

1-1 By: Crownover (Senate Sponsor - Janek) H.B. No. 2701
1-2 (In the Senate - Received from the House May 16, 2005;
1-3 May 17, 2005, read first time and referred to Committee on
1-4 Education; May 20, 2005, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to higher education authorities.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 53, Education Code, as amended by
1-11 Chapters 1266 and 1310, Acts of the 78th Legislature, Regular
1-12 Session, 2003, is reenacted and amended to read as follows:

1-13 CHAPTER 53. HIGHER EDUCATION FACILITY AUTHORITIES FOR PUBLIC
1-14 SCHOOLS

1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 53.01. SHORT TITLE. This chapter may be cited as the
1-17 Higher Education Facility Authority for Public Schools Act.

1-18 Sec. 53.02. DEFINITIONS. In this chapter:

1-19 (1) "City" means an incorporated city or town in this
1-20 state.

1-21 (2) "Governing body" means the council, commission, or
1-22 other governing body of a city.

1-23 (3) "Authority" means a higher education facility
1-24 authority created under this chapter.

1-25 (4) "Board" means the board of directors of an
1-26 authority.

1-27 (5) "Institution of higher education" means [~~(i)~~] any
1-28 institution of higher education as defined by Subdivision (8) of
1-29 Section 61.003 [~~of this code, or (ii) a degree-granting college or~~
1-30 ~~university corporation accredited by the Texas Education Agency or~~
1-31 ~~by a recognized accrediting agency, as defined by Subdivision (13)~~
1-32 ~~of Section 61.003 of this code, or (iii) a postsecondary career~~
1-33 ~~school or college accredited by the Association of Independent~~
1-34 ~~Colleges and Schools, the National Association of Trade and~~
1-35 ~~Technical Schools, or the National Accrediting Commission of~~
1-36 ~~Cosmetology Arts and Sciences].~~

1-37 (6) "Educational facility" means a classroom
1-38 building, laboratory, science building, faculty or administrative
1-39 office building, or other facility used exclusively for the conduct
1-40 of the educational and administrative functions of an institution
1-41 of higher education.

1-42 (7) "Housing facility" means a single- or multi-family
1-43 residence used exclusively for housing or boarding, or housing and
1-44 boarding students, faculty, or staff members of an institution of
1-45 higher learning. The term includes infirmary and student union
1-46 building, but does not include a housing or boarding facility for
1-47 the use of a fraternity, sorority, or private club.

1-48 (8) "Bond resolution" means the resolution
1-49 authorizing the issuance of revenue bonds.

1-50 (9) "Trust indenture" means the mortgage, deed of
1-51 trust, or other instrument pledging revenue or [~~of~~] property, or
1-52 creating a mortgage lien on property, or both, to secure the revenue
1-53 bonds issued by the authority.

1-54 (10) [~~"Trustee" means the trustee under the trust~~
1-55 ~~indenture.~~

1-56 [~~(11) "Repurchase agreement" means a simultaneous~~
1-57 ~~agreement between a higher education authority and another entity~~
1-58 ~~in which one of the parties has agreed to purchase investment~~
1-59 ~~securities on a specified date and the other party has agreed to~~
1-60 ~~repurchase the investment securities at the same price plus accrued~~
1-61 ~~interest on a later date, in which the market value of the~~
1-62 ~~investment securities purchased is in excess of the amount of the~~
1-63 ~~repurchase agreement, and in which the investment securities are so~~
1-64 ~~purchased and held separately from all other investment securities,~~

2-1 ~~in trust, in order to complete the contractual commitment.~~

2-2 [~~(12)~~] ~~"Accredited primary or secondary school" means a~~
 2-3 ~~primary or secondary school, including a preschool, that is~~
 2-4 ~~accredited by an accreditation body that is a member of the Texas~~
 2-5 ~~Private School Accreditation Commission.~~

2-6 [~~(13)~~] "Authorized charter school" means an
 2-7 open-enrollment charter school that holds a charter granted under
 2-8 Subchapter D, Chapter 12.

2-9 (11) [~~(14)~~] "Borrower" means any of the following
 2-10 entities that is the recipient of a loan made under Section 53.34:

2-11 (A) an institution of higher education;

2-12 (B) a nonprofit corporation:

2-13 (i) incorporated by and under the exclusive
 2-14 control of an institution of higher education; or

2-15 (ii) incorporated and operating for the
 2-16 exclusive benefit of an institution of higher education and
 2-17 authorized by the governing board of the institution to enter into a
 2-18 transaction as a borrower under this chapter; or

2-19 (C) [~~an accredited primary or secondary school,~~
 2-20 ~~or~~

2-21 [~~(D)~~] an accredited or authorized charter
 2-22 school.

2-23 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

2-24 Sec. 53.11. CREATION OF AUTHORITY. When the governing body
 2-25 of a city finds that it is to the best interest of the city and its
 2-26 inhabitants to create a higher education facility authority, it
 2-27 shall pass an ordinance creating the authority and designating the
 2-28 name by which it shall be known. If the governing bodies of two or
 2-29 more cities find that it is to the best interest of the cities to
 2-30 create an authority to include those cities, each governing body
 2-31 shall pass an ordinance creating the authority and designating the
 2-32 name by which it shall be known.

2-33 Sec. 53.12. TERRITORY. The authority comprises only the
 2-34 territory included within the boundaries of the city or cities
 2-35 creating it.

2-36 Sec. 53.13. CORPORATE POWERS. An authority is a body
 2-37 politic and corporate having the power of perpetual succession. It
 2-38 shall have a seal; it may sue and be sued; and it may make, amend,
 2-39 and repeal its bylaws.

2-40 Sec. 53.131. AUTHORITY'S EARNINGS. A private person may
 2-41 not share in any of an authority's earnings.

2-42 Sec. 53.14. BOARD OF DIRECTORS. (a) The authority shall be
 2-43 governed by a board of directors consisting of not less than 7 nor
 2-44 more than 11 members to be determined at the time of creating the
 2-45 authority. The directors shall be appointed by the governing body
 2-46 of the city or by the governing bodies of the cities, and they shall
 2-47 serve until their successors are appointed as provided by this
 2-48 section. If the authority includes more than one city, each
 2-49 governing body shall appoint an equal number of directors unless
 2-50 otherwise agreed by the cities.

2-51 (b) The members of the board serve for two-year terms.

2-52 (c) No officer or employee of any such city is eligible for
 2-53 appointment as a director. Directors are not entitled to
 2-54 compensation for services but are entitled to reimbursement for
 2-55 expenses incurred in performing such service.

2-56 Sec. 53.15. ORGANIZATION OF BOARD; QUORUM; EMPLOYEES;
 2-57 COUNSEL. (a) The board shall elect from among its members a
 2-58 president and vice president, and shall elect a secretary and a
 2-59 treasurer who may or may not be directors, and may elect other
 2-60 officers as authorized by the authority's bylaws. The offices of
 2-61 secretary and treasurer may be combined.

2-62 (b) The president has the same right to vote on all matters
 2-63 as other members of the board.

2-64 (c) A majority constitutes a quorum, and when a quorum is
 2-65 present action may be taken by a majority vote of directors present.

2-66 (d) The board may employ a manager or executive director of
 2-67 the facilities and other employees, experts, and agents as it sees
 2-68 fit. It may delegate to the manager the power to employ and
 2-69 discharge employees.

3-1 (e) The board may employ legal counsel.

3-2 SUBCHAPTER C. POWERS AND DUTIES

3-3 Sec. 53.31. NO TAXING POWER. An authority has no power to
3-4 tax.

3-5 Sec. 53.32. NO POWER OF EMINENT DOMAIN. The authority does
3-6 not have the power of eminent domain.

3-7 Sec. 53.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE
3-8 EDUCATIONAL AND HOUSING FACILITIES. (a) An authority or a
3-9 nonprofit instrumentality created under Section 53.35(b) may
3-10 acquire, own, hold title to, lease, or operate an educational
3-11 facility or housing facility or any facility incidental,
3-12 subordinate, or related to or appropriate in connection with an
3-13 educational facility or housing facility, but only if:

3-14 (1) the facility is or will be located within the
3-15 corporate limits of the city that created the authority or
3-16 nonprofit instrumentality;

3-17 (2) the governing body of an institution of higher
3-18 education officially requests the authority or nonprofit
3-19 instrumentality to acquire and own the facility for the benefit of
3-20 the institution of higher education;

3-21 (3) the institution of higher education officially
3-22 agrees to accept, and has authority to receive legal title to, the
3-23 facility not later than the date on which any bonds or other
3-24 obligations issued to acquire the facility are paid in full; and

3-25 (4) the ownership of the facility by the authority or
3-26 the nonprofit instrumentality is approved by official action of the
3-27 governing body of:

3-28 (A) the city that created the authority or
3-29 nonprofit instrumentality;

3-30 (B) the school district in which the facility is
3-31 or will be located; and

3-32 (C) the county in which the facility is or will be
3-33 located.

3-34 (b) An authority or instrumentality that exercises the
3-35 powers granted by Subsection (a) may contract for the operation of
3-36 the facility by public or private entities or persons on the terms
3-37 and conditions set forth in a contract relating to the operation of
3-38 the facility.

3-39 (c) The changes in law made by the amendment of this section
3-40 by the 78th Legislature, Regular Session, 2003, do not affect the
3-41 acquisition, ownership, construction, or improvement of a
3-42 facility, or the acquisition and ownership of land that were
3-43 approved by official action of the authority or nonprofit corporate
3-44 instrumentality before March 15, 2003, and the law in effect
3-45 immediately before the effective date of the amendment of this
3-46 section by the 78th Legislature, Regular Session, 2003, is
3-47 continued in effect for that purpose.

3-48 Sec. 53.331. REFINANCING FACILITIES. The authority may
3-49 refinance any educational or housing facility acquired,
3-50 constructed, or improved.

3-51 Sec. 53.34. REVENUE BONDS. (a) An authority or a nonprofit
3-52 instrumentality created under Section 53.35(b), including an
3-53 authority or nonprofit instrumentality authorized to own
3-54 facilities under Section 53.33(a), may issue and execute revenue
3-55 bonds or other obligations to loan or otherwise provide funds to a
3-56 borrower if:

3-57 (1) the governing body of the borrower by official
3-58 action requests the issuer of the bonds or other obligations to loan
3-59 the proceeds under this subsection;

3-60 (2) the purpose of the loan is to enable the borrower
3-61 to acquire, construct, enlarge, extend, repair, renovate, or
3-62 otherwise improve an educational facility or housing facility or
3-63 any facility incidental, subordinate, or related to or appropriate
3-64 in connection with an educational facility or housing facility, or
3-65 for acquiring land to be used for those purposes, or to create
3-66 operating and debt service reserves for and to pay issuance costs
3-67 related to the bonds or other obligations; and

3-68 (3) under the terms of the loan, and unless a mortgage
3-69 lien granted to secure the loan is in default, the ownership of the

4-1 facility is required to be at all times under the exclusive control,
4-2 and held for the exclusive benefit, of the borrower.

4-3 (b) In issuing revenue bonds or other obligations under this
4-4 chapter, the issuer of the bonds or other obligations is considered
4-5 to be acting on behalf of the city by which it was created.

4-6 (c) Bonds or other obligations issued under Subsection (a)
4-7 shall be payable from and secured by a pledge of the revenues,
4-8 income, or assets pledged for the purpose by the borrower. The
4-9 bonds or other obligations may be additionally secured by a
4-10 mortgage, deed of trust, or chattel mortgage on real or personal
4-11 property, or on both real and personal property, if granted by the
4-12 borrower.

4-13 (d) A facility financed with the proceeds of a loan or loans
4-14 made to a borrower under Subsection (a) is not required to be
4-15 located within the corporate limits of the city that created the
4-16 issuer of the bonds or other obligations.

4-17 (e) An authority or a nonprofit instrumentality that is
4-18 authorized to acquire and own educational facilities and housing
4-19 facilities under Section 53.33(a) may issue and execute revenue
4-20 bonds and other obligations for the purpose of acquiring, owning,
4-21 and operating the educational and housing facilities, to create
4-22 operating reserves for the facilities, and to create debt service
4-23 reserves for and to pay issuance costs related to the bonds or other
4-24 obligations.

4-25 (f) Bonds or other obligations issued under Subsection (e)
4-26 shall be payable from and secured by a pledge of all or any part of
4-27 the gross or net revenues to be derived from the operation of the
4-28 educational facilities and housing facilities being acquired and
4-29 any other revenues, income, or assets, including the revenues and
4-30 income of the educational facilities or housing facilities
4-31 previously acquired or subsequently to be acquired. The bonds or
4-32 other obligations may be additionally secured by a mortgage, deed
4-33 of trust, or chattel mortgage on real or personal property, or on
4-34 both real and personal property, if granted by the authority or
4-35 nonprofit instrumentality issuing the bonds or other obligations.

4-36 (g) The changes in law made by the amendment of this section
4-37 by the 78th Legislature, Regular Session, 2003, affect and apply
4-38 only to transactions involving bonds or other obligations that are
4-39 issued or executed under this chapter on or after March 15, 2003.
4-40 Bonds or other obligations that are issued or executed under this
4-41 chapter before March 15, 2003, are governed by the law in effect
4-42 immediately before the amendment of this section by the 78th
4-43 Legislature, Regular Session, 2003, and that former law is
4-44 continued in effect for that purpose.

4-45 Sec. 53.35. ISSUANCE OF BONDS; PROCEDURE; ETC. (a) The
4-46 bonds shall be authorized by resolution adopted by a majority vote
4-47 of a quorum of the board. Bonds authorized under this section shall
4-48 be issued in accordance with Chapter 1201, Government Code. The
4-49 bonds shall mature serially or otherwise in not to exceed 50 years.
4-50 The rate of interest to be borne by the bonds shall not exceed the
4-51 maximum rate prescribed by Chapter 1204, Government Code.

4-52 (b) In addition to or in lieu of establishing an authority
4-53 under the provisions of this chapter, the governing body of a city
4-54 or cities may request or order created one or more nonprofit
4-55 corporations to act on its behalf and as its duly constituted
4-56 authority and instrumentality to exercise the powers granted to an
4-57 authority under the provisions of Sections 53.33 and 53.34. If a
4-58 nonprofit corporation is created for such purposes or agrees to
4-59 such request, the directors thereof shall thereafter be appointed
4-60 and be subject to removal by the governing body of the city or
4-61 cities. In addition to the powers granted under, and subject to the
4-62 limitations provided by, Sections 53.33 and 53.34, the corporation
4-63 shall have all powers granted under the Texas Non-Profit
4-64 Corporation Act for the purpose of aiding institutions of higher
4-65 education in providing educational facilities and housing
4-66 facilities and facilities incidental, subordinate, or related
4-67 thereto or appropriate in connection therewith. In addition to
4-68 Sections 53.33 and 53.34 and the Texas Non-Profit Corporation Act,
4-69 as amended (Article 1396-1.01 et seq., Vernon's Texas Civil

5-1 Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331,
 5-2 53.34, 53.35, 53.38, and 53.41 of this code apply to and govern such
 5-3 corporation and its procedures, bonds, and other obligations.

5-4 Sec. 53.351. BONDS FOR OPEN-ENROLLMENT CHARTER SCHOOL
 5-5 FACILITIES. (a) The Texas Public Finance Authority shall
 5-6 establish a nonprofit corporation to issue revenue bonds on behalf
 5-7 of authorized open-enrollment charter schools for the acquisition,
 5-8 construction, repair, or renovation of educational facilities of
 5-9 those schools.

5-10 (b) The Texas Public Finance Authority shall appoint the
 5-11 directors of the corporation in consultation with the commissioner
 5-12 of education. Directors serve without compensation but are
 5-13 entitled to reimbursement for travel expenses incurred in attending
 5-14 board meetings. The board shall meet at least once a year.

5-15 (c) The corporation has all powers granted under the Texas
 5-16 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
 5-17 Texas Civil Statutes) for the purpose of aiding authorized
 5-18 open-enrollment charter schools in providing educational
 5-19 facilities. In addition, Sections 53.131, 53.15, 53.31, 53.32,
 5-20 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42 apply to and govern
 5-21 the corporation and its procedures and bonds.

5-22 (d) The corporation shall adopt rules governing the
 5-23 issuance of bonds on behalf of an authorized open-enrollment
 5-24 charter school.

5-25 (e) The comptroller shall establish a fund dedicated to the
 5-26 credit enhancement of bonds issued under this section. The fund may
 5-27 receive donations. The obligation of the fund is limited to an
 5-28 amount equal to the balance of the fund.

5-29 (f) A revenue bond issued under this section is not a debt of
 5-30 the state or any state agency, political corporation, or political
 5-31 subdivision of the state and is not a pledge of the faith and credit
 5-32 of any of these entities. A revenue bond is payable solely from the
 5-33 revenue of the authorized open-enrollment charter school on whose
 5-34 behalf the bond is issued. A revenue bond issued under this section
 5-35 must contain on its face a statement to the effect that:

5-36 (1) neither the state nor a state agency, political
 5-37 corporation, or political subdivision of the state is obligated to
 5-38 pay the principal of or interest on the bond; and

5-39 (2) neither the faith and credit nor the taxing power
 5-40 of the state or any state agency, political corporation, or
 5-41 political subdivision of the state is pledged to the payment of the
 5-42 principal of or interest on the bond.

5-43 (g) An educational facility financed in whole or in part
 5-44 under this section is exempt from taxation if the facility:

5-45 (1) is owned by an authorized open-enrollment charter
 5-46 school;

5-47 (2) is held for the exclusive benefit of the school;
 5-48 and

5-49 (3) is held for the exclusive use of the students,
 5-50 faculty, and staff members of the school.

5-51 Sec. 53.36. BOND RESOLUTION; NOTICE; ELECTION. (a) Before
 5-52 authorizing the issuance of bonds, other than refunding bonds, the
 5-53 board shall cause a notice to be issued stating that it intends to
 5-54 adopt a resolution authorizing the issuance of the bonds, the
 5-55 maximum amount thereof, and the maximum maturity thereof. The
 5-56 notice shall be published once each week for two consecutive weeks
 5-57 in a newspaper or newspapers having general circulation in the
 5-58 authority. The first publication shall be at least 14 days prior to
 5-59 the day set for adopting the bond resolution.

5-60 (b) If, prior to the day set for the adoption of the bond
 5-61 resolution, there is presented to the secretary or president of the
 5-62 board a petition signed by not less than 10 percent of the qualified
 5-63 voters residing in the city or cities comprising the authority, who
 5-64 own taxable property in the authority and who have duly rendered it
 5-65 for taxation to the city in which such property is located or
 5-66 situated, requesting an election on the proposition for the
 5-67 issuance of the bonds, the bonds shall not be issued unless an
 5-68 election is held and a majority vote is in favor of the bonds. The
 5-69 election shall be called and held in accordance with the procedure

6-1 prescribed in Chapter 1251, Government Code, with the board and the
 6-2 president and secretary performing the functions there assigned to
 6-3 the governing body of the city, the mayor and city secretary,
 6-4 respectively. If no such petition is filed, the bonds may be issued
 6-5 without an election. However, the board may call an election on its
 6-6 own motion without the filing of the petition.

6-7 Sec. 53.37. JUNIOR LIEN BONDS; PARITY BONDS. Bonds
 6-8 constituting a junior lien on the net revenue or properties may be
 6-9 issued unless prohibited by the bond resolution or trust indenture.
 6-10 Parity bonds may be issued under conditions specified in the bond
 6-11 resolution or trust indenture.

6-12 Sec. 53.38. RESERVES FOR OPERATING AND OTHER EXPENSES.
 6-13 Money for the payment of not more than two years' interest on the
 6-14 bonds and an amount estimated by the board to be required for
 6-15 operating expenses during the first year of operation may be set
 6-16 aside for those purposes out of the proceeds from the sale of the
 6-17 bonds.

6-18 Sec. 53.39. REFUNDING BONDS. Bonds may be issued for the
 6-19 purpose of refunding outstanding bonds in the manner provided in
 6-20 this chapter for other bonds, and may be exchanged by the
 6-21 comptroller or sold and the proceeds applied in accordance with the
 6-22 procedure prescribed by Subchapter B or C, Chapter 1207, Government
 6-23 Code.

6-24 Sec. 53.40. APPROVAL OF BONDS; REGISTRATION;
 6-25 NEGOTIABILITY. Bonds issued under this chapter and the record
 6-26 relating to their issuance shall be submitted to the attorney
 6-27 general, and if he finds that they have been issued in accordance
 6-28 with this chapter and constitute valid and binding obligations of
 6-29 the authority and are secured as recited therein he shall approve
 6-30 them, and they shall be registered by comptroller of public
 6-31 accounts who shall certify the registration thereon. Thereafter
 6-32 they are incontestable. The bonds shall be negotiable and shall
 6-33 contain the following provision: "The holder hereof shall never
 6-34 have the right to demand payment thereof out of money raised or to
 6-35 be raised by taxation."

6-36 Sec. 53.41. AUTHORIZED INVESTMENTS. All bonds issued under
 6-37 this chapter are legal and authorized investments for all banks,
 6-38 savings banks, trust companies, building and loan associations,
 6-39 savings and loan associations, and insurance companies of all kinds
 6-40 and types, and for the interest and sinking funds and other public
 6-41 funds of any issuer. The bonds are also eligible and lawful
 6-42 security for all deposits of public funds of the State of Texas and
 6-43 of any issuer, to the extent of the value of the bonds, when
 6-44 accompanied by any unmatured interest coupons appurtenant to them.

6-45 Sec. 53.42. INVESTMENT OF FUNDS; SECURITY. To the extent it
 6-46 is applicable, the law as to the security for and the investment of
 6-47 funds, applicable to cities, controls the investment of funds
 6-48 belonging to authority. The bond resolution or the indenture or
 6-49 both may further restrict the making of investments. The authority
 6-50 may invest the proceeds of its bonds, until the money is needed, in
 6-51 the direct obligations of or obligations unconditionally
 6-52 guaranteed by the United States, to the extent authorized in the
 6-53 bond resolution or indenture or in both.

6-54 Sec. 53.43. DEPOSITORIES. The authority may select a
 6-55 depository or depositories according to the procedures provided by
 6-56 law for the selection of city depositories, or it may award its
 6-57 depository contract to the same depository or depositories selected
 6-58 by the city or cities and on the same terms.

6-59 Sec. 53.44. OPERATION OF FACILITIES; RATES CHARGED; RESERVE
 6-60 FUNDS. (a) The facilities may be operated by the authority without
 6-61 the intervention of private profit for the use and benefit of the
 6-62 public, or may be leased to an institution of higher education, or
 6-63 may be operated by the institution under a contract with the
 6-64 authority, the lease or contract to be in effect until any revenue
 6-65 bonds issued in connection with it have been finally retired.

6-66 (b) The board shall charge rates for the use of the
 6-67 facilities, or for their lease or operation, that are fully
 6-68 sufficient to pay all expenses in connection with the ownership,
 6-69 operation, and upkeep of the facilities, to pay the interest on the

7-1 bonds as it becomes due, to create a sinking fund to pay the bonds as
 7-2 they become due, and to create and maintain a bond reserve fund and
 7-3 other funds and reserves that may be provided in the bond resolution
 7-4 or trust indenture. The bond resolution or trust indenture may
 7-5 prescribe systems, methods, routines, and procedures under which
 7-6 the facilities shall be operated.

7-7 Sec. 53.45. TRANSACTIONS WITH OTHER AGENCIES AND PERSONS.
 7-8 The authority may borrow money and accept grants from, and enter
 7-9 into contracts, leases, or other transactions with the United
 7-10 States, the State of Texas, any municipal corporation in the state,
 7-11 and any public or private person or corporation resident or
 7-12 authorized to do business in the state.

7-13 Sec. 53.46. AUTHORITY EXEMPT FROM TAXATION. Because the
 7-14 property owned by authority will be held for educational purposes
 7-15 only and will be devoted exclusively to the use and benefit of the
 7-16 students, faculty, and staff members of an accredited institution
 7-17 of higher education, it is exempt from taxation of every character.

7-18 [~~Sec. 53.47. GUARANTEED STUDENT LOANS AND ALTERNATE~~
 7-19 ~~EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION LOAN NOTES.~~
 7-20 ~~(a) In this section:~~

7-21 [~~(1) "Accredited institution" means an institution~~
 7-22 ~~that has either been recognized by a recognized accrediting agency,~~
 7-23 ~~as defined by Section 61.003, or accredited by the Accrediting~~
 7-24 ~~Commission for Independent Colleges and Schools, the Accrediting~~
 7-25 ~~Commission for Career Schools and Colleges of Technology, or the~~
 7-26 ~~National Accrediting Commission of Cosmetology Arts and Sciences.~~

7-27 [~~(2) "Alternative education loan" means a loan other~~
 7-28 ~~than a guaranteed student loan that is made to or for the benefit of~~
 7-29 ~~a student for the purpose of financing all or part of the student's~~
 7-30 ~~cost of attendance at an accredited institution.~~

7-31 [~~(3) "Cost of attendance" means all costs of a student~~
 7-32 ~~incurred in connection with a program of study at an accredited~~
 7-33 ~~institution, as determined by the institution, including tuition~~
 7-34 ~~and instructional fees, the cost of room and board, books,~~
 7-35 ~~computers, and supplies, and other related fees, charges, and~~
 7-36 ~~expenses.~~

7-37 [~~(4) "Guaranteed student loan" means a loan made by an~~
 7-38 ~~eligible lender under the Higher Education Act of 1965 (Pub. L. No.~~
 7-39 ~~89-329), as amended.~~

7-40 [~~(5) "Qualified alternative education loan lender"~~
 7-41 ~~means a nonprofit corporation incorporated under the laws of this~~
 7-42 ~~state that:~~

7-43 [~~(A) is a qualified nonprofit corporation;~~
 7-44 [~~(B) has serviced education loans made under the~~
 7-45 ~~Higher Education Act of 1965, as amended, for a qualified nonprofit~~
 7-46 ~~corporation for a period of not less than 10 years; or~~

7-47 [~~(C) is a charitable organization qualified~~
 7-48 ~~under Section 509(a)(2), Internal Revenue Code of 1986, as amended,~~
 7-49 ~~that provides services to a qualified nonprofit corporation.~~

7-50 [~~(6) "Qualified nonprofit corporation" means a~~
 7-51 ~~nonprofit corporation:~~

7-52 [~~(A) that issued bonds on or after January 1,~~
 7-53 ~~1990, and before January 1, 2001, that qualified as qualified~~
 7-54 ~~student loan bonds under Section 144(b), Internal Revenue Code of~~
 7-55 ~~1986, as amended; or~~

7-56 [~~(B) that the office of the governor, in~~
 7-57 ~~consultation with the state student loan guaranty agency or any~~
 7-58 ~~other public or private entity the office of the governor considers~~
 7-59 ~~appropriate, has determined meets a need for student loan financing~~
 7-60 ~~that existing qualified nonprofit corporations cannot meet, which~~
 7-61 ~~determination may include information provided by the nonprofit~~
 7-62 ~~corporation's plan for doing business that should include~~
 7-63 ~~documented limitations in:~~

7-64 [~~(i) the geographic coverage of existing~~
 7-65 ~~qualified nonprofit corporations in the nonprofit corporation's~~
 7-66 ~~proposed area of service;~~

7-67 [~~(ii) the willingness of existing qualified~~
 7-68 ~~nonprofit corporations to serve the eligible lenders in the~~
 7-69 ~~proposed area of service; and~~

8-1 ~~[(iii) the ability of existing qualified~~
 8-2 ~~nonprofit corporations to serve the eligible lenders in the~~
 8-3 ~~proposed area of service.~~

8-4 ~~[(b) An authority may, upon approval of the city or cities~~
 8-5 ~~which created the same, issue revenue bonds or otherwise borrow~~
 8-6 ~~money to obtain funds to purchase or to make guaranteed student~~
 8-7 ~~loans. Revenue bonds issued for such purpose shall be issued in~~
 8-8 ~~accordance with and with the effect provided in this chapter,~~
 8-9 ~~except Section 53.36 shall not apply, as this chapter has been~~
 8-10 ~~modified by Chapter 1204, Government Code, and Subchapters A and D,~~
 8-11 ~~Chapter 1207, Government Code. Such bonds shall be payable from and~~
 8-12 ~~secured by a pledge of revenues derived from or by reason of the~~
 8-13 ~~ownership of guaranteed student loans and investment income after~~
 8-14 ~~deduction of such expenses of operating the loan program as may be~~
 8-15 ~~specified by the bond resolution or trust indenture.~~

8-16 ~~[(c) An authority may cause money to be expended to make or~~
 8-17 ~~purchase for its account guaranteed student loans that are~~
 8-18 ~~guaranteed by the Texas Guaranteed Student Loan Corporation or that~~
 8-19 ~~are executed by or on behalf of students who (1) are residents of~~
 8-20 ~~this state or (2) have been admitted to attend an accredited~~
 8-21 ~~institution within this state.~~

8-22 ~~[(d) The authority shall contract with a nonprofit~~
 8-23 ~~corporation, organized under the laws of this state, whereby such~~
 8-24 ~~corporation will provide the reports and other information required~~
 8-25 ~~for continued participation in the federally guaranteed loan~~
 8-26 ~~program provided by the Higher Education Act of 1965, as amended.~~

8-27 ~~[(e) The authority, as a municipal corporation of the state,~~
 8-28 ~~is charged with a portion of the responsibility of the state to~~
 8-29 ~~provide educational opportunities in keeping with all applicable~~
 8-30 ~~state and federal laws. Nothing in this section shall be construed~~
 8-31 ~~as a prohibition against establishing policies to limit the~~
 8-32 ~~purchase of guaranteed student loans to guaranteed student loans~~
 8-33 ~~executed by students attending school in a certain geographical~~
 8-34 ~~area or by students who are residents of the area.~~

8-35 ~~[(f) In addition to establishing an authority under the~~
 8-36 ~~provisions of this chapter, the governing body of a city or cities~~
 8-37 ~~may request a qualified nonprofit corporation to exercise the~~
 8-38 ~~powers enumerated and provided in this section for and on its~~
 8-39 ~~behalf. If the qualified nonprofit corporation agrees to exercise~~
 8-40 ~~such powers, the directors of such corporation shall thereafter be~~
 8-41 ~~appointed by and be subject to removal by the governing body of the~~
 8-42 ~~city or cities, and except as provided in this section, Sections~~
 8-43 ~~53.14, 53.15, 53.31, 53.32, 53.38, and 53.41 through 53.43 apply to~~
 8-44 ~~and govern such corporation, its procedures, and bonds.~~
 8-45 ~~Notwithstanding the provisions of Section 53.42, a qualified~~
 8-46 ~~nonprofit corporation which has been requested to exercise the~~
 8-47 ~~powers enumerated and requested in this section may invest or cause~~
 8-48 ~~a trustee or custodian on behalf of such qualified nonprofit~~
 8-49 ~~corporation to invest its funds, including the proceeds of any~~
 8-50 ~~bonds, notes, or other obligations issued by such qualified~~
 8-51 ~~nonprofit corporation and any monies which are pledged to the~~
 8-52 ~~payment thereof, in:~~

8-53 ~~[(1) certificates of deposit or other time or demand~~
 8-54 ~~accounts of banks and savings and loan associations which are~~
 8-55 ~~insured by the Federal Deposit Insurance Corporation, provided the~~
 8-56 ~~amount of any certificate of deposit in excess of that covered by~~
 8-57 ~~such insurance must be secured by a first and prior pledge of~~
 8-58 ~~government obligations having a market value of not less than 100~~
 8-59 ~~percent of the excess unless a nationally recognized rating agency~~
 8-60 ~~has given the senior securities of the bank issuing the certificate~~
 8-61 ~~of deposit the highest or next to the highest investment rating~~
 8-62 ~~available;~~

8-63 ~~[(2) repurchase agreements,~~

8-64 ~~[(3) guaranteed student loans and alternative~~
 8-65 ~~education loans; or~~

8-66 ~~[(4) a security issued by another nonprofit~~
 8-67 ~~corporation acting under this section.~~

8-68 ~~[(g) A nonprofit corporation, whether acting at the request~~
 8-69 ~~of a city or cities under Subsection (f) or acting as a servicer or~~

~~administrator for another corporation that purchases guaranteed student loans, or that on its own behalf issues securities or otherwise obtains funds to purchase or make guaranteed student loans or alternative education loans, may:~~

~~[(1) exercise the powers granted by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes),~~

~~[(2) service loans purchased or made from its funds or contract with another person to service the loans,~~

~~[(3) grant a security interest in a trust estate securing its securities; and~~

~~[(4) make investments as authorized by Subsection (f).]~~

~~[(h) A security interest in a trust estate granted under Subsection (g)(3) is attached and perfected at the time the security interest is executed and delivered by the nonprofit corporation. The security interest grants to the secured party a first prior perfected security interest in the trust estate for the benefit of the secured party without regard to the location of the assets that constitute the trust estate.~~

~~[(i) An alternative education loan may be made under this section only by a qualified alternative education loan lender. An alternative education loan may not be in an amount in excess of the difference between the cost of attendance and the amount of other student assistance to the student, other than loans under Section 428B(a)(1), Higher Education Act of 1965 (20 U.S.C. Section 1078-2) (relating to parent loans), for which the student borrower may be eligible. An alternative education loan covered by this subsection is subject to Chapter 342, Finance Code, as applicable, except that:~~

~~[(1) the maximum interest rate on the loan may not exceed the rate permitted under Subchapter A, Chapter 303, Finance Code; and~~

~~[(2) application and origination fees may be agreed to by the parties and assessed at the inception of the loan, provided that if any such fees constitute additional interest under applicable law, the effective rate of interest agreed to over the stated term of the loan may not exceed the rate allowed by Subchapter A, Chapter 303, Finance Code, and accrued unpaid interest may be added to unpaid principal at the beginning of the agreed repayment period at the borrower's option and in accordance with the terms of the agreement for purposes of determining the total principal amount due at the inception of the repayment period.~~

~~[(j) An authority or nonprofit corporation making education loans under this section is exempt from the licensing requirements of Chapter 342, Finance Code.]~~

~~Sec. 53.48. BONDS FOR AUTHORIZED CHARTER [ACCREDITED PRIMARY OR SECONDARY] SCHOOLS. In the same manner that a corporation may issue and execute bonds or other obligations under this chapter for an institution of higher education, a corporation created under Section 53.35(b) may issue and execute bonds or other obligations to finance or refinance educational facilities [~~or housing facilities~~] to be used by [~~an accredited primary or secondary school or by~~] an authorized charter school.~~

~~[Sec. 53.49. BONDS FOR CERTAIN SCHOOLS OWNED AND OPERATED BY NONPROFIT CORPORATIONS. (a) In the same manner that a corporation may issue bonds under this chapter for an institution of higher education, a corporation created under Section 53.35(b) may issue bonds to finance or refinance educational facilities to be used by a school that:~~

~~[(1) is located in a county with a population of more than 1,800,000;~~

~~[(2) is located within three miles of an area designated as an enterprise zone under Chapter 2303, Government Code;~~

~~[(3) provides primary and secondary education to at least 1,000 students;~~

~~[(4) is accredited by an organization approved by the Texas Education Agency for private school accreditation; and~~

11-1 more cities find that it is to the best interest of the cities to
 11-2 create an authority to include those cities, each governing body
 11-3 shall pass an ordinance creating the authority and designating the
 11-4 name by which it shall be known.

11-5 Sec. 53A.12. TERRITORY. The authority comprises only the
 11-6 territory included within the boundaries of the city or cities
 11-7 creating it.

11-8 Sec. 53A.13. CORPORATE POWERS. An authority is a body
 11-9 politic and corporate having the power of perpetual succession. It
 11-10 shall have a seal; it may sue and be sued; and it may make, amend,
 11-11 and repeal its bylaws.

11-12 Sec. 53A.131. AUTHORITY'S EARNINGS. A private person may
 11-13 not share in any of an authority's earnings.

11-14 Sec. 53A.14. BOARD OF DIRECTORS. (a) The authority shall
 11-15 be governed by a board of directors consisting of not less than 7
 11-16 nor more than 11 members to be determined at the time of creating
 11-17 the authority. The directors shall be appointed by the governing
 11-18 body of the city or by the governing bodies of the cities, and they
 11-19 shall serve until their successors are appointed as provided by
 11-20 this section. If the authority includes more than one city, each
 11-21 governing body shall appoint an equal number of directors unless
 11-22 otherwise agreed by the cities.

11-23 (b) The members of the board serve for two-year terms.

11-24 (c) No officer or employee of any such city is eligible for
 11-25 appointment as a director. Directors are not entitled to
 11-26 compensation for services but are entitled to reimbursement for
 11-27 expenses incurred in performing such service.

11-28 Sec. 53A.15. ORGANIZATION OF BOARD; QUORUM; EMPLOYEES;
 11-29 COUNSEL. (a) The board shall elect from among its members a
 11-30 president and vice president, and shall elect a secretary and a
 11-31 treasurer who may or may not be directors, and may elect other
 11-32 officers as authorized by the authority's bylaws. The offices of
 11-33 secretary and treasurer may be combined.

11-34 (b) The president has the same right to vote on all matters
 11-35 as other members of the board.

11-36 (c) A majority constitutes a quorum, and when a quorum is
 11-37 present action may be taken by a majority vote of directors present.

11-38 (d) The board may employ a manager or executive director of
 11-39 the facilities and other employees, experts, and agents as it sees
 11-40 fit. It may delegate to the manager the power to employ and
 11-41 discharge employees.

11-42 (e) The board may employ legal counsel.

11-43 [Sections 53A.16-53A.30 reserved for expansion]

11-44 SUBCHAPTER C. POWERS AND DUTIES

11-45 Sec. 53A.31. NO TAXING POWER. An authority has no power to
 11-46 tax.

11-47 Sec. 53A.32. NO POWER OF EMINENT DOMAIN. The authority does
 11-48 not have the power of eminent domain.

11-49 Sec. 53A.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE
 11-50 EDUCATIONAL AND HOUSING FACILITIES. (a) An authority or a
 11-51 nonprofit instrumentality created under Section 53A.35(b) may
 11-52 acquire, own, hold title to, lease, or operate an educational
 11-53 facility or housing facility or any facility incidental,
 11-54 subordinate, or related to or appropriate in connection with an
 11-55 educational facility or housing facility, but only if:

11-56 (1) the facility is or will be located within the
 11-57 corporate limits of the city that created the authority or
 11-58 nonprofit instrumentality;

11-59 (2) the governing body of an institution of higher
 11-60 education officially requests the authority or nonprofit
 11-61 instrumentality to acquire and own the facility for the benefit of
 11-62 the institution of higher education;

11-63 (3) the institution of higher education officially
 11-64 agrees to accept, and has authority to receive legal title to, the
 11-65 facility not later than the date on which any bonds or other
 11-66 obligations issued to acquire the facility are paid in full; and

11-67 (4) the ownership of the facility by the authority or
 11-68 the nonprofit instrumentality is approved by official action of the
 11-69 governing body of:

12-1 (A) the city that created the authority or
 12-2 nonprofit instrumentality;

12-3 (B) the school district in which the facility is
 12-4 or will be located; and

12-5 (C) the county in which the facility is or will be
 12-6 located.

12-7 (b) An authority or instrumentality that exercises the
 12-8 powers granted by Subsection (a) may contract for the operation of
 12-9 the facility by public or private entities or persons on the terms
 12-10 and conditions set forth in a contract relating to the operation of
 12-11 the facility.

12-12 (c) The changes in law made by the amendment of this section
 12-13 by the 78th Legislature, Regular Session, 2003, do not affect the
 12-14 acquisition, ownership, construction, or improvement of a
 12-15 facility, or the acquisition and ownership of land that were
 12-16 approved by official action of the authority or nonprofit corporate
 12-17 instrumentality before March 15, 2003, and the law in effect
 12-18 immediately before the effective date of the amendment of this
 12-19 section by the 78th Legislature, Regular Session, 2003, is
 12-20 continued in effect for that purpose.

12-21 Sec. 53A.331. REFINANCING FACILITIES. The authority may
 12-22 refinance any educational or housing facility acquired,
 12-23 constructed, or improved.

12-24 Sec. 53A.34. REVENUE BONDS. (a) An authority or a
 12-25 nonprofit instrumentality created under Section 53A.35(b),
 12-26 including an authority or nonprofit instrumentality authorized to
 12-27 own facilities under Section 53A.33(a), may issue and execute
 12-28 revenue bonds or other obligations to loan or otherwise provide
 12-29 funds to a borrower if:

12-30 (1) the governing body of the borrower by official
 12-31 action requests the issuer of the bonds or other obligations to loan
 12-32 the proceeds under this subsection;

12-33 (2) the purpose of the loan is to enable the borrower
 12-34 to acquire, construct, enlarge, extend, repair, renovate, or
 12-35 otherwise improve an educational facility or housing facility or
 12-36 any facility incidental, subordinate, or related to or appropriate
 12-37 in connection with an educational facility or housing facility, or
 12-38 for acquiring land to be used for those purposes, or to create
 12-39 operating and debt service reserves for and to pay issuance costs
 12-40 related to the bonds or other obligations; and

12-41 (3) under the terms of the loan, and unless a mortgage
 12-42 lien granted to secure the loan is in default, the ownership of the
 12-43 facility is required to be at all times under the exclusive control,
 12-44 and held for the exclusive benefit, of the borrower.

12-45 (b) In issuing revenue bonds or other obligations under this
 12-46 chapter, the issuer of the bonds or other obligations is considered
 12-47 to be acting on behalf of the city by which it was created.

12-48 (c) Bonds or other obligations issued under Subsection (a)
 12-49 shall be payable from and secured by a pledge of the revenues,
 12-50 income, or assets pledged for the purpose by the borrower. The
 12-51 bonds or other obligations may be additionally secured by a
 12-52 mortgage, deed of trust, or chattel mortgage on real or personal
 12-53 property, or on both real and personal property, if granted by the
 12-54 borrower.

12-55 (d) A facility financed with the proceeds of a loan or loans
 12-56 made to a borrower under Subsection (a) is not required to be
 12-57 located within the corporate limits of the city that created the
 12-58 issuer of the bonds or other obligations.

12-59 (e) An authority or a nonprofit instrumentality that is
 12-60 authorized to acquire and own educational facilities and housing
 12-61 facilities under Section 53A.33(a) may issue and execute revenue
 12-62 bonds and other obligations for the purpose of acquiring, owning,
 12-63 and operating the educational and housing facilities, to create
 12-64 operating reserves for the facilities, and to create debt service
 12-65 reserves for and to pay issuance costs related to the bonds or other
 12-66 obligations.

12-67 (f) Bonds or other obligations issued under Subsection (e)
 12-68 shall be payable from and secured by a pledge of all or any part of
 12-69 the gross or net revenues to be derived from the operation of the

13-1 educational facilities and housing facilities being acquired and
 13-2 any other revenues, income, or assets, including the revenues and
 13-3 income of the educational facilities or housing facilities
 13-4 previously acquired or subsequently to be acquired. The bonds or
 13-5 other obligations may be additionally secured by a mortgage, deed
 13-6 of trust, or chattel mortgage on real or personal property, or on
 13-7 both real and personal property, if granted by the authority or
 13-8 nonprofit instrumentality issuing the bonds or other obligations.

13-9 (g) The changes in law made by the amendment of this section
 13-10 by the 78th Legislature, Regular Session, 2003, affect and apply
 13-11 only to transactions involving bonds or other obligations that are
 13-12 issued or executed under this chapter on or after March 15, 2003.
 13-13 Bonds or other obligations that are issued or executed under this
 13-14 chapter before March 15, 2003, are governed by the law in effect
 13-15 immediately before the amendment of this section by the 78th
 13-16 Legislature, Regular Session, 2003, and that former law is
 13-17 continued in effect for that purpose.

13-18 Sec. 53A.35. ISSUANCE OF BONDS; PROCEDURE; ETC. (a) The
 13-19 bonds shall be authorized by resolution adopted by a majority vote
 13-20 of a quorum of the board. Bonds authorized under this section shall
 13-21 be issued in accordance with Chapter 1201, Government Code. The
 13-22 bonds shall mature serially or otherwise in not to exceed 50 years.
 13-23 The rate of interest to be borne by the bonds shall not exceed the
 13-24 maximum rate prescribed by Chapter 1204, Government Code.

13-25 (b) In addition to or in lieu of establishing an authority
 13-26 under the provisions of this chapter, the governing body of a city
 13-27 or cities may request or order created one or more nonprofit
 13-28 corporations to act on its behalf and as its duly constituted
 13-29 authority and instrumentality to exercise the powers granted to an
 13-30 authority under the provisions of Sections 53A.33 and 53A.34. If a
 13-31 nonprofit corporation is created for such purposes or agrees to
 13-32 such request, the directors thereof shall thereafter be appointed
 13-33 and be subject to removal by the governing body of the city or
 13-34 cities. In addition to the powers granted under, and subject to the
 13-35 limitations provided by Sections 53A.33 and 53A.34, the corporation
 13-36 shall have all powers granted under the Texas Non-Profit
 13-37 Corporation Act for the purpose of aiding institutions of higher
 13-38 education in providing educational facilities and housing
 13-39 facilities and facilities incidental, subordinate, or related
 13-40 thereto or appropriate in connection therewith. In addition to
 13-41 Sections 53A.33 and 53A.34 and the Texas Non-Profit Corporation
 13-42 Act, as amended (Article 1396-1.01 et seq., Vernon's Texas Civil
 13-43 Statutes), Sections 53A.131, 53A.14, 53A.15, 53A.31, 53A.32,
 13-44 53A.331, 53A.34, 53A.35, 53A.38, and 53A.41 apply to and govern
 13-45 such corporation and its procedures, bonds, and other obligations.

13-46 Sec. 53A.36. BOND RESOLUTION; NOTICE; ELECTION. (a)
 13-47 Before authorizing the issuance of bonds, other than refunding
 13-48 bonds, the board shall cause a notice to be issued stating that it
 13-49 intends to adopt a resolution authorizing the issuance of the
 13-50 bonds, the maximum amount thereof, and the maximum maturity
 13-51 thereof. The notice shall be published once each week for two
 13-52 consecutive weeks in a newspaper or newspapers having general
 13-53 circulation in the authority. The first publication shall be at
 13-54 least 14 days prior to the day set for adopting the bond resolution.

13-55 (b) If, prior to the day set for the adoption of the bond
 13-56 resolution, there is presented to the secretary or president of the
 13-57 board a petition signed by not less than 10 percent of the qualified
 13-58 voters residing in the city or cities comprising the authority, who
 13-59 own taxable property in the authority and who have duly rendered it
 13-60 for taxation to the city in which such property is located or
 13-61 situated, requesting an election on the proposition for the
 13-62 issuance of the bonds, the bonds shall not be issued unless an
 13-63 election is held and a majority vote is in favor of the bonds. The
 13-64 election shall be called and held in accordance with the procedure
 13-65 prescribed in Chapter 1251, Government Code, with the board and the
 13-66 president and secretary performing the functions there assigned to
 13-67 the governing body of the city, the mayor and city secretary,
 13-68 respectively. If no such petition is filed, the bonds may be issued
 13-69 without an election. However, the board may call an election on its

14-1 own motion without the filing of the petition.

14-2 Sec. 53A.37. JUNIOR LIEN BONDS; PARITY BONDS. Bonds
 14-3 constituting a junior lien on the net revenue or properties may be
 14-4 issued unless prohibited by the bond resolution or trust indenture.
 14-5 Parity bonds may be issued under conditions specified in the bond
 14-6 resolution or trust indenture.

14-7 Sec. 53A.38. RESERVES FOR OPERATING AND OTHER EXPENSES.
 14-8 Money for the payment of not more than two years' interest on the
 14-9 bonds and an amount estimated by the board to be required for
 14-10 operating expenses during the first year of operation may be set
 14-11 aside for those purposes out of the proceeds from the sale of the
 14-12 bonds.

14-13 Sec. 53A.39. REFUNDING BONDS. Bonds may be issued for the
 14-14 purpose of refunding outstanding bonds in the manner provided in
 14-15 this chapter for other bonds, and may be exchanged by the
 14-16 comptroller or sold and the proceeds applied in accordance with the
 14-17 procedure prescribed by Subchapter B or C, Chapter 1207, Government
 14-18 Code.

14-19 Sec. 53A.40. APPROVAL OF BONDS; REGISTRATION;
 14-20 NEGOTIABILITY. Bonds issued under this chapter and the record
 14-21 relating to their issuance shall be submitted to the attorney
 14-22 general, and if he finds that they have been issued in accordance
 14-23 with this chapter and constitute valid and binding obligations of
 14-24 the authority and are secured as recited therein he shall approve
 14-25 them, and they shall be registered by comptroller of public
 14-26 accounts who shall certify the registration thereon. Thereafter,
 14-27 they are incontestable. The bonds shall be negotiable and shall
 14-28 contain the following provision: "The holder hereof shall never
 14-29 have the right to demand payment thereof out of money raised or to
 14-30 be raised by taxation."

14-31 Sec. 53A.41. AUTHORIZED INVESTMENTS. All bonds issued
 14-32 under this chapter are legal and authorized investments for all
 14-33 banks, savings banks, trust companies, building and loan
 14-34 associations, savings and loan associations, and insurance
 14-35 companies of all kinds and types, and for the interest and sinking
 14-36 funds and other public funds of any issuer. The bonds are also
 14-37 eligible and lawful security for all deposits of public funds of the
 14-38 State of Texas and of any issuer, to the extent of the value of the
 14-39 bonds, when accompanied by any unmatured interest coupons
 14-40 appurtenant to them.

14-41 Sec. 53A.42. INVESTMENT OF FUNDS; SECURITY. To the extent
 14-42 it is applicable, the law as to the security for and the investment
 14-43 of funds, applicable to cities, controls the investment of funds
 14-44 belonging to authority. The bond resolution or the indenture or
 14-45 both may further restrict the making of investments. The authority
 14-46 may invest the proceeds of its bonds, until the money is needed, in
 14-47 the direct obligations of or obligations unconditionally
 14-48 guaranteed by the United States, to the extent authorized in the
 14-49 bond resolution or indenture or in both.

14-50 Sec. 53A.43. DEPOSITORIES. The authority may select a
 14-51 depository or depositories according to the procedures provided by
 14-52 law for the selection of city depositories, or it may award its
 14-53 depository contract to the same depository or depositories selected
 14-54 by the city or cities and on the same terms.

14-55 Sec. 53A.44. OPERATION OF FACILITIES; RATES CHARGED;
 14-56 RESERVE FUNDS. (a) The facilities may be operated by the authority
 14-57 without the intervention of private profit for the use and benefit
 14-58 of the public, or may be leased to an institution of higher
 14-59 education, or may be operated by the institution under a contract
 14-60 with the authority, the lease or contract to be in effect until any
 14-61 revenue bonds issued in connection with it have been finally
 14-62 retired.

14-63 (b) The board shall charge rates for the use of the
 14-64 facilities, or for their lease or operation, that are fully
 14-65 sufficient to pay all expenses in connection with the ownership,
 14-66 operation, and upkeep of the facilities, to pay the interest on the
 14-67 bonds as it becomes due, to create a sinking fund to pay the bonds as
 14-68 they become due, and to create and maintain a bond reserve fund and
 14-69 other funds and reserves that may be provided in the bond resolution

15-1 or trust indenture. The bond resolution or trust indenture may
 15-2 prescribe systems, methods, routines, and procedures under which
 15-3 the facilities shall be operated.

15-4 Sec. 53A.45. TRANSACTIONS WITH OTHER AGENCIES AND PERSONS.
 15-5 The authority may borrow money and accept grants from, and enter
 15-6 into contracts, leases, or other transactions with the United
 15-7 States, the State of Texas, any municipal corporation in the state,
 15-8 and any public or private person or corporation resident or
 15-9 authorized to do business in the state.

15-10 Sec. 53A.46. AUTHORITY EXEMPT FROM TAXATION. Because the
 15-11 property owned by authority will be held for educational purposes
 15-12 only and will be devoted exclusively to the use and benefit of the
 15-13 students, faculty, and staff members of an accredited institution
 15-14 of higher education, it is exempt from taxation of every character.

15-15 [Sec. 53A.47 reserved]

15-16 Sec. 53A.48. BONDS FOR ACCREDITED PRIMARY OR SECONDARY
 15-17 SCHOOLS. In the same manner that a corporation may issue and
 15-18 execute bonds or other obligations under this chapter for an
 15-19 institution of higher education, a corporation created under
 15-20 Section 53A.35(b) may issue and execute bonds or other obligations
 15-21 to finance or refinance educational facilities or housing
 15-22 facilities to be used by an accredited primary or secondary school.

15-23 Sec. 53A.49. BONDS FOR CERTAIN SCHOOLS OWNED AND OPERATED
 15-24 BY NONPROFIT CORPORATIONS. (a) In the same manner that a
 15-25 corporation may issue bonds under this chapter for an institution
 15-26 of higher education, a corporation created under Section 53A.35(b)
 15-27 may issue bonds to finance or refinance educational facilities to
 15-28 be used by a school that:

15-29 (1) is located in a county with a population of more
 15-30 than 1,800,000;

15-31 (2) is located within three miles of an area
 15-32 designated as an enterprise zone under Chapter 2303, Government
 15-33 Code;

15-34 (3) provides primary and secondary education to at
 15-35 least 1,000 students;

15-36 (4) is accredited by an organization approved by the
 15-37 Texas Education Agency for private school accreditation; and

15-38 (5) is owned and operated by a corporation created
 15-39 under the Texas Non-Profit Corporation Act (Article 1396-1.01 et
 15-40 seq., Vernon's Texas Civil Statutes).

15-41 (b) Notwithstanding Section 53A.34(b), bonds issued under
 15-42 this section may be payable from and secured by a pledge of any
 15-43 revenue or assets pledged for that purpose.

15-44 CHAPTER 53B. HIGHER EDUCATION LOAN AUTHORITIES

15-45 SUBCHAPTER A. GENERAL PROVISIONS

15-46 Sec. 53B.01. SHORT TITLE. This chapter may be cited as the
 15-47 Higher Education Loan Authority Act.

15-48 Sec. 53B.02. DEFINITIONS. In this chapter:

15-49 (1) "Accredited institution" means an institution
 15-50 that has either been recognized by a recognized accrediting agency,
 15-51 as defined by Section 61.003, or accredited by the Accrediting
 15-52 Commission for Independent Colleges and Schools, the Accrediting
 15-53 Commission for Career Schools and Colleges of Technology, or the
 15-54 National Accrediting Commission of Cosmetology Arts and Sciences.

15-55 (2) "Alternative education loan" means a loan other
 15-56 than a guaranteed student loan that is made to or for the benefit of
 15-57 a student for the purpose of financing all or part of the student's
 15-58 cost of attendance at an accredited institution.

15-59 (3) "Authority" means a higher education loan
 15-60 authority created under this chapter.

15-61 (4) "Board" means the board of directors of an
 15-62 authority.

15-63 (5) "Bond resolution" means the resolution
 15-64 authorizing the issuance of revenue bonds.

15-65 (6) "City" means an incorporated city or town in this
 15-66 state.

15-67 (7) "Cost of attendance" means all costs of a student
 15-68 incurred in connection with a program of study at an accredited
 15-69 institution, as determined by the institution, including tuition

16-1 and instructional fees, the cost of room and board, books,
 16-2 computers, and supplies, and other related fees, charges, and
 16-3 expenses.

16-4 (8) "Governing body" means the council, commission, or
 16-5 other governing body of a city.

16-6 (9) "Guaranteed student loan" means a loan made by an
 16-7 eligible lender under the Higher Education Act of 1965 (Pub. L. No.
 16-8 89-329), as amended.

16-9 (10) "Qualified alternative education loan lender"
 16-10 means a nonprofit corporation incorporated under the laws of this
 16-11 state that:

16-12 (A) is a qualified nonprofit corporation;

16-13 (B) has serviced education loans made under the
 16-14 Higher Education Act of 1965, as amended, for a qualified nonprofit
 16-15 corporation for a period of not less than 10 years; or

16-16 (C) is a charitable organization qualified under
 16-17 Section 509(a)(2), Internal Revenue Code of 1986, as amended, that
 16-18 provides services to a qualified nonprofit corporation.

16-19 (11) "Qualified nonprofit corporation" means a
 16-20 nonprofit corporation:

16-21 (A) that issued bonds on or after January 1,
 16-22 1990, and before January 1, 2001, that qualified as qualified
 16-23 student loan bonds under Section 144(b), Internal Revenue Code of
 16-24 1986, as amended; or

16-25 (B) that the office of the governor, in
 16-26 consultation with the state student loan guaranty agency or any
 16-27 other public or private entity the office of the governor considers
 16-28 appropriate, has determined meets a need for student loan financing
 16-29 that existing qualified nonprofit corporations cannot meet, which
 16-30 determination may include information provided by the nonprofit
 16-31 corporation's plan for doing business that should include
 16-32 documented limitations in:

16-33 (i) the geographic coverage of existing
 16-34 qualified nonprofit corporations in the nonprofit corporation's
 16-35 proposed area of service;

16-36 (ii) the willingness of existing qualified
 16-37 nonprofit corporations to serve the eligible lenders in the
 16-38 proposed area of service; and

16-39 (iii) the ability of existing qualified
 16-40 nonprofit corporations to serve the eligible lenders in the
 16-41 proposed area of service.

16-42 (12) "Repurchase agreement" means a simultaneous
 16-43 agreement between a higher education loan authority and another
 16-44 entity in which one of the parties has agreed to purchase investment
 16-45 securities on a specified date and the other party has agreed to
 16-46 repurchase the investment securities at the same price plus accrued
 16-47 interest on a later date, in which the market value of the
 16-48 investment securities purchased is in excess of the amount of the
 16-49 repurchase agreement, and in which the investment securities are so
 16-50 purchased and held separately from all other investment securities,
 16-51 in trust, in order to complete the contractual commitment.

16-52 (13) "Trust indenture" means the mortgage, deed of
 16-53 trust, or other instrument pledging revenue or property, or
 16-54 creating a mortgage lien on property, or both, to secure the revenue
 16-55 bonds issued by the authority.

16-56 (14) "Trustee" means the trustee under the trust
 16-57 indenture.

16-58 [Sections 53B.03-53B.10 reserved for expansion]

16-59 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

16-60 Sec. 53B.11. CREATION OF AUTHORITY. When the governing
 16-61 body of a city finds that it is to the best interest of the city and
 16-62 its inhabitants to create a higher education loan authority, it
 16-63 shall pass an ordinance creating the authority and designating the
 16-64 name by which it shall be known. If the governing bodies of two or
 16-65 more cities find that it is to the best interest of the cities to
 16-66 create an authority to include those cities, each governing body
 16-67 shall pass an ordinance creating the authority and designating the
 16-68 name by which it shall be known.

16-69 Sec. 53B.12. TERRITORY. The authority comprises only the

17-1 territory included within the boundaries of the city or cities
 17-2 creating it.

17-3 Sec. 53B.13. CORPORATE POWERS. An authority is a body
 17-4 politic and corporate having the power of perpetual succession. It
 17-5 shall have a seal; it may sue and be sued; and it may make, amend,
 17-6 and repeal its bylaws.

17-7 Sec. 53B.131. AUTHORITY'S EARNINGS. A private person may
 17-8 not share in any of an authority's earnings.

17-9 Sec. 53B.14. BOARD OF DIRECTORS. (a) The authority shall
 17-10 be governed by a board of directors consisting of not less than 7
 17-11 nor more than 11 members to be determined at the time of creating
 17-12 the authority. The directors shall be appointed by the governing
 17-13 body of the city or by the governing bodies of the cities, and they
 17-14 shall serve until their successors are appointed as provided by
 17-15 this section. If the authority includes more than one city, each
 17-16 governing body shall appoint an equal number of directors unless
 17-17 otherwise agreed by the cities.

17-18 (b) The members of the board serve for two-year terms.

17-19 (c) No officer or employee of any such city is eligible for
 17-20 appointment as a director. Directors are not entitled to
 17-21 compensation for services but are entitled to reimbursement for
 17-22 expenses incurred in performing such service.

17-23 Sec. 53B.15. ORGANIZATION OF BOARD; QUORUM; EMPLOYEES;
 17-24 COUNSEL. (a) The board shall elect from among its members a
 17-25 president and vice president, and shall elect a secretary and a
 17-26 treasurer who may or may not be directors, and may elect other
 17-27 officers as authorized by the authority's bylaws. The offices of
 17-28 secretary and treasurer may be combined.

17-29 (b) The president has the same right to vote on all matters
 17-30 as other members of the board.

17-31 (c) A majority constitutes a quorum, and when a quorum is
 17-32 present action may be taken by a majority vote of directors present.

17-33 (d) The board may employ employees, experts, and agents as
 17-34 it sees fit. It may delegate to the manager the power to employ and
 17-35 discharge employees.

17-36 (e) The board may employ legal counsel.

17-37 [Sections 53B.16-53B.30 reserved for expansion]

17-38 SUBCHAPTER C. POWERS AND DUTIES

17-39 Sec. 53B.31. NO TAXING POWER. An authority has no power to
 17-40 tax.

17-41 Sec. 53B.32. NO POWER OF EMINENT DOMAIN. The authority does
 17-42 not have the power of eminent domain.

17-43 [Secs. 53B.33 and 53B.34 reserved]

17-44 Sec. 53B.35. ISSUANCE OF BONDS; PROCEDURE; ETC. The bonds
 17-45 shall be authorized by resolution adopted by a majority vote of a
 17-46 quorum of the board. Bonds authorized under this section shall be
 17-47 issued in accordance with Chapter 1201, Government Code. The bonds
 17-48 shall mature serially or otherwise in not to exceed 50 years. The
 17-49 rate of interest to be borne by the bonds shall not exceed the
 17-50 maximum rate prescribed by Chapter 1204, Government Code.

17-51 [Sec. 53B.36 reserved]

17-52 Sec. 53B.37. JUNIOR LIEN BONDS; PARITY BONDS. Bonds
 17-53 constituting a junior lien on the net revenue or properties may be
 17-54 issued unless prohibited by the bond resolution or trust indenture.
 17-55 Parity bonds may be issued under conditions specified in the bond
 17-56 resolution or trust indenture.

17-57 Sec. 53B.38. RESERVES FOR OPERATING AND OTHER EXPENSES.
 17-58 Money for the payment of not more than two years' interest on the
 17-59 bonds and an amount estimated by the board to be required for
 17-60 operating expenses during the first year of operation may be set
 17-61 aside for those purposes out of the proceeds from the sale of the
 17-62 bonds.

17-63 Sec. 53B.39. REFUNDING BONDS. Bonds may be issued for the
 17-64 purpose of refunding outstanding bonds in the manner provided in
 17-65 this chapter for other bonds, and may be exchanged by the
 17-66 comptroller or sold and the proceeds applied in accordance with the
 17-67 procedure prescribed by Subchapter B or C, Chapter 1207, Government
 17-68 Code.

17-69 Sec. 53B.40. APPROVAL OF BONDS; REGISTRATION;

18-1 NEGOTIABILITY. Bonds issued under this chapter and the record
 18-2 relating to their issuance shall be submitted to the attorney
 18-3 general, and if he finds that they have been issued in accordance
 18-4 with this chapter and constitute valid and binding obligations of
 18-5 the authority and are secured as recited therein he shall approve
 18-6 them, and they shall be registered by comptroller of public
 18-7 accounts who shall certify the registration thereon. Thereafter,
 18-8 they are incontestable. The bonds shall be negotiable and shall
 18-9 contain the following provision: "The holder hereof shall never
 18-10 have the right to demand payment thereof out of money raised or to
 18-11 be raised by taxation."

18-12 Sec. 53B.41. AUTHORIZED INVESTMENTS. All bonds issued
 18-13 under this chapter are legal and authorized investments for all
 18-14 banks, savings banks, trust companies, building and loan
 18-15 associations, savings and loan associations, and insurance
 18-16 companies of all kinds and types, and for the interest and sinking
 18-17 funds and other public funds of any issuer. The bonds are also
 18-18 eligible and lawful security for all deposits of public funds of the
 18-19 State of Texas and of any issuer, to the extent of the value of the
 18-20 bonds, when accompanied by any unmatured interest coupons
 18-21 appurtenant to them.

18-22 Sec. 53B.42. INVESTMENT OF FUNDS; SECURITY. To the extent
 18-23 it is applicable, the law as to the security for and the investment
 18-24 of funds, applicable to cities, controls the investment of funds
 18-25 belonging to authority. The bond resolution or the indenture or
 18-26 both may further restrict the making of investments. The authority
 18-27 may invest the proceeds of its bonds, until the money is needed, in
 18-28 the direct obligations of or obligations unconditionally
 18-29 guaranteed by the United States, to the extent authorized in the
 18-30 bond resolution or indenture or in both.

18-31 Sec. 53B.43. DEPOSITORIES. The authority may select a
 18-32 depository or depositories according to the procedures provided by
 18-33 law for the selection of city depositories, or it may award its
 18-34 depository contract to the same depository or depositories selected
 18-35 by the city or cities and on the same terms.

18-36 [Sec. 53B.44 reserved]

18-37 Sec. 53B.45. TRANSACTIONS WITH OTHER AGENCIES AND PERSONS.
 18-38 The authority may borrow money and accept grants from, and enter
 18-39 into contracts, leases, or other transactions with the United
 18-40 States, the State of Texas, any municipal corporation in the state,
 18-41 and any public or private person or corporation resident or
 18-42 authorized to do business in the state.

18-43 [Sec. 53B.46 reserved]

18-44 Sec. 53B.47. GUARANTEED STUDENT LOANS AND ALTERNATE
 18-45 EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION LOAN NOTES.
 18-46 (a) An authority may, upon approval of the city or cities which
 18-47 created the same, issue revenue bonds or otherwise borrow money to
 18-48 obtain funds to purchase or to make guaranteed student loans.
 18-49 Revenue bonds issued for such purpose shall be issued in accordance
 18-50 with and with the effect provided in this chapter. Such bonds shall
 18-51 be payable from and secured by a pledge of revenues derived from or
 18-52 by reason of the ownership of guaranteed student loans and
 18-53 investment income after deduction of such expenses of operating the
 18-54 loan program as may be specified by the bond resolution or trust
 18-55 indenture.

18-56 (b) An authority may cause money to be expended to make or
 18-57 purchase for its account guaranteed student loans that are
 18-58 guaranteed by the Texas Guaranteed Student Loan Corporation or that
 18-59 are executed by or on behalf of students who:

18-60 (1) are residents of this state; or

18-61 (2) have been admitted to attend an accredited
 18-62 institution within this state.

18-63 (c) The authority shall contract with a nonprofit
 18-64 corporation, organized under the laws of this state, whereby such
 18-65 corporation will provide the reports and other information required
 18-66 for continued participation in the federally guaranteed loan
 18-67 program provided by the Higher Education Act of 1965, as amended.

18-68 (d) The authority, as a municipal corporation of the state,
 18-69 is charged with a portion of the responsibility of the state to

19-1 provide educational opportunities in keeping with all applicable
 19-2 state and federal laws. Nothing in this section shall be construed
 19-3 as a prohibition against establishing policies to limit the
 19-4 purchase of guaranteed student loans to guaranteed student loans
 19-5 executed by students attending school in a certain geographical
 19-6 area or by students who are residents of the area.

19-7 (e) In addition to establishing an authority under the
 19-8 provisions of this chapter, the governing body of a city or cities
 19-9 may request a qualified nonprofit corporation to exercise the
 19-10 powers enumerated and provided in this section for and on its
 19-11 behalf. If the qualified nonprofit corporation agrees to exercise
 19-12 such powers, the directors of such corporation shall thereafter be
 19-13 appointed by and be subject to removal by the governing body of the
 19-14 city or cities, and except as provided in this section, Sections
 19-15 53B.14, 53B.15, 53B.31, 53B.32, 53B.38, and 53B.41 through 53B.43
 19-16 apply to and govern such corporation, its procedures, and bonds.
 19-17 Notwithstanding the provisions of Section 53B.42, a qualified
 19-18 nonprofit corporation which has been requested to exercise the
 19-19 powers enumerated and requested in this section may invest or cause
 19-20 a trustee or custodian on behalf of such qualified nonprofit
 19-21 corporation to invest its funds, including the proceeds of any
 19-22 bonds, notes, or other obligations issued by such qualified
 19-23 nonprofit corporation and any monies which are pledged to the
 19-24 payment thereof, in:

19-25 (1) certificates of deposit or other time or demand
 19-26 accounts of banks and savings and loan associations which are
 19-27 insured by the Federal Deposit Insurance Corporation, provided the
 19-28 amount of any certificate of deposit in excess of that covered by
 19-29 such insurance must be secured by a first and prior pledge of
 19-30 government obligations having a market value of not less than 100
 19-31 percent of the excess unless a nationally recognized rating agency
 19-32 has given the senior securities of the bank issuing the certificate
 19-33 of deposit the highest or next to the highest investment rating
 19-34 available;

19-35 (2) repurchase agreements;
 19-36 (3) guaranteed student loans and alternative
 19-37 education loans; or

19-38 (4) a security issued by another nonprofit corporation
 19-39 acting under this section.

19-40 (f) A nonprofit corporation, whether acting at the request
 19-41 of a city or cities under Subsection (e) or acting as a servicer or
 19-42 administrator for another corporation that purchases guaranteed
 19-43 student loans, or that on its own behalf issues securities or
 19-44 otherwise obtains funds to purchase or make guaranteed student
 19-45 loans or alternative education loans, may:

19-46 (1) exercise the powers granted by the Texas
 19-47 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
 19-48 Texas Civil Statutes);

19-49 (2) service loans purchased or made from its funds or
 19-50 contract with another person to service the loans;

19-51 (3) grant a security interest in a trust estate
 19-52 securing its securities; and

19-53 (4) make investments as authorized by Subsection (e).

19-54 (g) A security interest in a trust estate granted under
 19-55 Subsection (f)(3) is attached and perfected at the time the
 19-56 security interest is executed and delivered by the nonprofit
 19-57 corporation. The security interest grants to the secured party a
 19-58 first prior perfected security interest in the trust estate for the
 19-59 benefit of the secured party without regard to the location of the
 19-60 assets that constitute the trust estate.

19-61 (h) An alternative education loan may be made under this
 19-62 section only by a qualified alternative education loan lender. An
 19-63 alternative education loan may not be in an amount in excess of the
 19-64 difference between the cost of attendance and the amount of other
 19-65 student assistance to the student, other than loans under Section
 19-66 428B(a)(1), Higher Education Act of 1965 (20 U.S.C. Section 1078-2)
 19-67 (relating to parent loans), for which the student borrower may be
 19-68 eligible. An alternative education loan covered by this subsection
 19-69 is subject to Chapter 342, Finance Code, as applicable, except

that:

(1) the maximum interest rate on the loan may not exceed the rate permitted under Subchapter A, Chapter 303, Finance Code; and

(2) application and origination fees may be agreed to by the parties and assessed at the inception of the loan, provided that if any such fees constitute additional interest under applicable law, the effective rate of interest agreed to over the stated term of the loan may not exceed the rate allowed by Subchapter A, Chapter 303, Finance Code, and accrued unpaid interest may be added to unpaid principal at the beginning of the agreed repayment period at the borrower's option and in accordance with the terms of the agreement for purposes of determining the total principal amount due at the inception of the repayment period.

(i) An authority or nonprofit corporation making education loans under this section is exempt from the licensing requirements of Chapter 342, Finance Code.

SECTION 3. Section 61.0816(a), Education Code, as added by Chapter 820, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) The board shall collect and make available to the public on request information regarding higher education authorities operating under Chapters ~~[Chapter]~~ 53, 53A, and 53B and nonprofit corporations carrying out the functions of higher education authorities under those chapters ~~[Chapter 53]~~. For each authority or corporation, the information must include:

(1) the total amount and type of outstanding bonds issued by the authority or corporation;

(2) a description of the programs and activities administered by the authority or corporation; and

(3) with respect to any real property owned by the authority or corporation:

(A) the location and description of the property;

(B) the current or proposed use of the property, including whether the property is under construction or renovation;

(C) the method by which the authority or corporation financed the acquisition, construction, or renovation of the property;

(D) the school, public or private institution of higher education, or other educational institution for which the property is being used or proposed to be used;

(E) whether the property is exempt from ad valorem taxes; and

(F) the appraised value of the property.

SECTION 4. Section 1371.001(4), Government Code, is amended to read as follows:

(4) "Issuer" means:

(A) a home-rule municipality that:

(i) adopted its charter under Section 5, Article XI, Texas Constitution;

(ii) has a population of 50,000 or more; and

(iii) has outstanding long-term indebtedness that is rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term obligation;

(B) a conservation and reclamation district created and organized as a river authority under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(C) a joint powers agency organized and operating under Chapter 163, Utilities Code;

(D) a metropolitan rapid transit authority or regional transportation authority created, organized, and operating under Chapter 451 or 452, Transportation Code;

(E) a conservation and reclamation district organized or operating as a navigation district under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(F) a district organized or operating under Section 59, Article XVI, Texas Constitution, that has all or part of

- 21-1 two or more municipalities within its boundaries;
- 21-2 (G) a state agency, including a state institution
- 21-3 of higher education;
- 21-4 (H) a hospital authority created or operating
- 21-5 under Chapter 262 or 264, Health and Safety Code, in a county that:
- 21-6 (i) has a population of more than 3.3
- 21-7 million; or
- 21-8 (ii) is included, in whole or in part, in a
- 21-9 standard metropolitan statistical area of this state that includes
- 21-10 a county with a population of more than 2.2 million;
- 21-11 (I) a hospital district in a county that has a
- 21-12 population of more than two million;
- 21-13 (J) a nonprofit corporation organized to
- 21-14 exercise the powers of a higher education loan authority under
- 21-15 Section 53B.47(e) [~~53.47(e)~~], Education Code;
- 21-16 (K) a county with a population of 3.3 million or
- 21-17 more;
- 21-18 (L) an independent school district that has an
- 21-19 average daily attendance of 50,000 or more as determined under
- 21-20 Section 42.005, Education Code;
- 21-21 (M) a municipality or county operating under
- 21-22 Chapter 334, Local Government Code; or
- 21-23 (N) a district created under Chapter 335, Local
- 21-24 Government Code.

21-25 SECTION 5. The purpose of this Act is to reorganize statutes
 21-26 related to higher education authorities without causing a
 21-27 substantive change in the law.

21-28 SECTION 6. This Act takes effect September 1, 2005.

21-29 * * * * *