure schools for the successful  
 29-10 achievement of all students, especially students at risk of  
 29-11 dropping out of school.

29-12 (f) The agency shall make available research-based guidance  
 29-13 to districts and open-enrollment charter schools to enable  
 29-14 successful implementation of the academic and support services  
 29-15 described by Subsection (e) that assist students at risk of  
 29-16 dropping out of school to succeed in school.

29-17 (g) Not later than November 1 of each year, a school  
 29-18 district or open-enrollment charter school may submit an  
 29-19 application for funding for programs or services under this  
 29-20 section. The school district or open-enrollment charter school  
 29-21 must include an assessment of needs for students at risk of dropping  
 29-22 out of school, a comprehensive plan for providing services for  
 29-23 those students based on the agency's research-based implementation  
 29-24 guidance provided under Subsection (f), and a report of all sources  
 29-25 of funding for providing services for those students. The  
 29-26 commissioner shall distribute an award of funds in the form of a  
 29-27 block grant not later than March 15 of each year.

29-28 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and the  
 29-29 Legislative Budget Board shall jointly develop a request for  
 29-30 proposals for a qualified third party to conduct a comprehensive  
 29-31 cost-outcome analysis of federal and state funding for programs  
 29-32 targeting students at risk of dropping out of school, as described  
 29-33 by Section 29.081, and the impact of those programs on student  
 29-34 achievement outcomes. In order to be qualified under this section,  
 29-35 a party must at a minimum have experience in educational program  
 29-36 evaluation and statistical analysis of public education data.

29-37 (b) The cost-outcome methodology developed by the  
 29-38 contractor under this section is subject to joint review and  
 29-39 approval by the agency and the Legislative Budget Board. The  
 29-40 cost-outcome analysis at a minimum must consist of the following  
 29-41 components:

29-42 (1) a methodology for assessing the  
 29-43 cost-effectiveness of individual school districts and  
 29-44 open-enrollment charter schools in providing services to students  
 29-45 at risk of dropping out of school;

29-46 (2) performance measures that can be used to assess  
 29-47 the effectiveness of school districts and open-enrollment charter  
 29-48 schools in administering academic and social service programs for  
 29-49 students at risk of dropping out of school;

29-50 (3) a methodology for evaluating best practices in  
 29-51 providing effective services for students at risk of dropping out  
 29-52 of school;

29-53 (4) a statistical methodology for:  
 29-54 (A) controlling for differences among individual  
 29-55 school districts and open-enrollment charter schools that are not  
 29-56 related to funding streams included in the cost-outcome analysis;  
 29-57 and

29-58 (B) disaggregating data by peer groups;  
 29-59 (5) a methodology for computing the relative impact of  
 29-60 funding sources on student achievement outcomes; and

29-61 (6) a methodology for reporting disaggregated results  
 29-62 for students at risk of dropping out of school.

29-63 (c) The agency and the Legislative Budget Board shall:

29-64 (1) not later than December 1 of each year:  
 29-65 (A) report findings from the cost-outcome  
 29-66 analysis to the lieutenant governor, the speaker of the house of  
 29-67 representatives, and the presiding officer of the standing  
 29-68 committee of each house of the legislature with primary  
 29-69 jurisdiction over public education, including data related to the

30-1 feasibility of constructing a cost-effectiveness measure for  
 30-2 school districts and open-enrollment charter schools;

30-3 (B) make recommendations for the potential use of  
 30-4 the data, including the best methods to disseminate the information  
 30-5 to parents and school districts and open-enrollment charter  
 30-6 schools; and

30-7 (C) make the report and recommendations  
 30-8 described by Paragraphs (A) and (B) available to the public; and

30-9 (2) during the 2006-2007 school year, develop a plan  
 30-10 to implement the cost-outcome methodology to assess the  
 30-11 effectiveness of school districts and open-enrollment charter  
 30-12 schools in providing services during the 2007-2008 school year to  
 30-13 students at risk of dropping out of school.

30-14 (d) During the state fiscal biennium beginning September 1,  
 30-15 2005, the commissioner shall retain an amount not to exceed  
 30-16 \$500,000 from the total amount of funds allotted under the  
 30-17 Foundation School Program to finance the comprehensive  
 30-18 cost-outcome analysis and shall reduce the total amount of state  
 30-19 funds allocated to each district from any source in the same manner  
 30-20 described for a reduction in allotments under Section 42.253.

30-21 (e) This section expires September 1, 2010.

30-22 Sec. 29.094. TEMPORARY PROVISION: COMMISSIONER'S  
 30-23 COST-OUTCOME ANALYSIS. (a) The commissioner shall adopt a  
 30-24 cost-outcome analysis methodology for use in assessing the  
 30-25 effectiveness of school districts and open-enrollment charter  
 30-26 schools in providing services for students at risk of dropping out  
 30-27 of school, as described by Section 29.081. The commissioner shall  
 30-28 use the adopted methodology until the commissioner determines that  
 30-29 an alternate methodology approved by the agency and the Legislative  
 30-30 Budget Board under Section 29.093(b) more accurately portrays the  
 30-31 cost-effectiveness of the analyzed services.

30-32 (b) The methodology adopted by the commissioner must  
 30-33 include the following components:

30-34 (1) a composite performance measure that combines key  
 30-35 indicators of student performance, disaggregated for students at  
 30-36 risk of dropping out of school;

30-37 (2) a format for reporting all state, federal, local,  
 30-38 and private sources of funding and total expenditures for  
 30-39 supplemental services for students at risk of dropping out of  
 30-40 school, reported by school district, by open-enrollment charter  
 30-41 school, and statewide; and

30-42 (3) a system for scoring and ranking school districts  
 30-43 and open-enrollment charter schools, including criteria for  
 30-44 establishing school district and open-enrollment charter school  
 30-45 peer groups for comparison purposes.

30-46 (c) Based on the cost-outcome analysis methodology, the  
 30-47 commissioner shall use the ranking system under Subsection (b)(3)  
 30-48 to determine annually the level at which school districts and  
 30-49 open-enrollment charter schools are cost-effective in serving  
 30-50 students at risk of dropping out of school.

30-51 (d) Not later than December 1 of each year, the commissioner  
 30-52 shall:

30-53 (1) report the methodology and the results of the  
 30-54 cost-outcome analysis to the lieutenant governor, the speaker of  
 30-55 the house of representatives, and the presiding officer of the  
 30-56 standing committee of each house of the legislature with primary  
 30-57 jurisdiction over public education; and

30-58 (2) make the report under Subdivision (1) available to  
 30-59 the public.

30-60 (e) This section expires on the earlier of the approval of a  
 30-61 cost-outcome methodology by the agency and the Legislative Budget  
 30-62 Board under Section 29.093(b) or September 1, 2010.

30-63 SECTION 2B.06. Not later than January 1, 2007, the Texas  
 30-64 Education Agency shall adopt a five-year plan to renovate the  
 30-65 Public Education Information Management System (PEIMS) to provide  
 30-66 for efficient and effective information storage and retrieval for  
 30-67 the purposes of allocating scarce school resources. The renovation  
 30-68 must include a redesign of the records layout.

30-

## PART C. ACCOUNTABILITY

SECTION 2C.01. Section 28.006(j), Education Code, is amended to read as follows:

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

SECTION 2C.02. Effective September 1, 2006, Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.027 to read as follows:

Sec. 28.027. FUNDING FOR COLLEGE ENTRANCE ASSESSMENTS. (a) The agency shall pay for any student who chooses to take, on one occasion, an assessment instrument that is currently accepted by colleges and universities for use in determining admissions. The agency shall reduce the amount the agency pays for a student to take the assessment instrument by the amount of any discount or fee waiver offered by the vendor of the assessment instrument to which the student is entitled. The agency shall pay the fee for the administration of the assessment instrument directly to the vendor of the assessment instrument:

(1) from funds appropriated for the purpose; or  
(2) if funds are not appropriated for the purpose, from funds allotted under the Foundation School Program, and the commissioner shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.253.

(b) The agency shall select and approve vendors of the specific assessment instruments for which funding is provided under this section.

(c) The agency shall compile the results of any assessment instrument for which funding is provided under this section and make the results available to the public in a manner that does not identify individual students.

SECTION 2C.03. Sections 29.053(b) and (d), Education Code, are amended to read as follows:

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

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

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

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

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

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

SECTION 2C.04. Section 29.056, Education Code, is amended by amending Subsections (a), (d), and (g) and adding Subsections (g-1) and (i) to read as follows:

(a) The agency shall establish standardized criteria for the identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. The student's parent must approve a student's entry into the program [~~, exit from the program,~~] or

32-1 placement in the program. A school district must inform a student's  
 32-2 parent of a student's exit from the program. The school district or  
 32-3 parent may appeal the decision under Section 29.064. The criteria  
 32-4 for identification, assessment, and classification may include:

32-5 (1) results of a home language survey conducted within  
 32-6 four weeks of each student's enrollment to determine the language  
 32-7 normally used in the home and the language normally used by the  
 32-8 student, conducted in English and the home language, signed by the  
 32-9 student's parents if the student is in kindergarten through grade 8  
 32-10 or by the student if the student is in grades 9 through 12, and kept  
 32-11 in the student's permanent folder by the language proficiency  
 32-12 assessment committee;

32-13 (2) the results of an agency-approved English language  
 32-14 proficiency test administered to all students identified through  
 32-15 the home survey as normally speaking a language other than English  
 32-16 to determine the level of English language proficiency, with  
 32-17 students in kindergarten or grade 1 being administered an oral  
 32-18 English proficiency test and students in grades 2 through 12 being  
 32-19 administered an oral English proficiency test and, if the oral  
 32-20 English proficiency test demonstrates proficiency, a written  
 32-21 English proficiency test; and

32-22 (3) the results of an agency-approved proficiency test  
 32-23 in the primary language administered to all students identified  
 32-24 under Subdivision (2) as being of limited English proficiency to  
 32-25 determine the level of primary language proficiency, with students  
 32-26 in kindergarten or grade 1 being administered an oral primary  
 32-27 language proficiency test and students in grades 2 through 12 being  
 32-28 administered an oral and written primary language proficiency test.

32-29 (d) Not later than the 20th [~~10th~~] day after the date of the  
 32-30 student's classification as a student of limited English  
 32-31 proficiency, the language proficiency assessment committee shall  
 32-32 give written notice of the classification to the student's parent.  
 32-33 The notice must be in English and the parent's primary language.  
 32-34 The parents of students eligible to participate in the required  
 32-35 bilingual education program shall be informed of the benefits of  
 32-36 the bilingual education or special language program and that it is  
 32-37 an integral part of the school program.

32-38 (g) A district may transfer a student of limited English  
 32-39 proficiency out of a bilingual education or special language  
 32-40 program if the student is able to participate equally in a regular  
 32-41 all-English instructional program as determined by:

32-42 (1) agency-approved tests administered at the end of  
 32-43 each school year to determine the extent to which the student has  
 32-44 developed oral and written language proficiency and specific  
 32-45 language skills in [~~both the student's primary language and~~]  
 32-46 English;

32-47 (2) an achievement score at or above the 40th  
 32-48 percentile in the reading and language arts sections of an English  
 32-49 standardized test approved by the agency; or [~~and~~]

32-50 (3) agency-approved [~~other indications of a student's~~  
 32-51 ~~overall progress, including~~] criterion-referenced tests and the  
 32-52 results of a [test scores,] subjective teacher evaluation[~~, and~~  
 32-53 parental evaluation].

32-54 (g-1) A school district may transfer a student of limited  
 32-55 English proficiency who is eligible for special education services  
 32-56 under Subchapter A out of a bilingual education or special language  
 32-57 program and into a special education program if the language  
 32-58 proficiency assessment committee and the student's admission,  
 32-59 review, and dismissal committee agree that the student has a  
 32-60 learning disability and would be better served in a special  
 32-61 education program. The student's admission, review, and dismissal  
 32-62 committee must document that the student has a learning disability  
 32-63 that cannot be addressed effectively in a bilingual education or  
 32-64 special language program and that the student's learning disability  
 32-65 is not due to the student's limited English proficiency. The  
 32-66 commissioner by rule shall adopt criteria for a school district to  
 32-67 use in transferring a student under this subsection.

32-68 (i) On approval of the student's parent, a school district  
 32-69 may allow a student of limited English proficiency who meets the



33-1 criteria for being transferred out of a bilingual education or  
 33-2 special language program to continue participating in the program.

33-3 SECTION 2C.05. Subchapter B, Chapter 29, Education Code, is  
 33-4 amended by adding Section 29.0561 to read as follows:

33-5 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;  
 33-6 REENROLLMENT. (a) The language proficiency assessment committee  
 33-7 shall reevaluate a student who is transferred out of a bilingual  
 33-8 education or special language program under Section 29.056(g) if  
 33-9 the student earns a failing grade in a subject in the foundation  
 33-10 curriculum under Section 28.002(a)(1) during any grading period in  
 33-11 the first two school years after the student is transferred to  
 33-12 determine whether the student should be reenrolled in a bilingual  
 33-13 education or special language program.

33-14 (b) During the first two school years after a student is  
 33-15 transferred out of a bilingual education or special language  
 33-16 program under Section 29.056(g), the language proficiency  
 33-17 assessment committee shall review the student's performance and  
 33-18 consider:

33-19 (1) the total amount of time the student was enrolled  
 33-20 in a bilingual education or special language program;

33-21 (2) the student's grades each grading period in each  
 33-22 subject in the foundation curriculum under Section 28.002(a)(1);

33-23 (3) the student's performance on each assessment  
 33-24 instrument administered under Section 39.023(a) or (c);

33-25 (4) the number of credits the student has earned  
 33-26 toward high school graduation, if applicable; and

33-27 (5) any disciplinary actions taken against the student  
 33-28 under Subchapter A, Chapter 37.

33-29 (c) After an evaluation under this section, the language  
 33-30 proficiency assessment committee may require intensive instruction  
 33-31 for the student or reenroll the student in a bilingual education or  
 33-32 special language program.

33-33 SECTION 2C.06. Subchapter C, Chapter 29, Education Code, is  
 33-34 amended by adding Section 29.0822 to read as follows:

33-35 Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)  
 33-36 Notwithstanding Section 25.081 or 25.082, a school district may  
 33-37 provide a flexible school day program for students in grades 9  
 33-38 through 12 who have dropped out of school or who are at risk of  
 33-39 dropping out of school.

33-40 (b) To enable a school district to provide a program under  
 33-41 this section that meets the needs of students described by  
 33-42 Subsection (a), a school district may:

33-43 (1) provide flexibility in the number of hours each  
 33-44 day a student attends;

33-45 (2) provide flexibility in the number of days each  
 33-46 week a student attends; or

33-47 (3) allow a student to enroll in less or more than a  
 33-48 full course load.

33-49 (c) A course offered in a program under this section must  
 33-50 provide for at least the same number of instructional hours as  
 33-51 required for a course offered in a program that meets the required  
 33-52 minimum number of instructional days under Section 25.081 and the  
 33-53 required length of school day under Section 25.082.

33-54 (d) The commissioner shall compute average daily attendance  
 33-55 for students served under this section for purposes of determining  
 33-56 state funding. In computing average daily attendance for purposes  
 33-57 of this section, a student may accumulate hours of instruction.  
 33-58 Funding under this subsection is determined based on the number of  
 33-59 instructional days provided in the district calendar and a  
 33-60 seven-hour school day. Hours of attendance under this subsection  
 33-61 may be accumulated over the school year, including any summer or  
 33-62 vacation sessions, to determine average daily attendance. The  
 33-63 attendance of a student who accumulates less than the number of  
 33-64 attendance hours required under this subsection shall be  
 33-65 proportionately reduced for funding purposes. The commissioner may  
 33-66 set a maximum funding amount for an individual course under this  
 33-67 section.

33-68 (e) The commissioner may adopt rules for the administration  
 33-69 of this section.

34-1 SECTION 2C.07. Effective September 1, 2006, Subchapter D,  
34-2 Chapter 29, Education Code, is amended by adding Section 29.124 to  
34-3 read as follows:

34-4 Sec. 29.124. PERFORMANCE STANDARDS; STATE FUNDING. (a)  
34-5 The commissioner shall adopt the performance standards developed by  
34-6 the agency under the pilot project required by Rider 52, page  
34-7 III-17, Chapter 1330, Acts of the 78th Legislature, Regular  
34-8 Session, 2003 (the General Appropriations Act), for assessing the  
34-9 performance in English language arts, mathematics, science, and  
34-10 social studies of students in a program for gifted and talented  
34-11 students. The commissioner may adopt performance standards for  
34-12 assessing the performance in other subjects or at other grade  
34-13 levels of students in a program for gifted and talented students.  
34-14 The commissioner shall establish the minimum level of student  
34-15 performance necessary to comply with the performance standards and  
34-16 may periodically raise the minimum level as the commissioner  
34-17 determines necessary.

34-18 (b) A school district is not required to use the performance  
34-19 standards adopted under Subsection (a).

34-20 (c) From funds appropriated for that purpose, for each  
34-21 student who meets the minimum level of performance on the  
34-22 performance standards adopted under Subsection (a), a school  
34-23 district is entitled to \$100. A school district must use funds  
34-24 received under this subsection in providing a program for gifted  
34-25 and talented students under this subchapter. The amount  
34-26 appropriated for any fiscal year for purposes of this subsection  
34-27 may not exceed \$6 million.

34-28 (d) The commissioner may adopt rules necessary to  
34-29 administer this section.

34-30 (e) From the funds appropriated under this section, the  
34-31 commissioner may designate an amount necessary to fund the agency's  
34-32 administrative costs of implementing this section.

34-33 SECTION 2C.08. Section 37.008, Education Code, is amended  
34-34 by adding Subsection (n) to read as follows:

34-35 (n) For purposes of accountability under Chapter 39, a  
34-36 student placed in a disciplinary alternative education program is  
34-37 reported as if the student were enrolled at the student's assigned  
34-38 campus in the student's regularly assigned education program,  
34-39 including a special education program.

34-40 SECTION 2C.09. Section 39.022, Education Code, is amended  
34-41 to read as follows:

34-42 Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of  
34-43 Education by rule shall create and implement a statewide assessment  
34-44 program that is knowledge- and skills-based to ensure school  
34-45 accountability for student achievement that achieves the goals  
34-46 provided under Section 4.002. After adopting rules under this  
34-47 section, the State Board of Education shall consider the importance  
34-48 of maintaining stability in the statewide assessment program when  
34-49 adopting any subsequent modification of the rules.

34-50 (b) The commissioner by rule shall provide for the  
34-51 administration of assessment instruments under this subchapter.

34-52 SECTION 2C.10. Section 39.023, Education Code, is amended  
34-53 by amending Subsections (a)-(e), (i), (j), and (l)-(n) and adding  
34-54 Subsections (a-1) and (b-1) to read as follows:

34-55 (a) The agency shall adopt or develop appropriate  
34-56 criterion-referenced assessment instruments designed to assess  
34-57 essential knowledge and skills in reading, writing, mathematics,  
34-58 social studies, and science. Except as otherwise provided by this  
34-59 subchapter, all [All] students[, except students assessed under  
34-60 Subsection (b) or (l) or exempted under Section 39.027,] shall be  
34-61 assessed in:

34-62 (1) mathematics, annually in grades three through  
34-63 seven without the aid of technology and in grades eight through 11  
34-64 with the aid of technology on any assessment instruments that  
34-65 include algebra;

34-66 (2) reading, annually in grades three through nine;

34-67 (3) writing, including spelling and grammar, in grades  
34-68 four and seven;

34-69 (4) English language arts, in grades [grade] 10 and

35-1 11;

35-2 (5) social studies, in grades eight, ~~and~~ 10, and 11;

35-3 (6) science, in grades five, eight, ~~and~~ 10, and 11;

35-4 and

35-5 (7) any other subject and grade required by federal  
35-6 law.

35-7 (a-1) An assessment instrument under this section may  
35-8 include questions that test a broader range of knowledge and skills  
35-9 or that are at a higher difficulty level for the purpose of  
35-10 differentiating student achievement. A student may not be required  
35-11 to answer a question described by this subsection correctly to  
35-12 perform satisfactorily on the assessment instrument or to be  
35-13 promoted to the next grade level. To ensure a valid bank of  
35-14 questions for use each year, the agency is not required to release a  
35-15 question that is developed for purposes of this subsection until  
35-16 after the fifth school year the question is used on an assessment  
35-17 instrument administered under this section.

35-18 (b) The agency shall develop or adopt appropriate  
35-19 criterion-referenced assessment instruments to be administered to  
35-20 each student in a special education program under Subchapter A,  
35-21 Chapter 29, who receives modified instruction in the essential  
35-22 knowledge and skills identified under Section 28.002 for the  
35-23 assessed subject but for whom an assessment instrument adopted  
35-24 under Subsection (a), even with allowable accommodations  
35-25 [~~modifications~~], would not provide an appropriate measure of  
35-26 student achievement, as determined by the student's admission,  
35-27 review, and dismissal committee. The assessment instruments  
35-28 required under this subsection must assess essential knowledge and  
35-29 skills [~~and growth~~] in the subjects of reading, mathematics, and  
35-30 writing and any other subject required by federal law. A student's  
35-31 admission, review, and dismissal committee shall determine whether  
35-32 any allowable accommodation [~~modification~~] is necessary in  
35-33 administering to the student an assessment instrument required  
35-34 under this subsection or whether an alternate assessment instrument  
35-35 must be used to measure alternate academic achievement standards.  
35-36 A student's admission, review, and dismissal committee shall  
35-37 determine the high school graduation assessment requirements for a  
35-38 student in a special education program under Subchapter A, Chapter  
35-39 29, and may use local alternative assessment instruments if  
35-40 multiple testing opportunities are not available for a student. To  
35-41 the extent practicable, the [~~The~~] assessment instruments required  
35-42 under this subsection shall be administered on the same schedule as  
35-43 the assessment instruments administered under Subsection (a). The  
35-44 commissioner shall adopt rules to implement this subsection.

35-45 (b-1) The agency shall adopt or develop appropriate  
35-46 criterion-referenced instruments as required by federal law  
35-47 designed to measure alternate academic achievement standards for  
35-48 students in a special education program under Subchapter A, Chapter  
35-49 29, with the most significant cognitive disabilities.

35-50 (c) The [~~agency shall also adopt~~] secondary exit-level  
35-51 assessment instruments designed to be administered to students in  
35-52 grade 11 under Subsection (a) must [~~to~~] assess essential knowledge  
35-53 and skills in mathematics, English language arts, social studies,  
35-54 and science. The mathematics section must include at least Algebra  
35-55 I and geometry with the aid of technology. The English language  
35-56 arts section must include at least English III and must include the  
35-57 assessment of essential knowledge and skills in writing. The social  
35-58 studies section must include early American and United States  
35-59 history. The science section must include at least biology and  
35-60 integrated chemistry and physics. The assessment instruments must  
35-61 be designed to assess a student's mastery of minimum skills  
35-62 necessary for high school graduation and readiness to enroll in an  
35-63 institution of higher education. [~~If a student is in a special~~  
35-64 education program under Subchapter A, Chapter 29, the student's  
35-65 admission, review, and dismissal committee shall determine whether  
35-66 any allowable modification is necessary in administering to the  
35-67 student an assessment instrument required under this subsection or  
35-68 whether the student should be exempted under Section 39.027(a)(2).  
35-69 The State Board of Education shall administer the assessment

36-1 ~~instruments. The State Board of Education shall adopt a schedule~~  
 36-2 ~~for the administration of secondary exit-level assessment~~  
 36-3 ~~instruments.]~~ Each student who did not perform satisfactorily on  
 36-4 any secondary exit-level assessment instrument when initially  
 36-5 tested shall be given multiple opportunities to retake that  
 36-6 assessment instrument. A student who performs at or above a level  
 36-7 established by the Texas Higher Education Coordinating Board on the  
 36-8 secondary exit-level assessment instruments is exempt from the  
 36-9 requirements of Section 51.306.

36-10 (d) The commissioner may participate in multistate efforts  
 36-11 to develop voluntary standardized end-of-course assessment  
 36-12 instruments. The commissioner by rule may require a school  
 36-13 district to administer an end-of-course assessment instrument  
 36-14 developed through the multistate efforts. The admission, review,  
 36-15 and dismissal committee of a student in a special education program  
 36-16 under Subchapter A, Chapter 29, shall determine whether any  
 36-17 allowable accommodation [~~modification~~] is necessary in  
 36-18 administering to the student an end-of-course assessment  
 36-19 instrument or whether the student should be exempted [~~under Section~~  
 36-20 ~~39.027(a)(2)~~].

36-21 (e) Under rules adopted by the State Board of Education,  
 36-22 [~~every other year,~~] the agency shall release the questions and  
 36-23 answer keys to each assessment instrument administered under  
 36-24 Subsection (a), (b), (c), (d), or (l) or Section 39.027 not later  
 36-25 than the second anniversary of the date [after the last time] the  
 36-26 instrument was [~~is~~] administered [~~for that school year~~]. To ensure  
 36-27 a valid bank of questions for use each year, the agency is not  
 36-28 required to release a question that is being field-tested and was  
 36-29 not used to compute the student's score on the instrument. The  
 36-30 agency shall also release, under board rule, each question that is  
 36-31 no longer being field-tested and that was not used to compute a  
 36-32 student's score.

36-33 (i) The provisions of this section, except Subsection (d),  
 36-34 are subject to modification by rules adopted under Section 39.022.  
 36-35 Each assessment instrument adopted or developed under this section  
 36-36 [~~those rules and each assessment instrument required under~~  
 36-37 ~~Subsection (d)~~] must be reliable and valid and must meet any  
 36-38 applicable federal requirements for measurement of student  
 36-39 progress.

36-40 (j) The commissioner shall develop a standardized  
 36-41 end-of-course assessment instrument for Algebra I. The  
 36-42 commissioner by rule may require a school district to administer an  
 36-43 end-of-course assessment instrument in Algebra I. The admission,  
 36-44 review, and dismissal committee of a student in a special education  
 36-45 program under Subchapter A, Chapter 29, shall determine whether any  
 36-46 allowable accommodation [~~modification~~] is necessary in  
 36-47 administering to the student an end-of-course assessment  
 36-48 instrument or whether the student should be exempted [~~under Section~~  
 36-49 ~~39.027(a)(2)~~].

36-50 (l) The agency [~~State Board of Education~~] shall adopt or  
 36-51 develop a Spanish version [~~rules for the administration~~] of the  
 36-52 assessment instruments adopted under Subsection (a) for [in Spanish  
 36-53 ~~to]~~ students in grades three through six who are of limited English  
 36-54 proficiency, as defined by Section 29.052, whose primary language  
 36-55 is Spanish, and who are not otherwise exempt from the  
 36-56 administration of an assessment instrument under Section 39.027  
 36-57 [~~39.027(a)(3) or (4)~~]. Each student of limited English proficiency  
 36-58 whose primary language is Spanish, other than a student to whom  
 36-59 Subsection (b) or (b-1) applies, may be assessed using assessment  
 36-60 instruments in Spanish under this subsection for up to three years  
 36-61 or assessment instruments in English under Subsection (a). The  
 36-62 language proficiency assessment committee established under  
 36-63 Section 29.063 shall determine which students are administered  
 36-64 assessment instruments in Spanish under this subsection.

36-65 (m) The commissioner by rule shall develop procedures under  
 36-66 which the language proficiency assessment committee established  
 36-67 under Section 29.063 shall determine which students in grades three  
 36-68 through 10 are exempt from the administration of the assessment  
 36-69 instruments under Section 39.027 [~~39.027(a)(3) and (4)~~]. The rules

37-1 adopted under this subsection shall ensure that the language  
 37-2 proficiency assessment committee provides that the exempted  
 37-3 students are administered the assessment instruments under  
 37-4 Subsections (a) and (c) at the earliest practical date. As  
 37-5 necessary to comply with federal requirements, the commissioner by  
 37-6 rule shall develop procedures under which a student who is exempt  
 37-7 from the administration of an assessment instrument under Section  
 37-8 39.027 is administered a linguistically accommodated assessment  
 37-9 instrument.

37-10 (n) This subsection applies only to a student who is  
 37-11 determined to have dyslexia or a related disorder and who is an  
 37-12 individual with a disability under 29 U.S.C. Section 705(20) [~~and~~  
 37-13 ~~its subsequent amendments~~]. The agency shall adopt or develop  
 37-14 appropriate [~~critierion-referenced~~] assessment administration  
 37-15 procedures, including accommodations for a [instruments designed  
 37-16 to assess the ability of and to be administered to each] student to  
 37-17 whom this subsection applies. The [for whom the assessment  
 37-18 instruments adopted under Subsection (a), even with allowable  
 37-19 modifications, would not provide an appropriate measure of student  
 37-20 achievement, as determined by the] committee established by the  
 37-21 board of trustees of the district to determine the placement of  
 37-22 students with dyslexia or related disorders[. The committee] shall  
 37-23 determine whether the [any] allowable accommodations are  
 37-24 [modification is] necessary in administering to a student an  
 37-25 assessment instrument required under this section [subsection. The  
 37-26 assessment instruments required under this subsection shall be  
 37-27 administered on the same schedule as the assessment instruments  
 37-28 administered under Subsection (a)].

37-29 SECTION 2C.11. Sections 39.024(a) and (c), Education Code,  
 37-30 are amended to read as follows:

37-31 (a) Except as otherwise provided by this subsection, the  
 37-32 State Board of Education shall determine the level of performance  
 37-33 considered to be satisfactory on the assessment instruments  
 37-34 administered under Section 39.023. The commissioner by rule  
 37-35 [admission, review, and dismissal committee of a student being  
 37-36 assessed under Section 39.023(b)] shall determine the level of  
 37-37 performance considered to be satisfactory on the assessment  
 37-38 instruments administered under Section 39.023(b) or (b-1) [to that  
 37-39 student] in accordance with applicable federal requirements  
 37-40 [criteria established by agency rule].

37-41 (c) The agency shall develop study guides for the assessment  
 37-42 instruments administered under Sections 39.023(a) and (1) [~~(c)~~].  
 37-43 To assist parents in providing assistance during the period that  
 37-44 school is recessed for summer, each school district shall  
 37-45 distribute the study guides to parents of students who do not  
 37-46 perform satisfactorily on one or more parts of the [~~an~~] assessment  
 37-47 instrument [~~administered under this subchapter~~].

37-48 SECTION 2C.12. Section 39.025(a), Education Code, is  
 37-49 amended to read as follows:

37-50 (a) A student may not receive a high school diploma until  
 37-51 the student has performed satisfactorily on the secondary  
 37-52 exit-level assessment instruments for English language arts,  
 37-53 mathematics, social studies, and science administered under  
 37-54 Section 39.023(a) [39.023(c)]. This subsection does not require a  
 37-55 student to demonstrate readiness to enroll in an institution of  
 37-56 higher education.

37-57 SECTION 2C.13. Effective September 1, 2006, Subchapter B,  
 37-58 Chapter 39, Education Code, is amended by adding Section 39.0261 to  
 37-59 read as follows:

37-60 Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In  
 37-61 addition to the assessment instruments otherwise authorized or  
 37-62 required by this subchapter, a school district may administer to  
 37-63 students in any grade an established, valid, reliable, and  
 37-64 nationally normed college preparation assessment instrument.

37-65 (b) The agency shall:

37-66 (1) select and approve vendors of the specific  
 37-67 assessment instruments administered under this section; and

37-68 (2) subject to the restrictions of Subsection (c), pay  
 37-69 all fees associated with the administration of the assessment

38-1 instrument:

38-2 (A) from funds appropriated for the purpose; or  
 38-3 (B) if funds are not appropriated for the  
 38-4 purpose, from funds allotted under the Foundation School Program,  
 38-5 and the commissioner shall reduce the total amount of state funds  
 38-6 allocated to each district from any source in the same manner  
 38-7 described for a reduction in allotments under Section 42.253.

38-8 (c) The agency may pay only for the administration of the  
 38-9 assessment instrument at two different grade levels in each  
 38-10 district each year.

38-11 (d) A vendor that administers an assessment instrument for a  
 38-12 district under this section shall report the results of the  
 38-13 assessment instrument to the agency.

38-14 SECTION 2C.14. Sections 39.027(a), (e), and (g), Education  
 38-15 Code, are amended to read as follows:

38-16 (a) A student in grades three through 10 may be exempted  
 38-17 from the administration of an assessment instrument under:

38-18 (1) ~~[Section 39.023(a) or (b) if the student is~~  
 38-19 ~~eligible for a special education program under Section 29.003 and~~  
 38-20 ~~the student's individualized education program does not include~~  
 38-21 ~~instruction in the essential knowledge and skills under Section~~  
 38-22 ~~28.002 at any grade level;~~

38-23 ~~[(2) Section 39.023(c) or (d) if the student is~~  
 38-24 ~~eligible for a special education program under Section 29.003 and:~~

38-25 ~~[(A) the student's individualized education~~  
 38-26 ~~program does not include instruction in the essential knowledge and~~  
 38-27 ~~skills under Section 28.002 at any grade level; or~~

38-28 ~~[(B) the assessment instrument, even with~~  
 38-29 ~~allowable modifications, would not provide an appropriate measure~~  
 38-30 ~~of the student's achievement as determined by the student's~~  
 38-31 ~~admission, review, and dismissal committee;~~

38-32 ~~[(3)]~~ Section 39.023(a), (b), (b-1), or (l) for a  
 38-33 period of up to one year after initial enrollment in a school in the  
 38-34 United States if the student is of limited English proficiency, as  
 38-35 defined by Section 29.052, and has not demonstrated proficiency in  
 38-36 English as determined by the assessment system under Subsection  
 38-37 (e); or

38-38 (2) ~~[(4)]~~ Section 39.023(a), (b), (b-1), or (l) for a  
 38-39 period of up to two years in addition to the exemption period  
 38-40 authorized by Subdivision (1) ~~[(3)]~~ if the student has received an  
 38-41 exemption under Subdivision (1) ~~[(3)]~~ and:

38-42 (A) is a recent unschooled immigrant; or

38-43 (B) is in a grade for which no assessment  
 38-44 instrument in the primary language of the student is available.

38-45 (e) As provided by applicable federal requirements, the  
 38-46 ~~[The]~~ commissioner shall develop an assessment system that shall be  
 38-47 used for evaluating the academic progress toward attaining academic  
 38-48 language proficiency in English, including reading proficiency in  
 38-49 English, of all students of limited English proficiency, as defined  
 38-50 by Section 29.052. A student who has demonstrated the designated  
 38-51 level of ~~[is exempt from the administration of an assessment~~  
 38-52 ~~instrument under Subsection (a)(3) or (4) who achieves]~~ reading  
 38-53 proficiency in English as determined by the assessment system  
 38-54 developed under this subsection is not eligible for an exemption  
 38-55 under Subsection (a)(1) or (2). ~~[shall be administered the~~  
 38-56 ~~assessment instruments described by Sections 39.023(a) and (c).~~  
 38-57 ~~The performance under the assessment system developed under this~~  
 38-58 ~~subsection of students to whom Subsection (a)(3) or (4) applies~~  
 38-59 ~~shall be included in the academic excellence indicator system under~~  
 38-60 ~~Section 39.051, the performance report under Section 39.053, and~~  
 38-61 ~~the comprehensive annual report under Section 39.182.]~~

38-62 (g) For purposes of this section, "recent unschooled  
 38-63 immigrant" means an immigrant who initially enrolled in a school in  
 38-64 the United States not more than 12 months before the date of the  
 38-65 administration of an assessment instrument under Section 39.023  
 38-66 ~~[39.023(a) or (1)]~~ and who, as a result of inadequate schooling  
 38-67 outside of the United States, lacks the necessary foundation in the  
 38-68 essential knowledge and skills of the curriculum prescribed under  
 38-69 Section 28.002 as determined by the language proficiency assessment

39-1 committee established under Section 29.063. For purposes of this  
 39-2 subsection and to the extent authorized by federal law, a child's  
 39-3 prior enrollment in a school in the United States shall be  
 39-4 determined on the basis of documents and records required under  
 39-5 Section 25.002(a).

39-6 SECTION 2C.15. Subchapter B, Chapter 39, Education Code, is  
 39-7 amended by adding Sections 39.034 and 39.035 to read as follows:

39-8 Sec. 39.034. MEASURE OF INDIVIDUAL STUDENT GROWTH ON  
 39-9 ASSESSMENT INSTRUMENTS. (a) The commissioner shall determine a  
 39-10 method by which the agency may measure individual student growth in  
 39-11 achievement from one school year to the next on an assessment  
 39-12 instrument required under this subchapter.

39-13 (b) The agency shall report to each school district the  
 39-14 comparisons made under Subsection (a). Each school district shall  
 39-15 provide the comparisons to each teacher for all students who were:

39-16 (1) assessed on an assessment instrument; and  
 39-17 (2) taught by that teacher in the subject for which the  
 39-18 assessment instrument was administered.

39-19 (c) The school a student attends shall provide a record of  
 39-20 the comparison made under this section and provided to the school  
 39-21 under Subsection (b) in a written notice to the student's parents.

39-22 (d) To the extent practicable, the agency shall combine the  
 39-23 report of the comparisons required under this section with the  
 39-24 report of the student's performance on assessment instruments  
 39-25 administered under Section 39.023.

39-26 (e) The commissioner shall implement this section not later  
 39-27 than September 1, 2006. This subsection expires January 1, 2008.

39-28 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF  
 39-29 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other  
 39-30 employee, contractor, or volunteer of a school district or public  
 39-31 charter district commits an offense if, for the primary purpose of  
 39-32 influencing the results of an assessment instrument administered  
 39-33 under this subchapter, the person intentionally:

39-34 (1) discriminates in school admissions based on a  
 39-35 student's academic ability in a manner that is not otherwise  
 39-36 permitted by law;

39-37 (2) refers a student to a special education program  
 39-38 under Subchapter A, Chapter 29, or a bilingual or special language  
 39-39 program under Subchapter B, Chapter 29, for the purpose of gaining  
 39-40 an exemption for the student from the administration of the  
 39-41 assessment instrument;

39-42 (3) requires or encourages a student to be absent from  
 39-43 a school campus during the day on which the assessment instrument is  
 39-44 administered at the campus;

39-45 (4) tampers with the assessment instrument or related  
 39-46 materials to alter the results of the assessment instrument; or

39-47 (5) engages in any other action designed to alter the  
 39-48 accuracy of the results of the assessment instrument.

39-49 (b) An offense under this section is a Class A misdemeanor.

39-50 (c) An offense under Subsection (a)(4) is in addition to any  
 39-51 offense under Section 37.10(c)(2), Penal Code, arising from the  
 39-52 same action.

39-53 SECTION 2C.16. Section 39.051(b), Education Code, as  
 39-54 amended by Chapters 433 and 805, Acts of the 78th Legislature,  
 39-55 Regular Session, 2003, is reenacted and amended to read as follows:

39-56 (b) Performance on the indicators adopted under this  
 39-57 section shall be compared to state-established standards. The  
 39-58 degree of change from one school year to the next in performance on  
 39-59 each indicator adopted under this section shall also be considered.  
 39-60 The indicators must be based on information that is disaggregated  
 39-61 by race, ethnicity, gender, and socioeconomic status and must  
 39-62 include:

39-63 (1) the results of assessment instruments required  
 39-64 under Sections 39.023(a), (c), and (l), aggregated by grade level  
 39-65 and subject area;

39-66 (2) dropout rates, including dropout rates and  
 39-67 district completion rates for grade levels 9 through 12, computed  
 39-68 in accordance with standards and definitions adopted by the  
 39-69 National Center for Education Statistics of the United States

40-1 Department of Education;

40-2 (3) high school graduation rates, computed in  
40-3 accordance with standards and definitions adopted in compliance  
40-4 with the ~~[federal]~~ No Child Left Behind Act of 2001 (Pub. L. No.  
40-5 107-110);

40-6 (4) student attendance rates;

40-7 (5) the percentage of graduating students who attain  
40-8 scores on the secondary exit-level assessment instruments required  
40-9 under Subchapter B that are equivalent to a passing score on the  
40-10 assessment ~~[test]~~ instrument required under Section 51.3062  
40-11 ~~[51.306]~~;

40-12 (6) the percentage of graduating students who meet the  
40-13 course requirements established for the recommended high school  
40-14 program by State Board of Education rule;

40-15 (7) the results of the Scholastic Assessment Test  
40-16 (SAT), the American College Test (ACT), articulated postsecondary  
40-17 degree programs described by Section 61.852, and certified  
40-18 workforce training programs described by Chapter 311, Labor Code;

40-19 (8) student growth in achievement, as measured under  
40-20 Section 39.034, aggregated by grade level and subject area;

40-21 (9) the number and percentage of students at risk of  
40-22 dropping out of school, the number and percentage of those students  
40-23 who are administered each assessment instrument required under  
40-24 Section 39.023, the number and percentage of those students who  
40-25 perform satisfactorily on the assessment instruments, and the  
40-26 results of those students, grouped by number and percentage, on the  
40-27 assessment instruments, disaggregated by subject area and grade  
40-28 level;

40-29 (10) the number and percentage of students, aggregated  
40-30 by grade level, provided accelerated instruction under Section  
40-31 28.0211(c), the results of assessments administered under that  
40-32 section, the percentage of students promoted through the grade  
40-33 placement committee process under Section 28.0211, the subject of  
40-34 the assessment instrument on which each student failed to perform  
40-35 satisfactorily, and the performance of those students in the school  
40-36 year following that promotion on the assessment instruments  
40-37 required under Section 39.023;

40-38 (11) ~~[(9)]~~ for students who have failed to perform  
40-39 satisfactorily on an assessment instrument required under Section  
40-40 39.023(a) or (c), the numerical progress of those students grouped  
40-41 by number and percentage on subsequent assessment instruments  
40-42 required under those sections, aggregated by grade level and  
40-43 subject area;

40-44 (12) ~~[(10)]~~ the percentage of students exempted, by  
40-45 exemption category, from the assessment program generally  
40-46 applicable under this chapter; ~~and]~~

40-47 (13) ~~[(11)]~~ the percentage of students of limited  
40-48 English proficiency exempted from the administration of an  
40-49 assessment instrument under Sections 39.027(a)(3) and (4);

40-50 (14) the percentage of students in a special education  
40-51 program under Subchapter A, Chapter 29, assessed through assessment  
40-52 instruments developed or adopted under Section 39.023(b);

40-53 (15) for students of limited English proficiency, as  
40-54 defined by Section 29.052, a measure of progress toward English  
40-55 language proficiency, as determined by the commissioner, including  
40-56 the student's performance after transferring out of a bilingual  
40-57 education program or instruction in English as a second language;  
40-58 and

40-59 (16) the performance of non-educationally  
40-60 disadvantaged students on an assessment instrument required under  
40-61 Sections 39.023(a), (b), (c), and (1) and high school dropout and  
40-62 completion rates.

40-63 SECTION 2C.17. Section 39.051(d), Education Code, is  
40-64 amended to read as follows:

40-65 (d) Annually, the commissioner shall define exemplary,  
40-66 recognized, and unacceptable performance for each academic  
40-67 excellence indicator included under Subsections (b)(1) through (7)  
40-68 ~~[(6)]~~ and shall project the standards for each of those levels of  
40-69 performance for succeeding years. For the indicators ~~[indicator]~~



41-1 under Subsections (b)(10), (11), and (12) [~~Subsection (b)(7)~~], the  
41-2 commissioner shall define exemplary, recognized, and unacceptable  
41-3 performance based on student performance for the period covering  
41-4 both the current and preceding academic years. In defining  
41-5 exemplary, recognized, and unacceptable performance for the  
41-6 indicators under Subsections (b)(2) and (4) [~~(3)~~], the commissioner  
41-7 may not consider as a dropout or as a student who has failed to  
41-8 attend school a student whose failure to attend school results  
41-9 from:

- 41-10 (1) the student's expulsion under Section 37.007; and
- 41-11 (2) as applicable:
  - 41-12 (A) adjudication as having engaged in delinquent
  - 41-13 conduct or conduct indicating a need for supervision, as defined by
  - 41-14 Section 51.03, Family Code; or
  - 41-15 (B) conviction of and sentencing for an offense
  - 41-16 under the Penal Code.

41-17 SECTION 2C.18. Section 39.052(b), Education Code, is  
41-18 amended to read as follows:

41-19 (b) The report card shall include the following  
41-20 information:

- 41-21 (1) where applicable, the academic excellence
- 41-22 indicators adopted under Sections 39.051(b)(1) through (15) and
- 41-23 specifically including the indicators adopted under Sections
- 41-24 39.051(b)(9) and (10) [~~(9)~~];
- 41-25 (2) average class size by grade level and subject;
- 41-26 (3) the administrative and instructional costs per
- 41-27 student, computed in a manner consistent with Section 44.0071; and
- 41-28 (4) the district's instructional expenditures ratio
- 41-29 and instructional employees ratio computed under Section 44.0071,
- 41-30 and the statewide average of those ratios, as determined by the
- 41-31 commissioner.

41-32 SECTION 2C.19. Effective September 1, 2006, Sections  
41-33 39.072(b) and (c), Education Code, are amended to read as follows:

41-34 (b) The academic excellence indicators adopted under  
41-35 Sections 39.051(b)(1) through (7) and (10) and the district's  
41-36 current special education compliance status with the agency shall  
41-37 be the main considerations of the agency in the rating of the  
41-38 district under this section. Additional criteria in the rules may  
41-39 include consideration of:

- 41-40 (1) compliance with statutory requirements and
- 41-41 requirements imposed by rule of the State Board of Education under
- 41-42 specific statutory authority that relate to:
  - 41-43 (A) reporting data through the Public Education
  - 41-44 Information Management System (PEIMS);
  - 41-45 (B) the high school graduation requirements
  - 41-46 under Section 28.025; or
  - 41-47 (C) an item listed in Sections
  - 41-48 7.056(e)(3)(C)-(I) that applies to the district;
  - 41-49 (2) the effectiveness of the district's programs for
  - 41-50 special populations; and
  - 41-51 (3) the effectiveness of the district's career and
  - 41-52 technology programs.

41-53 (c) The agency shall evaluate against state standards and  
41-54 shall, not later than August 1 of each year, report the performance  
41-55 of each campus in a district and each open-enrollment charter  
41-56 school on the basis of the campus's performance on the indicators  
41-57 adopted under Sections 39.051(b)(1) through (7) and (10).  
41-58 Consideration of the effectiveness of district programs under  
41-59 Subsection (b)(2) or (3) must be based on data collected through the  
41-60 Public Education Information Management System for purposes of  
41-61 accountability under this chapter and include the results of  
41-62 assessments required under Section 39.023.

41-63 SECTION 2C.20. Subchapter D, Chapter 39, Education Code, is  
41-64 amended by adding Section 39.0722 to read as follows:

41-65 Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)  
41-66 In addition to school district performance ratings under Section  
41-67 39.072, the commissioner shall annually rate districts according to  
41-68 the degree to which the districts prepare students for  
41-69 postsecondary success, including student performance on the

42-1 applicable indicators under Sections 39.051(b) and 39.0721. The  
 42-2 commissioner shall consult with the P-16 Council established under  
 42-3 Section 61.077 when adopting criteria under this section.

42-4 (b) The commissioner may adopt rules as necessary to  
 42-5 administer this section.

42-6 SECTION 2C.21. Sections 39.073(a) and (b), Education Code,  
 42-7 are amended to read as follows:

42-8 (a) The agency shall annually review the performance of each  
 42-9 district and campus on the indicators adopted under Sections  
 42-10 39.051(b)(1) through (7) and (10) and determine if a change in the  
 42-11 accreditation status of the district is warranted. Notwithstanding  
 42-12 any other provision of this code, the ~~[The]~~ commissioner shall  
 42-13 ~~[may]~~ determine how all indicators adopted under Section 39.051(b)  
 42-14 may be used to determine accountability ratings and to select  
 42-15 districts and campuses for acknowledgment.

42-16 (b) Each annual review shall include an analysis of the  
 42-17 indicators under Sections 39.051(b)(1) through (7) and (10) ~~[(+6)]~~  
 42-18 to determine district and campus performance in relation to:

- 42-19 (1) standards established for each indicator;  
 42-20 (2) required improvement as defined under Section  
 42-21 39.051(c); and  
 42-22 (3) comparable improvement as defined by Section  
 42-23 39.051(c).

42-24 SECTION 2C.22. Section 39.074(e), Education Code, is  
 42-25 amended to read as follows:

42-26 (e) If an annual review indicates low performance on one or  
 42-27 more of the indicators under Sections 39.051(b)(1) through (7) and  
 42-28 (10) of one or more campuses in a district, the agency may conduct  
 42-29 an on-site evaluation of those campuses only.

42-30 SECTION 2C.23. Subchapter F, Chapter 39, Education Code, is  
 42-31 amended by adding Section 39.113 to read as follows:

42-32 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT  
 42-33 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall adopt  
 42-34 rules to create an incentive award system for annual growth in  
 42-35 student achievement. A school that achieves incremental growth in  
 42-36 student achievement, as described in Subsection (b), is eligible  
 42-37 for an award if the school:

- 42-38 (1) has a student population of at least 65 percent  
 42-39 educationally disadvantaged students;  
 42-40 (2) achieves an accreditation performance rating of  
 42-41 academically acceptable or better; and  
 42-42 (3) demonstrates superior growth in the academic  
 42-43 performance of educationally disadvantaged students.

42-44 (b) The commissioner by rule shall adopt performance  
 42-45 criteria to measure annual growth in student academic performance.  
 42-46 The commissioner shall consider the following criteria, as  
 42-47 applicable:

- 42-48 (1) annual growth in student achievement that  
 42-49 contributes to closing performance gaps among various populations  
 42-50 of students;  
 42-51 (2) improvements in student scores on the assessment  
 42-52 instruments required under Section 39.023;  
 42-53 (3) growth in high school completion rates;  
 42-54 (4) improvement in student scores on college advanced  
 42-55 placement tests; and  
 42-56 (5) any other factor that contributes to student  
 42-57 achievement.

42-58 (c) From funds appropriated for the purposes of this  
 42-59 section, the commissioner shall award grants to campuses that meet  
 42-60 performance criteria adopted under Subsection (b). The  
 42-61 commissioner shall allocate awards to campuses not later than  
 42-62 December 1 of each year, based on growth in student achievement as  
 42-63 measured for the preceding two school years.

42-64 (c-1) The commissioner shall award grants under this  
 42-65 section beginning September 1, 2006. This subsection expires  
 42-66 January 1, 2007.

42-67 (d) At least 75 percent of an award under this section must  
 42-68 be used for additional teacher compensation at the campus level.  
 42-69 The commissioner by rule shall provide for allocating awards under

43-1 this subsection, including providing individual awards of at least  
 43-2 \$3,000 for each teacher at a campus receiving an award under this  
 43-3 subsection.

43-4 (e) Grants from funds appropriated for the award program may  
 43-5 not exceed \$50 million each year except as expressly authorized by  
 43-6 the General Appropriations Act or other law.

43-7 (f) A determination of the commissioner under this section  
 43-8 is final and may not be appealed.

43-9 SECTION 2C.24. Section 39.132, Education Code, is amended  
 43-10 to read as follows:

43-11 Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE  
 43-12 CAMPUSES. (a) If a campus performance is below any standard under  
 43-13 Section 39.073 [~~39.073(b)~~], the campus is considered an  
 43-14 academically unacceptable [~~a low-performing~~] campus. The  
 43-15 commissioner may permit the campus to participate in an innovative  
 43-16 redesign of the campus to improve campus performance or shall [~~may~~]  
 43-17 take any of the other following actions [~~, listed in order of~~  
 43-18 ~~severity~~], to the extent the commissioner determines necessary:

43-19 (1) issue public notice of the deficiency to the board  
 43-20 of trustees;

43-21 (2) order a hearing conducted by the board of trustees  
 43-22 at the campus for the purpose of:

43-23 (A) notifying the public of the unacceptable  
 43-24 performance, the improvements in performance expected by the  
 43-25 agency, and the sanctions that may be imposed under this section if  
 43-26 the performance does not improve within a designated period of  
 43-27 time; and

43-28 (B) soliciting public comment on the initial  
 43-29 steps being taken to improve performance;

43-30 (3) [~~order the preparation of a report regarding the~~  
 43-31 ~~parental involvement program at the campus and a plan describing~~  
 43-32 ~~strategies for improving parental involvement at the campus;~~

43-33 [~~(4) order the preparation of a report regarding the~~  
 43-34 ~~effectiveness of the district- and campus-level planning and~~  
 43-35 ~~decision-making committees established under Subchapter F, Chapter~~  
 43-36 ~~11, and a plan describing strategies for improving the~~  
 43-37 ~~effectiveness of those committees;~~

43-38 [~~(5)~~] order the preparation of a student achievement  
 43-39 improvement plan that addresses each academic excellence indicator  
 43-40 for which the campus's performance is unacceptable, the submission  
 43-41 of the plan to the commissioner for approval, and implementation of  
 43-42 the plan;

43-43 (4) [~~(6)~~] order a hearing to be held before the  
 43-44 commissioner or the commissioner's designee at which the president  
 43-45 of the board of trustees, the superintendent, and the campus  
 43-46 principal shall appear and explain the campus's low performance,  
 43-47 lack of improvement, and plans for improvement; or

43-48 (5) [~~(7)~~] appoint a special campus intervention team  
 43-49 to:

43-50 (A) conduct a comprehensive on-site evaluation  
 43-51 of the campus to determine the cause for the campus's low  
 43-52 performance and lack of progress;

43-53 (B) recommend actions, including reallocation of  
 43-54 resources and technical assistance, changes in school procedures or  
 43-55 operations, staff development for instructional and administrative  
 43-56 staff, intervention for individual administrators or teachers,  
 43-57 waivers from state statute or rule, or other actions the team  
 43-58 considers appropriate;

43-59 (C) assist in the development of a campus plan  
 43-60 for student achievement; and

43-61 (D) assist the commissioner in monitoring the  
 43-62 progress of the campus in implementing the campus plan for  
 43-63 improvement of student achievement [~~, or~~

43-64 [~~(8) if a campus has been a low-performing campus for a~~  
 43-65 ~~period of one year or more, appoint a board of managers composed of~~  
 43-66 ~~residents of the district to exercise the powers and duties of the~~  
 43-67 ~~board of trustees of the district in relation to the campus].~~

43-68 (a-1) Notwithstanding Subsection (a), if a campus has been  
 43-69 identified as academically unacceptable under this section or the

44-1 campus is rated academically acceptable for the current school year  
 44-2 but would be rated as academically unacceptable if performance  
 44-3 standards to be used for the following school year were applied to  
 44-4 the current school year, the commissioner shall select and assign a  
 44-5 technical assistance team to assist the campus in executing a  
 44-6 school improvement plan and any other school improvement strategies  
 44-7 the commissioner determines appropriate. The commissioner shall  
 44-8 select and assign the technical assistance team not later than:

44-9 (1) October 1 after identifying the campus as  
 44-10 academically unacceptable or otherwise subject to this subsection;  
 44-11 or

44-12 (2) the 30th day after the date the campus is provided  
 44-13 notice that the campus's appeal of its performance rating has been  
 44-14 denied.

44-15 (a-2) A technical intervention team assigned under  
 44-16 Subsection (a-1) to a campus that is academically unacceptable  
 44-17 shall conduct a comprehensive on-site evaluation of the campus to  
 44-18 determine the cause for the campus's low performance and lack of  
 44-19 progress. The team shall have wide latitude to determine what  
 44-20 factors to assess and how to do the assessment. Some factors to be  
 44-21 considered are:

44-22 (1) an assessment of the staff to determine the  
 44-23 percentage of certified teachers who are teaching in their field,  
 44-24 the number of teachers with less than three years of experience, and  
 44-25 teacher turnover rates;

44-26 (2) compliance with the appropriate class size rules  
 44-27 and number of class size waivers received;

44-28 (3) an assessment of the quality, quantity, and  
 44-29 appropriateness of instructional materials, including the  
 44-30 availability of technology-based instructional materials;

44-31 (4) a report on the parental involvement strategies  
 44-32 and the effectiveness of such strategies;

44-33 (5) an assessment of the extent and quality of the  
 44-34 mentoring program provided for new teachers on that campus;

44-35 (6) an assessment of the type and quality of the  
 44-36 professional development provided to the staff;

44-37 (7) a demographic analysis of the student population,  
 44-38 including student demographics, at-risk populations, and special  
 44-39 education percentages;

44-40 (8) a report of disciplinary incidents and school  
 44-41 safety information;

44-42 (9) financial and accounting practices; and

44-43 (10) an assessment of appropriateness of the  
 44-44 curriculum and teaching strategies.

44-45 (a-3) Upon completion of the evaluation the intervention  
 44-46 team will recommend actions, including any necessary reallocation  
 44-47 of resources and/or additional funds taken from funds to be set  
 44-48 aside by the agency to assist campuses in meeting the standards  
 44-49 specified in the intervention plan, technical assistance, changes  
 44-50 in school procedures or operations, staff development for  
 44-51 instructional and administrative staff, intervention for  
 44-52 individual administrators or teachers, waivers from state statute  
 44-53 or rule, or other actions the team considers appropriate.

44-54 (a-4) After all the conditions of the intervention plan have  
 44-55 been certified by the technical intervention team, if the campus  
 44-56 fails to meet accreditation standards for two consecutive years  
 44-57 then the commissioner shall order the campus to be reconstituted or  
 44-58 pursue alternative management under Section 39.1321. In  
 44-59 reconstituting the campus, the technical intervention team shall  
 44-60 decide which educators may be retained at that campus. If an  
 44-61 educator is not retained, the educator may be assigned to another  
 44-62 position in the district.

44-63 (b) Notwithstanding Subsection (a), if ~~if~~ a campus has  
 44-64 been identified as academically unacceptable ~~[a low-performing~~  
 44-65 ~~campus]~~ for ~~[a period of]~~ two consecutive school years ~~[or more],~~  
 44-66 the commissioner shall order the reconstitution of ~~[closure of the~~  
 44-67 ~~district or charter program on the campus or reconstitute]~~ the  
 44-68 campus or pursue alternative management under Section 39.1321. In  
 44-69 reconstituting the campus, a special campus intervention team shall

45-1 assist the campus in:

45-2 (1) developing a school improvement plan;  
 45-3 (2) obtaining approval of the plan from the  
 45-4 commissioner; and  
 45-5 (3) executing the plan on approval by the  
 45-6 commissioner.

45-7 (c) The special campus intervention team shall decide [~~be~~  
 45-8 ~~assembled for the purpose of deciding]~~ which educators may be  
 45-9 retained at that campus. A principal who has been employed by the  
 45-10 campus in that capacity during the two-year period described by  
 45-11 Subsection (b) may not be retained at that campus. A teacher of a  
 45-12 subject assessed by an assessment instrument under Section 39.023  
 45-13 may be retained only if the special campus intervention team  
 45-14 determines that a pattern exists of significant academic growth by  
 45-15 students taught by the teacher. If an educator is not retained, the  
 45-16 educator may be assigned to another position in the district.

45-17 (d) In developing and executing a school improvement plan  
 45-18 under Subsection (b), the special campus intervention team shall:

45-19 (1) assist the campus in implementing research-based  
 45-20 practices for curriculum development and classroom instruction,  
 45-21 including bilingual education and special education programs, if  
 45-22 appropriate, and financial management; and

45-23 (2) provide technical assistance based on  
 45-24 scientifically based research, including data analysis, academic  
 45-25 deficiency identification, intervention implementation, and budget  
 45-26 analysis, to strengthen and improve the instructional program at  
 45-27 the campus.

45-28 (e) A special campus intervention team assembled under  
 45-29 Subsection (b):

45-30 (1) shall continue to work with a campus until:  
 45-31 (A) the campus is rated academically acceptable  
 45-32 for a two-year period; or

45-33 (B) the campus is rated academically acceptable  
 45-34 for a one-year period and the commissioner determines that the  
 45-35 campus is operating and will continue to operate in a manner that  
 45-36 improves student achievement; and

45-37 (2) may continually update the school improvement  
 45-38 plan, with approval from the commissioner, to meet the needs of the  
 45-39 campus.

45-40 SECTION 2C.25. Subchapter G, Chapter 39, Education Code, is  
 45-41 amended by adding Sections 39.1321 and 39.1322 to read as follows:

45-42 Sec. 39.1321. MANAGEMENT OF CERTAIN ACADEMICALLY  
 45-43 UNACCEPTABLE CAMPUSES. (a) A campus is subject to this section if  
 45-44 the campus has been identified as academically unacceptable under  
 45-45 Section 39.132 for two consecutive school years.

45-46 (b) The commissioner shall solicit proposals from qualified  
 45-47 entities to assume management of a campus subject to this section.

45-48 (c) If the commissioner determines that the basis for  
 45-49 identifying a campus as academically unacceptable is limited to a  
 45-50 specific condition that may be remedied with targeted technical  
 45-51 assistance, the commissioner may:

45-52 (1) provide the campus a one-year waiver under this  
 45-53 section; and

45-54 (2) require the district to contract for the  
 45-55 appropriate technical assistance.

45-56 (d) The commissioner may annually solicit proposals under  
 45-57 this section for the management of a campus subject to this section.  
 45-58 The commissioner shall notify a qualified entity that has been  
 45-59 approved as a provider under this section. The district must  
 45-60 execute a contract with an approved provider and relinquish control  
 45-61 of the campus before January 1 of the school year.

45-62 (e) To qualify for consideration as a managing entity under  
 45-63 this section, the entity must submit a proposal that provides  
 45-64 information relating to the entity's management and leadership team  
 45-65 that will participate in management of the campus under  
 45-66 consideration, including information relating to individuals that  
 45-67 have:

45-68 (1) documented success in whole school interventions  
 45-69 that increased the educational and performance levels of students

46-1 in academically unacceptable campuses;

46-2 (2) a proven record of effectiveness with programs  
 46-3 assisting low-performing students;

46-4 (3) a proven ability to apply scientifically based  
 46-5 research to school intervention strategies; and

46-6 (4) any other experience or qualifications the  
 46-7 commissioner determines necessary.

46-8 (f) The school district may negotiate the term of a  
 46-9 management contract for not more than five years with an option to  
 46-10 renew the contract. The management contract must include a  
 46-11 provision describing the district's responsibilities in supporting  
 46-12 the operation of the campus. The commissioner shall approve the  
 46-13 contract before the contract is executed and, as appropriate, may  
 46-14 require the district, as a term of the contract, to support the  
 46-15 campus in the same manner as the district was required to support  
 46-16 the campus before the execution of the management contract.

46-17 (g) A management contract under this section shall include  
 46-18 provisions approved by the commissioner that require the managing  
 46-19 entity to demonstrate improvement in campus performance, including  
 46-20 negotiated performance measures. The performance measures must be  
 46-21 consistent with the priorities of this chapter. The commissioner  
 46-22 shall evaluate a managing entity's performance on the first and  
 46-23 second anniversaries of the date of the management contract. If the  
 46-24 evaluation fails to demonstrate improvement as negotiated under the  
 46-25 contract by the first anniversary of the date of the management  
 46-26 contract, the district may terminate the management contract, with  
 46-27 the commissioner's consent, for nonperformance or breach of  
 46-28 contract and select another provider from an approved list provided  
 46-29 by the commissioner. If the evaluation fails to demonstrate  
 46-30 significant improvement, as determined by the commissioner, by the  
 46-31 second anniversary of the date of the management contract, the  
 46-32 district shall terminate the management contract and select another  
 46-33 provider from an approved list provided by the commissioner or  
 46-34 resume operation of the campus if approved by the commissioner. If  
 46-35 the commissioner approves the district's operation of the campus,  
 46-36 the commissioner shall assign a technical assistance team to assist  
 46-37 the campus.

46-38 (h) Notwithstanding any other provision of this code, the  
 46-39 funding for a campus operated by a managing entity must be  
 46-40 equivalent to the funding of the other campuses in the district on a  
 46-41 per student basis so that the managing entity receives the same  
 46-42 funding the campus would otherwise have received.

46-43 (i) Each campus operated by a managing entity under this  
 46-44 section is subject to this chapter in the same manner as any other  
 46-45 campus in the district.

46-46 (j) The commissioner may adopt rules necessary to implement  
 46-47 this section.

46-48 Sec. 39.1322. REVIEW OF SANCTIONS FOR CAMPUSES SERVING  
 46-49 RESIDENTIAL FACILITIES. (a) A school district or public charter  
 46-50 district may petition the commissioner to review an academically  
 46-51 unacceptable rating assigned to a campus if the campus  
 46-52 predominantly served students residing in a residential facility  
 46-53 during the rating period.

46-54 (b) If the commissioner determines that the basis for  
 46-55 identifying the campus as academically unacceptable was limited to  
 46-56 a condition that was not related to the educational purpose of the  
 46-57 residential facility, the commissioner may take any of the  
 46-58 following actions as the commissioner determines appropriate:

46-59 (1) change, modify, or suspend the academically  
 46-60 unacceptable rating; or

46-61 (2) impose any sanction otherwise authorized under  
 46-62 Section 39.131 or 39.132.

46-63 (c) The commissioner may consider a factor other than a  
 46-64 factor used to assign a rating in evaluating a campus under this  
 46-65 section. The commissioner may assign a special campus intervention  
 46-66 team under Section 39.132(a)(5) at the expense of the school  
 46-67 district or public charter district as provided by Section 39.134  
 46-68 to develop a long-term intervention plan to improve services for  
 46-69 students.

47-1           (d) On a determination that a campus subject to this section  
 47-2 is appropriately meeting the educational needs of its students, the  
 47-3 commissioner may waive revocation of a public charter district  
 47-4 under Section 11A.107(b) for a period not to exceed two years. A  
 47-5 waiver under this subsection may be extended for additional  
 47-6 two-year periods based on subsequent evaluations of the campus.

47-7           (e) This section does not limit the commissioner's ability  
 47-8 to sanction a public charter district for the performance of a  
 47-9 campus subject to this section under Section 11A.107(a) or any  
 47-10 other law.

47-11           (f) A decision by the commissioner under this section is  
 47-12 final and may not be appealed.

47-13           SECTION 2C.26. Subchapter G, Chapter 39, Education Code, is  
 47-14 amended by adding Section 39.1371 to read as follows:

47-15           Sec. 39.1371. INTERVENTION OPERATIONS. (a) The agency is  
 47-16 responsible for managing an intervention of a campus subject to  
 47-17 sanctions under this subchapter.

47-18           (b) The agency shall:

47-19           (1) monitor the progress of special campus  
 47-20 intervention teams appointed by the commissioner under this  
 47-21 subchapter; and

47-22           (2) supervise the activities of the management  
 47-23 entities under Section 39.1321.

47-24           (c) The agency shall:

47-25           (1) establish by rule and publish school improvement  
 47-26 objectives;

47-27           (2) advocate for the increased use of research-based  
 47-28 effective practices; and

47-29           (3) coordinate campus improvement activities of the  
 47-30 agency and regional education service centers.

47-31           (d) The commissioner may contract for services under this  
 47-32 section.

47-33           SECTION 2C.27. Section 39.182(a), Education Code, is  
 47-34 amended to read as follows:

47-35           (a) Not later than December 1 of each year, the agency shall  
 47-36 prepare and deliver to the governor, the lieutenant governor, the  
 47-37 speaker of the house of representatives, each member of the  
 47-38 legislature, the Legislative Budget Board, and the clerks of the  
 47-39 standing committees of the senate and house of representatives with  
 47-40 primary jurisdiction over the public school system a comprehensive  
 47-41 report covering the preceding school year and containing:

47-42           (1) an evaluation of the achievements of the state  
 47-43 educational program in relation to the statutory goals for the  
 47-44 public education system under Section 4.002;

47-45           (2) an evaluation of the status of education in the  
 47-46 state as reflected by the academic excellence indicators adopted  
 47-47 under Section 39.051;

47-48           (3) a summary compilation of overall student  
 47-49 performance on academic skills assessment instruments required by  
 47-50 Section 39.023 with the number and percentage of students exempted  
 47-51 from the administration of those instruments and the basis of the  
 47-52 exemptions, aggregated by grade level, subject area, campus, and  
 47-53 district, with appropriate interpretations and analysis, and  
 47-54 disaggregated by race, ethnicity, gender, and socioeconomic  
 47-55 status;

47-56           (4) a summary compilation of overall performance of  
 47-57 students placed in a disciplinary ~~an~~ alternative education  
 47-58 program established under Section 37.008 on academic skills  
 47-59 assessment instruments required by Section 39.023 with the number  
 47-60 of those students exempted from the administration of those  
 47-61 instruments and the basis of the exemptions, aggregated by  
 47-62 district, grade level, and subject area, with appropriate  
 47-63 interpretations and analysis, and disaggregated by race,  
 47-64 ethnicity, gender, and socioeconomic status;

47-65           (5) a summary compilation of the progress ~~overall~~  
 47-66 ~~performance~~ of students at risk of dropping out of school, as  
 47-67 defined by Section 29.081(d), including information described by  
 47-68 the academic excellence indicators under Sections  
 47-69 39.051(b)(8)-(11), provided statewide and aggregated by district,

48-1 on academic skills assessment instruments required by Section  
 48-2 39.023 and any other assessment instrument required by the  
 48-3 commissioner [with the number of those students exempted from the  
 48-4 administration of those instruments and the basis of the  
 48-5 exemptions, aggregated by district, grade level, and subject area],  
 48-6 with appropriate interpretations and analysis, and disaggregated  
 48-7 by race, ethnicity, gender, and socioeconomic status;

48-8 (6) an evaluation of the correlation between student  
 48-9 grades and student performance on academic skills assessment  
 48-10 instruments required by Section 39.023;

48-11 (7) a statement of the dropout rate of students in  
 48-12 grade levels 7 through 12, expressed in the aggregate and by grade  
 48-13 level, and a statement of the completion rates of students for grade  
 48-14 levels 9 through 12;

48-15 (8) a statement of:

48-16 (A) the completion rate of students who enter  
 48-17 grade level 9 and graduate not more than four years later;

48-18 (B) the completion rate of students who enter  
 48-19 grade level 9 and graduate, including students who require more  
 48-20 than four years to graduate;

48-21 (C) the completion rate of students who enter  
 48-22 grade level 9 and not more than four years later receive a high  
 48-23 school equivalency certificate;

48-24 (D) the completion rate of students who enter  
 48-25 grade level 9 and receive a high school equivalency certificate,  
 48-26 including students who require more than four years to receive a  
 48-27 certificate; and

48-28 (E) the number and percentage of all students who  
 48-29 have not been accounted for under Paragraph (A), (B), (C), or (D);

48-30 (9) a statement of the projected cross-sectional and  
 48-31 longitudinal dropout rates for grade levels 9 through 12 for the  
 48-32 next five years, assuming no state action is taken to reduce the  
 48-33 dropout rate;

48-34 (10) a description of a systematic, measurable plan  
 48-35 for reducing the projected cross-sectional and longitudinal  
 48-36 dropout rates to five percent or less for the 1997-1998 school year;

48-37 (11) a summary of the information required by Section  
 48-38 29.083 regarding grade level retention of students and information  
 48-39 concerning:

48-40 (A) the number and percentage of students  
 48-41 retained; and

48-42 (B) the performance of retained students on  
 48-43 assessment instruments required under Section 39.023(a);

48-44 (12) information, aggregated by district type and  
 48-45 disaggregated by race, ethnicity, gender, and socioeconomic  
 48-46 status, on:

48-47 (A) the number of students placed in a  
 48-48 disciplinary [an] alternative education program established under  
 48-49 Section 37.008;

48-50 (B) the average length of a student's placement  
 48-51 in a disciplinary [an] alternative education program established  
 48-52 under Section 37.008;

48-53 (C) the academic performance of students on  
 48-54 assessment instruments required under Section 39.023(a) during the  
 48-55 year preceding and during the year following placement in a  
 48-56 disciplinary [an] alternative education program; and

48-57 (D) the dropout rates of students who have been  
 48-58 placed in a disciplinary [an] alternative education program  
 48-59 established under Section 37.008;

48-60 (13) a list of each school district or campus that does  
 48-61 not satisfy performance standards, with an explanation of the  
 48-62 actions taken by the commissioner to improve student performance in  
 48-63 the district or campus and an evaluation of the results of those  
 48-64 actions;

48-65 (14) an evaluation of the status of the curriculum  
 48-66 taught in public schools, with recommendations for legislative  
 48-67 changes necessary to improve or modify the curriculum required by  
 48-68 Section 28.002;

48-69 (15) a description of all funds received by and each



49-1 activity and expenditure of the agency;

49-2 (16) a summary and analysis of the instructional  
49-3 expenditures ratios and instructional employees ratios of school  
49-4 districts computed under Section 44.0071;

49-5 (17) a summary of the effect of deregulation,  
49-6 including exemptions and waivers granted under Section 7.056 or  
49-7 39.112;

49-8 (18) a statement of the total number and length of  
49-9 reports that school districts and school district employees must  
49-10 submit to the agency, identifying which reports are required by  
49-11 federal statute or rule, state statute, or agency rule, and a  
49-12 summary of the agency's efforts to reduce overall reporting  
49-13 requirements;

49-14 (19) a list of each school district that is not in  
49-15 compliance with state special education requirements, including:

49-16 (A) the period for which the district has not  
49-17 been in compliance;

49-18 (B) the manner in which the agency considered the  
49-19 district's failure to comply in determining the district's  
49-20 accreditation status; and

49-21 (C) an explanation of the actions taken by the  
49-22 commissioner to ensure compliance and an evaluation of the results  
49-23 of those actions;

49-24 (20) an evaluation of public charter districts,  
49-25 including:

49-26 (A) the academic performance of students  
49-27 enrolled in public charter districts, disaggregated by race,  
49-28 ethnicity, gender, and socioeconomic status;

49-29 (B) the costs of instruction, administration,  
49-30 and transportation incurred by public charter districts; and

49-31 (C) other issues, as determined by the  
49-32 commissioner [a comparison of the performance of open-enrollment  
49-33 charter schools and school districts on the academic excellence  
49-34 indicators specified in Section 39.051(b) and accountability  
49-35 measures adopted under Section 39.051(g), with a separately  
49-36 aggregated comparison of the performance of open-enrollment  
49-37 charter schools predominantly serving students at risk of dropping  
49-38 out of school, as defined by Section 29.081(d), with the  
49-39 performance of school districts]; and

49-40 (21) any additional information considered important  
49-41 by the commissioner or the State Board of Education.

49-42 SECTION 2C.28. Section 39.202(a), Education Code, is  
49-43 amended to read as follows:

49-44 (a) The commissioner shall, in consultation with the  
49-45 comptroller, develop and implement a financial accountability  
49-46 rating system for school districts in this state that distinguishes  
49-47 among districts' varying levels of financial performance.

49-48 SECTION 2C.29. Subchapter I, Chapter 39, Education Code, is  
49-49 amended by adding Section 39.205 to read as follows:

49-50 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than  
49-51 September 1, 2006, the agency shall submit a report to the  
49-52 legislature on the status of the financial accountability system  
49-53 that recommends to the legislature methods for linking school  
49-54 district financial management performance and academic  
49-55 performance.

49-56 (b) This section expires September 2, 2006.

49-57 SECTION 2C.30. Subchapter A, Chapter 44, Education Code, is  
49-58 amended by adding Section 44.0073 to read as follows:

49-59 Sec. 44.0073. INSTRUCTIONAL COSTS. (a) For purposes of  
49-60 this section:

49-61 (1) "Direct instructional costs" includes a school  
49-62 district's expenses related to instruction, instructional  
49-63 resources and media services, curriculum development,  
49-64 instructional staff development, instructional leadership, school  
49-65 leadership, and evaluation and counseling services.

49-66 (2) "Indirect instructional costs" includes:

49-67 (A) a school district's expenses related to  
49-68 social work services, health services, student transportation,  
49-69 food services, facility maintenance and operations, security and

50-1 monitoring services, and data processing services; and  
 50-2 (B) payments to another district under the public  
 50-3 education grant program under Subchapter G, Chapter 29, payments to  
 50-4 another district that is a member of a shared services arrangement,  
 50-5 payments to a fiscal agent, and payments under Section 37.012 to a  
 50-6 juvenile justice alternative education program.

50-7 (b) For purposes of school district financial  
 50-8 accountability, the agency shall identify each district's direct  
 50-9 and indirect instructional costs for the preceding fiscal year and  
 50-10 make that information available to the public on the agency's  
 50-11 Internet website.

50-12 PART D. INSTRUCTIONAL MATERIALS

50-13 SECTION 2D.01. Section 7.055(b)(28), Education Code, is  
 50-14 amended to read as follows:

50-15 (28) The commissioner shall perform duties relating to  
 50-16 the funding, adoption, and purchase of instructional materials  
 50-17 [~~textbooks~~] under Chapter 31.

50-18 SECTION 2D.02. Section 7.056(f), Education Code, is amended  
 50-19 to read as follows:

50-20 (f) A school district or campus that is required to develop  
 50-21 and implement a student achievement improvement plan under Section  
 50-22 39.131 or 39.132 may receive an exemption or waiver under this  
 50-23 section from any law or rule other than:

50-24 (1) a prohibition on conduct that constitutes a  
 50-25 criminal offense;

50-26 (2) a requirement imposed by federal law or rule;

50-27 (3) a requirement, restriction, or prohibition  
 50-28 imposed by state law or rule relating to:

50-29 (A) public school accountability as provided by  
 50-30 Subchapters B, C, D, and G, Chapter 39; or

50-31 (B) educator rights and benefits under  
 50-32 Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter  
 50-33 A, Chapter 22; or

50-34 (4) [~~textbook~~] selection of instructional materials  
 50-35 under Chapter 31.

50-36 SECTION 2D.03. Section 7.102(c)(23), Education Code, is  
 50-37 amended to read as follows:

50-38 (23) The board shall adopt and purchase or license  
 50-39 instructional materials [~~textbooks~~] as provided by Chapter 31 and  
 50-40 adopt rules required by that chapter.

50-41 SECTION 2D.04. Sections 7.108(a) and (c), Education Code,  
 50-42 are amended to read as follows:

50-43 (a) A person interested in selling bonds of any type, [~~or~~] a  
 50-44 publisher, or any other person engaged in manufacturing, shipping,  
 50-45 selling, or advertising instructional materials [~~textbooks~~] or  
 50-46 otherwise connected with the instructional material [~~textbook~~]  
 50-47 business commits an offense if the person makes or authorizes a  
 50-48 political contribution to or takes part in, directly or indirectly,  
 50-49 the campaign of any person seeking election to or serving on the  
 50-50 board.

50-51 (c) In this section:

50-52 (1) "Instructional material" and "publisher" have the  
 50-53 meanings assigned by Section 31.002.

50-54 (2) "Political contribution" has the meaning assigned  
 50-55 by Section 251.001, Election Code.

50-56 [~~(2) "Textbook" has the meaning assigned by Section~~  
 50-57 ~~31.002.]~~

50-58 SECTION 2D.05. The heading to Section 7.112, Education  
 50-59 Code, is amended to read as follows:

50-60 Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF  
 50-61 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

50-62 SECTION 2D.06. Section 7.112(a), Education Code, is amended  
 50-63 to read as follows:

50-64 (a) A former member of the State Board of Education who is  
 50-65 employed by or otherwise receives compensation from a [~~textbook~~]  
 50-66 publisher of instructional materials may not, before the second  
 50-67 anniversary of the date on which the person last served as a member  
 50-68 of the State Board of Education:

50-69 (1) confer with a member of the board of trustees of a

51-1 school district concerning instructional materials [~~a textbook~~]  
 51-2 published by that [~~textbook~~] publisher; or

51-3 (2) appear at a meeting of the board of trustees on  
 51-4 behalf of the [~~textbook~~] publisher.

51-5 SECTION 2D.07. Section 7.112(c)(2), Education Code, is  
 51-6 amended to read as follows:

51-7 (2) "Instructional material" and "publisher"  
 51-8 [~~"Publisher" and "textbook"~~] have the meanings assigned by Section  
 51-9 31.002.

51-10 SECTION 2D.08. Section 11.158(b), Education Code, is  
 51-11 amended to read as follows:

51-12 (b) The board may not charge fees for:

51-13 (1) instructional materials [~~textbooks~~], workbooks,  
 51-14 laboratory supplies, or other supplies necessary for participation  
 51-15 in any instructional course except as authorized under this code;

51-16 (2) field trips required as a part of a basic education  
 51-17 program or course;

51-18 (3) any specific form of dress necessary for any  
 51-19 required educational program or diplomas;

51-20 (4) the payment of instructional costs for necessary  
 51-21 school personnel employed in any course or educational program  
 51-22 required for graduation;

51-23 (5) library materials [~~books~~] required to be used for  
 51-24 any educational course or program, other than fines for lost,  
 51-25 damaged, or overdue materials [~~books~~];

51-26 (6) admission to any activity the student is required  
 51-27 to attend as a prerequisite to graduation;

51-28 (7) admission to or examination in any required  
 51-29 educational course or program; or

51-30 (8) lockers.

51-31 SECTION 2D.09. Section 11.164(a), Education Code, is  
 51-32 amended to read as follows:

51-33 (a) The board of trustees of each school district shall  
 51-34 limit redundant requests for information and the number and length  
 51-35 of written reports that a classroom teacher is required to prepare.  
 51-36 A classroom teacher may not be required to prepare any written  
 51-37 information other than:

51-38 (1) any report concerning the health, safety, or  
 51-39 welfare of a student;

51-40 (2) a report of a student's grade on an assignment or  
 51-41 examination;

51-42 (3) a report of a student's academic progress in a  
 51-43 class or course;

51-44 (4) a report of a student's grades at the end of each  
 51-45 grade reporting period;

51-46 (5) a [~~textbook~~] report on instructional materials;

51-47 (6) a unit or weekly lesson plan that outlines, in a  
 51-48 brief and general manner, the information to be presented during  
 51-49 each period at the secondary level or in each subject or topic at  
 51-50 the elementary level;

51-51 (7) an attendance report;

51-52 (8) any report required for accreditation review;

51-53 (9) any information required by a school district that  
 51-54 relates to a complaint, grievance, or actual or potential  
 51-55 litigation and that requires the classroom teacher's involvement;  
 51-56 or

51-57 (10) any information specifically required by law,  
 51-58 rule, or regulation.

51-59 SECTION 2D.10. Section 19.007(e), Education Code, is  
 51-60 amended to read as follows:

51-61 (e) The district may participate in the instructional  
 51-62 materials [~~textbook~~] program under Chapter 31.

51-63 SECTION 2D.11. Sections 26.006(a) and (c), Education Code,  
 51-64 are amended to read as follows:

51-65 (a) A parent is entitled to:

51-66 (1) review all teaching materials, instructional  
 51-67 materials [~~textbooks~~], and other teaching aids used in the  
 51-68 classroom of the parent's child; and

51-69 (2) review each test administered to the parent's

52-1 child after the test is administered.

52-2 (c) A student's parent is entitled to request that the  
52-3 school district or open-enrollment charter school the student  
52-4 attends allow the student to take home any instructional materials  
52-5 [~~textbook~~] used by the student. Subject to the availability of the  
52-6 instructional materials [~~a textbook~~], the district or school shall  
52-7 honor the request. A student who takes home instructional  
52-8 materials [~~a textbook~~] must return the instructional materials  
52-9 [~~textbook~~] to school at the beginning of the next school day if  
52-10 requested to do so by the student's teacher. In this subsection,  
52-11 "instructional material" [~~"textbook"~~] has the meaning assigned by  
52-12 Section 31.002.

52-13 SECTION 2D.12. Sections 28.002(c) and (h), Education Code,  
52-14 are amended to read as follows:

52-15 (c) The State Board of Education, with the direct  
52-16 participation of educators, parents, business and industry  
52-17 representatives, and employers shall by rule identify the essential  
52-18 knowledge and skills of each subject of the required curriculum  
52-19 that all students should be able to demonstrate and that will be  
52-20 used in evaluating instructional materials [~~textbooks~~] under  
52-21 Chapter 31 and addressed on the assessment instruments required  
52-22 under Subchapter B, Chapter 39. As a condition of accreditation,  
52-23 the board shall require each district to provide instruction in the  
52-24 essential knowledge and skills at appropriate grade levels.

52-25 (h) The State Board of Education and each school district  
52-26 shall foster the continuation of the tradition of teaching United  
52-27 States and Texas history and the free enterprise system in regular  
52-28 subject matter, [~~and~~] in social studies, economics, and reading  
52-29 courses, and in the adoption of instructional materials  
52-30 [~~textbooks~~]. A primary purpose of the public school curriculum is  
52-31 to prepare thoughtful, active citizens who understand the  
52-32 importance of patriotism and can function productively in a free  
52-33 enterprise society with appreciation for the basic democratic  
52-34 values of our state and national heritage.

52-35 SECTION 2D.13. The heading to Chapter 31, Education Code,  
52-36 is amended to read as follows:

52-37 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

52-38 SECTION 2D.14. Section 31.001, Education Code, is amended  
52-39 to read as follows:

52-40 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
52-41 Instructional materials [~~Textbooks~~] selected for use in the public  
52-42 schools shall be furnished without cost to the students attending  
52-43 those schools.

52-44 SECTION 2D.15. Section 31.002, Education Code, is amended  
52-45 to read as follows:

52-46 Sec. 31.002. DEFINITIONS. In this chapter:

52-47 (1) "Instructional material" [~~"Electronic textbook"~~]  
52-48 means a medium or a combination of media for conveying information  
52-49 to a student. The term includes a book, supplementary materials, a  
52-50 combination of a book, workbook, supplementary materials, computer  
52-51 software, [~~interactive videodisc~~] magnetic media, DVD, CD-ROM,  
52-52 computer courseware, on-line services, or an electronic medium, or  
52-53 other means of conveying information to the student or otherwise  
52-54 contributing to the learning process through electronic means.

52-55 (2) "Publisher" means a person who prepares,  
52-56 manufactures, or distributes instructional materials for sale or  
52-57 distribution to public schools. The term includes an on-line  
52-58 service or a developer or distributor of [~~an~~] electronic  
52-59 instructional materials [~~textbook~~].

52-60 (3) "State-adopted" means adopted by the State Board  
52-61 of Education under Section 31.024 [~~"Textbook" means a book, a~~  
52-62 ~~system of instructional materials, or a combination of a book and~~  
52-63 ~~supplementary instructional materials that conveys information to~~  
52-64 ~~the student or otherwise contributes to the learning process, or an~~  
52-65 ~~electronic textbook~~].

52-66 (4) "Technological equipment" means hardware, a  
52-67 device, or equipment necessary for:

52-68 (A) instructional use in the classroom,  
52-69 including to gain access to or enhance the use of [~~an~~] electronic

53-1 instructional materials [~~textbook~~]; or

53-2 (B) professional use by a classroom teacher.

53-3 SECTION 2D.16. Section 31.003, Education Code, is amended  
53-4 to read as follows:

53-5 Sec. 31.003. RULES. The State Board of Education may adopt  
53-6 rules, consistent with this chapter, for the adoption, requisition,  
53-7 distribution, care, use, and disposal of instructional materials  
53-8 [~~textbooks~~].

53-9 SECTION 2D.17. Subchapter B, Chapter 31, Education Code, is  
53-10 amended by amending Sections 31.021-31.024 and 31.026-31.030 and  
53-11 adding Sections 31.0211, 31.0212, 31.0221, 31.031, and 31.032 to  
53-12 read as follows:

53-13 Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
53-14 FUND. (a) The state instructional materials [~~textbook~~] fund  
53-15 consists of:

53-16 (1) an amount set aside by the State Board of Education  
53-17 from the available school fund, computed in accordance with this  
53-18 section; and

53-19 (2) [~~all funds accruing from the state's sale of~~  
53-20 ~~disused textbooks; and~~

53-21 [~~(3)~~] all amounts lawfully paid into the fund from any  
53-22 other source.

53-23 (b) The State Board of Education shall annually set aside  
53-24 out of the available school fund of the state an amount sufficient  
53-25 for the instructional materials allotment to provide [~~board,~~]  
53-26 school districts[~~7~~] and open-enrollment charter schools with the  
53-27 funds required to purchase and distribute the necessary  
53-28 state-adopted instructional materials [~~textbooks~~] for the use of  
53-29 the students of this state for the following school year. The board  
53-30 shall determine the amount of the available school fund to set aside  
53-31 for the state instructional materials [~~textbook~~] fund based on the  
53-32 amount of the allotment under Section 31.0211 and on reports of  
53-33 maximum attendance and anticipated enrollment growth submitted  
53-34 under Section 31.103. [~~+~~

53-35 [~~(1) a report by the commissioner issued on July 1 or,~~  
53-36 ~~if that date is a Saturday or Sunday, on the following Monday,~~  
53-37 ~~stating the amount of unobligated money in the fund;~~

53-38 [~~(2) the commissioner's estimate, based on textbooks~~  
53-39 ~~selected under Section 31.101 and on attendance reports submitted~~  
53-40 ~~under Section 31.103 by school districts and open-enrollment~~  
53-41 ~~charter schools, of the amount of funds, in addition to funds~~  
53-42 ~~reported under Subdivision (1), that will be necessary for purchase~~  
53-43 ~~and distribution of textbooks for the following school year; and~~

53-44 [~~(3) any amount the board determines should be set~~  
53-45 ~~aside for emergency purposes caused by unexpected increases in~~  
53-46 ~~attendance.]~~

53-47 (d) Money transferred to the state instructional materials  
53-48 [~~textbook~~] fund remains in the fund until spent and does not lapse  
53-49 to the state at the end of the fiscal year.

53-50 [~~(e) All necessary expenses incurred under this chapter~~  
53-51 ~~shall be paid from the state textbook fund on invoices approved by~~  
53-52 ~~the commissioner.]~~

53-53 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) For  
53-54 the maximum attendance and anticipated enrollment growth reported  
53-55 under Section 31.103 in a school year, a school district is entitled  
53-56 to an annual allotment of \$70 for each student or a greater amount  
53-57 provided by appropriation, to be paid from the state instructional  
53-58 materials fund. The commissioner may determine for each district  
53-59 the amount of anticipated enrollment growth for which an allotment  
53-60 is provided under this subsection.

53-61 (b) Funds allotted under this section may be used only to  
53-62 purchase:

53-63 (1) state-adopted instructional materials; or

53-64 (2) instructional materials authorized by  
53-65 commissioner waiver.

53-66 (c) This section applies beginning with the 2007-2008  
53-67 school year. This subsection expires September 1, 2008.

53-68 Sec. 31.0212. INSTRUCTIONAL MATERIALS ALLOTMENT FOR  
53-69 JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS. (a)

54-1 Notwithstanding any other provision of this chapter, a juvenile  
 54-2 justice alternative education program operating under Section  
 54-3 37.011 is entitled to receive an instructional materials allotment  
 54-4 under Section 31.0211 to be used in purchasing state-adopted  
 54-5 instructional materials as if the program were a school district or  
 54-6 open-enrollment charter school.

54-7 (b) The State Board of Education, in coordination with the  
 54-8 Texas Juvenile Probation Commission, shall adopt rules as necessary  
 54-9 to administer this section.

54-10 (c) Notwithstanding Section 31.0211(c), a juvenile justice  
 54-11 alternative education program operating under Section 37.011 is  
 54-12 entitled to the annual allotment described by Section 31.0211(a)  
 54-13 beginning with the 2005-2006 school year. This subsection expires  
 54-14 September 1, 2008.

54-15 Sec. 31.022. INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~] REVIEW AND  
 54-16 ADOPTION CYCLE. (a) The State Board of Education shall adopt a  
 54-17 review and adoption cycle for instructional materials [~~textbooks~~]  
 54-18 for elementary grade levels, including prekindergarten, and  
 54-19 secondary grade levels, for each subject in the required curriculum  
 54-20 under Section 28.002.

54-21 (b) The board shall organize the cycle for subjects in the  
 54-22 foundation curriculum so that not more than one-sixth of the  
 54-23 instructional materials [~~textbooks~~] for subjects in the foundation  
 54-24 curriculum are reviewed each year. The board shall adopt rules to  
 54-25 provide for a full and complete investigation of instructional  
 54-26 materials [~~textbooks~~] for each subject in the foundation curriculum  
 54-27 at least every six years. The adoption of instructional materials  
 54-28 [~~textbooks~~] for a subject in the foundation curriculum may be  
 54-29 extended beyond the six-year period only if the content of  
 54-30 instructional materials [~~textbooks~~] for a subject is sufficiently  
 54-31 current.

54-32 (c) The board shall adopt rules to provide for a full and  
 54-33 complete investigation of instructional materials [~~textbooks~~] for  
 54-34 each subject in the enrichment curriculum on a cycle the board  
 54-35 considers appropriate, but not less than every eight years.

54-36 (d) At least 24 months before the beginning of the school  
 54-37 year for which instructional materials [~~textbooks~~] for a particular  
 54-38 subject and grade level will be purchased under the review and  
 54-39 adoption cycle adopted by the board, the board shall publish notice  
 54-40 of the review and adoption cycle for those instructional materials  
 54-41 [~~textbooks~~].

54-42 (e) In organizing the cycle for review and adoption of  
 54-43 instructional materials, the board shall:

54-44 (1) generally align the cycle with the schedule for  
 54-45 any revision of the essential knowledge and skills under Section  
 54-46 28.002 of the subjects and grade levels addressed by the  
 54-47 instructional materials;

54-48 (2) seek advice from the Legislative Budget Board and  
 54-49 the governor's office of budget, planning, and policy before  
 54-50 approving and publishing any notice or amendment of the cycle;

54-51 (3) review and consider expected average costs of the  
 54-52 instructional materials that will be adopted and the amount of the  
 54-53 instructional materials allotment to ensure that the amount of the  
 54-54 instructional materials that will be adopted over a two-year period  
 54-55 may be purchased within the amount of the instructional material  
 54-56 allotment for that same period; and

54-57 (4) follow any directive provided in the General  
 54-58 Appropriations Act regarding the organization of the cycle.

54-59 (f) In addition to organizing a review and adoption cycle,  
 54-60 the board by rule shall allow an instructional material to be  
 54-61 submitted, reviewed, and adopted at a time when the subject or grade  
 54-62 level is not scheduled in the cycle to be considered for at least  
 54-63 two years, in conformance with the procedures for adoption of other  
 54-64 state-adopted instructional materials. The board shall place each  
 54-65 instructional material submitted under this subsection and adopted  
 54-66 under Section 31.024 on an applicable list under Section 31.023.

54-67 Sec. 31.0221. CORRECTION OF FACTUAL ERRORS. (a) To promote  
 54-68 efficiency in the correction of factual errors during the  
 54-69 instructional materials review and adoption process, the State

55-1 Board of Education shall:

55-2 (1) to the extent practicable, conduct the review of  
55-3 instructional materials using page proofs or other appropriate  
55-4 draft versions of the instructional materials; and

55-5 (2) require the publisher to provide instructional  
55-6 materials, including page proofs, draft versions, or sample  
55-7 instructional materials, directly to state instructional materials  
55-8 review panel members in a timely manner before the members meet to  
55-9 conduct a complete and formal review of the materials.

55-10 (b) During the instructional materials review and adoption  
55-11 process, the publisher of instructional materials proposed for  
55-12 adoption in this state shall promptly correct any factual errors  
55-13 discovered in the instructional materials. For purposes of this  
55-14 section, a factual error includes an objectively verifiable  
55-15 mistake, including an incorrect reference to a date, place, or  
55-16 person, an incorrect computational process or result, or similar  
55-17 incorrect provisions. A factual error does not include a  
55-18 difference in professional opinion, conclusion, emphasis, or  
55-19 perspective expressed in instructional materials.

55-20 (c) If the State Board of Education believes that the  
55-21 content of an instructional material is factually inaccurate  
55-22 because the content is incomplete or expresses only one viewpoint  
55-23 or opinion that is not widely accepted in the academic community,  
55-24 the State Board of Education shall appoint a panel of experts and  
55-25 scholars to determine whether the material is factually inaccurate.

55-26 (d) The board shall adopt rules authorizing the imposition  
55-27 of an administrative penalty in the manner provided by Section  
55-28 31.151 against a publisher who knowingly violates Subsection (b).  
55-29 In setting the amount of any penalty to be imposed under this  
55-30 subsection, the board shall consider the stage of the instructional  
55-31 materials review and adoption process at which the violation occurs  
55-32 and set progressively higher penalties for violations that occur  
55-33 later in the process.

55-34 Sec. 31.023. [TEXTBOOK] LISTS OF STATE-ADOPTED  
55-35 INSTRUCTIONAL MATERIALS. (a) For each subject and grade level,  
55-36 the State Board of Education shall adopt two lists of instructional  
55-37 materials [textbooks]. The conforming list includes each  
55-38 state-adopted instructional material [textbook] submitted for the  
55-39 subject and grade level that meets applicable physical  
55-40 specifications adopted by the State Board of Education and contains  
55-41 material covering each element of the essential knowledge and  
55-42 skills of the subject and grade level as determined by the State  
55-43 Board of Education under Section 28.002 and adopted under Section  
55-44 31.024. The nonconforming list includes each state-adopted  
55-45 instructional material [textbook] submitted for the subject and  
55-46 grade level that:

55-47 (1) meets applicable physical specifications adopted  
55-48 by the State Board of Education;

55-49 (2) contains material covering at least half, but not  
55-50 all, of the elements of the essential knowledge and skills of the  
55-51 subject and grade level; and

55-52 (3) is adopted under Section 31.024.

55-53 (b) Each state-adopted instructional material [textbook] on  
55-54 a conforming or nonconforming list must be free from factual  
55-55 errors.

55-56 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By  
55-57 majority vote, the State Board of Education shall:

55-58 (1) place each submitted instructional material  
55-59 [textbook] on a conforming or nonconforming list; or

55-60 (2) reject an instructional material [a textbook]  
55-61 submitted for placement on a conforming or nonconforming list.

55-62 (b) Not later than December 1 of the year preceding the  
55-63 school year for which the state-adopted instructional materials  
55-64 [textbooks] for a particular subject and grade level will be  
55-65 purchased under the cycle adopted by the board under Section  
55-66 31.022, the board shall make available [provide] the lists of  
55-67 state-adopted instructional materials, including instructional  
55-68 materials under Section 31.022(f) [adopted textbooks] to each  
55-69 school district. Each nonconforming list must include:

56-1                   (1) the reasons an adopted instructional material  
 56-2 ~~[textbook]~~ is not eligible for the conforming list; and  
 56-3                   (2) a list of the essential knowledge and skills  
 56-4 contained in an adopted instructional material on the nonconforming  
 56-5 list.

56-6           Sec. 31.026. CONTRACT; PRICE. (a) The commissioner, with  
 56-7 the assistance of the Department of Information Resources, the  
 56-8 State Board of Education, and the office of the attorney general,  
 56-9 shall develop model contracts that may be used by school districts  
 56-10 and open-enrollment charter schools ~~[State Board of Education shall~~  
 56-11 ~~execute a contract.~~

56-12           ~~[(1)]~~ for the purchase or licensing of instructional  
 56-13 materials under this chapter ~~[each adopted textbook other than an~~  
 56-14 ~~electronic textbook, and~~

56-15           ~~[(2) for the purchase or licensing of each adopted~~  
 56-16 ~~electronic textbook].~~

56-17           (b) A contract must require the publisher to provide all of  
 56-18 the instructional materials ~~[the number of textbooks]~~ required by  
 56-19 school districts in this state for the term of the contract ~~[, which~~  
 56-20 ~~must coincide with the board's adoption cycle].~~

56-21           (c) As applicable, a contract must provide for the purchase  
 56-22 or licensing of instructional materials ~~[a textbook]~~ at a specific  
 56-23 price, which may not exceed the lowest price paid by any other state  
 56-24 or any school or school district. The price must be fixed for the  
 56-25 term of the contract. The price may decrease if the lowest price  
 56-26 paid by another state or another school or school district  
 56-27 decreases during the term of the contract.

56-28           Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; SAMPLE  
 56-29 COPIES. (a) A publisher shall provide each school district and  
 56-30 open-enrollment charter school with information that fully  
 56-31 describes each of the publisher's state-adopted instructional  
 56-32 materials ~~[adopted textbooks]~~. On request of a school district, a  
 56-33 publisher shall provide a sample copy of a state-adopted  
 56-34 instructional material ~~[an adopted textbook]~~.

56-35           (b) A publisher shall provide at least two sample copies of  
 56-36 each state-adopted instructional material ~~[adopted textbook]~~ to be  
 56-37 maintained for at least two years at each regional education  
 56-38 service center or an alternate location designated by the  
 56-39 applicable service center.

56-40           Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS ~~[TEXTBOOKS]~~.  
 56-41 (a) The State Board of Education may make available ~~[purchase]~~  
 56-42 special instructional materials ~~[textbooks]~~ for the education of  
 56-43 blind and visually impaired students in public schools. In  
 56-44 addition, from funds appropriated for the purpose, for a teacher  
 56-45 who is blind or visually impaired, the board shall provide a  
 56-46 teacher's edition in Braille or large type, as requested by the  
 56-47 teacher, for each printed state-adopted instructional material  
 56-48 ~~[textbook]~~ the teacher uses in the instruction of students. The  
 56-49 teacher edition must be available at the same time the student  
 56-50 instructional materials ~~[textbooks]~~ become available.

56-51           (b) The publisher of a printed state-adopted instructional  
 56-52 material ~~[an adopted textbook]~~ shall provide the agency with  
 56-53 computerized ~~[textbook]~~ files for the production of Braille  
 56-54 instructional materials ~~[textbooks]~~ or other versions of  
 56-55 instructional materials ~~[textbooks]~~ to be used by students with  
 56-56 disabilities, on request of the State Board of Education. A  
 56-57 publisher shall arrange the computerized ~~[textbook]~~ files in one of  
 56-58 several optional formats specified by the State Board of Education.

56-59           (c) The board may also enter into agreements providing for  
 56-60 the acceptance, requisition, and distribution of special  
 56-61 instructional materials ~~[textbooks and instructional aids]~~  
 56-62 pursuant to 20 U.S.C. Section 101 et seq. for use by students  
 56-63 enrolled in:

56-64                   (1) public schools; or  
 56-65                   (2) private nonprofit schools, if state funds, other  
 56-66 than for administrative costs, are not involved.

56-67           (c-1) The board shall require electronic instructional  
 56-68 materials included on the conforming list and nonconforming list  
 56-69 under Section 31.023 to comply with the standards established under



57-1 Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section 794d),  
 57-2 if the materials are for use by students enrolled in:

57-3 (1) public schools; or  
 57-4 (2) private nonprofit schools, if state funds, other  
 57-5 than for administrative costs, are not involved.

57-6 (d) In this section:

57-7 (1) "Blind or visually impaired student" includes any  
 57-8 student whose visual acuity is impaired to the extent that the  
 57-9 student is unable to read the text [~~print~~] in state-adopted  
 57-10 instructional materials [~~a regularly adopted textbook~~] used in the  
 57-11 student's class.

57-12 (2) "Special instructional materials" [~~textbook~~]  
 57-13 means instructional materials [~~a textbook~~] in Braille, large type,  
 57-14 audiotape, accessible web page, accessible DVD/CD-ROM, or any other  
 57-15 medium or any apparatus that conveys information to a student or  
 57-16 otherwise contributes to the learning process.

57-17 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS  
 57-18 [~~TEXTBOOKS~~]. The board shall adopt instructional materials  
 57-19 [~~purchase or otherwise acquire textbooks~~] for use in bilingual  
 57-20 education classes.

57-21 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The  
 57-22 State Board of Education shall adopt rules to ensure that used  
 57-23 instructional materials [~~textbooks~~] sold to school districts and  
 57-24 open-enrollment charter schools are not sample copies that contain  
 57-25 factual errors. The rules may provide for the imposition of an  
 57-26 administrative penalty in accordance with Section 31.151 against a  
 57-27 seller of used instructional materials [~~textbooks~~] who knowingly  
 57-28 violates this section.

57-29 Sec. 31.031. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL  
 57-30 MATERIALS. The publisher of a state-adopted electronic  
 57-31 instructional material may offer the material to school districts  
 57-32 and open-enrollment charter schools on a subscription basis.

57-33 Sec. 31.032. UPDATES. The publisher of a state-adopted  
 57-34 instructional material may update the instructional material, and a  
 57-35 school district or open-enrollment charter school may purchase the  
 57-36 update. The State Board of Education by rule shall provide for an  
 57-37 expedited review process to determine the extent to which updated  
 57-38 instructional material aligns with the essential knowledge and  
 57-39 skills and does not contain factual errors.

57-40 SECTION 2D.18. Section 31.101, Education Code, is amended  
 57-41 to read as follows:

57-42 Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL  
 57-43 MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS. (a) Each year, during  
 57-44 any [~~a~~] period established by the State Board of Education, the  
 57-45 board of trustees of each school district and the governing body of  
 57-46 each open-enrollment charter school shall:

57-47 (1) [~~for a subject in the foundation curriculum,~~]  
 57-48 notify the State Board of Education of the state-adopted  
 57-49 instructional materials [~~textbooks~~] selected by the board of  
 57-50 trustees or governing body for the following school year from among  
 57-51 the instructional materials [~~textbooks~~] on the appropriate  
 57-52 conforming or nonconforming list; and [~~or~~]

57-53 (2) provide an accounting of the expenditure of its  
 57-54 instructional materials allotment during that period. [~~for a~~  
 57-55 ~~subject in the enrichment curriculum.~~

57-56 [~~(A) notify the State Board of Education of each~~  
 57-57 ~~textbook selected by the board of trustees or governing body for the~~  
 57-58 ~~following school year from among the textbooks on the appropriate~~  
 57-59 ~~conforming or nonconforming list; or~~

57-60 [~~(B) notify the State Board of Education that the~~  
 57-61 ~~board of trustees or governing body has selected a textbook that is~~  
 57-62 ~~not on the conforming or nonconforming list.]~~

57-63 (b) The board of trustees of each [~~If a~~] school district or  
 57-64 the governing body of each open-enrollment charter school shall use  
 57-65 the instructional materials allotment to purchase instructional  
 57-66 materials selected by the board of trustees or the governing body  
 57-67 [~~selects a textbook~~] for a [~~particular~~] subject in the required  
 57-68 [~~enrichment~~] curriculum. [~~and grade level that is not on the~~  
 57-69 ~~conforming or nonconforming list, the state shall pay to the~~

58-1 ~~district or school an amount equal to the lesser of:~~

58-2 ~~[(1) 70 percent of the cost to the district of the~~  
58-3 ~~textbook, multiplied by the number of textbooks the district or~~  
58-4 ~~school needs for that subject and grade level; or~~

58-5 ~~[(2) 70 percent of the limitation established under~~  
58-6 ~~Section 31.025 for a textbook for that subject and grade level,~~  
58-7 ~~multiplied by the number of textbooks the district or school needs~~  
58-8 ~~for that subject and grade level.]~~

58-9 (c) A school district or open-enrollment charter school may  
58-10 purchase an instructional material under Subsection (b) only if the  
58-11 instructional material is purchased not later than the beginning of  
58-12 the second school year that begins after the adoption of the  
58-13 conforming or nonconforming list that includes the instructional  
58-14 material. This subsection does not apply to:

58-15 (1) instructional materials under Section 31.022(f);  
58-16 (2) the purchase of replacement instructional  
58-17 materials due to loss or damage; or

58-18 (3) the purchase of additional instructional  
58-19 materials needed because of enrollment growth [that selects a  
58-20 textbook that is not on the conforming or nonconforming list.

58-21 ~~[(1) is responsible for the portion of the cost of the~~  
58-22 ~~textbook that is not paid by the state under Subsection (b); and~~

58-23 ~~[(2) may use funds received from the state under~~  
58-24 ~~Subsection (b) only for purchasing the textbook for which the funds~~  
58-25 ~~were received].~~

58-26 ~~[(d) For a textbook that is not on the conforming or~~  
58-27 ~~nonconforming list, a school district or open-enrollment charter~~  
58-28 ~~school must use the textbook for the period of the review and~~  
58-29 ~~adoption cycle the State Board of Education has established for the~~  
58-30 ~~subject and grade level for which the textbook is used.]~~

58-31 SECTION 2D.19. Section 31.102, Education Code, is amended  
58-32 to read as follows:

58-33 Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by  
58-34 this subsection, each instructional material [Each textbook]  
58-35 purchased by the state as provided by this chapter is the property  
58-36 of this state. Beginning with the 2007-2008 school year, each  
58-37 instructional material purchased through the instructional  
58-38 materials allotment by a school district or open-enrollment charter  
58-39 school is the property of the district or charter school.

58-40 (b) Subsection (a) applies to an electronic instructional  
58-41 material [textbook] only to the extent of any applicable licensing  
58-42 agreement.

58-43 (c) The board of trustees of a school district or the  
58-44 governing body of an open-enrollment charter school is the legal  
58-45 custodian of instructional materials [textbooks] purchased as  
58-46 provided by this chapter for or by the district or school. The  
58-47 board of trustees or governing body shall distribute instructional  
58-48 materials [textbooks] to students in the manner that the board or  
58-49 governing body determines is most effective and economical.

58-50 (d) An open-enrollment charter school may not transfer  
58-51 instructional materials unless the transfer is approved by the  
58-52 commissioner. The commissioner may not approve such a transfer  
58-53 unless the transfer is to another public school of this state.

58-54 SECTION 2D.20. Section 31.103, Education Code, is amended  
58-55 to read as follows:

58-56 Sec. 31.103. INSTRUCTIONAL MATERIALS [TEXTBOOK]  
58-57 REQUISITIONS. (a) Not later than the seventh day after the first  
58-58 school day in April, each principal shall report the maximum  
58-59 attendance for the school to the superintendent. Not later than  
58-60 April 25, the superintendent of a school district or the chief  
58-61 operating officer of an open-enrollment charter school shall report  
58-62 to the commissioner the district's or school's maximum attendance  
58-63 and anticipated enrollment growth [to the commissioner].

58-64 (b) ~~[A requisition for textbooks for the following school~~  
58-65 ~~year shall be based on the maximum attendance reports under~~  
58-66 ~~Subsection (a), plus an additional 10 percent, except as otherwise~~  
58-67 ~~provided.] A school district or open-enrollment charter school~~  
58-68 ~~shall make a requisition for instructional materials [a textbook]~~  
58-69 ~~on the conforming or nonconforming list [through the commissioner]~~

59-1 to the instructional materials [state] depository designated by the  
 59-2 publisher or as provided by State Board of Education rule, as  
 59-3 applicable, not later than June 1 of each year. The designated  
 59-4 instructional materials [state] depository or, if the publisher [~~or~~  
 59-5 ~~manufacturer~~] does not have a designated instructional materials  
 59-6 [~~textbook~~] depository in this state under Section 31.151(a)(6)(B),  
 59-7 the publisher [~~or manufacturer~~] shall fill a requisition approved  
 59-8 by the agency at any other time in the case of an emergency. [~~As~~  
 59-9 ~~made necessary by available funds, the commissioner shall reduce~~  
 59-10 ~~the additional percentage of attendance for which a district or~~  
 59-11 ~~school may requisition textbooks. The commissioner may, on~~  
 59-12 ~~application of a district or school that is experiencing high~~  
 59-13 ~~enrollment growth, increase the additional percentage of~~  
 59-14 ~~attendance for which the district or school may requisition~~  
 59-15 ~~textbooks.]~~

59-16 (c) In making a requisition under this section, a school  
 59-17 district or open-enrollment charter school may requisition  
 59-18 instructional materials [textbooks] on the conforming or  
 59-19 nonconforming list for grades above or below the grade level in  
 59-20 which a student is enrolled[, ~~except that the total quantity of~~  
 59-21 ~~textbooks requisitioned under this section may not exceed the limit~~  
 59-22 ~~prescribed by Subsection (b)].~~

59-23 SECTION 2D.21. Sections 31.104-31.106, Education Code, are  
 59-24 amended to read as follows:

59-25 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of  
 59-26 trustees of a school district or the governing body of an  
 59-27 open-enrollment charter school may delegate to an employee the  
 59-28 authority to requisition, purchase, distribute, and manage the  
 59-29 inventory of instructional materials [textbooks] in a manner  
 59-30 consistent with this chapter and rules adopted under this chapter.

59-31 (b) A school district or open-enrollment charter school may  
 59-32 order replacements for instructional materials [textbooks] that  
 59-33 have been lost or damaged directly from:

59-34 (1) the instructional materials [textbook]  
 59-35 depository; or

59-36 (2) the [~~textbook~~] publisher of the instructional  
 59-37 materials [or manufacturer] if the [~~textbook~~] publisher [~~or~~  
 59-38 ~~manufacturer~~] does not have a designated instructional materials  
 59-39 [~~textbook~~] depository in this state under Section 31.151(a)(6)(B).

59-40 (c) Each instructional material [textbook] must state that  
 59-41 the instructional material [textbook] is the property of or is  
 59-42 licensed to this state, school district, or charter school, as  
 59-43 appropriate. Each instructional material [textbook], other than an  
 59-44 electronic instructional material [textbook], must be covered by  
 59-45 the student under the direction of the teacher. A student must  
 59-46 return all instructional materials [textbooks] to the teacher at  
 59-47 the end of the school year or when the student withdraws from  
 59-48 school.

59-49 (d) Each student, or the student's parent or guardian, is  
 59-50 responsible for each instructional material [textbook] not  
 59-51 returned by the student. A student who fails to return all  
 59-52 instructional materials [textbooks] forfeits the right to free  
 59-53 instructional materials [textbooks] until each instructional  
 59-54 material [textbook] previously issued but not returned is paid for  
 59-55 by the student, parent, or guardian. As provided by policy of the  
 59-56 board of trustees or governing body, a school district or  
 59-57 open-enrollment charter school may waive or reduce the payment  
 59-58 requirement if the student is from a low-income family. The  
 59-59 district or school shall allow the student to use instructional  
 59-60 materials [textbooks] at school during each school day. If an  
 59-61 instructional material [a textbook] is not returned or paid for,  
 59-62 the district or school may withhold the student's records. A  
 59-63 district or school may not, under this subsection, prevent a  
 59-64 student from graduating, participating in a graduation ceremony, or  
 59-65 receiving a diploma.

59-66 (e) The board of trustees of a school district may not  
 59-67 require an employee of the district to pay for an instructional  
 59-68 material [a textbook] or instructional technology that is stolen,  
 59-69 misplaced, or not returned by a student.

60-1           Sec. 31.105. SALE OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
 60-2 The board of trustees of a school district or governing body of an  
 60-3 open-enrollment charter school may sell instructional materials  
 60-4 [~~textbooks~~], other than electronic instructional materials  
 60-5 [~~textbooks~~], to a student or another school [~~at the state contract~~  
 60-6 ~~price~~]. The district shall use [~~send~~] money received from the sale  
 60-7 of instructional materials in accordance with uses prescribed by  
 60-8 Section 31.0211. [~~Textbooks to the commissioner as required by the~~  
 60-9 ~~commissioner. The commissioner shall deposit the money in the~~  
 60-10 ~~state textbook fund.~~]

60-11           Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
 60-12 instructional materials [~~textbook~~] selected under this chapter, a  
 60-13 school district or open-enrollment charter school may use local  
 60-14 funds to purchase any instructional materials [~~textbooks~~].

60-15           SECTION 2D.22. The heading to Section 31.151, Education  
 60-16 Code, is amended to read as follows:

60-17           Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

60-18           SECTION 2D.23. Sections 31.151(a), (b), and (d), Education  
 60-19 Code, are amended to read as follows:

60-20           (a) A publisher [~~or manufacturer~~] of instructional  
 60-21 materials [~~textbooks~~]:

60-22           (1) shall furnish any instructional material  
 60-23 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this state<sup>[7]</sup>  
 60-24 at a price that does not exceed the lowest price at which the  
 60-25 publisher offers that instructional material [~~textbook~~] for  
 60-26 adoption or sale to any state, public school, or school district in  
 60-27 the United States;

60-28           (2) shall automatically reduce the price of an  
 60-29 instructional material [~~a textbook~~] sold for use in a school  
 60-30 district or open-enrollment charter school to the extent that the  
 60-31 price is reduced elsewhere in the United States;

60-32           (3) shall provide any instructional material  
 60-33 [~~textbook~~] or ancillary item free of charge in this state to the  
 60-34 same extent that the publisher [~~or manufacturer~~] provides the  
 60-35 instructional material [~~textbook~~] or ancillary item free of charge  
 60-36 to any state, public school, or school district in the United  
 60-37 States;

60-38           (4) shall guarantee that each copy of an instructional  
 60-39 material [~~a textbook~~] sold in this state is at least equal in  
 60-40 quality to copies of that instructional material [~~textbook~~] sold  
 60-41 elsewhere in the United States and is free from factual error;

60-42           (5) may not become associated or connected with,  
 60-43 directly or indirectly, any combination in restraint of trade in  
 60-44 instructional materials [~~textbooks~~] or enter into any  
 60-45 understanding or combination to control prices or restrict  
 60-46 competition in the sale of instructional materials [~~textbooks~~] for  
 60-47 use in this state;

60-48           (6) shall:

60-49           (A) maintain a depository in this state or  
 60-50 arrange with a depository in this state to receive and fill orders  
 60-51 for instructional materials [~~textbooks~~], other than electronic  
 60-52 instructional materials or electronic instructional material  
 60-53 [~~on-line textbooks or on-line textbook~~] components, consistent  
 60-54 with State Board of Education rules; or

60-55           (B) deliver instructional materials [~~textbooks~~]  
 60-56 to a school district or open-enrollment charter school without a  
 60-57 delivery charge to the school district, open-enrollment charter  
 60-58 school, or state, if:

60-59           (i) the publisher [~~or manufacturer~~] does  
 60-60 not maintain or arrange with a depository in this state under  
 60-61 Paragraph (A) and the publisher's instructional materials [~~or~~  
 60-62 ~~manufacturer's textbooks~~] and related products are warehoused or  
 60-63 otherwise stored less than 300 miles from a border of this state; or

60-64           (ii) the instructional materials  
 60-65 [~~textbooks~~] are electronic instructional materials or electronic  
 60-66 instructional material [~~on-line textbooks or on-line textbook~~]  
 60-67 components;

60-68           (7) shall, at the time an order for instructional  
 60-69 materials [~~textbooks~~] is acknowledged, provide to school districts

61-1 or open-enrollment charter schools an accurate shipping date for  
61-2 instructional materials [~~textbooks~~] that are back-ordered;

61-3 (8) shall guarantee delivery of instructional  
61-4 materials [~~textbooks~~] at least 10 business days before the opening  
61-5 day of school of the year for which the instructional materials  
61-6 [~~textbooks~~] are ordered if the instructional materials [~~textbooks~~]  
61-7 are ordered by a date specified in the sales contract; and

61-8 (9) shall submit to the State Board of Education an  
61-9 affidavit certifying any instructional material [~~textbook~~] the  
61-10 publisher [~~or manufacturer~~] offers in this state to be free of  
61-11 factual errors at the time the publisher executes the contract  
61-12 required by Section 31.026.

61-13 (b) The State Board of Education may impose a reasonable  
61-14 administrative penalty against a publisher [~~or manufacturer~~] who  
61-15 knowingly violates Subsection (a). The board shall provide for a  
61-16 hearing to be held to determine whether a penalty is to be imposed  
61-17 and, if so, the amount of the penalty. The board shall base the  
61-18 amount of the penalty on:

- 61-19 (1) the seriousness of the violation;
- 61-20 (2) any history of a previous violation;
- 61-21 (3) the amount necessary to deter a future violation;
- 61-22 (4) any effort to correct the violation; and
- 61-23 (5) any other matter justice requires.

61-24 (d) A penalty collected under this section shall be  
61-25 deposited to the credit of the state instructional materials  
61-26 [~~textbook~~] fund.

61-27 SECTION 2D.24. The heading to Section 31.152, Education  
61-28 Code, is amended to read as follows:

61-29 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS  
61-30 [~~TEXTBOOKS~~].

61-31 SECTION 2D.25. Sections 31.152(a), (b), and (d), Education  
61-32 Code, are amended to read as follows:

61-33 (a) A school trustee, administrator, or teacher commits an  
61-34 offense if that person receives any commission or rebate on any  
61-35 instructional materials [~~textbooks~~] used in the schools with which  
61-36 the person is associated as a trustee, administrator, or teacher.

61-37 (b) A school trustee, administrator, or teacher commits an  
61-38 offense if the person accepts a gift, favor, or service that:

- 61-39 (1) is given to the person or the person's school;
- 61-40 (2) might reasonably tend to influence a trustee,  
61-41 administrator, or teacher in the selection of instructional  
61-42 materials [~~a textbook~~]; and

61-43 (3) could not be lawfully purchased with funds from  
61-44 the state instructional materials [~~textbook~~] fund.

61-45 (d) In this section, "gift, favor, or service" does not  
61-46 include:

61-47 (1) staff development, in-service, or teacher  
61-48 training; or

61-49 (2) instructional materials [~~worksheets~~] such as maps or  
61-50 worksheets [~~that convey information to the student or otherwise~~  
61-51 ~~contribute to the learning process~~].

61-52 SECTION 2D.26. The heading to Section 31.153, Education  
61-53 Code, is amended to read as follows:

61-54 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
61-55 [~~TEXTBOOK~~] LAW.

61-56 SECTION 2D.27. Section 31.153(a), Education Code, is  
61-57 amended to read as follows:

61-58 (a) A person commits an offense if the person knowingly  
61-59 violates any law providing for the purchase or distribution of free  
61-60 instructional materials [~~textbooks~~] for the public schools.

61-61 SECTION 2D.28. Subchapter E, Chapter 31, Education Code, is  
61-62 amended to read as follows:

61-63 SUBCHAPTER E. DISPOSITION OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

61-64 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS  
61-65 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the State  
61-66 Board of Education, may provide for the disposition of:

61-67 (1) instructional materials [~~textbooks~~], other than  
61-68 electronic instructional materials [~~textbooks~~], that are no longer  
61-69 in acceptable condition to be used for instructional purposes; or

62-1 (2) discontinued instructional materials [~~textbooks~~],  
62-2 other than electronic instructional materials [~~textbooks~~].

62-3 (b) The commissioner, as provided by rules adopted by the  
62-4 State Board of Education, shall make available on request copies of  
62-5 discontinued instructional materials [~~textbooks~~], other than  
62-6 electronic instructional materials [~~textbooks~~], for use in  
62-7 libraries maintained in municipal and county jails and facilities  
62-8 of the institutional division of the Texas Department of Criminal  
62-9 Justice and other state agencies.

62-10 (c) The State Board of Education shall adopt rules under  
62-11 which a school district or open-enrollment charter school may  
62-12 donate discontinued instructional materials [~~textbooks~~], other  
62-13 than electronic instructional materials [~~textbooks~~], to a student,  
62-14 to an adult education program, or to a nonprofit organization.

62-15 SECTION 2D.29. The heading to Section 32.005, Education  
62-16 Code, is amended to read as follows:

62-17 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
62-18 ALLOTMENT.

62-19 SECTION 2D.30. Sections 32.005(a) and (b), Education Code,  
62-20 are amended to read as follows:

62-21 (a) For each student in average daily attendance in a school  
62-22 year, a [Each] school district or open-enrollment charter school is  
62-23 entitled to an allotment of \$30 [for each student in average daily  
62-24 attendance] or a greater [different] amount for any year provided  
62-25 by appropriation, to be used as provided by Subsection (b).

62-26 (b) An allotment under this section may be used [~~only~~] to:

62-27 (1) provide for the purchase by school districts of  
62-28 systems or components of:

62-29 (A) wireless electronic mobile computing devices  
62-30 or other technology devices that convey instruction;

62-31 (B) productivity hardware or software, including  
62-32 writing, computation, presentation, and communication tools;

62-33 (C) electronic learning software aligned with  
62-34 the essential skills and knowledge adopted by the State Board of  
62-35 Education under Section 28.002;

62-36 (D) library and other research tools;

62-37 (E) electronic assessment tools;

62-38 (F) electronic learning tools to improve  
62-39 communications among students, teachers, school administrators,  
62-40 parents, and the community;

62-41 (G) classroom and school management systems; and

62-42 (H) portable electronic instructional material  
62-43 devices capable of supporting instructional material for each  
62-44 subject in the foundation and enrichment curriculum [electronic  
62-45 textbooks or technological equipment that contributes to student  
62-46 learning]; [and]

62-47 (2) provide professional development for educational  
62-48 personnel responsible for direct instruction to integrate the tools  
62-49 and solutions described by Subdivision (1); and

62-50 (3) acquire additional infrastructure and  
62-51 technologies necessary to support and enhance the tools and  
62-52 solutions described by Subdivision (1) [pay for training  
62-53 educational personnel directly involved in student learning in the  
62-54 appropriate use of electronic textbooks and for providing for  
62-55 access to technological equipment for instructional use].

62-56 SECTION 2D.31. Section 32.156, Education Code, as added by  
62-57 Chapter 1216, Acts of the 78th Legislature, Regular Session, 2003,  
62-58 is amended to read as follows:

62-59 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

62-60 (a) The agency may develop and adopt strategies for making  
62-61 instructional materials [~~textbooks~~] available through the portal  
62-62 or through other means in an electronic format as an alternative or  
62-63 supplement to traditional instructional materials [~~textbooks~~].

62-64 (b) In developing and adopting strategies under this  
62-65 section, the agency shall seek to achieve a system under which a  
62-66 student may, in addition to [~~a~~] traditional instructional materials  
62-67 [~~textbook~~], be provided with secure Internet access to each  
62-68 instructional material [~~textbook~~] used by the student.

62-69 SECTION 2D.32. Section 32.161(b), Education Code, is

63-1 amended to read as follows:

63-2 (b) To the extent possible considering other statutory  
63-3 requirements, the commissioner and agency shall encourage the use  
63-4 of instructional materials [~~textbook~~] funds under Section 31.021  
63-5 and technology allotment funds under Section 32.005 [~~31.021(b)(2)~~]  
63-6 in a manner that facilitates the development and use of the portal.

63-7 SECTION 2D.33. Section 31.0221, Education Code, as added by  
63-8 this part, applies only to instructional materials submitted for  
63-9 review by the State Board of Education on or after the effective  
63-10 date of this Act. Instructional materials submitted for review  
63-11 before the effective date of this Act are governed by the law in  
63-12 effect when the instructional materials were submitted for review,  
63-13 and the former law is continued in effect for that purpose.

63-14 SECTION 2D.34. (a) This section applies to a contract  
63-15 entered into by the State Board of Education before January 1, 2005,  
63-16 for the purchase of an adopted instructional material, as that term  
63-17 is defined by Section 31.002, Education Code, as amended by this  
63-18 part, or the purchase or licensing of an electronic instructional  
63-19 material.

63-20 (b) A contract described by Subsection (a) of this section  
63-21 continues in effect as a state contract for the remainder of the  
63-22 contract term, and the former law is continued in effect for that  
63-23 purpose.

#### 63-24 PART E. DUAL LANGUAGE EDUCATION

63-25 SECTION 2E.01. Subchapter B, Chapter 21, Education Code, is  
63-26 amended by adding Sections 21.0485 and 21.0486 to read as follows:

63-27 Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER  
63-28 CERTIFICATION. (a) To ensure that there are teachers with special  
63-29 training to work with other teachers and with students in a dual  
63-30 language education program, the board shall establish a dual  
63-31 language education teaching certificate.

63-32 (b) The board shall propose rules establishing the training  
63-33 requirements, including the minimum academic qualifications, a  
63-34 person must accomplish to obtain a certificate under this section.

63-35 (c) The board shall propose rules establishing the  
63-36 requirements for a teacher who receives training in a foreign  
63-37 country to obtain a certificate under this section.

63-38 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.  
63-39 (a) To ensure that there are teachers with special training to  
63-40 work with other teachers and with students in order to improve  
63-41 student performance in English and other languages, the board shall  
63-42 establish:

63-43 (1) a master language teacher certificate to teach  
63-44 bilingual education, dual language instruction, or English as a  
63-45 second language at elementary school grade levels;

63-46 (2) a master language teacher certificate to teach  
63-47 bilingual education, dual language instruction, or English as a  
63-48 second language at middle school grade levels; and

63-49 (3) a master language teacher certificate to teach  
63-50 dual language instruction at high school grade levels.

63-51 (b) The board shall issue the appropriate master language  
63-52 teacher certificate to each eligible person.

63-53 (c) To be eligible for a master language teacher  
63-54 certificate, a person must:

63-55 (1) hold a teaching certificate issued under this  
63-56 subchapter;

63-57 (2) have at least three years of experience teaching  
63-58 bilingual education, dual language instruction, or English as a  
63-59 second language;

63-60 (3) satisfactorily complete a knowledge-based course  
63-61 of instruction on second language acquisition and the science of  
63-62 teaching children language that includes training in language  
63-63 instruction and professional peer mentoring techniques that,  
63-64 through scientific testing, have been proven effective;

63-65 (4) perform satisfactorily on the appropriate master  
63-66 language certification examination prescribed by the board; and

63-67 (5) satisfy any other requirements prescribed by the  
63-68 board.

63-69 SECTION 2E.02. Section 21.050(b), Education Code, is

64-1 amended to read as follows:

64-2 (b) The board may not require more than 18 semester credit  
64-3 hours of education courses at the baccalaureate level for the  
64-4 granting of a teaching certificate. The board shall provide for a  
64-5 minimum number of semester credit hours of internship to be  
64-6 included in the hours needed for certification. The board may  
64-7 propose rules requiring additional credit hours for certification  
64-8 in bilingual education, dual language instruction, English as a  
64-9 second language, early childhood education, or special education.

64-10 SECTION 2E.03. Section 21.054, Education Code, is amended  
64-11 by adding Subsection (c) to read as follows:

64-12 (c) Rules proposed under Subsection (a) must permit an  
64-13 educator to fulfill continuing education requirements by acquiring  
64-14 conversational skills in one or more languages other than English  
64-15 and academic language development in the subject area for which the  
64-16 educator provides instruction. The rules must permit educators to  
64-17 obtain language instruction through a variety of methods, including  
64-18 attendance at workshops offered by qualified entities and  
64-19 enrollment on a noncredit basis in courses offered by public or  
64-20 private colleges and universities.

64-21 SECTION 2E.04. Subchapter B, Chapter 21, Education Code, is  
64-22 amended by adding Section 21.060 to read as follows:

64-23 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.  
64-24 On issuing an educator certificate to an educational aide or  
64-25 renewing such a certificate, the board shall notify the person to  
64-26 whom the certificate is issued of the existence of the educational  
64-27 aide exemption under Section 54.214.

64-28 SECTION 2E.05. Section 28.0051, Education Code, is amended  
64-29 by adding Subsection (d) to read as follows:

64-30 (d) The State Board for Educator Certification shall  
64-31 provide for the issuance of teaching certificates appropriate for  
64-32 dual language instruction to teachers who:

64-33 (1) possess a speaking, reading, and writing language  
64-34 ability in a language other than English in which a dual language  
64-35 immersion program is offered; and

64-36 (2) meet the general requirements of Subchapter B,  
64-37 Chapter 21.

64-38 SECTION 2E.06. Subchapter A, Chapter 28, Education Code, is  
64-39 amended by adding Section 28.0052 to read as follows:

64-40 Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)  
64-41 The commissioner shall establish a pilot project in school  
64-42 districts selected by the commissioner under which the agency  
64-43 examines dual language education programs and the effect of those  
64-44 programs on a student's ability to graduate from high school.

64-45 (b) In selecting school districts under Subsection (a), the  
64-46 commissioner shall:

64-47 (1) select districts that:  
64-48 (A) will commit to a three-year dual language  
64-49 education program; and

64-50 (B) demonstrate a substantially equal enrollment  
64-51 of students with limited English proficiency and students whose  
64-52 primary language is English or, if a district does not have a  
64-53 sufficient number of limited English proficiency students to meet  
64-54 the equal enrollment standard, include the enrollment of students  
64-55 with limited English proficiency, students whose primary language  
64-56 is English, and bilingual students; and

64-57 (2) give preference to a district that:  
64-58 (A) demonstrates the potential for expanding the  
64-59 program through middle school; and

64-60 (B) will implement the program at the  
64-61 kindergarten level.

64-62 (c) The commissioner by rule shall require a district to  
64-63 limit activities of the dual language education program during the  
64-64 first year of the program to planning activities, including:

64-65 (1) hiring, training, and certifying teachers;

64-66 (2) establishing parental and community support for  
64-67 the program; and

64-68 (3) acquiring adequate learning materials in both  
64-69 program languages.



65-1 (d) From amounts appropriated for the purpose, the  
 65-2 commissioner shall award grants to school districts that  
 65-3 participate in the program. A grant under this section must be in  
 65-4 an amount sufficient to pay the costs to the district of  
 65-5 participating in the program, as determined by the commissioner. A  
 65-6 determination of the commissioner under this subsection is final  
 65-7 and may not be appealed.

65-8 (e) A school district that applies for the expansion of an  
 65-9 existing dual language education program is eligible for a grant  
 65-10 under Subsection (d).

65-11 (f) A school district may use a grant awarded under  
 65-12 Subsection (d) for:

65-13 (1) classroom materials;  
 65-14 (2) tuition and textbook expenses for students seeking  
 65-15 teacher certification under Section 21.0485; and

65-16 (3) other necessary costs of operating the program, as  
 65-17 approved by the commissioner.

65-18 (g) The agency shall report to the legislature describing  
 65-19 the agency's activities under the pilot project, the effect of the  
 65-20 project on grade-level completion, and the recommendations arising  
 65-21 from the project. The agency shall submit an interim report under  
 65-22 this subsection not later than January 1, 2009, and a final report  
 65-23 not later than January 1, 2011.

65-24 (h) This section expires August 1, 2011.

65-25 SECTION 2E.07. Not later than January 1, 2006, the State  
 65-26 Board for Educator Certification shall propose rules:

65-27 (1) establishing requirements and prescribing an  
 65-28 examination for master language teacher certification as required  
 65-29 by Section 21.0486, Education Code, as added by this Act;

65-30 (2) establishing requirements and prescribing an  
 65-31 examination for dual language instruction teacher certification as  
 65-32 required by Section 21.050(b), Education Code, as amended by this  
 65-33 Act, and Section 28.0051(d), Education Code, as added by this Act;  
 65-34 and

65-35 (3) permitting an educator to fulfill continuing  
 65-36 education requirements by acquiring conversational skill in a  
 65-37 language other than English as required by Section 21.054(c),  
 65-38 Education Code, as added by this Act.

#### 65-39 PART F. STATE GOVERNANCE

65-40 SECTION 2F.01. Subchapter B, Chapter 7, Education Code, is  
 65-41 amended by adding Section 7.0211 to read as follows:

65-42 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may  
 65-43 receive gifts, grants, or donations from any public or private  
 65-44 source to perform any educational function the agency is authorized  
 65-45 to perform by law.

65-46 SECTION 2F.02. Section 61.076, Education Code, is amended  
 65-47 by adding Subsections (c) and (d) to read as follows:

65-48 (c) On or before January 1, 2007, the P-16 council shall:

65-49 (1) review existing school district programs that  
 65-50 provide high school students with the opportunity to enroll in  
 65-51 advanced academic courses offered through dual credit and  
 65-52 concurrent enrollment programs, including reviewing courses  
 65-53 currently approved by districts and offered by institutions of  
 65-54 higher education for dual and concurrent enrollment credit;

65-55 (2) review the high school curriculum required for the  
 65-56 recommended high school program under Section 28.025 and study the  
 65-57 feasibility of offering a revised curriculum that would provide  
 65-58 graduating high school students with at least 12 hours of advanced  
 65-59 academic courses or college level coursework offered through dual  
 65-60 credit and concurrent enrollment programs provided under  
 65-61 agreements between high schools and institutions of higher  
 65-62 education; and

65-63 (3) prepare and deliver a report based on the review  
 65-64 and study to the governor, the lieutenant governor, the speaker of  
 65-65 the house of representatives, and the presiding officer of the  
 65-66 standing committee of each house of the legislature with primary  
 65-67 jurisdiction over public education.

65-68 (d) Subsection (c) and this subsection expire January 2,  
 65-69 2007.

## PART G. SCHOOL DISCIPLINE

SECTION 2G.01. Chapter 26, Education Code, is amended by adding Section 26.0083 to read as follows:

Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY ACTION. (a) A parent is entitled to notice from a school district or open-enrollment charter school as provided by this section if the parent's child is removed from class under Section 37.006 for placement in a disciplinary alternative education program or under Section 37.007 for expulsion or placement in a juvenile justice alternative education program. A school district or open-enrollment charter school shall make a good faith effort to provide the notice required by this subsection on the same day the parent's child is removed from class. If the district or school fails to provide the notice on that day, the district or school shall provide or mail the notice not later than 5 p.m. on the first business day after the day the student is removed from class.

(b) A noncustodial parent who has requested notice of disciplinary actions as provided by Section 37.0091 is entitled to notice under Subsection (a).

SECTION 2G.02. Section 37.008, Education Code, is amended by amending Subsections (m) and (m-1) and adding Subsection (n) to read as follows:

(m) Notwithstanding Section 7.027, as added by Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, the [The] commissioner shall adopt rules necessary to evaluate through an annual monitoring process [annually] the performance of each district's disciplinary alternative education program established under this subchapter. The monitoring process [evaluation] required by this section may be electronic and shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Section [Sections] 39.023(a) and at least one indicator that measures student academic progress [and (c)]. Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The agency shall integrate the monitoring process developed under Subsection (m) with the monitoring the agency is authorized to conduct under Section 7.027(a), as added by Chapter 201, Acts of the 78th Legislature, Regular Session, 2003. The commissioner may require [shall develop a process for evaluating] a school district to contract at the district's expense in the manner provided by Section 39.134 with a public or private service provider for services determined by the commissioner to be necessary to:

(1) improve student performance;  
(2) improve disciplinary alternative education program effectiveness; and

(3) [electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to] comply with disciplinary alternative education program state and federal requirements.

(n) [The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general.] The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

SECTION 2G.03. Sections 37.020(b) and (c), Education Code, are amended to read as follows:

67-1 (b) For each placement in a disciplinary alternative  
67-2 education program established under Section 37.008, the district  
67-3 shall report:

67-4 (1) information identifying the student, including  
67-5 the student's race, sex, and date of birth, that will enable the  
67-6 agency to compare placement data with information collected through  
67-7 other reports;

67-8 (2) information indicating whether the student was  
67-9 enrolled in a special education program under Subchapter A, Chapter  
67-10 29, at the time of the placement;

67-11 (3) information indicating whether the placement was  
67-12 based on:

67-13 (A) conduct violating the student code of conduct  
67-14 adopted under Section 37.001;

67-15 (B) conduct for which a student may be removed  
67-16 from class under Section 37.002(b);

67-17 (C) conduct for which placement in a disciplinary  
67-18 alternative education program is required by Section 37.006; or

67-19 (D) conduct occurring while a student was  
67-20 enrolled in another district and for which placement in a  
67-21 disciplinary alternative education program is permitted by Section  
67-22 37.008(j);

67-23 (4) [~~3~~] the number of full or partial days the  
67-24 student was assigned to the program and the number of full or  
67-25 partial days the student attended the program; and

67-26 (5) [~~4~~] the number of placements that were  
67-27 inconsistent with the guidelines included in the student code of  
67-28 conduct under Section 37.001(a)(5).

67-29 (c) For each expulsion under Section 37.007, the district  
67-30 shall report:

67-31 (1) information identifying the student, including  
67-32 the student's race, sex, and date of birth, that will enable the  
67-33 agency to compare placement data with information collected through  
67-34 other reports;

67-35 (2) information indicating whether the student was  
67-36 enrolled in a special education program under Subchapter A, Chapter  
67-37 29, at the time of the expulsion;

67-38 (3) information indicating whether the expulsion was  
67-39 based on:

67-40 (A) conduct for which expulsion is required under  
67-41 Section 37.007, including information specifically indicating  
67-42 whether a student was expelled on the basis of Section 37.007(e); or

67-43 (B) conduct for which expulsion is permitted  
67-44 under Section 37.007;

67-45 (4) [~~3~~] the number of full or partial days the  
67-46 student was expelled;

67-47 (5) [~~4~~] information indicating whether:

67-48 (A) the student was placed in a juvenile justice  
67-49 alternative education program under Section 37.011;

67-50 (B) the student was placed in a disciplinary  
67-51 alternative education program; or

67-52 (C) the student was not placed in a juvenile  
67-53 justice or other disciplinary alternative education program; and

67-54 (6) [~~5~~] the number of expulsions that were  
67-55 inconsistent with the guidelines included in the student code of  
67-56 conduct under Section 37.001(a)(5).

#### 67-57 PART H. CRIMINAL HISTORY RECORDS INFORMATION

67-58 SECTION 2H.01. Subchapter B, Chapter 21, Education Code, is  
67-59 amended by adding Section 21.0401 to read as follows:

67-60 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The  
67-61 board shall obtain a complete set of fingerprints from:

67-62 (1) each applicant for a certificate issued under this  
67-63 subchapter;

67-64 (2) each applicant for or holder of a teaching permit  
67-65 issued under this subchapter; and

67-66 (3) each person described by Section 11A.153 or  
67-67 Section 21.0032 for whom the board has received information from a  
67-68 public charter district.

67-69 SECTION 2H.02. Section 21.041(c), Education Code, is

68-1 amended to read as follows:

68-2 (c) The board shall propose rules [~~a rule~~] adopting fees [~~a~~  
68-3 ~~fee~~] for:

68-4 (1) the issuance and maintenance of each [~~an~~] educator  
68-5 certificate that is adequate to cover the cost of administration of  
68-6 this subchapter, including any amount necessary to cover the cost  
68-7 of obtaining fingerprints under Section 21.0401 or conducting a  
68-8 national criminal background review and investigation under  
68-9 Sections 21.0032 and 22.082; and

68-10 (2) the cost of obtaining fingerprints from or  
68-11 conducting a national criminal background review of a holder of a  
68-12 teaching permit issued under this subchapter.

68-13 SECTION 2H.03. Section 22.082, Education Code, is amended  
68-14 to read as follows:

68-15 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
68-16 BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for Educator  
68-17 Certification shall obtain from any law enforcement or criminal  
68-18 justice agency all state and national criminal history record  
68-19 information that relates to:

68-20 (1) an applicant for or holder of a certificate or  
68-21 permit issued under Subchapter B, Chapter 21; or

68-22 (2) a person described by Section 11A.153 or 21.0032.

68-23 (b) The board shall require each applicant, holder, and  
68-24 person described by Subsection (a)(2) to pay any costs to the board  
68-25 related to obtaining criminal history record information related to  
68-26 the person under this section.

68-27 SECTION 2H.04. Section 411.090, Government Code, is amended  
68-28 to read as follows:

68-29 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION  
68-30 AND FINGERPRINTS: STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The  
68-31 State Board for Educator Certification is entitled to obtain from  
68-32 the department any criminal history record information maintained  
68-33 by the department about:

68-34 (1) a person who has applied or expressed to the board  
68-35 an intention to apply [~~to the board~~] for a certificate or permit  
68-36 under Subchapter B, Chapter 21, Education Code; or

68-37 (2) a person described by Section 11A.153 or 21.0032,  
68-38 Education Code.

68-39 (b) Criminal history record information obtained by the  
68-40 board under Subsection (a):

68-41 (1) may be used for any purpose related to the  
68-42 issuance, denial, suspension, or cancellation of a certificate or  
68-43 permit under Subchapter B, Chapter 21, Education Code, or for any  
68-44 purpose authorized by Section 11A.153 or 21.0032, Education Code  
68-45 [issued by the board]; and

68-46 (2) may not be released to any person except on court  
68-47 order or with the consent of the subject of the criminal history  
68-48 record information [~~applicant for a certificate, and~~

68-49 [~~(3) shall be destroyed by the board after the~~  
68-50 ~~information is used for the authorized purposes].~~

68-51 (c) The board may keep on file with the department all  
68-52 fingerprints obtained by the board under Section 21.0401, Education  
68-53 Code. The department shall notify the board of the arrest of any  
68-54 person who has fingerprints on file with the department pursuant to  
68-55 that section.

68-56 (d) On receipt of notice from the department of an arrest of  
68-57 a person described by Section 11A.153 or 21.0032, Education Code,  
68-58 the board shall notify the public charter district affected.

68-59 PART I. HEALTH COVERAGE OR COMPENSATION SUPPLEMENTATION

68-60 SECTION 2I.01. Chapter 1580, Insurance Code, is reenacted  
68-61 and amended to read as follows:

68-62 CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE  
68-63 OR COMPENSATION SUPPLEMENTATION  
68-64 SUBCHAPTER A. GENERAL PROVISIONS

68-65 Sec. 1580.001. DEFINITIONS. In this chapter:

68-66 (1) "Cafeteria plan" means a plan as defined and  
68-67 authorized by Section 125, Internal Revenue Code of 1986, and its  
68-68 subsequent amendments.

68-69 (2) "Employee" means a participating member of the

69-1 Teacher Retirement System of Texas who:

69-2 (A) is employed by a school district, other  
69-3 educational district whose employees are members of the Teacher  
69-4 Retirement System of Texas, participating charter school, or  
69-5 regional education service center; and

69-6 (B) is not a retiree covered under the program  
69-7 established under Chapter 1575.

69-8 (3) "Participating charter school" means an  
69-9 open-enrollment charter school established under Subchapter D,  
69-10 Chapter 12, Education Code, that participates in the program  
69-11 established under Chapter 1579.

69-12 (4) "Regional education service center" means a  
69-13 regional education service center established under Chapter 8,  
69-14 Education Code.

69-15 (5) "Trustee" means the Teacher Retirement System of  
69-16 Texas.

69-17 Sec. 1580.002. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

69-18 (a) The trustee may adopt rules to implement this chapter.

69-19 (b) The trustee may enter into interagency contracts with  
69-20 any agency of this state for the purpose of assistance in  
69-21 implementing this chapter.

69-22 SUBCHAPTER B. DESIGNATION OF COMPENSATION AS HEALTH CARE  
69-23 SUPPLEMENTATION [~~DISTRIBUTION OF STATE FUNDS BY TRUSTEE~~]

69-24 Sec. 1580.051. DESIGNATION OF COMPENSATION AS HEALTH CARE  
69-25 SUPPLEMENTATION. (a) As provided by Section 21.402 or 22.007,  
69-26 Education Code, and subject to Section 1580.102, an employee of a  
69-27 [DISTRIBUTION BY TRUSTEE. Each year, the trustee shall deliver to  
69-28 each] school district, [including a school district that is  
69-29 ineligible for state aid under Chapter 42, Education Code, each]  
69-30 other educational district that is a member of the Teacher  
69-31 Retirement System of Texas, [each] participating charter school, or  
69-32 [and each] regional education service center may elect to designate  
69-33 a portion of the employee's compensation to be used as health care  
69-34 supplementation under this chapter.

69-35 (b) Notwithstanding Subsection (a), an administrator, as  
69-36 defined by the trustee, employed by a school district, another  
69-37 educational district, a participating charter school, or a regional  
69-38 education service center is not eligible to elect to designate a  
69-39 portion of the person's compensation to be used as health care  
69-40 supplementation under this chapter [state funds in an amount, as  
69-41 determined by the trustee, equal to the product of the number of  
69-42 active employees employed by the district, school, or service  
69-43 center multiplied by \$1,000 or a greater amount as provided by the  
69-44 General Appropriations Act for purposes of this chapter].

69-45 [~~Sec. 1580.052. EQUAL INSTALLMENTS. The trustee shall~~  
69-46 ~~distribute funds under this chapter in equal monthly installments.]~~

69-47 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by  
69-48 a school district, other educational district, participating  
69-49 charter school, or regional education service center under this  
69-50 chapter are held in trust for the benefit of the active employees on  
69-51 whose behalf the district, school, or service center received the  
69-52 funds.

69-53 [~~Sec. 1580.054. RECOVERY OF DISTRIBUTIONS. The trustee is~~  
69-54 ~~entitled to recover from a school district, other educational~~  
69-55 ~~district, participating charter school, or regional education~~  
69-56 ~~service center any amount distributed under this chapter to which~~  
69-57 ~~the district, school, or service center was not entitled.~~

69-58 [~~Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A~~  
69-59 ~~determination by the trustee under this subchapter is final and may~~  
69-60 ~~not be appealed.]~~

69-61 SUBCHAPTER C. EMPLOYEE ELECTION

69-62 Sec. 1580.101. WRITTEN ELECTION REQUIRED. (a) Each school  
69-63 year, an active employee must elect in writing whether to designate  
69-64 a portion of the employee's compensation to be used as health care  
69-65 supplementation under this chapter.

69-66 (b) This section does not apply to an employee to whom  
69-67 Section 1580.102 applies.

69-68 Sec. 1580.1011. EMPLOYEE COVERED BY CAFETERIA PLAN. (a) To  
69-69 elect to designate a portion of the employee's compensation to be

70-1 used as health care supplementation under this chapter, ~~[if]~~ an  
 70-2 active employee must be ~~[is]~~ covered by a cafeteria plan of a school  
 70-3 district, other educational district, participating charter  
 70-4 school, or regional education service center. The employee must  
 70-5 ~~the state contribution under this chapter shall be deposited in the~~  
 70-6 ~~cafeteria plan, and the employee may~~ elect among the options  
 70-7 provided by the cafeteria plan.

70-8 (b) A cafeteria plan receiving funds designated as health  
 70-9 care supplementation ~~[state contributions]~~ under this chapter may  
 70-10 include a medical savings account option and must include, at a  
 70-11 minimum, the following options:

- 70-12 (1) a health care reimbursement account;
- 70-13 (2) a benefit or coverage other than that provided  
 70-14 under Chapter 1579, or any employee coverage or dependent coverage  
 70-15 available under Chapter 1579 but not otherwise fully funded by the  
 70-16 state or the employer contributions, any of which must be a  
 70-17 "qualified benefit" under Section 125, Internal Revenue Code of  
 70-18 1986, and its subsequent amendments; or

70-19 ~~(3) [an option for the employee to receive the state~~  
 70-20 ~~contribution as supplemental compensation; or~~  
 70-21 ~~[(4)] an option to divide the funds between [state~~  
 70-22 ~~contribution among two or more of]~~ the other options provided under  
 70-23 this subsection.

70-24 Sec. 1580.102. EMPLOYEE NOT COVERED BY CAFETERIA PLAN. If  
 70-25 an active employee is not covered by a cafeteria plan of a school  
 70-26 district, other educational district, participating charter  
 70-27 school, or regional education service center, the employee is not  
 70-28 eligible to elect to designate a portion of the employee's  
 70-29 compensation to be used as health care supplementation under this  
 70-30 chapter ~~[state contribution under this chapter shall be paid to the~~  
 70-31 ~~active employee as supplemental compensation].~~

70-32 ~~[Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental~~  
 70-33 ~~compensation under this subchapter must be in addition to the rate~~  
 70-34 ~~of compensation that:~~

- 70-35 ~~[(1) the school district, other educational district,~~  
 70-36 ~~participating charter school, or regional education service center~~  
 70-37 ~~paid the employee in the preceding school year; or~~
- 70-38 ~~[(2) the district, school, or service center would~~  
 70-39 ~~have paid the employee in the preceding school year if the employee~~  
 70-40 ~~had been employed by the district, school, or service center in the~~  
 70-41 ~~same capacity in the preceding school year.]~~

70-42 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal  
 70-43 year, an election under this subchapter must be made before the  
 70-44 later of:

- 70-45 (1) August 1 of the preceding state fiscal year; or
- 70-46 (2) the 31st day after the date the employee is hired.

70-47 Sec. 1580.105. WRITTEN EXPLANATION; ELECTION  
 70-48 FORM. (a) The trustee shall prescribe and distribute to each  
 70-49 school district, other educational district, participating charter  
 70-50 school, and regional education service center:

- 70-51 (1) a model explanation written in English and Spanish  
 70-52 of the options active employees may elect under this section and the  
 70-53 effect of electing each option; and
- 70-54 (2) an election form to be completed by active  
 70-55 employees.

70-56 (b) Each state fiscal year, a school district, other  
 70-57 educational district, participating charter school, or regional  
 70-58 education service center shall prepare and distribute to each  
 70-59 active employee a written explanation in English and Spanish, as  
 70-60 appropriate, of the options the employee may elect under this  
 70-61 section. The explanation must be based on the model explanation  
 70-62 prepared by the trustee under Subsection (a) and must reflect all  
 70-63 available health coverage options available to the employee. The  
 70-64 explanation must be distributed to an employee before the later of:

- 70-65 (1) July 1 of the preceding state fiscal year; or
- 70-66 (2) the fifth day after the date the employee is hired.

70-67 (c) The written explanation under Subsection (b) must be  
 70-68 accompanied by a copy of the election form prescribed under  
 70-69 Subsection (a)(2).

~~71-1 [Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any~~  
~~71-2 unencumbered funds that are returned to the school district from~~  
~~71-3 accounts established under Section 1580.101 may be used only to~~  
~~71-4 provide employee compensation, benefits, or both.]~~

SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

71-5  
 71-6 Sec. 1580.151. DEFINITION. In this subchapter, "qualified  
 71-7 health care expense" means an expense paid by an employee for  
 71-8 medical care, as defined by Section 213(d), Internal Revenue Code  
 71-9 of 1986, and its subsequent amendments, for the employee or the  
 71-10 employee's dependents, as defined by Section 152, Internal Revenue  
 71-11 Code of 1986, and its subsequent amendments.

71-12 Sec. 1580.152. RULES. The trustee, by rule, shall specify  
 71-13 the requirements for a medical savings account established under  
 71-14 this chapter.

71-15 Sec. 1580.153. QUALIFICATION OF ACCOUNT. (a) The trustee  
 71-16 shall request in writing a ruling or opinion from the Internal  
 71-17 Revenue Service as to whether the medical savings accounts  
 71-18 established under this chapter and the state rules governing those  
 71-19 accounts qualify the accounts for appropriate federal tax  
 71-20 exemptions.

71-21 (b) Based on the response of the Internal Revenue Service  
 71-22 under Subsection (a), the trustee shall:

71-23 (1) modify the rules, plans, and procedures adopted  
 71-24 under this section as necessary to ensure the qualification of  
 71-25 those accounts for appropriate federal tax exemptions; and

71-26 (2) certify the information regarding federal tax  
 71-27 qualifications to the comptroller.

71-28 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects  
 71-29 under Section 1580.101 to have state funds distributed under this  
 71-30 chapter placed in a medical savings account may use the money in  
 71-31 that account only for a qualified health care expense.

ARTICLE 3. STATE PROPERTY TAX

71-32  
 71-33 SECTION 3.01. Chapter 45, Education Code, is amended by  
 71-34 adding Subchapter I to read as follows:

SUBCHAPTER I. STATE AD VALOREM TAX

71-35  
 71-36 Sec. 45.251. STATE AD VALOREM TAX. (a) A state ad valorem  
 71-37 tax for elementary and secondary school purposes is imposed on all  
 71-38 taxable property in this state.

71-39 (b) The tax is imposed at the rate of \$0.85 per \$100 of  
 71-40 taxable value of property subject to the tax.

71-41 (c) Except as otherwise provided by law, the state shall be  
 71-42 treated, for purposes of the state ad valorem tax, as a taxing unit  
 71-43 under Title 1, Tax Code.

71-44 Sec. 45.2511. ADOPTION OF TAX RATE; NOTICE AND HEARINGS;  
 71-45 LIMITATIONS ON RATE. (a) In this section, each house of the  
 71-46 legislature is exercising its constitutional authority to adopt the  
 71-47 rules of its own proceedings.

71-48 (b) On or before the 30th day of each regular session of the  
 71-49 legislature, the Legislative Budget Board shall calculate and  
 71-50 submit to the legislature the maximum tax rate allowed under  
 71-51 Section 3-a(b), Article VII, Texas Constitution, as proposed by  
 71-52 S.J.R. No. 38, 79th Legislature, Regular Session, 2005, for each of  
 71-53 the two tax years described by that section.

71-54 (c) After submitting the tax rates to the legislature under  
 71-55 Subsection (b), the Legislative Budget Board shall promptly:

71-56 (1) submit those tax rates to the secretary of state  
 71-57 for publication in the Texas Register;

71-58 (2) request the cooperation of all news media in the  
 71-59 state notifying the public of those tax rates; and

71-60 (3) if the board maintains an Internet website, post  
 71-61 those tax rates on that website.

71-62 (d) Neither house of the legislature may consider a measure  
 71-63 on second reading that proposes a state ad valorem tax rate unless  
 71-64 the committee of that house to which the measure is referred  
 71-65 conducts at least one public hearing on the measure at which  
 71-66 interested persons are allowed to speak for or against the proposed  
 71-67 tax rate. The committee shall request the cooperation of all news  
 71-68 media in the state in notifying the public of the hearing.

71-69 (e) A measure establishing a state ad valorem tax rate may

72-1 be adopted only by a record vote of each house of the legislature.

72-2 Sec. 45.252. APPRAISAL OF PROPERTY. (a) Property subject  
 72-3 to the state ad valorem tax shall be appraised by the appraisal  
 72-4 district that appraises property for taxation by the school  
 72-5 district in which the property has taxable situs under Chapter 21,  
 72-6 Tax Code.

72-7 (b) Property subject to the state ad valorem tax shall be  
 72-8 appraised in the manner provided by Title 1, Tax Code, for the  
 72-9 appraisal of property that is subject to ad valorem taxation by a  
 72-10 school district.

72-11 Sec. 45.253. TAX COLLECTION. (a) The assessor and  
 72-12 collector for each school district shall assess and collect, as  
 72-13 applicable, state ad valorem taxes imposed on property included on  
 72-14 the appraisal roll for state taxation certified to the comptroller  
 72-15 and to the assessor for that school district under Section 26.01,  
 72-16 Tax Code, unless the governing body of the school district  
 72-17 contracts with an official, taxing unit, or political subdivision  
 72-18 of this state for the assessment or collection of the ad valorem  
 72-19 taxes of the district, in which event the official, taxing unit, or  
 72-20 political subdivision that assess or collects taxes for the school  
 72-21 district shall also assess or collect, as applicable, the state ad  
 72-22 valorem taxes.

72-23 (b) Each assessor or collector of state ad valorem taxes is  
 72-24 entitled to be reimbursed by the comptroller for the actual costs  
 72-25 incurred by the assessor or collector in assessing or collecting  
 72-26 state ad valorem taxes. However, an assessor or collector is not  
 72-27 entitled to be reimbursed for any amount that is greater than the  
 72-28 additional incremental costs incurred in assessing or collecting  
 72-29 the state ad valorem taxes.

72-30 (c) The comptroller shall:

72-31 (1) prescribe methods of accounting for and remitting  
 72-32 state ad valorem taxes;

72-33 (2) prescribe methods for establishing an assessor's  
 72-34 or collector's additional incremental costs incurred in assessing  
 72-35 or collecting state ad valorem taxes;

72-36 (3) prescribe and furnish forms for periodic reports  
 72-37 relating to state ad valorem taxes; and

72-38 (4) periodically examine the records of each assessor  
 72-39 or collector of state ad valorem taxes to verify the accuracy of any  
 72-40 reports required under this subsection.

72-41 (d) The comptroller may require an assessor or collector of  
 72-42 state ad valorem taxes to give a bond to the state, conditioned on  
 72-43 the faithful performance of the person's duties as assessor or  
 72-44 collector, in the amount the comptroller considers appropriate to  
 72-45 protect the state from potential losses with regard to assessment  
 72-46 or collection of state ad valorem taxes.

72-47 Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Except  
 72-48 as otherwise provided by this subchapter, a duty imposed on or power  
 72-49 granted to the governing body of a taxing unit by Title 1, Tax Code,  
 72-50 may, for purposes of the state ad valorem tax, be exercised by the  
 72-51 comptroller. A reference to the presiding officer of a governing  
 72-52 body in Title 1, Tax Code, is a reference to the comptroller for the  
 72-53 purposes of the state tax.

72-54 (b) The comptroller may delegate to the assessor or  
 72-55 collector for a school district any function of the comptroller  
 72-56 with respect to the assessment or collection of the state ad valorem  
 72-57 tax and may designate a school district assessor or collector as the  
 72-58 comptroller's agent for purposes of administration of assessment or  
 72-59 collection of the state ad valorem tax.

72-60 Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. The  
 72-61 comptroller shall deposit to the credit of the general revenue fund  
 72-62 in appropriately designated accounts an amount of revenue collected  
 72-63 from the state ad valorem tax to pay for the expenses of  
 72-64 administering this subchapter and for the payment of tax refunds  
 72-65 that may become payable.

72-66 Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS.  
 72-67 Title 2, Tax Code, does not apply to the state ad valorem tax.

72-68 Sec. 45.257. TAX INCREMENT FINANCING. Except as otherwise  
 72-69 provided by Section 311.013, Tax Code, the state may not pay any



73-1 portion of the tax increment produced by the state into the tax  
 73-2 increment fund for a reinvestment zone designated under Chapter  
 73-3 311, Tax Code.

73-4 Sec. 45.258. TAX ABATEMENT. (a) Except as otherwise  
 73-5 provided by this section, the state may not participate in tax  
 73-6 abatement under Section 311.0125 or 311.013(g) or Chapter 312, Tax  
 73-7 Code.

73-8 (b) If school district property taxes on property located in  
 73-9 the taxing jurisdiction of a school district are abated under a tax  
 73-10 abatement agreement entered into by the school district under  
 73-11 Chapter 312, Tax Code, the terms of the agreement regarding the  
 73-12 portion of the value of the property that is to be exempted from  
 73-13 taxation in each year of the agreement apply to the taxation of the  
 73-14 property by the state. A modification of the agreement by the  
 73-15 parties to the agreement under Section 312.208, Tax Code, that  
 73-16 increases the portion of the value of the property that is to be  
 73-17 exempted from taxation or that extends the duration of the  
 73-18 agreement does not apply to the imposition of the state ad valorem  
 73-19 tax unless the modification was entered into before January 1,  
 73-20 2005.

73-21 Sec. 45.259. LIMITATION ON APPRAISED VALUE OF CERTAIN  
 73-22 PROPERTY FOR STATE TAXATION. This section applies only in  
 73-23 connection with property for which before April 1, 2005, the owner  
 73-24 of the property has submitted to a school district an application  
 73-25 under Section 313.025, Tax Code, for a limitation on appraised  
 73-26 value under Subchapter B or C, Chapter 313, Tax Code, that is  
 73-27 subsequently approved by the district, and applies only to the  
 73-28 amount stated in the application. In each tax year in which the  
 73-29 appraised value of the property is subject to the limitation, the  
 73-30 appraised value of the property for purposes of the state ad valorem  
 73-31 tax is the same as the appraised value of the property for school  
 73-32 district tax purposes.

73-33 SECTION 3.02. Subchapter A, Chapter 6, Tax Code, is amended  
 73-34 by adding Section 6.038 to read as follows:

73-35 Sec. 6.038. STATE PARTICIPATION. (a) The comptroller and  
 73-36 the state do not participate in the election of the board of  
 73-37 directors of an appraisal district, the governance or management of  
 73-38 the district, or the determination of the district's finances and  
 73-39 budget.

73-40 (b) The comptroller by rule shall establish guidelines and  
 73-41 criteria under which, if the comptroller finds that generally  
 73-42 accepted appraisal standards and practices were not used by the  
 73-43 appraisal district appraising property subject to the state ad  
 73-44 valorem tax or that the appraised values assigned to property  
 73-45 subject to that tax are invalid, the comptroller may:

73-46 (1) withhold payment of all or part of the portion of  
 73-47 the amount of the budget of the appraisal district that is allocated  
 73-48 to the state until the district takes appropriate actions to remedy  
 73-49 the deficiencies in appraisals found by the comptroller; or

73-50 (2) direct that all or any part of the portion of the  
 73-51 amount of the budget of the district allocated to the state be  
 73-52 applied to remedying those deficiencies.

73-53 SECTION 3.03. Section 6.06(d), Tax Code, is amended to read  
 73-54 as follows:

73-55 (d) The state and each [~~Each~~] taxing unit participating in  
 73-56 the district are each [~~is~~] allocated a portion of the amount of the  
 73-57 budget equal to the proportion that the total dollar amount of  
 73-58 property taxes imposed in the district by the state or taxing unit  
 73-59 for the tax year in which the budget proposal is prepared bears to  
 73-60 the sum of the total dollar amount of property taxes imposed in the  
 73-61 district by the state and each participating unit for that year.  
 73-62 For purposes of this subsection, only state ad valorem taxes  
 73-63 imposed in a school district or portion of a school district for  
 73-64 which the appraisal district appraises property for taxation are  
 73-65 considered as state ad valorem taxes imposed in the district. If a  
 73-66 taxing unit participates in two or more districts, only the taxes  
 73-67 imposed in a district are used to calculate the unit's cost  
 73-68 allocations in that district. If the number of real property  
 73-69 parcels in a taxing unit is less than 5 percent of the total number

74-1 of real property parcels in the district and the taxing unit imposes  
 74-2 in excess of 25 percent of the total amount of the property taxes  
 74-3 imposed in the district by all of the participating taxing units for  
 74-4 a year, the unit's allocation may not exceed a percentage of the  
 74-5 appraisal district's budget equal to three times the unit's  
 74-6 percentage of the total number of real property parcels appraised  
 74-7 by the district.

74-8 SECTION 3.04. Sections 11.13(b) and (c), Tax Code, are  
 74-9 amended to read as follows:

74-10 (b) An adult is entitled to exemption from taxation by the  
 74-11 state for elementary and secondary public school purposes or by a  
 74-12 school district of \$15,000 of the appraised value of the adult's  
 74-13 residence homestead, except that \$10,000 of the exemption does not  
 74-14 apply to an entity operating under former Chapter 17, 18, 25, 26,  
 74-15 27, or 28, Education Code, as those chapters existed on May 1, 1995,  
 74-16 as permitted by Section 11.301, Education Code.

74-17 (c) In addition to the exemption provided by Subsection (b)  
 74-18 [~~of this section~~], an adult who is disabled or is 65 years of age or  
 74-19 older is entitled to an exemption from taxation by the state for  
 74-20 elementary and secondary public school purposes or by a school  
 74-21 district of \$10,000 of the appraised value of the adult's [~~his~~]  
 74-22 residence homestead.

74-23 SECTION 3.05. Section 11.14, Tax Code, is amended by adding  
 74-24 Subsection (f) to read as follows:

74-25 (f) Subsection (c) does not apply to the comptroller or to  
 74-26 the state ad valorem tax.

74-27 SECTION 3.06. Section 11.251, Tax Code, is amended by  
 74-28 adding Subsection (1) to read as follows:

74-29 (1) The exemption provided by Subsection (b) does not apply  
 74-30 to the state ad valorem tax unless the property is exempt from that  
 74-31 tax under Section 1-j(d), Article VIII, Texas Constitution.

74-32 SECTION 3.07. The heading to Section 11.26, Tax Code, is  
 74-33 amended to read as follows:

74-34 Sec. 11.26. LIMITATION OF SCHOOL TAXES [~~TAX~~] ON HOMESTEADS  
 74-35 OF ELDERLY OR DISABLED.

74-36 SECTION 3.08. Section 11.26, Tax Code, is amended by  
 74-37 amending Subsections (a), (b), (g), (h), (j), and (k) and adding  
 74-38 Subsections (a-1) and (g-1) to read as follows:

74-39 (a) The tax officials shall appraise the property to which  
 74-40 this section applies and calculate taxes as on other property, but  
 74-41 if the tax so calculated exceeds the limitation imposed by this  
 74-42 section, the tax imposed is the amount of the tax as limited by this  
 74-43 section, except as otherwise provided by this section. The state or  
 74-44 a [~~A~~] school district may not increase the total annual amount of ad  
 74-45 valorem tax it imposes on the residence homestead of an individual  
 74-46 65 years of age or older or on the residence homestead of an  
 74-47 individual who is disabled, as defined by Section 11.13, above the  
 74-48 amount of the tax it imposed in the first tax year in which the  
 74-49 individual qualified that residence homestead for the applicable  
 74-50 exemption provided by Section 11.13(c) for an individual who is 65  
 74-51 years of age or older or is disabled. If the individual qualified  
 74-52 that residence homestead for the exemption after the beginning of  
 74-53 that first year and the residence homestead remains eligible for  
 74-54 the same exemption for the next year, and if the state or school  
 74-55 district taxes imposed on the residence homestead in the next year  
 74-56 are less than the amount of taxes the state or school district, as  
 74-57 applicable, imposed in that first year, the state or [~~a~~] school  
 74-58 district may not subsequently increase the total annual amount of  
 74-59 ad valorem taxes it imposes on the residence homestead above the  
 74-60 amount it imposed in the year immediately following the first year  
 74-61 for which the individual qualified that residence homestead for the  
 74-62 same exemption, except as provided by Subsection (b).

74-63 (a-1) If the first tax year the individual qualified the  
 74-64 residence homestead for the exemption provided by Section 11.13(c)  
 74-65 for individuals 65 years of age or older was a tax year before the  
 74-66 2006 [~~1997~~] tax year, except as provided by Subsection (b):

74-67 (1) the amount of the limitation provided by this  
 74-68 section on state taxes is the amount of tax the school district in  
 74-69 which the property is located imposed for the 2005 [~~1996~~] tax year

75-1 ~~[less an amount equal to the amount determined by multiplying~~  
 75-2 ~~\$10,000 times the tax rate of the school district for the 1997 tax~~  
 75-3 ~~year,] plus any 2006 state [1997] tax attributable to improvements~~  
 75-4 ~~made in 2005 [1996], other than improvements made to comply with~~  
 75-5 ~~governmental regulations or repairs; and~~

75-6 (2) the amount of the limitation provided by this  
 75-7 section on school district taxes is the amount of tax the school  
 75-8 district imposed for the 2005 tax year less the amount of state  
 75-9 taxes imposed in the 2006 tax year, plus any 2006 school taxes  
 75-10 attributable to improvements made in 2005, other than improvements  
 75-11 made to comply with governmental regulations or repairs.

75-12 (b) If an individual makes improvements to the individual's  
 75-13 residence homestead, other than improvements required to comply  
 75-14 with governmental requirements or repairs, the state or the school  
 75-15 district may increase the tax on the homestead in the first year the  
 75-16 value of the homestead is increased on the appraisal roll because of  
 75-17 the enhancement of value by the improvements. The amount of the tax  
 75-18 increase is determined by applying the current tax rate to the  
 75-19 difference in the assessed value of the homestead with the  
 75-20 improvements and the assessed value it would have had without the  
 75-21 improvements. A limitation imposed by this section then applies to  
 75-22 the increased amount of tax until more improvements, if any, are  
 75-23 made.

75-24 (g) Except as provided by Subsection (b), if an individual  
 75-25 who receives a limitation on tax increases imposed by this section,  
 75-26 including a surviving spouse who receives a limitation under  
 75-27 Subsection (i), subsequently qualifies a different residence  
 75-28 homestead for the same exemption under Section 11.13, the state or a  
 75-29 school district may not impose ad valorem taxes on the subsequently  
 75-30 qualified homestead in a year in an amount that exceeds the amount  
 75-31 of taxes the state or the school district would have imposed on the  
 75-32 subsequently qualified homestead in the first year in which the  
 75-33 individual receives that same exemption for the subsequently  
 75-34 qualified homestead had the limitation on tax increases imposed by  
 75-35 this section not been in effect, multiplied by a fraction the  
 75-36 numerator of which is the total amount of [~~school district~~] taxes  
 75-37 imposed by the state or the school district, as applicable, on the  
 75-38 former homestead in the last year in which the individual received  
 75-39 that same exemption for the former homestead and the denominator of  
 75-40 which is the total amount of taxes the state or the school district,  
 75-41 as applicable, [~~taxes that~~] would have [~~been~~] imposed on the former  
 75-42 homestead in the last year in which the individual received that  
 75-43 same exemption for the former homestead had the limitation on tax  
 75-44 increases imposed by this section not been in effect.

75-45 (g-1) Subsection (g) does not apply to a residence homestead  
 75-46 to which this subsection applies. Except as provided by Subsection  
 75-47 (b), if an individual who receives a limitation on tax increases  
 75-48 imposed by this section in a tax year before the 2006 tax year,  
 75-49 including a surviving spouse who receives a limitation under  
 75-50 Subsection (i), subsequently qualifies a different residence  
 75-51 homestead for an exemption under Section 11.13(c) and the first  
 75-52 year in which the subsequently qualified homestead qualifies for  
 75-53 the exemption is a tax year after the 2005 tax year:

75-54 (1) the state may not impose taxes on the subsequently  
 75-55 qualified homestead in an amount that exceeds the amount of taxes  
 75-56 the state would have imposed on the subsequently qualified  
 75-57 homestead in the first year in which the individual receives that  
 75-58 exemption for the subsequently qualified homestead had the  
 75-59 limitation on tax increases imposed by this section not been in  
 75-60 effect, multiplied by a fraction the numerator of which is the total  
 75-61 amount of school district taxes imposed on the former homestead in  
 75-62 the last year in which the individual received that exemption for  
 75-63 the former homestead and the denominator of which is the total  
 75-64 amount of school district taxes that would have been imposed on the  
 75-65 former homestead in the last year in which the individual received  
 75-66 that exemption for the former homestead had the limitations on tax  
 75-67 increases imposed by this section not been in effect; and

75-68 (2) the school district may not impose taxes on the  
 75-69 subsequently qualified homestead in an amount that exceeds the

76-1 positive amount, if any, by which the limitation on state taxes  
 76-2 calculated under Subdivision (1) exceeds the amount of state taxes  
 76-3 imposed in the first year in which the subsequently qualified  
 76-4 homestead receives the exemption.

76-5 (h) An individual who receives a limitation on tax increases  
 76-6 under this section, including a surviving spouse who receives a  
 76-7 limitation under Subsection (i), and who subsequently qualifies a  
 76-8 different residence homestead for an exemption under Section  
 76-9 11.13(c) [~~11.13~~], or an agent of the individual, is entitled to  
 76-10 receive from the chief appraiser of the appraisal district in which  
 76-11 the former homestead was located a written certificate providing  
 76-12 the information necessary to determine whether the individual may  
 76-13 qualify for that same limitation on the subsequently qualified  
 76-14 homestead under Subsection (g) or (g-1) and to calculate the amount  
 76-15 of taxes the state and the school district may impose on the  
 76-16 subsequently qualified homestead.

76-17 (j) If an individual who qualifies for an exemption provided  
 76-18 by Section 11.13(c) for an individual 65 years of age or older dies  
 76-19 in the first year in which the individual qualified for the  
 76-20 exemption and the individual first qualified for the exemption  
 76-21 after the beginning of that year, except as provided by Subsection  
 76-22 (k), the amount to which the surviving spouse's state or school  
 76-23 district taxes are limited under Subsection (i) is the amount of  
 76-24 state or school district taxes, as applicable, imposed on the  
 76-25 residence homestead in that year determined as if the individual  
 76-26 qualifying for the exemption had lived for the entire year.

76-27 (k) If in the first tax year after the year in which an  
 76-28 individual dies in the circumstances described by Subsection (j)  
 76-29 the amount of [~~school district~~] taxes imposed by the state or the  
 76-30 school district on the residence homestead of the surviving spouse  
 76-31 is less than the amount of state or school district taxes, as  
 76-32 applicable, imposed in the preceding year as limited by Subsection  
 76-33 (j), in a subsequent tax year the surviving spouse's state or school  
 76-34 district taxes on that residence homestead are limited to the  
 76-35 amount of taxes imposed by the state or the school district, as  
 76-36 applicable, in that first tax year after the year in which the  
 76-37 individual dies.

76-38 SECTION 3.09. Section 21.03(a), Tax Code, is amended to  
 76-39 read as follows:

76-40 (a) If personal property that is taxable by this state or a  
 76-41 taxing unit of this state is used continually outside this state,  
 76-42 whether regularly or irregularly, the appraisal office shall  
 76-43 allocate to this state the portion of the total market value of the  
 76-44 property that fairly reflects its use in this state.

76-45 SECTION 3.10. Section 21.031(a), Tax Code, is amended to  
 76-46 read as follows:

76-47 (a) If a vessel or other watercraft that is taxable by this  
 76-48 state or a taxing unit of this state is used continually outside  
 76-49 this state, whether regularly or irregularly, the appraisal office  
 76-50 shall allocate to this state the portion of the total market value  
 76-51 of the vessel or watercraft that fairly reflects its use in this  
 76-52 state. The appraisal office shall not allocate to this state the  
 76-53 portion of the total market value of the vessel or watercraft that  
 76-54 fairly reflects its use in another state or country, in  
 76-55 international waters, or beyond the Gulfward boundary of this  
 76-56 state.

76-57 SECTION 3.11. Section 22.28, Tax Code, is amended to read as  
 76-58 follows:

76-59 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Except as  
 76-60 otherwise provided by Section 22.30, the chief appraiser shall  
 76-61 impose a penalty on a person who fails to timely file a rendition  
 76-62 statement or property report required by this chapter in an amount  
 76-63 equal to 10 percent of the total amount of taxes imposed on the  
 76-64 property for that year by the state, if the property has taxable  
 76-65 situs in a school district or portion of a school district for which  
 76-66 the appraisal district appraises property for taxation, and by the  
 76-67 other taxing units participating in the appraisal district.

76-68 (b) The chief appraiser may retain a portion of a penalty  
 76-69 collected under this section, not to exceed 20 percent of the amount

77-1 of the penalty, to cover the chief appraiser's costs of collecting  
 77-2 the penalty. The chief appraiser shall distribute the remainder of  
 77-3 the penalty to the state and each other taxing unit participating in  
 77-4 the appraisal district that imposes taxes on the property in  
 77-5 proportion to the state's or the taxing unit's share of the total  
 77-6 amount of taxes imposed on the property by the state and all other  
 77-7 taxing units participating in the district used to determine the  
 77-8 amount of the penalty.

77-9 SECTION 3.12. Sections 22.29(a) and (d), Tax Code, are  
 77-10 amended to read as follows:

77-11 (a) The chief appraiser shall impose an additional penalty  
 77-12 on the person equal to 50 percent of the total amount of taxes  
 77-13 imposed on the property for the tax year of the statement or report  
 77-14 by the state, if the property has taxable situs in a school district  
 77-15 or portion of a school district for which the appraisal district  
 77-16 appraises property for taxation, and by the other taxing units  
 77-17 participating in the appraisal district if it is finally determined  
 77-18 by a court that:

77-19 (1) the person filed a false statement or report with  
 77-20 the intent to commit fraud or to evade the tax; or

77-21 (2) the person alters, destroys, or conceals any  
 77-22 record, document, or thing, or presents to the chief appraiser any  
 77-23 altered or fraudulent record, document, or thing, or otherwise  
 77-24 engages in fraudulent conduct, for the purpose of affecting the  
 77-25 course or outcome of an inspection, investigation, determination,  
 77-26 or other proceeding before the appraisal district.

77-27 (d) The chief appraiser may retain a portion of a penalty  
 77-28 collected under this section, not to exceed 20 percent of the amount  
 77-29 of the penalty, to cover the chief appraiser's costs of collecting  
 77-30 the penalty. The chief appraiser shall distribute the remainder of  
 77-31 the penalty to the state and each other taxing unit participating in  
 77-32 the appraisal district that imposes taxes on the property in  
 77-33 proportion to the state's or the taxing unit's share of the total  
 77-34 amount of taxes imposed on the property by the state and all other  
 77-35 taxing units participating in the district used to determine the  
 77-36 amount of the penalty.

77-37 SECTION 3.13. Section 23.46(d), Tax Code, is amended to  
 77-38 read as follows:

77-39 (d) A tax lien attaches to the land on the date the sale or  
 77-40 change of use occurs to secure payment of the additional tax and  
 77-41 interest imposed by Subsection (c) [~~of this section~~] and any  
 77-42 penalties incurred. The lien exists in favor of the state and all  
 77-43 taxing units for which the additional tax is imposed.

77-44 SECTION 3.14. Section 23.55(b), Tax Code, is amended to  
 77-45 read as follows:

77-46 (b) A tax lien attaches to the land on the date the change of  
 77-47 use occurs to secure payment of the additional tax and interest  
 77-48 imposed by this section and any penalties incurred. The lien exists  
 77-49 in favor of the state and all taxing units for which the additional  
 77-50 tax is imposed.

77-51 SECTION 3.15. Section 23.76(b), Tax Code, is amended to  
 77-52 read as follows:

77-53 (b) A tax lien attaches to the land on the date the change of  
 77-54 use occurs to secure payment of the additional tax and interest  
 77-55 imposed by this section and any penalties incurred. The lien exists  
 77-56 in favor of the state and all taxing units for which the additional  
 77-57 tax is imposed.

77-58 SECTION 3.16. Section 23.86(b), Tax Code, is amended to  
 77-59 read as follows:

77-60 (b) A tax lien attaches to the land on the date the change of  
 77-61 use occurs or the deed restriction expires to secure payment of the  
 77-62 additional tax and interest imposed by this section and any  
 77-63 penalties incurred. The lien exists in favor of the state and all  
 77-64 taxing units for which the additional tax is imposed.

77-65 SECTION 3.17. Section 23.96(b), Tax Code, is amended to  
 77-66 read as follows:

77-67 (b) A tax lien attaches to the property on the date the deed  
 77-68 restriction expires to secure payment of the additional tax and  
 77-69 interest imposed by this section and any penalties incurred. The

78-1 lien exists in favor of the state and all taxing units for which the  
78-2 additional tax is imposed.

78-3 SECTION 3.18. Section 23.9807(c), Tax Code, is amended to  
78-4 read as follows:

78-5 (c) A tax lien attaches to the land on the date the change of  
78-6 use occurs to secure payment of the additional tax and interest  
78-7 imposed by this section and any penalties incurred. The lien exists  
78-8 in favor of the state and all taxing units for which the additional  
78-9 tax is imposed.

78-10 SECTION 3.19. Section 25.19(b), Tax Code, as amended by  
78-11 Chapters 1358 and 1517, Acts of the 76th Legislature, Regular  
78-12 Session, 1999, is reenacted and amended to read as follows:

78-13 (b) The chief appraiser shall separate real from personal  
78-14 property and include in the notice for each:

78-15 (1) a list of the taxing units other than the state in  
78-16 which the property is taxable and, if the property is appraised by  
78-17 the appraisal district for state taxation, a statement that the  
78-18 property is subject to the state tax for elementary and secondary  
78-19 public school purposes;

78-20 (2) the appraised value of the property in the  
78-21 preceding year;

78-22 (3) the taxable value of the property in the preceding  
78-23 year for:

78-24 (A) each taxing unit taxing the property; and

78-25 (B) state taxation for elementary and secondary  
78-26 public school purposes, if the property is appraised by the  
78-27 appraisal district for state taxation;

78-28 (4) the appraised value of the property for the  
78-29 current year and the kind and amount of each partial exemption, if  
78-30 any, approved for the current year;

78-31 (5) if the appraised value is greater than it was in  
78-32 the preceding year, the amount of tax that would be imposed on the  
78-33 property on the basis of the tax rate for each taxing unit other  
78-34 than the state for the preceding year;

78-35 (6) in italic typeface, the following statement: "The  
78-36 Texas Legislature does not set the amount of your local taxes. Your  
78-37 local property tax burden is decided by your locally elected  
78-38 officials, and all inquiries concerning your local taxes should be  
78-39 directed to those officials";

78-40 (7) a detailed explanation of the time and procedure  
78-41 for protesting the value;

78-42 (8) the date and place the appraisal review board will  
78-43 begin hearing protests; and

78-44 (9) a brief explanation that the governing body of  
78-45 each local taxing unit decides whether [~~or not~~] taxes on the  
78-46 property will increase and the appraisal district only determines  
78-47 the value of the property.

78-48 SECTION 3.20. The heading to Section 26.01, Tax Code, is  
78-49 amended to read as follows:

78-50 Sec. 26.01. SUBMISSION OF ROLLS TO STATE AND TAXING UNITS.

78-51 SECTION 3.21. Sections 26.01(a), (c), and (d), Tax Code,  
78-52 are amended to read as follows:

78-53 (a) By July 25, the chief appraiser shall prepare and  
78-54 certify to the assessor for each taxing unit participating in the  
78-55 appraisal district that part of the appraisal roll for the  
78-56 appraisal district that lists the property taxable by the unit. By  
78-57 that date the chief appraiser shall prepare and certify to the  
78-58 comptroller and to the assessor for each school district that  
78-59 participates in the appraisal district that part of the appraisal  
78-60 roll for the appraisal district that lists property for which the  
78-61 appraisal district appraises the property for state taxation. The  
78-62 part certified to the comptroller and school district assessor is  
78-63 the appraisal roll for state taxes. The part certified to the  
78-64 assessor is the appraisal roll for the taxing unit. The chief  
78-65 appraiser shall consult with the assessor for each taxing unit and  
78-66 the comptroller and notify each taxing unit and the comptroller in  
78-67 writing by April 1 of the form in which the roll will be provided to  
78-68 each unit and to the comptroller.

78-69 (c) The chief appraiser shall prepare and certify to the

79-1 assessor for each taxing unit and the comptroller a listing of those  
 79-2 properties that [which] are taxable by that unit or the state, as  
 79-3 applicable, but that [which] are under protest and therefore not  
 79-4 included on the appraisal roll approved by the appraisal review  
 79-5 board and certified by the chief appraiser. This listing shall  
 79-6 include the appraised market value, productivity value (if  
 79-7 applicable), and taxable value as determined by the appraisal  
 79-8 district and shall also include the market value, taxable value,  
 79-9 and productivity value (if applicable) as claimed by the property  
 79-10 owner filing the protest if available. If the property owner does  
 79-11 not claim a value and the appraised value of the property in the  
 79-12 current year is equal to or less than its value in the preceding  
 79-13 year, the listing shall include a reasonable estimate of the market  
 79-14 value, taxable value, and productivity value (if applicable) that  
 79-15 would be assigned to the property if the taxpayer's claim is upheld.  
 79-16 If the property owner does not claim a value and the appraised value  
 79-17 of the property is higher than its appraised value in the preceding  
 79-18 year, the listing shall include the appraised market value,  
 79-19 productivity value (if applicable) and taxable value of the  
 79-20 property in the preceding year, except that if there is a reasonable  
 79-21 likelihood that the appraisal review board will approve a lower  
 79-22 appraised value for the property than its appraised value in the  
 79-23 preceding year, the chief appraiser shall make a reasonable  
 79-24 estimate of the taxable value that would be assigned to the property  
 79-25 if the property owner's claim is upheld. The taxing unit shall use  
 79-26 the lower value for calculations as prescribed in Sections 26.04  
 79-27 and 26.041 [of this code].

79-28 (d) The chief appraiser shall prepare and certify to the  
 79-29 assessor for each taxing unit and the comptroller a list of those  
 79-30 properties of which the chief appraiser has knowledge that are  
 79-31 reasonably likely to be taxable by that unit or the state, as  
 79-32 applicable, but that are not included on the appraisal roll  
 79-33 certified to the assessor or the comptroller under Subsection (a)  
 79-34 or included on the listing certified to the assessor or the  
 79-35 comptroller under Subsection (c). The chief appraiser shall  
 79-36 include on the list for each property the market value, appraised  
 79-37 value, and kind and amount of any partial exemptions as determined  
 79-38 by the appraisal district for the preceding year and a reasonable  
 79-39 estimate of the market value, appraised value, and kind and amount  
 79-40 of any partial exemptions for the current year. Until the property  
 79-41 is added to the appraisal roll, the assessor for a [the] taxing unit  
 79-42 shall include each property on the list in the calculations  
 79-43 prescribed by Sections 26.04 and 26.041, and for that purpose shall  
 79-44 use the lower market value, appraised value, or taxable value, as  
 79-45 appropriate, included on or computed using the information included  
 79-46 on the list for the property.

79-47 SECTION 3.22. Chapter 26, Tax Code, is amended by adding  
 79-48 Section 26.011 to read as follows:

79-49 Sec. 26.011. PROVISIONS NOT APPLICABLE TO STATE TAX.  
 79-50 Sections 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08 do  
 79-51 not apply to the state ad valorem tax or to the comptroller.

79-52 SECTION 3.23. Section 26.09(c), Tax Code, is amended to  
 79-53 read as follows:

79-54 (c) The tax is calculated by:  
 79-55 (1) subtracting from the appraised value of a property  
 79-56 as shown on the appraisal roll for a taxing [the] unit or the state  
 79-57 the amount of any partial exemption allowed the property owner that  
 79-58 applies to appraised value to determine taxable [net appraised]  
 79-59 value; and

79-60 (2) ~~[multiplying the net appraised value by the~~  
 79-61 ~~assessment ratio to determine assessed value;~~

79-62 ~~[(3) subtracting from the assessed value the amount of~~  
 79-63 ~~any partial exemption allowed the property owner to determine~~  
 79-64 ~~taxable value; and~~

79-65 ~~[(4)] multiplying the taxable value by the applicable~~  
 79-66 ~~tax rate.~~

79-67 SECTION 3.24. Section 26.12, Tax Code, is amended by adding  
 79-68 Subsection (e) to read as follows:

79-69 (e) For purposes of this section, the state is not a taxing

80-1 unit.

80-2 SECTION 3.25. Section 26.15(c), Tax Code, is amended to  
80-3 read as follows:

80-4 (c) At any time, the governing body of a taxing unit, on  
80-5 motion of the assessor for the unit or of a property owner, shall  
80-6 direct by written order changes in the tax roll to correct errors in  
80-7 the mathematical computation of a tax. The assessor shall enter the  
80-8 corrections ordered by the governing body. The comptroller may  
80-9 order changes in the state tax roll to correct errors in the  
80-10 mathematical computation of the state ad valorem tax.

80-11 SECTION 3.26. Section 31.11(a), Tax Code, is amended to  
80-12 read as follows:

80-13 (a) If a taxpayer applies to the tax collector of a taxing  
80-14 unit for a refund of an overpayment or erroneous payment of taxes  
80-15 and the auditor for the unit or the comptroller in the case of the  
80-16 state ad valorem tax determines that the payment was erroneous or  
80-17 excessive, the tax collector or, for state taxes, the comptroller  
80-18 shall refund the amount of the excessive or erroneous payment from  
80-19 available current tax collections or from funds appropriated by the  
80-20 unit or the state, as appropriate, for making refunds. For taxes  
80-21 other than state taxes [However], the collector may not make the  
80-22 refund unless:

80-23 (1) in the case of a collector who collects taxes for  
80-24 one taxing unit, the governing body of the taxing unit also  
80-25 determines that the payment was erroneous or excessive and approves  
80-26 the refund if the amount of the refund exceeds:

80-27 (A) \$2,500 for a refund to be paid by a county  
80-28 with a population of 1.5 million or more; or

80-29 (B) \$500 for a refund to be paid by any other  
80-30 taxing unit; or

80-31 (2) in the case of a collector who collects taxes for  
80-32 more than one taxing unit, the governing body of the taxing unit  
80-33 that employs the collector also determines that the payment was  
80-34 erroneous or excessive and approves the refund if the amount of the  
80-35 refund exceeds \$2,500.

80-36 SECTION 3.27. Sections 32.01(a) and (d), Tax Code, are  
80-37 amended to read as follows:

80-38 (a) On January 1 of each year, a tax lien attaches to  
80-39 property to secure the payment of all taxes, penalties, and  
80-40 interest ultimately imposed for the year by the state or a taxing  
80-41 unit on the property, whether or not the taxes are imposed in the  
80-42 year the lien attaches. The lien to secure the payment of state ad  
80-43 valorem taxes and applicable penalties and interest exists in favor  
80-44 of the state. The lien to secure the payment of taxes imposed by a  
80-45 taxing unit and applicable penalties and interest exists in favor  
80-46 of the [each] taxing unit having power to tax the property.

80-47 (d) The lien under this section is perfected on attachment  
80-48 and, except as provided by Section 32.03(b), perfection requires no  
80-49 further action by the state or taxing unit.

80-50 SECTION 3.28. Section 33.01(a), Tax Code, is amended to  
80-51 read as follows:

80-52 (a) A delinquent tax, including a delinquent state ad  
80-53 valorem tax, incurs a penalty of six percent of the amount of the  
80-54 tax for the first calendar month it is delinquent plus one percent  
80-55 for each additional month or portion of a month the tax remains  
80-56 unpaid prior to July 1 of the year in which it becomes delinquent.  
80-57 However, a tax delinquent on July 1 incurs a total penalty of twelve  
80-58 percent of the amount of the delinquent tax without regard to the  
80-59 number of months the tax has been delinquent. A delinquent tax  
80-60 continues to incur the penalty provided by this subsection as long  
80-61 as the tax remains unpaid, regardless of whether a judgment for the  
80-62 delinquent tax has been rendered.

80-63 SECTION 3.29. Subchapter A, Chapter 33, Tax Code, is  
80-64 amended by adding Section 33.11 to read as follows:

80-65 Sec. 33.11. COLLECTION OF DELINQUENT STATE AD VALOREM  
80-66 TAXES; PENALTY. (a) The collector for a school district has the  
80-67 same powers and duties regarding the collection of delinquent state  
80-68 ad valorem taxes imposed on property having taxable situs in the  
80-69 school district as the collector has regarding delinquent school



81-1 district taxes on that property.

81-2 (b) The attorney who represents a school district to enforce  
 81-3 the collection of delinquent school district taxes represents the  
 81-4 state to enforce the collection of delinquent state ad valorem  
 81-5 taxes imposed on property having taxable situs in the school  
 81-6 district. If the governing body of a school district contracts with  
 81-7 a private attorney to enforce the collection of delinquent school  
 81-8 district ad valorem taxes, the contract applies to the collection  
 81-9 of delinquent state ad valorem taxes on property taxable by that  
 81-10 school district without further action. The compensation of the  
 81-11 private attorney for collecting delinquent state ad valorem taxes  
 81-12 is equal to a percentage of the amount collected that represents the  
 81-13 portion of that amount attributable to the additional penalty  
 81-14 provided by Subsection (c). If the governing body of a school  
 81-15 district contracts with an official, taxing unit, or political  
 81-16 subdivision of this state for the collection of the ad valorem taxes  
 81-17 of the school district that includes the collection of delinquent  
 81-18 school district taxes, the contract applies to the collection of  
 81-19 delinquent state ad valorem taxes on property taxable by that  
 81-20 school district without further action.

81-21 (c) State ad valorem taxes that remain delinquent on July 1  
 81-22 of the year in which they become delinquent incur an additional  
 81-23 penalty to defray costs of collection if the collection of the  
 81-24 delinquent taxes is covered by a contract with a private attorney  
 81-25 under Subsection (b). The amount of the penalty is the amount of  
 81-26 the compensation specified in the contract.

81-27 (d) A tax lien attaches in favor of the state to the property  
 81-28 on which the tax is imposed to secure payment of the penalty.

81-29 (e) The person responsible for collecting the delinquent  
 81-30 state ad valorem tax shall deliver a notice of delinquency and of  
 81-31 the penalty to the property owner at least 30 and not more than 60  
 81-32 days before July 1.

81-33 (f) Sections 6.30, 33.07, and 33.08 do not apply to the  
 81-34 state ad valorem tax.

81-35 SECTION 3.30. Sections 33.21(a) and (b), Tax Code, are  
 81-36 amended to read as follows:

81-37 (a) A person's personal property is subject to seizure for  
 81-38 the payment of a delinquent tax, penalty, and interest the person  
 81-39 [he] owes the state or a taxing unit on property.

81-40 (b) A person's personal property is subject to seizure for  
 81-41 the payment of a tax imposed by the state or other [a] taxing unit on  
 81-42 the person's [his] property before the tax becomes delinquent if:

81-43 (1) the collector discovers that property on which the  
 81-44 tax has been or will be imposed is about to be removed from the  
 81-45 county; and

81-46 (2) the collector knows of no other personal property  
 81-47 in the county from which the tax may be satisfied.

81-48 SECTION 3.31. Section 33.23(b), Tax Code, is amended to  
 81-49 read as follows:

81-50 (b) A bond may not be required of the state or other [a]  
 81-51 taxing unit for issuance or delivery of a tax warrant, and a fee or  
 81-52 court cost may not be charged for issuance or delivery of a warrant.

81-53 SECTION 3.32. Section 33.44(b), Tax Code, is amended to  
 81-54 read as follows:

81-55 (b) For purposes of joining a county, citation may be served  
 81-56 on the county [tax] assessor-collector. For purposes of joining  
 81-57 any other taxing unit, citation may be served on the officer charged  
 81-58 with collecting taxes for the unit or on the presiding officer or  
 81-59 secretary of the governing body of the unit. For purposes of  
 81-60 joining the state, citation shall be served on the school district  
 81-61 collector who collects state ad valorem taxes on the property.  
 81-62 Citation may be served by certified mail, return receipt requested.  
 81-63 A person on whom service is authorized by this subsection may waive  
 81-64 the issuance and service of citation in behalf of the person's [his]  
 81-65 taxing unit.

81-66 SECTION 3.33. Section 34.04(b), Tax Code, is amended to  
 81-67 read as follows:

81-68 (b) A copy of the petition shall be served, in the manner  
 81-69 prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended,

82-1 or that rule's successor, on all parties to the underlying action  
 82-2 not later than the 20th day before the date set for a hearing on the  
 82-3 petition. If the state is a party to the underlying action, the  
 82-4 copy of the petition to be served on the state shall be served on the  
 82-5 school district collector who collects state ad valorem taxes on  
 82-6 the subject property. The attorney who represents the state to  
 82-7 enforce the collection of delinquent state ad valorem taxes in the  
 82-8 school district in which the property is located shall represent  
 82-9 the state at the hearing.

82-10 SECTION 3.34. The heading to Chapter 41, Tax Code, is  
 82-11 amended to read as follows:

82-12 CHAPTER 41. ADMINISTRATIVE [~~LOCAL~~] REVIEW

82-13 SECTION 3.35. Section 41.03, Tax Code, is amended to read as  
 82-14 follows:

82-15 Sec. 41.03. CHALLENGE BY STATE OR TAXING UNIT. (a) The  
 82-16 state or another [A] taxing unit is entitled to challenge before the  
 82-17 appraisal review board:

82-18 (1) the level of appraisals of any category of  
 82-19 property in the district or in any territory in the district, but  
 82-20 not the appraised value of a single taxpayer's property;

82-21 (2) an exclusion of property from the appraisal  
 82-22 records;

82-23 (3) a grant in whole or in part of a partial exemption;

82-24 (4) a determination that land qualifies for appraisal  
 82-25 as provided by Subchapter C, D, E, or H, Chapter 23; or

82-26 (5) failure to identify the taxing unit as one in which  
 82-27 a particular property is taxable.

82-28 (b) If the state or other [a] taxing unit challenges a  
 82-29 determination that land qualifies for appraisal under Subchapter H,  
 82-30 Chapter 23, on the ground that the land is not located in an  
 82-31 aesthetic management zone, critical wildlife habitat zone, or  
 82-32 streamside management zone, the state or other taxing unit must  
 82-33 first seek a determination letter from the director of the Texas  
 82-34 Forest Service. The appraisal review board shall accept the letter  
 82-35 as conclusive proof of the type, size, and location of the zone.

82-36 SECTION 3.36. Subchapter A, Chapter 41, Tax Code, is  
 82-37 amended by adding Sections 41.031 and 41.032 to read as follows:

82-38 Sec. 41.031. CHALLENGE BY STATE. The state is entitled to  
 82-39 challenge before the appraisal review board the exclusion of  
 82-40 property from the appraisal roll for state ad valorem taxes.

82-41 Sec. 41.032. REPRESENTATION OF STATE. The comptroller  
 82-42 represents the state in a challenge by the state under this  
 82-43 subchapter. The comptroller may delegate that function to the  
 82-44 appropriate school district assessor or collector.

82-45 SECTION 3.37. Section 41.06(a), Tax Code, is amended to  
 82-46 read as follows:

82-47 (a) The secretary of the appraisal review board shall  
 82-48 deliver to the comptroller on behalf of the state and to the  
 82-49 presiding officer of the governing body of each taxing unit other  
 82-50 than the state entitled to appear at a challenge hearing written  
 82-51 notice of the date, time, and place fixed for the hearing. The  
 82-52 secretary shall deliver the notice not later than the 10th day  
 82-53 before the date of the hearing.

82-54 SECTION 3.38. Section 41.07(d), Tax Code, is amended to  
 82-55 read as follows:

82-56 (d) The board shall deliver by certified mail a notice of  
 82-57 the issuance of the order and a copy of the order to the taxing unit.  
 82-58 If the order of the board excludes property from the appraisal roll  
 82-59 for state ad valorem taxes, the board shall also deliver a notice of  
 82-60 issuance and a copy of the order to the comptroller and the  
 82-61 appropriate school district assessor in the manner prescribed by  
 82-62 the comptroller.

82-63 SECTION 3.39. Section 41.47(d), Tax Code, is amended to  
 82-64 read as follows:

82-65 (d) The board shall deliver by certified mail a notice of  
 82-66 issuance of the order and a copy of the order to the property owner  
 82-67 and the chief appraiser. If the order of the board excludes  
 82-68 property from the appraisal roll for state ad valorem taxes, the  
 82-69 board shall also deliver a notice of issuance and a copy of the

83-1 order to the comptroller and the appropriate school district  
 83-2 assessor in the manner prescribed by the comptroller.

83-3 SECTION 3.40. Subchapter A, Chapter 42, Tax Code, is  
 83-4 amended by adding Section 42.032 to read as follows:

83-5 Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) The  
 83-6 comptroller is entitled to appeal an order of the appraisal review  
 83-7 board excluding property from the appraisal roll for state ad  
 83-8 valorem taxes.

83-9 (b) The attorney general shall represent the comptroller in  
 83-10 an appeal under this section. The attorney general may delegate its  
 83-11 duties under this section to a county or district attorney or may  
 83-12 contract with a private attorney for the performance of those  
 83-13 duties.

83-14 SECTION 3.41. Sections 42.06(a) and (c), Tax Code, are  
 83-15 amended to read as follows:

83-16 (a) To exercise the party's right to appeal an order of an  
 83-17 appraisal review board, a party other than a property owner must  
 83-18 file written notice of appeal within 15 days after the date the  
 83-19 party receives the notice required by Section 41.47 or, in the case  
 83-20 of a taxing unit or the comptroller, by Section 41.07 that the order  
 83-21 appealed has been issued. To exercise the right to appeal an order  
 83-22 of the comptroller, a party other than a property owner must file  
 83-23 written notice of appeal within 15 days after the date the party  
 83-24 receives the comptroller's order. A property owner is not required  
 83-25 to file a notice of appeal under this section.

83-26 (c) If the chief appraiser, a taxing unit, ~~or~~ a county, or  
 83-27 the comptroller appeals ~~[, the chief appraiser, if the appeal is of]~~  
 83-28 an order of the appraisal review board, the chief appraiser ~~[or the~~  
 83-29 ~~comptroller, if the appeal is of an order of the comptroller,]~~  
 83-30 shall deliver a copy of the notice to the property owner whose property is  
 83-31 involved in the appeal. If the appeal is of an order of the  
 83-32 comptroller, the comptroller shall deliver a copy of the notice to  
 83-33 the property owner. The chief appraiser or the comptroller shall  
 83-34 deliver the copy of the notice within 10 days after the date the  
 83-35 notice is filed.

83-36 SECTION 3.42. Sections 42.43(a), (b), and (c), Tax Code,  
 83-37 are amended to read as follows:

83-38 (a) If the final determination of an appeal that decreases a  
 83-39 property owner's tax liability occurs after the property owner has  
 83-40 paid the owner's [his] taxes, the taxing unit and the comptroller,  
 83-41 if the property is subject to the state ad valorem tax, shall refund  
 83-42 to the property owner the difference between the amount of taxes  
 83-43 paid and amount of taxes for which the property owner is liable.

83-44 (b) For a refund made under this section because an  
 83-45 exemption under Section 11.20 that was denied by the chief  
 83-46 appraiser or appraisal review board is granted, the taxing unit or  
 83-47 the comptroller shall include with the refund interest on the  
 83-48 amount refunded calculated at an annual rate that is equal to the  
 83-49 auction average rate quoted on a bank discount basis for  
 83-50 three-month treasury bills issued by the United States government,  
 83-51 as published by the Federal Reserve Board, for the week in which the  
 83-52 taxes became delinquent, but not more than 10 percent, calculated  
 83-53 from the delinquency date for the taxes until the date the refund is  
 83-54 made. For any other refund made under this section, the taxing unit  
 83-55 or the comptroller shall include with the refund interest on the  
 83-56 amount refunded at an annual rate of eight percent, calculated from  
 83-57 the delinquency date for the taxes until the date the refund is  
 83-58 made.

83-59 (c) Notwithstanding Subsection (b), if a taxing unit or the  
 83-60 comptroller does not make a refund, including interest, required by  
 83-61 this section before the 60th day after the date the chief appraiser  
 83-62 certifies a correction to the appraisal roll under Section 42.41,  
 83-63 the taxing unit or the comptroller shall include with the refund  
 83-64 interest on the amount refunded at an annual rate of 12 percent,  
 83-65 calculated from the delinquency date for the taxes until the date  
 83-66 the refund is made.

83-67 SECTION 3.43. Sections 43.01 and 43.04, Tax Code, are  
 83-68 amended to read as follows:

83-69 Sec. 43.01. AUTHORITY TO BRING SUIT. The comptroller or a

84-1 [A] taxing unit may sue the appraisal district that appraises  
 84-2 property for the state or the unit to compel the appraisal district  
 84-3 to comply with the provisions of this title, rules of the  
 84-4 comptroller, or other applicable law.

84-5 Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The  
 84-6 comptroller or the governing body of a taxing unit may sue the chief  
 84-7 appraiser or members of the appraisal review board, as applicable,  
 84-8 for failure to comply with the deadlines imposed by Section  
 84-9 25.22(a), 26.01(a), or 41.12. If the court finds that the chief  
 84-10 appraiser or appraisal review board failed to comply for good cause  
 84-11 shown, the court shall enter an order fixing a reasonable deadline  
 84-12 for compliance. If the court finds that the chief appraiser or  
 84-13 appraisal review board failed to comply without good cause, the  
 84-14 court shall enter an order requiring the chief appraiser or  
 84-15 appraisal review board to comply with the deadline not later than  
 84-16 the 10th day after the date the judgment is signed. In a suit  
 84-17 brought under this section, the court may enter any other order the  
 84-18 court considers necessary to ensure compliance with the court's  
 84-19 deadline or the applicable statutory requirements. Failure to obey  
 84-20 an order of the court is punishable as contempt.

84-21 SECTION 3.44. Subchapter A, Chapter 313, Tax Code, is  
 84-22 amended by adding Section 313.008 to read as follows:

84-23 Sec. 313.008. REPORT TO LEGISLATURE. (a) Not later than  
 84-24 December 1, 2006, the Legislative Budget Board shall submit a  
 84-25 report to the legislature that includes recommended changes to this  
 84-26 chapter to provide incentives and credits relating to the state ad  
 84-27 valorem tax that are consistent with the purposes described by  
 84-28 Section 313.003.

84-29 (b) This section expires January 1, 2007.

84-30 SECTION 3.45. Chapter 311, Tax Code, is amended by adding  
 84-31 Section 311.0131 to read as follows:

84-32 Sec. 311.0131. SCHOOL DISTRICT ANNUAL OBLIGATION TO TAX  
 84-33 INCREMENT FUND; STATE PAYMENT OF PORTION OF OBLIGATION. (a) This  
 84-34 section applies only to a reinvestment zone created before  
 84-35 September 1, 1999, for which a school district enters into an  
 84-36 agreement under Section 311.013(f) with the governing body of the  
 84-37 municipality that created the zone to pay into the tax increment  
 84-38 fund for the zone a portion of the school district's tax increment  
 84-39 produced from property located in the zone.

84-40 (b) Notwithstanding the terms of the agreement regarding  
 84-41 the portion of the school district's tax increment required to be  
 84-42 paid into the fund, in each year, the portion of the school  
 84-43 district's tax increment the school district is required to pay  
 84-44 into the fund is the school district annual obligation for the  
 84-45 school district for that year calculated under Subsection (c).

84-46 (c) The municipality that created the zone or its designee  
 84-47 shall calculate the school district annual obligation for a school  
 84-48 district by applying the applicable school district's tax rate for  
 84-49 the 2004 tax year to the captured appraised value for the school  
 84-50 district for the year for which the obligation is calculated and  
 84-51 multiplying that amount by the percentage of the school district's  
 84-52 tax increment for the year for which the obligation is calculated  
 84-53 that the school district agreed to pay into the tax increment fund  
 84-54 in that year under Section 311.013(f).

84-55 (d) The school district annual obligation for each year  
 84-56 shall be apportioned between the school district and the state in  
 84-57 proportion to the amount of taxes each of those entities imposes on  
 84-58 the captured appraised value for the zone in that year as calculated  
 84-59 under this subsection. The amount of taxes the state imposes on  
 84-60 that captured appraised value is calculated by multiplying the rate  
 84-61 of the state ad valorem tax rate for that year by the captured  
 84-62 appraised value for the state. The amount of taxes the school  
 84-63 district imposes on that captured appraised value used in making  
 84-64 the apportionment is calculated by multiplying the school district  
 84-65 local fund assignment tax rate for that year by the captured  
 84-66 appraised value for the school district. The tax increment base for  
 84-67 the state under Section 311.012 is determined as if this section  
 84-68 were in effect for the year in which the reinvestment zone was  
 84-69 created.

85-1 (e) If more than one school district imposes taxes on  
 85-2 property in a reinvestment zone, the school district annual  
 85-3 obligation for each school district and the portion of that  
 85-4 obligation that the state is required to pay under this section  
 85-5 shall be calculated separately for the portion of the property in  
 85-6 the reinvestment zone located in each school district.

85-7 (f) The comptroller shall verify the payments to be made by  
 85-8 the state under this section and shall retain from state property  
 85-9 tax collections sufficient funds to make the calculated payments.  
 85-10 From the retained funds, the comptroller shall pay to the school  
 85-11 district or, if required by the agreement, to the municipality the  
 85-12 portion of the school district annual obligation apportioned to the  
 85-13 state under Subsection (c).

85-14 (g) On receipt of the state's portion of the school district  
 85-15 annual obligation by a school district, the school district  
 85-16 promptly shall pay the state's portion to the municipality. At the  
 85-17 time of payment of the state's portion to the municipality, the  
 85-18 school district shall pay to the municipality any unpaid balance of  
 85-19 the school district's portion of the school district annual  
 85-20 obligation.

85-21 (h) Amounts paid to a municipality under Subsections (f) and  
 85-22 (g) shall be deposited to the credit of the tax increment fund on  
 85-23 behalf of the school district.

85-24 (i) This section ceases to apply to a reinvestment zone on  
 85-25 the earlier date specified by Section 311.017(a)(1) or (2) for the  
 85-26 reinvestment zone. If the agreement provides that the termination  
 85-27 date may be extended, the state's obligation to pay a portion of the  
 85-28 school district annual obligation ceases on the date the school  
 85-29 district ceases to be required to pay any tax increment produced by  
 85-30 the school district into the tax increment fund for the zone.

85-31 SECTION 3.46. The changes in law made by this article to  
 85-32 Chapter 41, Tax Code, apply only to a challenge or protest under  
 85-33 that chapter for which the notice is filed on or after the effective  
 85-34 date of this article. A challenge or protest for which the notice  
 85-35 is filed before the effective date of this article is covered by the  
 85-36 law in effect when the notice of protest was filed, and the former  
 85-37 law is continued in effect for that purpose.

85-38 SECTION 3.47. The changes in law made by this article apply  
 85-39 to each tax year that begins on or after January 1, 2006. The  
 85-40 changes in law do not apply to a tax year that begins before January  
 85-41 1, 2006, and the law as it existed before January 1, 2006, is  
 85-42 continued in effect for purposes of taxes imposed in that tax year.

#### 85-43 ARTICLE 4. CHARTER SCHOOLS

85-44 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,  
 85-45 Chapter 12, Education Code, is repealed.

85-46 (b) Except as provided by Section 11A.1041, Education Code,  
 85-47 as added by this Act, each open-enrollment charter school operating  
 85-48 or holding a charter to operate on August 1, 2006, shall be  
 85-49 dissolved in accordance with Subchapter J, Chapter 11A, Education  
 85-50 Code, as added by this Act.

85-51 SECTION 4.02. Subtitle C, Title 2, Education Code, is  
 85-52 amended by adding Chapter 11A to read as follows:

#### 85-53 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

##### 85-54 SUBCHAPTER A. GENERAL PROVISIONS

85-55 Sec. 11A.001. DEFINITIONS. In this chapter:

85-56 (1) "Charter holder" means the entity to which a  
 85-57 charter is granted under this chapter.

85-58 (2) "Governing body of a charter holder" means the  
 85-59 board of directors, board of trustees, or other governing body of a  
 85-60 charter holder.

85-61 (3) "Governing body of a public charter district"  
 85-62 means the board of directors, board of trustees, or other governing  
 85-63 body of a public charter district. The term includes the governing  
 85-64 body of a charter holder if that body acts as the governing body of  
 85-65 the public charter district.

85-66 (4) "Management company" means a person, other than a  
 85-67 charter holder, who provides management services for a public  
 85-68 charter district.

85-69 (5) "Management services" means services related to

86-1 the management or operation of a public charter district,  
86-2 including:

86-3 (A) planning, operating, supervising, and  
86-4 evaluating the public charter district's educational programs,  
86-5 services, and facilities;

86-6 (B) making recommendations to the governing body  
86-7 of the public charter district relating to the selection of school  
86-8 personnel;

86-9 (C) managing the public charter district's  
86-10 day-to-day operations as its administrative manager;

86-11 (D) preparing and submitting to the governing  
86-12 body of the public charter district a proposed budget;

86-13 (E) recommending policies to be adopted by the  
86-14 governing body of the public charter district, developing  
86-15 appropriate procedures to implement policies adopted by the  
86-16 governing body of the public charter district, and overseeing the  
86-17 implementation of adopted policies; and

86-18 (F) providing leadership for the attainment of  
86-19 student performance at the public charter district based on the  
86-20 indicators adopted under Section 39.051 or by the governing body of  
86-21 the public charter district.

86-22 (6) "Officer of a public charter district" means:

86-23 (A) the principal, director, or other chief  
86-24 operating officer of a public charter district or campus; or

86-25 (B) a person charged with managing the finances  
86-26 of a public charter district.

86-27 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this  
86-28 chapter, the State Board of Education may grant a charter on the  
86-29 application of an eligible entity for a public charter district to  
86-30 operate in a facility of a commercial or nonprofit entity, an  
86-31 eligible entity, or a school district, including a home-rule school  
86-32 district. In this subsection, "eligible entity" means:

86-33 (1) an institution of higher education as defined  
86-34 under Section 61.003;

86-35 (2) a private or independent institution of higher  
86-36 education as defined under Section 61.003;

86-37 (3) an organization that is exempt from federal income  
86-38 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
86-39 organization described by Section 501(c)(3) of that code; or

86-40 (4) a governmental entity in this state.

86-41 (b) The State Board of Education may grant a charter for a  
86-42 public charter district only to an applicant that meets all  
86-43 financial, governing, and operational standards adopted by the  
86-44 commissioner under this chapter.

86-45 (c) The State Board of Education may not grant more than a  
86-46 total of 215 charters for public charter districts.

86-47 (d) An educator employed by a school district before the  
86-48 effective date of a charter for a public charter district operated  
86-49 at a school district facility may not be transferred to or employed  
86-50 by the public charter district over the educator's objection.

86-51 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter  
86-52 district:

86-53 (1) shall provide instruction to and assess a number  
86-54 of students at a number of elementary or secondary grade levels, as  
86-55 provided by the charter, sufficient to permit the agency to assign  
86-56 an accountability rating under Chapter 39;

86-57 (2) is governed under the governing structure required  
86-58 by this chapter and described by the charter;

86-59 (3) retains authority to operate under the charter  
86-60 contingent on satisfactory student performance as provided by the  
86-61 charter in accordance with Section 11A.103; and

86-62 (4) does not have authority to impose taxes.

86-63 Sec. 11A.004. STATUS. A public charter district or campus  
86-64 is part of the public school system of this state.

86-65 Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related  
86-66 to operation of a public charter district, a public charter  
86-67 district is immune from liability to the same extent as a school  
86-68 district, and its employees and volunteers are immune from  
86-69 liability to the same extent as school district employees and

87-1 volunteers. Except as provided by Section 11A.154, a member of the  
 87-2 governing body of a public charter district or of a charter holder  
 87-3 is immune from liability to the same extent as a school district  
 87-4 trustee.

87-5 Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.  
 87-6 A reference in law to an open-enrollment charter school means a  
 87-7 public charter district or public charter campus, as applicable.

87-8 [Sections 11A.007-11A.050 reserved for expansion]

87-9 SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

87-10 Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND  
 87-11 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided by  
 87-12 Subsection (b) or (c), a public charter district is subject to  
 87-13 federal and state laws and rules governing public schools and to  
 87-14 municipal zoning ordinances governing public schools.

87-15 (b) A public charter district is subject to this code and  
 87-16 rules adopted under this code only to the extent the applicability  
 87-17 to a public charter district of a provision of this code or a rule  
 87-18 adopted under this code is specifically provided.

87-19 (c) Notwithstanding Subsection (a), a campus of a public  
 87-20 charter district located in whole or in part in a municipality with  
 87-21 a population of 20,000 or less is not subject to a municipal zoning  
 87-22 ordinance governing public schools.

87-23 Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public charter  
 87-24 district has the powers granted to schools under this title.

87-25 (b) A public charter district is subject to:

87-26 (1) a provision of this title establishing a criminal  
 87-27 offense; and

87-28 (2) a prohibition, restriction, or requirement, as  
 87-29 applicable, imposed by this title or a rule adopted under this  
 87-30 title, relating to:

87-31 (A) the Public Education Information Management  
 87-32 System (PEIMS) under Section 42.006;

87-33 (B) reporting an educator's misconduct under  
 87-34 Section 21.006;

87-35 (C) criminal history records under Subchapter C,  
 87-36 Chapter 22;

87-37 (D) reading instruments and accelerated reading  
 87-38 instruction programs under Section 28.006;

87-39 (E) satisfactory performance on assessment  
 87-40 instruments and to accelerated instruction under Section 28.0211;

87-41 (F) intensive programs of instruction under  
 87-42 Section 28.0213;

87-43 (G) high school graduation under Section 28.025;

87-44 (H) special education programs under Subchapter  
 87-45 A, Chapter 29, including a requirement that special education  
 87-46 teachers obtain appropriate certification;

87-47 (I) bilingual education under Subchapter B,  
 87-48 Chapter 29, including a requirement that bilingual education  
 87-49 teachers obtain appropriate certification;

87-50 (J) prekindergarten programs under Subchapter E,  
 87-51 Chapter 29;

87-52 (K) extracurricular activities under Section  
 87-53 33.081;

87-54 (L) discipline management practices or behavior  
 87-55 management techniques under Section 37.0021;

87-56 (M) health and safety under Chapter 38; and

87-57 (N) public school accountability under  
 87-58 Subchapters B, C, D, G, and I, Chapter 39.

87-59 (c) A public charter district is entitled to the same level  
 87-60 of services provided to school districts by regional education  
 87-61 service centers. The commissioner shall adopt rules that provide  
 87-62 for the representation of public charter districts on the boards of  
 87-63 directors of regional education service centers.

87-64 (d) The commissioner may by rule permit a public charter  
 87-65 district to voluntarily participate in any state program available  
 87-66 to school districts, including a purchasing program, if the public  
 87-67 charter district complies with all terms of the program.

87-68 Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC  
 87-69 INFORMATION LAWS. (a) With respect to the operation of a public

88-1 charter district, the governing body of a charter holder and the  
 88-2 governing body of a public charter district are considered to be  
 88-3 governmental bodies for purposes of Chapters 551 and 552,  
 88-4 Government Code.

88-5 (b) With respect to the operation of a public charter  
 88-6 district, any requirement in Chapter 551 or 552, Government Code,  
 88-7 that applies to a school district, the board of trustees of a school  
 88-8 district, or public school students applies to a public charter  
 88-9 district, the governing body of a charter holder, the governing  
 88-10 body of a public charter district, or students in attendance at a  
 88-11 public charter district campus.

88-12 Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL  
 88-13 GOVERNMENT RECORDS. (a) With respect to the operation of a public  
 88-14 charter district, a public charter district is considered to be a  
 88-15 local government for purposes of Subtitle C, Title 6, Local  
 88-16 Government Code, and Subchapter J, Chapter 441, Government Code.

88-17 (b) Records of a public charter district, a charter holder,  
 88-18 or a management company that relate to a public charter district are  
 88-19 government records for all purposes under state law.

88-20 (c) Any requirement in Subtitle C, Title 6, Local Government  
 88-21 Code, or Subchapter J, Chapter 441, Government Code, that applies  
 88-22 to a school district, the board of trustees of a school district, or  
 88-23 an officer or employee of a school district applies to a public  
 88-24 charter district or management company, the governing body of a  
 88-25 charter holder, the governing body of a public charter district, or  
 88-26 an officer or employee of a public charter district or management  
 88-27 company except that the records of a public charter district or  
 88-28 management company that ceases to operate shall be transferred in  
 88-29 the manner prescribed by Subsection (d).

88-30 (d) The records of a public charter district or management  
 88-31 company that ceases to operate shall be transferred in the manner  
 88-32 specified by the commissioner to a custodian designated by the  
 88-33 commissioner. The commissioner may designate any appropriate  
 88-34 entity to serve as custodian, including the agency, a regional  
 88-35 education service center, or a school district. In designating a  
 88-36 custodian, the commissioner shall ensure that the transferred  
 88-37 records, including student and personnel records, are transferred  
 88-38 to a custodian capable of:

88-39 (1) maintaining the records;  
 88-40 (2) making the records readily accessible to students,  
 88-41 parents, former school employees, and other persons entitled to  
 88-42 access; and  
 88-43 (3) complying with applicable state or federal law  
 88-44 restricting access to the records.

88-45 (e) If the charter holder of a public charter district that  
 88-46 ceases to operate or an officer or employee of the district or a  
 88-47 management company refuses to transfer school records in the manner  
 88-48 specified by the commissioner under Subsection (d), the  
 88-49 commissioner may ask the attorney general to petition a court for  
 88-50 recovery of the records. If the court grants the petition, the  
 88-51 court shall award attorney's fees and court costs to the state.

88-52 (f) A record described by this section is a public school  
 88-53 record for purposes of Section 37.10(c)(2), Penal Code.

88-54 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC  
 88-55 PURCHASING AND CONTRACTING. (a) This section applies to a public  
 88-56 charter district unless the district's charter otherwise describes  
 88-57 procedures for purchasing and contracting and the procedures are  
 88-58 approved by the State Board of Education.

88-59 (b) A public charter district is considered to be:  
 88-60 (1) a governmental entity for purposes of:  
 88-61 (A) Subchapter D, Chapter 2252, Government Code;  
 88-62 and  
 88-63 (B) Subchapter B, Chapter 271, Local Government  
 88-64 Code;

88-65 (2) a political subdivision for purposes of Subchapter  
 88-66 A, Chapter 2254, Government Code; and

88-67 (3) a local government for purposes of Sections  
 88-68 2256.009-2256.016, Government Code.

88-69 (c) To the extent consistent with this section, a



89-1 requirement in a law listed in this section that applies to a school  
 89-2 district or the board of trustees of a school district applies to a  
 89-3 public charter district, the governing body of a charter holder, or  
 89-4 the governing body of a public charter district.

89-5 Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF  
 89-6 INTEREST. (a) A member of the governing body of a charter holder, a  
 89-7 member of the governing body of a public charter district, or an  
 89-8 officer of a public charter district is considered to be a local  
 89-9 public official for purposes of Chapter 171, Local Government Code.  
 89-10 For purposes of that chapter:

89-11 (1) a member of the governing body of a charter holder  
 89-12 or a member of the governing body or officer of a public charter  
 89-13 district is considered to have a substantial interest in a business  
 89-14 entity if a person related to the member or officer in the third  
 89-15 degree by consanguinity or affinity, as determined under Chapter  
 89-16 573, Government Code, has a substantial interest in the business  
 89-17 entity under Section 171.002, Local Government Code; and

89-18 (2) a teacher at a public charter district may serve as  
 89-19 a member of the governing body of the charter holder or the  
 89-20 governing body of the public charter district if the teachers  
 89-21 serving on the governing body:

89-22 (A) do not constitute a quorum of the governing  
 89-23 body or any committee of the governing body; and

89-24 (B) comply with the requirements of Sections  
 89-25 171.003-171.007, Local Government Code.

89-26 (b) To the extent consistent with this section, a  
 89-27 requirement of a law listed in this section that applies to a school  
 89-28 district or the board of trustees of a school district applies to a  
 89-29 public charter district, the governing body of a charter holder, or  
 89-30 the governing body of a public charter district.

89-31 (c) An employee who is not a teacher may serve as a member of  
 89-32 the governing body of a charter holder or the governing body of a  
 89-33 public charter district if:

89-34 (1) the charter holder operating the public charter  
 89-35 district where the individual is employed and serves as a member of  
 89-36 the governing body operated an open-enrollment charter school under  
 89-37 Subchapter D, Chapter 12, on August 31, 2005;

89-38 (2) the individual was employed by the charter holder  
 89-39 and serving as a member of the governing body on August 31, 2005, in  
 89-40 compliance with former Section 12.1054; and

89-41 (3) the individual had been continuously so employed  
 89-42 and serving since a date on or before January 1, 2005.

89-43 (d) If under Subsection (c) an individual continues to be  
 89-44 employed and serve as a member of the governing body, the individual  
 89-45 may not participate in any deliberation or voting on the  
 89-46 appointment, reappointment, confirmation of the appointment or  
 89-47 reappointment, employment, reemployment, change in the status,  
 89-48 compensation, or dismissal of the individual if that action applies  
 89-49 only to the individual and is not taken regarding a bona fide class  
 89-50 or category of employees. In addition, the individual may not hear,  
 89-51 consider, or act on any grievance or complaint concerning the  
 89-52 individual or a matter with which the individual has dealt in the  
 89-53 individual's capacity as an employee.

89-54 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A public  
 89-55 charter district, including the governing body of a public charter  
 89-56 district and any district employee with final authority to hire a  
 89-57 district employee, is subject to a prohibition, restriction, or  
 89-58 requirement, as applicable, imposed by state law or by a rule  
 89-59 adopted under state law, relating to nepotism under Chapter 573,  
 89-60 Government Code.

89-61 (b) Notwithstanding Subsection (a), a member of the  
 89-62 governing body of a charter holder or public charter district may  
 89-63 not be related in the third degree by consanguinity or affinity, as  
 89-64 determined under Chapter 573, Government Code, to another member of  
 89-65 the governing body of the charter holder or public charter  
 89-66 district.

89-67 (c) This section does not apply to an appointment,  
 89-68 confirmation of an appointment, or vote for an appointment or  
 89-69 confirmation of an appointment of an individual to a position if:

90-1 (1) the charter holder operating the public charter  
 90-2 district where the individual is employed or serves as a member of  
 90-3 the governing body operated an open-enrollment charter school under  
 90-4 Subchapter D, Chapter 12, on August 31, 2005;

90-5 (2) the individual was employed or serving in the  
 90-6 position on August 31, 2005, in compliance with former Section  
 90-7 12.1055; and

90-8 (3) the individual has been continuously employed or  
 90-9 serving since a date on or before January 1, 2005.

90-10 (d) If, under Subsection (c), an individual continues to be  
 90-11 employed or serve in a position, the public official to whom the  
 90-12 individual is related in a prohibited degree may not participate in  
 90-13 any deliberation or voting on the appointment, reappointment,  
 90-14 confirmation of the appointment or reappointment, employment,  
 90-15 reemployment, change in status, compensation, or dismissal of the  
 90-16 individual if that action applies only to the individual and is not  
 90-17 taken regarding a bona fide class or category of employees.

90-18 [Sections 11A.058-11A.100 reserved for expansion]

90-19 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

90-20 Sec. 11A.101. APPLICATION. (a) The State Board of  
 90-21 Education shall adopt:

90-22 (1) an application form and a procedure that must be  
 90-23 used to apply for a charter for a public charter district; and

90-24 (2) criteria to use in selecting a program for which to  
 90-25 grant a charter.

90-26 (b) The application form must provide for including the  
 90-27 information required under Section 11A.103 to be contained in a  
 90-28 charter.

90-29 (c) The State Board of Education may approve or deny an  
 90-30 application based on criteria it adopts and on financial,  
 90-31 governing, and operational standards adopted by the commissioner  
 90-32 under this chapter. The criteria the board adopts must include:

90-33 (1) criteria relating to improving student  
 90-34 performance and encouraging innovative programs; and

90-35 (2) criteria relating to the educational benefit for  
 90-36 students residing in the geographic area to be served by the  
 90-37 proposed public charter district, as compared to any significant  
 90-38 financial difficulty that a loss in enrollment may have on any  
 90-39 school district whose enrollment is likely to be affected by the  
 90-40 public charter district.

90-41 (d) A public charter district may not begin operating under  
 90-42 this chapter unless the commissioner has certified that the  
 90-43 applicant has acceptable administrative and accounting systems and  
 90-44 procedures in place for the operation of the proposed public  
 90-45 charter district.

90-46 Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The  
 90-47 commissioner by rule shall adopt a procedure for providing notice  
 90-48 to each member of the legislature that represents the geographic  
 90-49 area to be served by the proposed public charter district, as  
 90-50 determined by the commissioner, on receipt by the State Board of  
 90-51 Education of an application for a charter for a public charter  
 90-52 district under Section 11A.101.

90-53 Sec. 11A.103. CONTENT. (a) Each charter granted under this  
 90-54 chapter must:

90-55 (1) describe the educational program to be offered,  
 90-56 which must include the required curriculum as provided by Section  
 90-57 28.002;

90-58 (2) establish educational goals, which must include  
 90-59 acceptable student performance as determined under Chapter 39;

90-60 (3) specify the grade levels to be offered, which must  
 90-61 be sufficient to permit the agency to assign an accountability  
 90-62 rating under Chapter 39;

90-63 (4) describe the facilities to be used;

90-64 (5) describe the geographical area served by the  
 90-65 program, which may not be statewide; and

90-66 (6) specify any type of enrollment criteria to be  
 90-67 used.

90-68 (b) A charter holder of a public charter district shall  
 90-69 consider including in the district's charter a requirement that the

91-1 district develop and administer personal graduation plans under  
 91-2 Section 28.0212, as added by Chapter 1212, Acts of the 78th  
 91-3 Legislature, Regular Session, 2003.

91-4 (c) The terms of a charter may not include plans for future  
 91-5 increases in student enrollment, grades levels, campuses, or  
 91-6 geographical area, except that:

91-7 (1) the charter may contain a plan for adding grade  
 91-8 levels as necessary to comply with Section 11A.253(c) or (d); and

91-9 (2) the commissioner may approve such an increase in a  
 91-10 charter revision request under Section 11A.106.

91-11 Sec. 11A.104. FORM. A charter for a public charter district  
 91-12 shall be in the form of a license issued by the State Board of  
 91-13 Education to the charter holder.

91-14 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN  
 91-15 ENTITIES. (a) Notwithstanding Section 11A.101, the commissioner  
 91-16 shall immediately grant a charter under this chapter to the  
 91-17 following entities on or before August 1, 2006:

91-18 (1) an eligible entity holding a charter granted  
 91-19 before September 1, 2002, under Subchapter D, Chapter 12, as that  
 91-20 subchapter existed on January 1, 2005, if:

91-21 (A) for fiscal years 2004 and 2005, the entity  
 91-22 had total assets that exceeded total liabilities, as determined by  
 91-23 the entity's annual audit report under Section 44.008;

91-24 (B) at least 25 percent of all students enrolled  
 91-25 at the entity's open-enrollment charter school and administered an  
 91-26 assessment instrument under Section 39.023(a), (c), or (l)  
 91-27 performed satisfactorily on the assessment instrument in  
 91-28 mathematics, as determined by the school's assessment instrument  
 91-29 results for the 2005-2006 school year; and

91-30 (C) at least 25 percent of all students enrolled  
 91-31 at the entity's open-enrollment charter school and administered an  
 91-32 assessment instrument under Section 39.023(a), (c), or (l)  
 91-33 performed satisfactorily on the assessment instrument in reading or  
 91-34 English language arts, as applicable, as determined by the school's  
 91-35 assessment instrument results for the 2005-2006 school year;

91-36 (2) a governmental entity holding a charter under  
 91-37 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
 91-38 2005;

91-39 (3) an eligible entity holding a charter under  
 91-40 Subchapter D, Chapter 12, as that subchapter existed on January 1,  
 91-41 2005, if at least 85 percent of students enrolled in the school  
 91-42 reside in a residential facility; and

91-43 (4) an eligible entity granted a charter on or after  
 91-44 September 1, 2002, under Subchapter D, Chapter 12, as that  
 91-45 subchapter existed on January 1, 2005.

91-46 (b) Assessment instrument results for fewer than five  
 91-47 students are not considered for purposes of Subsection (a)(1)(B) or  
 91-48 (C).

91-49 (c) The commissioner shall determine which entities are  
 91-50 eligible for a charter under this section as soon as practicable.

91-51 (d) The content and terms of a charter granted to an  
 91-52 eligible entity under this section must be the same as those under  
 91-53 which the entity operated under Subchapter D, Chapter 12, as that  
 91-54 subchapter existed on January 1, 2005, except that where the terms  
 91-55 conflict with this chapter, this chapter prevails.

91-56 (e) An eligible entity holding multiple charters prior to  
 91-57 January 1, 2005, may not combine those charters into one charter for  
 91-58 a public charter district but must retain each of those charters  
 91-59 which count towards the limit imposed under Section 11A.002(c).

91-60 (f) Section 11A.157 does not apply to an entity granted a  
 91-61 charter under this section.

91-62 (g) A decision of the commissioner under this section is not  
 91-63 subject to a hearing or an appeal to a district court.

91-64 (h) This section expires January 1, 2008.

91-65 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

91-66 (a) For purposes of Section 11A.1041(a), the commissioner shall  
 91-67 compute the percentage of students who performed satisfactorily on  
 91-68 an assessment instrument in a manner consistent with this section.

91-69 (b) The commissioner may only consider the performance of a

92-1 student who was enrolled as of the date for reporting enrollment for  
 92-2 the fall semester under the Public Education Information Management  
 92-3 System (PEIMS).

92-4 (c) In computing performance under this section, the  
 92-5 commissioner must:

92-6 (1) add the results for third through 11th grade  
 92-7 assessment instruments in English and third through sixth grade  
 92-8 assessment instruments in Spanish across grade levels tested at all  
 92-9 campuses operated by the charter holder and evaluate those results  
 92-10 for all students;

92-11 (2) combine the results for third through ninth grade  
 92-12 assessment instruments in reading and 10th and 11th grade  
 92-13 assessment instruments in English language arts and evaluate those  
 92-14 results as a single subject; and

92-15 (3) separately determine student performance for  
 92-16 reading and mathematics as a percentage equal to the sum of students  
 92-17 who performed satisfactorily on the specific subject area  
 92-18 assessment instrument in all grade levels tested at all campuses  
 92-19 operated by the charter holder divided by the number of students who  
 92-20 took the specific subject area assessment instrument in grade  
 92-21 levels tested at all campuses operated by the charter holder.

92-22 (d) To the extent consistent with this section, the  
 92-23 commissioner shall use the methodology used to compute passing  
 92-24 rates for reading and mathematics assessment instruments for  
 92-25 purposes of determining accountability ratings under Chapter 39 for  
 92-26 the 2004-2005 school year as provided by 19 T.A.C. Section 97.1002.

92-27 (e) This section expires January 1, 2008.

92-28 Sec. 11A.105. CHARTER GRANTED. Each charter the State  
 92-29 Board of Education grants for a public charter district must:

92-30 (1) satisfy this chapter; and

92-31 (2) include the information that is required under  
 92-32 Section 11A.103 consistent with the information provided in the  
 92-33 application and any modification the board requires.

92-34 Sec. 11A.106. REVISION. (a) A revision of a charter of a  
 92-35 public charter district may be made only with the approval of the  
 92-36 commissioner.

92-37 (b) Not more than once each year, a public charter district  
 92-38 may request approval to revise the maximum student enrollment  
 92-39 described by the district's charter.

92-40 (c) The commissioner may not approve a charter revision that  
 92-41 increases a public charter district's enrollment, increases the  
 92-42 grade levels offered, increases the number of campuses, or changes  
 92-43 the boundaries of the geographic area served by the program unless  
 92-44 the commissioner determines that:

92-45 (1) the public charter district has operated one or  
 92-46 more campuses for at least three school years;

92-47 (2) each campus operated by the public charter  
 92-48 district has been rated at least academically acceptable under  
 92-49 Subchapter D, Chapter 39, for each of its most recent three years of  
 92-50 operation;

92-51 (3) each campus operated by the public charter  
 92-52 district has achieved performance levels that are at least five  
 92-53 percentage points above the applicable accountability standard for  
 92-54 academically acceptable performance on statewide assessments under  
 92-55 Subchapter D, Chapter 39, as determined by the commissioner, for  
 92-56 all tested subjects for each of its most recent two years of  
 92-57 operation;

92-58 (4) the public charter district has been rated  
 92-59 superior, above standard, standard, or the equivalent, under the  
 92-60 financial accountability system under Subchapter I, Chapter 39;

92-61 (5) during the three years preceding the proposed  
 92-62 charter revision, the public charter district and its campuses have  
 92-63 not been subject to an intervention or sanction under Subchapter D,  
 92-64 Chapter 39, including an intervention or sanction related to:

92-65 (A) the quality of data or reports required by  
 92-66 state or federal law or court order;

92-67 (B) high school graduation requirements under  
 92-68 Section 28.025; or

92-69 (C) the effectiveness of programs for special

93-1 student populations; and

93-2 (6) the charter revision is in the best interest of  
93-3 students of this state.

93-4 (d) In making a determination under Subsection (c)(6), the  
93-5 commissioner shall review all available information relating to the  
93-6 charter holder, including the charter holder's:

93-7 (1) academic and financial performance;

93-8 (2) history of compliance with applicable laws;

93-9 (3) staffing, financial, and organizational data; and

93-10 (4) any other information regarding the charter  
93-11 holder's capacity to successfully implement the requested charter  
93-12 revision.

93-13 (e) The commissioner may not approve a charter revision that  
93-14 proposes an increase in:

93-15 (1) a public charter district's enrollment, unless the  
93-16 charter holder adopts a business plan for implementing the  
93-17 enrollment increase that includes components identified by the  
93-18 commissioner; or

93-19 (2) the grade levels offered by a public charter  
93-20 district, unless the charter holder adopts an educational plan for  
93-21 the additional grade levels that includes components identified by  
93-22 the commissioner.

93-23 (f) The commissioner may approve a charter revision  
93-24 authorizing a public charter district to serve students in a  
93-25 geographical area that is not contiguous with the existing  
93-26 boundaries of the district, but may not approve a statewide  
93-27 geographical boundary.

93-28 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON  
93-29 PROBATION, OR REVOCATION. (a) The commissioner may modify, place  
93-30 on probation, or revoke the charter of a public charter district if  
93-31 the commissioner determines under Section 11A.108 that the charter  
93-32 holder:

93-33 (1) committed a material violation of the charter;

93-34 (2) failed to satisfy generally accepted accounting  
93-35 standards of fiscal management;

93-36 (3) failed to protect the health, safety, welfare, or  
93-37 best interests of the students enrolled at the public charter  
93-38 district; or

93-39 (4) failed to comply with this chapter or another  
93-40 applicable law or rule.

93-41 (b) The commissioner shall revoke the charter of a public  
93-42 charter district without a hearing if:

93-43 (1) in two consecutive years, the public charter  
93-44 district:

93-45 (A) is rated academically unacceptable under  
93-46 Subchapter D, Chapter 39; or

93-47 (B) is rated financially unacceptable by the  
93-48 commissioner under Subchapter I, Chapter 39; or

93-49 (2) all campuses operated by the public charter  
93-50 district have been ordered closed under Section 39.131(a) or  
93-51 39.132(b).

93-52 (c) A revocation under Subsection (b)(1) is effective on  
93-53 January 1 following the school year in which the public charter  
93-54 district received a second unacceptable rating.

93-55 Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON  
93-56 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a  
93-57 procedure to be used for modifying, placing on probation, or  
93-58 revoking the charter of a public charter district under Section  
93-59 11A.107(a).

93-60 (b) The procedure adopted under Subsection (a) must provide  
93-61 an opportunity for a hearing to the charter holder.

93-62 Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON  
93-63 PROBATION, OR REVOCATION. A charter holder may appeal a  
93-64 modification, placement on probation, or revocation under this  
93-65 subchapter only in the manner provided by the applicable procedures  
93-66 adopted by the commissioner under Section 11A.108. The charter  
93-67 holder may not otherwise appeal to the commissioner and may not  
93-68 appeal to a district court.

93-69 Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.

If the commissioner revokes a charter of a public charter district, if a district is ordered closed under Chapter 39, or if a public charter district surrenders its charter, the district may not:

- (1) continue to operate under this chapter; or
- (2) receive state funds under this chapter.

[Sections 11A.111-11A.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT COMPANIES

Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT. The governing body of a charter holder is responsible for the management, operation, and accountability of the public charter district, regardless of whether the governing body delegates the governing body's powers and duties to another person.

Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER HOLDER. The governing body of a charter holder must be composed of at least five members.

Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR AS OFFICER OR EMPLOYEE. (a) Except as provided by Subsection (b), a person may not serve as a member of the governing body of a charter holder, as a member of the governing body of a public charter district, or as an officer or employee of a public charter district if the person:

- (1) has been convicted of a felony or a misdemeanor involving moral turpitude;
- (2) has been convicted of an offense listed in Section 37.007(a);
- (3) has been convicted of an offense listed in Article 62.01(5), Code of Criminal Procedure; or
- (4) has a substantial interest in a management company.

(b) A person who has been convicted of an offense described by Subsection (a)(1), (2), or (3) may serve as a member of the governing body of a charter holder, as a member of the governing body of a public charter district, or as an officer or employee of a public charter district if the commissioner determines that the person is fit to serve in that capacity. In making a determination under this subsection, the commissioner shall consider:

- (1) the factors described by Section 53.022, Occupations Code, for determining the extent to which a conviction relates to an occupation;
- (2) the factors described by Section 53.023, Occupations Code, for determining the fitness of a person to perform the duties and discharge the responsibilities of an occupation; and
- (3) other appropriate factors, as determined by the commissioner.

(c) For purposes of Subsection (a)(4), a person has a substantial interest in a management company if the person or a relative within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code:

- (1) has a controlling interest in the company;
- (2) owns more than 10 percent of the voting interest in the company;
- (3) owns more than \$25,000 of the fair market value of the company;
- (4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the company;
- (5) is a member of the board of directors or other governing body of the company;
- (6) serves as an elected officer of the company; or
- (7) is an employee of the company.

Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), Chapter 22, Business Organizations Code, or other law,

95-1 on request of the commissioner, the attorney general shall bring  
 95-2 suit against a member of the governing body of a charter holder for  
 95-3 breach of a fiduciary duty by the member, including misapplication  
 95-4 of public funds.

95-5 (b) The attorney general may bring suit under Subsection (a)  
 95-6 for:

- 95-7 (1) damages;
- 95-8 (2) injunctive relief; or
- 95-9 (3) any other equitable remedy determined to be  
 95-10 appropriate by the court.

95-11 (c) This section is cumulative of all other remedies.  
 95-12 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF  
 95-13 CHARTER HOLDER. (a) The commissioner shall adopt rules  
 95-14 prescribing training for members of governing bodies of charter  
 95-15 holders.

95-16 (b) The rules adopted under Subsection (a) may:

95-17 (1) specify the minimum amount and frequency of the  
 95-18 training;

95-19 (2) require the training to be provided by:  
 95-20 (A) the agency and regional education service  
 95-21 centers;

95-22 (B) entities other than the agency and service  
 95-23 centers, subject to approval by the commissioner; or

95-24 (C) both the agency, service centers, and other  
 95-25 entities; and

95-26 (3) require training to be provided concerning:

95-27 (A) basic school law, including school finance;

95-28 (B) health and safety issues;

95-29 (C) accountability requirements related to the  
 95-30 use of public funds; and

95-31 (D) other requirements relating to  
 95-32 accountability to the public, such as open meetings requirements  
 95-33 under Chapter 551, Government Code, and public information  
 95-34 requirements under Chapter 552, Government Code.

95-35 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder  
 95-36 shall file with the State Board of Education a copy of its articles  
 95-37 of incorporation and bylaws, or comparable documents if the charter  
 95-38 holder does not have articles of incorporation or bylaws, within  
 95-39 the period and in the manner prescribed by the board.

95-40 (b) Each public charter district shall file annually with  
 95-41 the State Board of Education the following information in a form  
 95-42 prescribed by the board:

95-43 (1) the name, address, and telephone number of each  
 95-44 officer and member of the governing body of the charter holder; and

95-45 (2) the amount of annual compensation the public  
 95-46 charter district pays to each officer and member of the governing  
 95-47 body.

95-48 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During  
 95-49 a public charter district's first year of operation, the charter  
 95-50 holder shall submit quarterly financial reports to the  
 95-51 commissioner. The commissioner by rule shall determine the form  
 95-52 and content of the financial reports under this section.

95-53 Sec. 11A.158. PEIMS INFORMATION. The governing body of a  
 95-54 public charter district shall comply with Section 42.006.

95-55 Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A  
 95-56 management company that provides management services to a public  
 95-57 charter district is liable for damages incurred by the state or a  
 95-58 school district as a result of the failure of the company to comply  
 95-59 with its contractual or other legal obligation to provide services  
 95-60 to the district.

95-61 (b) On request of the commissioner, the attorney general may  
 95-62 bring suit on behalf of the state against a management company  
 95-63 liable under Subsection (a) for:

95-64 (1) damages, including any state funding received by  
 95-65 the company and any consequential damages suffered by the state;

95-66 (2) injunctive relief; or

95-67 (3) any other equitable remedy determined to be  
 95-68 appropriate by the court.

95-69 (c) This section is cumulative of all other remedies and

96-1 does not affect:

96-2 (1) the liability of a management company to the  
 96-3 charter holder; or

96-4 (2) the liability of a charter holder, a member of the  
 96-5 governing body of a charter holder, or a member of the governing  
 96-6 body of a public charter district to the state.

96-7 Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

96-8 (a) The charter holder or the governing body of a public charter  
 96-9 district may not accept a loan from a management company that has a  
 96-10 contract to provide management services to:

96-11 (1) the district; or

96-12 (2) another public charter district that operates  
 96-13 under a charter granted to the charter holder.

96-14 (b) A charter holder or the governing body of a public  
 96-15 charter district that accepts a loan from a management company may  
 96-16 not enter into a contract with that management company to provide  
 96-17 management services to the district.

96-18 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any  
 96-19 contract, including a contract renewal, between a public charter  
 96-20 district and a management company proposing to provide management  
 96-21 services to the district must require the management company to  
 96-22 maintain all records related to the management services separately  
 96-23 from any other records of the management company.

96-24 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS  
 96-25 PROHIBITED. The commissioner may prohibit, deny renewal of,  
 96-26 suspend, or revoke a contract between a public charter district and  
 96-27 a management company providing management services to the district  
 96-28 if the commissioner determines that the management company has:

96-29 (1) failed to provide educational or related services  
 96-30 in compliance with the company's contractual or other legal  
 96-31 obligation to any public charter district in this state or to any  
 96-32 other similar entity in another state;

96-33 (2) failed to protect the health, safety, or welfare  
 96-34 of the students enrolled at a public charter district served by the  
 96-35 company;

96-36 (3) violated this chapter or a rule adopted under this  
 96-37 chapter; or

96-38 (4) otherwise failed to comply with any contractual or  
 96-39 other legal obligation to provide services to the district.

96-40 [Sections 11A.163-11A.200 reserved for expansion]

96-41 SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

96-42 Sec. 11A.201. STATE FUNDING. (a) To the extent consistent  
 96-43 with Subsection (c), a charter holder is entitled to receive for the  
 96-44 public charter district funding under Chapter 42 as if the public  
 96-45 charter district were a school district without a local share for  
 96-46 purposes of Section 42.253 and without any local revenue ("LR") for  
 96-47 purposes of Section 42.302. In determining funding for a public  
 96-48 charter district, adjustments under Sections 42.102, 42.103, and  
 96-49 42.105 and the district enrichment tax rate ("DTR") under Section  
 96-50 42.302 are based on the average adjustment and average district  
 96-51 enrichment tax rate for the state.

96-52 (a-1) Notwithstanding Subsection (a), an entity granted a  
 96-53 charter under Section 11A.1041 is entitled to receive funding for  
 96-54 each student in weighted average daily attendance in an amount  
 96-55 equal to the greater of the amount determined under Subsection (a)  
 96-56 or the amount to which the entity was entitled for the 2003-2004 or  
 96-57 2004-2005 school year, as determined by the commissioner. A  
 96-58 determination of the commissioner under this subsection is final  
 96-59 and not subject to appeal. This subsection expires September 1,  
 96-60 2013.

96-61 (b) To the extent consistent with Subsection (c), a public  
 96-62 charter district is entitled to funds that are available to school  
 96-63 districts from the agency or the commissioner in the form of grants  
 96-64 or other discretionary funding unless the statute authorizing the  
 96-65 funding explicitly provides that a public charter district is not  
 96-66 entitled to the funding.

96-67 (c) A charter holder is entitled to receive for a public  
 96-68 charter district funding under this section only if the holder:

96-69 (1) provides information for the Public Education



97-1 Information Management System (PEIMS) as required by this chapter;  
 97-2 (2) submits to the commissioner appropriate fiscal and  
 97-3 financial records as required by this chapter and the commissioner;  
 97-4 and

97-5 (3) receives an annual unqualified opinion in the  
 97-6 standard report filed pursuant to Section 11A.210.

97-7 (d) The commissioner shall suspend the funding of a charter  
 97-8 holder that fails to comply with Subsection (c) until the  
 97-9 commissioner determines that the charter holder is in compliance or  
 97-10 has cured any noncompliance and has adopted adequate procedures to  
 97-11 prevent future noncompliance.

97-12 (e) The commissioner may adopt rules to provide and account  
 97-13 for state funding of public charter districts under this section. A  
 97-14 rule adopted under this section may be similar to a provision of  
 97-15 this code that is not similar to Section 11A.052(b) if the  
 97-16 commissioner determines that the rule is related to financing of  
 97-17 public charter districts and is necessary or prudent to provide or  
 97-18 account for state funds.

97-19 Sec. 11A.2011. ADDITIONAL STATE AID FOR CERTAIN STAFF  
 97-20 SALARIES. (a) This section applies only to a charter holder that  
 97-21 on January 1, 2005:

97-22 (1) operated an open-enrollment charter school under  
 97-23 former Subchapter D, Chapter 12; and

97-24 (2) participated in the program under Chapter 1579,  
 97-25 Insurance Code.

97-26 (b) In addition to any amounts to which a charter holder is  
 97-27 entitled under this chapter, a charter holder is entitled to state  
 97-28 aid in an amount, as determined by the commissioner, equal to the  
 97-29 sum of:

97-30 (1) the product of \$1,000 multiplied by the number of  
 97-31 the following employees employed by the charter holder at a public  
 97-32 charter district:

97-33 (A) classroom teachers, full-time librarians,  
 97-34 and full-time counselors certified under Subchapter B, Chapter 21;  
 97-35 and

97-36 (B) full-time school nurses appropriately  
 97-37 licensed under Chapter 301, Occupations Code;

97-38 (2) the product of \$500 multiplied by the number of  
 97-39 full-time public charter district employees, other than  
 97-40 administrators or employees described by Subdivision (1); and

97-41 (3) the product of \$250 multiplied by the number of  
 97-42 part-time public charter district employees.

97-43 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In  
 97-44 this section, "instructional facility" has the meaning assigned by  
 97-45 Section 46.001.

97-46 (b) A charter holder is initially eligible for  
 97-47 instructional facilities allotments in accordance with this  
 97-48 section if:

97-49 (1) any campus of a public charter district for which  
 97-50 the charter holder has been granted a license has for two  
 97-51 consecutive school years been rated exemplary or recognized under  
 97-52 Subchapter D, Chapter 39, or has performed at a comparable level, as  
 97-53 determined by the commissioner for purposes of this section; and

97-54 (2) on the most recent audit of the financial  
 97-55 operations of the district conducted pursuant to Section 11A.210,  
 97-56 the district has satisfied generally accepted accounting standards  
 97-57 of fiscal management as evidenced by an unqualified opinion in the  
 97-58 standard report issued and filed pursuant to Section 11A.210.

97-59 (c) Once a public charter district satisfies the initial  
 97-60 eligibility requirements under Subsection (b) and receives an  
 97-61 allotment under this section, the district continues to remain  
 97-62 eligible until the district receives an accountability rating of  
 97-63 unacceptable under Subchapter D, Chapter 39, at which point the  
 97-64 district is again subject to the eligibility requirements of  
 97-65 Subsection (b).

97-66 (d) The commissioner annually shall review the eligibility  
 97-67 of a public charter district campus for purposes of this section.

97-68 (e) Except as otherwise provided by this section, a charter  
 97-69 holder is entitled to an annual allotment in an amount determined by

98-1 the commissioner, not to exceed \$1,000 or a different amount  
 98-2 provided by appropriation, for each student in average daily  
 98-3 attendance during the preceding year at a campus of a public charter  
 98-4 district for which the charter holder has been granted a charter  
 98-5 that is eligible for an allotment under this section.

98-6 (f) A charter holder who receives funds under this section  
 98-7 may use the funds only to:

98-8 (1) purchase real property on which to construct an  
 98-9 instructional facility for a public charter district campus for  
 98-10 which the funds were paid under Subsection (e);

98-11 (2) purchase, lease, construct, expand, or renovate  
 98-12 instructional facilities for a public charter district campus for  
 98-13 which the funds were paid under Subsection (e);

98-14 (3) pay debt service in connection with instructional  
 98-15 facilities purchased or improved for a campus of the public charter  
 98-16 district that meets the requirements under Subsection (b); or

98-17 (4) maintain and operate public charter district  
 98-18 instructional facilities.

98-19 (g) A decision of the commissioner under Subsection (e) is  
 98-20 final and may not be appealed.

98-21 (h) The commissioner shall by rule establish procedures to  
 98-22 ensure that funds a charter holder claims to be using for purposes  
 98-23 of Subsection (f)(3) are used only for that purpose.

98-24 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received  
 98-25 under Section 11A.201 or 11A.202 by a charter holder:

98-26 (1) are considered to be public funds for all purposes  
 98-27 under state law;

98-28 (2) are held in trust by the charter holder for the  
 98-29 benefit of this state and the students of the public charter  
 98-30 district;

98-31 (3) may be used only for a purpose for which a school  
 98-32 may use local funds under Section 45.105(c) in the case of funds  
 98-33 received under Section 11A.201, and may be used only for a purpose  
 98-34 specified under Section 11A.202(f) in the case of funds received  
 98-35 under Section 11A.202; and

98-36 (4) pending their use, must be deposited into a bank,  
 98-37 as defined by Section 45.201, with which the charter holder has  
 98-38 entered into a depository contract under Section 11A.204.

98-39 (b) Funds deposited under Subsection (a)(4) may be directly  
 98-40 deposited into an account controlled by a bond trustee acting for  
 98-41 the charter holder pursuant to a bond indenture agreement requiring  
 98-42 direct deposit.

98-43 (c) The commissioner shall adopt rules for identifying  
 98-44 public funds in accordance with Subsection (a).

98-45 (d) The commissioner may bring an action in district court  
 98-46 in Travis County for injunctive or other relief to enforce this  
 98-47 section. In identifying public funds held by a charter holder, the  
 98-48 court shall use the criteria adopted by the commissioner under  
 98-49 Subsection (c). Except as otherwise provided by this subsection,  
 98-50 the court shall enter any order under this subsection concerning  
 98-51 public funds held by the charter holder necessary to best serve the  
 98-52 interests of the students of a public charter district. In the case  
 98-53 of a public charter district that has ceased to operate, the court  
 98-54 shall enter any order under this subsection concerning public funds  
 98-55 held by the charter holder necessary to best serve the interests of  
 98-56 this state.

98-57 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank  
 98-58 selected as a school depository and the charter holder shall enter  
 98-59 into a depository contract, bond, or other necessary instrument  
 98-60 setting forth the duties and agreements pertaining to the  
 98-61 depository, in a form and with the content prescribed by the State  
 98-62 Board of Education.

98-63 (b) The depository bank shall attach to the contract and  
 98-64 file with the charter holder a bond in an initial amount equal to  
 98-65 the estimated highest daily balance, determined by the charter  
 98-66 holder, of all deposits that the charter holder will have in the  
 98-67 depository during the term of the contract, less any applicable  
 98-68 Federal Deposit Insurance Corporation insurance. The bond must be  
 98-69 payable to the charter holder and must be signed by the depository

99-1 bank and by a surety company authorized to engage in business in  
 99-2 this state. The depository bank shall increase the amount of the  
 99-3 bond if the charter holder determines the increase is necessary to  
 99-4 adequately protect the funds of the charter holder deposited with  
 99-5 the depository bank.

99-6 (c) The bond shall be conditioned on:

99-7 (1) the faithful performance of all duties and  
 99-8 obligations imposed by law on the depository;

99-9 (2) the payment on presentation of all checks or  
 99-10 drafts on order of the charter holder, in accordance with its orders  
 99-11 entered by the charter holder according to law;

99-12 (3) the payment on demand of any demand deposit in the  
 99-13 depository;

99-14 (4) the payment, after the expiration of the period of  
 99-15 notice required, of any time deposit in the depository;

99-16 (5) the faithful keeping of school funds by the  
 99-17 depository and the accounting for the funds according to law; and

99-18 (6) the faithful paying over to the successor  
 99-19 depository all balances remaining in the accounts.

99-20 (d) The bond and the surety on the bond must be approved by  
 99-21 the charter holder. A premium on the depository bond may not be  
 99-22 paid out of charter holder funds related to operation of the public  
 99-23 charter district.

99-24 (e) The charter holder shall file a copy of the depository  
 99-25 contract and bond with the agency.

99-26 (f) Instead of the bond required under Subsection (b), the  
 99-27 depository bank may deposit or pledge, with the charter holder or  
 99-28 with a trustee designated by the charter holder, approved  
 99-29 securities, as defined by Section 45.201, in an amount sufficient  
 99-30 to adequately protect the funds of the charter holder deposited  
 99-31 with the depository bank. A depository bank may give a bond and  
 99-32 deposit or pledge approved securities in an aggregate amount  
 99-33 sufficient to adequately protect the funds of the charter holder  
 99-34 deposited with the depository bank. The charter holder shall  
 99-35 periodically designate the amount of approved securities or the  
 99-36 aggregate amount of the bond and approved securities necessary to  
 99-37 adequately protect the charter holder. The charter holder may not  
 99-38 designate an amount less than the balance of charter holder funds on  
 99-39 deposit with the depository bank from day to day, less any  
 99-40 applicable Federal Deposit Insurance Corporation insurance. The  
 99-41 depository bank may substitute approved securities on obtaining the  
 99-42 approval of the charter holder. For purposes of this subsection,  
 99-43 the approved securities are valued at their market value.

99-44 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter  
 99-45 holder who accepts state funds under Section 11A.201 or 11A.202  
 99-46 agrees to be subject to all requirements, prohibitions, and  
 99-47 sanctions authorized under this chapter.

99-48 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE  
 99-49 FUNDS. (a) Property purchased or leased with funds received by a  
 99-50 charter holder under Section 11A.201 or 11A.202:

99-51 (1) is considered to be public property for all  
 99-52 purposes under state law;

99-53 (2) is held in trust by the charter holder for the  
 99-54 benefit of this state and the students of the public charter  
 99-55 district; and

99-56 (3) may be used only for a purpose for which a school  
 99-57 district may use school district property.

99-58 (b) The commissioner shall:

99-59 (1) take possession and assume control of the property  
 99-60 described by Subsection (a) of a public charter district that  
 99-61 ceases to operate; and

99-62 (2) supervise the disposition of the property in  
 99-63 accordance with law.

99-64 (c) This section does not affect the priority of a security  
 99-65 interest in or lien on property established by a creditor in  
 99-66 compliance with law if the security interest or lien arose in  
 99-67 connection with the sale or lease of the property to the charter  
 99-68 holder.

99-69 (d) The commissioner shall adopt rules for identifying

public property in accordance with Subsection (a).

(e) The commissioner may bring an action in district court in Travis County for injunctive or other relief to enforce this section. In identifying public property held by a charter holder, the court shall use the criteria adopted by the commissioner under Subsection (d). Except as otherwise provided by this subsection, the court shall enter any order under this subsection concerning public property held by the charter holder necessary to best serve the interests of the students of a public charter district. In the case of a public charter district that has ceased to operate, the court shall enter any order under this subsection concerning public property held by the charter holder necessary to best serve the interests of this state. The court may order title to real or personal public property held by the charter holder transferred to a trust established for the purpose of managing the property or may make other disposition of the property necessary to best serve the interests of this state.

Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER DISTRICT LAND OR FACILITIES. A municipality to which a charter is granted under this chapter may borrow funds, issue obligations, or otherwise spend its funds to acquire land or acquire, construct, expand, or renovate school buildings or facilities and related improvements for its public charter district within the city limits of the municipality in the same manner the municipality is authorized to borrow funds, issue obligations, or otherwise spend its funds in connection with any other public works project.

Sec. 11A.208. TEXTBOOK FUNDING. A public charter district is entitled to funding for textbooks under Chapter 31 and is subject to that chapter as if the public charter district were a school district.

Sec. 11A.209. ANNUAL BUDGET. The governing body of a public charter district shall annually adopt a budget for the district.

Sec. 11A.210. ANNUAL AUDIT. The governing body of a public charter district shall conduct an annual audit in a manner that complies with Section 44.008.

[Sections 11A.211-11A.250 reserved for expansion]

#### SUBCHAPTER F. OPERATION OF PUBLIC SCHOOL CHARTER DISTRICT

Sec. 11A.251. ADMISSION POLICY. (a) A public charter district may not discriminate in admission policy on the basis of sex, national origin, ethnicity, religion, disability, or academic, artistic, or athletic ability or the district the child would otherwise attend in accordance with this code.

(b) A public charter district admission policy may provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37.

Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to a public charter district campus, the governing body of the district shall:

(1) require the applicant to complete and submit an application not later than a reasonable deadline the district establishes; and

(2) on receipt of more acceptable applications for admission under this section than available positions in the school:

(A) fill the available positions by lottery; or

(B) subject to Subsection (b), fill the available positions in the order in which applications received before the application deadline were received.

(b) A public charter district may fill applications for admission under Subsection (a)(2)(B) only if the district published a notice of the opportunity to apply for admission to the district. A notice published under this subsection must:

(1) state the application deadline; and

(2) be published in a newspaper of general circulation in the community in which the district campus is located not later than the seventh day before the application deadline.

(c) A public charter district may exempt an applicant from the requirements of Subsection (a)(2) if the applicant is:

101-1 (1) the child or grandchild of a member of the  
 101-2 governing body of the charter holder at the time the district's  
 101-3 charter was first granted;

101-4 (2) the child of an employee of the district or the  
 101-5 charter holder; or

101-6 (3) a sibling of a student who is enrolled in the  
 101-7 district.

101-8 Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided  
 101-9 by Subsection (b) or as otherwise determined impracticable by the  
 101-10 commissioner, during a public charter district's first year of  
 101-11 operation, the district must have a student enrollment of at least  
 101-12 100 and not more than 500 at any time during the school year.

101-13 (b) A public charter district may have a student enrollment  
 101-14 of less than 100 if approved by the commissioner.

101-15 (c) Not later than a public charter district's third year of  
 101-16 operation, at least 25 percent of the district's students must be  
 101-17 enrolled in one or more grade levels for which assessment  
 101-18 instruments are administered under Section 39.023(a).

101-19 (d) The commissioner may grant a waiver from the  
 101-20 requirements of Subsection (c) for a public charter district that  
 101-21 opens a campus serving prekindergarten or kindergarten students and  
 101-22 agrees to:

101-23 (1) add at least one higher grade level class each  
 101-24 school year after opening the campus; and

101-25 (2) until the campus complies with Subsection (c),  
 101-26 adopt accountability measures to assess the performance of the  
 101-27 students not assessed under Section 39.023(a).

101-28 (e) The commissioner may grant a waiver from the  
 101-29 requirements of Subsection (c) for a public charter district that  
 101-30 was operating an open-enrollment charter school campus on January  
 101-31 1, 2005, serving prekindergarten, kindergarten, and first, second,  
 101-32 and third grade students if the public charter district:

101-33 (1) adopts one or more nationally norm-referenced  
 101-34 assessment instruments approved by the commissioner;

101-35 (2) administers the assessment instruments to its  
 101-36 second grade students at intervals and in the manner specified by  
 101-37 commissioner rule; and

101-38 (3) meets the applicable standards for student  
 101-39 performance on the assessment instruments, as determined by  
 101-40 commissioner rule.

101-41 (f) The commissioner shall adopt rules necessary to  
 101-42 implement this section.

101-43 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public  
 101-44 charter district may not charge tuition to an eligible student who  
 101-45 applies for admission to the district under this chapter.

101-46 (b) The governing body of a public charter district may  
 101-47 require a student to pay any fee that the board of trustees of a  
 101-48 school district may charge under Section 11.158(a). The governing  
 101-49 body may not require a student to pay a fee that the board of  
 101-50 trustees of a school district may not charge under Section  
 101-51 11.158(b).

101-52 Sec. 11A.255. TRANSPORTATION. A public charter district  
 101-53 shall provide transportation to each student attending the school  
 101-54 to the same extent a school district is required by law to provide  
 101-55 transportation to district students.

101-56 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY  
 101-57 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The  
 101-58 governing body of a public charter district shall adopt a code of  
 101-59 conduct for the district or for each campus in the district.

101-60 (b) The code of conduct must include:

101-61 (1) standards for student behavior, including the  
 101-62 types of prohibited behaviors and the possible consequences of  
 101-63 misbehavior; and

101-64 (2) the district's due process procedures regarding  
 101-65 expulsion of a student.

101-66 (c) A final decision of the governing body of a public  
 101-67 charter district regarding action taken under the code of conduct  
 101-68 may not be appealed.

101-69 (d) A public charter district may not expel a student for a

reason that is not authorized by Section 37.007 or specified in the district's code of conduct as conduct that may result in expulsion.

(e) Section 37.002 does not apply to a public charter district except to the extent specified by the governing body of the public charter district in the district's code of conduct.

[Sections 11A.257-11A.300 reserved for expansion]

SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. Except as otherwise required by this chapter, a person employed as a teacher by a public charter district must hold a high school diploma.

Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE QUALIFICATIONS. (a) Each public charter district shall provide to the parent or guardian of each student enrolled at a campus in the district written notice of the qualifications of each professional employee, including each teacher, employed at the campus.

(b) The notice must include:

(1) any professional or educational degree held by the employee;

(2) a statement of any certification under Subchapter B, Chapter 21, held by the employee; and

(3) any relevant experience of the employee.

Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The governing body of a public charter district shall obtain a complete set of fingerprints from each person described by Section 21.0032(a).

Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF CERTAIN APPLICANTS. A public charter district must comply with Section 21.0032 before employing or otherwise securing the services of a person as a teacher, teacher intern or trainee, librarian, educational aide, administrator, or counselor, regardless of whether the applicant is certified under Subchapter B, Chapter 21.

Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF TEXAS. (a) An employee of a public charter district who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

(b) For each employee of a public charter district covered under the system, the public charter district is responsible for making any contribution that otherwise would be the legal responsibility of a school district, and the state is responsible for making contributions to the same extent it would be legally responsible if the employee were a school district employee.

Sec. 11A.306. WAGE INCREASE FOR CERTAIN PROFESSIONAL STAFF.

(a) This section applies only to a charter holder that on January 1, 2005:

(1) operated an open-enrollment charter school under former Subchapter D, Chapter 12; and

(2) participated in the program under Chapter 1579, Insurance Code.

(b) Using state funds received by the charter holder for that purpose under Section 11A.2011, a charter holder each school year shall pay the following employees employed by the charter holder at a public charter district an amount at least equal to:

(1) \$1,000 for:

(A) classroom teachers, full-time librarians, and full-time counselors certified under Subchapter B, Chapter 21; and

(B) full-time school nurses appropriately licensed under Chapter 301, Occupations Code;

(2) \$500 for full-time public charter district employees, other than administrators or employees described by Subdivision (1); and

(3) \$250 for part-time public charter district employees.

(c) A payment under this section is in addition to wages the charter holder would otherwise pay the employee during the school year.

[Sections 11A.307-11A.350 reserved for expansion]

## SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

103-1 Sec. 11A.351. AUDIT. (a) To the extent consistent with  
 103-2 this section, the commissioner may audit the records of:

103-3 (1) a public charter district or campus;

103-4 (2) a charter holder; and

103-5 (3) a management company.

103-6 (b) An audit under Subsection (a) must be limited to matters  
 103-7 directly related to the management or operation of a public charter  
 103-8 district, including any financial, student, and administrative  
 103-9 records.

103-10 (c) Unless the commissioner has specific cause to conduct an  
 103-11 additional audit, the commissioner may not conduct more than one  
 103-12 on-site audit of a public charter district under this section  
 103-13 during any fiscal year, including any audit of financial, student,  
 103-14 and administrative records. For purposes of this subsection, an  
 103-15 audit of a charter holder or management company associated with a  
 103-16 public charter district is not considered an audit of the district.

103-17 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a  
 103-18 subpoena to compel the attendance and testimony of a witness or the  
 103-19 production of materials relevant to an audit or investigation under  
 103-20 this chapter.

103-21 (b) A subpoena may be issued throughout the state and may be  
 103-22 served by any person designated by the commissioner.

103-23 (c) If a person fails to comply with a subpoena issued under  
 103-24 this section, the commissioner, acting through the attorney  
 103-25 general, may file suit to enforce the subpoena in a district court  
 103-26 in Travis County or in the county in which the audit or  
 103-27 investigation is conducted. The court shall order compliance with  
 103-28 the subpoena if the court finds that good cause exists to issue the  
 103-29 subpoena.

103-30 (d) This section expires September 1, 2007.

103-31 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take  
 103-32 any of the actions described by Subsection (b) or by Section  
 103-33 39.131(a), to the extent the commissioner determines necessary, if  
 103-34 a public charter district, as determined by a report issued under  
 103-35 Section 39.076(b):

103-36 (1) commits a material violation of the district's  
 103-37 charter;

103-38 (2) fails to satisfy generally accepted accounting  
 103-39 standards of fiscal management; or

103-40 (3) fails to comply with this chapter or another  
 103-41 applicable rule or law.

103-42 (b) The commissioner may temporarily withhold funding,  
 103-43 suspend the authority of a public charter district to operate, or  
 103-44 take any other reasonable action the commissioner determines  
 103-45 necessary to protect the health, safety, or welfare of students  
 103-46 enrolled at a district campus based on evidence that conditions at  
 103-47 the district campus present a danger to the health, safety, or  
 103-48 welfare of the students.

103-49 (c) After the commissioner acts under Subsection (b), the  
 103-50 public charter district may not receive funding and may not resume  
 103-51 operating until a determination is made that:

103-52 (1) despite initial evidence, the conditions at the  
 103-53 district campus do not present a danger of material harm to the  
 103-54 health, safety, or welfare of students; or

103-55 (2) the conditions at the district campus that  
 103-56 presented a danger of material harm to the health, safety, or  
 103-57 welfare of students have been corrected.

103-58 (d) Not later than the third business day after the date the  
 103-59 commissioner acts under Subsection (b), the commissioner shall  
 103-60 provide the charter holder an opportunity for a hearing. This  
 103-61 subsection does not apply to an action taken by the commissioner  
 103-62 under Chapter 39.

103-63 (e) Immediately after a hearing under Subsection (d), the  
 103-64 commissioner must cease the action under Subsection (b) or initiate  
 103-65 action under Section 11A.108.

103-66 Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN  
 103-67 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for the  
 103-68 Foundation School Program, the commissioner shall reduce the total  
 103-69

104-1 amount of state funds allocated to each district from any source in  
 104-2 the same manner described for a reduction in allotments under  
 104-3 Section 42.253 and adopt and implement a program for supervising  
 104-4 the administration of assessment instruments under Section 39.023  
 104-5 during the 2005-2006 school year at an open-enrollment charter  
 104-6 school, other than a school operated by an entity described by  
 104-7 Section 11A.1041(a)(2), (3), or (4), at which less than 25 percent  
 104-8 of all students enrolled at the school and administered an  
 104-9 assessment instrument under Section 39.023(a), (c), or (l)  
 104-10 performed satisfactorily on:

104-11 (1) the assessment instrument in mathematics, as  
 104-12 determined by the school's assessment instrument results for the  
 104-13 2004-2005 school year; or

104-14 (2) the assessment instrument in reading or English  
 104-15 language arts, as applicable, as determined by the school's  
 104-16 assessment instrument results for the 2004-2005 school year.

104-17 (b) The program adopted under Subsection (a) must be  
 104-18 designed to:

104-19 (1) ensure that the location at which an assessment  
 104-20 instrument is administered is secure and under the supervision of  
 104-21 persons who do not have any interest in the results of the  
 104-22 assessment instrument; and

104-23 (2) provide direct supervision of:

104-24 (A) the transportation of the assessment  
 104-25 instrument materials to and from the location at which the  
 104-26 instrument is administered; and

104-27 (B) the administration of the assessment  
 104-28 instrument to students.

104-29 (c) The commissioner may adopt rules necessary to  
 104-30 administer this section and may take any action that the  
 104-31 commissioner determines necessary to ensure the integrity of the  
 104-32 results of an assessment instrument administered at an  
 104-33 open-enrollment charter school described by Subsection (a).

104-34 (d) After deducting the amount withheld under Subsection  
 104-35 (a) from the total amount appropriated for the Foundation School  
 104-36 Program, the commissioner shall reduce the total amount of state  
 104-37 funds allocated to each district from any source in the same manner  
 104-38 described for a reduction in allotments under Section 42.253.

104-39 (e) An open-enrollment charter school's failure to fully  
 104-40 cooperate with the commissioner under this section is sufficient  
 104-41 grounds for revocation of the district's charter, as determined by  
 104-42 the commissioner.

104-43 (f) This section expires September 1, 2006.

104-44 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The  
 104-45 commissioner shall periodically consult with representatives of  
 104-46 charter holders regarding the duties and mission of the agency  
 104-47 relating to the operation of public charter districts. The  
 104-48 commissioner shall determine the frequency of the consultations.

104-49 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing  
 104-50 in this chapter may be construed to limit the commissioner's  
 104-51 authority under Chapter 39.

104-52 Sec. 11A.356. RULES. The commissioner may adopt rules for  
 104-53 the administration of this chapter.

104-54 [Sections 11A.357-11A.400 reserved for expansion]

104-55 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

104-56 Sec. 11A.401. AUTHORIZATION. (a) In this section,  
 104-57 "eligible entity" means an organization that is exempt from  
 104-58 taxation under Section 501(a), Internal Revenue Code of 1986, as an  
 104-59 organization described by Section 501(c)(3) of that code.

104-60 (b) In accordance with this subchapter, the commissioner  
 104-61 may authorize not more than three charter holders to grant a charter  
 104-62 to an eligible entity to operate a blue ribbon charter campus if:

104-63 (1) the charter holder proposes to grant the blue  
 104-64 ribbon charter to replicate a distinctive education program;

104-65 (2) the charter holder has demonstrated the ability to  
 104-66 replicate the education program;

104-67 (3) the education program has been implemented by the  
 104-68 charter holder for at least seven school years; and

104-69 (4) the charter school in which the charter holder has



105-1 implemented the program has been rated recognized or exemplary  
 105-2 under Section 39.072 for at least five school years, including the  
 105-3 two school years preceding the proposed issuance of the blue ribbon  
 105-4 charter.

105-5 (b-1) An eligible entity that assumed operation of an  
 105-6 existing charter school program during the seven years preceding  
 105-7 the proposed authorization under Subsection (b) may be authorized  
 105-8 to grant a blue ribbon charter under Subsection (b) if:

105-9 (1) the performance level of the program at a campus  
 105-10 before and after the entity assumed operation of the program meets  
 105-11 the qualifications described by Subsection (b); and

105-12 (2) the entity has met the qualifications described by  
 105-13 Subsection (b) since assuming operation of the program.

105-14 (c) A charter holder may grant a blue ribbon charter only to  
 105-15 an applicant that meets any financial, governing, and operational  
 105-16 standards adopted by the commissioner under this subchapter.

105-17 (d) A charter holder may grant not more than two blue ribbon  
 105-18 charters under this subchapter.

105-19 Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue  
 105-20 ribbon charter campus is considered a public charter district  
 105-21 campus for purposes of state and federal law.

105-22 (b) A blue ribbon charter granted under this subchapter is  
 105-23 not considered for purposes of the limit on the number of public  
 105-24 charter districts imposed by Section 11A.002.

105-25 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE  
 105-26 RIBBON CHARTER CAMPUS. (a) The governing body of the public  
 105-27 charter district authorizing a blue ribbon charter is responsible  
 105-28 for the management and operation of the campus operated under a  
 105-29 blue ribbon charter. A blue ribbon charter campus is subject to the  
 105-30 rules and policies of the governing body of the charter holder that  
 105-31 granted the blue ribbon charter.

105-32 (b) For purposes of academic and financial accountability  
 105-33 and all other purposes under this chapter and Chapter 39, a blue  
 105-34 ribbon charter campus is considered a campus of the public charter  
 105-35 district operated by the charter holder that granted the blue  
 105-36 ribbon charter.

105-37 (c) A charter holder is entitled to receive funding for a  
 105-38 blue ribbon charter campus as if the blue ribbon charter campus were  
 105-39 a campus of the public charter district operated by the charter  
 105-40 holder.

105-41 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The  
 105-42 commissioner by rule shall adopt an application form and procedures  
 105-43 for a charter holder to apply for authorization to grant a blue  
 105-44 ribbon charter to an eligible entity under this subchapter.

105-45 (b) The application must specify:

105-46 (1) the criteria that will be used to grant blue ribbon  
 105-47 charters;

105-48 (2) procedures for governance and management of  
 105-49 campuses operating under a blue ribbon charter; and

105-50 (3) the performance standard by which continuation of  
 105-51 a blue ribbon charter will be determined.

105-52 (c) A determination by the commissioner regarding an  
 105-53 application under this section is final and may not be appealed.

105-54 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The  
 105-55 commissioner may revoke a charter holder's authorization to grant a  
 105-56 blue ribbon charter or operate a campus granted a blue ribbon  
 105-57 charter if the commissioner determines that the purposes of this  
 105-58 subchapter are not being satisfied.

105-59 (b) On revocation of a charter holder's authority under this  
 105-60 section, the charter holder shall:

105-61 (1) operate a campus granted a blue ribbon charter as a  
 105-62 standard campus of the charter holder under this chapter; or

105-63 (2) close the campus effective at the end of the school  
 105-64 year in which the commissioner revokes the authorization.

105-65 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter  
 105-66 granted under this subchapter must:

105-67 (1) describe the educational program to be offered,  
 105-68 which may be a general or specialized education program;

105-69 (2) provide that continuation of the charter is

106-1 contingent on satisfactory student performance under Subchapter B,  
 106-2 Chapter 39, and on compliance with other applicable accountability  
 106-3 provisions under Chapter 39;

106-4 (3) specify any basis, in addition to a basis  
 106-5 specified by this subchapter, on which the charter may be placed on  
 106-6 probation or revoked;

106-7 (4) prohibit discrimination in admission on the basis  
 106-8 of national origin, ethnicity, race, religion, or disability;

106-9 (5) describe the governing structure of the blue  
 106-10 ribbon charter campus;

106-11 (6) specify any procedure or requirement, in addition  
 106-12 to those under Chapter 38, that the campus will follow to ensure the  
 106-13 health and safety of students and employees; and

106-14 (7) describe the manner in which the campus and  
 106-15 charter holder granting the blue ribbon charter will comply with  
 106-16 financial and operational requirements, including requirements  
 106-17 related to the Public Education Information Management System  
 106-18 (PEIMS) under Section 11A.158 and the audit requirements under  
 106-19 Section 11A.210.

106-20 (b) A charter holder may reserve the right to approve  
 106-21 contracts, governance alterations, personnel decisions, and other  
 106-22 matters affecting the operation of the blue ribbon charter campus.

106-23 (c) A blue ribbon charter must specify the basis and  
 106-24 procedure to be used by the charter holder for placing the blue  
 106-25 ribbon charter campus on probation or revoking the charter, which  
 106-26 must include an opportunity for an informal review of the blue  
 106-27 ribbon charter campus and governing body of the campus by the  
 106-28 charter holder. A charter holder's decision to place on probation  
 106-29 or revoke a blue ribbon charter is final and may not be appealed.

106-30 Sec. 11A.407. FORM. A blue ribbon charter issued under this  
 106-31 subchapter must be in the form and substance of a written contract  
 106-32 signed by the president or equivalent officer of the governing body  
 106-33 of the charter holder granting the blue ribbon charter and the  
 106-34 president or equivalent officer of the governing body of the  
 106-35 eligible entity to which the blue ribbon charter is granted.

106-36 Sec. 11A.408. REVISION. A blue ribbon charter granted  
 106-37 under this subchapter may be revised with the approval of the  
 106-38 charter holder that granted the charter.

106-39 [Sections 11A.409-11A.450 reserved for expansion]

106-40 SUBCHAPTER J. RECEIVERSHIP FOR CERTAIN OPEN-ENROLLMENT CHARTER  
 106-41 SCHOOLS

106-42 Sec. 11A.451. DEFINITIONS. In this subchapter:

106-43 (1) "Assets" means:

106-44 (A) public funds, as determined under Section  
 106-45 12.107, as that section existed on January 1, 2005; and

106-46 (B) public property, as determined under Section  
 106-47 12.128, as that section existed on January 1, 2005.

106-48 (2) "Records" means government records, as determined  
 106-49 under Section 12.1052, as that section existed on January 1, 2005.

106-50 Sec. 11A.452. APPLICABILITY. The commissioner shall  
 106-51 appoint a receiver under this subchapter for each open-enrollment  
 106-52 charter school that on June 1, 2005, was operating under a charter  
 106-53 issued under Subchapter D, Chapter 12, as that subchapter existed  
 106-54 on January 1, 2005, and:

106-55 (1) is not authorized to operate as a public charter  
 106-56 district under this chapter; or

106-57 (2) elects not to operate as a public charter district  
 106-58 under this chapter.

106-59 Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)  
 106-60 The commissioner shall appoint a receiver to protect the assets and  
 106-61 direct the dissolution of open-enrollment charter schools subject  
 106-62 to this subchapter.

106-63 (b) The receiver shall execute a bond in an amount set by the  
 106-64 commissioner to ensure the proper performance of the receiver's  
 106-65 duties.

106-66 (c) Until discharged by the commissioner, the receiver  
 106-67 shall perform the duties that the commissioner directs to preserve  
 106-68 the assets and direct the dissolution of the open-enrollment  
 106-69 charter school under this subchapter.

107-1 Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After  
 107-2 appointment and execution of bond under Section 11A.453, the  
 107-3 receiver shall take possession of:

107-4 (1) assets and records in the possession of the  
 107-5 open-enrollment charter school specified by the commissioner; and

107-6 (2) any Foundation School Program funds and any other  
 107-7 public funds received by the school's charter holder.

107-8 (b) On request of the receiver, the attorney general shall  
 107-9 file a suit for attachment, garnishment, or involuntary bankruptcy  
 107-10 and take any other action necessary for the dissolution of an  
 107-11 open-enrollment charter school under this subchapter.

107-12 (c) If the charter holder of an open-enrollment charter  
 107-13 school or an officer or employee of such a school refuses to  
 107-14 transfer school assets or records to a receiver under this  
 107-15 subsection, the receiver may ask the attorney general to petition a  
 107-16 court for recovery of the assets or records. If the court grants  
 107-17 the petition, the court shall award attorney's fees and court costs  
 107-18 to the state.

107-19 (d) A record described by this section is a public school  
 107-20 record for purposes of Section 37.10(c)(2), Penal Code.

107-21 Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall  
 107-22 wind up the affairs of an open-enrollment charter school and,  
 107-23 except as provided by Subsection (b), reduce its assets to cash for  
 107-24 the purpose of discharging all existing liabilities and obligations  
 107-25 of the school. In winding up the affairs of a school, the receiver  
 107-26 shall cooperate in any bankruptcy proceeding affecting the school.  
 107-27 The receiver shall distribute any remaining balance to the  
 107-28 commissioner.

107-29 (b) A receiver shall offer free of charge any equipment and  
 107-30 supplies of an open-enrollment charter school dissolved under this  
 107-31 subchapter to school districts, giving priority to districts based  
 107-32 on the percentage of the charter school's students that reside in  
 107-33 the districts.

107-34 (c) The commissioner shall use money in the foundation  
 107-35 school fund and money received under this section to pay the costs  
 107-36 described by Section 11A.458 and discharge liabilities and  
 107-37 obligations of open-enrollment charter schools under this  
 107-38 subchapter. The commissioner shall deposit any remaining balance  
 107-39 in the foundation school fund.

107-40 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of  
 107-41 an open-enrollment charter school subject to this subchapter shall  
 107-42 be transferred in the manner specified by the commissioner to a  
 107-43 custodian designated by the commissioner. The commissioner may  
 107-44 designate any appropriate entity to serve as custodian of records,  
 107-45 including the agency, a regional education service center, or a  
 107-46 school district. In designating a custodian, the commissioner  
 107-47 shall ensure that the transferred records, including student and  
 107-48 personnel records, are transferred to a custodian capable of:

107-49 (1) maintaining the records;

107-50 (2) making the records readily accessible to students,  
 107-51 parents, former school employees, and other persons entitled to  
 107-52 access; and

107-53 (3) complying with applicable state or federal law  
 107-54 restricting access to the records.

107-55 (b) The commissioner is entitled to access to any records  
 107-56 transferred to a custodian under this section as the commissioner  
 107-57 determines necessary for auditing, investigative, or monitoring  
 107-58 purposes.

107-59 Sec. 11A.457. LIABILITY. A receiver is not personally  
 107-60 liable for actions taken by the receiver under this subchapter.

107-61 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may  
 107-62 authorize reimbursement of reasonable costs related to the  
 107-63 receivership, including:

107-64 (1) payment of fees to the receiver for the receiver's  
 107-65 services; and

107-66 (2) payment of fees to attorneys, accountants, or any  
 107-67 other person that provides goods or services necessary to the  
 107-68 operation of the receivership.

107-69 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The

108-1 competitive bidding requirements of this code and the contracting  
 108-2 requirements of Chapter 2155, Government Code, do not apply to the  
 108-3 appointment of a receiver, attorney, accountant, or other person  
 108-4 appointed under this subchapter.

108-5 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is  
 108-6 amended by adding Section 12.1058 to read as follows:

108-7 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT  
 108-8 PROVISIONS. (a) An open-enrollment charter school is subject to  
 108-9 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,  
 108-10 11A.304, 11A.352, 21.0032, and 21.058.

108-11 (b) The commissioner may bring an action for injunctive or  
 108-12 other relief as provided by Section 11A.203(d) to enforce Section  
 108-13 12.107.

108-14 (c) For purposes of this section, a reference in a law  
 108-15 described by this section to a public charter district means an  
 108-16 open-enrollment charter school.

108-17 SECTION 4.04. Sections 12.152 and 12.156, Education Code,  
 108-18 are amended to read as follows:

108-19 Sec. 12.152. AUTHORIZATION. [~~(a)~~] In accordance with this  
 108-20 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of  
 108-21 Education may grant a charter on the application of a public senior  
 108-22 college or university for a public [~~an open-enrollment~~] charter  
 108-23 district [~~school~~] to operate on the campus of the public senior  
 108-24 college or university or in the same county in which the campus of  
 108-25 the public senior college or university is located.

108-26 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)  
 108-27 Except as otherwise provided by this subchapter, Chapter 11A  
 108-28 [~~Subchapter D~~] applies to a college or university charter school as  
 108-29 though the college or university charter school were granted a  
 108-30 charter under that chapter [~~subchapter~~].

108-31 (b) A charter granted under this subchapter is not  
 108-32 considered for purposes of the limit on the number of public  
 108-33 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section  
 108-34 11A.002 [~~12.101(b)~~].

108-35 (c) A college or university charter school is not subject to  
 108-36 a prohibition, restriction, or requirement relating to:

108-37 (1) open meetings and public information under Section  
 108-38 11A.053;

108-39 (2) maintenance of records under Section 11A.054;

108-40 (3) purchasing and contracting under Section 11A.055;

108-41 (4) conflict of interest under Section 11A.056;

108-42 (5) nepotism under Section 11A.057;

108-43 (6) composition of governing body under Section  
 108-44 11A.152;

108-45 (7) restrictions on serving as a member of a governing  
 108-46 body or as an officer or employee under Section 11A.153;

108-47 (8) liability of members of governing body under  
 108-48 Section 11A.154;

108-49 (9) training for members of governing body under  
 108-50 Section 11A.155;

108-51 (10) bylaws and annual reports under Section 11A.156;

108-52 (11) quarterly financial reports under Section  
 108-53 11A.157; and

108-54 (12) depository bond and security requirements under  
 108-55 Section 11A.204.

108-56 (d) A college or university charter school and the governing  
 108-57 body of the school are subject to regulations and procedures that  
 108-58 govern a public senior college or university relating to open  
 108-59 meetings, records retention, purchasing, contracting, conflicts of  
 108-60 interest, and nepotism.

108-61 SECTION 4.05. Section 5.001, Education Code, is amended by  
 108-62 adding Subdivision (5-a) and amending Subdivision (6) to read as  
 108-63 follows:

108-64 (5-a) "Public charter campus" means a campus operated  
 108-65 by a public charter district.

108-66 (6) "Public charter district [~~Open-enrollment charter~~  
 108-67 ~~school~~]" means a public school authorized by [~~that has been~~  
 108-68 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

108-69 SECTION 4.06. Section 7.003, Education Code, is amended to

109-1 read as follows:

109-2 Sec. 7.003. LIMITATION ON AUTHORITY. An educational  
109-3 function not specifically delegated to the agency or the board  
109-4 under this code is reserved to and shall be performed by school  
109-5 districts or ~~[open-enrollment]~~ charter schools.

109-6 SECTION 4.07. Section 7.027(b), Education Code, as added by  
109-7 Chapter 201, Acts of the 78th Legislature, Regular Session, 2003,  
109-8 is amended to read as follows:

109-9 (b) The board of trustees of a school district or the  
109-10 governing body of a public charter district ~~[an open-enrollment~~  
109-11 ~~charter school]~~ has primary responsibility for ensuring that the  
109-12 district ~~[or school]~~ complies with all applicable requirements of  
109-13 state educational programs.

109-14 SECTION 4.08. Section 7.055(b)(17), Education Code, is  
109-15 amended to read as follows:

109-16 (17) The commissioner shall distribute funds to public  
109-17 charter districts ~~[open-enrollment charter schools]~~ as required  
109-18 under Chapter 11A ~~[Subchapter D, Chapter 12]~~.

109-19 SECTION 4.09. Section 7.102(c)(9), Education Code, is  
109-20 amended to read as follows:

109-21 (9) The board may grant a charter for a public charter  
109-22 district ~~[an open-enrollment charter or approve a charter revision]~~  
109-23 as provided by Chapter 11A ~~[Subchapter D, Chapter 12]~~.

109-24 SECTION 4.10. Section 12.002, Education Code, is amended to  
109-25 read as follows:

109-26 Sec. 12.002. CLASSES OF CHARTER. The classes of charter  
109-27 under this chapter are:

109-28 (1) a home-rule school district charter as provided by  
109-29 Subchapter B;

109-30 (2) a campus or campus program charter as provided by  
109-31 Subchapter C; or

109-32 (3) a college or university ~~[an open-enrollment]~~  
109-33 charter as provided by Subchapter E ~~[D]~~.

109-34 SECTION 4.11. Subchapter A, Chapter 21, Education Code, is  
109-35 amended by adding Section 21.0032 to read as follows:

109-36 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER  
109-37 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed by or  
109-38 serve as a teacher, teacher intern or teacher trainee, librarian,  
109-39 educational aide, administrator, educational diagnostician, or  
109-40 counselor for a public charter district unless the person has been  
109-41 cleared by the State Board for Educator Certification following a  
109-42 national criminal history record review and investigation under  
109-43 this section.

109-44 (b) Before or immediately after employing or securing the  
109-45 services of a person described by Subsection (a), a public charter  
109-46 district shall send to the State Board for Educator Certification  
109-47 the person's fingerprints and social security number. The person  
109-48 may be employed or serve pending action by the board.

109-49 (c) The State Board for Educator Certification shall review  
109-50 and investigate the person's national criminal history record  
109-51 information, educator certification discipline history in any  
109-52 state, and other information in the same manner as a review or  
109-53 investigation conducted regarding an initial application for  
109-54 educator certification. If the board finds the person would not be  
109-55 eligible for educator certification, the board shall notify the  
109-56 public charter district in writing that the person may not be  
109-57 employed or serve in a capacity described by Subsection (a).

109-58 (d) On receipt of written notice under Subsection (c), a  
109-59 public charter district may not employ or permit the person to serve  
109-60 unless the person timely submits a written appeal under this  
109-61 section. The State Board for Educator Certification shall conduct  
109-62 an appeal under this subsection in the same manner as an appeal  
109-63 regarding the denial of an initial application for educator  
109-64 certification.

109-65 SECTION 4.12. Sections 21.058(b) and (c), Education Code,  
109-66 are amended to read as follows:

109-67 (b) Notwithstanding Section 21.041(b)(7), not later than  
109-68 the fifth day after the date the board receives notice under Article  
109-69 42.018, Code of Criminal Procedure, of the conviction of a person

110-1 described by Section 21.0032 or who holds a certificate under this  
110-2 subchapter, the board shall:

110-3 (1) revoke the certificate or clearance held by the  
110-4 person; and

110-5 (2) provide to the person and to any school district or  
110-6 public charter district [~~open-enrollment charter school~~] employing  
110-7 the person at the time of revocation written notice of:

110-8 (A) the revocation; and

110-9 (B) the basis for the revocation.

110-10 (c) A school district or public charter district  
110-11 [~~open-enrollment charter school~~] that receives notice under  
110-12 Subsection (b) of the revocation of a certificate issued under this  
110-13 subchapter shall:

110-14 (1) immediately remove the person whose certificate  
110-15 has been revoked from campus or from an administrative office, as  
110-16 applicable, to prevent the person from having any contact with a  
110-17 student; and

110-18 (2) as soon as practicable, terminate the employment  
110-19 of the person in accordance with the person's contract and with this  
110-20 subchapter.

110-21 SECTION 4.13. Sections 22.083(b)-(d), Education Code, are  
110-22 amended to read as follows:

110-23 (b) A public charter district may [~~An open-enrollment~~  
110-24 ~~charter school shall~~] obtain from the Department of Public Safety  
110-25 [~~any law enforcement or criminal justice agency~~] all criminal  
110-26 history record information that relates to:

110-27 (1) a person whom the district [~~school~~] intends to  
110-28 employ in any capacity; or

110-29 (2) a person who has indicated, in writing, an  
110-30 intention to serve as a volunteer with the district [~~school~~].

110-31 (c) A school district, public charter district  
110-32 [~~open-enrollment charter school~~], private school, regional  
110-33 education service center, or shared services arrangement may obtain  
110-34 from a federal or state [~~any~~] law enforcement or criminal justice  
110-35 agency all criminal history record information that relates to:

110-36 (1) a volunteer or employee of the district, school,  
110-37 service center, or shared services arrangement; or

110-38 (2) an employee of or applicant for employment by a  
110-39 person that contracts with the district, school, service center, or  
110-40 shared services arrangement to provide services, if:

110-41 (A) the employee or applicant has or will have  
110-42 continuing duties related to the contracted services; and

110-43 (B) the duties are or will be performed on school  
110-44 property or at another location where students are regularly  
110-45 present.

110-46 (d) The superintendent of a district or the director of a  
110-47 public charter district [~~an open-enrollment charter school~~],  
110-48 private school, regional education service center, or shared  
110-49 services arrangement shall promptly notify the State Board for  
110-50 Educator Certification in writing if the person obtains or has  
110-51 knowledge of information showing that an applicant for or holder of  
110-52 a certificate issued under Subchapter B, Chapter 21, has a reported  
110-53 criminal history.

110-54 SECTION 4.14. Section 22.084, Education Code, is amended to  
110-55 read as follows:

110-56 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL  
110-57 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided  
110-58 by Subsections (c) and (d), a school district, public charter  
110-59 district [~~open-enrollment charter school~~], private school,  
110-60 regional education service center, or shared services arrangement  
110-61 that contracts with a person for transportation services shall  
110-62 obtain from the Department of Public Safety [~~any law enforcement or~~  
110-63 ~~criminal justice agency~~] all criminal history record information  
110-64 that relates to:

110-65 (1) a person employed by the person as a bus driver; or

110-66 (2) a person the person intends to employ as a bus  
110-67 driver.

110-68 (b) Except as provided by Subsections (c) and (d), a person  
110-69 that contracts with a school district, public charter district

111-1 [~~open-enrollment charter school~~], private school, regional  
 111-2 education service center, or shared services arrangement to provide  
 111-3 transportation services shall submit to the district, school,  
 111-4 service center, or shared services arrangement the name and other  
 111-5 identification data required to obtain criminal history record  
 111-6 information of each person described by Subsection (a). If the  
 111-7 district, school, service center, or shared services arrangement  
 111-8 obtains information that a person described by Subsection (a) has  
 111-9 been convicted of a felony or a misdemeanor involving moral  
 111-10 turpitude, the district, school, service center, or shared services  
 111-11 arrangement shall inform the chief personnel officer of the person  
 111-12 with whom the district, school, service center, or shared services  
 111-13 arrangement has contracted, and the person may not employ that  
 111-14 person to drive a bus on which students are transported without the  
 111-15 permission of the board of trustees of the district or service  
 111-16 center, the governing body of the public charter district  
 111-17 [~~open-enrollment charter school~~], or the chief executive officer of  
 111-18 the private school or shared services arrangement.

111-19 (c) A commercial transportation company that contracts with  
 111-20 a school district, public charter district [~~open-enrollment~~  
 111-21 ~~charter school~~], private school, regional education service  
 111-22 center, or shared services arrangement to provide transportation  
 111-23 services may obtain from a federal or state [~~any~~] law enforcement or  
 111-24 criminal justice agency all criminal history record information  
 111-25 that relates to:

111-26 (1) a person employed by the commercial transportation  
 111-27 company as a bus driver, bus monitor, or bus aide; or

111-28 (2) a person the commercial transportation company  
 111-29 intends to employ as a bus driver, bus monitor, or bus aide.

111-30 (d) If the commercial transportation company obtains  
 111-31 information that a person employed or to be employed by the company  
 111-32 has been convicted of a felony or a misdemeanor involving moral  
 111-33 turpitude, the company may not employ that person to drive or to  
 111-34 serve as a bus monitor or bus aide on a bus on which students are  
 111-35 transported without the permission of the board of trustees of the  
 111-36 district or service center, the governing body of the public  
 111-37 charter district [~~open-enrollment charter school~~], or the chief  
 111-38 executive officer of the private school or shared services  
 111-39 arrangement. Subsections (a) and (b) do not apply if information is  
 111-40 obtained as provided by Subsection (c).

111-41 SECTION 4.15. Section 22.085, Education Code, is amended to  
 111-42 read as follows:

111-43 Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.  
 111-44 A school district, public charter district [~~open-enrollment~~  
 111-45 ~~charter school~~], private school, regional education service  
 111-46 center, or shared services arrangement may discharge an employee if  
 111-47 the district or school obtains information of the employee's  
 111-48 conviction of a felony or of a misdemeanor involving moral  
 111-49 turpitude that the employee did not disclose to the State Board for  
 111-50 Educator Certification or the district, school, service center, or  
 111-51 shared services arrangement. An employee discharged under this  
 111-52 section is considered to have been discharged for misconduct for  
 111-53 purposes of Section 207.044, Labor Code.

111-54 SECTION 4.16. Section 22.086, Education Code, is amended to  
 111-55 read as follows:

111-56 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The State  
 111-57 Board for Educator Certification, a school district, a public  
 111-58 charter district [~~an open-enrollment charter school~~], a private  
 111-59 school, a regional education service center, a shared services  
 111-60 arrangement, or an employee of the board, district, school, service  
 111-61 center, or shared services arrangement is not civilly or criminally  
 111-62 liable for making a report required under this subchapter.

111-63 SECTION 4.17. Section 25.088, Education Code, is amended to  
 111-64 read as follows:

111-65 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school  
 111-66 attendance officer may be selected by:

111-67 (1) the county school trustees of any county;

111-68 (2) the board of trustees of any school district or the  
 111-69 boards of trustees of two or more school districts jointly; or

112-1 (3) the governing body of a public charter district  
 112-2 [~~an open-enrollment charter school~~].

112-3 SECTION 4.18. Section 25.089(a), Education Code, is amended  
 112-4 to read as follows:

112-5 (a) An attendance officer may be compensated from the funds  
 112-6 of the county, independent school district, or public charter  
 112-7 district [~~open-enrollment charter school~~], as applicable.

112-8 SECTION 4.19. Section 25.090(b), Education Code, is amended  
 112-9 to read as follows:

112-10 (b) If the governing body of a public charter district [~~an~~  
 112-11 ~~open-enrollment charter school~~] has not selected an attendance  
 112-12 officer for a district campus, the duties of attendance officer  
 112-13 shall be performed by the peace officers of the county in which the  
 112-14 campus [~~school~~] is located.

112-15 SECTION 4.20. Sections 25.093(d) and (e), Education Code,  
 112-16 are amended to read as follows:

112-17 (d) A fine collected under this section shall be deposited  
 112-18 as follows:

112-19 (1) one-half shall be deposited to the credit of the  
 112-20 operating fund of, as applicable:

112-21 (A) the school district in which the child  
 112-22 attends school;

112-23 (B) the public charter district [~~open-enrollment~~  
 112-24 ~~charter school~~] the child attends; or

112-25 (C) the juvenile justice alternative education  
 112-26 program that the child has been ordered to attend; and

112-27 (2) one-half shall be deposited to the credit of:

112-28 (A) the general fund of the county, if the  
 112-29 complaint is filed in the justice court or the constitutional  
 112-30 county court; or

112-31 (B) the general fund of the municipality, if the  
 112-32 complaint is filed in municipal court.

112-33 (e) At the trial of any person charged with violating this  
 112-34 section, the attendance records of the child may be presented in  
 112-35 court by any authorized employee of the school district or public  
 112-36 charter district [~~open-enrollment charter school~~], as applicable.

112-37 SECTION 4.21. Sections 25.095(a) and (b), Education Code,  
 112-38 are amended to read as follows:

112-39 (a) A school district or public charter district  
 112-40 [~~open-enrollment charter school~~] shall notify a student's parent in  
 112-41 writing at the beginning of the school year that if the student is  
 112-42 absent from school on 10 or more days or parts of days within a  
 112-43 six-month period in the same school year or on three or more days or  
 112-44 parts of days within a four-week period:

112-45 (1) the student's parent is subject to prosecution  
 112-46 under Section 25.093; and

112-47 (2) the student is subject to prosecution under  
 112-48 Section 25.094 or to referral to a juvenile court in a county with a  
 112-49 population of less than 100,000 for conduct that violates that  
 112-50 section.

112-51 (b) A school district or public charter district shall  
 112-52 notify a student's parent if the student has been absent from  
 112-53 school, without excuse under Section 25.087, on three days or parts  
 112-54 of days within a four-week period. The notice must:

112-55 (1) inform the parent that:

112-56 (A) it is the parent's duty to monitor the  
 112-57 student's school attendance and require the student to attend  
 112-58 school; and

112-59 (B) the parent is subject to prosecution under  
 112-60 Section 25.093; and

112-61 (2) request a conference between school officials and  
 112-62 the parent to discuss the absences.

112-63 SECTION 4.22. Sections 25.0951(a) and (b), Education Code,  
 112-64 are amended to read as follows:

112-65 (a) If a student fails to attend school without excuse on 10  
 112-66 or more days or parts of days within a six-month period in the same  
 112-67 school year, a school district or public charter district shall:

112-68 (1) file a complaint against the student or the  
 112-69 student's parent or both in a county, justice, or municipal court



113-1 for an offense under Section 25.093 or 25.094, as appropriate, or  
 113-2 refer the student to a juvenile court in a county with a population  
 113-3 of less than 100,000 for conduct that violates Section 25.094; or

113-4 (2) refer the student to a juvenile court for conduct  
 113-5 indicating a need for supervision under Section 51.03(b)(2), Family  
 113-6 Code.

113-7 (b) If a student fails to attend school without excuse on  
 113-8 three or more days or parts of days within a four-week period but  
 113-9 does not fail to attend school for the time described by Subsection  
 113-10 (a), the school district or public charter district may:

113-11 (1) file a complaint against the student or the  
 113-12 student's parent or both in a county, justice, or municipal court  
 113-13 for an offense under Section 25.093 or 25.094, as appropriate, or  
 113-14 refer the student to a juvenile court in a county with a population  
 113-15 of less than 100,000 for conduct that violates Section 25.094; or

113-16 (2) refer the student to a juvenile court for conduct  
 113-17 indicating a need for supervision under Section 51.03(b)(2), Family  
 113-18 Code.

113-19 SECTION 4.23. Section 26.006(c), Education Code, is amended  
 113-20 to read as follows:

113-21 (c) A student's parent is entitled to request that the  
 113-22 school district or public charter district [~~open-enrollment~~  
 113-23 ~~charter school~~] the student attends allow the student to take home  
 113-24 any textbook used by the student. Subject to the availability of a  
 113-25 textbook, the school district or public charter district [~~or~~  
 113-26 ~~school~~] shall honor the request. A student who takes home a  
 113-27 textbook must return the textbook to school at the beginning of the  
 113-28 next school day if requested to do so by the student's teacher. In  
 113-29 this subsection, "textbook" has the meaning assigned by Section  
 113-30 31.002.

113-31 SECTION 4.24. Sections 26.0085(a), (c), (d), and (e),  
 113-32 Education Code, are amended to read as follows:

113-33 (a) A school district or public charter district  
 113-34 [~~open-enrollment charter school~~] that seeks to withhold  
 113-35 information from a parent who has requested public information  
 113-36 relating to the parent's child under Chapter 552, Government Code,  
 113-37 and that files suit as described by Section 552.324, Government  
 113-38 Code, to challenge a decision by the attorney general issued under  
 113-39 Subchapter G, Chapter 552, Government Code, must bring the suit not  
 113-40 later than the 30th calendar day after the date the school district  
 113-41 or public charter district [~~open-enrollment charter school~~]  
 113-42 receives the decision of the attorney general being challenged.

113-43 (c) Notwithstanding any other law, a school district or  
 113-44 public charter district [~~open-enrollment charter school~~] may not  
 113-45 appeal the decision of a court in a suit filed under Subsection (a).  
 113-46 This subsection does not affect the right of a parent to appeal the  
 113-47 decision.

113-48 (d) If the school district or public charter district  
 113-49 [~~open-enrollment charter school~~] does not bring suit within the  
 113-50 period established by Subsection (a), the school district or public  
 113-51 charter district [~~open-enrollment charter school~~] shall comply  
 113-52 with the decision of the attorney general.

113-53 (e) A school district or public charter district  
 113-54 [~~open-enrollment charter school~~] that receives a request from a  
 113-55 parent for public information relating to the parent's child shall  
 113-56 comply with Chapter 552, Government Code. If an earlier deadline  
 113-57 for bringing suit is established under Chapter 552, Government  
 113-58 Code, Subsection (a) does not apply. This section does not affect  
 113-59 the earlier deadline for purposes of Section 552.353(b)(3),  
 113-60 Government Code, [~~532.353(b)(3)~~] for a suit brought by an officer  
 113-61 for public information.

113-62 SECTION 4.25. Section 28.0211(j), Education Code, is  
 113-63 amended to read as follows:

113-64 (j) A school district [~~or open-enrollment charter school~~]  
 113-65 shall provide students required to attend accelerated programs  
 113-66 under this section with transportation to those programs if the  
 113-67 programs occur outside of regular school hours.

113-68 SECTION 4.26. Section 29.010(f), Education Code, is amended  
 113-69 to read as follows:

114-1 (f) This section does not create an obligation for or impose  
 114-2 a requirement on a school district [~~or open-enrollment charter~~  
 114-3 ~~school~~] that is not also created or imposed under another state law  
 114-4 or a federal law.

114-5 SECTION 4.27. Sections 29.012(a) and (c), Education Code,  
 114-6 are amended to read as follows:

114-7 (a) Except as provided by Subsection (b)(2), not later than  
 114-8 the third day after the date a person 22 years of age or younger is  
 114-9 placed in a residential facility, the residential facility shall:

114-10 (1) if the person is three years of age or older,  
 114-11 notify the school district in which the facility is located, unless  
 114-12 the facility is a public charter district [~~an open-enrollment~~  
 114-13 ~~charter school~~]; or

114-14 (2) if the person is younger than three years of age,  
 114-15 notify a local early intervention program in the area in which the  
 114-16 facility is located.

114-17 (c) For purposes of enrollment in a school, a person who  
 114-18 resides in a residential facility is considered a resident of the  
 114-19 school district or geographical area served by the public charter  
 114-20 district campus [~~open-enrollment charter school~~] in which the  
 114-21 facility is located.

114-22 SECTION 4.28. Sections 29.062(c)-(e), Education Code, are  
 114-23 amended to read as follows:

114-24 (c) Not later than the 30th day after the date of an on-site  
 114-25 monitoring inspection, the agency shall report its findings to the  
 114-26 school district [~~or open-enrollment charter school~~] and to the  
 114-27 division of accreditation.

114-28 (d) The agency shall notify a school district [~~or~~  
 114-29 ~~open-enrollment charter school~~] found in noncompliance in writing,  
 114-30 not later than the 30th day after the date of the on-site  
 114-31 monitoring. The district [~~or open-enrollment charter school~~] shall  
 114-32 take immediate corrective action.

114-33 (e) If a school district [~~or open-enrollment charter~~  
 114-34 ~~school~~] fails to satisfy appropriate standards adopted by the  
 114-35 commissioner for purposes of Subsection (a), the agency shall apply  
 114-36 sanctions, which may include the removal of accreditation, loss of  
 114-37 foundation school funds, or both.

114-38 SECTION 4.29. Sections 29.087(a)-(c), (e), (k), and (l),  
 114-39 Education Code, are amended to read as follows:

114-40 (a) The agency shall develop a process by which a school  
 114-41 district or public charter district [~~open-enrollment charter~~  
 114-42 ~~school~~] may apply to the commissioner for authority to operate a  
 114-43 program to prepare eligible students to take a high school  
 114-44 equivalency examination.

114-45 (b) Any school district or public charter district  
 114-46 [~~open-enrollment charter school~~] may apply for authorization to  
 114-47 operate a program under this section. As part of the application  
 114-48 process, the commissioner shall require a school district or public  
 114-49 charter district [~~or school~~] to provide information regarding the  
 114-50 operation of any similar program during the preceding five years.

114-51 (b-1) A school district or public charter district  
 114-52 [~~open-enrollment charter school~~] authorized by the commissioner on  
 114-53 or before August 31, 2003, to operate a program under this section  
 114-54 may continue to operate that program in accordance with this  
 114-55 section.

114-56 (c) A school district or public charter district  
 114-57 [~~open-enrollment charter school~~] may not increase enrollment of  
 114-58 students in a program authorized by this section by more than five  
 114-59 percent of the number of students enrolled in the similar program  
 114-60 operated by the school district or public charter  
 114-61 district [~~or school~~] during the 2000-2001 school year.

114-62 (e) A school district or public charter district  
 114-63 [~~open-enrollment charter school~~] shall inform each student who has  
 114-64 completed a program authorized by this section of the time and place  
 114-65 at which the student may take the high school equivalency  
 114-66 examination. Notwithstanding any provision of this section, a  
 114-67 student may not take the high school equivalency examination except  
 114-68 as authorized by Section 7.111.

114-69 (k) The board of trustees of a school district or the

governing body [~~board~~] of a public charter district [~~an open-enrollment charter school~~] shall:

(1) hold a public hearing concerning the proposed application of the school district or public charter district [~~or school~~] before applying to operate a program authorized by this section; and

(2) subsequently hold a public hearing annually to review the performance of the program.

(1) The commissioner may revoke a school district's or public charter district's [~~open-enrollment charter school's~~] authorization under this section after consideration of relevant factors, including performance of students participating in the school district's or public charter district's [~~or school's~~] program on assessment instruments required under Chapter 39, the percentage of students participating in the school district's or public charter district's [~~or school's~~] program who complete the program and perform successfully on the high school equivalency examination, and other criteria adopted by the commissioner. A decision by the commissioner under this subsection is final and may not be appealed.

SECTION 4.30. Sections 29.155(a)-(d), (i), and (j), Education Code, are amended to read as follows:

(a) From amounts appropriated for the purposes of this section, the commissioner may make grants to school districts and public charter districts [~~open-enrollment charter schools~~] to implement or expand kindergarten and prekindergarten programs by:

(1) operating an existing half-day kindergarten or prekindergarten program on a full-day basis; or

(2) implementing a prekindergarten program at a campus that does not have a prekindergarten program.

(b) A school district or public charter district [~~open-enrollment charter school~~] may use funds received under this section to employ teachers and other personnel for a kindergarten or prekindergarten program and acquire curriculum materials or equipment, including computers, for use in kindergarten and prekindergarten programs.

(c) To be eligible for a grant under this section, a school district or public charter district [~~open-enrollment charter school~~] must apply to the commissioner in the manner and within the time prescribed by the commissioner.

(d) In awarding grants under this section, the commissioner shall give priority to districts and public charter districts [~~open-enrollment charter schools~~] in which the level of performance of students on the assessment instruments administered under Section 39.023 to students in grade three is substantially below the average level of performance on those assessment instruments for all school districts in the state.

(i) In carrying out the purposes of Subsection (g), a school district or public charter district [~~open-enrollment charter school~~] may use funds granted to the school district or public charter district [~~or school~~] under this section [~~subsection~~] in contracting with another entity, including a private entity.

(j) If a school district or public charter district [~~open-enrollment charter school~~] returns to the commissioner funds granted under this section, the commissioner may grant those funds to another entity, including a private entity, for the purposes of Subsection (g).

SECTION 4.31. Section 29.905(b), Education Code, is amended to read as follows:

(b) The agency shall make the program available to a school on the request of the board of trustees of [~~or~~] the school district of which the school is a part, or if the school is a public charter district [~~an open-enrollment charter school~~], on the request of the governing body of the public charter district [~~school~~].

SECTION 4.32. Section 31.021(b), Education Code, is amended to read as follows:

(b) The State Board of Education shall annually set aside out of the available school fund of the state an amount sufficient for the board and [~~7~~] school districts [~~, and open-enrollment charter~~

116-1 ~~schools~~] to purchase and distribute the necessary textbooks for the  
 116-2 use of the students of this state for the following school year.  
 116-3 The board shall determine the amount of the available school fund to  
 116-4 set aside for the state textbook fund based on:

116-5 (1) a report by the commissioner issued on July 1 or,  
 116-6 if that date is a Saturday or Sunday, on the following Monday,  
 116-7 stating the amount of unobligated money in the fund;

116-8 (2) the commissioner's estimate, based on textbooks  
 116-9 selected under Section 31.101 and on attendance reports submitted  
 116-10 under Section 31.103 by school districts [~~and open-enrollment~~  
 116-11 ~~charter schools~~], of the amount of funds, in addition to funds  
 116-12 reported under Subdivision (1), that will be necessary for purchase  
 116-13 and distribution of textbooks for the following school year; and

116-14 (3) any amount the board determines should be set  
 116-15 aside for emergency purposes caused by unexpected increases in  
 116-16 attendance.

116-17 SECTION 4.33. Section 31.027(a), Education Code, is amended  
 116-18 to read as follows:

116-19 (a) A publisher shall provide each school district [~~and~~  
 116-20 ~~open-enrollment charter school~~] with information that fully  
 116-21 describes each of the publisher's adopted textbooks. On request of  
 116-22 a school district, a publisher shall provide a sample copy of an  
 116-23 adopted textbook.

116-24 SECTION 4.34. Section 31.030, Education Code, is amended to  
 116-25 read as follows:

116-26 Sec. 31.030. USED TEXTBOOKS. The State Board of Education  
 116-27 shall adopt rules to ensure that used textbooks sold to school  
 116-28 districts [~~and open-enrollment charter schools~~] are not sample  
 116-29 copies that contain factual errors. The rules may provide for the  
 116-30 imposition of an administrative penalty in accordance with Section  
 116-31 31.151 against a seller of used textbooks who knowingly violates  
 116-32 this section.

116-33 SECTION 4.35. Section 31.101, Education Code, is amended to  
 116-34 read as follows:

116-35 Sec. 31.101. SELECTION AND PURCHASE OF TEXTBOOKS BY SCHOOL  
 116-36 DISTRICTS. (a) Each year, during a period established by the  
 116-37 State Board of Education, the board of trustees of each school  
 116-38 district [~~and the governing body of each open-enrollment charter~~  
 116-39 ~~school~~] shall:

116-40 (1) for a subject in the foundation curriculum, notify  
 116-41 the State Board of Education of the textbooks selected by the board  
 116-42 of trustees [~~or governing body~~] for the following school year from  
 116-43 among the textbooks on the appropriate conforming or nonconforming  
 116-44 list; or

116-45 (2) for a subject in the enrichment curriculum:

116-46 (A) notify the State Board of Education of each  
 116-47 textbook selected by the board of trustees [~~or governing body~~] for  
 116-48 the following school year from among the textbooks on the  
 116-49 appropriate conforming or nonconforming list; or

116-50 (B) notify the State Board of Education that the  
 116-51 board of trustees [~~or governing body~~] has selected a textbook that  
 116-52 is not on the conforming or nonconforming list.

116-53 (b) If a school district [~~or open-enrollment charter~~  
 116-54 ~~school~~] selects a textbook for a particular subject in the  
 116-55 enrichment curriculum and grade level that is not on the conforming  
 116-56 or nonconforming list, the state shall pay to the district [~~or~~  
 116-57 ~~school~~] an amount equal to the lesser of:

116-58 (1) 70 percent of the cost to the district of the  
 116-59 textbook, multiplied by the number of textbooks the district [~~or~~  
 116-60 ~~school~~] needs for that subject and grade level; or

116-61 (2) 70 percent of the limitation established under  
 116-62 Section 31.025 for a textbook for that subject and grade level,  
 116-63 multiplied by the number of textbooks the district [~~or school~~]  
 116-64 needs for that subject and grade level.

116-65 (c) A school district [~~or open-enrollment charter school~~]  
 116-66 that selects a textbook that is not on the conforming or  
 116-67 nonconforming list:

116-68 (1) is responsible for the portion of the cost of the  
 116-69 textbook that is not paid by the state under Subsection (b); and

117-1 (2) may use funds received from the state under  
 117-2 Subsection (b) only for purchasing the textbook for which the funds  
 117-3 were received.

117-4 (d) For a textbook that is not on the conforming or  
 117-5 nonconforming list, a school district [~~or open-enrollment charter~~  
 117-6 ~~school~~] must use the textbook for the period of the review and  
 117-7 adoption cycle the State Board of Education has established for the  
 117-8 subject and grade level for which the textbook is used.

117-9 SECTION 4.36. Section 31.102(c), Education Code, is amended  
 117-10 to read as follows:

117-11 (c) The board of trustees of a school district [~~or the~~  
 117-12 ~~governing body of an open-enrollment charter school~~] is the legal  
 117-13 custodian of textbooks purchased as provided by this chapter for  
 117-14 the district [~~or school~~]. The board of trustees shall distribute  
 117-15 textbooks to students in the manner that the board [~~or governing~~  
 117-16 ~~body~~] determines is most effective and economical.

117-17 SECTION 4.37. Section 31.103, Education Code, is amended to  
 117-18 read as follows:

117-19 Sec. 31.103. TEXTBOOK REQUISITIONS. (a) Not later than  
 117-20 the seventh day after the first school day in April, each principal  
 117-21 shall report the maximum attendance for the school to the  
 117-22 superintendent. Not later than April 25, the superintendent of a  
 117-23 school district [~~or the chief operating officer of an~~  
 117-24 ~~open-enrollment charter school~~] shall report the district's [~~or~~  
 117-25 ~~school's~~] maximum attendance to the commissioner.

117-26 (b) A requisition for textbooks for the following school  
 117-27 year shall be based on the maximum attendance reports under  
 117-28 Subsection (a), plus an additional 10 percent, except as otherwise  
 117-29 provided. A school district [~~or open-enrollment charter school~~]  
 117-30 shall make a requisition for a textbook on the conforming or  
 117-31 nonconforming list through the commissioner to the state depository  
 117-32 designated by the publisher or as provided by State Board of  
 117-33 Education rule, as applicable, not later than June 1 of each year.  
 117-34 The designated state depository or, if the publisher or  
 117-35 manufacturer does not have a designated textbook depository in this  
 117-36 state under Section 31.151(a)(6)(B), the publisher or manufacturer  
 117-37 shall fill a requisition approved by the agency at any other time in  
 117-38 the case of an emergency. As made necessary by available funds, the  
 117-39 commissioner shall reduce the additional percentage of attendance  
 117-40 for which a district [~~or school~~] may requisition textbooks. The  
 117-41 commissioner may, on application of a district [~~or school~~] that is  
 117-42 experiencing high enrollment growth, increase the additional  
 117-43 percentage of attendance for which the district [~~or school~~] may  
 117-44 requisition textbooks.

117-45 (c) In making a requisition under this section, a school  
 117-46 district [~~or open-enrollment charter school~~] may requisition  
 117-47 textbooks on the conforming or nonconforming list for grades above  
 117-48 the grade level in which a student is enrolled, except that the  
 117-49 total quantity of textbooks requisitioned under this section may  
 117-50 not exceed the limit prescribed by Subsection (b).

117-51 SECTION 4.38. Sections 31.104(a), (b), and (d), Education  
 117-52 Code, are amended to read as follows:

117-53 (a) The board of trustees of a school district [~~or the~~  
 117-54 ~~governing body of an open-enrollment charter school~~] may delegate  
 117-55 to an employee the authority to requisition, distribute, and manage  
 117-56 the inventory of textbooks in a manner consistent with this chapter  
 117-57 and rules adopted under this chapter.

117-58 (b) A school district [~~or open-enrollment charter school~~]  
 117-59 may order replacements for textbooks that have been lost or damaged  
 117-60 directly from:

117-61 (1) the textbook depository; or

117-62 (2) the textbook publisher or manufacturer if the  
 117-63 textbook publisher or manufacturer does not have a designated  
 117-64 textbook depository in this state under Section 31.151(a)(6)(B).

117-65 (d) Each student, or the student's parent or guardian, is  
 117-66 responsible for each textbook not returned by the student. A  
 117-67 student who fails to return all textbooks forfeits the right to free  
 117-68 textbooks until each textbook previously issued but not returned is  
 117-69 paid for by the student, parent, or guardian. As provided by policy

of the board of trustees [~~or governing body~~], a school district [~~or open-enrollment charter school~~] may waive or reduce the payment requirement if the student is from a low-income family. The district [~~or school~~] shall allow the student to use textbooks at school during each school day. If a textbook is not returned or paid for, the district [~~or school~~] may withhold the student's records. A district [~~or school~~] may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma.

SECTION 4.39. Section 31.105, Education Code, is amended to read as follows:

Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a school district [~~or governing body of an open-enrollment charter school~~] may sell textbooks, other than electronic textbooks, to a student or another school at the state contract price. The district shall send money from the sale of textbooks to the commissioner as required by the commissioner. The commissioner shall deposit the money in the state textbook fund.

SECTION 4.40. Section 31.106, Education Code, is amended to read as follows:

Sec. 31.106. USE OF LOCAL FUNDS. In addition to any textbook selected under this chapter, a school district [~~or open-enrollment charter school~~] may use local funds to purchase any textbooks.

SECTION 4.41. Section 31.151(a), Education Code, is amended to read as follows:

(a) A publisher or manufacturer of textbooks:

(1) shall furnish any textbook the publisher or manufacturer offers in this state, at a price that does not exceed the lowest price at which the publisher offers that textbook for adoption or sale to any state, public school, or school district in the United States;

(2) shall automatically reduce the price of a textbook sold for use in a school district [~~or open-enrollment charter school~~] to the extent that the price is reduced elsewhere in the United States;

(3) shall provide any textbook or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the textbook or ancillary item free of charge to any state, public school, or school district in the United States;

(4) shall guarantee that each copy of a textbook sold in this state is at least equal in quality to copies of that textbook sold elsewhere in the United States and is free from factual error;

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in textbooks or enter into any understanding or combination to control prices or restrict competition in the sale of textbooks for use in this state;

(6) shall:

(A) maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, other than on-line textbooks or on-line textbook components, consistent with State Board of Education rules; or

(B) deliver textbooks to a school district [~~or open-enrollment charter school~~] without a delivery charge to the school district [~~or open-enrollment charter school~~], or state, if:

(i) the publisher or manufacturer does not maintain or arrange with a depository in this state under Paragraph (A) and the publisher's or manufacturer's textbooks and related products are warehoused or otherwise stored less than 300 miles from a border of this state; or

(ii) the textbooks are on-line textbooks or on-line textbook components;

(7) shall, at the time an order for textbooks is acknowledged, provide to school districts [~~or open-enrollment charter schools~~] an accurate shipping date for textbooks that are back-ordered;

119-1 (8) shall guarantee delivery of textbooks at least 10  
 119-2 business days before the opening day of school of the year for which  
 119-3 the textbooks are ordered if the textbooks are ordered by a date  
 119-4 specified in the sales contract; and

119-5 (9) shall submit to the State Board of Education an  
 119-6 affidavit certifying any textbook the publisher or manufacturer  
 119-7 offers in this state to be free of factual errors at the time the  
 119-8 publisher executes the contract required by Section 31.026.

119-9 SECTION 4.42. Section 31.201(c), Education Code, is amended  
 119-10 to read as follows:

119-11 (c) The State Board of Education shall adopt rules under  
 119-12 which a school district [~~or open-enrollment charter school~~]  
 119-13 donate discontinued textbooks, other than electronic textbooks, to  
 119-14 a student, to an adult education program, or to a nonprofit  
 119-15 organization.

119-16 SECTION 4.43. Subchapter C, Chapter 32, Education Code, is  
 119-17 amended by adding Section 32.1011 to read as follows:

119-18 Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.  
 119-19 This subchapter applies to a public charter district as if the  
 119-20 public charter district were a school district.

119-21 SECTION 4.44. Section 32.102, Education Code, is amended to  
 119-22 read as follows:

119-23 Sec. 32.102. AUTHORITY. (a) As provided by this  
 119-24 subchapter, a school district [~~or open-enrollment charter school~~]  
 119-25 may transfer to a student enrolled in the district [~~or school~~]:

119-26 (1) any data processing equipment donated to the  
 119-27 district [~~or school~~], including equipment donated by:

119-28 (A) a private donor; or  
 119-29 (B) a state eleemosynary institution or a state  
 119-30 agency under Section 2175.128, Government Code;

119-31 (2) any equipment purchased by the district [~~or~~  
 119-32 ~~school~~], to the extent consistent with Section 32.105; and

119-33 (3) any surplus or salvage equipment owned by the  
 119-34 district [~~or school~~].

119-35 (b) A school district [~~or open-enrollment charter school~~]  
 119-36 may accept:

119-37 (1) donations of data processing equipment for  
 119-38 transfer under this subchapter; and

119-39 (2) any gifts, grants, or donations of money or  
 119-40 services to purchase, refurbish, or repair data processing  
 119-41 equipment under this subchapter.

119-42 SECTION 4.45. Section 32.103, Education Code, is amended to  
 119-43 read as follows:

119-44 Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is  
 119-45 eligible to receive data processing equipment under this subchapter  
 119-46 only if the student does not otherwise have home access to data  
 119-47 processing equipment, as determined by the student's school  
 119-48 district [~~or open-enrollment charter school~~].

119-49 (b) In transferring data processing equipment to students,  
 119-50 a school district [~~or open-enrollment charter school~~] shall give  
 119-51 preference to educationally disadvantaged students.

119-52 SECTION 4.46. Section 32.104, Education Code, is amended to  
 119-53 read as follows:

119-54 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before  
 119-55 transferring data processing equipment to a student, a school  
 119-56 district [~~or open-enrollment charter school~~] must:

119-57 (1) adopt rules governing transfers under this  
 119-58 subchapter, including provisions for technical assistance to the  
 119-59 student by the district [~~or school~~];

119-60 (2) determine that the transfer serves a public  
 119-61 purpose and benefits the district [~~or school~~]; and

119-62 (3) remove from the equipment any offensive,  
 119-63 confidential, or proprietary information, as determined by the  
 119-64 district [~~or school~~].

119-65 SECTION 4.47. Section 32.105, Education Code, is amended to  
 119-66 read as follows:

119-67 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school  
 119-68 district [~~or open-enrollment charter school~~] may spend public funds  
 119-69 to:

120-1 (1) purchase, refurbish, or repair any data processing  
120-2 equipment transferred to a student under this subchapter; and

120-3 (2) store, transport, or transfer data processing  
120-4 equipment under this subchapter.

120-5 SECTION 4.48. Section 32.106, Education Code, is amended to  
120-6 read as follows:

120-7 Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided  
120-8 by Subsection (b), a student who receives data processing equipment  
120-9 from a school district [~~or open-enrollment charter school~~] under  
120-10 this subchapter shall return the equipment to the district [~~or~~  
120-11 ~~school~~] not later than the earliest of:

120-12 (1) five years after the date the student receives the  
120-13 equipment;

120-14 (2) the date the student graduates;

120-15 (3) the date the student transfers to another school  
120-16 district [~~or open-enrollment charter school~~]; or

120-17 (4) the date the student withdraws from school.

120-18 (b) Subsection (a) does not apply if, at the time the  
120-19 student is required to return the data processing equipment under  
120-20 that subsection, the district [~~or school~~] determines that the  
120-21 equipment has no marketable value.

120-22 SECTION 4.49. Section 33.007, Education Code, is amended to  
120-23 read as follows:

120-24 Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)  
120-25 Each counselor at an elementary, middle, or junior high school,  
120-26 including a public charter district [~~an open-enrollment charter~~  
120-27 ~~school~~] offering those grades, shall advise students and their  
120-28 parents or guardians regarding the importance of higher education,  
120-29 coursework designed to prepare students for higher education, and  
120-30 financial aid availability and requirements.

120-31 (b) During the first school year a student is enrolled in a  
120-32 high school or at the high school level in a public charter district  
120-33 [~~an open-enrollment charter school~~], and again during a student's  
120-34 senior year, a counselor shall provide information about higher  
120-35 education to the student and the student's parent or guardian. The  
120-36 information must include information regarding:

120-37 (1) the importance of higher education;

120-38 (2) the advantages of completing the recommended or  
120-39 advanced high school program adopted under Section 28.025(a);

120-40 (3) the disadvantages of taking courses to prepare for  
120-41 a high school equivalency examination relative to the benefits of  
120-42 taking courses leading to a high school diploma;

120-43 (4) financial aid eligibility;

120-44 (5) instruction on how to apply for federal financial  
120-45 aid;

120-46 (6) the center for financial aid information  
120-47 established under Section 61.0776;

120-48 (7) the automatic admission of certain students to  
120-49 general academic teaching institutions as provided by Section  
120-50 51.803; and

120-51 (8) the eligibility and academic performance  
120-52 requirements for the TEXAS Grant as provided by Subchapter M,  
120-53 Chapter 56 [~~as added by Chapter 1590, Acts of the 76th Legislature,~~  
120-54 ~~Regular Session, 1999~~].

120-55 SECTION 4.50. Section 33.901, Education Code, is amended to  
120-56 read as follows:

120-57 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of  
120-58 the students enrolled in one or more schools in a school district or  
120-59 enrolled in a public charter district campus [~~an open-enrollment~~  
120-60 ~~charter school~~] are eligible for free or reduced-price breakfasts  
120-61 under the national school breakfast program provided for by the  
120-62 Child Nutrition Act of 1966 (42 U.S.C. Section 1773), the governing  
120-63 body of the district or the public charter district  
120-64 [~~open-enrollment charter school~~] shall participate in the program  
120-65 and make the benefits of the program available to all eligible  
120-66 students in the schools or campus [~~school~~].

120-67 SECTION 4.51. Section 37.007(e), Education Code, is amended  
120-68 to read as follows:

120-69 (e) In accordance with 20 U.S.C. Section 7151, a local



121-1 educational agency, including a school district, home-rule school  
 121-2 district, or public charter district [~~open-enrollment charter~~  
 121-3 ~~school~~], shall expel a student who brings a firearm, as defined by  
 121-4 18 U.S.C. Section 921, to school. The student must be expelled from  
 121-5 the student's regular campus for a period of at least one year,  
 121-6 except that:

121-7 (1) the superintendent or other chief administrative  
 121-8 officer of the school district or of the other local educational  
 121-9 agency, as defined by 20 U.S.C. Section 7801, may modify the length  
 121-10 of the expulsion in the case of an individual student;

121-11 (2) the district or other local educational agency  
 121-12 shall provide educational services to an expelled student in a  
 121-13 disciplinary alternative education program as provided by Section  
 121-14 37.008 if the student is younger than 10 years of age on the date of  
 121-15 expulsion; and

121-16 (3) the district or other local educational agency may  
 121-17 provide educational services to an expelled student who is 10 years  
 121-18 of age or older in a disciplinary alternative education program as  
 121-19 provided in Section 37.008.

121-20 SECTION 4.52. Section 37.008(j), Education Code, is amended  
 121-21 to read as follows:

121-22 (j) If a student placed in a disciplinary alternative  
 121-23 education program enrolls in another school district before the  
 121-24 expiration of the period of placement, the board of trustees of the  
 121-25 district requiring the placement shall provide to the district in  
 121-26 which the student enrolls, at the same time other records of the  
 121-27 student are provided, a copy of the placement order. The district  
 121-28 in which the student enrolls may continue the disciplinary  
 121-29 alternative education program placement under the terms of the  
 121-30 order or may allow the student to attend regular classes without  
 121-31 completing the period of placement. A school district may take any  
 121-32 action permitted by this subsection if:

121-33 (1) the student was placed in a disciplinary  
 121-34 alternative education program by a public charter district [~~an~~  
 121-35 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~] and  
 121-36 the public charter district [~~school~~] provides to the school  
 121-37 district a copy of the placement order; or

121-38 (2) the student was placed in a disciplinary  
 121-39 alternative education program by a school district in another state  
 121-40 and:

121-41 (A) the out-of-state district provides to the  
 121-42 school district a copy of the placement order; and

121-43 (B) the grounds for the placement by the  
 121-44 out-of-state district are grounds for placement in the school  
 121-45 district in which the student is enrolling.

121-46 SECTION 4.53. Section 37.021(a)(2), Education Code, as  
 121-47 added by Chapter 631, Acts of the 78th Legislature, Regular  
 121-48 Session, 2003, is amended to read as follows:

121-49 (2) "District or school" includes an independent  
 121-50 school district, a home-rule school district, a campus or campus  
 121-51 program charter holder, or a public charter district [~~an~~  
 121-52 ~~open-enrollment charter school~~].

121-53 SECTION 4.54. Section 39.072(c), Education Code, is amended  
 121-54 to read as follows:

121-55 (c) The agency shall evaluate against state standards and  
 121-56 shall, not later than August 1 of each year, report the performance  
 121-57 of each campus in a district and each public charter district  
 121-58 [~~open-enrollment charter school~~] on the basis of the campus's  
 121-59 performance on the indicators adopted under Sections 39.051(b)(1)  
 121-60 through (7). Consideration of the effectiveness of district  
 121-61 programs under Subsection (b)(2) or (3) must be based on data  
 121-62 collected through the Public Education Information Management  
 121-63 System for purposes of accountability under this chapter and  
 121-64 include the results of assessments required under Section 39.023.

121-65 SECTION 4.55. Section 39.131(a), Education Code, is amended  
 121-66 to read as follows:

121-67 (a) If a district does not satisfy the accreditation  
 121-68 criteria, the commissioner shall take any of the following actions,  
 121-69 listed in order of severity, to the extent the commissioner

determines necessary:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4.56. Section 39.182(a), Education Code, is amended to read as follows:

(a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing:

(1) an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002;

(2) an evaluation of the status of education in the state as reflected by the academic excellence indicators adopted under Section 39.051;

123-1 (3) a summary compilation of overall student  
 123-2 performance on academic skills assessment instruments required by  
 123-3 Section 39.023 with the number and percentage of students exempted  
 123-4 from the administration of those instruments and the basis of the  
 123-5 exemptions, aggregated by grade level, subject area, campus, and  
 123-6 district, with appropriate interpretations and analysis, and  
 123-7 disaggregated by race, ethnicity, gender, and socioeconomic  
 123-8 status;

123-9 (4) a summary compilation of overall performance of  
 123-10 students placed in an alternative education program established  
 123-11 under Section 37.008 on academic skills assessment instruments  
 123-12 required by Section 39.023 with the number of those students  
 123-13 exempted from the administration of those instruments and the basis  
 123-14 of the exemptions, aggregated by district, grade level, and subject  
 123-15 area, with appropriate interpretations and analysis, and  
 123-16 disaggregated by race, ethnicity, gender, and socioeconomic  
 123-17 status;

123-18 (5) a summary compilation of overall performance of  
 123-19 students at risk of dropping out of school, as defined by Section  
 123-20 29.081(d), on academic skills assessment instruments required by  
 123-21 Section 39.023 with the number of those students exempted from the  
 123-22 administration of those instruments and the basis of the  
 123-23 exemptions, aggregated by district, grade level, and subject area,  
 123-24 with appropriate interpretations and analysis, and disaggregated  
 123-25 by race, ethnicity, gender, and socioeconomic status;

123-26 (6) an evaluation of the correlation between student  
 123-27 grades and student performance on academic skills assessment  
 123-28 instruments required by Section 39.023;

123-29 (7) a statement of the dropout rate of students in  
 123-30 grade levels 7 through 12, expressed in the aggregate and by grade  
 123-31 level, and a statement of the completion rates of students for grade  
 123-32 levels 9 through 12;

123-33 (8) a statement of:

123-34 (A) the completion rate of students who enter  
 123-35 grade level 9 and graduate not more than four years later;

123-36 (B) the completion rate of students who enter  
 123-37 grade level 9 and graduate, including students who require more  
 123-38 than four years to graduate;

123-39 (C) the completion rate of students who enter  
 123-40 grade level 9 and not more than four years later receive a high  
 123-41 school equivalency certificate;

123-42 (D) the completion rate of students who enter  
 123-43 grade level 9 and receive a high school equivalency certificate,  
 123-44 including students who require more than four years to receive a  
 123-45 certificate; and

123-46 (E) the number and percentage of all students who  
 123-47 have not been accounted for under Paragraph (A), (B), (C), or (D);

123-48 (9) a statement of the projected cross-sectional and  
 123-49 longitudinal dropout rates for grade levels 9 through 12 for the  
 123-50 next five years, assuming no state action is taken to reduce the  
 123-51 dropout rate;

123-52 (10) a description of a systematic, measurable plan  
 123-53 for reducing the projected cross-sectional and longitudinal  
 123-54 dropout rates to five percent or less for the 1997-1998 school year;

123-55 (11) a summary of the information required by Section  
 123-56 29.083 regarding grade level retention of students and information  
 123-57 concerning:

123-58 (A) the number and percentage of students  
 123-59 retained; and

123-60 (B) the performance of retained students on  
 123-61 assessment instruments required under Section 39.023(a);

123-62 (12) information, aggregated by district type and  
 123-63 disaggregated by race, ethnicity, gender, and socioeconomic  
 123-64 status, on:

123-65 (A) the number of students placed in a  
 123-66 disciplinary ~~an~~ alternative education program established under  
 123-67 Section 37.008;

123-68 (B) the average length of a student's placement  
 123-69 in a disciplinary ~~an~~ alternative education program established

124-1 under Section 37.008;

124-2 (C) the academic performance of students on  
124-3 assessment instruments required under Section 39.023(a) during the  
124-4 year preceding and during the year following placement in a  
124-5 disciplinary ~~[an]~~ alternative education program; and

124-6 (D) the dropout rates of students who have been  
124-7 placed in a disciplinary ~~[an]~~ alternative education program  
124-8 established under Section 37.008;

124-9 (13) a list of each school district or campus that does  
124-10 not satisfy performance standards, with an explanation of the  
124-11 actions taken by the commissioner to improve student performance in  
124-12 the district or campus and an evaluation of the results of those  
124-13 actions;

124-14 (14) an evaluation of the status of the curriculum  
124-15 taught in public schools, with recommendations for legislative  
124-16 changes necessary to improve or modify the curriculum required by  
124-17 Section 28.002;

124-18 (15) a description of all funds received by and each  
124-19 activity and expenditure of the agency;

124-20 (16) a summary and analysis of the instructional  
124-21 expenditures ratios and instructional employees ratios of school  
124-22 districts computed under Section 44.0071;

124-23 (17) a summary of the effect of deregulation,  
124-24 including exemptions and waivers granted under Section 7.056 or  
124-25 39.112;

124-26 (18) a statement of the total number and length of  
124-27 reports that school districts and school district employees must  
124-28 submit to the agency, identifying which reports are required by  
124-29 federal statute or rule, state statute, or agency rule, and a  
124-30 summary of the agency's efforts to reduce overall reporting  
124-31 requirements;

124-32 (19) a list of each school district that is not in  
124-33 compliance with state special education requirements, including:

124-34 (A) the period for which the district has not  
124-35 been in compliance;

124-36 (B) the manner in which the agency considered the  
124-37 district's failure to comply in determining the district's  
124-38 accreditation status; and

124-39 (C) an explanation of the actions taken by the  
124-40 commissioner to ensure compliance and an evaluation of the results  
124-41 of those actions;

124-42 (20) a comparison of the performance of public charter  
124-43 districts ~~[open-enrollment charter schools]~~ and school districts  
124-44 on the academic excellence indicators specified in Section  
124-45 39.051(b) and accountability measures adopted under Section  
124-46 39.051(g), with a separately aggregated comparison of the  
124-47 performance of public charter districts ~~[open-enrollment charter~~  
124-48 ~~schools]~~ predominantly serving students at risk of dropping out of  
124-49 school, as defined by Section 29.081(d), with the performance of  
124-50 school districts; and

124-51 (21) any additional information considered important  
124-52 by the commissioner or the State Board of Education.

124-53 SECTION 4.57. Section 42.005(f), Education Code, is amended  
124-54 to read as follows:

124-55 (f) A public charter district ~~[An open-enrollment charter~~  
124-56 ~~school]~~ is not entitled to funding based on an adjustment under  
124-57 Subsection (b)(2).

124-58 SECTION 4.58. Section 42.152(c), Education Code, is amended  
124-59 to read as follows:

124-60 (c) Funds allocated under this section shall be used to fund  
124-61 supplemental programs and services designed to eliminate any  
124-62 disparity in performance on assessment instruments administered  
124-63 under Subchapter B, Chapter 39, or disparity in the rates of high  
124-64 school completion between students at risk of dropping out of  
124-65 school, as defined by Section 29.081, and all other students.  
124-66 Specifically, the funds, other than an indirect cost allotment  
124-67 established under State Board of Education rule, which may not  
124-68 exceed 15 percent, may be used to meet the costs of providing a  
124-69 compensatory, intensive, or accelerated instruction program under

125-1 Section 29.081 or an alternative education program established  
 125-2 under Section 37.008 or to support a program eligible under Title I  
 125-3 of the Elementary and Secondary Education Act of 1965, as provided  
 125-4 by Pub. L. No. 103-382 and its subsequent amendments, and by federal  
 125-5 regulations implementing that Act, at a campus at which at least 40  
 125-6 percent of the students are educationally disadvantaged. In  
 125-7 meeting the costs of providing a compensatory, intensive, or  
 125-8 accelerated instruction program under Section 29.081, a district's  
 125-9 compensatory education allotment shall be used for costs  
 125-10 supplementary to the regular education program, such as costs for  
 125-11 program and student evaluation, instructional materials and  
 125-12 equipment and other supplies required for quality instruction,  
 125-13 supplemental staff expenses, salary for teachers of at-risk  
 125-14 students, smaller class size, and individualized instruction. A  
 125-15 home-rule school district or a public charter district [~~an~~  
 125-16 ~~open-enrollment charter school~~] must use funds allocated under  
 125-17 Subsection (a) for a purpose authorized in this subsection but is  
 125-18 not otherwise subject to Subchapter C, Chapter 29. Notwithstanding  
 125-19 any other provisions of this section:

125-20 (1) to ensure that a sufficient amount of the funds  
 125-21 allotted under this section are available to supplement  
 125-22 instructional programs and services, no more than 18 percent of the  
 125-23 funds allotted under this section may be used to fund disciplinary  
 125-24 alternative education programs established under Section 37.008;

125-25 (2) the commissioner may waive the limitations of  
 125-26 Subdivision (1) upon an annual petition, by a district's board and a  
 125-27 district's site-based decision making committee, presenting the  
 125-28 reason for the need to spend supplemental compensatory education  
 125-29 funds on disciplinary alternative education programs under Section  
 125-30 37.008, provided that:

125-31 (A) the district in its petition reports the  
 125-32 number of students in each grade level, by demographic subgroup,  
 125-33 not making satisfactory progress under the state's assessment  
 125-34 system; and

125-35 (B) the commissioner makes the waiver request  
 125-36 information available annually to the public on the agency's  
 125-37 website; and

125-38 (3) for purposes of this subsection, a program  
 125-39 specifically designed to serve students at risk of dropping out of  
 125-40 school, as defined by Section 29.081, is considered to be a program  
 125-41 supplemental to the regular education program, and a district may  
 125-42 use its compensatory education allotment for such a program.

125-43 SECTION 4.59. Section 44.008(a), Education Code, is amended  
 125-44 to read as follows:

125-45 (a) The board of school trustees of each school district  
 125-46 shall have its school district fiscal accounts audited annually at  
 125-47 district expense by a certified or public accountant holding a  
 125-48 permit from the Texas State Board of Public Accountancy. Except as  
 125-49 determined impracticable by the commissioner, the accountant must  
 125-50 have completed at least one peer-reviewed audit of a school  
 125-51 district, governmental entity, quasi-governmental entity, or  
 125-52 nonprofit corporation and received an unqualified opinion from the  
 125-53 peer review. The audit must be completed following the close of  
 125-54 each fiscal year.

125-55 SECTION 4.60. Section 46.012, Education Code, is amended to  
 125-56 read as follows:

125-57 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
 125-58 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~  
 125-59 ~~open-enrollment charter school~~] is not entitled to an allotment  
 125-60 under this subchapter.

125-61 SECTION 4.61. Section 46.036, Education Code, is amended to  
 125-62 read as follows:

125-63 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
 125-64 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district [~~An~~  
 125-65 ~~open-enrollment charter school~~] is not entitled to an allotment  
 125-66 under this subchapter.

125-67 SECTION 4.62. Section 53.02(13), Education Code, is amended  
 125-68 to read as follows:

125-69 (13) "Authorized charter school" means a public

126-1 charter district [~~an open-enrollment charter school~~] that holds a  
 126-2 charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

126-3 SECTION 4.63. The heading to Section 53.351, Education  
 126-4 Code, is amended to read as follows:

126-5 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN ENROLLMENT~~] CHARTER  
 126-6 SCHOOL FACILITIES.

126-7 SECTION 4.64. Sections 53.351(a), (c), (d), (f), and (g),  
 126-8 Education Code, are amended to read as follows:

126-9 (a) The Texas Public Finance Authority shall establish a  
 126-10 nonprofit corporation to issue revenue bonds on behalf of  
 126-11 authorized [~~open-enrollment~~] charter schools for the acquisition,  
 126-12 construction, repair, or renovation of educational facilities of  
 126-13 those schools.

126-14 (c) The corporation has all powers granted under the Texas  
 126-15 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
 126-16 Texas Civil Statutes) for the purpose of aiding authorized  
 126-17 [~~open-enrollment~~] charter schools in providing educational  
 126-18 facilities. The corporation may make expenditures from the fund  
 126-19 described by Subsection (e) and may solicit and accept grants for  
 126-20 deposit into the fund. In addition, Sections 53.131, 53.15, 53.31,  
 126-21 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and  
 126-22 govern the corporation and its procedures and bonds.

126-23 (d) The corporation shall adopt rules governing the  
 126-24 issuance of bonds on behalf of an authorized [~~open-enrollment~~]  
 126-25 charter school.

126-26 (f) A revenue bond issued under this section is not a debt of  
 126-27 the state or any state agency, political corporation, or political  
 126-28 subdivision of the state and is not a pledge of the faith and credit  
 126-29 of any of these entities. A revenue bond is payable solely from the  
 126-30 revenue of the authorized [~~open-enrollment~~] charter school on whose  
 126-31 behalf the bond is issued. A revenue bond issued under this section  
 126-32 must contain on its face a statement to the effect that:

126-33 (1) neither the state nor a state agency, political  
 126-34 corporation, or political subdivision of the state is obligated to  
 126-35 pay the principal of or interest on the bond; and

126-36 (2) neither the faith and credit nor the taxing power  
 126-37 of the state or any state agency, political corporation, or  
 126-38 political subdivision of the state is pledged to the payment of the  
 126-39 principal of or interest on the bond.

126-40 (g) An educational facility financed in whole or in part  
 126-41 under this section is exempt from taxation if the facility:

126-42 (1) is owned by an authorized [~~open-enrollment~~]  
 126-43 charter school;

126-44 (2) is held for the exclusive benefit of the school;  
 126-45 and

126-46 (3) is held for the exclusive use of the students,  
 126-47 faculty, and staff members of the school.

126-48 SECTION 4.65. Section 411.097(c), Government Code, is  
 126-49 amended to read as follows:

126-50 (c) A public charter district [~~An open-enrollment charter~~  
 126-51 ~~school~~] is entitled to obtain from the department criminal history  
 126-52 record information maintained by the department that relates to a  
 126-53 person who:

126-54 (1) is a member of the governing body of the public  
 126-55 charter district [~~school~~], as defined by Section 11A.001 [~~12.1012~~],  
 126-56 Education Code; or

126-57 (2) has agreed to serve as a member of the governing  
 126-58 body of the public charter district [~~school~~].

126-59 SECTION 4.66. Sections 2175.128(a) and (b), Government  
 126-60 Code, are amended to read as follows:

126-61 (a) If a disposition of a state agency's surplus or salvage  
 126-62 data processing equipment is not made under Section 2175.125 or  
 126-63 2175.184, the state agency shall transfer the equipment to:

126-64 (1) a school district or public charter district  
 126-65 [~~open-enrollment charter school~~] in this state under Subchapter C,  
 126-66 Chapter 32, Education Code;

126-67 (2) an assistance organization specified by the school  
 126-68 district or public charter district; or

126-69 (3) the Texas Department of Criminal Justice.

127-1 (b) If a disposition of the surplus or salvage data  
 127-2 processing equipment of a state eleemosynary institution or an  
 127-3 institution or agency of higher education is not made under other  
 127-4 law, the institution or agency shall transfer the equipment to:

127-5 (1) a school district or public charter district  
 127-6 [~~open-enrollment charter school~~] in this state under Subchapter C,  
 127-7 Chapter 32, Education Code;

127-8 (2) an assistance organization specified by the school  
 127-9 district or public charter district; or

127-10 (3) the Texas Department of Criminal Justice.

127-11 SECTION 4.67. Section 2306.630(a), Government Code, is  
 127-12 amended to read as follows:

127-13 (a) Subject to Subsection (b), the following entities may  
 127-14 apply to receive a grant for an eligible project under this  
 127-15 subchapter:

127-16 (1) a private, nonprofit, tax-exempt organization  
 127-17 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26  
 127-18 U.S.C. Section 501(c)(3));

127-19 (2) a public agency that operates a community-based  
 127-20 youth employment training program;

127-21 (3) a community housing development organization  
 127-22 certified by the state;

127-23 (4) an educational facility approved by the Texas  
 127-24 Youth Commission;

127-25 (5) a corps-based community service organization;

127-26 (6) a public charter district [~~an open-enrollment~~  
 127-27 ~~charter school~~] approved by the State Board of Education [~~Texas~~  
 127-28 ~~Education Agency~~]; or

127-29 (7) another entity authorized by board rule.

127-30 SECTION 4.68. Section 1575.002(6), Insurance Code, is  
 127-31 amended to read as follows:

127-32 (6) "Public school" means:

127-33 (A) a school district;

127-34 (B) another educational district whose employees  
 127-35 are members of the Teacher Retirement System of Texas;

127-36 (C) a regional education service center  
 127-37 established under Chapter 8, Education Code; or

127-38 (D) a public charter district [~~an~~  
 127-39 ~~open-enrollment charter school~~] established under Chapter 11A  
 127-40 [~~Subchapter D, Chapter 12~~], Education Code.

127-41 SECTION 4.69. Section 1579.002(3), Insurance Code, is  
 127-42 amended to read as follows:

127-43 (3) "Charter school" means a public charter district  
 127-44 [~~an open-enrollment charter school~~] established under Chapter 11A  
 127-45 [~~Subchapter D, Chapter 12~~], Education Code.

127-46 SECTION 4.70. Section 140.005, Local Government Code, is  
 127-47 amended to read as follows:

127-48 Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,  
 127-49 OR OTHER DISTRICT. The governing body of a school district, public  
 127-50 charter district [~~open-enrollment charter school~~], junior college  
 127-51 district, or a district or authority organized under Article III,  
 127-52 Section 52, or Article XVI, Section 59, of the Texas Constitution,  
 127-53 shall prepare an annual financial statement showing for each fund  
 127-54 subject to the authority of the governing body during the fiscal  
 127-55 year:

127-56 (1) the total receipts of the fund, itemized by source  
 127-57 of revenue, including taxes, assessments, service charges, grants  
 127-58 of state money, gifts, or other general sources from which funds are  
 127-59 derived;

127-60 (2) the total disbursements of the fund, itemized by  
 127-61 the nature of the expenditure; and

127-62 (3) the balance in the fund at the close of the fiscal  
 127-63 year.

127-64 SECTION 4.71. Section 140.006(c), Local Government Code, is  
 127-65 amended to read as follows:

127-66 (c) The presiding officer of a school district shall submit  
 127-67 a financial statement prepared under Section 140.005 to a daily,  
 127-68 weekly, or biweekly newspaper published within the boundaries of  
 127-69 the district. If a daily, weekly, or biweekly newspaper is not

128-1 published within the boundaries of the school district, the  
 128-2 financial statement shall be published in the manner provided by  
 128-3 Subsections (a) and (b). The financial statement of a public  
 128-4 charter district [~~an open-enrollment charter school~~] shall be made  
 128-5 available in the manner provided by Chapter 552, Government Code.

128-6 SECTION 4.72. Section 375.303(2), Local Government Code, is  
 128-7 amended to read as follows:

128-8 (2) "Eligible project" means a program authorized by  
 128-9 Section 379A.051 and a project as defined by Sections 2(11) and  
 128-10 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,  
 128-11 Vernon's Texas Civil Statutes). Notwithstanding this definition,  
 128-12 seeking a charter for or operating a public charter district [~~an~~  
 128-13 ~~open-enrollment charter school~~] authorized by Chapter 11A  
 128-14 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~] an  
 128-15 eligible project.

128-16 SECTION 4.73. Sections 375.308(b) and (c), Local Government  
 128-17 Code, are amended to read as follows:

128-18 (b) An authority may not:

128-19 (1) issue bonds or notes without the prior approval of  
 128-20 the governing body of the municipality that created the authority;

128-21 (2) seek a charter for or operate, within the  
 128-22 boundaries of the authority, a public charter district [~~an~~  
 128-23 ~~open-enrollment charter school~~] authorized by Chapter 11A  
 128-24 [~~Subchapter D, Chapter 12~~], Education Code; or

128-25 (3) levy ad valorem property taxes.

128-26 (c) A municipality may not seek a charter for or operate a  
 128-27 public charter district [~~an open-enrollment charter school~~]  
 128-28 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education  
 128-29 Code, within the boundaries of the authority.

128-30 SECTION 4.74. Section 541.201(15), Transportation Code, is  
 128-31 amended to read as follows:

128-32 (15) "School activity bus" means a bus designed to  
 128-33 accommodate more than 15 passengers, including the operator, that  
 128-34 is owned, operated, rented, or leased by a school district, county  
 128-35 school, public charter district [~~open-enrollment charter school~~],  
 128-36 regional education service center, or shared services arrangement  
 128-37 and that is used to transport public school students on a  
 128-38 school-related activity trip, other than on routes to and from  
 128-39 school. The term does not include a chartered bus, a bus operated  
 128-40 by a mass transit authority, or a school bus.

128-41 SECTION 4.75. Section 57.042(9), Utilities Code, is amended  
 128-42 to read as follows:

128-43 (9) "Public school" means a public elementary or  
 128-44 secondary school, including a public charter district [~~an~~  
 128-45 ~~open-enrollment charter school~~], a home-rule school district  
 128-46 school, and a school with a campus or campus program charter.

128-47 SECTION 4.76. Section 4(2), Chapter 22, Acts of the 57th  
 128-48 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's  
 128-49 Texas Civil Statutes), is amended to read as follows:

128-50 (2) "Educational institution" means a school district  
 128-51 or a public charter district [~~an open-enrollment charter school~~].

128-52 SECTION 4.77. The following laws are repealed:

128-53 (1) Section 12.106, Education Code; and

128-54 (2) Section 40, Chapter 1504, Acts of the 77th  
 128-55 Legislature, Regular Session, 2001.

128-56 SECTION 4.78. Notwithstanding the repeal of Sections 12.107  
 128-57 and 12.128, Education Code, by this Act, those sections continue to  
 128-58 apply to state funds and property received or purchased by an  
 128-59 open-enrollment charter school before September 1, 2006.

128-60 SECTION 4.79. The changes in law made by Sections 4.04-4.78  
 128-61 of this article apply beginning August 1, 2006, except that  
 128-62 Sections 4.11, 4.12, 4.59, and 4.77 apply beginning September 1,  
 128-63 2005.

## 128-64 ARTICLE 5. CONFORMING AMENDMENTS

### 128-65 PART A. CONFORMING AMENDMENTS EFFECTIVE

128-66 SEPTEMBER 1, 2005

128-67 SECTION 5A.01. Section 22.004(c), Education Code, is  
 128-68 amended to read as follows:

128-69 (c) The cost of the coverage provided under the program



129-1 described by Subsection (a) shall be paid by the state, the  
129-2 district, and the employees in the manner provided by Chapter 1579  
129-3 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided  
129-4 under a plan adopted under Subsection (b) shall be shared by the  
129-5 employees and the district using the contributions by the state  
129-6 described by Subchapter F, Chapter 1579 [~~Section 9, Article~~  
129-7 ~~3.50-7~~], Insurance Code, or by Chapter 1580 [~~Article 3.50-8~~],  
129-8 Insurance Code.

129-9 SECTION 5A.02. Section 822.201(c), Government Code, is  
129-10 amended to read as follows:

- 129-11 (c) Excluded from salary and wages are:
- 129-12 (1) expense payments;
- 129-13 (2) allowances;
- 129-14 (3) payments for unused vacation or sick leave;
- 129-15 (4) maintenance or other nonmonetary compensation;
- 129-16 (5) fringe benefits;
- 129-17 (6) deferred compensation other than as provided by  
129-18 Subsection (b)(3);
- 129-19 (7) compensation that is not made pursuant to a valid  
129-20 employment agreement;
- 129-21 (8) payments received by an employee in a school year  
129-22 that exceed \$5,000 for teaching a driver education and traffic  
129-23 safety course that is conducted outside regular classroom hours;
- 129-24 (9) the benefit replacement pay a person earns as a  
129-25 result of a payment made under Subchapter B or C, Chapter 661;
- 129-26 (10) supplemental compensation [~~contributions to a~~  
129-27 ~~health reimbursement arrangement account~~] received by an employee  
129-28 under Chapter 1580 [~~Article 3.50-8~~], Insurance Code; and
- 129-29 (11) any compensation not described by Subsection (b).

129-30 SECTION 5A.03. This part applies beginning with the  
129-31 2005-2006 school year.

129-32 PART B. CONFORMING AMENDMENTS

129-33 RELATED TO EDUCATION FUNDING AND STATE PROPERTY TAX

129-34 SECTION 5B.01. Section 12.013(b), Education Code, is  
129-35 amended to read as follows:

- 129-36 (b) A home-rule school district is subject to:
- 129-37 (1) a provision of this title establishing a criminal  
129-38 offense;
- 129-39 (2) a provision of this title relating to limitations  
129-40 on liability; and
- 129-41 (3) a prohibition, restriction, or requirement, as  
129-42 applicable, imposed by this title or a rule adopted under this  
129-43 title, relating to:
  - 129-44 (A) the Public Education Information Management  
129-45 System (PEIMS) to the extent necessary to monitor compliance with  
129-46 this subchapter as determined by the commissioner;
  - 129-47 (B) educator certification under Chapter 21 and  
129-48 educator rights under Sections 21.407, 21.408, and 22.001;
  - 129-49 (C) criminal history records under Subchapter C,  
129-50 Chapter 22;
  - 129-51 (D) student admissions under Section 25.001;
  - 129-52 (E) school attendance under Sections 25.085,  
129-53 25.086, and 25.087;
  - 129-54 (F) inter-district or inter-county transfers of  
129-55 students under Subchapter B, Chapter 25;
  - 129-56 (G) elementary class size limits under Section  
129-57 25.112, in the case of any campus in the district that is considered  
129-58 academically unacceptable [~~low-performing~~] under Section 39.132;
  - 129-59 (H) high school graduation under Section 28.025;
  - 129-60 (I) special education programs under Subchapter  
129-61 A, Chapter 29;
  - 129-62 (J) bilingual education under Subchapter B,  
129-63 Chapter 29;
  - 129-64 (K) prekindergarten programs under Subchapter E,  
129-65 Chapter 29;
  - 129-66 (L) safety provisions relating to the  
129-67 transportation of students under Sections 34.002, 34.003, 34.004,  
129-68 and 34.008;
  - 129-69 (M) computation and distribution of state aid

130-1 under Chapters 31, 42, and 43;  
 130-2 (N) extracurricular activities under Section  
 130-3 33.081;  
 130-4 (O) health and safety under Chapter 38;  
 130-5 (P) public school accountability under  
 130-6 Subchapters B, C, D, and G, Chapter 39;  
 130-7 (Q) ~~[equalized wealth under Chapter 41,~~  
 130-8 ~~[-R-]~~ a bond or other obligation or tax rate  
 130-9 under Chapters 42, 43, and 45; and  
 130-10 (R) ~~[-S-]~~ purchasing under Chapter 44.

130-11 SECTION 5B.02. Section 12.029(b), Education Code, is  
 130-12 amended to read as follows:

130-13 (b) ~~If [Except as provided by Subchapter H, Chapter 41, if]~~  
 130-14 two or more school districts having different status, one of which  
 130-15 is home-rule school district status, consolidate into a single  
 130-16 district, the petition under Section 13.003 initiating the  
 130-17 consolidation must state the status for the consolidated district.  
 130-18 The ballot shall be printed to permit voting for or against the  
 130-19 proposition: "Consolidation of (names of school districts) into a  
 130-20 single school district governed as (status of school district  
 130-21 specified in the petition)."

130-22 SECTION 5B.03. Section 21.410(h), Education Code, is  
 130-23 amended to read as follows:

130-24 (h) A grant a school district receives under this section is  
 130-25 in addition to any funding the district receives under Chapter 42.  
 130-26 The commissioner shall distribute funds under this section with the  
 130-27 Foundation School Program payment to which the district is entitled  
 130-28 as soon as practicable after the end of the school year as  
 130-29 determined by the commissioner. ~~[A district to which Chapter 41~~  
 130-30 ~~applies is entitled to the grants paid under this section.]~~ The  
 130-31 commissioner shall determine the timing of the distribution of  
 130-32 grants to a district that does not receive Foundation School  
 130-33 Program payments.

130-34 SECTION 5B.04. Section 21.411(h), Education Code, is  
 130-35 amended to read as follows:

130-36 (h) A grant a school district receives under this section is  
 130-37 in addition to any funding the district receives under Chapter 42.  
 130-38 The commissioner shall distribute funds under this section with the  
 130-39 Foundation School Program payment to which the district is entitled  
 130-40 as soon as practicable after the end of the school year as  
 130-41 determined by the commissioner. ~~[A district to which Chapter 41~~  
 130-42 ~~applies is entitled to the grants paid under this section.]~~ The  
 130-43 commissioner shall determine the timing of the distribution of  
 130-44 grants to a district that does not receive Foundation School  
 130-45 Program payments.

130-46 SECTION 5B.05. Section 21.412(h), Education Code, is  
 130-47 amended to read as follows:

130-48 (h) A grant a school district receives under this section is  
 130-49 in addition to any funding the district receives under Chapter 42.  
 130-50 The commissioner shall distribute funds under this section with the  
 130-51 Foundation School Program payment to which the district is entitled  
 130-52 as soon as practicable after the end of the school year as  
 130-53 determined by the commissioner. ~~[A district to which Chapter 41~~  
 130-54 ~~applies is entitled to the grants paid under this section.]~~ The  
 130-55 commissioner shall determine the timing of the distribution of  
 130-56 grants to a district that does not receive Foundation School  
 130-57 Program payments.

130-58 SECTION 5B.06. Section 21.413(h), Education Code, as added  
 130-59 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular  
 130-60 Session, 2003, is amended to read as follows:

130-61 (h) A grant a school district receives under this section is  
 130-62 in addition to any funding the district receives under Chapter 42.  
 130-63 The commissioner shall distribute funds under this section with the  
 130-64 Foundation School Program payment to which the district is entitled  
 130-65 as soon as practicable after the end of the school year as  
 130-66 determined by the commissioner. ~~[A district to which Chapter 41~~  
 130-67 ~~applies is entitled to the grants paid under this section.]~~ The  
 130-68 commissioner shall determine the timing of the distribution of  
 130-69 grants to a district that does not receive Foundation School

131-1 Program payments.

131-2 SECTION 5B.07. Section 29.014(d), Education Code, is  
131-3 amended to read as follows:

131-4 (d) The accreditation [~~basic~~] allotment for a student  
131-5 enrolled in a district to which this section applies is adjusted by:

131-6 (1) the cost of education adjustment under Section  
131-7 42.102 for the school district in which the district is  
131-8 geographically located; and

131-9 (2) the weight for a homebound student under Section  
131-10 42.151(a).

131-11 SECTION 5B.08. Section 29.087(j), Education Code, is  
131-12 amended to read as follows:

131-13 (j) For purposes of funding under Chapters [41,] 42[7] and  
131-14 46, a student attending a program authorized by this section may be  
131-15 counted in attendance only for the actual number of hours each  
131-16 school day the student attends the program, in accordance with  
131-17 Sections 25.081 and 25.082.

131-18 SECTION 5B.09. Section 29.203(b), Education Code, is  
131-19 amended to read as follows:

131-20 (b) A school district is entitled to the allotment provided  
131-21 by Section 42.157 for each eligible student using a public  
131-22 education grant. [~~If the district has a wealth per student greater  
131-23 than the guaranteed wealth level but less than the equalized wealth  
131-24 level, a school district is entitled under rules adopted by the  
131-25 commissioner to additional state aid in an amount equal to the  
131-26 difference between the cost to the district of providing services  
131-27 to a student using a public education grant and the sum of the state  
131-28 aid received because of the allotment under Section 42.157 and  
131-29 money from the available school fund attributable to the student.]~~

131-30 SECTION 5B.10. Section 30.003, Education Code, is amended  
131-31 by adding Subsection (f-1) to read as follows:

131-32 (f-1) The commissioner shall determine the total amount  
131-33 that the Texas School for the Blind and Visually Impaired and the  
131-34 Texas School for the Deaf would have received from school districts  
131-35 pursuant to this section if H.B. No. 2, Acts of the 79th  
131-36 Legislature, Regular Session, 2005, had not reduced the districts'  
131-37 share of the cost of providing education services. That amount,  
131-38 minus any amount the schools do receive from school districts,  
131-39 shall be set apart as a separate account in the foundation school  
131-40 fund and appropriated to those schools for educational purposes.

131-41 SECTION 5B.11. Section 37.0061, Education Code, is amended  
131-42 to read as follows:

131-43 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
131-44 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
131-45 education services to pre-adjudicated and post-adjudicated  
131-46 students who are confined by court order in a juvenile residential  
131-47 facility operated by a juvenile board is entitled to count such  
131-48 students in the district's average daily attendance for purposes of  
131-49 receipt of state funds under the Foundation School Program. [~~If the  
131-50 district has a wealth per student greater than the guaranteed  
131-51 wealth level but less than the equalized wealth level, the district  
131-52 in which the student is enrolled on the date a court orders the  
131-53 student to be confined to a juvenile residential facility shall  
131-54 transfer to the district providing education services an amount  
131-55 equal to the difference between the average Foundation School  
131-56 Program costs per student of the district providing education  
131-57 services and the sum of the state aid and the money from the  
131-58 available school fund received by the district that is attributable  
131-59 to the student for the portion of the school year for which the  
131-60 district provides education services to the student.]~~

131-61 SECTION 5B.12. Section 87.208, Education Code, is amended  
131-62 to read as follows:

131-63 Sec. 87.208. SEABORNE CONSERVATION CORPS. If the board of  
131-64 regents of The Texas A&M University System administers a program  
131-65 that is substantially similar to the Seaborne Conservation Corps as  
131-66 it was administered by the board during the 1998-1999 school year,  
131-67 the program is entitled, for each student enrolled, to allotments  
131-68 from the Foundation School Program under Chapter 42 as if the  
131-69 program were a school district, except that:

132-1 (1) the program has a local share applied that is  
 132-2 equivalent to the local fund assignment of the school district in  
 132-3 which the principal facilities of the program are located; and

132-4 (2) the district enrichment tax rate under Section  
 132-5 42.302 is the average district enrichment tax rate for the state.

132-6 SECTION 5B.13. Section 96.707(k), Education Code, is  
 132-7 amended to read as follows:

132-8 (k) For each student enrolled in the academy, the academy is  
 132-9 entitled to allotments from the Foundation School Program under  
 132-10 Chapter 42 as if the academy were a school district, except that:

132-11 (1) the academy has a local share applied that is  
 132-12 equivalent to the local fund assignment of the Beaumont Independent  
 132-13 School District; and

132-14 (2) the district enrichment tax rate under Section  
 132-15 42.302 is the average district enrichment tax rate for the state.

132-16 SECTION 5B.14. Section 105.301(e), Education Code, is  
 132-17 amended to read as follows:

132-18 (e) The academy is not subject to the provisions of this  
 132-19 code, or to the rules of the Texas Education Agency, regulating  
 132-20 public schools, except that:

132-21 (1) professional employees of the academy are entitled  
 132-22 to the limited liability of an employee under Section 22.0511,  
 132-23 22.0512, or 22.052;

132-24 (2) a student's attendance at the academy satisfies  
 132-25 compulsory school attendance requirements; ~~and~~

132-26 (3) for each student enrolled, the academy is entitled  
 132-27 to allotments from the foundation school program under Chapter 42  
 132-28 as if the academy were a school district without a basic program  
 132-29 ~~[tier one]~~ local share for purposes of Section 42.253; and

132-30 (4) in determining funding for the academy:  
 132-31 (A) the adjustment under Section 42.102 is the  
 132-32 adjustment of the school district in which the principal facilities  
 132-33 of the academy are located; and

132-34 (B) the district enrichment tax rate under  
 132-35 Section 42.302 is the average district enrichment tax rate for the  
 132-36 state.

132-37 SECTION 5B.15. Section 317.005(f), Government Code, is  
 132-38 amended to read as follows:

132-39 (f) The governor or board may adopt an order under this  
 132-40 section withholding or transferring any portion of the total amount  
 132-41 appropriated to finance the foundation school program for a fiscal  
 132-42 year. The governor or board may not adopt such an order if it would  
 132-43 result in an allocation of money between particular programs or  
 132-44 statutory allotments under the foundation school program contrary  
 132-45 to the statutory proration formula provided by Section 42.253(h),  
 132-46 Education Code. The governor or board may transfer an amount to the  
 132-47 total amount appropriated to finance the foundation school program  
 132-48 for a fiscal year and may increase the accreditation ~~[basic]~~  
 132-49 allotment. The governor or board may adjust allocations of amounts  
 132-50 between particular programs or statutory allotments under the  
 132-51 foundation school program only for the purpose of conforming the  
 132-52 allocations to actual pupil enrollments or attendance.

132-53 SECTION 5B.16. Section 403.302(a), Government Code, is  
 132-54 amended to read as follows:

132-55 (a) The comptroller shall conduct an annual study using  
 132-56 comparable sales and generally accepted auditing and sampling  
 132-57 techniques to determine the total taxable value of all property in  
 132-58 each school district. The study shall determine the taxable value  
 132-59 of all property and of each category of property in the district and  
 132-60 the productivity value of all land that qualifies for appraisal on  
 132-61 the basis of its productive capacity and for which the owner has  
 132-62 applied for and received a productivity appraisal. ~~[The~~  
 132-63 ~~comptroller shall make appropriate adjustments in the study to~~  
 132-64 ~~account for actions taken under Chapter 41, Education Code.]~~

132-65 SECTION 5B.17. Section 2175.304(c), Government Code, is  
 132-66 amended to read as follows:

132-67 (c) The procedures established under Subsection (b) must  
 132-68 give preference to transferring the property directly to a public  
 132-69 school or school district or to an assistance organization

133-1 designated by the school district before disposing of the property  
 133-2 in another manner. If more than one public school or school  
 133-3 district or assistance organization seeks to acquire the same  
 133-4 property on substantially the same terms, the system, institution,  
 133-5 or agency shall give preference to a public school that is  
 133-6 considered low-performing by the commissioner of education or to a  
 133-7 school district that has a relatively low ~~[taxable]~~ wealth per  
 133-8 student, as determined by the commissioner of education ~~[that~~  
 133-9 ~~entitles the district to an allotment of state funds under~~  
 133-10 ~~Subchapter F, Chapter 42, Education Code]~~, or to the assistance  
 133-11 organization designated by such a school district.

133-12 SECTION 5B.18. Section 1579.251(a), Insurance Code, is  
 133-13 amended to read as follows:

133-14 (a) The state shall assist employees of participating  
 133-15 school districts and charter schools in the purchase of group  
 133-16 health coverage under this chapter by providing for each covered  
 133-17 employee the amount of \$900 each state fiscal year or a greater  
 133-18 amount as provided by the General Appropriations Act. The state  
 133-19 contribution shall be distributed through the school finance  
 133-20 formulas under Chapter ~~[Chapters 41 and]~~ 42, Education Code, in a  
 133-21 manner the commissioner of education determines appropriate ~~[and~~  
 133-22 ~~used by school districts and charter schools as provided by~~  
 133-23 ~~Sections 42.2514 and 42.260, Education Code].~~

133-24 SECTION 5B.19. Section 6.02(b), Tax Code, is amended to  
 133-25 read as follows:

133-26 (b) A taxing unit that has boundaries extending into two or  
 133-27 more counties may choose to participate in only one of the appraisal  
 133-28 districts. In that event, the boundaries of the district chosen  
 133-29 extend outside the county to the extent of the unit's boundaries.  
 133-30 To be effective, the choice must be approved by resolution of the  
 133-31 board of directors of the district chosen. ~~[The choice of a school~~  
 133-32 ~~district to participate in a single appraisal district does not~~  
 133-33 ~~apply to property annexed to the school district under Subchapter C~~  
 133-34 ~~or G, Chapter 41, Education Code, unless:~~

133-35 ~~[(1) the school district taxes property other than~~  
 133-36 ~~property annexed to the district under Subchapter C or G, Chapter~~  
 133-37 ~~41, Education Code, in the same county as the annexed property; or~~

133-38 ~~[(2) the annexed property is contiguous to property in~~  
 133-39 ~~the school district other than property annexed to the district~~  
 133-40 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

133-41 SECTION 5B.20. Section 21.01, Tax Code, is amended to read  
 133-42 as follows:

133-43 Sec. 21.01. REAL PROPERTY. Real property is taxable by a  
 133-44 taxing unit if located in the unit on January 1 ~~[, except as provided~~  
 133-45 ~~by Chapter 41, Education Code].~~

133-46 SECTION 5B.21. Section 21.02(a), Tax Code, is amended to  
 133-47 read as follows:

133-48 (a) Except as provided by ~~[Subsection (b) and]~~ Sections  
 133-49 21.021, 21.04, and 21.05, tangible personal property is taxable by  
 133-50 a taxing unit if:

133-51 (1) it is located in the unit on January 1 for more  
 133-52 than a temporary period;

133-53 (2) it normally is located in the unit, even though it  
 133-54 is outside the unit on January 1, if it is outside the unit only  
 133-55 temporarily;

133-56 (3) it normally is returned to the unit between uses  
 133-57 elsewhere and is not located in any one place for more than a  
 133-58 temporary period; or

133-59 (4) the owner resides (for property not used for  
 133-60 business purposes) or maintains the owner's ~~[his]~~ principal place  
 133-61 of business in this state (for property used for business purposes)  
 133-62 in the unit and the property is taxable in this state but does not  
 133-63 have a taxable situs pursuant to Subdivisions (1) through (3) ~~[of~~  
 133-64 ~~this section].~~

133-65 SECTION 5B.22. Section 39.901(d), Utilities Code, is  
 133-66 amended to read as follows:

133-67 (d) Not later than May 1 of each year, subject to Section  
 133-68 39.903(b), the commission shall transfer from the system benefit  
 133-69 fund to the foundation school fund the amount determined by the

134-1 Texas Education Agency under Subsection (b) to the extent that  
 134-2 funds are available. Amounts transferred from the system benefit  
 134-3 fund under this section may be appropriated only for the support of  
 134-4 the Foundation School Program and are available, in addition to any  
 134-5 amounts allocated by the General Appropriations Act, to finance  
 134-6 actions under Section ~~41.002(b) or~~ 42.2521, Education Code.

134-7 SECTION 5B.23. This part applies beginning with the  
 134-8 2006-2007 school year.

134-9 ARTICLE 6. REPEALER; TRANSITION; EFFECTIVE DATE

134-10 SECTION 6.01. Effective September 1, 2005, the following  
 134-11 laws are repealed:

134-12 (1) Sections 1-3 and 57, Chapter 201, Acts of the 78th  
 134-13 Legislature, Regular Session, 2003;

134-14 (2) Chapter 313, Acts of the 78th Legislature, Regular  
 134-15 Session, 2003;

134-16 (3) Section 1.01, Chapter 366, Acts of the 78th  
 134-17 Legislature, Regular Session, 2003;

134-18 (4) Sections 7.006, 29.056(h), 37.004(g), 39.027(b),  
 134-19 (c), and (f), and 42.253(e-1), Education Code; and

134-20 (5) Sections 401.054(b)-(e) and 401.314(e), (f), and  
 134-21 (g), Occupations Code.

134-22 SECTION 6.02. Effective September 1, 2006, the following  
 134-23 laws are repealed:

134-24 (1) the following provisions of the Education Code:

134-25 (A) Chapter 41;

134-26 (B) Subchapter F, Chapter 42, as it existed on  
 134-27 November 1, 2005;

134-28 (C) Sections 7.055(b)(34), 21.402(b), 29.203(c)  
 134-29 and (g), 31.025, 31.1031, 42.103(b) and (e), 42.158(e), 42.2514,  
 134-30 42.2517, 42.259, 42.260, and 42.4101; and

134-31 (D) Sections 42.2512(a-1) and 42.2541, as added  
 134-32 by Part A, Article 1, of this Act;

134-33 (2) the following provisions of the Insurance Code:

134-34 (A) Section 1581.053(b); and

134-35 (B) Subchapter C, Chapter 1581; and

134-36 (3) Sections 6.02(g), 6.03(m), 21.02(b) and (c), and  
 134-37 25.25(k), Tax Code.

134-38 SECTION 6.03. (a) Except as provided by Subsection (b) of  
 134-39 this section, a school district maintenance tax rate imposed under  
 134-40 Sections 45.002 and 45.003, Education Code, before November 8,  
 134-41 2005, is void.

134-42 (b) An election held before November 8, 2005, authorizing a  
 134-43 maintenance tax at a rate of at least \$0.25 on the \$100 valuation of  
 134-44 taxable property in a school district is sufficient to authorize a  
 134-45 rate not to exceed \$0.25.

134-46 SECTION 6.04. (a) Except as provided by Subsection (b) of  
 134-47 this section, if two or more sections of this Act amend the same  
 134-48 provision of law, the sections of the Act should be harmonized, if  
 134-49 possible, so that effect may be given to each section.

134-50 (b) If a section of this Act repeals a provision of Chapter  
 134-51 12, Education Code, that section prevails over a section of this Act  
 134-52 that amends the same provision.

134-53 SECTION 6.05. Except as otherwise specifically provided by  
 134-54 this Act, this Act applies beginning with the 2005-2006 school  
 134-55 year.

134-56 SECTION 6.06. (a) The following provisions of this Act  
 134-57 take effect only if the constitutional amendment proposed by  
 134-58     .J.R. No.     , 79th Legislature, Regular Session, 2005, is  
 134-59 approved by the voters:

134-60 (1) Part B, Article 1;

134-61 (2) Section 2A.10;

134-62 (3) Article 3;

134-63 (4) Part B, Article 5; and

134-64 (5) Sections 6.02 and 6.03.

134-65 (b) If the constitutional amendment proposed by     .J.R.  
 134-66 No.     , 79th Legislature, Regular Session, 2005, is not approved  
 134-67 by the voters, a provision of this Act described by Subsection (a)  
 134-68 of this section has no effect.

134-69 (c) Except as otherwise specifically provided by this Act,

135-1 this Act takes effect September 1, 2005, but only if H.B. No. 3,  
135-2 Acts of the 79th Legislature, Regular Session, 2005, becomes law.  
135-3 If H.B. No. 3 does not become law, this Act has no effect.

135-4 \* \* \* \* \*