

By: Jackson

S.B. No. 422

Substitute the following for S.B. No. 422:

By: Grusendorf

C.S.S.B. No. 422

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Education Agency and regional education service centers; providing a penalty.

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

ARTICLE 1. TEXAS EDUCATION AGENCY AND REGIONAL

EDUCATION SERVICE CENTERS

SECTION 1.01. Section 5.001, Education Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Charter school" means any school or program that is operating under a charter authorized by Chapter 12 or other law, including:

(A) a home-rule school district under Subchapter B, Chapter 12;

(B) a campus or campus program under Subchapter C, Chapter 12;

(C) an open-enrollment charter school under Subchapter D, Chapter 12; and

(D) a college or university charter school under Subchapter E, Chapter 12.

SECTION 1.02. Section 7.004, Education Code, is amended to read as follows:

Sec. 7.004. SUNSET PROVISION. The Texas Education Agency is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the

1 agency is abolished September 1, 2017 [~~2005~~].

2 SECTION 1.03. Subchapter A, Chapter 7, Education Code, is
3 amended by adding Section 7.010 to read as follows:

4 Sec. 7.010. BEST PRACTICES. (a) The agency and the
5 regional education service centers shall solicit and collect from
6 exemplary or recognized school districts and open-enrollment
7 charter schools, as rated under Section 39.072, best practices
8 information and shall disseminate that information. The agency and
9 the regional education service centers shall enter into a
10 memorandum of understanding that establishes the respective duties
11 of the agency and the regional education service centers in
12 soliciting, collecting, and disseminating the best practices
13 information.

14 (b) The best practices information may include:

15 (1) information concerning available programs,
16 products, and policies that have been successfully adopted or
17 developed and used by school districts or open-enrollment charter
18 schools;

19 (2) specific examples of successful best practices;
20 and

21 (3) resources available to assist school districts and
22 open-enrollment charter schools in complying with applicable state
23 or federal education laws.

24 (c) The best practices information must include information
25 collected by the agency or a regional education service center
26 concerning the effective use of online courses, including:

27 (1) methods for using online courses to provide

1 curriculum solutions;

2 (2) information to assist school districts and
3 open-enrollment charter schools in investigating the quality of
4 online courses; and

5 (3) a list of funding sources available for various
6 types of online courses.

7 (d) The agency and the regional education service centers
8 are not required to evaluate and may not endorse the best practices
9 information collected under this section.

10 (e) The agency and the regional education service centers
11 shall develop incentives for school districts and open-enrollment
12 charter schools to implement best practices.

13 SECTION 1.04. Section 7.027, Education Code, as added by
14 Chapter 201, Acts of the 78th Legislature, Regular Session, 2003,
15 is redesignated as Section 7.028, Education Code, and amended to
16 read as follows:

17 Sec. 7.028 [~~7.027~~]. LIMITATION ON COMPLIANCE MONITORING.

18 (a) Except as provided by Section 29.001(5), 29.010(a), [~~39.074,~~]
19 or 39.075, the agency may monitor compliance with requirements
20 applicable to a process or program provided by a school district,
21 campus, program, or school granted charters under Chapter 12,
22 including the process described by Subchapter F, Chapter 11, or a
23 program described by Subchapter B, C, D, E, F, H, or I, Chapter 29,
24 Subchapter A, Chapter 37, or Section 38.003, and the use of funds
25 provided for such a program under Subchapter C, Chapter 42, only as
26 necessary to ensure:

27 (1) compliance with federal law and regulations;

1 (2) financial accountability, including compliance
2 with grant requirements; and

3 (3) data integrity for purposes of:

4 (A) the Public Education Information Management
5 System (PEIMS); and

6 (B) accountability under Chapter 39.

7 (b) The board of trustees of a school district or the
8 governing body of an open-enrollment charter school has primary
9 responsibility for ensuring that the district or school complies
10 with all applicable requirements of state educational programs.

11 SECTION 1.05. Subsections (a) and (d), Section 7.057,
12 Education Code, are amended to read as follows:

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

16 (1) the school laws of this state; or

17 (2) actions or decisions of any school district board
18 of trustees that violate:

19 (A) the school laws of this state; or

20 (B) a provision of a written employment contract
21 between the school district and a school district employee, if a
22 violation causes or would cause monetary harm to the employee.

23 (d) Except as provided by Section 7.0571, a [A] person
24 aggrieved by an action of the agency or decision of the commissioner
25 may appeal to a district court in Travis County. An appeal must be
26 made by serving the commissioner with citation issued and served in
27 the manner provided by law for civil suits. The petition must state

1 the action or decision from which the appeal is taken. At trial,
2 the court shall determine all issues of law and fact, except as
3 provided by Section 33.081(g).

4 SECTION 1.06. Subchapter C, Chapter 7, Education Code, is
5 amended by adding Sections 7.0571 and 7.061 to read as follows:

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

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

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

17 Sec. 7.061. TECHNOLOGY POLICY. The commissioner shall
18 implement a policy requiring the agency to use appropriate
19 technological solutions to improve the agency's ability to perform
20 its functions. The policy must ensure that the public is able to
21 interact with the agency on the Internet.

22 SECTION 1.07. Chapter 7, Education Code, is amended by
23 adding Subchapter E to read as follows:

24 SUBCHAPTER E. GRANT PROGRAM ADMINISTRATION

25 Sec. 7.151. GRANT PROGRAM PROCEDURES. The agency shall
26 ensure that:

27 (1) the mission, purpose, and objectives of each

1 agency grant program supports student academic performance or
2 another public education mission, objective, or goal specified
3 under Sections 4.001 and 4.002;

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

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

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

12 Sec. 7.152. GRANT ELIGIBILITY NOTIFICATION. The agency may
13 use existing data to identify and notify an eligible school
14 district or charter school of the opportunity to apply for a
15 state-funded discretionary grant.

16 Sec. 7.153. APPLICATION FOR STATE-FUNDED FORMULA GRANTS.
17 The agency shall develop one or more consolidated applications to
18 be used by school districts and charter schools in applying for any
19 state-funded formula grant administered by the agency.

20 Sec. 7.154. AVAILABILITY OF GRANT INFORMATION. The agency
21 shall ensure that information relating to grant program
22 administration is available to the legislature and the public.

23 Sec. 7.155. BEST PRACTICES GRANT INFORMATION. (a) The
24 agency, in coordination with regional education service centers,
25 shall use data relating to grant programs, including grant spending
26 and performance information, to identify successful grant
27 programs. Based on the identification of successful grant

1 programs, each regional education service center shall provide
2 information concerning those programs to the school districts in
3 the service center's region.

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

6 SECTION 1.08. Subsections (b), (c), and (d), Section 8.051,
7 Education Code, are amended to read as follows:

8 (b) Each regional education service center shall annually
9 develop and submit to the commissioner for approval a plan for
10 improvement. Each plan must include the purposes and description
11 of the services the center will provide to:

12 (1) campuses rated academically unacceptable
13 ~~[identified as low-performing based on the indicators adopted]~~
14 under Section 39.072 ~~[39.051]~~;

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

16 (3) other campuses.

17 (c) Each regional education service center shall provide
18 services that enable school districts to operate more efficiently
19 and economically, including collecting and disseminating:

20 (1) best practices information as provided by Section
21 7.010; and

22 (2) information concerning successful grant programs
23 to school districts as provided by Section 7.155.

24 (d) Each regional education service center shall maintain
25 core services for purchase by school districts and campuses. The
26 core services are:

27 (1) training and assistance in teaching each subject

1 area assessed under Section 39.023;

2 (2) training and assistance in providing each program
3 that qualifies for a funding allotment under Section 42.151,
4 42.152, 42.153, or 42.156;

5 (3) assistance specifically designed for a school
6 district or campus rated academically unacceptable under Section
7 39.072 [~~39.072(a) or a campus whose performance is considered~~
8 ~~unacceptable based on the indicators adopted under Section 39.051~~];

9 (4) training and assistance to teachers,
10 administrators, members of district boards of trustees, and members
11 of site-based decision-making committees;

12 (5) assistance specifically designed for a school
13 district that is considered out of compliance with state or federal
14 special education requirements, based on the agency's most recent
15 compliance review of the district's special education programs; and

16 (6) assistance in complying with state laws and rules.

17 SECTION 1.09. Subsection (b), Section 12.013, Education
18 Code, is amended to read as follows:

19 (b) A home-rule school district is subject to:

20 (1) a provision of this title establishing a criminal
21 offense;

22 (2) a provision of this title relating to limitations
23 on liability; and

24 (3) a prohibition, restriction, or requirement, as
25 applicable, imposed by this title or a rule adopted under this
26 title, relating to:

27 (A) the Public Education Information Management

1 System (PEIMS) to the extent necessary to monitor compliance with
2 this subchapter as determined by the commissioner;

3 (B) educator certification under Chapter 21 and
4 educator rights under Sections 21.407, 21.408, and 22.001;

5 (C) criminal history records under Subchapter C,
6 Chapter 22;

7 (D) student admissions under Section 25.001;

8 (E) school attendance under Sections 25.085,
9 25.086, and 25.087;

10 (F) inter-district or inter-county transfers of
11 students under Subchapter B, Chapter 25;

12 (G) elementary class size limits under Section
13 25.112, in the case of any campus in the district that is rated
14 academically unacceptable [~~considered low-performing~~] under
15 Section 39.072 [~~39.132~~];

16 (H) high school graduation under Section 28.025;

17 (I) special education programs under Subchapter
18 A, Chapter 29;

19 (J) bilingual education under Subchapter B,
20 Chapter 29;

21 (K) prekindergarten programs under Subchapter E,
22 Chapter 29;

23 (L) safety provisions relating to the
24 transportation of students under Sections 34.002, 34.003, 34.004,
25 and 34.008;

26 (M) computation and distribution of state aid
27 under Chapters 31, 42, and 43;

- 1 (N) extracurricular activities under Section
2 33.081;
- 3 (O) health and safety under Chapter 38;
- 4 (P) public school accountability under
5 Subchapters B, C, D, and G, Chapter 39;
- 6 (Q) equalized wealth under Chapter 41;
- 7 (R) a bond or other obligation or tax rate under
8 Chapters 42, 43, and 45; and
- 9 (S) purchasing under Chapter 44.

10 SECTION 1.10. Section 12.115, Education Code, is amended by
11 amending Subsection (b) and adding Subsection (c) to read as
12 follows:

13 (b) The action the commissioner takes under Subsection (a)
14 shall be based on the best interest of the school's students, the
15 severity of the violation, ~~and~~ any previous violation the school
16 has committed, and the extent to which the school is in compliance
17 with any state or federal programmatic or financial requirement
18 applicable to the school.

19 (c) This section may not be construed to limit the
20 commissioner's authority to impose a sanction under Subchapter G,
21 Chapter 39.

22 SECTION 1.11. Subchapter D, Chapter 12, Education Code, is
23 amended by adding Section 12.1151 to read as follows:

24 Sec. 12.1151. CLOSURE AND REVOCATION OR DENIAL OF RENEWAL
25 BECAUSE OF UNSATISFACTORY PERFORMANCE. (a) The commissioner
26 shall order the closure and shall revoke or deny the renewal of a
27 charter of an open-enrollment charter school under Section 12.115

1 if:

2 (1) each campus operated under the charter has been
3 closed under Section 39.1332; or

4 (2) for two consecutive school years at least half of
5 the campuses operated under the charter have received academically
6 unacceptable or other unsatisfactory performance ratings under
7 Section 39.072 or under an alternative education accountability
8 system for alternative education campuses, unless the charter
9 holder received an academic performance rating of acceptable or
10 higher under Section 39.072 for either of those school years.

11 (b) A hearing concerning the closure and revocation or
12 denial of renewal of a charter of an open-enrollment charter school
13 under this section:

14 (1) is limited to the issue of whether the
15 open-enrollment charter school or a campus operated under the
16 charter actually received a particular academic performance
17 rating; and

18 (2) may not be used to challenge the commissioner's
19 final academic performance rating for the open-enrollment charter
20 school or a campus operated under the charter.

21 SECTION 1.12. Section 12.116, Education Code, is amended by
22 amending Subsection (b) and adding Subsection (d) to read as
23 follows:

24 (b) The procedure adopted under Subsection (a) must provide
25 an opportunity for a hearing to the charter holder and to parents
26 and guardians of students in the school. A hearing under this
27 subsection must be held at:

1 (1) the facility at which the program is operated;

2 (2) an alternative facility designated by the
3 commissioner that is located in the same county as the facility at
4 which the program is operated; or

5 (3) the regional education service center closest to
6 the facility at which the program is operated.

7 (d) A decision by the commissioner under this section is
8 final and may not be appealed.

9 SECTION 1.13. Section 21.003, Education Code, is amended by
10 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
11 read as follows:

12 (a) A person may not be employed as a teacher, teacher
13 intern or teacher trainee, librarian, educational aide,
14 administrator, or counselor by a school district unless the person
15 holds an appropriate certificate or permit issued as provided by
16 Subchapter B as it existed before September 1, 2005, or in
17 accordance with rules adopted by the commissioner under Subsection
18 (a-1).

19 (a-1) The commissioner shall adopt rules concerning
20 educator certification.

21 (a-2) A reference in this code or another law to a
22 certificate or permit issued by the State Board for Educator
23 Certification, or to a certificate or permit issued as provided by
24 Subchapter B, includes a certificate or permit issued in accordance
25 with rules adopted by the commissioner under Subsection (a-1).

26 SECTION 1.14. Subsection (b), Section 21.453, Education
27 Code, is amended to read as follows:

1 (b) The commissioner may allocate funds from the account to
2 regional education service centers to provide staff development
3 resources to school districts that:

4 (1) are rated academically unacceptable;

5 (2) have one or more campuses rated academically
6 unacceptable [~~as low-performing~~]; or

7 (3) are otherwise in need of assistance as indicated
8 by the academic performance of students, as determined by the
9 commissioner.

10 SECTION 1.15. Subchapter A, Chapter 29, Education Code, is
11 amended by adding Sections 29.0162 and 29.0163 to read as follows:

12 Sec. 29.0162. INFORMATION REGARDING SPECIAL EDUCATION DUE
13 PROCESS HEARINGS. (a) The agency shall make available to any
14 interested person and shall place on the agency's Internet website
15 comprehensive, easily understood information concerning the
16 special education due process hearing process.

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

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

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

23 (3) a description of any notice requirements;

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

26 (5) an explanation of a resolution session;

27 (6) answers to frequently asked questions; and

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

4 Sec. 29.0163. SPECIAL EDUCATION HEARING OFFICERS;
5 COMPLAINTS. (a) The agency shall maintain a file on each written
6 complaint regarding the conduct of a special education hearing
7 officer filed with the agency. The file must include:

8 (1) the name of the person who filed the complaint;
9 (2) the date the complaint is received by the agency;
10 (3) the subject matter of the complaint;
11 (4) the name of each person contacted in relation to
12 the complaint;

13 (5) a summary of the results of the review or
14 investigation of the complaint; and

15 (6) an explanation of the reason the file was closed,
16 if the agency closed the file without taking action other than to
17 investigate the complaint.

18 (b) The agency shall provide to the person filing the
19 complaint and to the special education hearing officer who is the
20 subject of the complaint a copy of the agency's policies and
21 procedures relating to complaint investigation and resolution.

22 (c) The agency, at least quarterly until final disposition
23 of the complaint, shall notify the person filing the complaint and
24 the special education hearing officer who is the subject of the
25 complaint of the status of the investigation.

26 (d) The agency shall collect and at least biennially analyze
27 any information, including complaint information, relating to the

1 performance of a special education hearing officer for use in
2 assessing:

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

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

7 (e) In addition to any other action that the agency may take
8 as a result of an investigation conducted under Subsection (a), the
9 agency shall use the records of the investigation in determining
10 whether to renew a contract with a special education hearing
11 officer.

12 (f) While employed as a special education hearing officer, a
13 person may not accept employment or compensation from a school
14 district.

15 SECTION 1.16. Subsection (a), Section 29.202, Education
16 Code, is amended to read as follows:

17 (a) A student is eligible to receive a public education
18 grant or to attend another public school in the district in which
19 the student resides under this subchapter if the student is
20 assigned to attend a public school campus:

21 (1) at which 50 percent or more of the students did not
22 perform satisfactorily on an assessment instrument administered
23 under Section 39.023(a) or (c) in any two of the preceding three
24 years; or

25 (2) that was, at any time in the preceding three years,
26 rated academically unacceptable [~~considered low-performing~~] under
27 Section 39.072 [~~39.132~~].

1 SECTION 1.17. Chapter 29, Education Code, is amended by
2 adding Subchapter J to read as follows:

3 SUBCHAPTER J. URBAN SCHOOL CHOICE PILOT PROGRAM

4 Sec. 29.351. DEFINITIONS. In this subchapter:

5 (1) "Parent" includes a guardian, custodian, or other
6 person with authority to act on behalf of the child.

7 (2) "Program" means the urban school choice pilot
8 program described by this subchapter.

9 (3) "Qualifying school" means a nongovernmental
10 community-based educational establishment that exists for the
11 public good and for the general education of elementary and
12 secondary students. The term does not include a school that
13 provides education in a home setting or that limits enrollment to
14 relatives of the school's staff.

15 Sec. 29.352. PROGRAM. An eligible child under Section
16 29.354 may, at the option of the child's parent:

17 (1) attend any public school in the district in which
18 the child resides as provided by Subchapter G;

19 (2) subject to the limitations of Section 29.203,
20 attend a public school in a district other than the district in
21 which the student resides as provided by Subchapter G; or

22 (3) receive a scholarship as provided by Section
23 29.355 to pay the costs of attending a qualifying school.

24 Sec. 29.353. ELIGIBLE DISTRICT. (a) This subchapter
25 applies only to a school district that is located in a county with a
26 population of 750,000 or more.

27 (b) A school district subject to this subchapter shall

1 participate in the program if:

2 (1) the district is the largest district in the county
3 in which a majority of the students are economically disadvantaged;

4 or

5 (2) at least 90 percent of the students in the district
6 were economically disadvantaged during the preceding school year.

7 (c) For purposes of this section, a student is considered
8 economically disadvantaged as determined by agency criteria.

9 Sec. 29.354. ELIGIBLE CHILD. (a) A child is eligible to
10 participate in the program if the child:

11 (1) resides in an eligible district and has dropped
12 out of school;

13 (2) resides in an eligible district and is starting
14 school for the first time; or

15 (3) resides in an eligible district, attended a public
16 school for the majority of a preceding semester, and satisfies one
17 or more of the following criteria:

18 (A) is a student at risk of dropping out of
19 school, as defined by Section 29.081;

20 (B) is the victim or is the sibling of a victim of
21 conduct described by Section 37.006(a)(2)(B) or 37.007(a)(2) that
22 is committed by a student who at the time the conduct occurred was
23 assigned to the same campus as the victim or the sibling of the
24 victim, regardless of whether the conduct occurred on campus;

25 (C) is in kindergarten through grade 12 and
26 eligible under Section 29.003 to participate in a school district's
27 special education program;

1 (D) is a student of limited English proficiency,
2 as defined by Section 29.052; or

3 (E) resides in a household in which the annual
4 household income, according to the most recently filed federal
5 income tax return, did not exceed 200 percent of the qualifying
6 income for a reduced-price lunch under the national free or
7 reduced-price lunch program established under 42 U.S.C. Section
8 1751 et seq.

9 (b) A school district shall provide written notice of the
10 program to the parent of a student who is eligible to participate in
11 the program under Subsection (a)(3)(B), (C), or (D).

12 (c) Notwithstanding any other provision of this subchapter,
13 a child who establishes eligibility under this section may continue
14 participating in the program until the earlier of the date the child
15 graduates from high school or the child's 21st birthday. A child
16 does not become ineligible under this section if the child no longer
17 resides in an eligible district.

18 Sec. 29.355. FINANCING; SCHOLARSHIP. (a) Except as
19 provided by Subsection (b), a child who attends a qualifying school
20 under this subchapter is entitled to receive an annual scholarship
21 in an amount equal to the lesser of:

22 (1) 90 percent of the statewide average annual cost
23 per student for the preceding school year as published by the agency
24 not later than June 1 of each year; or

25 (2) the qualifying school's average actual annual cost
26 per student.

27 (b) If a child is eligible under Section 29.003(b) to

1 participate in a school district's special education program or
2 under Section 29.056 to participate in a school district's
3 bilingual education or special language program and receives
4 special education services or bilingual education or special
5 language services at the qualifying school, the amount of the
6 child's scholarship:

7 (1) includes an amount equal to the amount of funding
8 to which the school district in which the child resides would be
9 entitled under Section 42.151 or 42.153, as applicable, for the
10 child; and

11 (2) may exceed the maximum scholarship amount provided
12 by Subsection (a).

13 (c) On application by the parent of an eligible child, the
14 agency shall provide the child's application to a schools of choice
15 resource center selected by the agency under Section 29.363. The
16 schools of choice resource center shall determine whether a child
17 is eligible for participation in the program under Section 29.354.
18 If the schools of choice resource center determines that the child
19 is eligible for participation in the program, the agency shall
20 issue a scholarship certificate to the parent. The parent shall
21 endorse and present the certificate to the qualifying school chosen
22 by the parent. If there is not a schools of choice resource center,
23 the agency shall determine a child's eligibility in accordance with
24 rules adopted under Subsection (h)(2).

25 (d) The qualifying school the child attends must endorse and
26 present the child's scholarship certificate to the agency to
27 receive payment. The agency shall distribute to the qualifying

1 school the amount of the child's scholarship under Subsection (a)
2 and any additional funds to which the child is entitled under
3 Subsection (b).

4 (e) The agency shall direct the distribution of funds to the
5 qualifying school the child attends on a monthly pro rata basis
6 after educational services have been provided. The agency shall
7 require that the qualifying school submit documentation of the
8 child's attendance before the agency directs funds to the
9 qualifying school. The payment shall be made not later than the 30th
10 day after the date on which the agency receives from the qualifying
11 school a request for payment.

12 (f) The child's scholarship is the entitlement of the child,
13 under the supervision of the child's parent, and not that of any
14 school.

15 (g) A qualifying school may not share a child's scholarship
16 with or refund or rebate a child's scholarship to the parent or the
17 child in any manner.

18 (h) The agency shall adopt rules regarding:

19 (1) the calculation and distribution of payments for
20 qualifying schools; and

21 (2) application and approval procedures for
22 qualifying school and student participation in the program.

23 (i) A child's scholarship may not be financed by money
24 appropriated from the available school fund.

25 Sec. 29.356. PARTICIPATION BY QUALIFYING SCHOOLS. To
26 participate in the program, a qualifying school must:

27 (1) be accredited by or have filed an application for

1 accreditation by an accrediting association recognized by the
2 commissioner to accredit nongovernmental schools in this state; and

3 (2) not advocate or foster unlawful behavior or teach
4 hatred of any person or group on the basis of race, ethnicity,
5 national origin, or religion.

6 Sec. 29.357. ADMISSIONS. (a) A qualifying school chosen by
7 an eligible child's parent under this subchapter may not deny
8 admission by discriminating on the basis of the child's race,
9 national origin, or ethnicity and must comply with the requirements
10 of:

11 (1) 42 U.S.C. Section 2000d et seq. with respect to
12 nondiscrimination on the basis of race, color, or national origin;
13 and

14 (2) Section 504, Rehabilitation Act of 1973 (29 U.S.C.
15 Section 794), with respect to nondiscrimination on the basis of
16 disability.

17 (b) Except as provided by this subsection, a qualifying
18 school that has more qualified scholarship applicants for
19 attendance under this subchapter than available positions must fill
20 the available scholarship positions by a random selection process.
21 To achieve continuity in education, a school may give preference
22 among scholarship applicants to:

23 (1) a previously enrolled student and to other
24 children residing in the same household as a previously enrolled
25 student;

26 (2) a student who is eligible for participation in the
27 program under Section 29.354(a)(3)(B); and

1 (3) a student from a school considered low-performing
2 under Section 39.132.

3 (c) A qualifying school may submit a written request for
4 student records from the public school previously attended by an
5 eligible child. On receipt of a request submitted under this
6 subsection the public school shall in a timely manner deliver to the
7 qualifying school a copy of the school's complete student records
8 for that child, including attendance records, disciplinary
9 records, past results of any assessment instruments administered to
10 the child, the child's individualized educational program, and any
11 other comprehensive assessments from each school the child
12 previously attended. A public school that is required to release
13 student records under this subsection shall comply with any
14 applicable provision of the Family Educational Rights and Privacy
15 Act of 1974 (20 U.S.C. Section 1232g).

16 Sec. 29.358. ACCOUNTABILITY. (a) Each qualifying school
17 that enrolls a child under this subchapter shall annually
18 administer in the spring:

19 (1) the appropriate assessment instrument required
20 under Section 39.023; or

21 (2) a nationally norm-referenced assessment
22 instrument approved by the agency.

23 (b) The school shall provide:

24 (1) the child's results to the child's parent;
25 (2) the aggregated results of the assessment
26 instruments to the public; and

27 (3) individual student results to researchers as

1 required under Section 29.364, with appropriate safeguards for
2 student privacy.

3 Sec. 29.359. QUALIFYING SCHOOL AUTONOMY. (a) A qualifying
4 school that accepts a scholarship under this subchapter is not an
5 agent or arm of the state or federal government.

6 (b) Except as provided by this subchapter, the
7 commissioner, the agency, the State Board of Education, or any
8 other state agency may not regulate the admissions policy or
9 educational program of a qualifying school that accepts a
10 scholarship under this subchapter.

11 (c) The purpose of this subchapter is to allow maximum
12 freedom to the private sector to respond to and provide for the
13 educational needs of the children of this state without
14 governmental control, and this subchapter shall be liberally
15 construed to achieve that purpose.

16 Sec. 29.360. LIMITATION ON NUMBER OF PARTICIPATING
17 CHILDREN. (a) Except as provided by Subsection (b), for the
18 2005-2006, 2006-2007, and 2007-2008 school years, the annual number
19 of new student enrollments in the program from each eligible
20 district is limited to five percent of the number of students in the
21 district as of October 1 of the preceding school year.

22 (b) This section does not apply to a child who is eligible
23 for participation in the program under Section 29.354(a) who:

- 24 (1) has dropped out of school;
25 (2) is starting school for the first time; or
26 (3) qualifies under the criteria described by Section
27 29.354(a)(3)(B).

1 (c) This section expires September 1, 2008.

2 Sec. 29.361. RULES. (a) The commissioner shall adopt rules
3 as necessary to implement, administer, and enforce the program.

4 (b) A rule adopted under this section is binding on any
5 other state or local governmental entity, including a political
6 subdivision, as necessary to implement, administer, and enforce the
7 program.

8 Sec. 29.362. PROGRAM COMPLIANCE. (a) The agency shall
9 respond to and investigate any complaint or dispute arising under
10 this subchapter.

11 (b) The agency shall enforce this subchapter and any rule
12 adopted under this subchapter and may withhold funds from any
13 district or qualifying school that violates this subchapter or a
14 rule adopted under this subchapter.

15 Sec. 29.363. SCHOOLS OF CHOICE RESOURCE CENTERS. (a) The
16 agency shall select one or more independent and privately funded
17 nonprofit organizations to establish and operate schools of choice
18 resource centers in each eligible district.

19 (b) A schools of choice resource center shall:

20 (1) assist parents in learning how to be better
21 education consumers;

22 (2) provide information on educational alternatives;

23 (3) assist parents, schools, and school districts in
24 implementing and responding to the program; and

25 (4) accept and approve applications for participation
26 in the program as required by Section 29.355(c) and in accordance
27 with rules adopted under Section 29.355(h)(2).

1 (c) This section expires September 30, 2013.

2 Sec. 29.364. EVALUATION OF PROGRAM. (a) Using funds other
3 than state funds, the agency shall contract with one or more
4 researchers experienced in evaluating school choice programs to
5 conduct a study of the program.

6 (b) The study described by Subsection (a) must assess:

7 (1) each participating student's performance on annual
8 assessment instruments before and after entering the program;

9 (2) the level of a participating student's
10 satisfaction with the program;

11 (3) the level of parent satisfaction with the program;

12 (4) the overall impact of the program on public school
13 students and on the districts and schools from which the
14 participating students transferred; and

15 (5) the impact of the program on public and private
16 school capacity, availability, and quality of service.

17 (c) The study shall incorporate appropriate analytical and
18 behavioral science methodologies to ensure public confidence in the
19 study.

20 (d) Schools and school districts to and from which students
21 transfer to participate in the program shall cooperate with the
22 research effort by providing student assessment instrument scores
23 and any other data necessary to meet the requirements of this
24 subchapter.

25 (e) The agency shall provide the legislature with a final
26 copy of the study of the program.

27 (f) The agency may accept grants to pay the costs of

1 implementing this section.

2 (g) This section expires June 1, 2014.

3 SECTION 1.18. Section 31.025, Education Code, is amended by
4 adding Subsection (a-1) to read as follows:

5 (a-1) The agency shall recommend to the State Board of
6 Education a limit on the cost that may be paid from the state
7 textbook fund for a textbook placed on the nonconforming list that
8 is prorated in relation to the percentage of elements of the
9 essential knowledge and skills of the subject and grade level that
10 are missing from the textbook.

11 SECTION 1.19. Subsections (a), (b), and (c), Section
12 31.1011, Education Code, are amended to read as follows:

13 (a) The commissioner shall implement a program that allows
14 ~~[to study the use of credits for textbooks. The program shall be~~
15 ~~designed to allow]~~ a ~~[participating]~~ school district or
16 open-enrollment charter school to receive credit for textbooks
17 purchased at a cost below the cost limit established under Section
18 31.025(a).

19 (b) The credit is an amount equal to the difference between
20 the price paid for a textbook and the cost limit established under
21 Section 31.025(a) for that textbook multiplied by the number of
22 copies of that textbook the ~~[participating]~~ school district or
23 open-enrollment charter school purchases.

24 (c) Fifty percent of the total textbook credit of a
25 ~~[participating]~~ school district or open-enrollment charter school
26 shall be credited to the state textbook fund, and 50 percent of the
27 credit shall be credited to the ~~[participating]~~ district or school

1 to apply toward the requisition of additional textbooks or
2 electronic textbooks on the conforming or nonconforming list.

3 SECTION 1.20. Chapter 33, Education Code, is amended by
4 adding Subchapter F to read as follows:

5 SUBCHAPTER F. SAFETY REGULATIONS FOR CERTAIN
6 EXTRACURRICULAR ACTIVITIES

7 Sec. 33.201. APPLICABILITY. This subchapter applies to
8 each public school in this state and to any other school in this
9 state subject to University Interscholastic League regulations.

10 Sec. 33.202. SAFETY TRAINING REQUIRED. (a) The
11 commissioner by rule shall develop and adopt a safety training
12 program as provided by this section. In developing the program, the
13 commissioner may use materials available from the American Red
14 Cross or another appropriate entity.

15 (b) The following persons must satisfactorily complete the
16 safety training program:

17 (1) a coach, trainer, or sponsor for an
18 extracurricular athletic activity;

19 (2) except as provided by Subsection (f), a physician
20 who is employed by a school or school district or who volunteers to
21 assist with an extracurricular athletic activity; and

22 (3) a director responsible for a school marching band.

23 (c) The safety training program must include:

24 (1) certification of participants by the American Red
25 Cross, the American Heart Association, or a similar organization or
26 the University Interscholastic League, as determined by the
27 commissioner;

1 (2) annual training in:

2 (A) emergency action planning;

3 (B) cardiopulmonary resuscitation if the person
4 is not required to obtain certification under Section 33.086;

5 (C) communicating effectively with 9-1-1
6 emergency service operators and other emergency personnel; and

7 (D) recognizing symptoms of potentially
8 catastrophic injuries, including head and neck injuries,
9 concussions, injuries related to second impact syndrome, asthma
10 attacks, heatstroke, cardiac arrest, and injuries requiring use of
11 a defibrillator; and

12 (3) at least once each school year, a safety drill that
13 incorporates the training described by Subdivision (2) and
14 simulates various injuries described by Subdivision (2)(D).

15 (d) A student participating in an extracurricular athletic
16 activity must receive training related to:

17 (1) recognizing the symptoms of injuries described by
18 Subsection (c)(2)(D); and

19 (2) the risks of using supplements designed or
20 marketed to enhance athletic performance.

21 (e) The safety training program and the training under
22 Subsection (d) may each be conducted by a school or school district
23 or by an organization described by Subsection (c)(1).

24 (f) A physician who is employed by a school or school
25 district or who volunteers to assist with an extracurricular
26 athletic activity is exempt from the requirements of Subsection (b)
27 if the physician attends a continuing medical education course that

1 specifically addresses emergency medicine for athletic team
2 physicians.

3 Sec. 33.203. COMPLETION OF UNIVERSITY INTERSCHOLASTIC
4 LEAGUE MEDICAL HISTORY FORM. (a) Each student participating in an
5 extracurricular athletic activity must complete the University
6 Interscholastic League forms entitled "Preparticipation Physical
7 Evaluation--Medical History" and "Acknowledgment of Rules." Each
8 form must be signed by both the student and the student's parent or
9 guardian.

10 (b) Each form described by Subsection (a) must clearly state
11 that failure to accurately and truthfully answer all questions on a
12 form required by statute or by the University Interscholastic
13 League as a condition for participation in an extracurricular
14 athletic activity subjects a signer of the form to penalties
15 determined by the University Interscholastic League.

16 (c) The "Preparticipation Physical Evaluation--Medical
17 History" form described by Subsection (a) must contain the
18 following statement:

19 "An individual answering in the affirmative to
20 any question relating to a possible cardiovascular
21 health issue, as identified on the form, should be
22 restricted from further participation until the
23 individual is examined by the individual's primary
24 care physician. Ultimately, the individual may need
25 to be evaluated by a cardiologist and/or undergo
26 cardiac testing (including an echocardiogram and/or
27 other heart-related examination) based on the

1 assessment by the primary care physician."

2 Sec. 33.204. CERTAIN UNSAFE ATHLETIC ACTIVITIES
3 PROHIBITED. A coach, trainer, or sponsor for an extracurricular
4 athletic activity may not encourage or permit a student
5 participating in the activity to engage in any unreasonably
6 dangerous athletic technique that unnecessarily endangers the
7 health of a student, including using a helmet or any other sports
8 equipment as a weapon.

9 Sec. 33.205. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A
10 coach, trainer, or sponsor for an extracurricular athletic activity
11 shall at each athletic practice or competition ensure that:

12 (1) each student participating in the activity is
13 adequately hydrated;

14 (2) any prescribed asthma medication for a student
15 participating in the activity is readily available to the student;

16 (3) emergency lanes providing access to the practice
17 or competition area are open and clear; and

18 (4) heatstroke prevention materials are readily
19 available.

20 (b) If a student participating in an extracurricular
21 athletic activity, including a practice or competition, is rendered
22 unconscious during the activity, the student may not:

23 (1) return to the practice or competition during which
24 the student was rendered unconscious; or

25 (2) continue to participate in any extracurricular
26 athletic activity until the student receives written authorization
27 from a physician.

1 Sec. 33.206. COMPLIANCE; ENFORCEMENT. (a) On request, a
2 school shall make available to the public proof of compliance for
3 each person enrolled in, employed by, or volunteering for the
4 school who is required to receive safety training described by
5 Section 33.202.

6 (b) The superintendent of a school district or the director
7 of a school subject to this subchapter shall maintain complete and
8 accurate records of the district's or school's compliance with
9 Section 33.202.

10 (c) A school campus that is determined by the school's
11 superintendent or director to not be in compliance with Section
12 33.202, 33.204, or 33.205 shall discontinue all extracurricular
13 athletic activities offered by the school campus, including all
14 practices and competitions, until the superintendent or director
15 determines that the school campus is in compliance.

16 Sec. 33.207. CONTACT INFORMATION. (a) The commissioner
17 shall maintain an existing telephone number and an electronic mail
18 address to allow a person to report a violation of this subchapter.

19 (b) Each school that offers an extracurricular athletic
20 activity shall prominently display at the administrative offices of
21 the school the telephone number and electronic mail address
22 maintained under Subsection (a).

23 Sec. 33.208. NOTICE REQUIRED. (a) A school that offers an
24 extracurricular athletic activity shall provide to each student
25 participating in an extracurricular athletic activity and to the
26 student's parent or guardian a copy of the text of Sections
27 33.201-33.207 and a copy of the University Interscholastic League's

1 parent information manual.

2 (b) A document required to be provided under this section
3 may be provided in an electronic format unless otherwise requested
4 by a student, parent, or guardian.

5 Sec. 33.209. INCORPORATION OF SAFETY REGULATIONS. The
6 University Interscholastic League shall incorporate the provisions
7 of Sections 33.203-33.207 into the league's constitution and
8 contest rules.

9 Sec. 33.210. IMMUNITY FROM LIABILITY. An action taken
10 under this subchapter is not considered to be a ministerial act for
11 purposes of Section 22.0511.

12 SECTION 1.21. Subchapter D, Chapter 33, Education Code, is
13 amended by adding Section 33.087 to read as follows:

14 Sec. 33.087. REPORT CONCERNING AUTOMATED EXTERNAL
15 DEFIBRILLATORS. (a) Using existing funds and other resources
16 available for the purpose, the agency and the University
17 Interscholastic League shall jointly investigate the availability
18 of federal, state, local, and private funds for purchasing
19 automated external defibrillators, as defined by Section 779.001,
20 Health and Safety Code, for use by University Interscholastic
21 League member schools, and the possibility of receiving a bulk
22 discount on such purchases.

23 (b) The agency and the University Interscholastic League
24 shall submit a report describing the findings of the investigation
25 to the legislature not later than June 1, 2006.

26 (c) This section expires July 1, 2006.

27 SECTION 1.22. Subchapter B, Chapter 39, Education Code, is

1 amended by adding Section 39.0232 to read as follows:

2 Sec. 39.0232. SECURITY IN ADMINISTRATION OF ASSESSMENT
3 INSTRUMENTS. The agency shall make every effort to ensure the
4 appropriate administration of assessment instruments under Section
5 39.023 and to protect the integrity of the assessment program
6 established under this subchapter.

7 SECTION 1.23. Subsection (a), Section 39.053, Education
8 Code, is amended to read as follows:

9 (a) Each board of trustees shall publish an annual report
10 describing the educational performance of the district and of each
11 campus in the district that includes uniform student performance
12 and descriptive information as determined under rules adopted by
13 the commissioner. The annual report must also include:

14 (1) campus performance objectives established under
15 Section 11.253 and the progress of each campus toward those
16 objectives, which shall be available to the public;

17 (2) the academic performance rating for the district
18 and each campus in the district as provided under Section 39.072
19 [~~39.072(a) and the performance rating of each campus in the~~
20 ~~district as provided under Section 39.072(c)~~];

21 (3) the district's current special education
22 compliance status with the agency;

23 (4) a statement of the number, rate, and type of
24 violent or criminal incidents that occurred on each district
25 campus, to the extent permitted under the Family Educational Rights
26 and Privacy Act of 1974 (20 U.S.C. Section 1232g);

27 (5) information concerning school violence prevention

1 and violence intervention policies and procedures that the district
2 is using to protect students; ~~and~~

3 (6) the findings that result from evaluations
4 conducted under the Safe and Drug-Free Schools and Communities Act
5 of 1994 (20 U.S.C. Section 7101 et seq.) ~~[and its subsequent~~
6 ~~amendments]~~; and

7 (7) information received under Section 51.403(e) for
8 each high school campus in the district, presented in a form
9 determined by the commissioner.

10 SECTION 1.24. Section 39.055, Education Code, is amended to
11 read as follows:

12 Sec. 39.055. ~~[ANNUAL]~~ AUDIT OF DROPOUT RECORDS; REPORT.

13 (a) The commissioner shall develop a process for auditing school
14 district dropout records electronically. The commissioner shall
15 also develop a system and standards for review of the audit or use
16 systems already available at the agency. The system must be
17 designed to identify districts that are at high risk of having
18 inaccurate dropout records and that, as a result, may be subject to
19 a special accreditation investigation under Section 39.075
20 ~~[require on-site monitoring of dropout records. If the electronic~~
21 ~~audit of a district's dropout records indicates that a district is~~
22 ~~not at high risk of having inaccurate dropout records, the district~~
23 ~~may not be subject to on-site monitoring under this subsection. If~~
24 ~~the risk-based system indicates that a district is at high risk of~~
25 ~~having inaccurate dropout records, the district is entitled to an~~
26 ~~opportunity to respond to the commissioner's determination before~~
27 ~~on-site monitoring may be conducted. The district must respond not~~

1 ~~later than the 30th day after the date the commissioner notifies the~~
2 ~~district of the commissioner's determination. If the district's~~
3 ~~response does not change the commissioner's determination that the~~
4 ~~district is at high risk of having inaccurate dropout records or if~~
5 ~~the district does not respond in a timely manner, the commissioner~~
6 ~~shall order agency staff to conduct on-site monitoring of the~~
7 ~~district's dropout records].~~

8 **(b)** ~~[(e)]~~ The commissioner shall notify the superintendent
9 ~~[board of trustees]~~ of a school district of any objection the
10 commissioner has to the district's dropout data, any violation of
11 sound accounting practices or of a law or rule revealed by the data,
12 or any recommendation by the commissioner concerning the data. If
13 the data reflect that a penal law has been violated, the
14 commissioner shall notify the county attorney, district attorney,
15 or criminal district attorney, as appropriate, and the attorney
16 general. The commissioner is entitled to access to all district
17 records the commissioner considers necessary or appropriate for the
18 review, analysis, or approval of district dropout data.

19 SECTION 1.25. Sections 39.071 and 39.072, Education Code,
20 are amended to read as follows:

21 Sec. 39.071. ACCREDITATION. (a) Accreditation of a school
22 district is determined in accordance with this section
23 ~~[subchapter]~~.

24 (b) Each year, the commissioner shall determine the
25 accreditation status of each school district. In determining
26 accreditation status, the commissioner:

27 (1) shall evaluate and consider the performance of the

1 district under:

2 (A) the academic accountability system under
3 Section 39.072; and

4 (B) the financial accountability system under
5 Subchapter I;

6 (2) shall evaluate and consider:

7 (A) the results of any special accreditation
8 investigation under Section 39.075; and

9 (B) the district's current special education
10 monitoring or compliance status with the agency; and

11 (3) may consider:

12 (A) the district's compliance with statutory
13 requirements and requirements imposed by rule of the commissioner
14 or State Board of Education under specific statutory authority that
15 relate to:

16 (i) reporting data through the Public
17 Education Information Management System (PEIMS) or other reports
18 required by state or federal law or court order;

19 (ii) the high school graduation
20 requirements under Section 28.025; or

21 (iii) an item listed under Sections
22 7.056(e)(3)(C)-(I) that applies to the district;

23 (B) the effectiveness of the district's programs
24 for special populations; and

25 (C) the effectiveness of the district's career
26 and technology program.

27 (c) Based on a school district's performance under

1 Subsection (b), the commissioner shall:

2 (1) assign a district an accreditation status of:

3 (A) accredited;

4 (B) accredited-warned; or

5 (C) accredited-probation; or

6 (2) revoke the accreditation of the district and order
7 closure of the district under Section 39.1332.

8 (d) The commissioner shall notify a school district that
9 receives an accreditation status of accredited-warned or
10 accredited-probation that the performance of the district is below
11 a standard required under this section. The commissioner shall
12 require the district to notify the parents of students enrolled in
13 the district and property owners in the district of the district's
14 accreditation status and the implications of that accreditation
15 status.

16 (e) A school district that is not accredited may not
17 receive funds from the agency or hold itself out as operating a
18 public school of this state.

19 (f) This chapter may not be construed to invalidate a
20 diploma awarded, course credit earned, or grade promotion granted
21 by a school district before the commissioner revoked the district's
22 accreditation.

23 Sec. 39.072. ACADEMIC ACCOUNTABILITY SYSTEM [~~ACCREDITATION~~
24 ~~STANDARDS~~]. (a) The commissioner [~~State Board of Education~~] shall
25 adopt rules for assigning [~~to evaluate the performance of school~~
26 ~~districts and to assign~~] to each school district and campus a
27 performance rating as follows:

1 (1) exemplary (meets or exceeds state exemplary
2 standards);

3 (2) recognized (meets or exceeds required improvement
4 or ~~and~~ within 10 percent of state exemplary standards);

5 (3) academically acceptable (below the exemplary and
6 recognized standards but exceeds the academically unacceptable
7 standards); or

8 (4) academically unacceptable (below the state
9 clearly unacceptable performance standard and does not meet
10 required improvement).

11 (b) The academic excellence indicators adopted under
12 Section 39.051(b) ~~[Sections 39.051(b)(1) through (7) and the~~
13 ~~district's current special education compliance status with the~~
14 ~~agency]~~ shall be the main considerations of the agency in the rating
15 of a school ~~[the]~~ district or campus under this section.

16 ~~[Additional criteria in the rules may include consideration of:~~

17 ~~[(1) compliance with statutory requirements and~~
18 ~~requirements imposed by rule of the State Board of Education under~~
19 ~~specific statutory authority that relate to:~~

20 ~~[(A) reporting data through the Public Education~~
21 ~~Information Management System (PEIMS);~~

22 ~~[(B) the high school graduation requirements~~
23 ~~under Section 28.025; or~~

24 ~~[(C) an item listed in Sections~~
25 ~~7.056(e)(3)(C)-(I) that applies to the district;~~

26 ~~[(2) the effectiveness of the district's programs for~~
27 ~~special populations; and~~

1 ~~[(3) the effectiveness of the district's career and~~
2 ~~technology programs.]~~

3 (c) The agency shall evaluate ~~[against state standards]~~ and
4 ~~[shall]~~, not later than August 15 ~~[1]~~ of each year, report the
5 performance of each school ~~[campus in a]~~ district and campus ~~[each~~
6 ~~open-enrollment charter school on the basis of the campus's~~
7 ~~performance on the indicators adopted under Sections 39.051(b)(1)~~
8 ~~through (7). Consideration of the effectiveness of district~~
9 ~~programs under Subsection (b)(2) or (3) must be based on data~~
10 ~~collected through the Public Education Information Management~~
11 ~~System for purposes of accountability under this chapter and~~
12 ~~include the results of assessments required under Section 39.023].~~

13 (d) The agency shall annually review the performance of each
14 school district and campus and determine if a change in the academic
15 performance rating of the district or campus is warranted. The
16 commissioner may determine how the indicators adopted under Section
17 39.051(b) may be used to determine academic performance ratings and
18 to select districts and campuses for acknowledgment.

19 (e) Each annual review shall include an analysis of the
20 indicators under Section 39.051(b) to determine district and campus
21 performance in relation to:

- 22 (1) state standards established for each indicator;
23 (2) required improvement as defined under Section
24 39.051(c); and
25 (3) comparable improvement as determined under
26 Section 39.051(c).

27 (f) The academic performance rating of a school district may

1 be raised or lowered based on the district's performance or may be
2 lowered based on the unacceptable performance of one or more
3 campuses in the district. The academic performance rating of a
4 school district may also be lowered based on a determination that
5 data provided to the agency by the district that is necessary for
6 conducting an annual review under this section is unreliable.

7 (g) The commissioner shall notify a school district if the
8 performance of the district or a campus in the district is below a
9 standard required under this section. The commissioner shall
10 require the school district to notify the parents of students who
11 are enrolled in the district and property owners in the district of
12 the academic performance rating and the implications of that
13 rating.

14 (h) Notwithstanding any other provision of this code, for
15 purposes of determining the performance of a school district or
16 open-enrollment charter school under this chapter, including the
17 academic performance rating [~~accreditation status~~] of the district
18 or school, a student attending a campus that is a [~~confined by court~~
19 order in a residential program or] facility operated by or under
20 contract with the Texas Youth Commission, a pre-adjudication secure
21 detention facility or a post-adjudication secure correctional
22 facility that is registered with the Texas Juvenile Probation
23 Commission, or a residential facility is not considered to be a
24 student of the school district or open-enrollment charter school
25 serving the student [~~in which the program or facility is physically~~
26 located]. The performance of a student who attends such a campus
27 [~~student~~] on an assessment instrument or other academic excellence

1 indicator adopted under Section 39.051 shall be determined and~~[7]~~
2 reported, but may not be used to determine the rating of the school
3 district or open-enrollment charter school unless the campus is the
4 only campus operated by the district or school [~~and considered~~
5 ~~separately from the performance of students attending a school of~~
6 ~~the district in which the program or facility is physically~~
7 ~~located~~].

8 SECTION 1.26. Subsection (a), Section 39.075, Education
9 Code, is amended to read as follows:

10 (a) The commissioner may [~~shall~~] authorize special
11 accreditation investigations to be conducted:

12 (1) when excessive numbers of absences of students
13 eligible to be tested on state assessment instruments are
14 determined;

15 (2) when excessive numbers of allowable exemptions
16 from the required state assessment instrument are determined;

17 (3) in response to complaints submitted to the agency
18 with respect to alleged violations of civil rights or other
19 requirements imposed on the state by federal law or court order;

20 (4) in response to established monitoring or
21 compliance reviews of the district's financial accounting
22 practices and state and federal program requirements;

23 (5) when extraordinary numbers of student placements
24 in disciplinary alternative education programs, other than
25 placements under Sections 37.006 and 37.007, are determined;

26 (6) in response to an allegation involving a conflict
27 between members of the board of trustees or between the board and

1 the district administration if it appears that the conflict
2 involves a violation of a role or duty of the board members or the
3 administration clearly defined by this code;

4 (7) when excessive numbers of students in special
5 education programs under Subchapter A, Chapter 29, are assessed
6 through assessment instruments developed or adopted under Section
7 39.023(b); [~~or~~]

8 (8) in response to questions concerning a program,
9 including special education, required by federal law or for which
10 the district receives federal funds;

11 (9) when an annual review indicates the academically
12 unacceptable performance under Section 39.072 of one or more
13 campuses in a district, except that the resulting investigation is
14 limited to those campuses;

15 (10) in response to concerns regarding the integrity
16 of data submitted to the agency;

17 (11) in response to allegations of a violation of
18 student assessment procedures for assessment instruments adopted
19 under Section 39.023; or

20 (12) as the commissioner otherwise determines
21 necessary.

22 SECTION 1.27. Subsection (c), Section 39.075, Education
23 Code, as amended by Chapters 396 and 931, Acts of the 76th
24 Legislature, Regular Session, 1999, is reenacted and amended to
25 read as follows:

26 (c) Based on the results of a special accreditation
27 investigation, the commissioner may:

- 1 (1) take appropriate action under Subchapter G;
- 2 (2) raise or lower the district's accreditation status
- 3 ~~[rating]~~; or
- 4 (3) take action under both Subdivisions (1) and (2).

5 SECTION 1.28. Section 39.076, Education Code, is amended by

6 amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3),

7 and (c) to read as follows:

8 (a) The agency shall adopt written procedures for

9 conducting ~~[on-site]~~ investigations under this subchapter. The

10 agency shall make the procedures available to the complainant, the

11 alleged violator, and the public. Agency staff must be trained in

12 the procedures and must follow the procedures in conducting the

13 investigation.

14 (a-1) An investigation conducted under this subchapter may

15 be an on-site, desk, or data-based investigation as determined by

16 the commissioner.

17 (a-2) If conducting an on-site investigation, the

18 investigators may obtain information from administrators,

19 teachers, or parents of students enrolled in the school district.

20 The commissioner shall adopt rules for:

21 (1) obtaining information from parents and using that

22 information in the investigator's report; and

23 (2) obtaining information from teachers in a manner

24 that prevents a campus or district from screening the information.

25 (a-3) The agency may give written notice of any impending

26 on-site investigation to the superintendent and the board of

27 trustees of a school district.

1 (c) The investigators conducting an on-site investigation
2 shall report the results of the investigation orally and in writing
3 to the board of trustees of the district and, as appropriate, to
4 campus administrators, and shall make recommendations concerning
5 any necessary improvements or sources of aid, such as regional
6 education service centers.

7 SECTION 1.29. Subchapter D, Chapter 39, Education Code, is
8 amended by adding Sections 39.077 and 39.078 to read as follows:

9 Sec. 39.077. FINALITY OF DECISION BY COMMISSIONER. (a) A
10 school district, open-enrollment charter school, or other person
11 that wishes to challenge a decision to assign or lower an
12 accreditation status, an academic performance rating, or a
13 financial accountability rating must petition for an informal
14 review as provided by Section 7.0571.

15 (b) A final decision by the commissioner to assign or lower
16 an accreditation status, an academic performance rating, or a
17 financial accountability rating following a review under Section
18 7.0571 is final and may not be appealed.

19 Sec. 39.078. RULES. The commissioner may adopt rules as
20 necessary to administer this subchapter.

21 SECTION 1.30. Sections 39.131, 39.132, and 39.133,
22 Education Code, are amended to read as follows:

23 Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school
24 district does not satisfy the accreditation criteria under Section
25 39.071, the academic performance standards under Section 39.072, or
26 any financial accountability standard as determined by
27 commissioner rule, the commissioner shall take any of the following

1 actions[~~, listed in order of severity,~~] to the extent the
2 commissioner determines necessary:

3 (1) issue public notice of the deficiency to the board
4 of trustees;

5 (2) order a hearing conducted by the board of trustees
6 of the district for the purpose of notifying the public of the
7 unacceptable performance, the improvements in performance expected
8 by the agency, and the sanctions that may be imposed under this
9 section if the performance does not improve;

10 (3) order the preparation of a student achievement
11 improvement plan that addresses each academic excellence indicator
12 for which the district's performance is unacceptable, the
13 submission of the plan to the commissioner for approval, and
14 implementation of the plan;

15 (4) order a hearing to be held before the commissioner
16 or the commissioner's designee at which the president of the board
17 of trustees of the district and the superintendent shall appear and
18 explain the district's low performance, lack of improvement, and
19 plans for improvement;

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

21 (6) appoint an agency monitor to participate in and
22 report to the agency on the activities of the board of trustees or
23 the superintendent;

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

26 (8) appoint a management team to direct the operations
27 of the district in areas of unacceptable performance or require the

1 district to obtain certain services under a contract with another
2 person;

3 (9) if a district has a current accreditation status
4 of accredited-warned or accredited-probation, is ~~[been]~~ rated ~~[as]~~
5 academically unacceptable, or fails to satisfy financial
6 accountability standards as determined by commissioner rule ~~[for a~~
7 ~~period of one year or more]~~, appoint a board of managers to exercise
8 the powers and duties of the board of trustees;

9 (10) if for two consecutive school years, including
10 the current school year, a district has received an accreditation
11 status of accredited-warned or accredited-probation, has been
12 rated academically unacceptable, or has failed to satisfy financial
13 accountability standards as determined by commissioner rule,
14 revoke the district's accreditation and ~~[been rated as academically~~
15 ~~unacceptable for a period of two years or more]~~:

16 (A) order closure of the district and annex the
17 district to one or more adjoining districts under Section 13.054;
18 or

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

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

27 (A) ordering the development of a dropout

1 prevention plan for approval by the commissioner;

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

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

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

11 (b) This subsection applies regardless of whether a
12 district has satisfied the accreditation criteria. If for two
13 consecutive school years, including the current school year, [~~a~~
14 ~~period of one year or more~~] a district has had a conservator or
15 management team assigned, the commissioner may appoint a board of
16 managers, a majority of whom must be residents of the district, to
17 exercise the powers and duties of the board of trustees.

18 Sec. 39.132. SANCTIONS FOR CAMPUSES. (a) If a campus
19 receives an academic performance rating of academically
20 unacceptable under Section 39.072 [~~is below any standard under~~
21 ~~Section 39.073(b)~~], the [~~campus is considered a low-performing~~
22 ~~campus. The~~] commissioner may permit the campus to participate in
23 an innovative redesign of the campus to improve campus performance
24 or may take any of the other following actions[~~, listed in order of~~
25 ~~severity,~~] to the extent the commissioner determines necessary:

26 (1) issue public notice of the deficiency to the board
27 of trustees;

1 (2) order a hearing conducted by the board of trustees
2 at the campus for the purpose of:

3 (A) notifying the public of the unacceptable
4 performance, the improvements in performance expected by the
5 agency, and the sanctions that may be imposed under this section if
6 the performance does not improve within a designated period of
7 time; and

8 (B) soliciting public comment on the initial
9 steps being taken to improve performance;

10 (3) order the preparation of a report regarding the
11 parental involvement program at the campus and a plan describing
12 strategies for improving parental involvement at the campus;

13 (4) order the preparation of a report regarding the
14 effectiveness of the district- and campus-level planning and
15 decision-making committees established under Subchapter F, Chapter
16 11, and a plan describing strategies for improving the
17 effectiveness of those committees;

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

23 (6) order a hearing to be held before the commissioner
24 or the commissioner's designee at which the president of the board
25 of trustees, the superintendent, and the campus principal shall
26 appear and explain the campus's low performance, lack of
27 improvement, and plans for improvement;

1 (7) appoint a special campus intervention team to:

2 (A) conduct a comprehensive on-site evaluation
3 of the campus to determine the cause for the campus's low
4 performance and lack of progress;

5 (B) recommend actions, including reallocation of
6 resources and technical assistance, changes in school procedures or
7 operations, staff development for instructional and administrative
8 staff, intervention for individual administrators or teachers,
9 waivers from state statute or rule, or other actions the team
10 considers appropriate;

11 (C) assist in the development of a campus plan
12 for student achievement; and

13 (D) assist the commissioner in monitoring the
14 progress of the campus in implementing the campus plan for
15 improvement of student achievement; ~~[or]~~

16 (8) appoint an agency monitor to participate in and
17 report to the agency on activities relating to operation of the
18 campus; or

19 (9) if a campus is currently rated academically
20 unacceptable [~~has been a low-performing campus for a period of one~~
21 ~~year or more~~], appoint a board of managers composed of residents of
22 the district to exercise the powers and duties of the board of
23 trustees of the district in relation to the campus.

24 (b) If a campus has been rated academically unacceptable [~~a~~
25 ~~low-performing campus~~] for [~~a period of~~] two or more consecutive
26 school years, including the current school year [~~or more~~], the
27 commissioner shall order the closure of the district or charter

1 program on the campus or reconstitute the campus. In
2 reconstituting the campus, a special campus intervention team shall
3 be assembled for the purpose of deciding which educators may be
4 retained at that campus. If an educator is not retained, the
5 educator may be assigned to another position in the district.

6 Sec. 39.133. ANNUAL REVIEW. (a) The commissioner shall
7 review annually the performance of a district or campus subject to a
8 sanction under this subchapter to determine the appropriate actions
9 to be implemented under this subchapter. The determination shall
10 take into account the number, severity, and duration of the
11 problems identified [~~The commissioner must review at least annually~~
12 ~~the performance of a district for which the accreditation rating~~
13 ~~has been lowered due to unacceptable student performance and may~~
14 ~~not raise the rating until the district has demonstrated improved~~
15 ~~student performance~~]. If the review reveals a lack of improvement,
16 the commissioner shall increase the level of state intervention and
17 sanction unless the commissioner finds good cause for maintaining
18 the current status.

19 (b) The commissioner shall review at least annually the
20 performance of a school district for which the academic performance
21 rating has been lowered due to unacceptable student performance and
22 may not raise the rating until the district has demonstrated
23 improved student performance.

24 SECTION 1.31. Subchapter G, Chapter 39, Education Code, is
25 amended by adding Sections 39.1331, 39.1332, and 39.1333 to read as
26 follows:

27 Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In

1 addition to other sanctions authorized under Sections 39.131 and
2 39.132, the commissioner may order a school district or campus to
3 acquire professional services at the expense of the district or
4 campus to address the applicable financial, assessment, data
5 quality, program, or governance deficiency. The commissioner's
6 order may require the district or campus to:

7 (1) select an external auditor, data quality expert,
8 professional authorized to monitor district assessment instrument
9 administration, or curriculum or program expert; or

10 (2) provide for the appropriate training of district
11 staff or board of trustees members in the case of a district, or
12 campus staff, in the case of a campus.

13 Sec. 39.1332. CLOSURE OF SCHOOL DISTRICT OR CAMPUS.

14 (a) The commissioner may revoke the accreditation of a school
15 district and order the closure of the district or a campus, as
16 appropriate, under the following circumstances:

17 (1) the commissioner is authorized to close the
18 district or campus under Section 39.131(a)(10) or 39.132(b);

19 (2) the commissioner determines that the district is
20 insolvent and unable to complete the school year; or

21 (3) the commissioner determines that the district has
22 ceased operations for 11 or more instructional days during the
23 current or most recent scheduled school year without the
24 commissioner's authorization.

25 (b) The commissioner shall issue an order of closure under
26 this section that includes provisions necessary for the
27 continuation of the education of students enrolled in the district

1 or campus, including annexation to one or more adjoining districts
2 as provided by Section 13.054. An order of closure may:

3 (1) establish an effective date for accreditation
4 revocation and closure that is not later than the first anniversary
5 of the date of the order;

6 (2) provide for an interim board of managers to
7 exercise the duties of the board of trustees of the district as
8 designated by the commissioner;

9 (3) require enrollment or student services to be
10 provided by another district as necessary to allow students
11 enrolled in the closed district to complete a school year, and make
12 adjustments in the state and federal funding to which the district
13 would otherwise be entitled as determined by the commissioner; and

14 (4) require the preservation, transfer, or surrender
15 of all student records and other records required for an audit of
16 any state and federal funding provided to the district.

17 (c) A person who intentionally destroys, conceals, or
18 tampers with a record that is required to be preserved,
19 transferred, or surrendered under Subsection (b)(4) commits an
20 offense punishable under Section 37.10(c)(2), Penal Code.

21 (d) A board of managers exercising authority under
22 Subsection (b)(2) may exercise the authority of the board of
23 trustees with regard to financial management of the district and
24 personnel actions. The board of managers is not required to be
25 composed of residents of the district.

26 (e) An open-enrollment charter school ordered closed under
27 this section is not entitled to a separate hearing concerning the

1 revocation or nonrenewal of the charter under Section 12.116.

2 Sec. 39.1333. FINALITY OF DECISION BY COMMISSIONER. (a) A
3 school district, open-enrollment charter school, or other person
4 that wishes to challenge a decision to impose a sanction under this
5 subchapter, including a decision to close a district, school, or
6 campus under Section 39.1332, must petition for an informal review
7 as provided by Section 7.0571.

8 (b) A final decision by the commissioner to impose a
9 sanction under this subchapter, including a decision to close a
10 school district or a campus under Section 39.1332, following a
11 review under Section 7.0571 is final and may not be appealed.

12 (c) A school district may not collaterally contest an
13 academic performance rating or other accreditation standard as part
14 of the review of a sanction under this subchapter if a review
15 opportunity has already been provided for the academic performance
16 rating.

17 SECTION 1.32. Section 39.134, Education Code, is amended to
18 read as follows:

19 Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing
20 a monitor, conservator, management team, ~~or~~ special campus
21 intervention team, or service provider under Section 39.1331 shall
22 be paid by the district. If the district fails or refuses to pay the
23 costs in a timely manner, the commissioner may:

24 (1) pay the costs using amounts withheld from any
25 funds to which the district is otherwise entitled; or

26 (2) recover the amount of the costs in the manner
27 provided for recovery of an overallocation of state funds under

1 Section 42.258.

2 SECTION 1.33. Section 39.182, Education Code, is amended by
3 adding Subsection (b-1) to read as follows:

4 (b-1) The report must include a summary of:

5 (1) investigations authorized by the agency into
6 inappropriate administrations of assessment instruments under
7 Section 39.023; and

8 (2) the efforts the agency has made under Section
9 39.0232 to ensure the appropriate administration of assessment
10 instruments and to protect the integrity of the assessment program
11 established under Subchapter B.

12 SECTION 1.34. Subsection (c), Section 2175.304, Government
13 Code, is amended to read as follows:

14 (c) The procedures established under Subsection (b) must
15 give preference to transferring the property directly to a public
16 school or school district or to an assistance organization
17 designated by the school district before disposing of the property
18 in another manner. If more than one public school or school
19 district or assistance organization seeks to acquire the same
20 property on substantially the same terms, the system, institution,
21 or agency shall give preference to a public school that is rated
22 academically unacceptable under Section 39.072, Education Code,
23 ~~[considered low-performing by the commissioner of education]~~ or to
24 a school district that has a taxable wealth per student that
25 entitles the district to an allotment of state funds under
26 Subchapter F, Chapter 42, Education Code, or to the assistance
27 organization designated by such a school district.

1 SECTION 1.35. Subsection (c), Section 302.006, Labor Code,
2 is amended to read as follows:

3 (c) To be eligible to receive a scholarship awarded under
4 this section, a person must:

5 (1) be employed in a child-care facility, as defined
6 by Section 42.002, Human Resources Code;

7 (2) intend to obtain a credential, certificate, or
8 degree specified in Subsection (b);

9 (3) agree to work for at least 18 additional months in
10 a child-care facility, as defined by Section 42.002, Human
11 Resources Code, that accepts federal Child Care Development Fund
12 subsidies and that, at the time the person begins to fulfill the
13 work requirement imposed by this subdivision, is located:

14 (A) within the attendance zone of a public school
15 campus that is rated academically unacceptable [~~considered~~
16 ~~low-performing~~] under Section 39.072 [~~39.132~~], Education Code; or

17 (B) in an economically disadvantaged community,
18 as determined by the commission; and

19 (4) satisfy any other requirements adopted by the
20 commission.

21 SECTION 1.36. Section 8.010, Subsections (d) and (e),
22 Section 31.1011, Subsection (d), Section 39.051, and Sections
23 39.073 and 39.074, Education Code, are repealed.

24 SECTION 1.37. (a) The Texas Education Agency shall make the
25 urban school choice pilot program as provided by Subchapter J,
26 Chapter 29, Education Code, as added by this article, available for
27 participation beginning with the 2005-2006 academic school year.

1 (b) As soon as practicable, the commissioner of education
2 shall adopt and implement rules necessary for the administration of
3 the program.

4 SECTION 1.38. (a) The constitutionality and other validity
5 under the state or federal constitution of all or any part of
6 Subchapter J, Chapter 29, Education Code, as added by this article,
7 may be determined in an action for declaratory judgment in a
8 district court in Travis County under Chapter 37, Civil Practice
9 and Remedies Code.

10 (b) An appeal of a declaratory judgment or order, however
11 characterized, of a district court, including an appeal of the
12 judgment of an appellate court, holding or otherwise determining
13 that all or any part of Subchapter J, Chapter 29, Education Code,
14 as added by this article, is constitutional or unconstitutional, or
15 otherwise valid or invalid, under the state or federal constitution
16 is an accelerated appeal.

17 (c) If the judgment or order is interlocutory, an
18 interlocutory appeal may be taken from the judgment or order and is
19 an accelerated appeal.

20 (d) A district court in Travis County may grant or deny a
21 temporary or otherwise interlocutory injunction or a permanent
22 injunction on the grounds of the constitutionality or
23 unconstitutionality, or other validity or invalidity, under the
24 state or federal constitution of all or any part of Subchapter J,
25 Chapter 29, Education Code, as added by this article.

26 (e) There is a direct appeal to the supreme court from an
27 order, however characterized, of a trial court granting or denying

1 a temporary or otherwise interlocutory injunction or a permanent
2 injunction on the grounds of the constitutionality or
3 unconstitutionality, or other validity or invalidity, under the
4 state or federal constitution of all or any part of Subchapter J,
5 Chapter 29, Education Code, as added by this article.

6 (f) The direct appeal is an accelerated appeal.

7 (g) This section exercises the authority granted by Section
8 3-b, Article V, Texas Constitution.

9 (h) The filing of a direct appeal under this section will
10 automatically stay any temporary or otherwise interlocutory
11 injunction or permanent injunction granted in accordance with this
12 section pending final determination by the supreme court, unless
13 the supreme court makes specific findings that the applicant
14 seeking such injunctive relief has pleaded and proved that:

15 (1) the applicant has a probable right to the relief it
16 seeks on final hearing; and

17 (2) the applicant will suffer a probable injury that
18 is imminent and irreparable, and that the applicant has no other
19 adequate legal remedy.

20 (i) An appeal under this section, including an
21 interlocutory, accelerated, or direct appeal, is governed, as
22 applicable, by the Texas Rules of Appellate Procedure, including
23 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
24 38.6(a) and (b), 40.1(b), and 49.4.

25 SECTION 1.39. (a) Except as otherwise provided by this
26 section, this article applies beginning with the 2005-2006 school
27 year.

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

3 ARTICLE 2. DRIVER AND TRAFFIC SAFETY EDUCATION

4 SECTION 2.01. Section 1001.001, Education Code, is amended
5 by amending Subdivisions (2) through (5) and adding Subdivision
6 (13-a) to read as follows:

7 (2) "Approved driving safety course" means a driving
8 safety course approved by the department [~~commissioner~~].

9 (3) "Commission" [~~"Commissioner"~~] means the Texas
10 Commission of Licensing and Regulation [~~commissioner of~~
11 ~~education~~].

12 (4) "Course provider" means an enterprise that:

13 (A) maintains a place of business or solicits
14 business in this state;

15 (B) is operated by an individual, association,
16 partnership, or corporation; and

17 (C) has received an approval for a driving safety
18 course from the department [~~commissioner~~] or has been designated by
19 a person who has received that approval to conduct business and
20 represent the person in this state.

21 (5) "Department" means the Texas Department of
22 Licensing and Regulation [~~Public Safety~~].

23 (13-a) "Executive director" means the executive
24 director of the department.

25 SECTION 2.02. Subsection (c), Section 1001.002, Education
26 Code, is amended to read as follows:

27 (c) A driver education course is exempt from this chapter,

1 other than Section 1001.055, if the course is:

2 (1) conducted by a vocational driver training school
3 operated to train or prepare a person for a field of endeavor in a
4 business, trade, technical, or industrial occupation;

5 (2) conducted by a school or training program that
6 offers only instruction of purely avocational or recreational
7 subjects as determined by the department [~~commissioner~~];

8 (3) sponsored by an employer to train its own
9 employees without charging tuition;

10 (4) sponsored by a recognized trade, business, or
11 professional organization with a closed membership to instruct the
12 members of the organization; or

13 (5) conducted by a school regulated and approved under
14 another law of this state.

15 SECTION 2.03. Sections 1001.003 and 1001.004, Education
16 Code, are amended to read as follows:

17 Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL
18 BUSINESSES. It is the intent of the legislature that commission
19 [~~agency~~] rules that affect driver training schools that qualify as
20 small businesses be adopted and administered so as to have the least
21 possible adverse economic effect on the schools.

22 Sec. 1001.004. COST OF ADMINISTERING CHAPTER. The cost of
23 administering this chapter shall be included in the state budget
24 allowance for the department [~~agency~~].

25 SECTION 2.04. Sections 1001.051 and 1001.052, Education
26 Code, are amended to read as follows:

27 Sec. 1001.051. JURISDICTION OVER SCHOOLS. The department

1 [agency] has jurisdiction over and control of driver training
2 schools regulated under this chapter.

3 Sec. 1001.052. RULES. The commission [agency] shall adopt
4 [and administer] comprehensive rules governing driving safety
5 courses, including rules to ensure the integrity of approved
6 driving safety courses and enhance program quality.

7 SECTION 2.05. The heading to Section 1001.053, Education
8 Code, is amended to read as follows:

9 Sec. 1001.053. POWERS AND DUTIES OF DEPARTMENT
10 [~~COMMISSIONER~~].

11 SECTION 2.06. Subsection (a), Section 1001.053, Education
12 Code, is amended to read as follows:

13 (a) The department [~~commissioner~~] shall:

14 (1) administer [~~the policies of~~] this chapter;

15 (2) enforce minimum standards for driver training
16 schools under this chapter;

17 (3) [~~adopt and~~] enforce rules adopted by the
18 commission necessary to administer this chapter; and

19 (4) inspect [~~visit~~] a driver training school or course
20 provider and reexamine the school or course provider for compliance
21 with this chapter.

22 SECTION 2.07. The heading to Section 1001.054, Education
23 Code, is amended to read as follows:

24 Sec. 1001.054. RULES RESTRICTING ADVERTISING [~~OR~~
25 ~~COMPETITIVE BIDDING~~].

26 SECTION 2.08. Subsection (c), Section 1001.054, Education
27 Code, is amended to read as follows:

1 (c) The commission [~~commissioner~~] by rule may restrict
2 advertising by a branch location of a driver training school so that
3 the location adequately identifies the primary location of the
4 school in a solicitation.

5 SECTION 2.09. Section 1001.055, Education Code, is amended
6 to read as follows:

7 Sec. 1001.055. DRIVER EDUCATION CERTIFICATES. (a) The
8 department [~~agency~~] shall print and supply to each licensed or
9 exempt driver education school driver education certificates to be
10 used for certifying completion of an approved driver education
11 course to satisfy the requirements of Section 521.204(a)(2),
12 Transportation Code. The certificates must be numbered serially.

13 (b) The commission [~~agency~~] by rule shall provide for the
14 design and distribution of the certificates in a manner that, to the
15 greatest extent possible, prevents the unauthorized reproduction
16 or misuse of the certificates.

17 (c) The department [~~agency~~] may charge a fee of not more
18 than \$4 for each certificate.

19 SECTION 2.10. Subsections (b) through (e) and (g), Section
20 1001.056, Education Code, are amended to read as follows:

21 (b) The department [~~agency~~] shall print and supply to each
22 licensed course provider uniform certificates of course
23 completion. The certificates must be numbered serially.

24 (c) The commission [~~agency~~] by rule shall provide for the
25 design and distribution of the certificates in a manner that, to the
26 greatest extent possible, prevents the unauthorized production or
27 misuse of the certificates.

1 (d) A certificate under this section must:

2 (1) be in a form required by the department [~~agency~~];
3 and

4 (2) include an identifying number by which the
5 department [~~agency~~], a court, or the Department of Public Safety
6 [~~department~~] may verify its authenticity with the course provider.

7 (e) The department [~~agency~~] may charge a fee of not more
8 than \$4 for each certificate. A course provider shall charge an
9 operator a fee equal to the amount of the fee paid to the department
10 [~~agency~~] for a certificate.

11 (g) The department [~~agency~~] shall issue duplicate
12 certificates. The commission [~~commissioner~~] by rule shall
13 determine the amount of the fee for issuance of a duplicate
14 certificate.

15 SECTION 2.11. Section 1001.057, Education Code, is amended
16 to read as follows:

17 Sec. 1001.057. ELECTRONIC TRANSMISSION OF DRIVING SAFETY
18 COURSE INFORMATION. The department [~~agency~~] shall investigate
19 options to develop and implement procedures to electronically
20 transmit information relating to driving safety courses to
21 municipal and justice courts.

22 SECTION 2.12. Subchapter B, Chapter 1001, Education Code,
23 is amended by adding Section 1001.058 to read as follows:

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

1 SECTION 2.13. Sections 1001.101 and 1001.102, Education
2 Code, are amended to read as follows:

3 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
4 TEXTBOOKS. The commission [~~commissioner~~] by rule shall establish
5 the curriculum and designate the textbooks to be used in a driver
6 education course.

7 Sec. 1001.102. ALCOHOL AWARENESS INFORMATION. (a) The
8 commission [~~agency~~] by rule shall require that information relating
9 to alcohol awareness and the effect of alcohol on the effective
10 operation of a motor vehicle be included in the curriculum of any
11 driver education course or driving safety course.

12 (b) In developing rules under this section, the commission
13 [~~agency~~] shall consult with the Department of Public Safety
14 [~~department~~].

15 SECTION 2.14. Subsections (b), (d), and (e), Section
16 1001.103, Education Code, are amended to read as follows:

17 (b) The department [~~agency~~] shall develop standards for a
18 separate school certification and approve curricula for drug and
19 alcohol driving awareness programs that include one or more
20 courses. Except as provided by commission [~~agency~~] rule, a program
21 must be offered in the same manner as a driving safety course.

22 (d) In accordance with Section 461.013(b), Health and
23 Safety Code, the department [~~agency~~] and the Texas Commission on
24 Alcohol and Drug Abuse shall enter into a memorandum of
25 understanding for the interagency approval of the required
26 curricula.

27 (e) The commission [~~Notwithstanding Section 1001.056,~~

1 ~~Subchapter D, and Sections 1001.213 and 1001.303, the commissioner]~~
2 may establish fees in connection with the programs under this
3 section. The fees must be in amounts reasonable and necessary to
4 administer the department's ~~[agency's]~~ duties under this section.

5 SECTION 2.15. Sections 1001.104 and 1001.105, Education
6 Code, are amended to read as follows:

7 Sec. 1001.104. HOSPITAL AND REHABILITATION FACILITIES.

8 (a) The department ~~[agency]~~ shall enter into a memorandum of
9 understanding with the Texas Rehabilitation Commission and the
10 Department of Public Safety ~~[department]~~ for the interagency
11 development of curricula and licensing criteria for hospital and
12 rehabilitation facilities that teach driver education.

13 (b) The department ~~[agency]~~ shall administer comprehensive
14 rules governing driver education courses adopted by mutual
15 agreement among the commission ~~[agency]~~, the Texas Rehabilitation
16 Commission, and the Department of Public Safety ~~[department]~~.

17 Sec. 1001.105. TEXAS DEPARTMENT OF INSURANCE. The
18 commission ~~[agency]~~ shall enter into a memorandum of understanding
19 with the Texas Department of Insurance for the interagency
20 development of a curriculum for driving safety courses.

21 SECTION 2.16. Subsections (b), (c), and (d), Section
22 1001.106, Education Code, are amended to read as follows:

23 (b) The commission ~~[commissioner]~~ by rule shall provide
24 minimum standards of curriculum relating to operation of vehicles
25 at railroad and highway grade crossings.

26 (c) Subchapter F, Chapter 51, Occupations Code, Section
27 51.353, Occupations Code, and Section ~~[Sections 1001.454,]~~

1 1001.456 of this code [~~, and 1001.553~~] do not apply to a violation of
2 this section or a rule adopted under this section.

3 (d) Section 51.352, Occupations Code, and Sections
4 [~~1001.455(a)(6),~~] 1001.501 [~~, 1001.551, 1001.552,~~] and 1001.554 of
5 this code do not apply to a violation of this section.

6 SECTION 2.17. Section 1001.107, Education Code, is amended
7 to read as follows:

8 Sec. 1001.107. INFORMATION RELATING TO LITTER PREVENTION.

9 (a) The commission [~~commissioner~~] by rule shall require that
10 information relating to litter prevention be included in the
11 curriculum of each driver education and driving safety course.

12 (b) In developing rules under this section, the commission
13 [~~commissioner~~] shall consult the Department of Public Safety
14 [~~department~~].

15 SECTION 2.18. Subsections (a) and (c), Section 1001.108,
16 Education Code, are amended to read as follows:

17 (a) The commission [~~commissioner~~] by rule shall require
18 that information relating to anatomical gifts be included in the
19 curriculum of each driver education course and driving safety
20 course.

21 (c) In developing rules under this section, the commission
22 [~~commissioner~~] shall consult with the Department of Public Safety
23 [~~department~~] and the [~~Texas~~] Department of State Health Services.

24 SECTION 2.19. Section 1001.151, Education Code, is amended
25 to read as follows:

26 Sec. 1001.151. APPLICATION, LICENSE, AND REGISTRATION

27 FEES. (a) The commission [~~commissioner~~] shall establish

1 ~~collect~~ application, license, and registration fees. The fees
2 must be in amounts sufficient to cover administrative costs and are
3 nonrefundable. The department shall collect the application,
4 license, and registration fees.

5 (b) The commission shall establish a fee for:

6 (1) an initial driver education school license and ~~is~~
7 ~~\$1,000 plus \$850~~ for each branch location; ~~[-]~~

8 (2) ~~[(c) The fee for]~~ an initial driving safety school
9 license; ~~[is an appropriate amount established by the commissioner~~
10 ~~not to exceed \$200.]~~

11 (3) ~~[(d) The fee for]~~ an initial course provider
12 license ~~[is an appropriate amount established by the commissioner~~
13 ~~not to exceed \$2,000]~~, except that the commission ~~[agency]~~ may
14 waive the fee if revenue received from the course provider is
15 sufficient to cover the cost of licensing the course provider; ~~[-]~~

16 (4) the ~~[(e) The]~~ annual renewal ~~[fee]~~ for a course
17 provider, driving safety school, driver education school, or branch
18 location ~~[is an appropriate amount established by the commissioner~~
19 ~~not to exceed \$200]~~, except that the commission ~~[agency]~~ may waive
20 the fee if revenue generated by the issuance of uniform
21 certificates of course completion and driver education
22 certificates is sufficient to cover the cost of administering this
23 chapter and Article 45.0511, Code of Criminal Procedure; ~~[-]~~

24 (5) ~~[(f) The fee for]~~ a change of address of ~~[+]~~
25 ~~[(1)]~~ a driver education school, ~~[is \$180, and~~
26 ~~[(2)]~~ a driving safety school, ~~[or course provider; [is~~
27 ~~\$50.]~~

1 (6) [~~(g)~~ ~~The fee for~~] a change of name of:

2 (A) [~~(1)~~] a driver education school or course
3 provider or an owner of a driver education school or course provider
4 [~~is \$100~~]; or [~~and~~]

5 (B) [~~(2)~~] a driving safety school or owner of a
6 driving safety school; [~~is \$50.~~]

7 (7) [~~(h)~~ ~~The application fee for~~] each additional
8 driver education or driving safety course at a driver training
9 school; [~~is \$25.~~]

10 (8) an [~~(i)~~ ~~The~~] application of a [~~fee for:~~
11 [~~(1)~~ ~~each~~] director, and [~~is \$30,~~ and
12 [~~(2)~~ ~~each~~] assistant director, or administrative
13 staff member; and [~~is \$15.~~]

14 (9) an [~~(j)~~ ~~Each~~] application for approval of a
15 driving safety course that has not been evaluated by the department
16 [~~commissioner must be accompanied by a nonrefundable fee of~~
17 ~~\$9,000~~].

18 (c) [~~(k)~~] An application for an original driver education
19 or driving safety instructor license must be accompanied by a
20 processing fee [~~of \$50~~] and an annual license fee [~~of \$25~~], except
21 that the department [~~commissioner~~] may not collect the processing
22 fee from an applicant for a driver education instructor license who
23 is currently teaching a driver education course in a public school
24 in this state.

25 (d) [~~(l)~~] The commission [~~commissioner~~] shall establish the
26 amount of the fee for a duplicate license.

27 SECTION 2.20. Section 1001.153, Education Code, is amended

1 to read as follows:

2 Sec. 1001.153. COMPLAINT INVESTIGATION FEE. (a) The
3 commission [~~commissioner~~] shall establish the amount of the fee to
4 investigate a driver training school or course provider to resolve
5 a complaint against the school or course provider.

6 (b) The fee may be charged only if:

7 (1) the complaint could not have been resolved solely
8 by telephone or in writing;

9 (2) a representative of the department [~~agency~~]
10 visited the school or course provider as a part of the complaint
11 resolution process; and

12 (3) the school or course provider was found to be at
13 fault.

14 SECTION 2.21. Subsection (b), Section 1001.202, Education
15 Code, is amended to read as follows:

16 (b) A driving safety school may use multiple classroom
17 locations to teach a driving safety course if each location:

18 (1) is approved by the parent school and the
19 department [~~agency~~];

20 (2) has the same name as the parent school; and

21 (3) has the same ownership as the parent school.

22 SECTION 2.22. Sections 1001.203 through 1001.206,
23 Education Code, are amended to read as follows:

24 Sec. 1001.203. APPLICATION. To operate or do business in
25 this state, a driver training school must apply to the department
26 [~~commissioner~~] for the appropriate license. The application must:

27 (1) be in writing;

- 1 (2) be in the form prescribed by the department
2 ~~[commissioner]~~;
- 3 (3) include all required information; and
- 4 (4) be verified.

5 Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION SCHOOL
6 LICENSE. The department ~~[commissioner]~~ shall approve an
7 application for a driver education school license if, on
8 investigation of the premises of the school, it is determined that
9 the school:

10 (1) has courses, curricula, and instruction of a
11 quality, content, and length that reasonably and adequately achieve
12 the stated objective for which the courses, curricula, and
13 instruction are offered;

14 (2) has adequate space, equipment, instructional
15 material, and instructors to provide training of good quality in
16 the classroom and behind the wheel;

17 (3) has directors, instructors, and administrators
18 who have adequate educational qualifications and experience;

19 (4) provides to each student before enrollment:

20 (A) a copy of:

21 (i) the refund policy;

22 (ii) the schedule of tuition, fees, and
23 other charges; and

24 (iii) the regulations relating to absence,
25 grading policy, and rules of operation and conduct; and

26 (B) the department's name, mailing address,
27 ~~[and]~~ telephone number, and Internet website address ~~[of the~~

1 ~~agency~~] for the purpose of directing complaints to the department
2 [~~agency~~];

3 (5) maintains adequate records as prescribed by the
4 department [~~commissioner~~] to show attendance and progress or grades
5 and enforces satisfactory standards relating to attendance,
6 progress, and conduct;

7 (6) on completion of training, issues each student a
8 certificate indicating the course name and satisfactory
9 completion;

10 (7) complies with all county, municipal, state, and
11 federal regulations, including fire, building, and sanitation
12 codes and assumed name registration;

13 (8) is financially sound and capable of fulfilling its
14 commitments for training;

15 (9) has administrators, directors, owners, and
16 instructors who are of good reputation and character;

17 (10) maintains and publishes as part of its student
18 enrollment contract the proper policy for the refund of the unused
19 portion of tuition, fees, and other charges if a student fails to
20 take the course or withdraws or is discontinued from the school at
21 any time before completion;

22 (11) does not use erroneous or misleading advertising,
23 either by actual statement, omission, or intimation, as determined
24 by the department [~~commissioner~~];

25 (12) does not use a name similar to the name of another
26 existing school or tax-supported educational institution in this
27 state, unless specifically approved in writing by the executive

1 director [~~commissioner~~];

2 (13) submits to the department [~~agency~~] for approval
3 the applicable course hour lengths and curriculum content for each
4 course offered by the school;

5 (14) does not owe an administrative penalty for a
6 violation of [~~under~~] this chapter; and

7 (15) meets any additional criteria required by the
8 department [~~agency~~].

9 Sec. 1001.205. REQUIREMENTS FOR DRIVING SAFETY SCHOOL
10 LICENSE. The department [~~commissioner~~] shall approve an
11 application for a driving safety school license if on investigation
12 the department [~~agency~~] determines that the school:

13 (1) has driving safety courses, curricula, and
14 instruction of a quality, content, and length that reasonably and
15 adequately achieve the stated objective for which the course,
16 curricula, and instruction are developed by the course provider;

17 (2) has adequate space, equipment, instructional
18 material, and instructors to provide training of good quality;

19 (3) has instructors and administrators who have
20 adequate educational qualifications and experience;

21 (4) maintains adequate records as prescribed by the
22 department [~~commissioner~~] to show attendance and progress or grades
23 and enforces satisfactory standards relating to attendance,
24 progress, and conduct;

25 (5) complies with all county, municipal, state, and
26 federal laws, including fire, building, and sanitation codes and
27 assumed name registration;

1 (6) has administrators, owners, and instructors who
2 are of good reputation and character;

3 (7) does not use erroneous or misleading advertising,
4 either by actual statement, omission, or intimation, as determined
5 by the department [~~commissioner~~];

6 (8) does not use a name similar to the name of another
7 existing school or tax-supported educational establishment in this
8 state, unless specifically approved in writing by the executive
9 director [~~commissioner~~];

10 (9) maintains and uses the approved contract and
11 policies developed by the course provider;

12 (10) does not owe an administrative penalty for a
13 violation of [~~under~~] this chapter;

14 (11) will not provide a driving safety course to a
15 person for less than \$25; and

16 (12) meets additional criteria required by the
17 department [~~commissioner~~].

18 Sec. 1001.206. REQUIREMENTS FOR COURSE PROVIDER LICENSE.
19 The department [~~commissioner~~] shall approve an application for a
20 course provider license if on investigation the department [~~agency~~]
21 determines that:

22 (1) the course provider has an approved course that at
23 least one licensed driving safety school is willing to offer;

24 (2) the course provider has adequate educational
25 qualifications and experience;

26 (3) the course provider will:

27 (A) develop and provide to each driving safety

1 school that offers the approved course a copy of:

2 (i) the refund policy; and

3 (ii) the regulations relating to absence,
4 grading policy, and rules of operation and conduct; and

5 (B) provide to the driving safety school the
6 department's name, mailing address, ~~[and]~~ telephone number, and
7 Internet website address ~~[of the agency]~~ for the purpose of
8 directing complaints to the department ~~[agency]~~;

9 (4) a copy of the information provided to each driving
10 safety school under Subdivision (3) will be provided to each
11 student by the school before enrollment;

12 (5) not later than the 15th working day after the date
13 the person successfully completes the course, the course provider
14 will mail a uniform certificate of course completion to the person
15 indicating the course name and successful completion;

16 (6) the course provider maintains adequate records as
17 prescribed by the department ~~[commissioner]~~ to show attendance and
18 progress or grades and enforces satisfactory standards relating to
19 attendance, progress, and conduct;

20 (7) the course provider complies with all county,
21 municipal, state, and federal laws, including assumed name
22 registration and other applicable requirements;

23 (8) the course provider is financially sound and
24 capable of fulfilling its commitments for training;

25 (9) the course provider is of good reputation and
26 character;

27 (10) the course provider maintains and publishes as a

1 part of its student enrollment contract the proper policy for the
2 refund of the unused portion of tuition, fees, and other charges if
3 a student fails to take the course or withdraws or is discontinued
4 from the school at any time before completion;

5 (11) the course provider does not use erroneous or
6 misleading advertising, either by actual statement, omission, or
7 intimation, as determined by the department [~~commissioner~~];

8 (12) the course provider does not use a name similar to
9 the name of another existing school or tax-supported educational
10 institution in this state, unless specifically approved in writing
11 by the executive director [~~commissioner~~];

12 (13) the course provider does not owe an
13 administrative penalty for a violation of [~~under~~] this chapter; and

14 (14) the course provider meets additional criteria
15 required by the department [~~commissioner~~].

16 SECTION 2.23. Subsections (a) and (b), Section 1001.207,
17 Education Code, are amended to read as follows:

18 (a) Before a driver education school may be issued a
19 license, the school must file a corporate surety bond with the
20 department [~~commissioner~~] in the amount of:

21 (1) \$10,000 for the primary location of the school;
22 and

23 (2) \$5,000 for each branch location.

24 (b) A bond issued under Subsection (a) must be:

25 (1) issued in a form approved by the department
26 [~~commissioner~~];

27 (2) issued by a company authorized to do business in

1 this state;

2 (3) payable to the state to be used only for payment of
3 a refund due to a student or potential student;

4 (4) conditioned on the compliance of the school and
5 its officers, agents, and employees with this chapter and rules
6 adopted under this chapter; and

7 (5) issued for a period corresponding to the term of
8 the license.

9 SECTION 2.24. Subsection (b), Section 1001.209, Education
10 Code, is amended to read as follows:

11 (b) A bond issued under Subsection (a) must be:

12 (1) issued by a company authorized to do business in
13 this state;

14 (2) payable to the state to be used:

15 (A) for payment of a refund due a student of the
16 course provider's approved course;

17 (B) to cover the payment of unpaid fees or
18 penalties assessed by the department [~~agency~~]; or

19 (C) to recover the cost of uniform certificates
20 of course completion the department [~~agency~~] demands be returned or
21 any cost associated with the certificates;

22 (3) conditioned on the compliance of the course
23 provider and its officers, agents, and employees with this chapter
24 and rules adopted under this chapter; and

25 (4) issued for a period corresponding to the term of
26 the license.

27 SECTION 2.25. Section 1001.210, Education Code, is amended

1 to read as follows:

2 Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the
3 bond required by Section 1001.207 or 1001.209, a driver education
4 school or course provider may provide another form of security that
5 is:

6 (1) ~~[(A)]~~ approved by the department ~~[commissioner]~~;
7 and

8 (2) ~~[(B)]~~ in the amount required for a comparable bond
9 under Section 1001.207 or 1001.209.

10 SECTION 2.26. Subsections (a) and (b), Section 1001.211,
11 Education Code, are amended to read as follows:

12 (a) The department ~~[commissioner]~~ shall issue a license to
13 an applicant for a license under this subchapter if:

14 (1) the application is submitted in accordance with
15 this subchapter; and

16 (2) the applicant meets the requirements of this
17 chapter.

18 (b) A license must be in a form determined by the department
19 ~~[commissioner]~~ and must show in a clear and conspicuous manner:

20 (1) the date of issuance, effective date, and term of
21 the license;

22 (2) the name and address of the driver training school
23 or course provider;

24 (3) the authority for and conditions of approval;

25 (4) the executive director's ~~[commissioner's]~~
26 signature; and

27 (5) any other fair and reasonable representation that

1 is consistent with this chapter and that the department
2 [~~commissioner~~] considers necessary.

3 SECTION 2.27. Section 1001.212, Education Code, is amended
4 to read as follows:

5 Sec. 1001.212. NOTICE OF DENIAL OF LICENSE. The department
6 [~~commissioner~~] shall provide a person whose application for a
7 license under this subchapter is denied a written statement of the
8 reasons for the denial.

9 SECTION 2.28. Subsections (c) and (d), Section 1001.213,
10 Education Code, are amended to read as follows:

11 (c) The commission may establish [~~Instead of the~~] fees
12 [~~required by Section 1001.151, the fee~~] for a new driver education
13 school or course provider license under Subsection (b) and [~~is~~
14 ~~\$500, plus \$200~~] for each branch location that are different from
15 the amounts established under Section 1001.151 [~~7~~] if:

16 (1) the new owner is substantially similar to the
17 previous owner; and

18 (2) there is no significant change in the management
19 or control of the driver education school or course provider.

20 (d) The department [~~commissioner~~] is not required to
21 reinspect a school or a branch location after a change of ownership.

22 SECTION 2.29. Section 1001.214, Education Code, is amended
23 to read as follows:

24 Sec. 1001.214. DUPLICATE LICENSE. A duplicate license may
25 be issued to a driver training school or course provider if:

26 (1) the original license is lost or destroyed; and

27 (2) an affidavit of that fact is filed with the

1 department [~~agency~~].

2 SECTION 2.30. Sections 1001.251, 1001.252, and 1001.253,
3 Education Code, are amended to read as follows:

4 Sec. 1001.251. LICENSE REQUIRED FOR INSTRUCTOR. (a) A
5 person may not teach or provide driver education, either as an
6 individual or in a driver education school, or conduct any phase of
7 driver education, unless the person holds a driver education
8 instructor license issued by the department [~~agency~~].

9 (b) A person may not teach or provide driving safety
10 training, either as an individual or in a driving safety school, or
11 conduct any phase of driving safety education, unless the person
12 holds a driving safety instructor license issued by the department
13 [~~agency~~]. This subsection does not apply to an instructor of a
14 driving safety course that does not provide a uniform certificate
15 of course completion to its graduates.

16 Sec. 1001.252. SIGNATURE AND SEAL ON LICENSE REQUIRED. A
17 license under this subchapter must be signed by the executive
18 director [~~commissioner~~].

19 Sec. 1001.253. DRIVER EDUCATION INSTRUCTOR TRAINING.
20 (a) The department [~~commissioner~~] shall establish standards for
21 certification of professional and paraprofessional personnel who
22 conduct driver education programs in driver education schools.

23 (b) A driver education instructor license authorizing a
24 person to teach or provide behind-the-wheel training may not be
25 issued unless the person has successfully completed six semester
26 hours of driver and traffic safety education or a program of study
27 in driver education approved by the department [~~commissioner~~] from

1 an approved driver education school.

2 (c) A person who holds a driver education instructor license
3 authorizing behind-the-wheel training may not be approved to assist
4 a classroom instructor in the classroom phase of driver education
5 unless the person has successfully completed the three additional
6 semester hours of training required for a classroom instructor or a
7 program of study in driver education approved by the department
8 [~~commissioner~~].

9 (d) Except as provided by Section 1001.254, a driver
10 education instructor license authorizing a person to teach or
11 provide classroom training may not be issued unless the person:

12 (1) has completed nine semester hours of driver and
13 traffic safety education or a program of study in driver education
14 approved by the department [~~commissioner~~] from an approved driver
15 education school; and

16 (2) holds a teaching certificate and any additional
17 certification required to teach driver education.

18 (e) A driver education instructor who has completed the
19 educational requirements prescribed by Subsection (d)(1) may not
20 teach instructor training classes unless the instructor has
21 successfully completed a supervising instructor development
22 program consisting of at least six additional semester hours or a
23 program of study in driver education approved by the department
24 [~~commissioner~~] that includes administering driver education
25 programs and supervising and administering traffic safety
26 education.

27 (f) A driver education school may submit for department

1 ~~[agency]~~ approval a curriculum for an instructor development
2 program for driver education instructors. The program must:

3 (1) be taught by a person who has completed a
4 supervising instructor development program under Subsection (e);
5 and

6 (2) satisfy the requirements of this section for the
7 particular program or type of training to be provided.

8 SECTION 2.31. Subsection (a), Section 1001.254, Education
9 Code, is amended to read as follows:

10 (a) A temporary driver education instructor license may be
11 issued authorizing a person to teach or provide classroom driver
12 education training if the person:

13 (1) has completed the educational requirements
14 prescribed by Section 1001.253(d)(1);

15 (2) holds a Texas teaching certificate with an
16 effective date before February 1, 1986;

17 (3) meets all license requirements, other than
18 successful completion of the examination required under rules
19 adopted by the State Board for Educator Certification to revalidate
20 the teaching certificate; and

21 (4) demonstrates, in a manner prescribed by the
22 department ~~[commissioner]~~, the intention to comply with the
23 examination requirement at the first available opportunity.

24 SECTION 2.32. Subsections (a), (b), and (c), Section
25 1001.255, Education Code, are amended to read as follows:

26 (a) The department ~~[agency]~~ shall regulate as a driver
27 education school a driver education instructor who:

1 (1) teaches driver education courses in a county
2 having a population of 50,000 or less; and

3 (2) does not teach more than 200 students annually.

4 (b) An instructor described by Subsection (a) must submit to
5 the department [~~agency~~] an application for an initial or renewal
6 driver education school license, together with all required
7 documentation and information.

8 (c) The department [~~commissioner~~] may waive initial or
9 renewal driver education school license fees or the fee for a
10 director or administrative staff member.

11 SECTION 2.33. Section 1001.256, Education Code, is amended
12 to read as follows:

13 Sec. 1001.256. DUPLICATE LICENSE. A duplicate license may
14 be issued to a driver education instructor or driving safety
15 instructor if:

16 (1) the original license is lost or destroyed; and

17 (2) an affidavit of that fact is filed with the
18 department [~~agency~~].

19 SECTION 2.34. The heading to Subchapter G, Chapter 1001,
20 Education Code, is amended to read as follows:

21 SUBCHAPTER G. LICENSE EXPIRATION [~~AND RENEWAL~~]

22 SECTION 2.35. Subsection (b), Section 1001.351, Education
23 Code, is amended to read as follows:

24 (b) A course provider shall electronically submit to the
25 department [~~agency~~] in the manner established by the department
26 [~~agency~~] data identified by the department [~~agency~~] relating to
27 uniform certificates of course completion.

1 SECTION 2.36. Subsections (a) and (b), Section 1001.354,
2 Education Code, are amended to read as follows:

3 (a) A driving safety course may be taught at a driving
4 safety school if the school is approved by the department [~~agency~~].

5 (b) A driving safety school may teach an approved driving
6 safety course by an alternative method that does not require
7 students to be present in a classroom if the department
8 [~~commissioner~~] approves the alternative method. The department
9 [~~commissioner~~] may approve the alternative method if:

10 (1) the department [~~commissioner~~] determines that the
11 approved driving safety course can be taught by the alternative
12 method; and

13 (2) the alternative method includes testing and
14 security measures that are at least as secure as the measures
15 available in the usual classroom setting.

16 SECTION 2.37. Subsections (b) and (c), Section 1001.404,
17 Education Code, are amended to read as follows:

18 (b) The department [~~commissioner~~] shall establish annually
19 the rate of interest for a refund at a rate sufficient to provide a
20 deterrent to the retention of student money.

21 (c) The department [~~agency~~] may except a driver education
22 school or course provider from the payment of interest if the school
23 or course provider makes a good-faith effort to refund tuition,
24 fees, and other charges but is unable to locate the student to whom
25 the refund is owed. On request of the department [~~agency~~], the
26 school or course provider shall document the effort to locate a
27 student.

1 SECTION 2.38. Sections 1001.451 and 1001.452, Education
2 Code, are amended to read as follows:

3 Sec. 1001.451. PROHIBITED PRACTICES. A person may not:

4 (1) use advertising designed to mislead or deceive a
5 prospective student;

6 (2) fail to notify the department [~~commissioner~~] of
7 the discontinuance of the operation of a driver training school
8 before the fourth working day after the date of cessation of classes
9 and make available accurate records as required by this chapter;

10 (3) issue, sell, trade, or transfer:

11 (A) a uniform certificate of course completion or
12 driver education certificate to a person or driver training school
13 not authorized to possess the certificate;

14 (B) a uniform certificate of course completion to
15 a person who has not successfully completed an approved, six-hour
16 driving safety course; or

17 (C) a driver education certificate to a person
18 who has not successfully completed a department-approved
19 [~~commissioner-approved~~] driver education course;

20 (4) negotiate a promissory instrument received as
21 payment of tuition or another charge before the student completes
22 75 percent of the course, except that before that time the
23 instrument may be assigned to a purchaser who becomes subject to any
24 defense available against the school named as payee; or

25 (5) conduct any part of an approved driver education
26 course or driving safety course without having an instructor
27 physically present in appropriate proximity to the student for the

1 type of instruction being given.

2 Sec. 1001.452. COURSE OF INSTRUCTION. A driver training
3 school may not maintain, advertise, solicit for, or conduct a
4 course of instruction in this state before the later of:

5 (1) the 30th day after the date the school applies for
6 a driver training school license; or

7 (2) the date the school receives a driver training
8 school license from the department [~~commissioner~~].

9 SECTION 2.39. Subsections (d) and (e), Section 1001.453,
10 Education Code, are amended to read as follows:

11 (d) Subchapter F, Chapter 51, Occupations Code, Section
12 51.353, Occupations Code, and Section [~~Sections 1001.454,~~
13 1001.456(a) of this code [~~, and 1001.553~~] do not apply to a violation
14 of this section or a rule adopted under this section.

15 (e) Section 51.352, Occupations Code, and Sections
16 [~~1001.455(a)(6),~~] 1001.501 [~~, 1001.551, 1001.552,~~] and 1001.554 of
17 this code do not apply to a violation of this section.

18 SECTION 2.40. Section 1001.456, Education Code, is amended
19 to read as follows:

20 Sec. 1001.456. OTHER DISCIPLINARY ACTIONS. (a) If the
21 department [~~agency~~] believes that a driver education school or
22 instructor has violated this chapter or a rule or order of the
23 commission or executive director [~~adopted under this chapter~~], the
24 department [~~agency~~] may, without notice:

25 (1) order a peer review;

26 (2) suspend the enrollment of students in the school
27 or the offering of instruction by the instructor; or

1 (3) suspend the right to purchase driver education
2 certificates.

3 (b) If the department [~~agency~~] believes that a course
4 provider, driving safety school, or driving safety instructor has
5 violated this chapter or a rule or order of the commission or
6 executive director [~~adopted under this chapter~~], the department
7 [~~agency~~] may, without notice:

8 (1) order a peer review of the course provider,
9 driving safety school, or driving safety instructor;

10 (2) suspend the enrollment of students in the school
11 or the offering of instruction by the instructor; or

12 (3) suspend the right to purchase uniform certificates
13 of course completion.

14 (c) A peer review ordered under this section must be
15 conducted by a team of knowledgeable persons selected by the
16 department [~~agency~~]. The team shall provide the department
17 [~~agency~~] with an objective assessment of the content of the
18 school's or course provider's curriculum and its application. The
19 school or course provider shall pay the costs of the peer review.

20 (d) A suspension of enrollment under Subsection (a)(2) or
21 (b)(2) means a ruling by the executive director [~~commissioner~~] that
22 restricts a school from:

23 (1) accepting enrollments or reenrollments;

24 (2) advertising;

25 (3) soliciting; or

26 (4) directly or indirectly advising prospective
27 students of its program or course offerings.

1 SECTION 2.41. The heading to Subchapter L, Chapter 1001,
2 Education Code, is amended to read as follows:

3 SUBCHAPTER L. PENALTIES [~~AND ENFORCEMENT PROVISIONS~~]

4 SECTION 2.42. Subsection (b), Section 1001.555, Education
5 Code, is amended to read as follows:

6 (b) The department [~~agency~~] shall contract with the
7 Department of Public Safety [~~department~~] to provide undercover and
8 investigative assistance in the enforcement of Subsection (a).

9 SECTION 2.43. Subsection (b), Article 45.0511, Code of
10 Criminal Procedure, is amended to read as follows:

11 (b) The judge shall require the defendant to successfully
12 complete a driving safety course approved by the Texas Department
13 of Licensing and Regulation [~~Education Agency~~] or a course under
14 the motorcycle operator training and safety program approved by the
15 designated state agency under Chapter 662, Transportation Code, if:

16 (1) the defendant elects driving safety course or
17 motorcycle operator training course dismissal under this article;

18 (2) the defendant has not completed an approved
19 driving safety course or motorcycle operator training course, as
20 appropriate, within the 12 months preceding the date of the
21 offense;

22 (3) the defendant enters a plea under Article 45.021
23 in person or in writing of no contest or guilty on or before the
24 answer date on the notice to appear and:

25 (A) presents in person or by counsel to the court
26 a request to take a course; or

27 (B) sends to the court by certified mail, return

1 receipt requested, postmarked on or before the answer date on the
2 notice to appear, a written request to take a course;

3 (4) the defendant has a valid Texas driver's license or
4 permit;

5 (5) the defendant is charged with an offense to which
6 this article applies, other than speeding 25 miles per hour or more
7 over the posted speed limit; and

8 (6) the defendant provides evidence of financial
9 responsibility as required by Chapter 601, Transportation Code.

10 SECTION 2.44. Section 51.308, Education Code, is amended to
11 read as follows:

12 Sec. 51.308. DRIVER EDUCATION. A driver education course
13 for the purpose of preparing students to obtain a driver's license
14 may be offered by an institution of higher education, as defined by
15 Section 61.003, with the approval of the Texas Department of
16 Licensing and Regulation [~~Central Education Agency~~].

17 SECTION 2.45. Subsection (a), Section 521.1655,
18 Transportation Code, is amended to read as follows:

19 (a) A driver education school licensed under Chapter 1001,
20 Education Code, [~~the Texas Driver and Traffic Safety Education Act~~
21 ~~(Article 4413(29c), Vernon's Texas Civil Statutes)] may administer
22 to a student of that school the vision, highway sign, and traffic
23 law parts of the examination required by Section 521.161.~~

24 SECTION 2.46. Section 521.203, Transportation Code, is
25 amended to read as follows:

26 Sec. 521.203. RESTRICTIONS ON CLASS A AND B LICENSES. The
27 department may not issue a Class A or Class B driver's license to a

1 person who:

2 (1) is under 17 years of age;

3 (2) is under 18 years of age unless the person has
4 completed a driver training course approved by the Texas Department
5 of Licensing and Regulation [~~Central Education Agency~~]; or

6 (3) has not provided the department with an affidavit,
7 on a form prescribed by the department, that states that no vehicle
8 that the person will drive that requires a Class A or Class B
9 license is a commercial motor vehicle as defined by Section
10 522.003.

11 SECTION 2.47. Subsections (b) and (d), Section 521.205,
12 Transportation Code, are amended to read as follows:

13 (b) The department may not approve a course unless it
14 determines that the course materials are at least equal to those
15 required in a course approved by the Texas Department of Licensing
16 and Regulation [~~Education Agency~~], except that the department may
17 not require that:

18 (1) the classroom instruction be provided in a room
19 with particular characteristics or equipment; or

20 (2) the vehicle used for the behind-the-wheel
21 instruction have equipment other than the equipment otherwise
22 required by law for operation of the vehicle on a highway while the
23 vehicle is not being used for driver training.

24 (d) Completion of a driver education course approved under
25 this section has the same effect under this chapter as completion of
26 a driver education course approved by the Texas Department of
27 Licensing and Regulation [~~Education Agency~~].

1 SECTION 2.48. Subdivision (1), Section 1001.001,
2 Subsections (b) and (c), Section 1001.053, Subsections (a) and (b),
3 Section 1001.054, and Sections 1001.152, 1001.303, 1001.304,
4 1001.454, 1001.455, 1001.457, 1001.458, 1001.459, 1001.460,
5 1001.461, 1001.551, 1001.552, and 1001.553, Education Code, and
6 Subchapter B, Chapter 543, Transportation Code, are repealed.

7 SECTION 2.49. (a) As soon as practicable after the
8 effective date of this Act, the Texas Education Agency and the Texas
9 Department of Licensing and Regulation shall develop a transition
10 plan for transferring the functions performed by the Texas
11 Education Agency under Chapter 1001, Education Code, to the Texas
12 Department of Licensing and Regulation. The transition plan must
13 include a timetable with specific steps and deadlines needed to
14 complete the transfer.

15 (b) In accordance with the transition plan developed by the
16 Texas Education Agency and the Texas Department of Licensing and
17 Regulation under Subsection (a) of this section, on September 1,
18 2005:

19 (1) all functions and activities relating to Chapter
20 1001, Education Code, performed by the Texas Education Agency
21 immediately before that date are transferred to the Texas
22 Department of Licensing and Regulation;

23 (2) a rule or form adopted by the commissioner of
24 education that relates to Chapter 1001, Education Code, is a rule or
25 form of the Texas Commission of Licensing and Regulation or the
26 Texas Department of Licensing and Regulation, as applicable, and
27 remains in effect until amended or replaced by that commission or

1 department;

2 (3) a reference in law to or an administrative rule of
3 the Texas Education Agency that relates to Chapter 1001, Education
4 Code, means the Texas Commission of Licensing and Regulation or the
5 Texas Department of Licensing and Regulation, as applicable;

6 (4) a complaint, investigation, or other proceeding
7 before the Texas Education Agency that is related to Chapter 1001,
8 Education Code, is transferred without change in status to the
9 Texas Department of Licensing and Regulation, and the Texas
10 Department of Licensing and Regulation assumes, as appropriate and
11 without a change in status, the position of the Texas Education
12 Agency in an action or proceeding to which the Texas Education
13 Agency is a party;

14 (5) all money, contracts, leases, property, and
15 obligations of the Texas Education Agency related to Chapter 1001,
16 Education Code, are transferred to the Texas Department of
17 Licensing and Regulation;

18 (6) all property in the custody of the Texas Education
19 Agency related to Chapter 1001, Education Code, is transferred to
20 the Texas Department of Licensing and Regulation; and

21 (7) the unexpended and unobligated balance of any
22 money appropriated by the legislature for the Texas Education
23 Agency related to Chapter 1001, Education Code, is transferred to
24 the Texas Department of Licensing and Regulation.

25 (c) In accordance with the transition plan developed by the
26 Texas Education Agency and the Texas Department of Licensing and
27 Regulation under Subsection (a) of this section, on September 1,

1 2005, all full-time equivalent employee positions at the Texas
2 Education Agency that primarily concern the administration of
3 Chapter 1001, Education Code, become positions at the Texas
4 Department of Licensing and Regulation. When filling the
5 positions, the Texas Department of Licensing and Regulation shall
6 give first consideration to an applicant who, as of August 31, 2005,
7 was a full-time employee at the Texas Education Agency primarily
8 involved in administering Chapter 1001, Education Code.

9 (d) Before September 1, 2005, the Texas Education Agency may
10 agree with the Texas Department of Licensing and Regulation to
11 transfer any property of the Texas Education Agency to the Texas
12 Department of Licensing and Regulation to implement the transfer
13 required by this Act.

14 (e) In the period beginning with the effective date of this
15 Act and ending on September 1, 2005, the Texas Education Agency
16 shall continue to perform functions and activities under Chapter
17 1001, Education Code, as if that chapter had not been amended by
18 this Act, and the former law is continued in effect for that
19 purpose.

20 (f) If this Act does not take effect immediately, an action
21 required to be taken under this section on or before September 1,
22 2005, by the Texas Education Agency or the Texas Department of
23 Licensing and Regulation shall be taken as soon as practicable
24 after the effective date of this Act, but not later than November 1,
25 2005.

26 SECTION 2.50. The changes in law made by this article apply
27 only to a fee charged on or after September 1, 2005. A fee charged

1 before September 1, 2005, is governed by the law in effect
2 immediately before that date, and the former law is continued in
3 effect for that purpose.

4 SECTION 2.51. The changes in law made by this article apply
5 only to a license issued or renewed on or after September 1, 2005.
6 An issuance or renewal that occurs before September 1, 2005, is
7 governed by the law in effect immediately before that date, and the
8 former law is continued in effect for that purpose.

9 ARTICLE 3. EFFECTIVE DATE

10 SECTION 3.01. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2005.