

By: Grusendorf/SP: Shapiro

H.B. No. 2

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

By: \_\_\_\_\_

C.S.H.B. No. 2

A BILL TO BE ENTITLED

1 AN ACT

2 relating to public education, public school finance matters, and  
3 the imposition of a state ad valorem tax; imposing criminal  
4 penalties.

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

6 ARTICLE 1. PUBLIC SCHOOL FINANCE

7 PART A. EDUCATION FUNDING AND SCHOOL PROPERTY TAX RELIEF

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

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

12 (e) Notwithstanding Subsection (a), and except as provided  
13 by Subsection (g), in accordance with a determination of the  
14 commissioner, the wealth per student that a school district may  
15 have after exercising an option under Section 41.003(2) or (3)  
16 may not be less than the amount needed to maintain state and  
17 local revenue in an amount equal to state and local revenue per  
18 weighted student for maintenance and operation of the district  
19 for the 1992-1993 school year less the district's current year  
20 distribution per weighted student from the available school  
21 fund, other than amounts distributed under Chapter 31, if the

1 district imposes an effective tax rate for maintenance and  
2 operation of the district equal to the greater of the district's  
3 current tax rate or the maximum maintenance tax rate permitted  
4 under Section 45.003 [~~\$1.50 on the \$100 valuation of taxable~~  
5 ~~property~~].

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

8 (d) Notwithstanding Section 45.003, the consolidated taxing  
9 district may levy, assess, and collect a maintenance tax for the  
10 benefit of the component districts at a rate that exceeds the  
11 maximum maintenance tax rate permitted under Section 45.003  
12 [~~\$1.50 per \$100 valuation of taxable property~~] to the extent  
13 necessary to pay contracted obligations on the lease purchase of  
14 permanent improvements to real property entered into on or  
15 before May 12, 1993. The proposition to impose taxes at the  
16 necessary rate must be submitted to the voters in the manner  
17 provided by Section 45.003.

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

20 (a) In this chapter, average daily attendance is:

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

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

1 Section 29.0821(b)(1) divided by the number of actual days of  
2 instruction as permitted by Section 29.0821(b)(1); or  
3 (3) for a district that operates under a flexible  
4 school day program under Section 29.0822, the quotient of the  
5 sum of attendance for each full-time equivalent day of  
6 instruction divided by the minimum number of days of instruction  
7 as described under Section 25.081(a).

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

10 Sec. 42.008. REPORT ON EDUCATION SPENDING. Before each  
11 regular session of the legislature, the Legislative Budget Board  
12 shall submit to the commissioner and the legislature a report  
13 that includes:

14 (1) a description of the amount of all spending on  
15 primary and secondary education in this state, disaggregated by  
16 federal, state, and local spending and spending by private  
17 entities; and

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

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

21 (a-1) In addition to any amounts to which a school district  
22 is entitled under Section 42.2541, a school district, including  
23 a school district that is otherwise ineligible for state aid  
24 under this chapter, is entitled to state aid in an amount, as  
25 determined by the commissioner, equal to the product of the  
26 following amount, as applicable, multiplied by the number of  
27 classroom teachers, full-time librarians, full-time counselors

1 certified under Subchapter B, Chapter 21, and full-time school  
2 nurses employed by the district and entitled to a minimum salary  
3 under Section 21.402:

4 (1) \$1,500; or

5 (2) \$2,000, if H.B. No. 3, Acts of the 79th  
6 Legislature, Regular Session, 2005, takes effect immediately.

7 SECTION 1A.06. Effective September 1, 2006, the heading to  
8 Section 42.2512, Education Code, is amended to read as follows:

9 Sec. 42.2512. ADDITIONAL STATE AID FOR [~~PROFESSIONAL~~] STAFF  
10 SALARIES.

11 SECTION 1A.07. Effective September 1, 2006, Section  
12 42.2512, Education Code, is amended by adding Subsection (a-2)  
13 to read as follows:

14 (a-2) In addition to any amounts to which a school district  
15 is entitled under Section 42.2541, a district, including a  
16 district that is otherwise ineligible for state aid under this  
17 chapter, is entitled to state aid in an amount, as determined by  
18 the commissioner, equal to the sum of:

19 (1) the product of \$500 multiplied by the number of  
20 full-time district employees, other than administrators or  
21 employees described by Subsection (a); and

22 (2) the product of \$250 multiplied by the number of  
23 part-time district employees.

24 SECTION 1A.08. Section 42.252(a), Education Code, is  
25 amended to read as follows:

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

1 LFA = TR X DPV

2 where:

3 "LFA" is the school district's local share;

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

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

9 SECTION 1A.09. Section 42.253, Education Code, is amended  
10 by adding Subsection (e-2) to read as follows:

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

14 SECTION 1A.10. Subchapter E, Chapter 42, Education Code, is  
15 amended by adding Sections 42.2541 and 42.2542 to read as  
16 follows:

17 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
18 section, "weighted average daily attendance" has the meaning  
19 assigned by Section 42.302.

20 (b) Notwithstanding Section 42.253, a school district is  
21 entitled to the amount of state revenue necessary to maintain  
22 state and local revenue in an amount equal to the sum of:

23 (1) the amount of state and local revenue per student  
24 in weighted average daily attendance for maintenance and  
25 operation of the district that the district received for the  
26 2004-2005 school year, including any amounts the district  
27 received under Rider 82, page III-23, Chapter 1330, Acts of the

1 78th Legislature, Regular Session, 2003 (the General  
2 Appropriations Act); and

3 (2) an amount equal to \$50 per student in average  
4 daily attendance.

5 (c) The commissioner may increase the amount to which a  
6 school district is entitled under Subsection (b) as the  
7 commissioner determines necessary.

8 (d) The commissioner shall determine the amount of state  
9 funds to which a school district is entitled under this section,  
10 including the amount per student in weighted average daily  
11 attendance, and shall make that determination available to the  
12 Legislative Budget Board. The commissioner's determination is  
13 final and may not be appealed.

14 Sec. 42.2542. TEMPORARY LIMITATIONS ON AID. (a)  
15 Notwithstanding any other provision of this subtitle, for the  
16 2005-2006 school year, the commissioner shall withhold from a  
17 school district the amount of state funds necessary to ensure  
18 that the district does not receive an amount of state and local  
19 revenue per student in weighted average daily attendance that is  
20 greater than 103 percent of the amount to which the district is  
21 entitled under Section 42.2541(b)(1).

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

25 (c) This section expires September 1, 2006.

26 SECTION 1A.11. Section 42.302(a), Education Code, is  
27 amended to read as follows:

1 (a) Each school district is guaranteed a specified amount  
2 per weighted student in state and local funds for each cent of  
3 tax effort over that required for the district's local fund  
4 assignment up to the maximum level specified in this subchapter.

5 The amount of state support, subject only to the maximum amount  
6 under Section 42.303, is determined by the formula:

7 
$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

8 where:

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

11 "GL" is the dollar amount guaranteed level of state and  
12 local funds per weighted student per cent of tax effort, which  
13 is \$33.09 [~~\$27.14~~] or a greater amount for any year provided by  
14 appropriation;

15 "WADA" is the number of students in weighted average daily  
16 attendance, which is calculated by dividing the sum of the  
17 school district's allotments under Subchapters B and C, less any  
18 allotment to the district for transportation, any allotment  
19 under Section 42.158, and 50 percent of the adjustment under  
20 Section 42.102, by the basic allotment for the applicable year;

21 "DTR" is the district [~~enrichment~~] tax rate of the school  
22 district, which is determined by subtracting the amounts  
23 specified by Subsection (b) from the total amount of maintenance  
24 and operations taxes collected by the school district for the  
25 applicable school year and dividing the difference by the  
26 quotient of the district's taxable value of property as  
27 determined under Subchapter M, Chapter 403, Government Code, or,

1 if applicable, under Section 42.2521, divided by 100; and

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

7 SECTION 1A.12. Section 42.303, Education Code, is amended  
8 to read as follows:

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

13 (b) Notwithstanding Subsection (a), for the 2005 tax year,  
14 the district tax rate ("DTR") under Section 42.302 may not  
15 exceed \$0.54 per \$100 of valuation. This subsection expires  
16 September 1, 2006.

17 SECTION 1A.13. Section 45.003, Education Code, is amended  
18 by amending Subsection (d) and adding Subsections (e) and (f) to  
19 read as follows:

20 (d) A proposition submitted to authorize the levy of  
21 maintenance taxes must include the question of whether the  
22 governing board or commissioners court may levy, assess, and  
23 collect annual ad valorem taxes for the further maintenance of  
24 public schools, at a rate not to exceed the rate, which may be  
25 not more than \$1.45 [~~\$1.50~~] on the \$100 valuation of taxable  
26 property in the district, stated in the proposition.

27 (e) Notwithstanding Subsection (d), for the 2005 and 2006

1 tax years, a school district may not impose a maintenance tax at  
2 a rate that exceeds \$1.30 per \$100 of valuation. A district may  
3 not exceed the rate described by this subsection in a subsequent  
4 school year unless authorized by a majority of the qualified  
5 voters of the district voting at an election held for that  
6 purpose.

7 (f) An election held before January 1, 2005, authorizing a  
8 maintenance tax at a rate of at least \$1.30 on the \$100  
9 valuation of taxable property in the district is sufficient to  
10 authorize a rate of \$1.30 or less for the 2005 tax year or a  
11 subsequent tax year.

12 SECTION 1A.14. Sections 45.006(b) and (f), Education Code,  
13 are amended to read as follows:

14 (b) Notwithstanding Section 45.003, a school district may  
15 levy, assess, and collect maintenance taxes at a rate that  
16 exceeds the maximum maintenance tax rate permitted under Section  
17 45.003 [~~\$1.50 per \$100 valuation of taxable property~~] if:

18 (1) additional ad valorem taxes are necessary to pay a  
19 debt of the district that:

20 (A) resulted from the rendition of a judgment  
21 against the district before May 1, 1995;

22 (B) is greater than \$5 million;

23 (C) decreases a property owner's ad valorem tax  
24 liability;

25 (D) requires the district to refund to the  
26 property owner the difference between the amount of taxes paid  
27 by the property owner and the amount of taxes for which the

1 property owner is liable; and

2 (E) is payable according to the judgment in more  
3 than one of the district's fiscal years; and

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

6 (f) The governing body of a school district that adopts a  
7 tax rate that exceeds the maximum maintenance tax rate permitted  
8 under Section 45.003 [~~\$1.50 per \$100 valuation of taxable~~  
9 ~~property~~] may set the amount of the exemption from taxation  
10 authorized by Section 11.13(n), Tax Code, at any time before the  
11 date the governing body adopts the district's tax rate for the  
12 tax year in which the election approving the additional taxes is  
13 held.

14 PART B. EDUCATION FUNDING AND STATE PROPERTY TAX

15 SECTION 1B.01. Section 42.002(b), Education Code, is  
16 amended to read as follows:

17 (b) The Foundation School Program consists of:

18 (1) a basic program, as provided by this chapter, that  
19 provides for [~~two tiers that in combination provide for:~~

20 [~~A)~~ sufficient financing for all school  
21 districts to provide a basic program of education that is rated  
22 academically acceptable or higher under Section 39.072 and meets  
23 other applicable legal standards; [~~and]~~

24 (2) an enrichment program, as provided by Subchapter  
25 F, that includes a guaranteed yield component to provide [~~B)26 substantially equal access to funds to provide an enriched  
27 program; and~~

1           (3) [~~2~~] a facilities component as provided by  
2 Chapter 46.

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

6           (c) The funding elements must include:

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

12           (2) adjustments designed to reflect the variation in  
13 known resource costs and costs of education beyond the control  
14 of school districts;

15           (3) appropriate program cost differentials and other  
16 funding elements for the programs authorized under Subchapter C,  
17 with the program funding level expressed as dollar amounts and  
18 as weights applied to the adjusted accreditation [~~basic~~]  
19 allotment for the appropriate year;

20           (4) the maximum guaranteed level of qualified state  
21 and local funds per student for the purposes of the enrichment  
22 program under Subchapter F;

23           (5) the enrichment [~~and facilities~~] tax rate under  
24 Subchapter F;

25           (6) the computation of students in weighted average  
26 daily attendance under Section 42.302; and

27           (7) the amount to be appropriated for the school

1 facilities assistance program under Chapter 46.

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

7 SECTION 1B.03. The heading to Subchapter B, Chapter 42,  
8 Education Code, is amended to read as follows:

9 SUBCHAPTER B. BASIC PROGRAM [~~ENTITLEMENT~~]

10 SECTION 1B.04. Section 42.101, Education Code, is amended  
11 to read as follows:

12 Sec. 42.101. ACCREDITATION [~~BASIC~~] ALLOTMENT. For each  
13 student in average daily attendance, not including the time  
14 students spend each day in special education programs in an  
15 instructional arrangement other than mainstream or career and  
16 technology education programs, for which an additional allotment  
17 is made under Subchapter C, a district is entitled to an  
18 accreditation allotment of \$4,300 [~~\$2,537~~]. A greater amount  
19 for any school year may be provided by appropriation.

20 SECTION 1B.05. Section 42.102, Education Code, is amended  
21 to read as follows:

22 Sec. 42.102. COST OF EDUCATION ADJUSTMENT. (a) The  
23 accreditation [~~basic~~] allotment for each district is adjusted to  
24 reflect the geographic variation in known resource costs and  
25 costs of education due to factors beyond the control of the  
26 school district. The amount of the adjustment is 71 percent of  
27 the total amount that would result from application of the cost

1 of education index adopted under this section, or a greater  
2 amount for any year provided by appropriation.

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

10 (b-1) Except as provided by Subsection (c), the cost of  
11 education index to be used in determining the cost of education  
12 adjustment for the following school years is determined by the  
13 following formulas:

14 (1) for the 2006-2007 school year:

15 
$$\text{CEI} = (\text{TFE} + (5 \times \text{PCEI})) / 6$$

16 (2) for the 2007-2008 school year:

17 
$$\text{CEI} = ((2 \times \text{TFE}) + (4 \times \text{PCEI})) / 6$$

18 (3) for the 2008-2009 school year:

19 
$$\text{CEI} = ((2 \times \text{TFE}) + (3 \times \text{PCEI}) + \text{LBBA}) / 6$$

20 (4) for the 2009-2010 school year:

21 
$$\text{CEI} = ((2 \times \text{TFE}) + (2 \times \text{PCEI}) + (2 \times \text{LBBA})) / 6$$

22 (5) for the 2010-2011 school year:

23 
$$\text{CEI} = ((2 \times \text{TFE}) + \text{PCEI} + (3 \times \text{LBBA})) / 6; \text{ and}$$

24 (6) for the 2011-2012 school year:

25 
$$\text{CEI} = ((2 \times \text{TFE}) + (4 \times \text{LBBA})) / 6$$

26 where:

27 "CEI" is the index to be used;

1 "TFE" is the teacher fixed effects index in the 2004 report  
2 commissioned by the Joint Select Committee on Public School  
3 Finance of the 78th Legislature;

4 "PCEI" is the index applied during the 2005-2006 school  
5 year;

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

9 "LBBB" is the index adopted by the Legislative Budget Board  
10 in accordance with Subsection (d) for the state fiscal biennium  
11 beginning September 1, 2010.

12 (c) If the adjustment provided by this section for a school  
13 year is less than the adjustment to which a school district  
14 would have been entitled using the index applied during the  
15 2005-2006 school year, the district's adjustment shall be  
16 computed using the index applied during the 2005-2006 school  
17 year.

18 (d) The Legislative Budget Board shall:

19 (1) conduct a study each biennium and recompute the  
20 cost of education index; and

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

26 (e) The board's determination under Subsection (d) is final  
27 and may not be appealed.

1        (f) Subsection (b) applies beginning with the 2012-2013  
2 school year. Subsection (b-1) and this subsection expire  
3 September 1, 2013.

4        SECTION 1B.06. Sections 42.103(a)-(d), Education Code, are  
5 amended to read as follows:

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

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

11            (2) "ADA" is the number of students in average daily  
12 attendance for which the district is entitled to an allotment  
13 under Section 42.101; and

14            (3) "AA" [~~"ABA"~~] is the adjusted accreditation [~~basic~~]  
15 allotment determined under Section 42.102.

16        (b) The accreditation [~~basic~~] allotment of a school  
17 district that contains at least 300 square miles and has not  
18 more than 1,600 students in average daily attendance is adjusted  
19 by applying the formula:

20            
$$\underline{SA} \text{ [AA]} = (1 + ((1,600 - ADA) \times .0004)) \times \underline{AA} \text{ [ABA]}$$

21        (c) The accreditation [~~basic~~] allotment of a school  
22 district that contains less than 300 square miles and has not  
23 more than 1,600 students in average daily attendance is  
24 adjusted by applying the formula:

25            
$$\underline{SA} \text{ [AA]} = (1 + ((1,600 - ADA) \times .00025)) \times \underline{AA} \text{ [ABA]}$$

26        (d) The accreditation [~~basic~~] allotment of a school  
27 district that offers a kindergarten through grade 12 program and

1 has less than 5,000 students in average daily attendance is  
2 adjusted by applying the formula, of the following formulas,  
3 that results in the greatest adjusted allotment:

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

6 (2)  $\underline{SA} [AA] = (1 + ((5,000 - ADA) \times .000025)) \times \underline{AA}$   
7  $[\underline{ABA}]$ .

8 SECTION 1B.07. Sections 42.104, 42.105, and 42.106,  
9 Education Code, are amended to read as follows:

10 Sec. 42.104. USE OF SMALL OR MID-SIZED DISTRICT ADJUSTMENT  
11 IN CALCULATING SPECIAL ALLOTMENTS. In determining the amount of  
12 a special allotment under Subchapter C for a district to which  
13 Section 42.103 applies, a district's adjusted accreditation  
14 [~~basic~~] allotment is considered to be the district's adjusted  
15 accreditation allotment determined under Section 42.103.

16 Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding Sections  
17 42.101, 42.102, and 42.103, a school district that has fewer  
18 than 130 students in average daily attendance shall be provided  
19 an adjusted accreditation [~~basic~~] allotment on the basis of 130  
20 students in average daily attendance if it offers a kindergarten  
21 through grade 12 program and has preceding or current year's  
22 average daily attendance of at least 90 students or is 30 miles  
23 or more by bus route from the nearest high school district. A  
24 district offering a kindergarten through grade 8 program whose  
25 preceding or current year's average daily attendance was at  
26 least 50 students or which is 30 miles or more by bus route from  
27 the nearest high school district shall be provided an adjusted

1 accreditation [~~basic~~] allotment on the basis of 75 students in  
2 average daily attendance. An average daily attendance of 60  
3 students shall be the basis of providing the adjusted  
4 accreditation [~~basic~~] allotment if a district offers a  
5 kindergarten through grade 6 program and has preceding or  
6 current year's average daily attendance of at least 40 students  
7 or is 30 miles or more by bus route from the nearest high school  
8 district.

9       Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT  
10 OFFERING ALL GRADE LEVELS. For purposes of this chapter, the  
11 taxable value of property of a school district that contracts  
12 for students residing in the district to be educated in another  
13 district under Section 25.039(a) is adjusted by applying the  
14 formula:

15                               ADPV = DPV - (TN/MTR) [~~(TN/.015)~~]

16 where:

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

18       "DPV" is the taxable value of property in the district for  
19 the preceding tax year determined under Subchapter M, Chapter  
20 403, Government Code; [~~and~~]

21       "TN" is the total amount of tuition required to be paid by  
22 the district under Section 25.039 for the school year for which  
23 the adjustment is made, not to exceed the amount specified by  
24 commissioner rule under Section 25.039(b); and

25       "MTR" is the maximum maintenance tax rate permitted under  
26 Section 45.003, expressed as a rate to be applied to the total  
27 valuation of taxable property.

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

3 (a) For each student in average daily attendance in a  
4 special education program under Subchapter A, Chapter 29, in a  
5 mainstream instructional arrangement, a school district is  
6 entitled to an annual allotment equal to the adjusted  
7 accreditation [~~basic~~] allotment multiplied by 1.1. For each  
8 full-time equivalent student in average daily attendance in a  
9 special education program under Subchapter A, Chapter 29, in an  
10 instructional arrangement other than a mainstream instructional  
11 arrangement, a district is entitled to an annual allotment equal  
12 to the adjusted accreditation [~~basic~~] allotment multiplied by a  
13 weight determined according to instructional arrangement as  
14 follows:

|    |   |     |
|----|---|-----|
| 15 | Homebound .....                                       | 5.0 |
| 16 | Hospital class .....                                  | 3.0 |
| 17 | Speech therapy .....                                  | 5.0 |
| 18 | Resource room .....                                   | 3.0 |
| 19 | Self-contained, mild and moderate, regular campus ... | 3.0 |
| 20 | Self-contained, severe, regular campus .....          | 3.0 |
| 21 | Off home campus .....                                 | 2.7 |
| 22 | Nonpublic day school .....                            | 1.7 |
| 23 | Vocational adjustment class .....                     | 2.3 |

24 (b) A special instructional arrangement for students with  
25 disabilities residing in care and treatment facilities, other  
26 than state schools, whose parents or guardians do not reside in  
27 the district providing education services shall be established

1 under the rules of the commissioner [~~State Board of Education~~].

2 The funding weight for this arrangement shall be 4.0 for those  
3 students who receive their education service on a local school  
4 district campus. A special instructional arrangement for  
5 students with disabilities residing in state schools shall be  
6 established under the rules of the commissioner [~~State Board of~~  
7 ~~Education~~] with a funding weight of 2.8.

8 (e) The commissioner [~~State Board of Education~~] by rule  
9 shall prescribe the qualifications an instructional arrangement  
10 must meet in order to be funded as a particular instructional  
11 arrangement under this section. In prescribing the  
12 qualifications that a mainstream instructional arrangement must  
13 meet, the commissioner [~~board~~] shall establish requirements that  
14 students with disabilities and their teachers receive the  
15 direct, indirect, and support services that are necessary to  
16 enrich the regular classroom and enable student success.

17 (g) The commissioner [~~State Board of Education~~] shall adopt  
18 rules and procedures governing contracts for residential  
19 placement of special education students. The legislature shall  
20 provide by appropriation for the state's share of the costs of  
21 those placements.

22 (k) A school district that provides an extended year  
23 program required by federal law for special education students  
24 who may regress is entitled to receive funds in an amount equal  
25 to 75 percent, or a lesser percentage determined by the  
26 commissioner, of the adjusted accreditation [~~base~~] allotment  
27 [~~or adjusted allotment, as applicable,~~] for each full-time

1 equivalent student in average daily attendance, multiplied by  
2 the amount designated for the student's instructional  
3 arrangement under this section, for each day the program is  
4 provided divided by the number of days in the minimum school  
5 year. The total amount of state funding for extended year  
6 services under this section may not exceed \$10 million per year.

7 A school district may use funds received under this section  
8 only in providing an extended year program.

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

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

20 (e) The commissioner may:

21 (1) retain a portion of the total amount allotted  
22 under Subsection (a) that the commissioner considers appropriate  
23 to finance [~~intensive accelerated instruction programs and~~]  
24 study guides provided under Section 39.024(c) [~~Sections~~  
25 ~~39.024(b) and (e)~~]; and

26 (2) reduce each district's basic program [~~tier one~~]  
27 allotments in the same manner described for a reduction in

1 allotments under Section 42.253.

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

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

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

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

21 (a-1) This subsection applies only to funding for students  
22 who have been enrolled in a bilingual education or special  
23 language program for less than two years. The commissioner by  
24 rule shall determine a method for determining whether a student  
25 has been enrolled in a program for less than two years. For  
26 each student in average daily attendance in a bilingual  
27 education or special language program under Subchapter B,

1 Chapter 29, who has been enrolled in the program for less than  
2 two years, a district is entitled to an annual allotment equal  
3 to the adjusted accreditation allotment multiplied by a weight  
4 according to the grade level at which the student entered the  
5 program, as follows:

6 Prekindergarten-Grade 20.12

7 Grades 3-50.18

8 Grades 6-80.24

9 Grades 9-120.3

10 (d) A district is not entitled to an allotment under this  
11 section for a student who meets the criteria for transferring  
12 out of the district's bilingual education or special language  
13 program but continues participating in the program under Section  
14 29.056(i).

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

17 (a) For each full-time equivalent student in average daily  
18 attendance in an approved career and technology education  
19 program in grades nine through 12 or in career and technology  
20 education programs for students with disabilities in grades  
21 seven through 12, a district is entitled to an annual allotment  
22 equal to the adjusted accreditation [~~basic~~] allotment multiplied  
23 by a weight of 1.35.

24 (e) Out of the total statewide allotment for career and  
25 technology education under this section, the commissioner shall  
26 set aside an amount specified in the General Appropriations Act,  
27 which may not exceed an amount equal to one percent of the total

1 amount appropriated, to support regional career and technology  
2 education planning. After deducting the amount set aside under  
3 this subsection from the total amount appropriated for career  
4 and technology education under this section, the commissioner  
5 shall reduce each district's basic program [~~tier one~~] allotments  
6 in the same manner described for a reduction in allotments under  
7 Section 42.253.

8 SECTION 1B.12. Sections 42.156(a) and (d), Education Code,  
9 are amended to read as follows:

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

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

24 SECTION 1B.13. Section 42.157(a), Education Code, is  
25 amended to read as follows:

26 (a) Except as provided by Subsection (b), for each student  
27 in average daily attendance who is using a public education

1 grant under Subchapter G, Chapter 29, to attend school in a  
2 district other than the district in which the student resides,  
3 the district in which the student attends school is entitled to  
4 an annual allotment equal to the adjusted accreditation [~~basic~~]  
5 allotment multiplied by a weight of 0.1.

6 SECTION 1B.14. Section 42.251, Education Code, is amended  
7 to read as follows:

8 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the  
9 accreditation [~~basic~~] allotment under Subchapter B and the  
10 special allotments under Subchapter C, computed in accordance  
11 with this chapter, constitute the basic program [~~tier-one~~]  
12 allotments. The sum of the basic program [~~tier-one~~] allotments  
13 and the enrichment program [~~guaranteed yield~~] allotments under  
14 Subchapter F, computed in accordance with this chapter,  
15 constitute the total cost of the Foundation School Program.

16 (b) The program shall be financed by:

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

19 (2) ad valorem tax revenue generated by a [~~an~~  
20 ~~equalized~~] uniform school district effort;

21 (3) [~~+2~~] ad valorem tax revenue generated by local  
22 school district effort for an enrichment program in accordance  
23 with Subchapter F in excess of the [~~equalized~~] uniform school  
24 district effort;

25 (4) [~~+3~~] state available school funds distributed in  
26 accordance with law; and

27 (5) [~~+4~~] state funds appropriated for the purposes of

1 public school education and allocated to each district in an  
2 amount sufficient to finance the cost of each district's  
3 Foundation School Program not covered by other funds specified  
4 in this subsection.

5 SECTION 1B.15. The heading to Section 42.2512, Education  
6 Code, is amended to read as follows:

7 Sec. 42.2512. ADDITIONAL STATE AID FOR [~~PROFESSIONAL~~] STAFF  
8 SALARIES.

9 SECTION 1B.16. Section 42.2512(a), Education Code, is  
10 amended to read as follows:

11 (a) In addition to any amounts to which a school district  
12 is entitled under Section 42.2541, a [~~A school~~] district[~~,~~  
13 ~~including a school district that is otherwise ineligible for~~  
14 ~~state aid under this chapter,~~] is entitled to state aid in an  
15 amount, as determined by the commissioner, equal to the sum of  
16 [~~difference, if any, between~~]:

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

23 (A) \$3,000; or

24 (B) \$3,500, if H.B. No. 3, Acts of the 79th  
25 Legislature, Regular Session, 2005, takes effect immediately;  
26 [~~and~~]

27 (2) the product of \$500 multiplied by the number of

1 full-time district employees, other than administrators or  
2 employees described by Subdivision (1); and

3 (3) the product of \$250 multiplied by the number of  
4 part-time district employees [an amount equal to 80 percent of  
5 the amount of additional funds to which the district is entitled  
6 due to the increases made by S.B. No. 4, Acts of the 76th  
7 Legislature, Regular Session, 1999, to:

8 [ (A) the equalized wealth level under Section  
9 41.002;

10 [ (B) the basic allotment under Section 42.101;  
11 and

12 [ (C) the guaranteed level of state and local  
13 funds per weighted student per cent of tax effort under Section  
14 42.302].

15 SECTION 1B.17. Section 42.2515(a), Education Code, is  
16 amended to read as follows:

17 (a) For each school year, a school district~~[, including a~~  
18 ~~school district that is otherwise ineligible for state aid under~~  
19 ~~this chapter,]~~ is entitled to state aid in an amount equal to  
20 the amount of all tax credits credited against ad valorem taxes  
21 of the district in that year under Subchapter D, Chapter 313,  
22 Tax Code.

23 SECTION 1B.18. The heading to Section 42.252, Education  
24 Code, is amended to read as follows:

25 Sec. 42.252. LOCAL SHARE OF BASIC PROGRAM COST ~~[ (TIER~~  
26 ~~ONE) ]~~.

27 SECTION 1B.19. Section 42.252, Education Code, is amended

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

3 (a) Each school district's share of the basic program under  
4 the Foundation School Program is determined by the following  
5 formula:

$$6 \qquad \qquad \qquad \text{LFA} = \text{TR} \times \text{DPV}$$

7 where:

8 "LFA" is the school district's local share;

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

12 "DPV" is the taxable value of property in the school  
13 district for the preceding tax year determined under Subchapter  
14 M, Chapter 403, Government Code.

15 (a-1) If the commissioner determines that a school district  
16 can generate tax revenue in an amount equal to the amount of the  
17 district's basic program entitlement under this chapter at an  
18 adopted tax rate less than \$0.25 for each \$100 of taxable value  
19 of property, the rate determined by the commissioner is the tax  
20 rate ("TR") described by Subsection (a) for purposes of  
21 determining the district's share of the Foundation School  
22 Program. If the district adopts a tax rate greater than the  
23 rate determined by the commissioner, the district's permissible  
24 enrichment tax rate under Section 42.303 is reduced one cent for  
25 each cent by which the rate adopted by the district exceeds the  
26 rate determined by the commissioner. If the district adopts a  
27 tax rate less than the rate determined by the commissioner, the

1 amount of the district's basic program entitlement under this  
2 chapter is reduced by four percent for each cent by which the  
3 rate determined by the commissioner exceeds the rate adopted by  
4 the district.

5 (d) A school district must raise its total local share of  
6 the Foundation School Program to be eligible to receive  
7 foundation school fund payments. If the district adopts a tax  
8 rate less than the rate sufficient to raise its total local  
9 share, the amount of the district's basic program entitlement  
10 under this chapter is reduced by four percent for each cent by  
11 which the rate sufficient to raise its total local share exceeds  
12 the rate adopted by the district.

13 SECTION 1B.20. Section 42.2521(a), Education Code, is  
14 amended to read as follows:

15 (a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this  
16 chapter, and to the extent money specifically authorized to be  
17 used under this section is available, the commissioner shall  
18 adjust the taxable value of property in a school district that,  
19 due to factors beyond the control of the board of trustees,  
20 experiences a rapid decline in the tax base used in calculating  
21 taxable values in excess of four percent of the tax base used in  
22 the preceding year.

23 SECTION 1B.21. Section 42.253, Education Code, is amended  
24 by amending Subsections (a) and (g)-(i) and adding Subsections  
25 (e-2) and (m) to read as follows:

26 (a) For each school year the commissioner shall determine:  
27 (1) the amount of money to which a school district is

1 entitled under Subchapters B and C;

2 (2) the amount of money to which a school district is  
3 entitled under Subchapter F;

4 (3) the amount of money allocated to the district from  
5 the available school fund;

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

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

10 (e-2) For the 2006-2007 school year, the limit authorized  
11 by Subsection (e) is an amount equal to the sum of the rate  
12 described by Section 42.252 and the rate described by Section  
13 42.303(c)(1). This subsection expires September 1, 2007.

14 (g) If a school district demonstrates to the satisfaction  
15 of the commissioner that the estimate of the district's tax  
16 rate, student enrollment, or taxable value of property used in  
17 determining the amount of state funds to which the district is  
18 entitled are so inaccurate as to result in undue financial  
19 hardship to the district, the commissioner may adjust funding to  
20 that district in that school year to the extent that funds are  
21 available for that year[, ~~including funds in the reserve~~  
22 ~~account. Funds in the reserve account may not be used under~~  
23 ~~this subsection until any reserve funds have been used for~~  
24 ~~purposes of Subsection (f)].~~

25 (h) If the total amount appropriated for a year for the  
26 basic program is less than the amount of money to which school  
27 districts are entitled for that year [~~legislature fails during~~

1 ~~the regular session to enact the transfer and appropriation~~  
2 ~~proposed under Subsection (f) and there are not funds available~~  
3 ~~under Subsection (j)]~~, the commissioner shall reduce the total  
4 amount of basic program funds and enrichment program [~~state~~]  
5 funds allocated to each district proportionately [~~by an amount~~  
6 ~~determined by a method under which the application of the same~~  
7 ~~number of cents of increase in tax rate in all districts applied~~  
8 ~~to the taxable value of property of each district, as determined~~  
9 ~~under Subchapter M, Chapter 403, Government Code, results in a~~  
10 ~~total levy equal to the total reduction~~]. The following fiscal  
11 year, a district's entitlement under this section is increased  
12 by an amount equal to the reduction made under this subsection.

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

23 (m) Payments from the foundation school fund to each school  
24 district shall be made as follows:

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

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

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

10           SECTION 1B.22. Sections 42.2531(a)-(c), Education Code, are  
11 amended to read as follows:

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

16           (b) A school district that has a major taxpayer, as  
17 determined by the commissioner, that because of a protest of the  
18 valuation of the taxpayer's property fails to pay all or a  
19 portion of the ad valorem taxes due to the district may apply to  
20 the commissioner to have the district's taxable value of  
21 property or ad valorem tax collections adjusted for purposes of  
22 this chapter or Chapter ~~[41-0x]~~ 46. The commissioner may make  
23 the adjustment only to the extent the commissioner determines  
24 that making the adjustment will not:

25           (1) in the fiscal year in which the adjustment is  
26 made, cause the amount to which school districts are entitled  
27 under this chapter to exceed the amount appropriated for

1 purposes of the Foundation School Program for that year; and

2 (2) if the adjustment is made in the first year of a  
3 state fiscal biennium, cause the amount to which school  
4 districts are entitled under this chapter for the second year of  
5 the biennium to exceed the amount appropriated for purposes of  
6 the Foundation School Program for that year.

7 (c) The commissioner shall recover the benefit of any  
8 adjustment made under this section by making offsetting  
9 adjustments in the school district's taxable value of property  
10 or ad valorem tax collections for purposes of this chapter or  
11 Chapter [~~41-02~~] 46 on a final determination of the taxable value  
12 of property that was the basis of the original adjustment, or in  
13 the second school year following the year in which the  
14 adjustment is made, whichever is earlier.

15 SECTION 1B.23. Subchapter E, Chapter 42, Education Code, is  
16 amended by adding Sections 42.2541 and 42.2542 to read as  
17 follows:

18 Sec. 42.2541. ADDITIONAL TRANSITIONAL AID. (a) In this  
19 section, "weighted average daily attendance" has the meaning  
20 assigned by Section 42.302.

21 (b) Notwithstanding Section 42.253, a school district is  
22 entitled to the amount of state revenue necessary to maintain  
23 state and local revenue in an amount equal to the sum of:

24 (1) the amount of state and local revenue per student  
25 in weighted average daily attendance for maintenance and  
26 operation of the district that the district received for the  
27 2005-2006 school year; and

1           (2) an amount equal to \$135 per student in average  
2 daily attendance.

3           (c) The commissioner may increase the amount to which a  
4 school district is entitled under Subsection (b) as the  
5 commissioner determines necessary.

6           (d) The commissioner shall:

7               (1) compute and publish the amount of state and local  
8 revenue per student in weighted average daily attendance to  
9 which a district is entitled under Subsection (b) for the 2006-  
10 2007 school year; and

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

14           (e) The commissioner shall determine the amount of state  
15 funds to which a school district is entitled under this section,  
16 including the amount per student in weighted average daily  
17 attendance, and shall make that determination available to the  
18 Legislative Budget Board. The commissioner's determination is  
19 final and may not be appealed.

20           Sec. 42.2542. TEMPORARY LIMITATIONS ON AID. (a)  
21 Notwithstanding any other provision of this subtitle, the  
22 commissioner shall withhold from a school district the amount of  
23 state funds necessary to ensure that the district does not  
24 receive an amount of state and local revenue per student in  
25 weighted average daily attendance that is greater than the  
26 following percentage of the amount to which the district is  
27 entitled under Section 42.2541(b)(1):

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

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

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

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

7           (c) Any amount to which a school district is entitled under  
8 Subchapter F is not included in determining the amount that a  
9 district may receive under this section.

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

11          SECTION 1B.24. Chapter 42, Education Code, is amended by  
12 adding Subchapter F to read as follows:

13                   SUBCHAPTER F. ENRICHMENT PROGRAM

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

19          Sec. 42.302. ALLOTMENT. (a) In this section, "wealth per  
20 student" means a school district's taxable value of property as  
21 determined under Subchapter M, Chapter 403, Government Code,  
22 divided by the number of students in weighted average daily  
23 attendance in the district.

24          (b) Each school district is guaranteed a specified amount  
25 per student in state and local funds for each cent of enrichment  
26 tax effort up to the maximum level specified in this subchapter.  
27 The amount of state support is determined by the formula:

1                    EGYA = (EGL X WADA X DETR X 100) - LR

2 where:

3            "EGYA" is the guaranteed yield amount of state enrichment  
4 funds to be allocated to the district;

5            "EGL" is the dollar amount guaranteed level of state and  
6 local funds per student per cent of tax effort, which is the  
7 amount of district enrichment tax revenue per cent of tax effort  
8 available to a school district at the 94th percentile in wealth  
9 per student, as determined by the commissioner;

10           "WADA" is the number of students in weighted average daily  
11 attendance, which is computed by dividing the sum of the school  
12 district's allotments under Subchapters B and C, less any  
13 allotment to the district for transportation, any allotment to  
14 the district under Section 42.158, and 50 percent of the  
15 adjustment under Section 42.102, by the accreditation allotment  
16 for the applicable year;

17           "DETR" is the district enrichment tax rate of the school  
18 district, which is determined by dividing the total amount of  
19 enrichment taxes collected by the school district for the  
20 applicable school year by the district's taxable value of  
21 property for the preceding year as determined under Subchapter  
22 M, Chapter 403, Government Code, divided by 100; and

23           "LR" is the local revenue, which is determined by  
24 multiplying "DETR" by the quotient of the district's taxable  
25 value of property for the preceding year as determined under  
26 Subchapter M, Chapter 403, Government Code.

27           (c) The percentile in wealth per student described by

1 Subsection (b) for purposes of determining the dollar amount  
2 guaranteed level of state and local funds per student per cent  
3 of tax effort ("EGL") applies beginning with the 2010-2011  
4 school year. For the 2006-2007 through 2009-2010 school years,  
5 EGL is determined as follows:

6 (1) for the 2006-2007 school year, EGL is determined  
7 using the 90th percentile in wealth per student;

8 (2) for the 2007-2008 school year, EGL is determined  
9 using the 91st percentile in wealth per student;

10 (3) for the 2008-2009 school year, EGL is determined  
11 using the 92nd percentile in wealth per student; and

12 (4) for the 2009-2010 school year, EGL is determined  
13 using the 93rd percentile in wealth per student.

14 (d) This subsection and Subsection (c) expire September 1,  
15 2010.

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

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

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

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

1           (2) for the 2007 and 2008 tax years, the district  
2 enrichment tax rate may not exceed \$0.10 for each \$100 of  
3 taxable value of property.

4           (d) This subsection and Subsection (c) expire January 1,  
5 2009.

6           Sec. 42.304. ENRICHMENT TAX ELECTION. (a) Except as  
7 provided by Section 42.306, a school district may not impose an  
8 enrichment tax under Section 42.303 unless authorized by a  
9 majority of the qualified voters of the district voting at an  
10 election held for that purpose.

11           (b) A proposition submitted to authorize the imposition of  
12 an enrichment tax must include the question of whether the board  
13 of trustees may impose annual ad valorem taxes for the further  
14 enrichment of public schools at a rate not to exceed the rate  
15 stated in the proposition.

16           (c) A district may tax at a rate below the rate authorized  
17 in an election under this section and does not need additional  
18 authority to increase the rate up to the rate authorized in the  
19 election.

20           Sec. 42.305. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON  
21 MILITARY RESERVATION OR AT STATE SCHOOL. The amount to which a  
22 school district is entitled under this subchapter in a school  
23 district located on a federal military installation or at Moody  
24 State School is computed using the average district enrichment  
25 tax rate and property value per student of school districts in  
26 the county, as determined by the commissioner.

27           Sec. 42.306. ENRICHMENT TAX AVAILABLE TO CERTAIN DISTRICTS

1 WITHOUT ELECTION. (a) To the extent consistent with Subsection  
2 (b), if a school district's maintenance and operations tax rate  
3 for the 2004 tax year exceeded a rate of \$1.50 for each \$100 of  
4 taxable value of property, the district is entitled to impose an  
5 ad valorem tax under Section 42.303 without holding an election  
6 under Section 42.304.

7 (b) The enrichment tax authorized by this section may not  
8 exceed a rate equal to the lesser of:

9 (1) \$0.15 for each \$100 of taxable value of property;

10 or

11 (2) a rate equal to the amount by which the district's  
12 maintenance and operations tax rate for the 2004 tax year  
13 exceeded a rate of \$1.50 for each \$100 of taxable value of  
14 property.

15 (c) The portion of an enrichment tax imposed by a school  
16 district under this section that exceeds the rate permitted by  
17 Subsection (b) is subject to voter approval under Section  
18 42.304.

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

23 SECTION 1B.25. Section 45.003(d), Education Code, is  
24 amended to read as follows:

25 (d) A proposition submitted to authorize the levy of  
26 maintenance taxes must include the question of whether the  
27 governing board or commissioners court may levy, assess, and

1 collect annual ad valorem taxes for the further maintenance of  
2 public schools, at a rate not to exceed the rate, which may be  
3 not more than \$0.25 [~~\$1.50~~] on the \$100 valuation of taxable  
4 property in the district, stated in the proposition.

5 SECTION 1B.26. This part applies beginning with the 2006-  
6 2007 school year.

7 PART C. SCHOOL FACILITIES

8 SECTION 1C.01. Subchapter C, Chapter 45, Education Code, is  
9 amended by adding Section 45.0561 to read as follows:

10 Sec. 45.0561. PRIORITY FOR CERTAIN BONDS. (a) In  
11 determining which bonds to approve for guarantee under this  
12 subchapter, the commissioner shall give priority to a school  
13 district that has had bonds refunded and defeased under  
14 Subchapter D, Chapter 46.

15 (b) The commissioner may adopt rules to administer this  
16 section.

17 SECTION 1C.02. Section 46.033, Education Code, is amended  
18 to read as follows:

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

22 (1) the district made payments on the bonds during the  
23 2004-2005 [~~2002-2003~~] school year or taxes levied to pay the  
24 principal of and interest on the bonds were included in the  
25 district's audited debt service collections for that school  
26 year; and

27 (2) the district does not receive state assistance

1 under Subchapter A for payment of the principal and interest on  
2 the bonds.

3 SECTION 1C.03. Section 46.034(c), Education Code,  
4 is amended to read as follows:

5 (c) If the amount required to pay the principal of and  
6 interest on eligible bonds in a school year is less than the  
7 amount of payments made by the district on the bonds during the  
8 2004-2005 [~~2002-2003~~] school year or the district's audited debt  
9 service collections for that school year, the district may not  
10 receive aid in excess of the amount that, when added to the  
11 district's local revenue for the school year, equals the amount  
12 required to pay the principal of and interest on the bonds.

13 ARTICLE 2. EDUCATION EXCELLENCE

14 PART A. EDUCATION EMPLOYEES

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

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

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

26 Sec. 11.203. SCHOOL LEADERSHIP PILOT PROGRAM FOR  
27 PRINCIPALS. (a) The agency shall develop and operate a school

1 leadership pilot program for principals in accordance with this  
2 section.

3 (b) The agency shall operate the program in cooperation  
4 with a nonprofit organization with national experience in  
5 developing best practices to improve leadership skills, student  
6 achievement, student graduation rates, and teacher retention.

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

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

13 (e) A principal of a campus rated academically  
14 unacceptable, as well as any person employed to replace that  
15 principal, shall participate in the program and complete the  
16 program requirements not later than a date determined by the  
17 commissioner.

18 (f) To pay the costs of administering the program, the  
19 commissioner shall retain a portion of the total amount of funds  
20 allotted under Section 42.152 that the commissioner considers  
21 appropriate to finance activities under this section and shall  
22 reduce each district's basic program allotment proportionately.

23 (g) To implement and administer the program, the  
24 commissioner may accept grants, gifts, and donations from public  
25 and private entities.

26 (h) The commissioner may adopt rules necessary to  
27 administer this section.

1        (i) This section expires September 1, 2010.

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

5        (a) The board shall propose rules establishing standards to  
6 govern the approval and continuing accountability of all  
7 educator preparation programs based on information that is  
8 disaggregated with respect to sex and ethnicity and that  
9 includes:

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

12        (2) performance based on the appraisal system for  
13 beginning teachers adopted by the board;

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

18        (4) retention rates of beginning teachers in the  
19 profession.

20        (b) Each educator preparation program shall submit data  
21 elements as required by the board for an annual performance  
22 report to ensure access and equity. At a minimum, the annual  
23 report must contain the performance data from Subsection (a),  
24 other than the data required for purposes of Subsection (a)(3),  
25 and the following information, disaggregated by sex and  
26 ethnicity:

27        (1) the number of candidates who apply;

- 1           (2) the number of candidates admitted;  
2           (3) the number of candidates retained;  
3           (4) the number of candidates completing the program;  
4           (5) the number of candidates employed in the  
5 profession after completing the program; and  
6           (6) the number of candidates retained in the  
7 profession.

8           (e) The agency shall annually submit student performance  
9 data to the board for purposes of Subsection (a)(3). The agency  
10 shall provide the data to the board in a manner that protects  
11 the names of individual students and otherwise complies with the  
12 confidentiality requirements prescribed by Section 39.030.

13           SECTION 2A.04. Section 21.104(a), Education Code, is  
14 amended to read as follows:

15           (a) A teacher employed under a probationary contract may be  
16 discharged at any time for:

17           (1) good cause as determined by the board of trustees;  
18 or

19           (2) a financial exigency that requires a reduction in  
20 personnel~~[, good cause being the failure to meet the accepted~~  
21 ~~standards of conduct for the profession as generally recognized~~  
22 ~~and applied in similarly situated school districts in this~~  
23 ~~state].~~

24           SECTION 2A.05. Subchapter C, Chapter 21, Education Code, is  
25 amended by adding Section 21.1041 to read as follows:

26           Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER  
27 PROBATIONARY CONTRACT. (a) If the board of trustees proposes

1 to discharge a teacher under Section 21.104(a)(2), the board  
2 shall give written notice of the proposed action to the teacher.

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

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

15 (2) hear the evidence supporting the reason for the  
16 discharge;

17 (3) cross-examine adverse witnesses; and

18 (4) present evidence.

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

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

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

26 (d) If the teacher does not request a hearing under  
27 Subsection (b), the board of trustees shall take the appropriate

1 action to discharge the teacher and shall notify the teacher in  
2 writing of that action not later than the 30th day after the  
3 date the notice of proposed discharge for a financial exigency  
4 that requires a reduction in personnel was sent to the teacher.

5 SECTION 2A.06. Subchapter E, Chapter 21, Education Code, is  
6 amended by adding Section 21.2111 to read as follows:

7 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM  
8 CONTRACT. (a) If the board of trustees proposes to discharge a  
9 teacher under Section 21.211(a)(2), the board shall give written  
10 notice of the proposed action to the teacher.

11 (b) If the teacher desires a hearing after receiving notice  
12 of the proposed discharge, the teacher shall notify the board of  
13 trustees in writing, not later than the 15th day after the date  
14 the teacher receives the notice of the proposed action. The  
15 board shall provide for a hearing to be held not later than the  
16 15th day after the date the board receives the request for a  
17 hearing unless the parties agree in writing to a different date.

18 The hearing must be closed unless the teacher requests an open  
19 hearing. The hearing must be conducted in accordance with rules  
20 adopted by the board. At the hearing, the teacher may:

21 (1) be represented by a representative of the  
22 teacher's choice;

23 (2) hear the evidence supporting the reason for the  
24 discharge;

25 (3) cross-examine adverse witnesses; and

26 (4) present evidence.

27 (c) After the hearing, the board of trustees shall:

1           (1) take the appropriate action to discharge the  
2 teacher or allow the teacher to complete the current contract  
3 term; and

4           (2) notify the teacher in writing of its decision not  
5 later than the 15th day after the date of the hearing.

6           (d) If the teacher does not request a hearing under  
7 Subsection (b), the board of trustees shall take the appropriate  
8 action to discharge the teacher and shall notify the teacher in  
9 writing of that action not later than the 30th day after the  
10 date the notice of proposed discharge for a financial exigency  
11 that requires a reduction in personnel was sent to the teacher.

12           SECTION 2A.07. Section 21.251, Education Code, is amended  
13 to read as follows:

14           Sec. 21.251. APPLICABILITY. (a) This subchapter applies  
15 if a teacher requests a hearing after receiving notice of the  
16 proposed decision to:

17           (1) terminate the teacher's continuing contract at any  
18 time;

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

22           (3) suspend the teacher without pay.

23           (b) This subchapter does not apply to:

24           (1) a decision to terminate a teacher's employment at  
25 the end of a probationary contract; [~~or~~]

26           (2) a decision not to renew a teacher's term contract,  
27 unless the board of trustees of the employing district has

1 decided to use the process prescribed by this subchapter for  
2 that purpose; or

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

6 SECTION 2A.08. Section 21.301(a), Education Code, is  
7 amended to read as follows:

8 (a) Not later than the 20th day after the date the board of  
9 trustees or board subcommittee announces its decision under  
10 Section 21.259, ~~[or]~~ the board advises the teacher of its  
11 decision not to renew the teacher's contract under Section  
12 21.208, or the board advises the teacher of its decision to  
13 terminate the teacher's probationary contract under Section  
14 21.1041(c) or (d) or term contract under Section 21.2111(c) or  
15 (d), the teacher may appeal the decision by filing a petition  
16 for review with the commissioner.

17 SECTION 2A.09. Section 21.303(a), Education Code, is  
18 amended to read as follows:

19 (a) If the board of trustees decided not to renew a  
20 teacher's term contract or decided to terminate a teacher's  
21 probationary contract under Section 21.1041(c) or (d) or term  
22 contract under Section 21.2111(c) or (d), the commissioner may  
23 not substitute the commissioner's judgment for that of the board  
24 of trustees unless the decision was arbitrary, capricious, or  
25 unlawful or is not supported by substantial evidence.

26 SECTION 2A.10. Section 21.402, Education Code, is amended  
27 by amending Subsections (a), (c), and (d) and adding Subsections

1 (c-1) and (c-2) to read as follows:

2 (a) Except as provided by Subsection (d), (e), or (f), a  
3 school district must pay each classroom teacher, full-time  
4 librarian, full-time counselor certified under Subchapter B, or  
5 full-time school nurse not less than the minimum monthly salary,  
6 based on the employee's level of experience, determined by the  
7 following formula:

8 
$$MS = SF \times \underline{AA} \text{ [FS]}$$

9 where:

10 "MS" is the minimum monthly salary;

11 "SF" is the applicable salary factor specified by Subsection  
12 (c); and

13 "AA" is the accreditation allotment under Section 42.101  
14 ~~["FS" is the amount, as determined by the commissioner under~~  
15 ~~Subsection (b), of state and local funds per weighted student~~  
16 ~~available to a district eligible to receive state assistance~~  
17 ~~under Section 42.302 with an enrichment tax rate, as defined by~~  
18 ~~Section 42.302, equal to the maximum rate authorized under~~  
19 ~~Section 42.303, except that the amount of state and local funds~~  
20 ~~per weighted student does not include the amount attributable to~~  
21 ~~the increase in the guaranteed level made by H.B. No. 3343, Acts~~  
22 ~~of the 77th Legislature, Regular Session, 2001].~~

23 (c) The salary factors per step are as follows:

|               |                     |                     |                     |
|---------------|---------------------|---------------------|---------------------|
| Years         | 0                   | 1                   | 2                   |
| Experience    |                     |                     |                     |
| Salary Factor | <u>.6451</u>        | <u>.6584</u>        | <u>.6719</u>        |
|               | <del>[-.5656]</del> | <del>[-.5790]</del> | <del>[-.5924]</del> |
| Years         | 3                   | 4                   | 5                   |
| Experience    |                     |                     |                     |
| Salary Factor | <u>.6851</u>        | <u>.7133</u>        | <u>.7414</u>        |

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

1        (c-1) Notwithstanding Subsection (a), for the 2006-2007  
2 school year, a classroom teacher, full-time librarian, full-time  
3 counselor certified under Subchapter B, or full-time school  
4 nurse is entitled to a monthly salary that is at least equal to  
5 the sum of:  
6            (1) the monthly salary the employee would have  
7 received for the 2005-2006 school year under the district's  
8 salary schedule for the 2004-2005 school year, if that schedule  
9 had been in effect for the 2005-2006 school year, including any  
10 local supplement and any money representing a career ladder  
11 supplement the employee would have received in the 2005-2006  
12 school year; and  
13            (2) \$350.  
14        (c-2) Subsections (c) and (c-1) apply beginning with the  
15 2006-2007 school year, but only if the constitutional amendment  
16 proposed by \_\_\_ J.R. No. \_\_\_, 79th Legislature, Regular Session,

1 2005, is approved by the voters and H.B. No. 3, Acts of the 79th  
2 Legislature, Regular Session, 2005, takes effect immediately.  
3 As necessary, for the 2005-2006 and 2006-2007 school years, the  
4 commissioner shall compute salary factors under Subsection (c)  
5 and amounts under Subsection (c-1)(2) to reflect the following  
6 monthly salary increases, relative to the preceding school year,  
7 for those employees:

8 (1) for the 2005-2006 school year:

9 (A) if H.B. No. 3, Acts of the 79th Legislature,  
10 Regular Session, 2005, does not take effect immediately, \$150;  
11 and

12 (B) if H.B. No. 3, Acts of the 79th Legislature,  
13 Regular Session, 2005, takes effect immediately, \$200; and

14 (2) for the 2006-2007 school year:

15 (A) if the constitutional amendment proposed by  
16 \_\_\_\_.J.R. No. \_\_\_\_, 79th Legislature, Regular Session, 2005, is  
17 approved by the voters, \$150; and

18 (B) if the constitutional amendment proposed by  
19 \_\_\_\_.J.R. No. \_\_\_\_, 79th Legislature, Regular Session, 2005, is  
20 not approved by the voters, those employees are not entitled to  
21 an additional salary increase.

22 (d) A classroom teacher, full-time librarian, full-time  
23 counselor certified under Subchapter B, or full-time school  
24 nurse employed by a school district in the 2006-2007 [2000-2001]  
25 school year is, as long as the employee is employed by the same  
26 district, entitled to a salary that is at least equal to the  
27 salary the employee received for the 2006-2007 [2000-2001]

1 school year.

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

4 Sec. 21.458. MENTORS. (a) Each school district may assign  
5 a mentor teacher to each classroom teacher who has less than two  
6 years of teaching experience if the mentor:

7 (1) teaches in the same school;

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

10 (3) meets the qualifications prescribed by  
11 commissioner rules adopted under Subsection (b).

12 (b) The commissioner shall adopt rules necessary to  
13 administer this section, including rules concerning the duties  
14 and qualifications of a teacher who serves as a mentor. The  
15 rules concerning qualifications must require that to serve as a  
16 mentor a teacher must:

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

19 (2) complete a mentor training program provided by the  
20 district; and

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

24 (c) The commissioner shall develop proposed rules under  
25 Subsection (b) by negotiated rulemaking as provided by Chapter  
26 2008, Government Code.

27 (d) From the funds appropriated to the agency for purposes

1 of this section, the commissioner shall adopt rules and provide  
2 funding to school districts that assign mentor teachers under  
3 this section. Funding provided to districts under this  
4 subsection may be used only for providing:

5 (1) mentor teacher stipends;

6 (2) scheduled time for mentor teachers to provide  
7 mentoring to assigned classroom teachers; and

8 (3) mentoring support through providers of mentor  
9 training.

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

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

15 SUBCHAPTER N. EDUCATOR EXCELLENCE INCENTIVE PROGRAM

16 Sec. 21.651. EDUCATOR EXCELLENCE INCENTIVE PROGRAM. (a)

17 The commissioner shall establish an educator excellence  
18 incentive program under which school districts, in accordance  
19 with locally developed plans approved by the commissioner,  
20 provide incentive payments to employees whose students  
21 demonstrate successful annual individual student growth in  
22 achievement.

23 (b) From funds appropriated for the purpose of this  
24 subchapter, the commissioner shall award incentive payments to  
25 each school district with a local incentive plan approved by the  
26 commissioner. The commissioner shall distribute the incentive  
27 payments each year to a qualifying school district on the basis

1 of the district's actual average daily attendance for the  
2 preceding school year. The total amount of incentive payments  
3 made to school districts from funds appropriated for the  
4 incentive program under this subchapter may not exceed \$100  
5 million each fiscal year.

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

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

13 (d) A school district with an enrollment of less than 1,600  
14 may use all of the funds received under this subchapter to  
15 provide stipends under Subsection (e).

16 (e) A school district may use an amount not to exceed 50  
17 percent of the funds received under this subchapter to provide  
18 stipends to:

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

22 (2) teachers who are assigned, during the first three  
23 years of the assignment, to a campus that is difficult to staff,  
24 according to standards established by the board of trustees of  
25 the district, including a rural or academically unacceptable  
26 campus.

27 (f) The commissioner shall adopt rules necessary to

1 implement this subchapter. In adopting rules, the commissioner  
2 shall:

3 (1) include criteria and guidelines for evaluating  
4 local incentive plans; and

5 (2) encourage local flexibility in designing local  
6 incentive plans that promote student achievement.

7 Sec. 21.652. MINIMUM CRITERIA FOR LOCAL INCENTIVE PLANS.

8 (a) A school district shall develop a local incentive plan for  
9 rewarding successful annual individual student growth in  
10 achievement in the district and submit the plan to the  
11 commissioner for approval.

12 (b) A local incentive plan must be designed to reward  
13 campuses.

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

23 (d) A local incentive plan must:

24 (1) be developed through a process that includes  
25 participation of classroom teachers in the school district; and

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

1       (e) The campus-level planning and decision-making committee  
2 shall determine the appropriate distribution of funds received  
3 by a campus under this subchapter.

4       Sec. 21.653. EMPLOYMENT CONTRACTS. (a) A school district  
5 shall provide in employment contracts that qualifying employees  
6 may receive an incentive payment under the local incentive plan.

7       (b) The school district shall indicate that any incentive  
8 payment distributed is considered a bonus for performance and  
9 not an entitlement as part of an employee's salary.

10       Sec. 21.654. DECISION REGARDING INCENTIVE PAYMENTS. A  
11 decision in providing an incentive payment under a local  
12 incentive plan approved under this subchapter is final and may  
13 not be appealed.

14       SECTION 2A.13. Effective September 1, 2006, Subchapter A,  
15 Chapter 22, Education Code, is amended by adding Section 22.007  
16 to read as follows:

17       Sec. 22.007. WAGE INCREASE FOR CERTAIN EMPLOYEES. (a)  
18 Using state funds received by the district for that purpose, a  
19 school district each school year shall pay each full-time  
20 district employee, other than an administrator or an employee  
21 subject to the minimum salary schedule under Section 21.402, an  
22 amount at least equal to \$500.

23       (b) Using state funds received by the district for that  
24 purpose, a school district each school year shall pay each part-  
25 time district employee, other than an administrator, an amount  
26 at least equal to \$250.

27       (c) A payment under this section is in addition to wages

1 the district would otherwise pay the employee during the school  
2 year.

3 SECTION 2A.14. Effective September 1, 2006, Subchapter D,  
4 Chapter 54, Education Code, is amended by adding Section 54.220  
5 to read as follows:

6 Sec. 54.220. CHILDREN OF CLASSROOM TEACHERS. (a) In this  
7 section:

8 (1) "Child" means a child of any age, including an  
9 adult child. The term includes an adopted child.

10 (2) "Classroom teacher" has the meaning assigned by  
11 Section 5.001.

12 (b) For purposes of this section, a person is another  
13 person's child if the other person is the person's natural or  
14 adoptive parent, managing or possessory conservator, or legal  
15 guardian.

16 (c) The governing board of an institution of higher  
17 education shall exempt from the payment of tuition or from the  
18 payment of required fees for an academic year an eligible  
19 undergraduate student who is a child of an eligible classroom  
20 teacher and is designated by the classroom teacher to receive  
21 the exemption.

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

1       (e) An undergraduate student is eligible for an exemption  
2 for an academic year under this section only if the student is a  
3 resident of this state for purposes of Subchapter B or is  
4 otherwise entitled to pay tuition and fees at the rate provided  
5 for residents of this state. A student who receives an  
6 exemption for an initial academic period is eligible for an  
7 exemption for a subsequent academic period only if the student  
8 has earned an overall grade point average of at least 2.5 on a  
9 four-point scale or the equivalent on course work previously  
10 attempted at institutions of higher education.

11       (f) On the completion of a classroom teacher's 15th year of  
12 service, the teacher earns either an exemption from the payment  
13 of tuition or an exemption from the payment of required fees for  
14 one academic year for the benefit of one child. For each year  
15 of service that exceeds 15 years, the classroom teacher earns an  
16 additional tuition exemption or an additional fee exemption for  
17 one academic year for the benefit of one child. The classroom  
18 teacher may elect the type of exemption the child may receive  
19 under this section at the time the teacher designates the child  
20 to receive the exemption. The exemption earned by a classroom  
21 teacher for one year of service may be used for the benefit of  
22 only one child. Years of service as a classroom teacher are not  
23 required to be consecutive. A classroom teacher may not  
24 designate a child to receive an exemption under this section for  
25 an academic year unless the teacher's most recent five years of  
26 service were in this state.

27       (g) A classroom teacher with at least 19 years of service

1 may elect to use any earned but unused exemptions toward the  
2 payment of both the tuition and the required fees of one child  
3 during an academic year or to use the unused exemptions toward  
4 the payment of the tuition or the required fees, or both tuition  
5 and fees as permitted by the number of unclaimed exemptions, of  
6 more than one child during an academic year. Two classroom  
7 teachers may aggregate years of service to earn one or more  
8 exemptions for the benefit of one or more of their children in  
9 common, but each classroom teacher must maintain eligibility  
10 under Subsection (d) during the academic period for which the  
11 exemption is used.

12 (h) If an undergraduate student fails to meet any  
13 eligibility requirement of Subsection (e) for an academic  
14 period, the student may not receive an exemption under this  
15 section for that academic period. An undergraduate student may  
16 become eligible to receive the exemption in a subsequent  
17 academic period of the same academic year if the student  
18 reestablishes eligibility before that period begins.

19 (i) If a classroom teacher whose child receives an  
20 exemption earned by the teacher under this section does not  
21 remain employed as required by Subsection (d), the student may  
22 not receive an exemption for a subsequent academic period of the  
23 same academic year under this section until the next academic  
24 period that begins after the classroom teacher reestablishes  
25 eligibility under Subsection (d).

26 (j) An institution of higher education may require an  
27 undergraduate student to pay prorated tuition or required fees,

1 as applicable, for an academic period if the student's  
2 eligibility for the exemption under Subsection (e) or the  
3 teacher's eligibility for the exemption under Subsection (d) is  
4 lost during that period.

5 (k) An undergraduate student is not eligible to receive an  
6 exemption under this section if the person:

7 (1) subject to Subsection (l), has previously received  
8 an exemption under this section for four academic years at any  
9 institution or institutions of higher education; or

10 (2) has received a baccalaureate degree.

11 (l) An undergraduate student who, for any reason other than  
12 a loss of relevant eligibility of the student or the classroom  
13 teacher, fails to use an exemption from the payment of tuition  
14 or an exemption from the payment of required fees in one or more  
15 academic periods in the academic year for which the student is  
16 designated to receive the exemption may carry forward and use  
17 that exemption in an academic period of substantially similar  
18 length in a subsequent academic year. The student may use only  
19 one exemption for each academic period under this subsection  
20 unless the use of more than one exemption is permitted under  
21 Subsection (g).

22 (m) The Texas Higher Education Coordinating Board shall  
23 adopt:

24 (1) rules prescribing procedures by which a classroom  
25 teacher may designate a child to receive an exemption under this  
26 section, including rules relating to the determination of a  
27 student's eligibility for an exemption or a classroom teacher's

1 eligibility to designate a child to receive an exemption;

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

6 (3) a uniform application form for an exemption under  
7 this section.

8 (n) The legislature shall account in the General  
9 Appropriations Act for the exemptions authorized by this section  
10 in a manner that provides a corresponding increase in the  
11 general revenue funds appropriated to the institution granting  
12 an exemption.

13 (o) Notwithstanding any other provision of this section,  
14 only the following undergraduate students who meet the  
15 eligibility requirements of Subsection (e) are eligible to  
16 receive an exemption under this section:

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

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

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

26 (p) This subsection and Subsection (o) expire September 1,  
27 2009.

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

3 (a) The board shall waive the licensing requirements under  
4 this chapter and issue a limited license to practice in the  
5 public schools as a fully licensed speech-language pathologist  
6 to an applicant who:

7 (1) ~~[was eligible for a waiver of licensing~~  
8 ~~requirements under Section 13(a), Chapter 381, Acts of the 68th~~  
9 ~~Legislature, Regular Session, 1983, as amended by Chapter 448,~~  
10 ~~Acts of the 69th Legislature, Regular Session, 1985;~~

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

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

18 ~~[(4)] holds a baccalaureate degree in communication~~  
19 ~~disorders (speech-language) from an accredited institution of~~  
20 ~~higher education; and~~

21 (2) is certified by the Texas Education Agency in  
22 speech and hearing therapy or, in the judgment of the board,  
23 satisfies equivalent requirements~~;~~ and

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

26 (b) The Texas Education Agency ~~[board]~~ shall determine and  
27 monitor the ~~[waive the licensing]~~ requirements for certification

1 ~~[imposed]~~ under this section, provided that an applicant must  
2 have training in ~~[chapter and issue a limited license to~~  
3 ~~practice in the public schools as a fully licensed speech-~~  
4 ~~language pathologist to a person who]:~~

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

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

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

17 (1) in a school setting; and

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

24 (d) A person certified ~~[who holds a limited license issued]~~  
25 under this section may provide any service permitted or not  
26 specifically prohibited by the Individuals with Disabilities  
27 Education Improvement Act of 2004 (20 U.S.C. Section 1400 et

1 seq.) [~~apply for a full license as provided by this chapter~~].

2 SECTION 2A.16. Section 11.201(e), Education Code, as added  
3 by this Act, applies only to a contract between a superintendent  
4 of a school district and a business entity that is entered into  
5 on or after September 1, 2005. A contract between a  
6 superintendent of a school district and a business entity that  
7 is entered into before September 1, 2005, is governed by the law  
8 in effect on the date the contract is entered into, and the  
9 former law is continued in effect for that purpose.

10 SECTION 2A.17. (a) As soon as possible after September 1,  
11 2005, the State Board for Educator Certification shall review  
12 the rules adopted under Section 21.044, Education Code, relating  
13 to educator training requirements and revise those rules as  
14 necessary to ensure that the training requirements are  
15 sufficient to produce educators capable of:

16 (1) satisfying the increased standards for highly  
17 qualified educators prescribed by the No Child Left Behind Act  
18 of 2001 (Pub. L. No. 107-110);

19 (2) complying with certification standards in this  
20 state; and

21 (3) teaching students in a manner that results in the  
22 highest level of student performance.

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

1           SECTION 2A.18.       Sections 21.104, 21.251, 21.301, and  
2 21.303, Education Code, as amended by this Act, and Sections  
3 21.1041 and 21.2111, Education Code, as added by this Act, apply  
4 only to a discharge under a probationary or term contract for  
5 which written notice of the proposed discharge is given to a  
6 teacher on or after September 1, 2005. A discharge under a  
7 probationary or term contract for which written notice of the  
8 proposed discharge is given to a teacher before September 1,  
9 2005, is governed by the law in effect when the notice is given,  
10 and the former law is continued in effect for that purpose.

11           SECTION 2A.19. The Texas Higher Education Coordinating  
12 Board shall adopt rules and forms for the administration of  
13 Section 54.220, Education Code, as added by this Act, not later  
14 than January 1, 2006.

15                           PART B. ADMINISTRATIVE EFFICIENCY

16           SECTION 2B.01. Subchapter A, Chapter 7, Education Code, is  
17 amended by adding Section 7.008 to read as follows:

18           Sec. 7.008. ELECTRONIC STUDENT RECORDS SYSTEM. (a) In  
19 this section, "institution of higher education" has the meaning  
20 assigned by Section 61.003.

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

26           (c) The electronic student records system must permit an  
27 authorized state, district, or school official or an authorized

1 representative of an institution of higher education to  
2 electronically transfer and retrieve student information  
3 generally found in student transcripts, including information  
4 concerning a student's course or grade completion and assessment  
5 instrument results, to and from an educational institution in  
6 which the student is enrolled.

7 (d) The commissioner of education or the commissioner of  
8 higher education may solicit and accept grant funds to maintain  
9 the electronic student records system and to make the system  
10 available to school districts, open-enrollment charter schools,  
11 and institutions of higher education.

12 (e) A private or independent institution of higher  
13 education, as defined by Section 61.003, may participate in the  
14 electronic student records system under this section. If a  
15 private or independent institution of higher education elects to  
16 participate, the institution must provide the funding to  
17 participate in the system.

18 (f) Any person involved in the transfer and retrieval of  
19 student information under this section is subject to any state  
20 or federal law governing the release of or providing access to  
21 any confidential information to the same extent as the  
22 educational institution from which the data is collected. A  
23 person may not release or distribute the data to any other  
24 person in a form that contains confidential information.

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

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

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

7 (b) The agency shall develop a management information  
8 system for funds awarded and allocated to school districts and  
9 open-enrollment charter schools for the purpose of providing  
10 services to students at risk of dropping out of school.

11 (c) The funds management information system must produce  
12 complete, accurate, and timely reports for agency officials and  
13 policy makers. The reports must provide information on funding  
14 for services for students at risk of dropping out of school,  
15 statewide and aggregated by school district, including the  
16 following information:

17 (1) the amount of an award;

18 (2) the beginning and ending period of a grant or  
19 award;

20 (3) expenditures related to an award; and

21 (4) any amount of an award that was not distributed  
22 because of a school district's failure to use awarded funds to  
23 provide needed services during the funding period.

24 (d) The commissioner shall adopt rules as necessary to  
25 administer this section. The rules adopted under this  
26 subsection must ensure that:

27 (1) the funds management information system includes:

1           (A) the information described by Subsection (c)  
2 for all funding sources for services described by Section 29.092  
3 for students at risk of dropping out of school, excluding  
4 funding information relating to a compensatory, intensive, or  
5 accelerated instruction program under Section 29.081, a  
6 disciplinary alternative education program established under  
7 Section 37.008, or a program eligible under Title I of the  
8 Elementary and Secondary Education Act of 1965, as provided by  
9 Pub. L. No. 103-382; and

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

12           (2) the system is compatible with and is regularly  
13 reconciled with the agency's central accounting system; and

14           (3) aggregate funding information is readily available  
15 to agency personnel and policy makers, including aggregate  
16 funding information relating to a compensatory, intensive, or  
17 accelerated instruction program under Section 29.081, a  
18 disciplinary alternative education program established under  
19 Section 37.008, or a program eligible under Title I of the  
20 Elementary and Secondary Education Act of 1965, as provided by  
21 Pub. L. No. 103-382.

22           SECTION 2B.03. Subchapter A, Chapter 11, Education Code, is  
23 amended by adding Section 11.003 to read as follows:

24           Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later  
25 than December 1, 2005, the commissioner shall evaluate the  
26 feasibility of including a uniform indicator under Section  
27 39.202(b) that measures effective administrative management

1 through the use of cooperative shared service arrangements. If  
2 the commissioner determines that the adoption of a uniform  
3 indicator described by this subsection is feasible, the  
4 commissioner by rule shall include the indicator in the  
5 financial accountability rating system under Subchapter I,  
6 Chapter 39, for school districts beginning with the 2006-2007  
7 school year. This subsection expires September 1, 2007.

8 (b) Each regional education service center shall:

9 (1) notify each school district served by the center  
10 regarding the opportunities available through the center for  
11 cooperative shared service arrangements within the center's  
12 service area; and

13 (2) evaluate the need for cooperative shared service  
14 arrangements within the center's service area and consider  
15 expanding center-sponsored cooperative shared service  
16 arrangements.

17 (c) Each regional education service center shall assist a  
18 school district board of trustees in entering into an agreement  
19 with another district or political subdivision, a regional  
20 education service center, or an institution of higher education  
21 as defined by Section 61.003, for a cooperative shared service  
22 arrangement regarding administrative services, including  
23 transportation, food service, purchasing, and payroll functions.

24 (d) The commissioner may require a district or an open-  
25 enrollment charter school to enter into an agreement for a  
26 cooperative shared service arrangement if the commissioner  
27 determines that the financial management performance of the

1 district or school is unsatisfactory.

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

4 Sec. 28.0022. CURRICULUM MANAGEMENT ASSISTANCE. (a) The  
5 commissioner shall identify available curriculum management  
6 materials recommended by school districts that may be used to  
7 assist school districts in:

8 (1) understanding the depth and complexity of the  
9 essential knowledge and skills identified under Section  
10 28.002(c) for each subject in the foundation curriculum under  
11 Section 28.002(a)(1); and

12 (2) based on learning standards:

13 (A) developing model instructional plans and  
14 diagnostic tools;

15 (B) aligning curriculum objectives to district  
16 instructional resources; and

17 (C) differentiating instruction in recognition of  
18 the needs of individual students.

19 (b) Unless otherwise prohibited by law, the commissioner  
20 may use federal funds to implement this section.

21 (c) Not later than January 1, 2007, the commissioner shall  
22 prepare and submit to the legislature a report that describes in  
23 detail:

24 (1) the curriculum management materials identified  
25 under Subsection (a);

26 (2) the costs associated with making the materials  
27 available to school districts; and

1           (3) the manner in which technological applications may  
2 be used to make the materials available and allow school  
3 districts to use the materials.

4           (d) Subsection (c) and this subsection expire January 31,  
5 2007.

6           SECTION 2B.05. Subchapter C, Chapter 29, Education Code, is  
7 amended by adding Sections 29.092, 29.093, and 29.094 to read as  
8 follows:

9           Sec. 29.092. CONSOLIDATED FUNDING FOR PROGRAMS AND SERVICES  
10 FOR STUDENTS AT RISK OF DROPPING OUT OF SCHOOL. (a) In this  
11 section, "student at risk of dropping out of school" has the  
12 meaning described by Section 29.081.

13           (b) To enable school districts and open-enrollment charter  
14 schools to provide supplemental programs and services for the  
15 benefit of students at risk of dropping out of school, the  
16 commissioner each school year shall award funds to a school  
17 district or open-enrollment charter school in accordance with a  
18 streamlined and simplified grant process developed by the  
19 commissioner.

20           (c) The commissioner shall consolidate funding from the  
21 following currently funded programs and types of services,  
22 excluding early childhood care and education programs and  
23 accelerated reading or mathematics initiatives under Section  
24 28.006, 28.007, or 28.0211:

25           (1) an optional extended year program under Section  
26 29.082;

27           (2) a basic skills program for high school students

1 under Section 29.086;

2 (3) a summer school program of instruction for  
3 students of limited English proficiency; and

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

6 (d) The commissioner may redistribute the funding of  
7 programs described under Subsection (c) as necessary to  
8 accomplish the purpose of improving the achievement of students  
9 at risk of dropping out of school.

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

14 (1) services designed to provide intensive academic  
15 instruction to increase student success and high school  
16 completion;

17 (2) services designed to provide intensive academic  
18 instruction for and reduce the dropout rate of students at risk  
19 of dropping out of school;

20 (3) after-school academic and support services;

21 (4) intensive instruction for preschool and school-age  
22 students of limited English proficiency;

23 (5) any academic or support services for pregnant or  
24 parenting students, including basic instruction and health and  
25 life skills training and support for pregnant or parenting  
26 students;

27 (6) community-based services designed to address the

1 needs of students at risk of dropping out of school;

2 (7) programs or services designed to promote the  
3 involvement of parents of students at risk of dropping out of  
4 school; and

5 (8) services or programs promoting school and  
6 community collaboration to restructure schools for the  
7 successful achievement of all students, especially students at  
8 risk of dropping out of school.

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

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

26 Sec. 29.093. COST-OUTCOME ANALYSIS. (a) The agency and  
27 the Legislative Budget Board shall jointly develop a request for

1 proposals for a qualified third party to conduct a comprehensive  
2 cost-outcome analysis of federal and state funding for programs  
3 targeting students at risk of dropping out of school, as  
4 described by Section 29.081, and the impact of those programs on  
5 student achievement outcomes. In order to be qualified under  
6 this section, a party must at a minimum have experience in  
7 educational program evaluation and statistical analysis of  
8 public education data.

9 (b) The cost-outcome methodology developed by the  
10 contractor under this section is subject to joint review and  
11 approval by the agency and the Legislative Budget Board. The  
12 cost-outcome analysis at a minimum must consist of the following  
13 components:

14 (1) a methodology for assessing the cost-effectiveness  
15 of individual school districts and open-enrollment charter  
16 schools in providing services to students at risk of dropping  
17 out of school;

18 (2) performance measures that can be used to assess  
19 the effectiveness of school districts and open-enrollment  
20 charter schools in administering academic and social service  
21 programs for students at risk of dropping out of school;

22 (3) a methodology for evaluating best practices in  
23 providing effective services for students at risk of dropping  
24 out of school;

25 (4) a statistical methodology for:

26 (A) controlling for differences among individual  
27 school districts and open-enrollment charter schools that are

1 not related to funding streams included in the cost-outcome  
2 analysis; and

3 (B) disaggregating data by peer groups;

4 (5) a methodology for computing the relative impact of  
5 funding sources on student achievement outcomes; and

6 (6) a methodology for reporting disaggregated results  
7 for students at risk of dropping out of school.

8 (c) The agency and the Legislative Budget Board shall:

9 (1) not later than December 1 of each year:

10 (A) report findings from the cost-outcome  
11 analysis to the lieutenant governor, the speaker of the house of  
12 representatives, and the presiding officer of the standing  
13 committee of each house of the legislature with primary  
14 jurisdiction over public education, including data related to  
15 the feasibility of constructing a cost-effectiveness measure for  
16 school districts and open-enrollment charter schools;

17 (B) make recommendations for the potential use of  
18 the data, including the best methods to disseminate the  
19 information to parents and school districts and open-enrollment  
20 charter schools; and

21 (C) make the report and recommendations described  
22 by Paragraphs (A) and (B) available to the public; and

23 (2) during the 2006-2007 school year, develop a plan  
24 to implement the cost-outcome methodology to assess the  
25 effectiveness of school districts and open-enrollment charter  
26 schools in providing services during the 2007-2008 school year  
27 to students at risk of dropping out of school.

1       (d) During the state fiscal biennium beginning September 1,  
2 2005, the commissioner shall retain an amount not to exceed  
3 \$500,000 from the total amount of funds allotted under Section  
4 42.152(a) to finance the comprehensive cost-outcome analysis and  
5 shall reduce the allotment of each school district and open-  
6 enrollment charter school proportionately.

7       (e) This section expires September 1, 2010.

8       Sec. 29.094. TEMPORARY PROVISION: COMMISSIONER'S COST-  
9 OUTCOME ANALYSIS. (a) The commissioner shall adopt a cost-  
10 outcome analysis methodology for use in assessing the  
11 effectiveness of school districts and open-enrollment charter  
12 schools in providing services for students at risk of dropping  
13 out of school, as described by Section 29.081. The commissioner  
14 shall use the adopted methodology until the commissioner  
15 determines that an alternate methodology approved by the agency  
16 and the Legislative Budget Board under Section 29.093(b) more  
17 accurately portrays the cost-effectiveness of the analyzed  
18 services.

19       (b) The methodology adopted by the commissioner must  
20 include the following components:

21           (1) a composite performance measure that combines key  
22 indicators of student performance, disaggregated for students at  
23 risk of dropping out of school;

24           (2) a format for reporting all state, federal, local,  
25 and private sources of funding and total expenditures for  
26 supplemental services for students at risk of dropping out of  
27 school, reported by school district, by open-enrollment charter

1 school, and statewide; and

2 (3) a system for scoring and ranking school districts  
3 and open-enrollment charter schools, including criteria for  
4 establishing school district and open-enrollment charter school  
5 peer groups for comparison purposes.

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

11 (d) Not later than December 1 of each year, the  
12 commissioner shall:

13 (1) report the methodology and the results of the  
14 cost-outcome analysis to the lieutenant governor, the speaker of  
15 the house of representatives, and the presiding officer of the  
16 standing committee of each house of the legislature with primary  
17 jurisdiction over public education; and

18 (2) make the report under Subdivision (1) available to  
19 the public.

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

23 SECTION 2B.06. Not later than January 1, 2007, the Texas  
24 Education Agency shall adopt a five-year plan to renovate the  
25 Public Education Information Management System (PEIMS) to  
26 provide for efficient and effective information storage and  
27 retrieval for the purposes of allocating scarce school

1 resources. The renovation must include a redesign of the  
2 records layout.

3 PART C. ACCOUNTABILITY

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

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

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

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

1 instrument:

2 (1) from funds appropriated for the purpose; or

3 (2) if funds are not appropriated for the purpose,  
4 from funds allotted under Section 42.152, provided that each  
5 district shall bear the cost in the same manner described for a  
6 reduction in allotments under Section 42.253.

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

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

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

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

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

27 (1) bilingual education in prekindergarten at campuses

1 that offer prekindergarten classes;

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

4           (3) [~~(2)~~] bilingual education, instruction in English  
5 as a second language, or other transitional language instruction  
6 approved by the agency in post-elementary grades through grade  
7 8; and

8           (4) [~~(3)~~] instruction in English as a second language  
9 in grades 9 through 12.

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

13           (a) The agency shall establish standardized criteria for  
14 the identification, assessment, and classification of students  
15 of limited English proficiency eligible for entry into the  
16 program or exit from the program. The student's parent must  
17 approve a student's entry into the program[~~, exit from the~~  
18 ~~program,~~] or placement in the program. A school district must  
19 inform a student's parent of a student's exit from the program.

20 The school district or parent may appeal the decision under  
21 Section 29.064. The criteria for identification, assessment,  
22 and classification may include:

23           (1) results of a home language survey conducted within  
24 four weeks of each student's enrollment to determine the  
25 language normally used in the home and the language normally  
26 used by the student, conducted in English and the home language,  
27 signed by the student's parents if the student is in

1 kindergarten through grade 8 or by the student if the student is  
2 in grades 9 through 12, and kept in the student's permanent  
3 folder by the language proficiency assessment committee;

4 (2) the results of an agency-approved English language  
5 proficiency test administered to all students identified through  
6 the home survey as normally speaking a language other than  
7 English to determine the level of English language proficiency,  
8 with students in kindergarten or grade 1 being administered an  
9 oral English proficiency test and students in grades 2 through  
10 12 being administered an oral English proficiency test and, if  
11 the oral English proficiency test demonstrates proficiency, a  
12 written English proficiency test; and

13 (3) the results of an agency-approved proficiency test  
14 in the primary language administered to all students identified  
15 under Subdivision (2) as being of limited English proficiency to  
16 determine the level of primary language proficiency, with  
17 students in kindergarten or grade 1 being administered an oral  
18 primary language proficiency test and students in grades 2  
19 through 12 being administered an oral and written primary  
20 language proficiency test.

21 (d) Not later than the 20th [~~10th~~] day after the date of  
22 the student's classification as a student of limited English  
23 proficiency, the language proficiency assessment committee shall  
24 give written notice of the classification to the student's  
25 parent. The notice must be in English and the parent's primary  
26 language. The parents of students eligible to participate in  
27 the required bilingual education program shall be informed of

1 the benefits of the bilingual education or special language  
2 program and that it is an integral part of the school program.

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

7 (1) agency-approved tests administered at the end of  
8 each school year to determine the extent to which the student  
9 has developed oral and written language proficiency and specific  
10 language skills in [~~both the student's primary language and~~  
11 English];

12 (2) an achievement score at or above the 40th  
13 percentile in the reading and language arts sections of an  
14 English standardized test approved by the agency; or [~~and~~]

15 (3) agency-approved [~~other indications of a student's~~  
16 ~~overall progress, including~~] criterion-referenced tests and the  
17 results of a [~~test scores,~~] subjective teacher evaluation [~~, and~~  
18 ~~parental evaluation~~].

19 (g-1) A school district may transfer a student of limited  
20 English proficiency who is eligible for special education  
21 services under Subchapter A out of a bilingual education or  
22 special language program and into a special education program if  
23 the language proficiency assessment committee and the student's  
24 admission, review, and dismissal committee agree that the  
25 student has a learning disability and would be better served in  
26 a special education program. The student's admission, review,  
27 and dismissal committee must document that the student has a

1 learning disability that cannot be addressed effectively in a  
2 bilingual education or special language program and that the  
3 student's learning disability is not due to the student's  
4 limited English proficiency. The commissioner by rule shall  
5 adopt criteria for a school district to use in transferring a  
6 student under this subsection.

7 (i) On approval of the student's parent, a school district  
8 may allow a student of limited English proficiency who meets the  
9 criteria for being transferred out of a bilingual education or  
10 special language program to continue participating in the  
11 program.

12 SECTION 2C.05. Subchapter B, Chapter 29, Education Code, is  
13 amended by adding Section 29.0561 to read as follows:

14 Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS;  
15 REENROLLMENT. (a) The language proficiency assessment  
16 committee shall reevaluate a student who is transferred out of a  
17 bilingual education or special language program under Section  
18 29.056(g) if the student earns a failing grade in a subject in  
19 the foundation curriculum under Section 28.002(a)(1) during any  
20 grading period in the first two school years after the student  
21 is transferred to determine whether the student should be  
22 reenrolled in a bilingual education or special language program.

23 (b) During the first two school years after a student is  
24 transferred out of a bilingual education or special language  
25 program under Section 29.056(g), the language proficiency  
26 assessment committee shall review the student's performance and  
27 consider:

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

3           (2) the student's grades each grading period in each  
4 subject in the foundation curriculum under Section 28.002(a)(1);

5           (3) the student's performance on each assessment  
6 instrument administered under Section 39.023(a) or (c);

7           (4) the number of credits the student has earned  
8 toward high school graduation, if applicable; and

9           (5) any disciplinary actions taken against the student  
10 under Subchapter A, Chapter 37.

11           (c) After an evaluation under this section, the language  
12 proficiency assessment committee may require intensive  
13 instruction for the student or reenroll the student in a  
14 bilingual education or special language program.

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

17           Sec. 29.0822. OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. (a)  
18 Notwithstanding Section 25.081 or 25.082, a school district may  
19 provide a flexible school day program for students in grades 9  
20 through 12 who have dropped out of school or who are at risk of  
21 dropping out of school.

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

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

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

1 week a student attends; or

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

4 (c) A course offered in a program under this section must  
5 provide for at least the same number of instructional hours as  
6 required for a course offered in a program that meets the  
7 required minimum number of instructional days under Section  
8 25.081 and the required length of school day under Section  
9 25.082.

10 (d) The commissioner shall compute average daily attendance  
11 for students served under this section for purposes of  
12 determining state funding. In computing average daily  
13 attendance for purposes of this section, a student may  
14 accumulate hours of instruction. Funding under this subsection  
15 is determined based on the number of instructional days provided  
16 in the district calendar and a seven-hour school day. Hours of  
17 attendance under this subsection may be accumulated over the  
18 school year, including any summer or vacation sessions, to  
19 determine average daily attendance. The attendance of a student  
20 who accumulates less than the number of attendance hours  
21 required under this subsection shall be proportionately reduced  
22 for funding purposes. The commissioner may set a maximum  
23 funding amount for an individual course under this section.

24 (e) The commissioner may adopt rules for the administration  
25 of this section.

26 SECTION 2C.07. Effective September 1, 2006, Subchapter D,  
27 Chapter 29, Education Code, is amended by adding Section 29.124

1 to read as follows:

2 Sec. 29.124. PERFORMANCE STANDARDS; STATE FUNDING. (a)

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

16 (b) A school district is not required to use the  
17 performance standards adopted under Subsection (a).

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

26 (d) The commissioner may adopt rules necessary to  
27 administer this section.

1       (e) From the funds appropriated under this section, the  
2 commissioner may designate an amount necessary to fund the  
3 agency's administrative costs of implementing this section.

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

6       (n) For purposes of accountability under Chapter 39, a  
7 student placed in a disciplinary alternative education program  
8 is reported as if the student were enrolled at the student's  
9 assigned campus in the student's regularly assigned education  
10 program, including a special education program.

11       SECTION 2C.09. Section 39.022, Education Code, is amended  
12 to read as follows:

13       Sec. 39.022. ASSESSMENT PROGRAM. (a) The State Board of  
14 Education by rule shall create and implement a statewide  
15 assessment program that is knowledge- and skills-based to ensure  
16 school accountability for student achievement that achieves the  
17 goals provided under Section 4.002. After adopting rules under  
18 this section, the State Board of Education shall consider the  
19 importance of maintaining stability in the statewide assessment  
20 program when adopting any subsequent modification of the rules.

21       (b) The commissioner by rule shall provide for the  
22 administration of assessment instruments under this subchapter.

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

26       (a) The agency shall adopt or develop appropriate  
27 criterion-referenced assessment instruments designed to assess

1 essential knowledge and skills in reading, writing, mathematics,  
2 social studies, and science. Except as otherwise provided by  
3 this subchapter, all [All] students~~[, except students assessed~~  
4 ~~under Subsection (b) or (1) or exempted under Section 39.027,]~~  
5 shall be assessed in:

6 (1) mathematics, annually in grades three through  
7 seven without the aid of technology and in grades eight through  
8 11 with the aid of technology on any assessment instruments that  
9 include algebra;

10 (2) reading, annually in grades three through nine;

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

13 (4) English language arts, in grades ~~[grade]~~ 10 and  
14 11;

15 (5) social studies, in grades eight, ~~[and]~~ 10, and 11;

16 (6) science, in grades five, eight, ~~[and]~~ 10, and 11;

17 and

18 (7) any other subject and grade required by federal  
19 law.

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

1 to release a question that is developed for purposes of this  
2 subsection until after the fifth school year the question is  
3 used on an assessment instrument administered under this  
4 section.

5 (b) The agency shall develop or adopt appropriate  
6 criterion-referenced assessment instruments to be administered  
7 to each student in a special education program under Subchapter  
8 A, Chapter 29, who receives modified instruction in the  
9 essential knowledge and skills identified under Section 28.002  
10 for the assessed subject but for whom an assessment instrument  
11 adopted under Subsection (a), even with allowable accommodations  
12 [~~modifications~~], would not provide an appropriate measure of  
13 student achievement, as determined by the student's admission,  
14 review, and dismissal committee. The assessment instruments  
15 required under this subsection must assess essential knowledge  
16 and skills [~~and growth~~] in the subjects of reading, mathematics,  
17 and writing and any other subject required by federal law. A  
18 student's admission, review, and dismissal committee shall  
19 determine whether any allowable accommodation [~~modification~~] is  
20 necessary in administering to the student an assessment  
21 instrument required under this subsection or whether an  
22 alternate assessment instrument must be used to measure  
23 alternate academic achievement standards. A student's  
24 admission, review, and dismissal committee shall determine the  
25 high school graduation assessment requirements for a student in  
26 a special education program under Subchapter A, Chapter 29, and  
27 may use local alternative assessment instruments if multiple

1 testing opportunities are not available for a student. To the  
2 extent practicable, the [The] assessment instruments required  
3 under this subsection shall be administered on the same schedule  
4 as the assessment instruments administered under Subsection (a).  
5 The commissioner shall adopt rules to implement this  
6 subsection.

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

12 (c) The [~~agency shall also adopt~~] secondary exit-level  
13 assessment instruments designed to be administered to students  
14 in grade 11 under Subsection (a) must [to] assess essential  
15 knowledge and skills in mathematics, English language arts,  
16 social studies, and science. The mathematics section must  
17 include at least Algebra I and geometry with the aid of  
18 technology. The English language arts section must include at  
19 least English III and must include the assessment of essential  
20 knowledge and skills in writing. The social studies section must  
21 include early American and United States history. The science  
22 section must include at least biology and integrated chemistry  
23 and physics. The assessment instruments must be designed to  
24 assess a student's mastery of minimum skills necessary for high  
25 school graduation and readiness to enroll in an institution of  
26 higher education. [~~If a student is in a special education~~  
27 ~~program under Subchapter A, Chapter 29, the student's admission,~~

1 ~~review, and dismissal committee shall determine whether any~~  
2 ~~allowable modification is necessary in administering to the~~  
3 ~~student an assessment instrument required under this subsection~~  
4 ~~or whether the student should be exempted under Section~~  
5 ~~39.027(a)(2). The State Board of Education shall administer the~~  
6 ~~assessment instruments. The State Board of Education shall~~  
7 ~~adopt a schedule for the administration of secondary exit-level~~  
8 ~~assessment instruments.] Each student who did not perform~~  
9 satisfactorily on any secondary exit-level assessment instrument  
10 when initially tested shall be given multiple opportunities to  
11 retake that assessment instrument. A student who performs at or  
12 above a level established by the Texas Higher Education  
13 Coordinating Board on the secondary exit-level assessment  
14 instruments is exempt from the requirements of Section 51.306.

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

26 (e) Under rules adopted by the State Board of Education,  
27 [~~every other year,~~] the agency shall release the questions and

1 answer keys to each assessment instrument administered under  
2 Subsection (a), (b), (c), (d), or (l) or Section 39.027 not  
3 later than the second anniversary of the date [~~after the last~~  
4 ~~time~~] the instrument was [~~is~~] administered [~~for that school~~  
5 ~~year~~]. To ensure a valid bank of questions for use each year,  
6 the agency is not required to release a question that is being  
7 field-tested and was not used to compute the student's score on  
8 the instrument. The agency shall also release, under board  
9 rule, each question that is no longer being field-tested and  
10 that was not used to compute a student's score.

11 (i) The provisions of this section, except Subsection (d),  
12 are subject to modification by rules adopted under Section  
13 39.022. Each assessment instrument adopted or developed under  
14 this section [~~those rules and each assessment instrument~~  
15 ~~required under Subsection (d)~~] must be reliable and valid and  
16 must meet any applicable federal requirements for measurement of  
17 student progress.

18 (j) The commissioner shall develop a standardized end-of-  
19 course assessment instrument for Algebra I. The commissioner by  
20 rule may require a school district to administer an end-of-  
21 course assessment instrument in Algebra I. The admission,  
22 review, and dismissal committee of a student in a special  
23 education program under Subchapter A, Chapter 29, shall  
24 determine whether any allowable accommodation [~~modification~~] is  
25 necessary in administering to the student an end-of-course  
26 assessment instrument or whether the student should be exempted  
27 [~~under Section 39.027(a)(2)~~].

1           (1) The agency [~~State Board of Education~~] shall adopt or  
2 develop a Spanish version [~~rules for the administration~~] of the  
3 assessment instruments adopted under Subsection (a) for [~~in~~  
4 ~~Spanish to~~] students in grades three through six who are of  
5 limited English proficiency, as defined by Section 29.052, whose  
6 primary language is Spanish, and who are not otherwise exempt  
7 from the administration of an assessment instrument under  
8 Section 39.027 [~~39.027(a)(3) or (4)~~]. Each student of limited  
9 English proficiency whose primary language is Spanish, other  
10 than a student to whom Subsection (b) or (b-1) applies, may be  
11 assessed using assessment instruments in Spanish under this  
12 subsection for up to three years or assessment instruments in  
13 English under Subsection (a). The language proficiency  
14 assessment committee established under Section 29.063 shall  
15 determine which students are administered assessment instruments  
16 in Spanish under this subsection.

17           (m) The commissioner by rule shall develop procedures under  
18 which the language proficiency assessment committee established  
19 under Section 29.063 shall determine which students in grades  
20 three through 10 are exempt from the administration of the  
21 assessment instruments under Section 39.027 [~~39.027(a)(3) and~~  
22 ~~(4)~~]. The rules adopted under this subsection shall ensure that  
23 the language proficiency assessment committee provides that the  
24 exempted students are administered the assessment instruments  
25 under Subsections (a) and (c) at the earliest practical date.  
26 As necessary to comply with federal requirements, the  
27 commissioner by rule shall develop procedures under which a

1 student who is exempt from the administration of an assessment  
2 instrument under Section 39.027 is administered a linguistically  
3 accommodated assessment instrument.

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

24 SECTION 2C.11. Sections 39.024(a) and (c), Education Code,  
25 are amended to read as follows:

26 (a) Except as otherwise provided by this subsection, the  
27 State Board of Education shall determine the level of

1 performance considered to be satisfactory on the assessment  
2 instruments administered under Section 39.023. The commissioner  
3 by rule [~~admission, review, and dismissal committee of a student~~  
4 ~~being assessed under Section 39.023(b)~~] shall determine the  
5 level of performance considered to be satisfactory on the  
6 assessment instruments administered under Section 39.023(b) or  
7 (b-1) [~~to that student~~] in accordance with applicable federal  
8 requirements [~~criteria established by agency rule~~].

9 (c) The agency shall develop study guides for the  
10 assessment instruments administered under Sections 39.023(a) and  
11 (l) [~~(e)~~]. To assist parents in providing assistance during the  
12 period that school is recessed for summer, each school district  
13 shall distribute the study guides to parents of students who do  
14 not perform satisfactorily on one or more parts of the [~~an~~]  
15 assessment instrument [~~administered under this subchapter~~].

16 SECTION 2C.12. Section 39.025(a), Education Code, is  
17 amended to read as follows:

18 (a) A student may not receive a high school diploma until  
19 the student has performed satisfactorily on the secondary exit-  
20 level assessment instruments for English language arts,  
21 mathematics, social studies, and science administered under  
22 Section 39.023(a) [~~39.023(e)~~]. This subsection does not require  
23 a student to demonstrate readiness to enroll in an institution  
24 of higher education.

25 SECTION 2C.13. Effective September 1, 2006, Subchapter B,  
26 Chapter 39, Education Code, is amended by adding Section 39.0261  
27 to read as follows:

1       Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In  
2 addition to the assessment instruments otherwise authorized or  
3 required by this subchapter, a school district may administer to  
4 students in any grade an established, valid, reliable, and  
5 nationally normed college preparation assessment instrument.

6       (b) The agency shall:

7           (1) select and approve vendors of the specific  
8 assessment instruments administered under this section; and

9           (2) subject to the restrictions of Subsection (c), pay  
10 all fees associated with the administration of the assessment  
11 instrument:

12                   (A) from funds appropriated for the purpose; or

13                   (B) if funds are not appropriated for the  
14 purpose, from funds allotted under Section 42.152, provided that  
15 each district shall bear the cost in the same manner described  
16 for a reduction in allotments under Section 42.253.

17       (c) The agency may pay only for the administration of the  
18 assessment instrument at two different grade levels in each  
19 district each year.

20       (d) A vendor that administers an assessment instrument for  
21 a district under this section shall report the results of the  
22 assessment instrument to the agency.

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

25       (a) A student in grades three through 10 may be exempted  
26 from the administration of an assessment instrument under:

27           (1) [~~Section 39.023(a) or (b) if the student is~~

1 ~~eligible for a special education program under Section 29.003~~  
2 ~~and the student's individualized education program does not~~  
3 ~~include instruction in the essential knowledge and skills under~~  
4 ~~Section 28.002 at any grade level;~~

5 ~~[(2) Section 39.023(c) or (d) if the student is~~  
6 ~~eligible for a special education program under Section 29.003~~  
7 ~~and:~~

8 ~~[(A) the student's individualized education~~  
9 ~~program does not include instruction in the essential knowledge~~  
10 ~~and skills under Section 28.002 at any grade level; or~~

11 ~~[(B) the assessment instrument, even with~~  
12 ~~allowable modifications, would not provide an appropriate~~  
13 ~~measure of the student's achievement as determined by the~~  
14 ~~student's admission, review, and dismissal committee;~~

15 ~~[(3)] Section 39.023(a), (b), (b-1), or (1) for a~~  
16 ~~period of up to one year after initial enrollment in a school in~~  
17 ~~the United States if the student is of limited English~~  
18 ~~proficiency, as defined by Section 29.052, and has not~~  
19 ~~demonstrated proficiency in English as determined by the~~  
20 ~~assessment system under Subsection (e); or~~

21 (2) ~~[(4)] Section 39.023(a), (b), (b-1), or (1) for a~~  
22 ~~period of up to two years in addition to the exemption period~~  
23 ~~authorized by Subdivision (1) ~~[(3)] if the student has received~~~~  
24 ~~an exemption under Subdivision (1) ~~[(3)] and:~~~~

25 ~~(A) is a recent unschooled immigrant; or~~

26 ~~(B) is in a grade for which no assessment~~  
27 ~~instrument in the primary language of the student is available.~~

1           (e) As provided by applicable federal requirements, the  
2 ~~[The]~~ commissioner shall develop an assessment system that shall  
3 be used for evaluating the academic progress toward attaining  
4 academic language proficiency in English, including reading  
5 proficiency in English, of all students of limited English  
6 proficiency, as defined by Section 29.052. A student who has  
7 demonstrated the designated level of ~~[is exempt from the~~  
8 ~~administration of an assessment instrument under Subsection~~  
9 ~~(a)(3) or (4) who achieves]~~ reading proficiency in English as  
10 determined by the assessment system developed under this  
11 subsection is not eligible for an exemption under Subsection  
12 (a)(1) or (2). ~~[shall be administered the assessment instruments~~  
13 ~~described by Sections 39.023(a) and (c). The performance under~~  
14 ~~the assessment system developed under this subsection of~~  
15 ~~students to whom Subsection (a)(3) or (4) applies shall be~~  
16 ~~included in the academic excellence indicator system under~~  
17 ~~Section 39.051, the performance report under Section 39.053, and~~  
18 ~~the comprehensive annual report under Section 39.182.]~~

19           (g) For purposes of this section, "recent unschooled  
20 immigrant" means an immigrant who initially enrolled in a school  
21 in the United States not more than 12 months before the date of  
22 the administration of an assessment instrument under Section  
23 39.023 ~~[39.023(a) or (1)]~~ and who, as a result of inadequate  
24 schooling outside of the United States, lacks the necessary  
25 foundation in the essential knowledge and skills of the  
26 curriculum prescribed under Section 28.002 as determined by the  
27 language proficiency assessment committee established under

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

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

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

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

16 (1) assessed on an assessment instrument; and

17 (2) taught by that teacher in the subject for which  
18 the assessment instrument was administered.

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

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

27 (e) The commissioner shall implement this section not later

1 than September 1, 2006. This subsection expires January 1,  
2 2008.

3 Sec. 39.035. CRIMINAL PENALTY RELATED TO ADMINISTRATION OF  
4 ASSESSMENT INSTRUMENT. (a) An administrator, teacher, other  
5 employee, contractor, or volunteer of a school district or  
6 public charter district commits an offense if, for the primary  
7 purpose of influencing the results of an assessment instrument  
8 administered under this subchapter, the person knowingly:

9 (1) discriminates in school admissions based on a  
10 student's academic ability in a manner that is not otherwise  
11 permitted by law;

12 (2) refers a student to a special education program  
13 under Subchapter A, Chapter 29, or a bilingual or special  
14 language program under Subchapter B, Chapter 29, for the purpose  
15 of gaining an exemption for the student from the administration  
16 of the assessment instrument;

17 (3) requires or encourages a student to be absent from  
18 a school campus during the day on which the assessment  
19 instrument is administered at the campus;

20 (4) tampers with the assessment instrument or related  
21 materials to alter the results of the assessment instrument; or

22 (5) engages in any other action designed to alter the  
23 accuracy of the results of the assessment instrument.

24 (b) An offense under this section is a state jail felony.

25 (c) An offense under Subsection (a)(4) is in addition to  
26 any offense under Section 37.10(c)(2), Penal Code, arising from  
27 the same action.

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

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

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

15           (2) dropout rates, including dropout rates and  
16 district completion rates for grade levels 9 through 12,  
17 computed in accordance with standards and definitions adopted by  
18 the National Center for Education Statistics of the United  
19 States Department of Education;

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

24           (4) student attendance rates;

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

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

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

6 (7) the results of the Scholastic Assessment Test  
7 (SAT), the American College Test (ACT), articulated  
8 postsecondary degree programs described by Section 61.852, and  
9 certified workforce training programs described by Chapter 311,  
10 Labor Code;

11 (8) student growth in achievement, as measured under  
12 Section 39.034, aggregated by grade level and subject area;

13 (9) the number and percentage of students at risk of  
14 dropping out of school, the number and percentage of those  
15 students who are administered each assessment instrument  
16 required under Section 39.023, the number and percentage of  
17 those students who perform satisfactorily on the assessment  
18 instruments, and the results of those students, grouped by  
19 number and percentage, on the assessment instruments,  
20 disaggregated by subject area and grade level;

21 (10) the number and percentage of students, aggregated  
22 by grade level, provided accelerated instruction under Section  
23 28.0211(c), the results of assessments administered under that  
24 section, the percentage of students promoted through the grade  
25 placement committee process under Section 28.0211, the subject  
26 of the assessment instrument on which each student failed to  
27 perform satisfactorily, and the performance of those students in

1 the school year following that promotion on the assessment  
2 instruments required under Section 39.023;

3 (11) [~~+9~~] for students who have failed to perform  
4 satisfactorily on an assessment instrument required under  
5 Section 39.023(a) or (c), the numerical progress of those  
6 students grouped by number and percentage on subsequent  
7 assessment instruments required under those sections, aggregated  
8 by grade level and subject area;

9 (12) [~~+10~~] the percentage of students exempted, by  
10 exemption category, from the assessment program generally  
11 applicable under this chapter; [~~and~~]

12 (13) [~~+11~~] the percentage of students of limited  
13 English proficiency exempted from the administration of an  
14 assessment instrument under Sections 39.027(a)(3) and (4);

15 (14) the percentage of students in a special education  
16 program under Subchapter A, Chapter 29, assessed through  
17 assessment instruments developed or adopted under Section  
18 39.023(b); and

19 (15) for students of limited English proficiency, as  
20 defined by Section 29.052, a measure of progress toward English  
21 language proficiency, as determined by the commissioner,  
22 including the student's performance after transferring out of a  
23 bilingual education program or instruction in English as a  
24 second language.

25 SECTION 2C.17. Section 39.051(d), Education Code, is  
26 amended to read as follows:

27 (d) Annually, the commissioner shall define exemplary,

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

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

15 (2) as applicable:

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

19 (B) conviction of and sentencing for an offense  
20 under the Penal Code.

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

23 (b) The report card shall include the following  
24 information:

25 (1) where applicable, the academic excellence  
26 indicators adopted under Sections 39.051(b)(1) through (15) and  
27 specifically including the indicators adopted under Sections

1 39.051(b)(9) and (10) [~~9~~];

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

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

6 (4) the district's instructional expenditures ratio  
7 and instructional employees ratio computed under Section  
8 44.0071, and the statewide average of those ratios, as  
9 determined by the commissioner.

10 SECTION 2C.19. Effective September 1, 2006, Sections  
11 39.072(b) and (c), Education Code, are amended to read as  
12 follows:

13 (b) The academic excellence indicators adopted under  
14 Sections 39.051(b)(1) through (7) and (10) and the district's  
15 current special education compliance status with the agency  
16 shall be the main considerations of the agency in the rating of  
17 the district under this section. Additional criteria in the  
18 rules may include consideration of:

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

22 (A) reporting data through the Public Education  
23 Information Management System (PEIMS);

24 (B) the high school graduation requirements under  
25 Section 28.025; or

26 (C) an item listed in Sections 7.056(e)(3)(C)-(I)  
27 that applies to the district;

1           (2) the effectiveness of the district's programs for  
2 special populations; and

3           (3) the effectiveness of the district's career and  
4 technology programs.

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

16           SECTION 2C.20. Subchapter D, Chapter 39, Education Code, is  
17 amended by adding Section 39.0722 to read as follows:

18           Sec. 39.0722. MEASURE OF POSTSECONDARY PREPARATION. (a)  
19 In addition to school district performance ratings under Section  
20 39.072, the commissioner shall annually rate districts according  
21 to the degree to which the districts prepare students for  
22 postsecondary success, including student performance on the  
23 applicable indicators under Sections 39.051(b) and 39.0721.

24           (b) The commissioner may adopt rules as necessary to  
25 administer this section.

26           SECTION 2C.21. Sections 39.073(a) and (b), Education Code,  
27 are amended to read as follows:

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

9 (b) Each annual review shall include an analysis of the  
10 indicators under Sections 39.051(b)(1) through (7) and (10)  
11 [~~(6)~~] to determine district and campus performance in relation  
12 to:

13 (1) standards established for each indicator;

14 (2) required improvement as defined under Section  
15 39.051(c); and

16 (3) comparable improvement as defined by Section  
17 39.051(c).

18 SECTION 2C.22. Section 39.074(e), Education Code, is  
19 amended to read as follows:

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

24 SECTION 2C.23. Subchapter F, Chapter 39, Education Code, is  
25 amended by adding Section 39.113 to read as follows:

26 Sec. 39.113. STATE INCENTIVE PROGRAM FOR IMPROVING STUDENT  
27 PERFORMANCE ON AT-RISK CAMPUSES. (a) The commissioner shall

1 adopt rules to create an incentive award system for annual  
2 growth in student achievement. A school that achieves  
3 incremental growth in student achievement, as described in  
4 Subsection (b), is eligible for an award if the school:

5 (1) has a student population of at least 65 percent  
6 educationally disadvantaged students;

7 (2) achieves an accreditation performance rating of  
8 academically acceptable or better; and

9 (3) demonstrates superior growth in the academic  
10 performance of educationally disadvantaged students.

11 (b) The commissioner by rule shall adopt performance  
12 criteria to measure annual growth in student academic  
13 performance. The commissioner shall consider the following  
14 criteria, as applicable:

15 (1) annual growth in student achievement that  
16 contributes to closing performance gaps among various  
17 populations of students;

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

20 (3) growth in high school completion rates;

21 (4) improvement in student scores on college advanced  
22 placement tests; and

23 (5) any other factor that contributes to student  
24 achievement.

25 (c) From funds appropriated for the purposes of this  
26 section, the commissioner shall award grants to campuses that  
27 meet performance criteria adopted under Subsection (b). The

1 commissioner shall allocate awards to campuses not later than  
2 December 1 of each year, based on growth in student achievement  
3 as measured for the preceding two school years.

4 (c-1) The commissioner shall award grants under this  
5 section beginning September 1, 2007. This subsection expires  
6 January 1, 2008.

7 (d) At least 75 percent of an award under this section must  
8 be used for additional teacher compensation at the campus level.

9 The commissioner by rule shall provide for allocating awards  
10 under this subsection, including providing individual awards of  
11 at least \$3,000 for each teacher at a campus receiving an award  
12 under this subsection.

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

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

18 SECTION 2C.24. Section 39.132, Education Code, is amended  
19 to read as follows:

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

1 necessary:

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

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

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

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

13 ~~(3) [order the preparation of a report regarding the  
14 parental involvement program at the campus and a plan describing  
15 strategies for improving parental involvement at the campus;~~

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

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

26 (4) ~~[(6)]~~ order a hearing to be held before the  
27 commissioner or the commissioner's designee at which the

1 president of the board of trustees, the superintendent, and the  
2 campus principal shall appear and explain the campus's low  
3 performance, lack of improvement, and plans for improvement; or

4 (5) [~~(7)~~] appoint a special campus intervention team  
5 to:

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

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

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

17 (D) assist the commissioner in monitoring the  
18 progress of the campus in implementing the campus plan for  
19 improvement of student achievement[; ~~or~~

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

25 (a-1) Notwithstanding Subsection (a), if a campus has been  
26 identified as academically unacceptable under this section or  
27 the campus is rated academically acceptable for the current

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

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

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

15 (b) Notwithstanding Subsection (a), if [~~if~~] a campus has  
16 been identified as academically unacceptable [~~a low-performing~~  
17 ~~campus~~] for [~~a period of~~] two consecutive school years [~~or~~  
18 ~~more~~], the commissioner shall order the reconstitution of  
19 [~~closure of the district or charter program on the campus or~~  
20 ~~reconstitute~~] the campus or pursue alternative management under  
21 Section 39.1321. In reconstituting the campus, a special campus  
22 intervention team shall be assembled for the purpose of deciding  
23 which educators may be retained at that campus. If an educator  
24 is not retained, the educator may be assigned to another  
25 position in the district.

26 (c) If a student is assigned to attend a campus that is  
27 reconstituted under Subsection (b), the student is eligible to

1 attend another campus in the district in which the student  
2 resides that is rated academically acceptable during the period  
3 of reconstitution. The commissioner by rule shall provide  
4 appropriate funding to ensure transportation of students under  
5 this subsection.

6 (d) If a campus is identified as academically unacceptable  
7 for two consecutive school years after the commissioner has  
8 taken action under Subsection (b), the commission shall order  
9 the closure of the campus.

10 SECTION 2C.25. Subchapter G, Chapter 39, Education Code, is  
11 amended by adding Sections 39.1321 and 39.1322 to read as  
12 follows:

13 Sec. 39.1321. MANAGEMENT OF CERTAIN ACADEMICALLY  
14 UNACCEPTABLE CAMPUSES. (a) A campus is subject to this section  
15 if the campus has been identified as academically unacceptable  
16 under Section 39.132 for two consecutive school years.

17 (b) The commissioner shall solicit proposals from qualified  
18 entities to assume management of a campus subject to this  
19 section.

20 (c) If the commissioner determines that the basis for  
21 identifying a campus as academically unacceptable is limited to  
22 a specific condition that may be remedied with targeted  
23 technical assistance, the commissioner may:

24 (1) provide the campus a one-year waiver under this  
25 section; and

26 (2) require the district to contract for the  
27 appropriate technical assistance.

1       (d) The commissioner may annually solicit proposals under  
2 this section for the management of a campus subject to this  
3 section. The commissioner shall notify a qualified entity that  
4 has been approved as a provider under this section. The  
5 district must execute a contract with an approved provider and  
6 relinquish control of the campus before January 1 of the school  
7 year.

8       (e) To qualify for consideration as a managing entity under  
9 this section, the entity must submit a proposal that provides  
10 information relating to the entity's management and leadership  
11 team that will participate in management of the campus under  
12 consideration, including information relating to individuals  
13 that have:

14           (1) documented success in whole school interventions  
15 that increased the educational and performance levels of  
16 students in academically unacceptable campuses;

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

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

21           (4) any other experience or qualifications the  
22 commissioner determines necessary.

23       (f) The school district may negotiate the term of a  
24 management contract for not more than five years with an option  
25 to renew the contract. The management contract must include a  
26 provision describing the district's responsibilities in  
27 supporting the operation of the campus. The commissioner shall

1 approve the contract before the contract is executed and, as  
2 appropriate, may require the district, as a term of the  
3 contract, to support the campus in the same manner as the  
4 district was required to support the campus before the execution  
5 of the management contract.

6 (g) A management contract under this section shall include  
7 provisions approved by the commissioner that require the  
8 managing entity to demonstrate improvement in campus  
9 performance, including negotiated performance measures. The  
10 performance measures must be consistent with the priorities of  
11 this chapter. The commissioner shall evaluate a managing  
12 entity's performance on the first and second anniversaries of  
13 the date of the management contract. If the evaluation fails to  
14 demonstrate improvement as negotiated under the contract by the  
15 first anniversary of the date of the management contract, the  
16 district may terminate the management contract, with the  
17 commissioner's consent, for nonperformance or breach of contract  
18 and select another provider from an approved list provided by  
19 the commissioner. If the evaluation fails to demonstrate  
20 significant improvement, as determined by the commissioner, by  
21 the second anniversary of the date of the management contract,  
22 the district shall terminate the management contract and select  
23 another provider from an approved list provided by the  
24 commissioner or resume operation of the campus if approved by  
25 the commissioner. If the commissioner approves the district's  
26 operation of the campus, the commissioner shall assign a  
27 technical assistance team to assist the campus.

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

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

9       (j) The commissioner may adopt rules necessary to implement  
10 this section.

11       Sec. 39.1322. REVIEW OF SANCTIONS FOR CAMPUSES SERVING  
12 RESIDENTIAL FACILITIES. (a) A school district or public  
13 charter district may petition the commissioner to review an  
14 academically unacceptable rating assigned to a campus if the  
15 campus predominantly served students residing in a residential  
16 facility during the rating period.

17       (b) If the commissioner determines that the basis for  
18 identifying the campus as academically unacceptable was limited  
19 to a condition that was not related to the educational purpose  
20 of the residential facility, the commissioner may take any of  
21 the following actions as the commissioner determines  
22 appropriate:

23           (1) change, modify, or suspend the academically  
24 unacceptable rating; or

25           (2) impose any sanction otherwise authorized under  
26 Section 39.131 or 39.132.

27       (c) The commissioner may consider a factor other than a

1 factor used to assign a rating in evaluating a campus under this  
2 section. The commissioner may assign a special campus  
3 intervention team under Section 39.132(a)(5) at the expense of  
4 the school district or public charter district as provided by  
5 Section 39.134 to develop a long-term intervention plan to  
6 improve services for students.

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

14 (e) This section does not limit the commissioner's ability  
15 to sanction a public charter district for the performance of a  
16 campus subject to this section under Section 11A.107(a) or any  
17 other law.

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

20 SECTION 2C.26. Subchapter G, Chapter 39, Education Code, is  
21 amended by adding Section 39.1371 to read as follows:

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

25 (b) The agency shall:

26 (1) monitor the progress of special campus  
27 intervention teams appointed by the commissioner under this

1 subchapter; and

2 (2) supervise the activities of the management  
3 entities under Section 39.1321.

4 (c) The agency shall:

5 (1) establish by rule and publish school improvement  
6 objectives;

7 (2) advocate for the increased use of research-based  
8 effective practices; and

9 (3) coordinate campus improvement activities of the  
10 agency and regional education service centers.

11 (d) The commissioner may contract for services under this  
12 section.

13 SECTION 2C.27. Section 39.182(a), Education Code, is  
14 amended to read as follows:

15 (a) Not later than December 1 of each year, the agency  
16 shall prepare and deliver to the governor, the lieutenant  
17 governor, the speaker of the house of representatives, each  
18 member of the legislature, the Legislative Budget Board, and the  
19 clerks of the standing committees of the senate and house of  
20 representatives with primary jurisdiction over the public school  
21 system a comprehensive report covering the preceding school year  
22 and containing:

23 (1) an evaluation of the achievements of the state  
24 educational program in relation to the statutory goals for the  
25 public education system under Section 4.002;

26 (2) an evaluation of the status of education in the  
27 state as reflected by the academic excellence indicators adopted

1 under Section 39.051;

2 (3) a summary compilation of overall student  
3 performance on academic skills assessment instruments required  
4 by Section 39.023 with the number and percentage of students  
5 exempted from the administration of those instruments and the  
6 basis of the exemptions, aggregated by grade level, subject  
7 area, campus, and district, with appropriate interpretations and  
8 analysis, and disaggregated by race, ethnicity, gender, and  
9 socioeconomic status;

10 (4) a summary compilation of overall performance of  
11 students placed in a disciplinary ~~[an]~~ alternative education  
12 program established under Section 37.008 on academic skills  
13 assessment instruments required by Section 39.023 with the  
14 number of those students exempted from the administration of  
15 those instruments and the basis of the exemptions, aggregated by  
16 district, grade level, and subject area, with appropriate  
17 interpretations and analysis, and disaggregated by race,  
18 ethnicity, gender, and socioeconomic status;

19 (5) a summary compilation of the progress ~~[overall~~  
20 ~~performance]~~ of students at risk of dropping out of school, as  
21 defined by Section 29.081(d), including information described by  
22 the academic excellence indicators under Sections 39.051(b)(8)-  
23 (11), provided statewide and aggregated by district, on academic  
24 skills assessment instruments required by Section 39.023 and any  
25 other assessment instrument required by the commissioner ~~[with~~  
26 ~~the number of those students exempted from the administration of~~  
27 ~~those instruments and the basis of the exemptions, aggregated by~~

1 ~~district, grade level, and subject area~~, with appropriate  
2 interpretations and analysis, and disaggregated by race,  
3 ethnicity, gender, and socioeconomic status;

4 (6) an evaluation of the correlation between student  
5 grades and student performance on academic skills assessment  
6 instruments required by Section 39.023;

7 (7) a statement of the dropout rate of students in  
8 grade levels 7 through 12, expressed in the aggregate and by  
9 grade level, and a statement of the completion rates of students  
10 for grade levels 9 through 12;

11 (8) a statement of:

12 (A) the completion rate of students who enter  
13 grade level 9 and graduate not more than four years later;

14 (B) the completion rate of students who enter  
15 grade level 9 and graduate, including students who require more  
16 than four years to graduate;

17 (C) the completion rate of students who enter  
18 grade level 9 and not more than four years later receive a high  
19 school equivalency certificate;

20 (D) the completion rate of students who enter  
21 grade level 9 and receive a high school equivalency certificate,  
22 including students who require more than four years to receive a  
23 certificate; and

24 (E) the number and percentage of all students who  
25 have not been accounted for under Paragraph (A), (B), (C), or  
26 (D);

27 (9) a statement of the projected cross-sectional and

1 longitudinal dropout rates for grade levels 9 through 12 for the  
2 next five years, assuming no state action is taken to reduce the  
3 dropout rate;

4 (10) a description of a systematic, measurable plan  
5 for reducing the projected cross-sectional and longitudinal  
6 dropout rates to five percent or less for the 1997-1998 school  
7 year;

8 (11) a summary of the information required by Section  
9 29.083 regarding grade level retention of students and  
10 information concerning:

11 (A) the number and percentage of students  
12 retained; and

13 (B) the performance of retained students on  
14 assessment instruments required under Section 39.023(a);

15 (12) information, aggregated by district type and  
16 disaggregated by race, ethnicity, gender, and socioeconomic  
17 status, on:

18 (A) the number of students placed in a  
19 disciplinary [~~an~~] alternative education program established  
20 under Section 37.008;

21 (B) the average length of a student's placement  
22 in a disciplinary [~~an~~] alternative education program established  
23 under Section 37.008;

24 (C) the academic performance of students on  
25 assessment instruments required under Section 39.023(a) during  
26 the year preceding and during the year following placement in a  
27 disciplinary [~~an~~] alternative education program; and

1 (D) the dropout rates of students who have been  
2 placed in a disciplinary [~~an~~] alternative education program  
3 established under Section 37.008;

4 (13) a list of each school district or campus that  
5 does not satisfy performance standards, with an explanation of  
6 the actions taken by the commissioner to improve student  
7 performance in the district or campus and an evaluation of the  
8 results of those actions;

9 (14) an evaluation of the status of the curriculum  
10 taught in public schools, with recommendations for legislative  
11 changes necessary to improve or modify the curriculum required  
12 by Section 28.002;

13 (15) a description of all funds received by and each  
14 activity and expenditure of the agency;

15 (16) a summary and analysis of the instructional  
16 expenditures ratios and instructional employees ratios of school  
17 districts computed under Section 44.0071;

18 (17) a summary of the effect of deregulation,  
19 including exemptions and waivers granted under Section 7.056 or  
20 39.112;

21 (18) a statement of the total number and length of  
22 reports that school districts and school district employees must  
23 submit to the agency, identifying which reports are required by  
24 federal statute or rule, state statute, or agency rule, and a  
25 summary of the agency's efforts to reduce overall reporting  
26 requirements;

27 (19) a list of each school district that is not in

1 compliance with state special education requirements, including:

2 (A) the period for which the district has not  
3 been in compliance;

4 (B) the manner in which the agency considered the  
5 district's failure to comply in determining the district's  
6 accreditation status; and

7 (C) an explanation of the actions taken by the  
8 commissioner to ensure compliance and an evaluation of the  
9 results of those actions;

10 (20) an evaluation of public charter districts,  
11 including:

12 (A) the academic performance of students enrolled  
13 in public charter districts, disaggregated by race, ethnicity,  
14 gender, and socioeconomic status;

15 (B) the costs of instruction, administration, and  
16 transportation incurred by public charter districts; and

17 (C) other issues, as determined by the  
18 commissioner [~~a comparison of the performance of open-enrollment~~  
19 ~~charter schools and school districts on the academic excellence~~  
20 ~~indicators specified in Section 39.051(b) and accountability~~  
21 ~~measures adopted under Section 39.051(g), with a separately~~  
22 ~~aggregated comparison of the performance of open-enrollment~~  
23 ~~charter schools predominantly serving students at risk of~~  
24 ~~dropping out of school, as defined by Section 29.081(d), with~~  
25 ~~the performance of school districts]; and~~

26 (21) any additional information considered important  
27 by the commissioner or the State Board of Education.

1 SECTION 2C.28. Section 39.202(a), Education Code, is  
2 amended to read as follows:

3 (a) The commissioner shall, in consultation with the  
4 comptroller, develop and implement a financial accountability  
5 rating system for school districts in this state that  
6 distinguishes among districts' varying levels of financial  
7 performance.

8 SECTION 2C.29. Subchapter I, Chapter 39, Education Code, is  
9 amended by adding Section 39.205 to read as follows:

10 Sec. 39.205. REPORT TO LEGISLATURE. (a) Not later than  
11 September 1, 2006, the agency shall submit a report to the  
12 legislature on the status of the financial accountability system  
13 that recommends to the legislature methods for linking school  
14 district financial management performance and academic  
15 performance.

16 (b) This section expires September 2, 2006.

17 SECTION 2C.30. Subchapter A, Chapter 44, Education Code, is  
18 amended by adding Section 44.0073 to read as follows:

19 Sec. 44.0073. INSTRUCTIONAL COSTS. (a) For purposes of  
20 this section:

21 (1) "Direct instructional costs" includes a school  
22 district's expenses related to instruction, instructional  
23 resources and media services, curriculum development,  
24 instructional staff development, instructional leadership,  
25 school leadership, and evaluation and counseling services.

26 (2) "Indirect instructional costs" includes:

27 (A) a school district's expenses related to

1 social work services, health services, student transportation,  
2 food services, facility maintenance and operations, security and  
3 monitoring services, and data processing services; and

4 (B) payments to another district under the public  
5 education grant program under Subchapter G, Chapter 29, payments  
6 to another district that is a member of a shared services  
7 arrangement, payments to a fiscal agent, and payments under  
8 Section 37.012 to a juvenile justice alternative education  
9 program.

10 (b) For purposes of school district financial  
11 accountability, the agency shall identify each district's direct  
12 and indirect instructional costs for the preceding fiscal year  
13 and make that information available to the public on the  
14 agency's Internet website.

15 PART D. INSTRUCTIONAL MATERIALS

16 SECTION 2D.01. Section 7.055(b)(28), Education Code, is  
17 amended to read as follows:

18 (28) The commissioner shall perform duties relating to  
19 the funding, adoption, and purchase of instructional materials  
20 [~~textbooks~~] under Chapter 31.

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

23 (f) A school district or campus that is required to develop  
24 and implement a student achievement improvement plan under  
25 Section 39.131 or 39.132 may receive an exemption or waiver  
26 under this section from any law or rule other than:

27 (1) a prohibition on conduct that constitutes a

1 criminal offense;

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

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

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

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

10 (4) [~~textbook~~] selection of instructional materials  
11 under Chapter 31.

12 SECTION 2D.03. Section 7.102(c)(23), Education Code, is  
13 amended to read as follows:

14 (23) The board shall adopt and purchase or license  
15 instructional materials [~~textbooks~~] as provided by Chapter 31  
16 and adopt rules required by that chapter.

17 SECTION 2D.04. Sections 7.108(a) and (c), Education Code,  
18 are amended to read as follows:

19 (a) A person interested in selling bonds of any type, [~~or~~]  
20 a publisher, or any other person engaged in manufacturing,  
21 shipping, selling, or advertising instructional materials  
22 [~~textbooks~~] or otherwise connected with the instructional  
23 material [~~textbook~~] business commits an offense if the person  
24 makes or authorizes a political contribution to or takes part  
25 in, directly or indirectly, the campaign of any person seeking  
26 election to or serving on the board.

27 (c) In this section:

1           (1) "Instructional material" and "publisher" have the  
2 meanings assigned by Section 31.002.

3           (2) "Political contribution" has the meaning assigned  
4 by Section 251.001, Election Code.

5           [~~(2) "Textbook" has the meaning assigned by Section~~  
6 ~~31.002.~~]

7           SECTION 2D.05. The heading to Section 7.112, Education  
8 Code, is amended to read as follows:

9           Sec. 7.112. REPRESENTATION OF [~~TEXTBOOK~~] PUBLISHER OF  
10 INSTRUCTIONAL MATERIALS BY FORMER MEMBER OF BOARD.

11           SECTION 2D.06. Section 7.112(a), Education Code, is amended  
12 to read as follows:

13           (a) A former member of the State Board of Education who is  
14 employed by or otherwise receives compensation from a [~~textbook~~]  
15 publisher of instructional materials may not, before the second  
16 anniversary of the date on which the person last served as a  
17 member of the State Board of Education:

18           (1) confer with a member of the board of trustees of a  
19 school district concerning instructional materials [~~a textbook~~]  
20 published by that [~~textbook~~] publisher; or

21           (2) appear at a meeting of the board of trustees on  
22 behalf of the [~~textbook~~] publisher.

23           SECTION 2D.07. Section 7.112(c)(2), Education Code, is  
24 amended to read as follows:

25           (2) "Instructional material" and "publisher"  
26 [~~"Publisher" and "textbook"~~] have the meanings assigned by  
27 Section 31.002.

1 SECTION 2D.08. Section 11.158(b), Education Code, is  
2 amended to read as follows:

3 (b) The board may not charge fees for:

4 (1) instructional materials [~~textbooks~~], workbooks,  
5 laboratory supplies, or other supplies necessary for  
6 participation in any instructional course except as authorized  
7 under this code;

8 (2) field trips required as a part of a basic  
9 education program or course;

10 (3) any specific form of dress necessary for any  
11 required educational program or diplomas;

12 (4) the payment of instructional costs for necessary  
13 school personnel employed in any course or educational program  
14 required for graduation;

15 (5) library materials [~~books~~] required to be used for  
16 any educational course or program, other than fines for lost,  
17 damaged, or overdue materials [~~books~~];

18 (6) admission to any activity the student is required  
19 to attend as a prerequisite to graduation;

20 (7) admission to or examination in any required  
21 educational course or program; or

22 (8) lockers.

23 SECTION 2D.09. Section 11.164(a), Education Code, is  
24 amended to read as follows:

25 (a) The board of trustees of each school district shall  
26 limit redundant requests for information and the number and  
27 length of written reports that a classroom teacher is required

1 to prepare. A classroom teacher may not be required to prepare  
2 any written information other than:

3 (1) any report concerning the health, safety, or  
4 welfare of a student;

5 (2) a report of a student's grade on an assignment or  
6 examination;

7 (3) a report of a student's academic progress in a  
8 class or course;

9 (4) a report of a student's grades at the end of each  
10 grade reporting period;

11 (5) a [~~textbook~~] report on instructional materials;

12 (6) a unit or weekly lesson plan that outlines, in a  
13 brief and general manner, the information to be presented during  
14 each period at the secondary level or in each subject or topic  
15 at the elementary level;

16 (7) an attendance report;

17 (8) any report required for accreditation review;

18 (9) any information required by a school district that  
19 relates to a complaint, grievance, or actual or potential  
20 litigation and that requires the classroom teacher's  
21 involvement; or

22 (10) any information specifically required by law,  
23 rule, or regulation.

24 SECTION 2D.10. Section 19.007(e), Education Code, is  
25 amended to read as follows:

26 (e) The district may participate in the instructional  
27 materials [~~textbook~~] program under Chapter 31.

1 SECTION 2D.11. Sections 26.006(a) and (c), Education Code,  
2 are amended to read as follows:

3 (a) A parent is entitled to:

4 (1) review all teaching materials, instructional  
5 materials [~~textbooks~~], and other teaching aids used in the  
6 classroom of the parent's child; and

7 (2) review each test administered to the parent's  
8 child after the test is administered.

9 (c) A student's parent is entitled to request that the  
10 school district or open-enrollment charter school the student  
11 attends allow the student to take home any instructional  
12 materials [~~textbook~~] used by the student. Subject to the  
13 availability of the instructional materials [~~a textbook~~], the  
14 district or school shall honor the request. A student who takes  
15 home instructional materials [~~a textbook~~] must return the  
16 instructional materials [~~textbook~~] to school at the beginning of  
17 the next school day if requested to do so by the student's  
18 teacher. In this subsection, "instructional material"  
19 [~~textbook~~] has the meaning assigned by Section 31.002.

20 SECTION 2D.12. Sections 28.002(c) and (h), Education Code,  
21 are amended to read as follows:

22 (c) The State Board of Education, with the direct  
23 participation of educators, parents, business and industry  
24 representatives, and employers shall by rule identify the  
25 essential knowledge and skills of each subject of the required  
26 curriculum that all students should be able to demonstrate and  
27 that will be used in evaluating instructional materials

1 [~~textbooks~~] under Chapter 31 and addressed on the assessment  
2 instruments required under Subchapter B, Chapter 39. As a  
3 condition of accreditation, the board shall require each  
4 district to provide instruction in the essential knowledge and  
5 skills at appropriate grade levels.

6 (h) The State Board of Education and each school district  
7 shall foster the continuation of the tradition of teaching  
8 United States and Texas history and the free enterprise system  
9 in regular subject matter, ~~and~~ in social studies, economics,  
10 and reading courses, and in the adoption of instructional  
11 materials [~~textbooks~~]. A primary purpose of the public school  
12 curriculum is to prepare thoughtful, active citizens who  
13 understand the importance of patriotism and can function  
14 productively in a free enterprise society with appreciation for  
15 the basic democratic values of our state and national heritage.

16 SECTION 2D.13. The heading to Chapter 31, Education Code,  
17 is amended to read as follows:

18 CHAPTER 31. INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

19 SECTION 2D.14. Section 31.001, Education Code, is amended  
20 to read as follows:

21 Sec. 31.001. FREE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
22 Instructional materials [~~Textbooks~~] selected for use in the  
23 public schools shall be furnished without cost to the students  
24 attending those schools.

25 SECTION 2D.15. Section 31.002, Education Code, is amended  
26 to read as follows:

27 Sec. 31.002. DEFINITIONS. In this chapter:

1           (1) "Instructional material" [~~"Electronic textbook"~~]  
2 means a medium or a combination of media for conveying  
3 information to a student. The term includes a book,  
4 supplementary materials, a combination of a book, workbook,  
5 supplementary materials, computer software, [interactive  
6 ~~videodisc,~~ magnetic media, DVD, CD-ROM, computer courseware,  
7 on-line services, or an electronic medium, or other means of  
8 conveying information to the student or otherwise contributing  
9 to the learning process through electronic means.

10           (2) "Publisher" means a person who prepares,  
11 manufactures, or distributes instructional materials for sale or  
12 distribution to public schools. The term includes an on-line  
13 service or a developer or distributor of [an] electronic  
14 instructional materials [~~textbook~~].

15           (3) "State-adopted" means adopted by the State Board  
16 of Education under Section 31.024 [~~"Textbook" means a book, a~~  
17 ~~system of instructional materials, or a combination of a book~~  
18 ~~and supplementary instructional materials that conveys~~  
19 ~~information to the student or otherwise contributes to the~~  
20 ~~learning process, or an electronic textbook~~].

21           (4) "Technological equipment" means hardware, a  
22 device, or equipment necessary for:

23           (A) instructional use in the classroom, including  
24 to gain access to or enhance the use of [an] electronic  
25 instructional materials [~~textbook~~]; or

26           (B) professional use by a classroom teacher.

27           SECTION 2D.16. Section 31.003, Education Code, is amended

1 to read as follows:

2       Sec. 31.003. RULES. The State Board of Education may adopt  
3 rules, consistent with this chapter, for the adoption,  
4 requisition, distribution, care, use, and disposal of  
5 instructional materials [~~textbooks~~].

6       SECTION 2D.17. Subchapter B, Chapter 31, Education Code, is  
7 amended by amending Sections 31.021-31.024 and 31.026-31.030 and  
8 adding Sections 31.0211, 31.0221, 31.031, and 31.032 to read as  
9 follows:

10       Sec. 31.021. STATE INSTRUCTIONAL MATERIALS [~~TEXTBOOK~~]  
11 FUND. (a) The state instructional materials [~~textbook~~] fund  
12 consists of:

13           (1) an amount set aside by the State Board of  
14 Education from the available school fund, computed in accordance  
15 with this section; and

16           (2) [~~all funds accruing from the state's sale of~~  
17 ~~disused textbooks; and~~

18           [~~(3)~~] all amounts lawfully paid into the fund from any  
19 other source.

20       (b) The State Board of Education shall annually set aside  
21 out of the available school fund of the state an amount  
22 sufficient for the instructional materials allotment to provide  
23 [~~board,~~] school districts[~~,~~] and open-enrollment charter schools  
24 with the funds required to purchase and distribute the necessary  
25 state-adopted instructional materials [~~textbooks~~] for the use of  
26 the students of this state for the following school year. The  
27 board shall determine the amount of the available school fund to

1 set aside for the state instructional materials [~~textbook~~] fund  
2 based on the amount of the allotment under Section 31.0211 and  
3 on reports of maximum attendance and anticipated enrollment  
4 growth submitted under Section 31.103.[÷

5 [~~(1) a report by the commissioner issued on July 1 or,~~  
6 ~~if that date is a Saturday or Sunday, on the following Monday,~~  
7 ~~stating the amount of unobligated money in the fund;~~

8 [~~(2) the commissioner's estimate, based on textbooks~~  
9 ~~selected under Section 31.101 and on attendance reports~~  
10 ~~submitted under Section 31.103 by school districts and open-~~  
11 ~~enrollment charter schools, of the amount of funds, in addition~~  
12 ~~to funds reported under Subdivision (1), that will be necessary~~  
13 ~~for purchase and distribution of textbooks for the following~~  
14 ~~school year; and~~

15 [~~(3) any amount the board determines should be set~~  
16 ~~aside for emergency purposes caused by unexpected increases in~~  
17 ~~attendance.]~~

18 (d) Money transferred to the state instructional materials  
19 [~~textbook~~] fund remains in the fund until spent and does not  
20 lapse to the state at the end of the fiscal year.

21 [~~(e) All necessary expenses incurred under this chapter~~  
22 ~~shall be paid from the state textbook fund on invoices approved~~  
23 ~~by the commissioner.]~~

24 Sec. 31.0211. INSTRUCTIONAL MATERIALS ALLOTMENT. (a) For  
25 the maximum attendance and anticipated enrollment growth  
26 reported under Section 31.103 in a school year, a school  
27 district is entitled to an annual allotment of \$70 for each

1 student or a greater amount provided by appropriation, to be  
2 paid from the state instructional materials fund. The  
3 commissioner may determine for each district the amount of  
4 anticipated enrollment growth for which an allotment is provided  
5 under this subsection.

6 (b) In addition to the allotment provided by Subsection  
7 (a), a school district that contracts with a juvenile justice  
8 alternative education program under Section 37.011 is entitled  
9 to an allotment from the state instructional materials fund in  
10 an amount determined by the commissioner. The district and the  
11 program may contract for the program to use the allotment to  
12 purchase approved instructional materials for students enrolled  
13 in the program. The commissioner's determination under this  
14 subsection is final and may not be appealed. The commissioner  
15 shall, in coordination with the Texas Juvenile Probation  
16 Commission, adopt rules necessary to implement this subsection.

17 (c) Funds allotted under this section may be used only to  
18 purchase:

- 19 (1) state-adopted instructional materials; or  
20 (2) instructional materials authorized by commissioner  
21 waiver.

22 (d) This section applies beginning with the 2007-2008  
23 school year. This subsection expires September 1, 2008.

24 Sec. 31.022. INSTRUCTIONAL MATERIALS [TEXTBOOK] REVIEW AND  
25 ADOPTION CYCLE. (a) The State Board of Education shall adopt a  
26 review and adoption cycle for instructional materials  
27 [textbooks] for elementary grade levels, including

1 prekindergarten, and secondary grade levels, for each subject in  
2 the required curriculum under Section 28.002.

3 (b) The board shall organize the cycle for subjects in the  
4 foundation curriculum so that not more than one-sixth of the  
5 instructional materials [~~textbooks~~] for subjects in the  
6 foundation curriculum are reviewed each year. The board shall  
7 adopt rules to provide for a full and complete investigation of  
8 instructional materials [~~textbooks~~] for each subject in the  
9 foundation curriculum at least every six years. The adoption of  
10 instructional materials [~~textbooks~~] for a subject in the  
11 foundation curriculum may be extended beyond the six-year period  
12 only if the content of instructional materials [~~textbooks~~] for a  
13 subject is sufficiently current.

14 (c) The board shall adopt rules to provide for a full and  
15 complete investigation of instructional materials [~~textbooks~~]  
16 for each subject in the enrichment curriculum on a cycle the  
17 board considers appropriate, but not less than every eight  
18 years.

19 (d) At least 24 months before the beginning of the school  
20 year for which instructional materials [~~textbooks~~] for a  
21 particular subject and grade level will be purchased under the  
22 review and adoption cycle adopted by the board, the board shall  
23 publish notice of the review and adoption cycle for those  
24 instructional materials [~~textbooks~~].

25 (e) In organizing the cycle for review and adoption of  
26 instructional materials, the board shall:

27 (1) generally align the cycle with the schedule for

1 any revision of the essential knowledge and skills under Section  
2 28.002 of the subjects and grade levels addressed by the  
3 instructional materials;

4 (2) seek advice from the Legislative Budget Board and  
5 the governor's office of budget, planning, and policy before  
6 approving and publishing any notice or amendment of the cycle;

7 (3) review and consider expected average costs of the  
8 instructional materials that will be adopted and the amount of  
9 the instructional materials allotment to ensure that the amount  
10 of the instructional materials that will be adopted over a two-  
11 year period may be purchased within the amount of the  
12 instructional material allotment for that same period; and

13 (4) follow any directive provided in the General  
14 Appropriations Act regarding the organization of the cycle.

15 (f) In addition to organizing a review and adoption cycle,  
16 the board by rule shall allow an instructional material to be  
17 submitted, reviewed, and adopted at a time when the subject or  
18 grade level is not scheduled in the cycle to be considered for  
19 at least two years, in conformance with the procedures for  
20 adoption of other state-adopted instructional materials. The  
21 board shall place each instructional material submitted under  
22 this subsection and adopted under Section 31.024 on an  
23 applicable list under Section 31.023.

24 Sec. 31.0221. CORRECTION OF FACTUAL ERRORS. (a) To  
25 promote efficiency in the correction of factual errors during  
26 the instructional materials review and adoption process, the  
27 State Board of Education shall:

1           (1) to the extent practicable, conduct the review of  
2 instructional materials using page proofs or other appropriate  
3 draft versions of the instructional materials; and

4           (2) require the publisher to provide instructional  
5 materials, including page proofs, draft versions, or sample  
6 instructional materials, directly to state instructional  
7 materials review panel members in a timely manner before the  
8 members meet to conduct a complete and formal review of the  
9 materials.

10          (b) During the instructional materials review and adoption  
11 process, the publisher of instructional materials proposed for  
12 adoption in this state shall promptly correct any factual errors  
13 discovered in the instructional materials. For purposes of this  
14 section, a factual error includes an objectively verifiable  
15 mistake, including an incorrect reference to a date, place, or  
16 person, an incorrect computational process or result, or similar  
17 incorrect provisions. A factual error does not include a  
18 difference in professional opinion, conclusion, emphasis, or  
19 perspective expressed in instructional materials.

20          (c) If the State Board of Education believes that the  
21 content of an instructional material is factually inaccurate  
22 because the content is incomplete or expresses only one  
23 viewpoint or opinion that is not widely accepted in the academic  
24 community, the State Board of Education shall appoint a panel of  
25 experts and scholars to determine whether the material is  
26 factually inaccurate.

27          (d) The board shall adopt rules authorizing the imposition

1 of an administrative penalty in the manner provided by Section  
2 31.151 against a publisher who knowingly violates Subsection  
3 (b). In setting the amount of any penalty to be imposed under  
4 this subsection, the board shall consider the stage of the  
5 instructional materials review and adoption process at which the  
6 violation occurs and set progressively higher penalties for  
7 violations that occur later in the process.

8       Sec. 31.023. [~~TEXTBOOK~~]       LISTS       OF       STATE-ADOPTED  
9 INSTRUCTIONAL MATERIALS. (a) For each subject and grade level,  
10 the State Board of Education shall adopt two lists of  
11 instructional materials [~~textbooks~~]. The conforming list  
12 includes each state-adopted instructional material [~~textbook~~]  
13 submitted for the subject and grade level that meets applicable  
14 physical specifications adopted by the State Board of Education  
15 and contains material covering each element of the essential  
16 knowledge and skills of the subject and grade level as  
17 determined by the State Board of Education under Section 28.002  
18 and adopted under Section 31.024. The nonconforming list  
19 includes each state-adopted instructional material [~~textbook~~]  
20 submitted for the subject and grade level that:

21           (1) meets applicable physical specifications adopted  
22 by the State Board of Education;

23           (2) contains material covering at least half, but not  
24 all, of the elements of the essential knowledge and skills of  
25 the subject and grade level; and

26           (3) is adopted under Section 31.024.

27       (b) Each state-adopted instructional material [~~textbook~~] on

1 a conforming or nonconforming list must be free from factual  
2 errors.

3 Sec. 31.024. ADOPTION BY STATE BOARD OF EDUCATION. (a) By  
4 majority vote, the State Board of Education shall:

5 (1) place each submitted instructional material  
6 [~~textbook~~] on a conforming or nonconforming list; or

7 (2) reject an instructional material [~~a textbook~~]  
8 submitted for placement on a conforming or nonconforming list.

9 (b) Not later than December 1 of the year preceding the  
10 school year for which the state-adopted instructional materials  
11 [~~textbooks~~] for a particular subject and grade level will be  
12 purchased under the cycle adopted by the board under Section  
13 31.022, the board shall make available [~~provide~~] the lists of  
14 state-adopted instructional materials, including instructional  
15 materials under Section 31.022(f) [~~adopted textbooks~~] to each  
16 school district. Each nonconforming list must include:

17 (1) the reasons an adopted instructional material  
18 [~~textbook~~] is not eligible for the conforming list; and

19 (2) a list of the essential knowledge and skills  
20 contained in an adopted instructional material on the  
21 nonconforming list.

22 Sec. 31.026. CONTRACT; PRICE. (a) The commissioner, with  
23 the assistance of the Department of Information Resources, the  
24 State Board of Education, and the office of the attorney  
25 general, shall develop model contracts that may be used by  
26 school districts and open-enrollment charter schools [~~State~~  
27 ~~Board of Education shall execute a contract:~~

1            [~~(1)~~] for the purchase or licensing of instructional  
2 materials under this chapter [~~each adopted textbook other than~~  
3 ~~an electronic textbook; and~~

4            [~~(2)~~ ~~for the purchase or licensing of each adopted~~  
5 ~~electronic textbook~~].

6            (b) A contract must require the publisher to provide all of  
7 the instructional materials [~~the number of textbooks~~] required  
8 by school districts in this state for the term of the contract[~~7~~  
9 ~~which must coincide with the board's adoption cycle~~].

10           (c) As applicable, a contract must provide for the purchase  
11 or licensing of instructional materials [~~a textbook~~] at a  
12 specific price, which may not exceed the lowest price paid by  
13 any other state or any school or school district. The price  
14 must be fixed for the term of the contract. The price may  
15 decrease if the lowest price paid by another state or another  
16 school or school district decreases during the term of the  
17 contract.

18           Sec. 31.027. INFORMATION TO SCHOOL DISTRICTS; SAMPLE  
19 COPIES. (a) A publisher shall provide each school district and  
20 open-enrollment charter school with information that fully  
21 describes each of the publisher's state-adopted instructional  
22 materials [~~adopted textbooks~~]. On request of a school district,  
23 a publisher shall provide a sample copy of a state-adopted  
24 instructional material [~~an adopted textbook~~].

25           (b) A publisher shall provide at least two sample copies of  
26 each state-adopted instructional material [~~adopted textbook~~] to  
27 be maintained for at least two years at each regional education

1 service center or an alternate location designated by the  
2 applicable service center.

3 Sec. 31.028. SPECIAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

4 (a) The State Board of Education may make available [~~purchase~~]  
5 special instructional materials [~~textbooks~~] for the education of  
6 blind and visually impaired students in public schools. In  
7 addition, from funds appropriated for the purpose, for a teacher  
8 who is blind or visually impaired, the board shall provide a  
9 teacher's edition in Braille or large type, as requested by the  
10 teacher, for each printed state-adopted instructional material  
11 [~~textbook~~] the teacher uses in the instruction of students. The  
12 teacher edition must be available at the same time the student  
13 instructional materials [~~textbooks~~] become available.

14 (b) The publisher of a printed state-adopted instructional  
15 material [~~an adopted textbook~~] shall provide the agency with  
16 computerized [~~textbook~~] files for the production of Braille  
17 instructional materials [~~textbooks~~] or other versions of  
18 instructional materials [~~textbooks~~] to be used by students with  
19 disabilities, on request of the State Board of Education. A  
20 publisher shall arrange the computerized [~~textbook~~] files in one  
21 of several optional formats specified by the State Board of  
22 Education.

23 (c) The board may also enter into agreements providing for  
24 the acceptance, requisition, and distribution of special  
25 instructional materials [~~textbooks and instructional aids~~]  
26 pursuant to 20 U.S.C. Section 101 et seq. for use by students  
27 enrolled in:

1 (1) public schools; or

2 (2) private nonprofit schools, if state funds, other  
3 than for administrative costs, are not involved.

4 (c-1) The board shall require electronic instructional  
5 materials included on the conforming list and nonconforming list  
6 under Section 31.023 to comply with the standards established  
7 under Section 508, Rehabilitation Act of 1973 (29 U.S.C. Section  
8 794d), if the materials are for use by students enrolled in:

9 (1) public schools; or

10 (2) private nonprofit schools, if state funds, other  
11 than for administrative costs, are not involved.

12 (d) In this section:

13 (1) "Blind or visually impaired student" includes any  
14 student whose visual acuity is impaired to the extent that the  
15 student is unable to read the text [~~print~~] in state-adopted  
16 instructional materials [~~a regularly adopted textbook~~] used in  
17 the student's class.

18 (2) "Special instructional materials" [~~textbook~~]  
19 means instructional materials [~~a textbook~~] in Braille, large  
20 type, audiotape, accessible web page, accessible DVD/CD-ROM, or  
21 any other medium or any apparatus that conveys information to a  
22 student or otherwise contributes to the learning process.

23 Sec. 31.029. BILINGUAL INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

24 The board shall adopt instructional materials [~~purchase or~~  
25 ~~otherwise acquire textbooks~~] for use in bilingual education  
26 classes.

27 Sec. 31.030. USED INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]. The

1 State Board of Education shall adopt rules to ensure that used  
2 instructional materials [~~textbooks~~] sold to school districts and  
3 open-enrollment charter schools are not sample copies that  
4 contain factual errors. The rules may provide for the  
5 imposition of an administrative penalty in accordance with  
6 Section 31.151 against a seller of used instructional materials  
7 [~~textbooks~~] who knowingly violates this section.

8 Sec. 31.031. SUBSCRIPTION-BASED ELECTRONIC INSTRUCTIONAL  
9 MATERIALS. The publisher of a state-adopted electronic  
10 instructional material may offer the material to school  
11 districts and open-enrollment charter schools on a subscription  
12 basis.

13 Sec. 31.032. UPDATES. The publisher of a state-adopted  
14 instructional material may update the instructional material,  
15 and a school district or open-enrollment charter school may  
16 purchase the update. The State Board of Education by rule shall  
17 provide for an expedited review process to determine the extent  
18 to which updated instructional material aligns with the  
19 essential knowledge and skills and does not contain factual  
20 errors.

21 SECTION 2D.18. Section 31.101, Education Code, is amended  
22 to read as follows:

23 Sec. 31.101. SELECTION AND PURCHASE OF INSTRUCTIONAL  
24 MATERIALS [~~TEXTBOOKS~~] BY SCHOOL DISTRICTS. (a) Each year,  
25 during any [a] period established by the State Board of  
26 Education, the board of trustees of each school district and the  
27 governing body of each open-enrollment charter school shall:

1           (1) [~~for a subject in the foundation curriculum,~~]  
2 notify the State Board of Education of the state-adopted  
3 instructional materials [~~textbooks~~] selected by the board of  
4 trustees or governing body for the following school year from  
5 among the instructional materials [~~textbooks~~] on the appropriate  
6 conforming or nonconforming list; and [~~or~~]

7           (2) provide an accounting of the expenditure of its  
8 instructional materials allotment during that period. [~~for a~~  
9 ~~subject in the enrichment curriculum:~~

10           [~~(A) notify the State Board of Education of each~~  
11 ~~textbook selected by the board of trustees or governing body for~~  
12 ~~the following school year from among the textbooks on the~~  
13 ~~appropriate conforming or nonconforming list; or~~

14           [~~(B) notify the State Board of Education that the~~  
15 ~~board of trustees or governing body has selected a textbook that~~  
16 ~~is not on the conforming or nonconforming list.]~~

17           (b) The board of trustees of each [~~If a~~] school district or  
18 the governing body of each open-enrollment charter school shall  
19 use the instructional materials allotment to purchase  
20 instructional materials selected by the board of trustees or the  
21 governing body [~~selects a textbook~~] for a [~~particular~~] subject  
22 in the required [~~enrichment~~] curriculum. [~~and grade level that~~  
23 ~~is not on the conforming or nonconforming list, the state shall~~  
24 ~~pay to the district or school an amount equal to the lesser of:~~

25           [~~(1) 70 percent of the cost to the district of the~~  
26 ~~textbook, multiplied by the number of textbooks the district or~~  
27 ~~school needs for that subject and grade level; or~~

1           ~~[(2) 70 percent of the limitation established under~~  
2 ~~Section 31.025 for a textbook for that subject and grade level,~~  
3 ~~multiplied by the number of textbooks the district or school~~  
4 ~~needs for that subject and grade level.]~~

5           (c) A school district or open-enrollment charter school may  
6 purchase an instructional material under Subsection (b) only if  
7 the instructional material is purchased not later than the  
8 beginning of the second school year that begins after the  
9 adoption of the conforming or nonconforming list that includes  
10 the instructional material. This subsection does not apply to:

11           (1) instructional materials under Section 31.022(f);

12           (2) the purchase of replacement instructional  
13 materials due to loss or damage; or

14           (3) the purchase of additional instructional materials  
15 needed because of enrollment growth ~~[that selects a textbook~~  
16 ~~that is not on the conforming or nonconforming list:~~

17           ~~[(1) is responsible for the portion of the cost of the~~  
18 ~~textbook that is not paid by the state under Subsection (b); and~~

19           ~~[(2) may use funds received from the state under~~  
20 ~~Subsection (b) only for purchasing the textbook for which the~~  
21 ~~funds were received].~~

22           ~~[(d) For a textbook that is not on the conforming or~~  
23 ~~nonconforming list, a school district or open-enrollment charter~~  
24 ~~school must use the textbook for the period of the review and~~  
25 ~~adoption cycle the State Board of Education has established for~~  
26 ~~the subject and grade level for which the textbook is used.]~~

27           SECTION 2D.19. Section 31.102, Education Code, is amended

1 to read as follows:

2           Sec. 31.102. TITLE AND CUSTODY. (a) Except as provided by  
3 this subsection, each instructional material [~~Each textbook~~]  
4 purchased by the state as provided by this chapter is the  
5 property of this state. Beginning with the 2007-2008 school  
6 year, each instructional material purchased through the  
7 instructional materials allotment by a school district or open-  
8 enrollment charter school is the property of the district or  
9 charter school.

10           (b) Subsection (a) applies to an electronic instructional  
11 material [~~textbook~~] only to the extent of any applicable  
12 licensing agreement.

13           (c) The board of trustees of a school district or the  
14 governing body of an open-enrollment charter school is the legal  
15 custodian of instructional materials [~~textbooks~~] purchased as  
16 provided by this chapter for or by the district or school. The  
17 board of trustees or governing body shall distribute  
18 instructional materials [~~textbooks~~] to students in the manner  
19 that the board or governing body determines is most effective  
20 and economical.

21           (d) An open-enrollment charter school may not transfer  
22 instructional materials unless the transfer is approved by the  
23 commissioner. The commissioner may not approve such a transfer  
24 unless the transfer is to another public school of this state.

25           SECTION 2D.20. Section 31.103, Education Code, is amended  
26 to read as follows:

27           Sec. 31.103. INSTRUCTIONAL MATERIALS           [~~TEXTBOOK~~]

1 REQUISITIONS. (a) Not later than the seventh day after the  
2 first school day in April, each principal shall report the  
3 maximum attendance for the school to the superintendent. Not  
4 later than April 25, the superintendent of a school district or  
5 the chief operating officer of an open-enrollment charter school  
6 shall report to the commissioner the district's or school's  
7 maximum attendance and anticipated enrollment growth [~~to the~~  
8 ~~commissioner~~].

9 (b) [~~A requisition for textbooks for the following school~~  
10 ~~year shall be based on the maximum attendance reports under~~  
11 ~~Subsection (a), plus an additional 10 percent, except as~~  
12 ~~otherwise provided.~~] A school district or open-enrollment  
13 charter school shall make a requisition for instructional  
14 materials [~~a textbook~~] on the conforming or nonconforming list  
15 [~~through the commissioner~~] to the instructional materials  
16 [~~state~~] depository designated by the publisher or as provided by  
17 State Board of Education rule, as applicable, not later than  
18 June 1 of each year. The designated instructional materials  
19 [~~state~~] depository or, if the publisher [~~or manufacturer~~] does  
20 not have a designated instructional materials [~~textbook~~]  
21 depository in this state under Section 31.151(a)(6)(B), the  
22 publisher [~~or manufacturer~~] shall fill a requisition approved by  
23 the agency at any other time in the case of an emergency. [~~As~~  
24 ~~made necessary by available funds, the commissioner shall reduce~~  
25 ~~the additional percentage of attendance for which a district or~~  
26 ~~school may requisition textbooks. The commissioner may, on~~  
27 ~~application of a district or school that is experiencing high~~

1 enrollment growth, increase the additional percentage of  
2 attendance for which the district or school may requisition  
3 ~~textbooks.~~]

4 (c) In making a requisition under this section, a school  
5 district or open-enrollment charter school may requisition  
6 instructional materials [~~textbooks~~] on the conforming or  
7 nonconforming list for grades above or below the grade level in  
8 which a student is enrolled[, ~~except that the total quantity of~~  
9 ~~textbooks requisitioned under this section may not exceed the~~  
10 ~~limit prescribed by Subsection (b)~~].

11 SECTION 2D.21. Sections 31.104-31.106, Education Code, are  
12 amended to read as follows:

13 Sec. 31.104. DISTRIBUTION AND HANDLING. (a) The board of  
14 trustees of a school district or the governing body of an open-  
15 enrollment charter school may delegate to an employee the  
16 authority to requisition, purchase, distribute, and manage the  
17 inventory of instructional materials [~~textbooks~~] in a manner  
18 consistent with this chapter and rules adopted under this  
19 chapter.

20 (b) A school district or open-enrollment charter school may  
21 order replacements for instructional materials [~~textbooks~~] that  
22 have been lost or damaged directly from:

23 (1) the instructional materials [~~textbook~~] depository;  
24 or

25 (2) the [~~textbook~~] publisher of the instructional  
26 materials [~~or manufacturer~~] if the [~~textbook~~] publisher [~~or~~  
27 ~~manufacturer~~] does not have a designated instructional materials

1 [~~textbook~~] depository in this state under Section  
2 31.151(a)(6)(B).

3 (c) Each instructional material [~~textbook~~] must state that  
4 the instructional material [~~textbook~~] is the property of or is  
5 licensed to this state, school district, or charter school, as  
6 appropriate. Each instructional material [~~textbook~~], other than  
7 an electronic instructional material [~~textbook~~], must be covered  
8 by the student under the direction of the teacher. A student  
9 must return all instructional materials [~~textbooks~~] to the  
10 teacher at the end of the school year or when the student  
11 withdraws from school.

12 (d) Each student, or the student's parent or guardian, is  
13 responsible for each instructional material [~~textbook~~] not  
14 returned by the student. A student who fails to return all  
15 instructional materials [~~textbooks~~] forfeits the right to free  
16 instructional materials [~~textbooks~~] until each instructional  
17 material [~~textbook~~] previously issued but not returned is paid  
18 for by the student, parent, or guardian. As provided by policy  
19 of the board of trustees or governing body, a school district or  
20 open-enrollment charter school may waive or reduce the payment  
21 requirement if the student is from a low-income family. The  
22 district or school shall allow the student to use instructional  
23 materials [~~textbooks~~] at school during each school day. If an  
24 instructional material [~~a textbook~~] is not returned or paid for,  
25 the district or school may withhold the student's records. A  
26 district or school may not, under this subsection, prevent a  
27 student from graduating, participating in a graduation ceremony,

1 or receiving a diploma.

2 (e) The board of trustees of a school district may not  
3 require an employee of the district to pay for an instructional  
4 material [~~a textbook~~] or instructional technology that is  
5 stolen, misplaced, or not returned by a student.

6 Sec. 31.105. SALE OF INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].  
7 The board of trustees of a school district or governing body of  
8 an open-enrollment charter school may sell instructional  
9 materials [~~textbooks~~], other than electronic instructional  
10 materials [~~textbooks~~], to a student or another school [~~at the~~  
11 ~~state contract price~~]. The district shall use [~~send~~] money  
12 received from the sale of instructional materials in accordance  
13 with uses prescribed by Section 31.0211. [~~textbooks to the~~  
14 ~~commissioner as required by the commissioner. The commissioner~~  
15 ~~shall deposit the money in the state textbook fund.~~]

16 Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
17 instructional materials [~~textbook~~] selected under this chapter,  
18 a school district or open-enrollment charter school may use  
19 local funds to purchase any instructional materials [~~textbooks~~].

20 SECTION 2D.22. The heading to Section 31.151, Education  
21 Code, is amended to read as follows:

22 Sec. 31.151. DUTIES OF PUBLISHERS [~~AND MANUFACTURERS~~].

23 SECTION 2D.23. Sections 31.151(a), (b), and (d), Education  
24 Code, are amended to read as follows:

25 (a) A publisher [~~or manufacturer~~] of instructional  
26 materials [~~textbooks~~]:

27 (1) shall furnish any instructional material

1 [~~textbook~~] the publisher [~~or manufacturer~~] offers in this  
2 state[~~r~~] at a price that does not exceed the lowest price at  
3 which the publisher offers that instructional material  
4 [~~textbook~~] for adoption or sale to any state, public school, or  
5 school district in the United States;

6 (2) shall automatically reduce the price of an  
7 instructional material [~~a textbook~~] sold for use in a school  
8 district or open-enrollment charter school to the extent that  
9 the price is reduced elsewhere in the United States;

10 (3) shall provide any instructional material  
11 [~~textbook~~] or ancillary item free of charge in this state to the  
12 same extent that the publisher [~~or manufacturer~~] provides the  
13 instructional material [~~textbook~~] or ancillary item free of  
14 charge to any state, public school, or school district in the  
15 United States;

16 (4) shall guarantee that each copy of an instructional  
17 material [~~a textbook~~] sold in this state is at least equal in  
18 quality to copies of that instructional material [~~textbook~~] sold  
19 elsewhere in the United States and is free from factual error;

20 (5) may not become associated or connected with,  
21 directly or indirectly, any combination in restraint of trade in  
22 instructional materials [~~textbooks~~] or enter into any  
23 understanding or combination to control prices or restrict  
24 competition in the sale of instructional materials [~~textbooks~~]  
25 for use in this state;

26 (6) shall:

27 (A) maintain a depository in this state or

1 arrange with a depository in this state to receive and fill  
2 orders for instructional materials [~~textbooks~~], other than  
3 electronic instructional materials or electronic instructional  
4 material [~~on-line textbooks or on-line textbook~~] components,  
5 consistent with State Board of Education rules; or

6 (B) deliver instructional materials [~~textbooks~~]  
7 to a school district or open-enrollment charter school without a  
8 delivery charge to the school district, open-enrollment charter  
9 school, or state, if:

10 (i) the publisher [~~or manufacturer~~] does not  
11 maintain or arrange with a depository in this state under  
12 Paragraph (A) and the publisher's instructional materials [~~or~~  
13 ~~manufacturer's textbooks~~] and related products are warehoused or  
14 otherwise stored less than 300 miles from a border of this  
15 state; or

16 (ii) the instructional materials [~~textbooks~~]  
17 are electronic instructional materials or electronic  
18 instructional material [~~on-line textbooks or on-line textbook~~]  
19 components;

20 (7) shall, at the time an order for instructional  
21 materials [~~textbooks~~] is acknowledged, provide to school  
22 districts or open-enrollment charter schools an accurate  
23 shipping date for instructional materials [~~textbooks~~] that are  
24 back-ordered;

25 (8) shall guarantee delivery of instructional  
26 materials [~~textbooks~~] at least 10 business days before the  
27 opening day of school of the year for which the instructional

1 materials [~~textbooks~~] are ordered if the instructional materials  
2 [~~textbooks~~] are ordered by a date specified in the sales  
3 contract; and

4 (9) shall submit to the State Board of Education an  
5 affidavit certifying any instructional material [~~textbook~~] the  
6 publisher [~~or manufacturer~~] offers in this state to be free of  
7 factual errors at the time the publisher executes the contract  
8 required by Section 31.026.

9 (b) The State Board of Education may impose a reasonable  
10 administrative penalty against a publisher [~~or manufacturer~~] who  
11 knowingly violates Subsection (a). The board shall provide for  
12 a hearing to be held to determine whether a penalty is to be  
13 imposed and, if so, the amount of the penalty. The board shall  
14 base the amount of the penalty on:

- 15 (1) the seriousness of the violation;  
16 (2) any history of a previous violation;  
17 (3) the amount necessary to deter a future violation;  
18 (4) any effort to correct the violation; and  
19 (5) any other matter justice requires.

20 (d) A penalty collected under this section shall be  
21 deposited to the credit of the state instructional materials  
22 [~~textbook~~] fund.

23 SECTION 2D.24. The heading to Section 31.152, Education  
24 Code, is amended to read as follows:

25 Sec. 31.152. ACCEPTING REBATE ON INSTRUCTIONAL MATERIALS  
26 [~~TEXTBOOKS~~].

27 SECTION 2D.25. Sections 31.152(a), (b), and (d), Education

1 Code, are amended to read as follows:

2 (a) A school trustee, administrator, or teacher commits an  
3 offense if that person receives any commission or rebate on any  
4 instructional materials [~~textbooks~~] used in the schools with  
5 which the person is associated as a trustee, administrator, or  
6 teacher.

7 (b) A school trustee, administrator, or teacher commits an  
8 offense if the person accepts a gift, favor, or service that:

9 (1) is given to the person or the person's school;

10 (2) might reasonably tend to influence a trustee,  
11 administrator, or teacher in the selection of instructional  
12 materials [~~a textbook~~]; and

13 (3) could not be lawfully purchased with funds from  
14 the state instructional materials [~~textbook~~] fund.

15 (d) In this section, "gift, favor, or service" does not  
16 include:

17 (1) staff development, in-service, or teacher  
18 training; or

19 (2) instructional materials[~~7~~] such as maps or  
20 worksheets[~~7, that convey information to the student or otherwise~~  
21 ~~contribute to the learning process~~].

22 SECTION 2D.26. The heading to Section 31.153, Education  
23 Code, is amended to read as follows:

24 Sec. 31.153. VIOLATION OF FREE INSTRUCTIONAL MATERIALS  
25 [~~TEXTBOOK~~] LAW.

26 SECTION 2D.27. Section 31.153(a), Education Code, is  
27 amended to read as follows:

1 (a) A person commits an offense if the person knowingly  
2 violates any law providing for the purchase or distribution of  
3 free instructional materials [~~textbooks~~] for the public schools.

4 SECTION 2D.28. Subchapter E, Chapter 31, Education Code, is  
5 amended to read as follows:

6 SUBCHAPTER E. DISPOSITION OF  
7 INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~]

8 Sec. 31.201. DISPOSITION OF INSTRUCTIONAL MATERIALS  
9 [~~TEXTBOOKS~~]. (a) The commissioner, with the approval of the  
10 State Board of Education, may provide for the disposition of:

11 (1) instructional materials [~~textbooks~~], other than  
12 electronic instructional materials [~~textbooks~~], that are no  
13 longer in acceptable condition to be used for instructional  
14 purposes; or

15 (2) discontinued instructional materials [~~textbooks~~],  
16 other than electronic instructional materials [~~textbooks~~].

17 (b) The commissioner, as provided by rules adopted by the  
18 State Board of Education, shall make available on request copies  
19 of discontinued instructional materials [~~textbooks~~], other than  
20 electronic instructional materials [~~textbooks~~], for use in  
21 libraries maintained in municipal and county jails and  
22 facilities of the institutional division of the Texas Department  
23 of Criminal Justice and other state agencies.

24 (c) The State Board of Education shall adopt rules under  
25 which a school district or open-enrollment charter school may  
26 donate discontinued instructional materials [~~textbooks~~], other  
27 than electronic instructional materials [~~textbooks~~], to a

1 student, to an adult education program, or to a nonprofit  
2 organization.

3 SECTION 2D.29. The heading to Section 32.005, Education  
4 Code, is amended to read as follows:

5 Sec. 32.005. INSTRUCTIONAL MATERIALS AND TECHNOLOGY  
6 ALLOTMENT.

7 SECTION 2D.30. Sections 32.005(a) and (b), Education Code,  
8 are amended to read as follows:

9 (a) For each student in average daily attendance in a  
10 school year, a [~~Each~~] school district or open-enrollment charter  
11 school is entitled to an allotment of \$30 [~~for each student in~~  
12 average daily attendance] or a greater [~~different~~] amount for  
13 any year provided by appropriation, to be used as provided by  
14 Subsection (b).

15 (b) An allotment under this section may be used [~~only~~] to:

16 (1) provide for the purchase by school districts of  
17 systems or components of:

18 (A) wireless electronic mobile computing devices  
19 or other technology devices that convey instruction;

20 (B) productivity hardware or software, including  
21 writing, computation, presentation, and communication tools;

22 (C) electronic learning software aligned with the  
23 essential skills and knowledge adopted by the State Board of  
24 Education under Section 28.002;

25 (D) library and other research tools;

26 (E) electronic assessment tools;

27 (F) electronic learning tools to improve

1 communications among students, teachers, school administrators,  
2 parents, and the community;

3 (G) classroom and school management systems; and

4 (H) portable electronic instructional material  
5 devices capable of supporting instructional material for each  
6 subject in the foundation and enrichment curriculum [electronic  
7 ~~textbooks or technological equipment that contributes to student~~  
8 ~~learning]; [and]~~

9 (2) provide professional development for educational  
10 personnel responsible for direct instruction to integrate the  
11 tools and solutions described by Subdivision (1); and

12 (3) acquire additional infrastructure and technologies  
13 necessary to support and enhance the tools and solutions  
14 described by Subdivision (1) [pay for training educational  
15 ~~personnel directly involved in student learning in the~~  
16 ~~appropriate use of electronic textbooks and for providing for~~  
17 ~~access to technological equipment for instructional use].~~

18 SECTION 2D.31. Section 32.156, Education Code, as added by  
19 Chapter 1216, Acts of the 78th Legislature, Regular Session,  
20 2003, is amended to read as follows:

21 Sec. 32.156. ON-LINE INSTRUCTIONAL MATERIALS [~~TEXTBOOKS~~].

22 (a) The agency may develop and adopt strategies for making  
23 instructional materials [~~textbooks~~] available through the portal  
24 or through other means in an electronic format as an alternative  
25 or supplement to traditional instructional materials  
26 [~~textbooks~~].

27 (b) In developing and adopting strategies under this

1 section, the agency shall seek to achieve a system under which a  
2 student may, in addition to [a] traditional instructional  
3 materials [~~textbook~~], be provided with secure Internet access to  
4 each instructional material [~~textbook~~] used by the student.

5 SECTION 2D.32. Section 32.161(b), Education Code, is  
6 amended to read as follows:

7 (b) To the extent possible considering other statutory  
8 requirements, the commissioner and agency shall encourage the  
9 use of instructional materials [~~textbook~~] funds under Section  
10 31.021 and technology allotment funds under Section 32.005  
11 [~~31.021(b)(2)~~] in a manner that facilitates the development and  
12 use of the portal.

13 SECTION 2D.33. Section 31.0221, Education Code, as added by  
14 this part, applies only to instructional materials submitted for  
15 review by the State Board of Education on or after the effective  
16 date of this Act. Instructional materials submitted for review  
17 before the effective date of this Act are governed by the law in  
18 effect when the instructional materials were submitted for  
19 review, and the former law is continued in effect for that  
20 purpose.

21 SECTION 2D.34. (a) This section applies to a contract  
22 entered into by the State Board of Education before January 1,  
23 2005, for the purchase of an adopted instructional material, as  
24 that term is defined by Section 31.002, Education Code, as  
25 amended by this part, or the purchase or licensing of an  
26 electronic instructional material.

27 (b) A contract described by Subsection (a) of this section

1 continues in effect as a state contract for the remainder of the  
2 contract term, and the former law is continued in effect for  
3 that purpose.

4 PART E. DUAL LANGUAGE EDUCATION

5 SECTION 2E.01. Subchapter B, Chapter 21, Education Code, is  
6 amended by adding Sections 21.0485 and 21.0486 to read as  
7 follows:

8 Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER  
9 CERTIFICATION. (a) To ensure that there are teachers with  
10 special training to work with other teachers and with students  
11 in a dual language education program, the board shall establish  
12 a dual language education teaching certificate.

13 (b) The board shall propose rules establishing the training  
14 requirements, including the minimum academic qualifications, a  
15 person must accomplish to obtain a certificate under this  
16 section.

17 (c) The board shall propose rules establishing the  
18 requirements for a teacher who receives training in a foreign  
19 country to obtain a certificate under this section.

20 Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION.

21 (a) To ensure that there are teachers with special training to  
22 work with other teachers and with students in order to improve  
23 student performance in English and other languages, the board  
24 shall establish:

25 (1) a master language teacher certificate to teach  
26 bilingual education, dual language instruction, or English as a  
27 second language at elementary school grade levels;

1           (2) a master language teacher certificate to teach  
2 bilingual education, dual language instruction, or English as a  
3 second language at middle school grade levels; and

4           (3) a master language teacher certificate to teach  
5 dual language instruction at high school grade levels.

6           (b) The board shall issue the appropriate master language  
7 teacher certificate to each eligible person.

8           (c) To be eligible for a master language teacher  
9 certificate, a person must:

10           (1) hold a teaching certificate issued under this  
11 subchapter;

12           (2) have at least three years of experience teaching  
13 bilingual education, dual language instruction, or English as a  
14 second language;

15           (3) satisfactorily complete a knowledge-based course  
16 of instruction on second language acquisition and the science of  
17 teaching children language that includes training in language  
18 instruction and professional peer mentoring techniques that,  
19 through scientific testing, have been proven effective;

20           (4) perform satisfactorily on the appropriate master  
21 language certification examination prescribed by the board; and

22           (5) satisfy any other requirements prescribed by the  
23 board.

24           SECTION 2E.02. Section 21.050(b), Education Code, is  
25 amended to read as follows:

26           (b) The board may not require more than 18 semester credit  
27 hours of education courses at the baccalaureate level for the

1 granting of a teaching certificate. The board shall provide for  
2 a minimum number of semester credit hours of internship to be  
3 included in the hours needed for certification. The board may  
4 propose rules requiring additional credit hours for  
5 certification in bilingual education, dual language instruction,  
6 English as a second language, early childhood education, or  
7 special education.

8 SECTION 2E.03. Section 21.054, Education Code, is amended  
9 by adding Subsection (c) to read as follows:

10 (c) Rules proposed under Subsection (a) must permit an  
11 educator to fulfill continuing education requirements by  
12 acquiring conversational skills in one or more languages other  
13 than English and academic language development in the subject  
14 area for which the educator provides instruction. The rules  
15 must permit educators to obtain language instruction through a  
16 variety of methods, including attendance at workshops offered by  
17 qualified entities and enrollment on a noncredit basis in  
18 courses offered by public or private colleges and universities.

19 SECTION 2E.04. Subchapter B, Chapter 21, Education Code, is  
20 amended by adding Section 21.060 to read as follows:

21 Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION.  
22 On issuing an educator certificate to an educational aide or  
23 renewing such a certificate, the board shall notify the person  
24 to whom the certificate is issued of the existence of the  
25 educational aide exemption under Section 54.214.

26 SECTION 2E.05. Section 28.0051, Education Code, is amended  
27 by adding Subsection (d) to read as follows:

1       (d) The State Board for Educator Certification shall  
2 provide for the issuance of teaching certificates appropriate  
3 for dual language instruction to teachers who:

4           (1) possess a speaking, reading, and writing language  
5 ability in a language other than English in which a dual  
6 language immersion program is offered; and

7           (2) meet the general requirements of Subchapter B,  
8 Chapter 21.

9       SECTION 2E.06. Subchapter A, Chapter 28, Education Code, is  
10 amended by adding Section 28.0052 to read as follows:

11       Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a)  
12 The commissioner shall establish a pilot project in school  
13 districts selected by the commissioner under which the agency  
14 examines dual language education programs and the effect of  
15 those programs on a student's ability to graduate from high  
16 school.

17       (b) In selecting school districts under Subsection (a), the  
18 commissioner shall:

19           (1) select districts that:

20                   (A) will commit to a three-year dual language  
21 education program; and

22                   (B) demonstrate a substantially equal enrollment  
23 of students with limited English proficiency and students whose  
24 primary language is English or, if a district does not have a  
25 sufficient number of limited English proficiency students to  
26 meet the equal enrollment standard, include the enrollment of  
27 students with limited English proficiency, students whose

1 primary language is English, and bilingual students; and

2 (2) give preference to a district that:

3 (A) demonstrates the potential for expanding the  
4 program through middle school; and

5 (B) will implement the program at the  
6 kindergarten level.

7 (c) The commissioner by rule shall require a district to  
8 limit activities of the dual language education program during  
9 the first year of the program to planning activities, including:

10 (1) hiring, training, and certifying teachers;

11 (2) establishing parental and community support for  
12 the program; and

13 (3) acquiring adequate learning materials in both  
14 program languages.

15 (d) From amounts appropriated for the purpose, the  
16 commissioner shall award grants to school districts that  
17 participate in the program. A grant under this section must be  
18 in an amount sufficient to pay the costs to the district of  
19 participating in the program, as determined by the commissioner.  
20 A determination of the commissioner under this subsection is  
21 final and may not be appealed.

22 (e) A school district that applies for the expansion of an  
23 existing dual language education program is eligible for a grant  
24 under Subsection (d).

25 (f) A school district may use a grant awarded under  
26 Subsection (d) for:

27 (1) classroom materials;



1 SECTION 2F.01. Subchapter B, Chapter 7, Education Code, is  
2 amended by adding Section 7.0211 to read as follows:

3 Sec. 7.0211. GIFTS, GRANTS, OR DONATIONS. The agency may  
4 receive gifts, grants, or donations from any public or private  
5 source to perform any educational function the agency is  
6 authorized to perform by law.

7 SECTION 2F.02. Section 61.076, Education Code, is amended  
8 by adding Subsections (c) and (d) to read as follows:

9 (c) On or before January 1, 2007, the P-16 council shall:

10 (1) review existing school district programs that  
11 provide high school students with the opportunity to enroll in  
12 advanced academic courses offered through dual credit and  
13 concurrent enrollment programs, including reviewing courses  
14 currently approved by districts and offered by institutions of  
15 higher education for dual and concurrent enrollment credit;

16 (2) review the high school curriculum required for the  
17 recommended high school program under Section 28.025 and study  
18 the feasibility of offering a revised curriculum that would  
19 provide graduating high school students with at least 12 hours  
20 of advanced academic courses or college level coursework offered  
21 through dual credit and concurrent enrollment programs provided  
22 under agreements between high schools and institutions of higher  
23 education; and

24 (3) prepare and deliver a report based on the review  
25 and study to the governor, the lieutenant governor, the speaker  
26 of the house of representatives, and the presiding officer of  
27 the standing committee of each house of the legislature with

1 primary jurisdiction over public education.

2 (d) Subsection (c) and this subsection expire January 2,  
3 2007.

4 PART G. SCHOOL DISCIPLINE

5 SECTION 2G.01. Chapter 26, Education Code, is amended by  
6 adding Section 26.0083 to read as follows:

7 Sec. 26.0083. RIGHT TO PROMPT NOTICE OF DISCIPLINARY  
8 ACTION. (a) A parent is entitled to notice from a school  
9 district or open-enrollment charter school as provided by this  
10 section if the parent's child is removed from class under  
11 Section 37.006 for placement in a disciplinary alternative  
12 education program or under Section 37.007 for expulsion or  
13 placement in a juvenile justice alternative education program.  
14 A school district or open-enrollment charter school shall make a  
15 good faith effort to provide the notice required by this  
16 subsection on the same day the parent's child is removed from  
17 class. If the district or school fails to provide the notice on  
18 that day, the district or school shall provide or mail the  
19 notice not later than 5 p.m. on the first business day after the  
20 day the student is removed from class.

21 (b) A noncustodial parent who has requested notice of  
22 disciplinary actions as provided by Section 37.0091 is entitled  
23 to notice under Subsection (a).

24 SECTION 2G.02. Section 37.008, Education Code, is amended  
25 by amending Subsections (m) and (m-1) and adding Subsection (n)  
26 to read as follows:

27 (m) Notwithstanding Section 7.027, as added by Chapter 201,

1 Acts of the 78th Legislature, Regular Session, 2003, the [The]  
2 commissioner shall adopt rules necessary to evaluate through an  
3 annual monitoring process [~~annually~~] the performance of each  
4 district's disciplinary alternative education program  
5 established under this subchapter. The monitoring process  
6 [~~evaluation~~] required by this section may be electronic and  
7 shall be based on indicators defined by the commissioner, but  
8 must include student performance on assessment instruments  
9 required under Section [~~Sections~~] 39.023(a) and at least one  
10 indicator that measures student academic progress [~~and (e)~~].  
11 Academically, the mission of disciplinary alternative education  
12 programs shall be to enable students to perform at grade level.

13 (m-1) The agency shall integrate the monitoring process  
14 developed under Subsection (m) with the monitoring the agency is  
15 authorized to conduct under Section 7.027(a), as added by  
16 Chapter 201, Acts of the 78th Legislature, Regular Session,  
17 2003. The commissioner may require [~~shall develop a process for~~  
18 ~~evaluating~~] a school district to contract at the district's  
19 expense in the manner provided by Section 39.134 with a public  
20 or private service provider for services determined by the  
21 commissioner to be necessary to:

22 (1) improve student performance;

23 (2) improve disciplinary alternative education program  
24 effectiveness; and

25 (3) [~~electronically. The commissioner shall also~~  
26 ~~develop a system and standards for review of the evaluation or~~  
27 ~~use systems already available at the agency. The system must be~~

1 ~~designed to identify districts that are at high risk of having~~  
2 ~~inaccurate disciplinary alternative education program data or of~~  
3 ~~failing to~~ comply with disciplinary alternative education  
4 program state and federal requirements.

5 (n) [~~The commissioner shall notify the board of trustees of~~  
6 ~~a district of any objection the commissioner has to the~~  
7 ~~district's disciplinary alternative education program data or of~~  
8 ~~a violation of a law or rule revealed by the data, including any~~  
9 ~~violation of disciplinary alternative education program~~  
10 ~~requirements, or of any recommendation by the commissioner~~  
11 ~~concerning the data. If the data reflect that a penal law has~~  
12 ~~been violated, the commissioner shall notify the county~~  
13 ~~attorney, district attorney, or criminal district attorney, as~~  
14 ~~appropriate, and the attorney general.] The commissioner is  
15 entitled to access to all district records the commissioner  
16 considers necessary or appropriate for the review, analysis, or  
17 approval of disciplinary alternative education program data.~~

18 SECTION 2G.03. Sections 37.020(b) and (c), Education Code,  
19 are amended to read as follows:

20 (b) For each placement in a disciplinary alternative  
21 education program established under Section 37.008, the district  
22 shall report:

23 (1) information identifying the student, including the  
24 student's race, sex, and date of birth, that will enable the  
25 agency to compare placement data with information collected  
26 through other reports;

27 (2) information indicating whether the student was

1 enrolled in a special education program under Subchapter A,  
2 Chapter 29, at the time of the placement;

3 (3) information indicating whether the placement was  
4 based on:

5 (A) conduct violating the student code of conduct  
6 adopted under Section 37.001;

7 (B) conduct for which a student may be removed  
8 from class under Section 37.002(b);

9 (C) conduct for which placement in a disciplinary  
10 alternative education program is required by Section 37.006; or

11 (D) conduct occurring while a student was  
12 enrolled in another district and for which placement in a  
13 disciplinary alternative education program is permitted by  
14 Section 37.008(j);

15 (4) [~~3~~] the number of full or partial days the  
16 student was assigned to the program and the number of full or  
17 partial days the student attended the program; and

18 (5) [~~4~~] the number of placements that were  
19 inconsistent with the guidelines included in the student code of  
20 conduct under Section 37.001(a)(5).

21 (c) For each expulsion under Section 37.007, the district  
22 shall report:

23 (1) information identifying the student, including the  
24 student's race, sex, and date of birth, that will enable the  
25 agency to compare placement data with information collected  
26 through other reports;

27 (2) information indicating whether the student was

1 enrolled in a special education program under Subchapter A,  
2 Chapter 29, at the time of the expulsion;

3 (3) information indicating whether the expulsion was  
4 based on:

5 (A) conduct for which expulsion is required under  
6 Section 37.007, including information specifically indicating  
7 whether a student was expelled on the basis of Section  
8 37.007(e); or

9 (B) conduct for which expulsion is permitted  
10 under Section 37.007;

11 (4) [~~3~~] the number of full or partial days the  
12 student was expelled;

13 (5) [~~4~~] information indicating whether:

14 (A) the student was placed in a juvenile justice  
15 alternative education program under Section 37.011;

16 (B) the student was placed in a disciplinary  
17 alternative education program; or

18 (C) the student was not placed in a juvenile  
19 justice or other disciplinary alternative education program; and

20 (6) [~~5~~] the number of expulsions that were  
21 inconsistent with the guidelines included in the student code of  
22 conduct under Section 37.001(a)(5).

23 PART H. CRIMINAL HISTORY RECORDS INFORMATION

24 SECTION 2H.01. Subchapter B, Chapter 21, Education Code, is  
25 amended by adding Section 21.0401 to read as follows:

26 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The  
27 board shall obtain a complete set of fingerprints from:

1           (1) each applicant for a certificate issued under this  
2 subchapter;

3           (2) each applicant for or holder of a teaching permit  
4 issued under this subchapter; and

5           (3) each person described by Section 11A.153 or  
6 Section 21.0032 for whom the board has received information from  
7 a public charter district.

8           SECTION 2H.02. Section 21.041(c), Education Code, is  
9 amended to read as follows:

10           (c) The board shall propose rules [~~a rule~~] adopting fees [a  
11 fee] for:

12           (1) the issuance and maintenance of each [an] educator  
13 certificate that is adequate to cover the cost of administration  
14 of this subchapter, including any amount necessary to cover the  
15 cost of obtaining fingerprints under Section 21.0401 or  
16 conducting a national criminal background review and  
17 investigation under Sections 21.0032 and 22.082; and

18           (2) the cost of obtaining fingerprints from or  
19 conducting a national criminal background review of a holder of  
20 a teaching permit issued under this subchapter.

21           SECTION 2H.03. Section 22.082, Education Code, is amended  
22 to read as follows:

23           Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE  
24 BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for  
25 Educator Certification shall obtain from any law enforcement or  
26 criminal justice agency all state and national criminal history  
27 record information that relates to:

1           (1) an applicant for or holder of a certificate or  
2 permit issued under Subchapter B, Chapter 21; or

3           (2) a person described by Section 11A.153 or 21.0032.

4           (b) The board shall require each applicant, holder, and  
5 person described by Subsection (a)(2) to pay any costs to the  
6 board related to obtaining criminal history record information  
7 related to the person under this section.

8           SECTION 2H.04. Section 411.090, Government Code, is amended  
9 to read as follows:

10           Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION  
11 AND FINGERPRINTS: STATE BOARD FOR EDUCATOR CERTIFICATION.

12           (a) The State Board for Educator Certification is entitled to  
13 obtain from the department any criminal history record  
14 information maintained by the department about:

15           (1) a person who has applied or expressed to the board  
16 an intention to apply [~~to the board~~] for a certificate or permit  
17 under Subchapter B, Chapter 21, Education Code; or

18           (2) a person described by Section 11A.153 or 21.0032,  
19 Education Code.

20           (b) Criminal history record information obtained by the  
21 board under Subsection (a):

22           (1) may be used for any purpose related to the  
23 issuance, denial, suspension, or cancellation of a certificate  
24 or permit under Subchapter B, Chapter 21, Education Code, or for  
25 any purpose authorized by Section 11A.153 or 21.0032, Education  
26 Code [~~issued by the board~~]; and

27           (2) may not be released to any person except on court

1 order or with the consent of the subject of the criminal history  
2 record information [~~applicant for a certificate; and~~  
3 [~~(3) shall be destroyed by the board after the~~  
4 ~~information is used for the authorized purposes]~~].

5 (c) The board may keep on file with the department all  
6 fingerprints obtained by the board under Section 21.0401,  
7 Education Code. The department shall notify the board of the  
8 arrest of any person who has fingerprints on file with the  
9 department pursuant to that section.

10 (d) On receipt of notice from the department of an arrest  
11 of a person described by Section 11A.153 or 21.0032, Education  
12 Code, the board shall notify the public charter district  
13 affected.

14 ARTICLE 3. STATE PROPERTY TAX

15 SECTION 3.01. Chapter 45, Education Code, is amended by  
16 adding Subchapter I to read as follows:

17 SUBCHAPTER I. STATE AD VALOREM TAX

18 Sec. 45.251. STATE AD VALOREM TAX. (a) A state ad valorem  
19 tax for elementary and secondary school purposes is imposed on  
20 all taxable property in this state.

21 (b) The tax is imposed at the rate of \$0.85 per \$100 of  
22 taxable value of property subject to the tax.

23 (c) Except as otherwise provided by law, the state shall be  
24 treated, for purposes of the state ad valorem tax, as a taxing  
25 unit under Title 1, Tax Code.

26 Sec. 45.252. APPRAISAL OF PROPERTY. (a) Property subject  
27 to the state ad valorem tax shall be appraised by the appraisal

1 district that appraises property for taxation by the school  
2 district in which the property has taxable situs under Chapter  
3 21, Tax Code.

4 (b) Property subject to the state ad valorem tax shall be  
5 appraised in the manner provided by Title 1, Tax Code, for the  
6 appraisal of property that is subject to ad valorem taxation by  
7 a school district.

8 Sec. 45.253. TAX COLLECTION. (a) The assessor and  
9 collector for each school district shall assess and collect, as  
10 applicable, state ad valorem taxes imposed on property included  
11 on the appraisal roll for state taxation certified to the  
12 comptroller and to the assessor for that school district under  
13 Section 26.01, Tax Code, unless the governing body of the school  
14 district contracts with an official, taxing unit, or political  
15 subdivision of this state for the assessment or collection of  
16 the ad valorem taxes of the district, in which event the  
17 official, taxing unit, or political subdivision that assess or  
18 collects taxes for the school district shall also assess or  
19 collect, as applicable, the state ad valorem taxes.

20 (b) Each assessor or collector of state ad valorem taxes is  
21 entitled to be reimbursed by the comptroller for the actual  
22 costs incurred by the assessor or collector in assessing or  
23 collecting state ad valorem taxes. However, an assessor or  
24 collector is not entitled to be reimbursed for any amount that  
25 is greater than the additional incremental costs incurred in  
26 assessing or collecting the state ad valorem taxes.

27 (c) The comptroller shall:

1           (1) prescribe methods of accounting for and remitting  
2 state ad valorem taxes;

3           (2) prescribe methods for establishing an assessor's  
4 or collector's additional incremental costs incurred in  
5 assessing or collecting state ad valorem taxes;

6           (3) prescribe and furnish forms for periodic reports  
7 relating to state ad valorem taxes; and

8           (4) periodically examine the records of each assessor  
9 or collector of state ad valorem taxes to verify the accuracy of  
10 any reports required under this subsection.

11          (d) The comptroller may require an assessor or collector of  
12 state ad valorem taxes to give a bond to the state, conditioned  
13 on the faithful performance of the person's duties as assessor  
14 or collector, in the amount the comptroller considers  
15 appropriate to protect the state from potential losses with  
16 regard to assessment or collection of state ad valorem taxes.

17          Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Except  
18 as otherwise provided by this subchapter, a duty imposed on or  
19 power granted to the governing body of a taxing unit by Title 1,  
20 Tax Code, may, for purposes of the state ad valorem tax, be  
21 exercised by the comptroller. A reference to the presiding  
22 officer of a governing body in Title 1, Tax Code, is a reference  
23 to the comptroller for the purposes of the state tax.

24          (b) The comptroller may delegate to the assessor or  
25 collector for a school district any function of the comptroller  
26 with respect to the assessment or collection of the state ad  
27 valorem tax and may designate a school district assessor or

1 collector as the comptroller's agent for purposes of  
2 administration of assessment or collection of the state ad  
3 valorem tax.

4 Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. The  
5 comptroller shall deposit to the credit of the general revenue  
6 fund in appropriately designated accounts an amount of revenue  
7 collected from the state ad valorem tax to pay for the expenses  
8 of administering this subchapter and for the payment of tax  
9 refunds that may become payable.

10 Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS.  
11 Title 2, Tax Code, does not apply to the state ad valorem tax.

12 Sec. 45.257. TAX INCREMENT FINANCING. Except as otherwise  
13 provided by Section 311.013, Tax Code, the state may not pay any  
14 portion of the tax increment produced by the state into the tax  
15 increment fund for a reinvestment zone designated under Chapter  
16 311, Tax Code.

17 Sec. 45.258. TAX ABATEMENT. (a) Except as otherwise  
18 provided by this section, the state may not participate in tax  
19 abatement under Section 311.0125 or 311.013(g) or Chapter 312,  
20 Tax Code.

21 (b) If school district property taxes on property located  
22 in the taxing jurisdiction of a school district are abated under  
23 a tax abatement agreement entered into by the school district  
24 under Chapter 312, Tax Code, the terms of the agreement  
25 regarding the portion of the value of the property that is to be  
26 exempted from taxation in each year of the agreement apply to  
27 the taxation of the property by the state. A modification of

1 the agreement by the parties to the agreement under Section  
2 312.208, Tax Code, that increases the portion of the value of  
3 the property that is to be exempted from taxation or that  
4 extends the duration of the agreement does not apply to the  
5 imposition of the state ad valorem tax unless the modification  
6 was entered into before January 1, 2005.

7 Sec. 45.259. LIMITATION ON APPRAISED VALUE OF CERTAIN  
8 PROPERTY FOR STATE TAXATION. This section applies only in  
9 connection with property for which before April 1, 2005, the  
10 owner of the property has submitted to a school district an  
11 application under Section 313.025, Tax Code, for a limitation on  
12 appraised value under Subchapter B or C, Chapter 313, Tax Code,  
13 that is subsequently approved by the district, and applies only  
14 to the amount stated in the application. In each tax year in  
15 which the appraised value of the property is subject to the  
16 limitation, the appraised value of the property for purposes of  
17 the state ad valorem tax is the same as the appraised value of  
18 the property for school district tax purposes.

19 SECTION 3.02. Subchapter A, Chapter 6, Tax Code, is amended  
20 by adding Section 6.038 to read as follows:

21 Sec. 6.038. STATE PARTICIPATION. (a) The comptroller and  
22 the state do not participate in the election of the board of  
23 directors of an appraisal district, the governance or management  
24 of the district, or the determination of the district's finances  
25 and budget.

26 (b) The comptroller by rule shall establish guidelines and  
27 criteria under which, if the comptroller finds that generally

1 accepted appraisal standards and practices were not used by the  
2 appraisal district appraising property subject to the state ad  
3 valorem tax or that the appraised values assigned to property  
4 subject to that tax are invalid, the comptroller may:

5 (1) withhold payment of all or part of the portion of  
6 the amount of the budget of the appraisal district that is  
7 allocated to the state until the district takes appropriate  
8 actions to remedy the deficiencies in appraisals found by the  
9 comptroller; or

10 (2) direct that all or any part of the portion of the  
11 amount of the budget of the district allocated to the state be  
12 applied to remedying those deficiencies.

13 SECTION 3.03. Section 6.06(d), Tax Code, is amended to read  
14 as follows:

15 (d) The state and each [~~Each~~] taxing unit participating in  
16 the district are each [~~is~~] allocated a portion of the amount of  
17 the budget equal to the proportion that the total dollar amount  
18 of property taxes imposed in the district by the state or taxing  
19 unit for the tax year in which the budget proposal is prepared  
20 bears to the sum of the total dollar amount of property taxes  
21 imposed in the district by the state and each participating unit  
22 for that year. For purposes of this subsection, only state ad  
23 valorem taxes imposed in a school district or portion of a  
24 school district for which the appraisal district appraises  
25 property for taxation are considered as state ad valorem taxes  
26 imposed in the district. If a taxing unit participates in two  
27 or more districts, only the taxes imposed in a district are used

1 to calculate the unit's cost allocations in that district. If  
2 the number of real property parcels in a taxing unit is less  
3 than 5 percent of the total number of real property parcels in  
4 the district and the taxing unit imposes in excess of 25 percent  
5 of the total amount of the property taxes imposed in the  
6 district by all of the participating taxing units for a year,  
7 the unit's allocation may not exceed a percentage of the  
8 appraisal district's budget equal to three times the unit's  
9 percentage of the total number of real property parcels  
10 appraised by the district.

11 SECTION 3.04. Sections 11.13(b) and (c), Tax Code, are  
12 amended to read as follows:

13 (b) An adult is entitled to exemption from taxation by the  
14 state for elementary and secondary public school purposes or by  
15 a school district of \$15,000 of the appraised value of the  
16 adult's residence homestead, except that \$10,000 of the  
17 exemption does not apply to an entity operating under former  
18 Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those  
19 chapters existed on May 1, 1995, as permitted by Section 11.301,  
20 Education Code.

21 (c) In addition to the exemption provided by Subsection (b)  
22 [~~of this section~~], an adult who is disabled or is 65 years of  
23 age or older is entitled to an exemption from taxation by the  
24 state for elementary and secondary public school purposes or by  
25 a school district of \$10,000 of the appraised value of the  
26 adult's [~~his~~] residence homestead.

27 SECTION 3.05. Section 11.14, Tax Code, is amended by adding

1 Subsection (f) to read as follows:

2 (f) Subsection (c) does not apply to the comptroller or to  
3 the state ad valorem tax.

4 SECTION 3.06. Section 11.251, Tax Code, is amended by  
5 adding Subsection (l) to read as follows:

6 (l) The exemption provided by Subsection (b) does not apply  
7 to the state ad valorem tax unless the property is exempt from  
8 that tax under Section 1-j(d), Article VIII, Texas Constitution.

9 SECTION 3.07. The heading to Section 11.26, Tax Code, is  
10 amended to read as follows:

11 Sec. 11.26. LIMITATION OF SCHOOL TAXES [~~TAX~~] ON HOMESTEADS  
12 OF ELDERLY OR DISABLED.

13 SECTION 3.08. Section 11.26, Tax Code, is amended by  
14 amending Subsections (a), (b), (g), (h), (j), and (k) and adding  
15 Subsections (a-1) and (g-1) to read as follows:

16 (a) The tax officials shall appraise the property to which  
17 this section applies and calculate taxes as on other property,  
18 but if the tax so calculated exceeds the limitation imposed by  
19 this section, the tax imposed is the amount of the tax as  
20 limited by this section, except as otherwise provided by this  
21 section. The state or a [A] school district may not increase  
22 the total annual amount of ad valorem tax it imposes on the  
23 residence homestead of an individual 65 years of age or older or  
24 on the residence homestead of an individual who is disabled, as  
25 defined by Section 11.13, above the amount of the tax it imposed  
26 in the first tax year in which the individual qualified that  
27 residence homestead for the applicable exemption provided by

1 Section 11.13(c) for an individual who is 65 years of age or  
2 older or is disabled. If the individual qualified that  
3 residence homestead for the exemption after the beginning of  
4 that first year and the residence homestead remains eligible for  
5 the same exemption for the next year, and if the state or school  
6 district taxes imposed on the residence homestead in the next  
7 year are less than the amount of taxes the state or school  
8 district, as applicable, imposed in that first year, the state  
9 or [a] school district may not subsequently increase the total  
10 annual amount of ad valorem taxes it imposes on the residence  
11 homestead above the amount it imposed in the year immediately  
12 following the first year for which the individual qualified that  
13 residence homestead for the same exemption, except as provided  
14 by Subsection (b).

15 (a-1) If the first tax year the individual qualified the  
16 residence homestead for the exemption provided by Section  
17 11.13(c) for individuals 65 years of age or older was a tax year  
18 before the 2006 [1997] tax year, except as provided by  
19 Subsection (b):

20 (1) the amount of the limitation provided by this  
21 section on state taxes is the amount of tax the school district  
22 in which the property is located imposed for the 2005 [1996] tax  
23 year ~~[less an amount equal to the amount determined by~~  
24 ~~multiplying \$10,000 times the tax rate of the school district~~  
25 ~~for the 1997 tax year,]~~ plus any 2006 state [1997] tax  
26 attributable to improvements made in 2005 [1996], other than  
27 improvements made to comply with governmental regulations or

1 repairs; and

2           (2) the amount of the limitation provided by this  
3 section on school district taxes is the amount of tax the school  
4 district imposed for the 2005 tax year less the amount of state  
5 taxes imposed in the 2006 tax year, plus any 2006 school taxes  
6 attributable to improvements made in 2005, other than  
7 improvements made to comply with governmental regulations or  
8 repairs.

9           (b) If an individual makes improvements to the individual's  
10 residence homestead, other than improvements required to comply  
11 with governmental requirements or repairs, the state or the  
12 school district may increase the tax on the homestead in the  
13 first year the value of the homestead is increased on the  
14 appraisal roll because of the enhancement of value by the  
15 improvements. The amount of the tax increase is determined by  
16 applying the current tax rate to the difference in the assessed  
17 value of the homestead with the improvements and the assessed  
18 value it would have had without the improvements. A limitation  
19 imposed by this section then applies to the increased amount of  
20 tax until more improvements, if any, are made.

21           (g) Except as provided by Subsection (b), if an individual  
22 who receives a limitation on tax increases imposed by this  
23 section, including a surviving spouse who receives a limitation  
24 under Subsection (i), subsequently qualifies a different  
25 residence homestead for the same exemption under Section 11.13,  
26 the state or a school district may not impose ad valorem taxes  
27 on the subsequently qualified homestead in a year in an amount

1 that exceeds the amount of taxes the state or the school  
2 district would have imposed on the subsequently qualified  
3 homestead in the first year in which the individual receives  
4 that same exemption for the subsequently qualified homestead had  
5 the limitation on tax increases imposed by this section not been  
6 in effect, multiplied by a fraction the numerator of which is  
7 the total amount of [~~school district~~] taxes imposed by the state  
8 or the school district, as applicable, on the former homestead  
9 in the last year in which the individual received that same  
10 exemption for the former homestead and the denominator of which  
11 is the total amount of taxes the state or the school district,  
12 as applicable, [~~taxes that~~] would have [~~been~~] imposed on the  
13 former homestead in the last year in which the individual  
14 received that same exemption for the former homestead had the  
15 limitation on tax increases imposed by this section not been in  
16 effect.

17 (g-1) Subsection (g) does not apply to a residence  
18 homestead to which this subsection applies. Except as provided  
19 by Subsection (b), if an individual who receives a limitation on  
20 tax increases imposed by this section in a tax year before the  
21 2006 tax year, including a surviving spouse who receives a  
22 limitation under Subsection (i), subsequently qualifies a  
23 different residence homestead for an exemption under Section  
24 11.13(c) and the first year in which the subsequently qualified  
25 homestead qualifies for the exemption is a tax year after the  
26 2005 tax year:

27 (1) the state may not impose taxes on the subsequently

1 qualified homestead in an amount that exceeds the amount of  
2 taxes the state would have imposed on the subsequently qualified  
3 homestead in the first year in which the individual receives  
4 that exemption for the subsequently qualified homestead had the  
5 limitation on tax increases imposed by this section not been in  
6 effect, multiplied by a fraction the numerator of which is the  
7 total amount of school district taxes imposed on the former  
8 homestead in the last year in which the individual received that  
9 exemption for the former homestead and the denominator of which  
10 is the total amount of school district taxes that would have  
11 been imposed on the former homestead in the last year in which  
12 the individual received that exemption for the former homestead  
13 had the limitations on tax increases imposed by this section not  
14 been in effect; and

15 (2) the school district may not impose taxes on the  
16 subsequently qualified homestead in an amount that exceeds the  
17 positive amount, if any, by which the limitation on state taxes  
18 calculated under Subdivision (1) exceeds the amount of state  
19 taxes imposed in the first year in which the subsequently  
20 qualified homestead receives the exemption.

21 (h) An individual who receives a limitation on tax  
22 increases under this section, including a surviving spouse who  
23 receives a limitation under Subsection (i), and who subsequently  
24 qualifies a different residence homestead for an exemption under  
25 Section 11.13(c) [~~11.13~~], or an agent of the individual, is  
26 entitled to receive from the chief appraiser of the appraisal  
27 district in which the former homestead was located a written

1 certificate providing the information necessary to determine  
2 whether the individual may qualify for that same limitation on  
3 the subsequently qualified homestead under Subsection (g) or (g-  
4 1) and to calculate the amount of taxes the state and the school  
5 district may impose on the subsequently qualified homestead.

6 (j) If an individual who qualifies for an exemption  
7 provided by Section 11.13(c) for an individual 65 years of age  
8 or older dies in the first year in which the individual  
9 qualified for the exemption and the individual first qualified  
10 for the exemption after the beginning of that year, except as  
11 provided by Subsection (k), the amount to which the surviving  
12 spouse's state or school district taxes are limited under  
13 Subsection (i) is the amount of state or school district taxes,  
14 as applicable, imposed on the residence homestead in that year  
15 determined as if the individual qualifying for the exemption had  
16 lived for the entire year.

17 (k) If in the first tax year after the year in which an  
18 individual dies in the circumstances described by Subsection (j)  
19 the amount of [~~school district~~] taxes imposed by the state or  
20 the school district on the residence homestead of the surviving  
21 spouse is less than the amount of state or school district  
22 taxes, as applicable, imposed in the preceding year as limited  
23 by Subsection (j), in a subsequent tax year the surviving  
24 spouse's state or school district taxes on that residence  
25 homestead are limited to the amount of taxes imposed by the  
26 state or the school district, as applicable, in that first tax  
27 year after the year in which the individual dies.

1 SECTION 3.09. Section 21.03(a), Tax Code, is amended to  
2 read as follows:

3 (a) If personal property that is taxable by this state or a  
4 taxing unit of this state is used continually outside this  
5 state, whether regularly or irregularly, the appraisal office  
6 shall allocate to this state the portion of the total market  
7 value of the property that fairly reflects its use in this  
8 state.

9 SECTION 3.10. Section 21.031(a), Tax Code, is amended to  
10 read as follows:

11 (a) If a vessel or other watercraft that is taxable by this  
12 state or a taxing unit of this state is used continually outside  
13 this state, whether regularly or irregularly, the appraisal  
14 office shall allocate to this state the portion of the total  
15 market value of the vessel or watercraft that fairly reflects  
16 its use in this state. The appraisal office shall not allocate  
17 to this state the portion of the total market value of the  
18 vessel or watercraft that fairly reflects its use in another  
19 state or country, in international waters, or beyond the  
20 Gulfward boundary of this state.

21 SECTION 3.11. Section 22.28, Tax Code, is amended to read  
22 as follows:

23 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Except as  
24 otherwise provided by Section 22.30, the chief appraiser shall  
25 impose a penalty on a person who fails to timely file a  
26 rendition statement or property report required by this chapter  
27 in an amount equal to 10 percent of the total amount of taxes

1 imposed on the property for that year by the state, if the  
2 property has taxable situs in a school district or portion of a  
3 school district for which the appraisal district appraises  
4 property for taxation, and by the other taxing units  
5 participating in the appraisal district.

6 (b) The chief appraiser may retain a portion of a penalty  
7 collected under this section, not to exceed 20 percent of the  
8 amount of the penalty, to cover the chief appraiser's costs of  
9 collecting the penalty. The chief appraiser shall distribute  
10 the remainder of the penalty to the state and each other taxing  
11 unit participating in the appraisal district that imposes taxes  
12 on the property in proportion to the state's or the taxing  
13 unit's share of the total amount of taxes imposed on the  
14 property by the state and all other taxing units participating  
15 in the district used to determine the amount of the penalty.

16 SECTION 3.12. Sections 22.29(a) and (d), Tax Code, are  
17 amended to read as follows:

18 (a) The chief appraiser shall impose an additional penalty  
19 on the person equal to 50 percent of the total amount of taxes  
20 imposed on the property for the tax year of the statement or  
21 report by the state, if the property has taxable situs in a  
22 school district or portion of a school district for which the  
23 appraisal district appraises property for taxation, and by the  
24 other taxing units participating in the appraisal district if it  
25 is finally determined by a court that:

26 (1) the person filed a false statement or report with  
27 the intent to commit fraud or to evade the tax; or

1           (2) the person alters, destroys, or conceals any  
2 record, document, or thing, or presents to the chief appraiser  
3 any altered or fraudulent record, document, or thing, or  
4 otherwise engages in fraudulent conduct, for the purpose of  
5 affecting the course or outcome of an inspection, investigation,  
6 determination, or other proceeding before the appraisal  
7 district.

8           (d) The chief appraiser may retain a portion of a penalty  
9 collected under this section, not to exceed 20 percent of the  
10 amount of the penalty, to cover the chief appraiser's costs of  
11 collecting the penalty. The chief appraiser shall distribute  
12 the remainder of the penalty to the state and each other taxing  
13 unit participating in the appraisal district that imposes taxes  
14 on the property in proportion to the state's or the taxing  
15 unit's share of the total amount of taxes imposed on the  
16 property by the state and all other taxing units participating  
17 in the district used to determine the amount of the penalty.

18           SECTION 3.13. Section 23.46(d), Tax Code, is amended to  
19 read as follows:

20           (d) A tax lien attaches to the land on the date the sale or  
21 change of use occurs to secure payment of the additional tax and  
22 interest imposed by Subsection (c) [~~of this section~~] and any  
23 penalties incurred. The lien exists in favor of the state and  
24 all taxing units for which the additional tax is imposed.

25           SECTION 3.14. Section 23.55(b), Tax Code, is amended to  
26 read as follows:

27           (b) A tax lien attaches to the land on the date the change

1 of use occurs to secure payment of the additional tax and  
2 interest imposed by this section and any penalties incurred.  
3 The lien exists in favor of the state and all taxing units for  
4 which the additional tax is imposed.

5 SECTION 3.15. Section 23.76(b), Tax Code, is amended to  
6 read as follows:

7 (b) A tax lien attaches to the land on the date the change  
8 of use occurs to secure payment of the additional tax and  
9 interest imposed by this section and any penalties incurred.  
10 The lien exists in favor of the state and all taxing units for  
11 which the additional tax is imposed.

12 SECTION 3.16. Section 23.86(b), Tax Code, is amended to  
13 read as follows:

14 (b) A tax lien attaches to the land on the date the change  
15 of use occurs or the deed restriction expires to secure payment  
16 of the additional tax and interest imposed by this section and  
17 any penalties incurred. The lien exists in favor of the state  
18 and all taxing units for which the additional tax is imposed.

19 SECTION 3.17. Section 23.96(b), Tax Code, is amended to  
20 read as follows:

21 (b) A tax lien attaches to the property on the date the  
22 deed restriction expires to secure payment of the additional tax  
23 and interest imposed by this section and any penalties incurred.  
24 The lien exists in favor of the state and all taxing units for  
25 which the additional tax is imposed.

26 SECTION 3.18. Section 23.9807(c), Tax Code, is amended to  
27 read as follows:

1 (c) A tax lien attaches to the land on the date the change  
2 of use occurs to secure payment of the additional tax and  
3 interest imposed by this section and any penalties incurred.  
4 The lien exists in favor of the state and all taxing units for  
5 which the additional tax is imposed.

6 SECTION 3.19. Section 25.19(b), Tax Code, as amended by  
7 Chapters 1358 and 1517, Acts of the 76th Legislature, Regular  
8 Session, 1999, is reenacted and amended to read as follows:

9 (b) The chief appraiser shall separate real from personal  
10 property and include in the notice for each:

11 (1) a list of the taxing units other than the state in  
12 which the property is taxable and, if the property is appraised  
13 by the appraisal district for state taxation, a statement that  
14 the property is subject to the state tax for elementary and  
15 secondary public school purposes;

16 (2) the appraised value of the property in the  
17 preceding year;

18 (3) the taxable value of the property in the preceding  
19 year for:

20 (A) each taxing unit taxing the property; and

21 (B) state taxation for elementary and secondary  
22 public school purposes, if the property is appraised by the  
23 appraisal district for state taxation;

24 (4) the appraised value of the property for the  
25 current year and the kind and amount of each partial exemption,  
26 if any, approved for the current year;

27 (5) if the appraised value is greater than it was in

1 the preceding year, the amount of tax that would be imposed on  
2 the property on the basis of the tax rate for each taxing unit  
3 other than the state for the preceding year;

4 (6) in italic typeface, the following statement: "The  
5 Texas Legislature does not set the amount of your local taxes.  
6 Your local property tax burden is decided by your locally  
7 elected officials, and all inquiries concerning your local taxes  
8 should be directed to those officials";

9 (7) a detailed explanation of the time and procedure  
10 for protesting the value;

11 (8) the date and place the appraisal review board will  
12 begin hearing protests; and

13 (9) a brief explanation that the governing body of  
14 each local taxing unit decides whether [~~or not~~] taxes on the  
15 property will increase and the appraisal district only  
16 determines the value of the property.

17 SECTION 3.20. The heading to Section 26.01, Tax Code, is  
18 amended to read as follows:

19 Sec. 26.01. SUBMISSION OF ROLLS TO STATE AND TAXING UNITS.

20 SECTION 3.21. Sections 26.01(a), (c), and (d), Tax Code,  
21 are amended to read as follows:

22 (a) By July 25, the chief appraiser shall prepare and  
23 certify to the assessor for each taxing unit participating in  
24 the appraisal district that part of the appraisal roll for the  
25 appraisal district that lists the property taxable by the unit.

26 By that date the chief appraiser shall prepare and certify to  
27 the comptroller and to the assessor for each school district

1 that participates in the appraisal district that part of the  
2 appraisal roll for the appraisal district that lists property  
3 for which the appraisal district appraises the property for  
4 state taxation. The part certified to the comptroller and  
5 school district assessor is the appraisal roll for state taxes.

6 The part certified to the assessor is the appraisal roll for  
7 the taxing unit. The chief appraiser shall consult with the  
8 assessor for each taxing unit and the comptroller and notify  
9 each taxing unit and the comptroller in writing by April 1 of  
10 the form in which the roll will be provided to each unit and to  
11 the comptroller.

12 (c) The chief appraiser shall prepare and certify to the  
13 assessor for each taxing unit and the comptroller a listing of  
14 those properties that [~~which~~] are taxable by that unit or the  
15 state, as applicable, but that [~~which~~] are under protest and  
16 therefore not included on the appraisal roll approved by the  
17 appraisal review board and certified by the chief appraiser.  
18 This listing shall include the appraised market value,  
19 productivity value (if applicable), and taxable value as  
20 determined by the appraisal district and shall also include the  
21 market value, taxable value, and productivity value (if  
22 applicable) as claimed by the property owner filing the protest  
23 if available. If the property owner does not claim a value and  
24 the appraised value of the property in the current year is equal  
25 to or less than its value in the preceding year, the listing  
26 shall include a reasonable estimate of the market value, taxable  
27 value, and productivity value (if applicable) that would be

1 assigned to the property if the taxpayer's claim is upheld. If  
2 the property owner does not claim a value and the appraised  
3 value of the property is higher than its appraised value in the  
4 preceding year, the listing shall include the appraised market  
5 value, productivity value (if applicable) and taxable value of  
6 the property in the preceding year, except that if there is a  
7 reasonable likelihood that the appraisal review board will  
8 approve a lower appraised value for the property than its  
9 appraised value in the preceding year, the chief appraiser shall  
10 make a reasonable estimate of the taxable value that would be  
11 assigned to the property if the property owner's claim is  
12 upheld. The taxing unit shall use the lower value for  
13 calculations as prescribed in Sections 26.04 and 26.041 [~~of this~~  
14 ~~code~~].

15 (d) The chief appraiser shall prepare and certify to the  
16 assessor for each taxing unit and the comptroller a list of  
17 those properties of which the chief appraiser has knowledge that  
18 are reasonably likely to be taxable by that unit or the state,  
19 as applicable, but that are not included on the appraisal roll  
20 certified to the assessor or the comptroller under Subsection  
21 (a) or included on the listing certified to the assessor or the  
22 comptroller under Subsection (c). The chief appraiser shall  
23 include on the list for each property the market value,  
24 appraised value, and kind and amount of any partial exemptions  
25 as determined by the appraisal district for the preceding year  
26 and a reasonable estimate of the market value, appraised value,  
27 and kind and amount of any partial exemptions for the current

1 year. Until the property is added to the appraisal roll, the  
2 assessor for a [the] taxing unit shall include each property on  
3 the list in the calculations prescribed by Sections 26.04 and  
4 26.041, and for that purpose shall use the lower market value,  
5 appraised value, or taxable value, as appropriate, included on  
6 or computed using the information included on the list for the  
7 property.

8 SECTION 3.22. Chapter 26, Tax Code, is amended by adding  
9 Section 26.011 to read as follows:

10 Sec. 26.011. PROVISIONS NOT APPLICABLE TO STATE TAX.  
11 Sections 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08  
12 do not apply to the state ad valorem tax or to the comptroller.

13 SECTION 3.23. Section 26.09(c), Tax Code, is amended to  
14 read as follows:

15 (c) The tax is calculated by:

16 (1) subtracting from the appraised value of a property  
17 as shown on the appraisal roll for a taxing [the] unit or the  
18 state the amount of any partial exemption allowed the property  
19 owner that applies to appraised value to determine taxable [net  
20 appraised] value; and

21 (2) [~~multiplying the net appraised value by the~~  
22 ~~assessment ratio to determine assessed value;~~

23 [~~(3) subtracting from the assessed value the amount of~~  
24 ~~any partial exemption allowed the property owner to determine~~  
25 ~~taxable value; and~~

26 [~~(4)~~] multiplying the taxable value by the applicable  
27 tax rate.

1 SECTION 3.24. Section 26.12, Tax Code, is amended by adding  
2 Subsection (e) to read as follows:

3 (e) For purposes of this section, the state is not a taxing  
4 unit.

5 SECTION 3.25. Section 26.15(c), Tax Code, is amended to  
6 read as follows:

7 (c) At any time, the governing body of a taxing unit, on  
8 motion of the assessor for the unit or of a property owner,  
9 shall direct by written order changes in the tax roll to correct  
10 errors in the mathematical computation of a tax. The assessor  
11 shall enter the corrections ordered by the governing body. The  
12 comptroller may order changes in the state tax roll to correct  
13 errors in the mathematical computation of the state ad valorem  
14 tax.

15 SECTION 3.26. Section 31.11(a), Tax Code, is amended to  
16 read as follows:

17 (a) If a taxpayer applies to the tax collector of a taxing  
18 unit for a refund of an overpayment or erroneous payment of  
19 taxes and the auditor for the unit or the comptroller in the  
20 case of the state ad valorem tax determines that the payment was  
21 erroneous or excessive, the tax collector or, for state taxes,  
22 the comptroller shall refund the amount of the excessive or  
23 erroneous payment from available current tax collections or from  
24 funds appropriated by the unit or the state, as appropriate, for  
25 making refunds. For taxes other than state taxes [~~However~~], the  
26 collector may not make the refund unless:

27 (1) in the case of a collector who collects taxes for

1 one taxing unit, the governing body of the taxing unit also  
2 determines that the payment was erroneous or excessive and  
3 approves the refund if the amount of the refund exceeds:

4 (A) \$2,500 for a refund to be paid by a county  
5 with a population of 1.5 million or more; or

6 (B) \$500 for a refund to be paid by any other  
7 taxing unit; or

8 (2) in the case of a collector who collects taxes for  
9 more than one taxing unit, the governing body of the taxing unit  
10 that employs the collector also determines that the payment was  
11 erroneous or excessive and approves the refund if the amount of  
12 the refund exceeds \$2,500.

13 SECTION 3.27. Sections 32.01(a) and (d), Tax Code, are  
14 amended to read as follows:

15 (a) On January 1 of each year, a tax lien attaches to  
16 property to secure the payment of all taxes, penalties, and  
17 interest ultimately imposed for the year by the state or a  
18 taxing unit on the property, whether or not the taxes are  
19 imposed in the year the lien attaches. The lien to secure the  
20 payment of state ad valorem taxes and applicable penalties and  
21 interest exists in favor of the state. The lien to secure the  
22 payment of taxes imposed by a taxing unit and applicable  
23 penalties and interest exists in favor of the [~~each~~] taxing unit  
24 having power to tax the property.

25 (d) The lien under this section is perfected on attachment  
26 and, except as provided by Section 32.03(b), perfection requires  
27 no further action by the state or taxing unit.

1 SECTION 3.28. Section 33.01(a), Tax Code, is amended to  
2 read as follows:

3 (a) A delinquent tax, including a delinquent state ad  
4 valorem tax, incurs a penalty of six percent of the amount of  
5 the tax for the first calendar month it is delinquent plus one  
6 percent for each additional month or portion of a month the tax  
7 remains unpaid prior to July 1 of the year in which it becomes  
8 delinquent. However, a tax delinquent on July 1 incurs a total  
9 penalty of twelve percent of the amount of the delinquent tax  
10 without regard to the number of months the tax has been  
11 delinquent. A delinquent tax continues to incur the penalty  
12 provided by this subsection as long as the tax remains unpaid,  
13 regardless of whether a judgment for the delinquent tax has been  
14 rendered.

15 SECTION 3.29. Subchapter A, Chapter 33, Tax Code, is  
16 amended by adding Section 33.11 to read as follows:

17 Sec. 33.11. COLLECTION OF DELINQUENT STATE AD VALOREM  
18 TAXES; PENALTY. (a) The collector for a school district has  
19 the same powers and duties regarding the collection of  
20 delinquent state ad valorem taxes imposed on property having  
21 taxable situs in the school district as the collector has  
22 regarding delinquent school district taxes on that property.

23 (b) The attorney who represents a school district to  
24 enforce the collection of delinquent school district taxes  
25 represents the state to enforce the collection of delinquent  
26 state ad valorem taxes imposed on property having taxable situs  
27 in the school district. If the governing body of a school

1 district contracts with a private attorney to enforce the  
2 collection of delinquent school district ad valorem taxes, the  
3 contract applies to the collection of delinquent state ad  
4 valorem taxes on property taxable by that school district  
5 without further action. The compensation of the private  
6 attorney for collecting delinquent state ad valorem taxes is  
7 equal to a percentage of the amount collected that represents  
8 the portion of that amount attributable to the additional  
9 penalty provided by Subsection (c). If the governing body of a  
10 school district contracts with an official, taxing unit, or  
11 political subdivision of this state for the collection of the ad  
12 valorem taxes of the school district that includes the  
13 collection of delinquent school district taxes, the contract  
14 applies to the collection of delinquent state ad valorem taxes  
15 on property taxable by that school district without further  
16 action.

17 (c) State ad valorem taxes that remain delinquent on July 1  
18 of the year in which they become delinquent incur an additional  
19 penalty to defray costs of collection if the collection of the  
20 delinquent taxes is covered by a contract with a private  
21 attorney under Subsection (b). The amount of the penalty is the  
22 amount of the compensation specified in the contract.

23 (d) A tax lien attaches in favor of the state to the  
24 property on which the tax is imposed to secure payment of the  
25 penalty.

26 (e) The person responsible for collecting the delinquent  
27 state ad valorem tax shall deliver a notice of delinquency and

1 of the penalty to the property owner at least 30 and not more  
2 than 60 days before July 1.

3 (f) Sections 6.30, 33.07, and 33.08 do not apply to the  
4 state ad valorem tax.

5 SECTION 3.30. Sections 33.21(a) and (b), Tax Code, are  
6 amended to read as follows:

7 (a) A person's personal property is subject to seizure for  
8 the payment of a delinquent tax, penalty, and interest the  
9 person [~~he~~] owes the state or a taxing unit on property.

10 (b) A person's personal property is subject to seizure for  
11 the payment of a tax imposed by the state or other [a] taxing  
12 unit on the person's [~~his~~] property before the tax becomes  
13 delinquent if:

14 (1) the collector discovers that property on which the  
15 tax has been or will be imposed is about to be removed from the  
16 county; and

17 (2) the collector knows of no other personal property  
18 in the county from which the tax may be satisfied.

19 SECTION 3.31. Section 33.23(b), Tax Code, is amended to  
20 read as follows:

21 (b) A bond may not be required of the state or other [a]  
22 taxing unit for issuance or delivery of a tax warrant, and a fee  
23 or court cost may not be charged for issuance or delivery of a  
24 warrant.

25 SECTION 3.32. Section 33.44(b), Tax Code, is amended to  
26 read as follows:

27 (b) For purposes of joining a county, citation may be

1 served on the county [~~tax~~] assessor-collector. For purposes of  
2 joining any other taxing unit, citation may be served on the  
3 officer charged with collecting taxes for the unit or on the  
4 presiding officer or secretary of the governing body of the  
5 unit. For purposes of joining the state, citation shall be  
6 served on the school district collector who collects state ad  
7 valorem taxes on the property. Citation may be served by  
8 certified mail, return receipt requested. A person on whom  
9 service is authorized by this subsection may waive the issuance  
10 and service of citation in behalf of the person's [~~his~~] taxing  
11 unit.

12 SECTION 3.33. Section 34.04(b), Tax Code, is amended to  
13 read as follows:

14 (b) A copy of the petition shall be served, in the manner  
15 prescribed by Rule 21a, Texas Rules of Civil Procedure, as  
16 amended, or that rule's successor, on all parties to the  
17 underlying action not later than the 20th day before the date  
18 set for a hearing on the petition. If the state is a party to  
19 the underlying action, the copy of the petition to be served on  
20 the state shall be served on the school district collector who  
21 collects state ad valorem taxes on the subject property. The  
22 attorney who represents the state to enforce the collection of  
23 delinquent state ad valorem taxes in the school district in  
24 which the property is located shall represent the state at the  
25 hearing.

26 SECTION 3.34. The heading to Chapter 41, Tax Code, is  
27 amended to read as follows:

1                   CHAPTER 41. ADMINISTRATIVE [~~LOCAL~~] REVIEW

2           SECTION 3.35. Section 41.03, Tax Code, is amended to read  
3 as follows:

4           Sec. 41.03. CHALLENGE BY STATE OR TAXING UNIT. (a) The  
5 state or another [A] taxing unit is entitled to challenge before  
6 the appraisal review board:

7                   (1) the level of appraisals of any category of  
8 property in the district or in any territory in the district,  
9 but not the appraised value of a single taxpayer's property;

10                   (2) an exclusion of property from the appraisal  
11 records;

12                   (3) a grant in whole or in part of a partial  
13 exemption;

14                   (4) a determination that land qualifies for appraisal  
15 as provided by Subchapter C, D, E, or H, Chapter 23; or

16                   (5) failure to identify the taxing unit as one in  
17 which a particular property is taxable.

18           (b) If the state or other [a] taxing unit challenges a  
19 determination that land qualifies for appraisal under Subchapter  
20 H, Chapter 23, on the ground that the land is not located in an  
21 aesthetic management zone, critical wildlife habitat zone, or  
22 streamside management zone, the state or other taxing unit must  
23 first seek a determination letter from the director of the Texas  
24 Forest Service. The appraisal review board shall accept the  
25 letter as conclusive proof of the type, size, and location of  
26 the zone.

27           SECTION 3.36. Subchapter A, Chapter 41, Tax Code, is

1 amended by adding Sections 41.031 and 41.032 to read as follows:

2 Sec. 41.031. CHALLENGE BY STATE. The state is entitled to  
3 challenge before the appraisal review board the exclusion of  
4 property from the appraisal roll for state ad valorem taxes.

5 Sec. 41.032. REPRESENTATION OF STATE. The comptroller  
6 represents the state in a challenge by the state under this  
7 subchapter. The comptroller may delegate that function to the  
8 appropriate school district assessor or collector.

9 SECTION 3.37. Section 41.06(a), Tax Code, is amended to  
10 read as follows:

11 (a) The secretary of the appraisal review board shall  
12 deliver to the comptroller on behalf of the state and to the  
13 presiding officer of the governing body of each taxing unit  
14 other than the state entitled to appear at a challenge hearing  
15 written notice of the date, time, and place fixed for the  
16 hearing. The secretary shall deliver the notice not later than  
17 the 10th day before the date of the hearing.

18 SECTION 3.38. Section 41.07(d), Tax Code, is amended to  
19 read as follows:

20 (d) The board shall deliver by certified mail a notice of  
21 the issuance of the order and a copy of the order to the taxing  
22 unit. If the order of the board excludes property from the  
23 appraisal roll for state ad valorem taxes, the board shall also  
24 deliver a notice of issuance and a copy of the order to the  
25 comptroller and the appropriate school district assessor in the  
26 manner prescribed by the comptroller.

27 SECTION 3.39. Section 41.47(d), Tax Code, is amended to

1 read as follows:

2 (d) The board shall deliver by certified mail a notice of  
3 issuance of the order and a copy of the order to the property  
4 owner and the chief appraiser. If the order of the board  
5 excludes property from the appraisal roll for state ad valorem  
6 taxes, the board shall also deliver a notice of issuance and a  
7 copy of the order to the comptroller and the appropriate school  
8 district assessor in the manner prescribed by the comptroller.

9 SECTION 3.40. Subchapter A, Chapter 42, Tax Code, is  
10 amended by adding Section 42.032 to read as follows:

11 Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) The  
12 comptroller is entitled to appeal an order of the appraisal  
13 review board excluding property from the appraisal roll for  
14 state ad valorem taxes.

15 (b) The attorney general shall represent the comptroller in  
16 an appeal under this section. The attorney general may delegate  
17 its duties under this section to a county or district attorney  
18 or may contract with a private attorney for the performance of  
19 those duties.

20 SECTION 3.41. Sections 42.06(a) and (c), Tax Code, are  
21 amended to read as follows:

22 (a) To exercise the party's right to appeal an order of an  
23 appraisal review board, a party other than a property owner must  
24 file written notice of appeal within 15 days after the date the  
25 party receives the notice required by Section 41.47 or, in the  
26 case of a taxing unit or the comptroller, by Section 41.07 that  
27 the order appealed has been issued. To exercise the right to

1 appeal an order of the comptroller, a party other than a  
2 property owner must file written notice of appeal within 15 days  
3 after the date the party receives the comptroller's order. A  
4 property owner is not required to file a notice of appeal under  
5 this section.

6 (c) If the chief appraiser, a taxing unit, ~~[or]~~ a county,  
7 or the comptroller appeals~~[, the chief appraiser, if the appeal~~  
8 ~~is of]~~ an order of the appraisal review board, the chief  
9 appraiser ~~[or the comptroller, if the appeal is of an order of~~  
10 ~~the comptroller,]~~ shall deliver a copy of the notice to the  
11 property owner whose property is involved in the appeal. If the  
12 appeal is of an order of the comptroller, the comptroller shall  
13 deliver a copy of the notice to the property owner. The chief  
14 appraiser or the comptroller shall deliver the copy of the  
15 notice within 10 days after the date the notice is filed.

16 SECTION 3.42. Sections 42.43(a), (b), and (c), Tax Code,  
17 are amended to read as follows:

18 (a) If the final determination of an appeal that decreases  
19 a property owner's tax liability occurs after the property owner  
20 has paid the owner's ~~[his]~~ taxes, the taxing unit and the  
21 comptroller, if the property is subject to the state ad valorem  
22 tax, shall refund to the property owner the difference between  
23 the amount of taxes paid and amount of taxes for which the  
24 property owner is liable.

25 (b) For a refund made under this section because an  
26 exemption under Section 11.20 that was denied by the chief  
27 appraiser or appraisal review board is granted, the taxing unit

1 or the comptroller shall include with the refund interest on the  
2 amount refunded calculated at an annual rate that is equal to  
3 the auction average rate quoted on a bank discount basis for  
4 three-month treasury bills issued by the United States  
5 government, as published by the Federal Reserve Board, for the  
6 week in which the taxes became delinquent, but not more than 10  
7 percent, calculated from the delinquency date for the taxes  
8 until the date the refund is made. For any other refund made  
9 under this section, the taxing unit or the comptroller shall  
10 include with the refund interest on the amount refunded at an  
11 annual rate of eight percent, calculated from the delinquency  
12 date for the taxes until the date the refund is made.

13 (c) Notwithstanding Subsection (b), if a taxing unit or the  
14 comptroller does not make a refund, including interest, required  
15 by this section before the 60th day after the date the chief  
16 appraiser certifies a correction to the appraisal roll under  
17 Section 42.41, the taxing unit or the comptroller shall include  
18 with the refund interest on the amount refunded at an annual  
19 rate of 12 percent, calculated from the delinquency date for the  
20 taxes until the date the refund is made.

21 SECTION 3.43. Sections 43.01 and 43.04, Tax Code, are  
22 amended to read as follows:

23 Sec. 43.01. AUTHORITY TO BRING SUIT. The comptroller or a  
24 [A] taxing unit may sue the appraisal district that appraises  
25 property for the state or the unit to compel the appraisal  
26 district to comply with the provisions of this title, rules of  
27 the comptroller, or other applicable law.

1           Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The  
2 comptroller or the governing body of a taxing unit may sue the  
3 chief appraiser or members of the appraisal review board, as  
4 applicable, for failure to comply with the deadlines imposed by  
5 Section 25.22(a), 26.01(a), or 41.12. If the court finds that  
6 the chief appraiser or appraisal review board failed to comply  
7 for good cause shown, the court shall enter an order fixing a  
8 reasonable deadline for compliance. If the court finds that the  
9 chief appraiser or appraisal review board failed to comply  
10 without good cause, the court shall enter an order requiring the  
11 chief appraiser or appraisal review board to comply with the  
12 deadline not later than the 10th day after the date the judgment  
13 is signed. In a suit brought under this section, the court may  
14 enter any other order the court considers necessary to ensure  
15 compliance with the court's deadline or the applicable statutory  
16 requirements. Failure to obey an order of the court is  
17 punishable as contempt.

18           SECTION 3.44. Subchapter A, Chapter 313, Tax Code, is  
19 amended by adding Section 313.008 to read as follows:

20           Sec. 313.008. REPORT TO LEGISLATURE. (a) Not later than  
21 December 1, 2006, the Legislative Budget Board shall submit a  
22 report to the legislature that includes recommended changes to  
23 this chapter to provide incentives and credits relating to the  
24 state ad valorem tax that are consistent with the purposes  
25 described by Section 313.003.

26           (b) This section expires January 1, 2007.

27           SECTION 3.45. Chapter 311, Tax Code, is amended by adding

1 Section 311.0131 to read as follows:

2 Sec. 311.0131. SCHOOL DISTRICT ANNUAL OBLIGATION TO TAX  
3 INCREMENT FUND; STATE PAYMENT OF PORTION OF OBLIGATION. (a)

4 This section applies only to a reinvestment zone created before  
5 September 1, 1999, for which a school district enters into an  
6 agreement under Section 311.013(f) with the governing body of  
7 the municipality that created the zone to pay into the tax  
8 increment fund for the zone a portion of the school district's  
9 tax increment produced from property located in the zone.

10 (b) Notwithstanding the terms of the agreement regarding  
11 the portion of the school district's tax increment required to  
12 be paid into the fund, in each year, the portion of the school  
13 district's tax increment the school district is required to pay  
14 into the fund is the school district annual obligation for the  
15 school district for that year calculated under Subsection (c).

16 (c) The municipality that created the zone or its designee  
17 shall calculate the school district annual obligation for a  
18 school district by applying the applicable school district's tax  
19 rate for the 2004 tax year to the captured appraised value for  
20 the school district for the year for which the obligation is  
21 calculated and multiplying that amount by the percentage of the  
22 school district's tax increment for the year for which the  
23 obligation is calculated that the school district agreed to pay  
24 into the tax increment fund in that year under Section  
25 311.013(f).

26 (d) The school district annual obligation for each year  
27 shall be apportioned between the school district and the state

1 in proportion to the amount of taxes each of those entities  
2 imposes on the captured appraised value for the zone in that  
3 year as calculated under this subsection. The amount of taxes  
4 the state imposes on that captured appraised value is calculated  
5 by multiplying the rate of the state ad valorem tax rate for  
6 that year by the captured appraised value for the state. The  
7 amount of taxes the school district imposes on that captured  
8 appraised value used in making the apportionment is calculated  
9 by multiplying the school district local fund assignment tax  
10 rate for that year by the captured appraised value for the  
11 school district. The tax increment base for the state under  
12 Section 311.012 is determined as if this section were in effect  
13 for the year in which the reinvestment zone was created.

14 (e) If more than one school district imposes taxes on  
15 property in a reinvestment zone, the school district annual  
16 obligation for each school district and the portion of that  
17 obligation that the state is required to pay under this section  
18 shall be calculated separately for the portion of the property  
19 in the reinvestment zone located in each school district.

20 (f) The comptroller shall verify the payments to be made by  
21 the state under this section and shall retain from state  
22 property tax collections sufficient funds to make the calculated  
23 payments. From the retained funds, the comptroller shall pay to  
24 the school district or, if required by the agreement, to the  
25 municipality the portion of the school district annual  
26 obligation apportioned to the state under Subsection (c).

27 (g) On receipt of the state's portion of the school

1 district annual obligation by a school district, the school  
2 district promptly shall pay the state's portion to the  
3 municipality. At the time of payment of the state's portion to  
4 the municipality, the school district shall pay to the  
5 municipality any unpaid balance of the school district's portion  
6 of the school district annual obligation.

7 (h) Amounts paid to a municipality under Subsections (f)  
8 and (g) shall be deposited to the credit of the tax increment  
9 fund on behalf of the school district.

10 (i) This section ceases to apply to a reinvestment zone on  
11 the earlier date specified by Section 311.017(a)(1) or (2) for  
12 the reinvestment zone. If the agreement provides that the  
13 termination date may be extended, the state's obligation to pay  
14 a portion of the school district annual obligation ceases on the  
15 date the school district ceases to be required to pay any tax  
16 increment produced by the school district into the tax increment  
17 fund for the zone.

18 SECTION 3.46. The changes in law made by this article to  
19 Chapter 41, Tax Code, apply only to a challenge or protest under  
20 that chapter for which the notice is filed on or after the  
21 effective date of this article. A challenge or protest for  
22 which the notice is filed before the effective date of this  
23 article is covered by the law in effect when the notice of  
24 protest was filed, and the former law is continued in effect for  
25 that purpose.

26 SECTION 3.47. The changes in law made by this article apply  
27 to each tax year that begins on or after January 1, 2006. The

1 changes in law do not apply to a tax year that begins before  
2 January 1, 2006, and the law as it existed before January 1,  
3 2006, is continued in effect for purposes of taxes imposed in  
4 that tax year.

5 ARTICLE 4. CHARTER SCHOOLS

6 SECTION 4.01. (a) Effective August 1, 2006, Subchapter D,  
7 Chapter 12, Education Code, is repealed.

8 (b) Except as provided by Section 11A.1041, Education Code,  
9 as added by this Act, each open-enrollment charter school  
10 operating or holding a charter to operate on August 1, 2006,  
11 shall be dissolved in accordance with Subchapter J, Chapter 11A,  
12 Education Code, as added by this Act.

13 SECTION 4.02. Subtitle C, Title 2, Education Code, is  
14 amended by adding Chapter 11A to read as follows:

15 CHAPTER 11A. PUBLIC CHARTER DISTRICTS

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 11A.001. DEFINITIONS. In this chapter:

18 (1) "Charter holder" means the entity to which a  
19 charter is granted under this chapter.

20 (2) "Governing body of a charter holder" means the  
21 board of directors, board of trustees, or other governing body  
22 of a charter holder.

23 (3) "Governing body of a public charter district"  
24 means the board of directors, board of trustees, or other  
25 governing body of a public charter district. The term includes  
26 the governing body of a charter holder if that body acts as the  
27 governing body of the public charter district.

1           (4) "Management company" means a person, other than a  
2 charter holder, who provides management services for a public  
3 charter district.

4           (5) "Management services" means services related to  
5 the management or operation of a public charter district,  
6 including:

7                   (A) planning, operating, supervising, and  
8 evaluating the public charter district's educational programs,  
9 services, and facilities;

10                   (B) making recommendations to the governing body  
11 of the public charter district relating to the selection of  
12 school personnel;

13                   (C) managing the public charter district's day-  
14 to-day operations as its administrative manager;

15                   (D) preparing and submitting to the governing  
16 body of the public charter district a proposed budget;

17                   (E) recommending policies to be adopted by the  
18 governing body of the public charter district, developing  
19 appropriate procedures to implement policies adopted by the  
20 governing body of the public charter district, and overseeing  
21 the implementation of adopted policies; and

22                   (F) providing leadership for the attainment of  
23 student performance at the public charter district based on the  
24 indicators adopted under Section 39.051 or by the governing body  
25 of the public charter district.

26           (6) "Officer of a public charter district" means:

27                   (A) the principal, director, or other chief

1 operating officer of a public charter district or campus; or

2 (B) a person charged with managing the finances  
3 of a public charter district.

4 Sec. 11A.002. AUTHORIZATION. (a) In accordance with this  
5 chapter, the State Board of Education may grant a charter on the  
6 application of an eligible entity for a public charter district  
7 to operate in a facility of a commercial or nonprofit entity, an  
8 eligible entity, or a school district, including a home-rule  
9 school district. In this subsection, "eligible entity" means:

10 (1) an institution of higher education as defined  
11 under Section 61.003;

12 (2) a private or independent institution of higher  
13 education as defined under Section 61.003;

14 (3) an organization that is exempt from federal income  
15 taxation under Section 501(a), Internal Revenue Code of 1986, as  
16 an organization described by Section 501(c)(3) of that code; or

17 (4) a governmental entity in this state.

18 (b) The State Board of Education may grant a charter for a  
19 public charter district only to an applicant that meets all  
20 financial, governing, and operational standards adopted by the  
21 commissioner under this chapter.

22 (c) The State Board of Education may not grant more than a  
23 total of 215 charters for public charter districts.

24 (d) An educator employed by a school district before the  
25 effective date of a charter for a public charter district  
26 operated at a school district facility may not be transferred to  
27 or employed by the public charter district over the educator's

1 objection.

2 Sec. 11A.003. AUTHORITY UNDER CHARTER. A public charter  
3 district:

4 (1) shall provide instruction to and assess a number  
5 of students at a number of elementary or secondary grade levels,  
6 as provided by the charter, sufficient to permit the agency to  
7 assign an accountability rating under Chapter 39;

8 (2) is governed under the governing structure required  
9 by this chapter and described by the charter;

10 (3) retains authority to operate under the charter  
11 contingent on satisfactory student performance as provided by  
12 the charter in accordance with Section 11A.103; and

13 (4) does not have authority to impose taxes.

14 Sec. 11A.004. STATUS. A public charter district or campus  
15 is part of the public school system of this state.

16 Sec. 11A.005. IMMUNITY FROM LIABILITY. In matters related  
17 to operation of a public charter district, a public charter  
18 district is immune from liability to the same extent as a school  
19 district, and its employees and volunteers are immune from  
20 liability to the same extent as school district employees and  
21 volunteers. Except as provided by Section 11A.154, a member of  
22 the governing body of a public charter district or of a charter  
23 holder is immune from liability to the same extent as a school  
24 district trustee.

25 Sec. 11A.006. REFERENCE TO OPEN-ENROLLMENT CHARTER SCHOOL.  
26 A reference in law to an open-enrollment charter school means a  
27 public charter district or public charter campus, as applicable.

1           [Sections 11A.007-11A.050 reserved for expansion]

2           SUBCHAPTER B. APPLICABILITY OF CERTAIN LAWS

3           Sec. 11A.051. GENERAL APPLICABILITY OF LAWS, RULES, AND  
4 ORDINANCES TO PUBLIC CHARTER DISTRICT. (a) Except as provided  
5 by Subsection (b) or (c), a public charter district is subject  
6 to federal and state laws and rules governing public schools and  
7 to municipal zoning ordinances governing public schools.

8           (b) A public charter district is subject to this code and  
9 rules adopted under this code only to the extent the  
10 applicability to a public charter district of a provision of  
11 this code or a rule adopted under this code is specifically  
12 provided.

13           (c) Notwithstanding Subsection (a), a campus of a public  
14 charter district located in whole or in part in a municipality  
15 with a population of 20,000 or less is not subject to a  
16 municipal zoning ordinance governing public schools.

17           Sec. 11A.052. APPLICABILITY OF TITLE. (a) A public  
18 charter district has the powers granted to schools under this  
19 title.

20           (b) A public charter district is subject to:

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

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

26                   (A) the Public Education Information Management  
27 System (PEIMS) under Section 42.006;

1                   (B) reporting an educator's misconduct under  
2 Section 21.006;

3                   (C) criminal history records under Subchapter C,  
4 Chapter 22;

5                   (D) reading instruments and accelerated reading  
6 instruction programs under Section 28.006;

7                   (E) satisfactory performance on assessment  
8 instruments and to accelerated instruction under Section  
9 28.0211;

10                   (F) intensive programs of instruction under  
11 Section 28.0213;

12                   (G) high school graduation under Section 28.025;

13                   (H) special education programs under Subchapter  
14 A, Chapter 29, including a requirement that special education  
15 teachers obtain appropriate certification;

16                   (I) bilingual education under Subchapter B,  
17 Chapter 29, including a requirement that bilingual education  
18 teachers obtain appropriate certification;

19                   (J) prekindergarten programs under Subchapter E,  
20 Chapter 29;

21                   (K) extracurricular activities under Section  
22 33.081;

23                   (L) discipline management practices or behavior  
24 management techniques under Section 37.0021;

25                   (M) health and safety under Chapter 38; and

26                   (N) public school accountability under  
27 Subchapters B, C, D, G, and I, Chapter 39.

1       (c) A public charter district is entitled to the same level  
2 of services provided to school districts by regional education  
3 service centers. The commissioner shall adopt rules that  
4 provide for the representation of public charter districts on  
5 the boards of directors of regional education service centers.

6       (d) The commissioner may by rule permit a public charter  
7 district to voluntarily participate in any state program  
8 available to school districts, including a purchasing program,  
9 if the public charter district complies with all terms of the  
10 program.

11       Sec. 11A.053. APPLICABILITY OF OPEN MEETINGS AND PUBLIC  
12 INFORMATION LAWS. (a) With respect to the operation of a  
13 public charter district, the governing body of a charter holder  
14 and the governing body of a public charter district are  
15 considered to be governmental bodies for purposes of Chapters  
16 551 and 552, Government Code.

17       (b) With respect to the operation of a public charter  
18 district, any requirement in Chapter 551 or 552, Government  
19 Code, that applies to a school district, the board of trustees  
20 of a school district, or public school students applies to a  
21 public charter district, the governing body of a charter holder,  
22 the governing body of a public charter district, or students in  
23 attendance at a public charter district campus.

24       Sec. 11A.054. APPLICABILITY OF LAWS RELATING TO LOCAL  
25 GOVERNMENT RECORDS. (a) With respect to the operation of a  
26 public charter district, a public charter district is considered  
27 to be a local government for purposes of Subtitle C, Title 6,

1 Local Government Code, and Subchapter J, Chapter 441, Government  
2 Code.

3 (b) Records of a public charter district, a charter holder,  
4 or a management company that relate to a public charter district  
5 are government records for all purposes under state law.

6 (c) Any requirement in Subtitle C, Title 6, Local  
7 Government Code, or Subchapter J, Chapter 441, Government Code,  
8 that applies to a school district, the board of trustees of a  
9 school district, or an officer or employee of a school district  
10 applies to a public charter district or management company, the  
11 governing body of a charter holder, the governing body of a  
12 public charter district, or an officer or employee of a public  
13 charter district or management company except that the records  
14 of a public charter district or management company that ceases  
15 to operate shall be transferred in the manner prescribed by  
16 Subsection (d).

17 (d) The records of a public charter district or management  
18 company that ceases to operate shall be transferred in the  
19 manner specified by the commissioner to a custodian designated  
20 by the commissioner. The commissioner may designate any  
21 appropriate entity to serve as custodian, including the agency,  
22 a regional education service center, or a school district. In  
23 designating a custodian, the commissioner shall ensure that the  
24 transferred records, including student and personnel records,  
25 are transferred to a custodian capable of:

26 (1) maintaining the records;

27 (2) making the records readily accessible to students,

1 parents, former school employees, and other persons entitled to  
2 access; and

3 (3) complying with applicable state or federal law  
4 restricting access to the records.

5 (e) If the charter holder of a public charter district that  
6 ceases to operate or an officer or employee of the district or a  
7 management company refuses to transfer school records in the  
8 manner specified by the commissioner under Subsection (d), the  
9 commissioner may ask the attorney general to petition a court  
10 for recovery of the records. If the court grants the petition,  
11 the court shall award attorney's fees and court costs to the  
12 state.

13 (f) A record described by this section is a public school  
14 record for purposes of Section 37.10(c)(2), Penal Code.

15 Sec. 11A.055. APPLICABILITY OF LAWS RELATING TO PUBLIC  
16 PURCHASING AND CONTRACTING. (a) This section applies to a  
17 public charter district unless the district's charter otherwise  
18 describes procedures for purchasing and contracting and the  
19 procedures are approved by the State Board of Education.

20 (b) A public charter district is considered to be:

21 (1) a governmental entity for purposes of:

22 (A) Subchapter D, Chapter 2252, Government Code;

23 and

24 (B) Subchapter B, Chapter 271, Local Government  
25 Code;

26 (2) a political subdivision for purposes of Subchapter  
27 A, Chapter 2254, Government Code; and

1           (3) a local government for purposes of Sections  
2 2256.009-2256.016, Government Code.

3           (c) To the extent consistent with this section, a  
4 requirement in a law listed in this section that applies to a  
5 school district or the board of trustees of a school district  
6 applies to a public charter district, the governing body of a  
7 charter holder, or the governing body of a public charter  
8 district.

9           Sec. 11A.056. APPLICABILITY OF LAWS RELATING TO CONFLICT OF  
10 INTEREST. (a) A member of the governing body of a charter  
11 holder, a member of the governing body of a public charter  
12 district, or an officer of a public charter district is  
13 considered to be a local public official for purposes of Chapter  
14 171, Local Government Code. For purposes of that chapter:

15           (1) a member of the governing body of a charter holder  
16 or a member of the governing body or officer of a public charter  
17 district is considered to have a substantial interest in a  
18 business entity if a person related to the member or officer in  
19 the third degree by consanguinity or affinity, as determined  
20 under Chapter 573, Government Code, has a substantial interest  
21 in the business entity under Section 171.002, Local Government  
22 Code; and

23           (2) a teacher at a public charter district may serve  
24 as a member of the governing body of the charter holder or the  
25 governing body of the public charter district if the teachers  
26 serving on the governing body:

27           (A) do not constitute a quorum of the governing

1 body or any committee of the governing body; and

2 (B) comply with the requirements of Sections  
3 171.003-171.007, Local Government Code.

4 (b) To the extent consistent with this section, a  
5 requirement of a law listed in this section that applies to a  
6 school district or the board of trustees of a school district  
7 applies to a public charter district, the governing body of a  
8 charter holder, or the governing body of a public charter  
9 district.

10 Sec. 11A.057. APPLICABILITY OF NEPOTISM LAWS. (a) A  
11 public charter district, including the governing body of a  
12 public charter district and any district employee with final  
13 authority to hire a district employee, is subject to a  
14 prohibition, restriction, or requirement, as applicable, imposed  
15 by state law or by a rule adopted under state law, relating to  
16 nepotism under Chapter 573, Government Code.

17 (b) Notwithstanding Subsection (a), a member of the  
18 governing body of a charter holder may not be related in the  
19 third degree by consanguinity or affinity, as determined under  
20 Chapter 573, Government Code, to another member of the governing  
21 body of the charter holder.

22 (c) This section does not apply to an appointment,  
23 confirmation of an appointment, or vote for an appointment or  
24 confirmation of an appointment of an individual to a position  
25 if:

26 (1) the charter holder operating the public charter  
27 district where the individual is employed or serves as a member

1 of the governing body operated an open-enrollment charter school  
2 under Subchapter D, Chapter 12, on August 31, 2005;

3 (2) the individual was employed or serving in the  
4 position on August 31, 2005, in compliance with former Section  
5 12.1055; and

6 (3) the individual has been continuously employed or  
7 serving since a date on or before January 1, 2005.

8 (d) If, under Subsection (c), an individual continues to be  
9 employed or serve in a position, the public official to whom the  
10 individual is related in a prohibited degree may not participate  
11 in any deliberation or voting on the appointment, reappointment,  
12 confirmation of the appointment or reappointment, employment,  
13 reemployment, change in status, compensation, or dismissal of  
14 the individual if that action applies only to the individual and  
15 is not taken regarding a bona fide class or category of  
16 employees.

17 [Sections 11A.058-11A.100 reserved for expansion]

18 SUBCHAPTER C. CHARTER ISSUANCE AND ADMINISTRATION

19 Sec. 11A.101. APPLICATION. (a) The State Board of  
20 Education shall adopt:

21 (1) an application form and a procedure that must be  
22 used to apply for a charter for a public charter district; and

23 (2) criteria to use in selecting a program for which  
24 to grant a charter.

25 (b) The application form must provide for including the  
26 information required under Section 11A.103 to be contained in a  
27 charter.

1       (c) The State Board of Education may approve or deny an  
2 application based on criteria it adopts and on financial,  
3 governing, and operational standards adopted by the commissioner  
4 under this chapter. The criteria the board adopts must include:

5           (1) criteria relating to improving student performance  
6 and encouraging innovative programs; and

7           (2) criteria relating to the educational benefit for  
8 students residing in the geographic area to be served by the  
9 proposed public charter district, as compared to any significant  
10 financial difficulty that a loss in enrollment may have on any  
11 school district whose enrollment is likely to be affected by the  
12 public charter district.

13       (d) A public charter district may not begin operating under  
14 this chapter unless the commissioner has certified that the  
15 applicant has acceptable administrative and accounting systems  
16 and procedures in place for the operation of the proposed public  
17 charter district.

18       Sec. 11A.102. NOTIFICATION OF CHARTER APPLICATION. The  
19 commissioner by rule shall adopt a procedure for providing  
20 notice to each member of the legislature that represents the  
21 geographic area to be served by the proposed public charter  
22 district, as determined by the commissioner, on receipt by the  
23 State Board of Education of an application for a charter for a  
24 public charter district under Section 11A.101.

25       Sec. 11A.103. CONTENT. (a) Each charter granted under  
26 this chapter must:

27           (1) describe the educational program to be offered,

1 which must include the required curriculum as provided by  
2 Section 28.002;

3 (2) establish educational goals, which must include  
4 acceptable student performance as determined under Chapter 39;

5 (3) specify the grade levels to be offered, which must  
6 be sufficient to permit the agency to assign an accountability  
7 rating under Chapter 39;

8 (4) describe the facilities to be used;

9 (5) describe the geographical area served by the  
10 program; and

11 (6) specify any type of enrollment criteria to be  
12 used.

13 (b) A charter holder of a public charter district shall  
14 consider including in the district's charter a requirement that  
15 the district develop and administer personal graduation plans  
16 under Section 28.0212, as added by Chapter 1212, Acts of the  
17 78th Legislature, Regular Session, 2003.

18 Sec. 11A.104. FORM. A charter for a public charter  
19 district shall be in the form of a license issued by the State  
20 Board of Education to the charter holder.

21 Sec. 11A.1041. GRANT OF CHARTER REQUIRED FOR CERTAIN  
22 ENTITIES. (a) Notwithstanding Section 11A.101, the  
23 commissioner shall immediately grant a charter under this  
24 chapter to the following entities on or before August 1, 2006:

25 (1) an eligible entity holding a charter granted  
26 before September 1, 2002, under Subchapter D, Chapter 12, as  
27 that subchapter existed on January 1, 2005, if:

1           (A) for fiscal years 2004 and 2005, the entity  
2 had total assets that exceeded total liabilities, as determined  
3 by the entity's annual audit report under Section 44.008;

4           (B) at least 25 percent of all students enrolled  
5 at the entity's open-enrollment charter school and administered  
6 an assessment instrument under Section 39.023(a), (c), or (l)  
7 performed satisfactorily on the assessment instrument in  
8 mathematics, as determined by the school's assessment instrument  
9 results for the 2005-2006 school year; and

10           (C) at least 25 percent of all students enrolled  
11 at the entity's open-enrollment charter school and administered  
12 an assessment instrument under Section 39.023(a), (c), or (l)  
13 performed satisfactorily on the assessment instrument in reading  
14 or English language arts, as applicable, as determined by the  
15 school's assessment instrument results for the 2005-2006 school  
16 year;

17           (2) a governmental entity holding a charter under  
18 Subchapter D, Chapter 12, as that subchapter existed on January  
19 1, 2005;

20           (3) an eligible entity holding a charter under  
21 Subchapter D, Chapter 12, as that subchapter existed on January  
22 1, 2005, if at least 85 percent of students enrolled in the  
23 school reside in a residential facility; and

24           (4) an eligible entity granted a charter on or after  
25 September 1, 2002, under Subchapter D, Chapter 12, as that  
26 subchapter existed on January 1, 2005.

27           (b) Assessment instrument results for fewer than five

1 students are not considered for purposes of Subsection (a)(1)(B)  
2 or (C).

3 (c) The commissioner shall determine which entities are  
4 eligible for a charter under this section as soon as  
5 practicable.

6 (d) The content and terms of a charter granted to an  
7 eligible entity under this section must be the same as those  
8 under which the entity operated under Subchapter D, Chapter 12,  
9 as that subchapter existed on January 1, 2005, except that where  
10 the terms conflict with this chapter, this chapter prevails.

11 (e) Section 11A.157 does not apply to an entity granted a  
12 charter under this section.

13 (f) A decision of the commissioner under this section is  
14 not subject to a hearing or an appeal to a district court.

15 (g) This section expires January 1, 2008.

16 Sec. 11A.1042. DETERMINATION OF ACCEPTABLE PERFORMANCE.

17 (a) For purposes of Section 11A.1041(a), the commissioner shall  
18 compute the percentage of students who performed satisfactorily  
19 on an assessment instrument in a manner consistent with this  
20 section.

21 (b) The commissioner may only consider the performance of a  
22 student who was enrolled as of the date for reporting enrollment  
23 for the fall semester under the Public Education Information  
24 Management System (PEIMS).

25 (c) In computing performance under this section, the  
26 commissioner must:

27 (1) add the results for third through 11th grade

1 assessment instruments in English and third through sixth grade  
2 assessment instruments in Spanish across grade levels tested at  
3 all campuses operated by the charter holder and evaluate those  
4 results for all students;

5 (2) combine the results for third through ninth grade  
6 assessment instruments in reading and 10th and 11th grade  
7 assessment instruments in English language arts and evaluate  
8 those results as a single subject; and

9 (3) separately determine student performance for  
10 reading and mathematics as a percentage equal to the sum of  
11 students who performed satisfactorily on the specific subject  
12 area assessment instrument in all grade levels tested at all  
13 campuses operated by the charter holder divided by the number of  
14 students who took the specific subject area assessment  
15 instrument in grade levels tested at all campuses operated by  
16 the charter holder.

17 (d) To the extent consistent with this section, the  
18 commissioner shall use the methodology used to compute passing  
19 rates for reading and mathematics assessment instruments for  
20 purposes of determining accountability ratings under Chapter 39  
21 for the 2004-2005 school year as provided by 19 T.A.C. Section  
22 97.1002.

23 (e) This section expires January 1, 2008.

24 Sec. 11A.105. CHARTER GRANTED. Each charter the State  
25 Board of Education grants for a public charter district must:

26 (1) satisfy this chapter; and

27 (2) include the information that is required under

1 Section 11A.103 consistent with the information provided in the  
2 application and any modification the board requires.

3 Sec. 11A.106. REVISION. (a) A revision of a charter of a  
4 public charter district may be made only with the approval of  
5 the commissioner.

6 (b) Not more than once each year, a public charter district  
7 may request approval to revise the maximum student enrollment  
8 described by the district's charter.

9 (c) The commissioner may not approve a charter revision  
10 that increases a public charter district's enrollment, increases  
11 the grade levels offered, increases the number of campuses, or  
12 changes the boundaries of the geographic area served by the  
13 program unless the commissioner determines that:

14 (1) the district has performed adequately academically  
15 and financially;

16 (2) the district is academically and financially  
17 capable of supporting changes created by the proposed revision;

18 (3) the governing body of the public charter district  
19 has fully considered all the financial implications of the  
20 proposed revision; and

21 (4) the revision is in the best interest of the  
22 students of this state.

23 Sec. 11A.107. BASIS FOR MODIFICATION, PLACEMENT ON  
24 PROBATION, OR REVOCATION. (a) The commissioner may modify,  
25 place on probation, or revoke the charter of a public charter  
26 district if the commissioner determines under Section 11A.108  
27 that the charter holder:

- 1           (1) committed a material violation of the charter;  
2           (2) failed to satisfy generally accepted accounting  
3 standards of fiscal management;  
4           (3) failed to protect the health, safety, welfare, or  
5 best interests of the students enrolled at the public charter  
6 district; or  
7           (4) failed to comply with this chapter or another  
8 applicable law or rule.

9           (b) The commissioner shall revoke the charter of a public  
10 charter district without a hearing if:

11           (1) in two consecutive years, the public charter  
12 district:

13           (A) is rated academically unacceptable under  
14 Subchapter D, Chapter 39; or

15           (B) is rated financially unacceptable by the  
16 commissioner under Subchapter I, Chapter 39; or

17           (2) all campuses operated by the public charter  
18 district have been ordered closed under Section 39.131(a) or  
19 39.132(b).

20           (c) A revocation under Subsection (b)(1) is effective on  
21 January 1 following the school year in which the public charter  
22 district received a second unacceptable rating.

23           Sec. 11A.108. PROCEDURE FOR MODIFICATION, PLACEMENT ON  
24 PROBATION, OR REVOCATION. (a) The commissioner shall adopt a  
25 procedure to be used for modifying, placing on probation, or  
26 revoking the charter of a public charter district under Section  
27 11A.107(a).

1       (b) The procedure adopted under Subsection (a) must provide  
2 an opportunity for a hearing to the charter holder.

3       Sec. 11A.109. APPEAL OF MODIFICATION, PLACEMENT ON  
4 PROBATION, OR REVOCATION. A charter holder may appeal a  
5 modification, placement on probation, or revocation under this  
6 subchapter only in the manner provided by the applicable  
7 procedures adopted by the commissioner under Section 11A.108.  
8 The charter holder may not otherwise appeal to the commissioner  
9 and may not appeal to a district court.

10       Sec. 11A.110. EFFECT OF REVOCATION OR SURRENDER OF CHARTER.  
11 If the commissioner revokes a charter of a public charter  
12 district, if a district is ordered closed under Chapter 39, or  
13 if a public charter district surrenders its charter, the  
14 district may not:

- 15               (1) continue to operate under this chapter; or  
16               (2) receive state funds under this chapter.

17       [Sections 11A.111-11A.150 reserved for expansion]

18       SUBCHAPTER D. POWERS AND DUTIES OF GOVERNING BODIES OF  
19 CHARTER HOLDERS, PUBLIC CHARTER DISTRICTS, AND MANAGEMENT  
20 COMPANIES

21       Sec. 11A.151. RESPONSIBILITY FOR PUBLIC CHARTER DISTRICT.  
22 The governing body of a charter holder is responsible for the  
23 management, operation, and accountability of the public charter  
24 district, regardless of whether the governing body delegates the  
25 governing body's powers and duties to another person.

26       Sec. 11A.152. COMPOSITION OF GOVERNING BODY OF CHARTER  
27 HOLDER. The governing body of a charter holder must be composed

1 of at least five members.

2 Sec. 11A.153. RESTRICTIONS ON SERVING AS MEMBER OF  
3 GOVERNING BODY OF CHARTER HOLDER OR PUBLIC CHARTER DISTRICT OR  
4 AS OFFICER OR EMPLOYEE. (a) Except as provided by Subsection  
5 (b), a person may not serve as a member of the governing body of  
6 a charter holder, as a member of the governing body of a public  
7 charter district, or as an officer or employee of a public  
8 charter district if the person:

9 (1) has been convicted of a felony or a misdemeanor  
10 involving moral turpitude;

11 (2) has been convicted of an offense listed in Section  
12 37.007(a);

13 (3) has been convicted of an offense listed in Article  
14 62.01(5), Code of Criminal Procedure; or

15 (4) has a substantial interest in a management  
16 company.

17 (b) A person who has been convicted of an offense described  
18 by Subsection (a)(1), (2), or (3) may serve as a member of the  
19 governing body of a charter holder, as a member of the governing  
20 body of a public charter district, or as an officer or employee  
21 of a public charter district if the commissioner determines that  
22 the person is fit to serve in that capacity. In making a  
23 determination under this subsection, the commissioner shall  
24 consider:

25 (1) the factors described by Section 53.022,  
26 Occupations Code, for determining the extent to which a  
27 conviction relates to an occupation;

1           (2) the factors described by Section 53.023,  
2 Occupations Code, for determining the fitness of a person to  
3 perform the duties and discharge the responsibilities of an  
4 occupation; and

5           (3) other appropriate factors, as determined by the  
6 commissioner.

7           (c) For purposes of Subsection (a)(4), a person has a  
8 substantial interest in a management company if the person:

9           (1) has a controlling interest in the company;

10           (2) owns more than 10 percent of the voting interest  
11 in the company;

12           (3) owns more than \$25,000 of the fair market value of  
13 the company;

14           (4) has a direct or indirect participating interest by  
15 shares, stock, or otherwise, regardless of whether voting rights  
16 are included, in more than 10 percent of the profits, proceeds,  
17 or capital gains of the company;

18           (5) is a member of the board of directors or other  
19 governing body of the company;

20           (6) serves as an elected officer of the company; or

21           (7) is an employee of the company.

22           Sec. 11A.154. LIABILITY OF MEMBERS OF GOVERNING BODY OF  
23 CHARTER HOLDER. (a) Notwithstanding the Texas Non-Profit  
24 Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil  
25 Statutes), Chapter 22, Business Organizations Code, or other  
26 law, on request of the commissioner, the attorney general shall  
27 bring suit against a member of the governing body of a charter

1 holder for breach of a fiduciary duty by the member, including  
2 misapplication of public funds.

3 (b) The attorney general may bring suit under Subsection

4 (a) for:

5 (1) damages;

6 (2) injunctive relief; or

7 (3) any other equitable remedy determined to be

8 appropriate by the court.

9 (c) This section is cumulative of all other remedies.

10 Sec. 11A.155. TRAINING FOR MEMBERS OF GOVERNING BODY OF

11 CHARTER HOLDER. (a) The commissioner shall adopt rules

12 prescribing training for members of governing bodies of charter

13 holders.

14 (b) The rules adopted under Subsection (a) may:

15 (1) specify the minimum amount and frequency of the

16 training;

17 (2) require the training to be provided by:

18 (A) the agency and regional education service

19 centers;

20 (B) entities other than the agency and service

21 centers, subject to approval by the commissioner; or

22 (C) both the agency, service centers, and other

23 entities; and

24 (3) require training to be provided concerning:

25 (A) basic school law, including school finance;

26 (B) health and safety issues;

27 (C) accountability requirements related to the

1 use of public funds; and

2 (D) other requirements relating to accountability  
3 to the public, such as open meetings requirements under Chapter  
4 551, Government Code, and public information requirements under  
5 Chapter 552, Government Code.

6 Sec. 11A.156. BYLAWS; ANNUAL REPORT. (a) A charter holder  
7 shall file with the State Board of Education a copy of its  
8 articles of incorporation and bylaws, or comparable documents if  
9 the charter holder does not have articles of incorporation or  
10 bylaws, within the period and in the manner prescribed by the  
11 board.

12 (b) Each public charter district shall file annually with  
13 the State Board of Education the following information in a form  
14 prescribed by the board:

15 (1) the name, address, and telephone number of each  
16 officer and member of the governing body of the charter holder;  
17 and

18 (2) the amount of annual compensation the public  
19 charter district pays to each officer and member of the  
20 governing body.

21 Sec. 11A.157. QUARTERLY FINANCIAL REPORTS REQUIRED. During  
22 a public charter district's first year of operation, the charter  
23 holder shall submit quarterly financial reports to the  
24 commissioner. The commissioner by rule shall determine the form  
25 and content of the financial reports under this section.

26 Sec. 11A.158. PEIMS INFORMATION. The governing body of a  
27 public charter district shall comply with Section 42.006.

1       Sec. 11A.159. LIABILITY OF MANAGEMENT COMPANY. (a) A  
2 management company that provides management services to a public  
3 charter district is liable for damages incurred by the state or  
4 a school district as a result of the failure of the company to  
5 comply with its contractual or other legal obligation to provide  
6 services to the district.

7       (b) On request of the commissioner, the attorney general  
8 may bring suit on behalf of the state against a management  
9 company liable under Subsection (a) for:

10           (1) damages, including any state funding received by  
11 the company and any consequential damages suffered by the state;

12           (2) injunctive relief; or

13           (3) any other equitable remedy determined to be  
14 appropriate by the court.

15       (c) This section is cumulative of all other remedies and  
16 does not affect:

17           (1) the liability of a management company to the  
18 charter holder; or

19           (2) the liability of a charter holder, a member of the  
20 governing body of a charter holder, or a member of the governing  
21 body of a public charter district to the state.

22       Sec. 11A.160. LOANS FROM MANAGEMENT COMPANY PROHIBITED.

23       (a) The charter holder or the governing body of a public  
24 charter district may not accept a loan from a management company  
25 that has a contract to provide management services to:

26           (1) the district; or

27           (2) another public charter district that operates

1 under a charter granted to the charter holder.

2 (b) A charter holder or the governing body of a public  
3 charter district that accepts a loan from a management company  
4 may not enter into a contract with that management company to  
5 provide management services to the district.

6 Sec. 11A.161. CONTRACT FOR MANAGEMENT SERVICES. Any  
7 contract, including a contract renewal, between a public charter  
8 district and a management company proposing to provide  
9 management services to the district must require the management  
10 company to maintain all records related to the management  
11 services separately from any other records of the management  
12 company.

13 Sec. 11A.162. CERTAIN MANAGEMENT SERVICES CONTRACTS  
14 PROHIBITED. The commissioner may prohibit, deny renewal of,  
15 suspend, or revoke a contract between a public charter district  
16 and a management company providing management services to the  
17 district if the commissioner determines that the management  
18 company has:

19 (1) failed to provide educational or related services  
20 in compliance with the company's contractual or other legal  
21 obligation to any public charter district in this state or to  
22 any other similar entity in another state;

23 (2) failed to protect the health, safety, or welfare  
24 of the students enrolled at a public charter district served by  
25 the company;

26 (3) violated this chapter or a rule adopted under this  
27 chapter; or

1           (4) otherwise failed to comply with any contractual or  
2 other legal obligation to provide services to the district.

3           [Sections 11A.163-11A.200 reserved for expansion]

4           SUBCHAPTER E. FUNDING AND FINANCIAL OPERATIONS

5           Sec. 11A.201. STATE FUNDING. (a) To the extent consistent  
6 with Subsection (c), a charter holder is entitled to receive for  
7 the public charter district funding under Chapter 42 as if the  
8 public charter district were a school district without a local  
9 share for purposes of Section 42.253 and without any local  
10 revenue ("LR") for purposes of Section 42.302. In determining  
11 funding for a public charter district, adjustments under  
12 Sections 42.102, 42.103, and 42.105 and the district enrichment  
13 tax rate ("DTR") under Section 42.302 are based on the average  
14 adjustment and average district enrichment tax rate for the  
15 state.

16           (a-1) Notwithstanding Subsection (a), an entity granted a  
17 charter under Section 11A.1041 is entitled to receive funding  
18 for each student in weighted average daily attendance in an  
19 amount equal to the greater of the amount determined under  
20 Subsection (a) or the amount to which the entity was entitled  
21 for the 2003-2004 or 2004-2005 school year, as determined by the  
22 commissioner. A determination of the commissioner under this  
23 subsection is final and not subject to appeal. This subsection  
24 expires September 1, 2013.

25           (b) To the extent consistent with Subsection (c), a public  
26 charter district is entitled to funds that are available to  
27 school districts from the agency or the commissioner in the form

1 of grants or other discretionary funding unless the statute  
2 authorizing the funding explicitly provides that a public  
3 charter district is not entitled to the funding.

4 (c) A charter holder is entitled to receive for a public  
5 charter district funding under this section only if the holder:

6 (1) provides information for the Public Education  
7 Information Management System (PEIMS) as required by this  
8 chapter;

9 (2) submits to the commissioner appropriate fiscal and  
10 financial records as required by this chapter and the  
11 commissioner; and

12 (3) receives an annual unqualified opinion in the  
13 standard report filed pursuant to Section 11A.210.

14 (d) The commissioner shall suspend the funding of a charter  
15 holder that fails to comply with Subsection (c) until the  
16 commissioner determines that the charter holder is in compliance  
17 or has cured any noncompliance and has adopted adequate  
18 procedures to prevent future noncompliance.

19 (e) The commissioner may adopt rules to provide and account  
20 for state funding of public charter districts under this  
21 section. A rule adopted under this section may be similar to a  
22 provision of this code that is not similar to Section 11A.052(b)  
23 if the commissioner determines that the rule is related to  
24 financing of public charter districts and is necessary or  
25 prudent to provide or account for state funds.

26 Sec. 11A.202. INSTRUCTIONAL FACILITIES ALLOTMENTS. (a) In  
27 this section, "instructional facility" has the meaning assigned

1 by Section 46.001.

2 (b) A charter holder is initially eligible for  
3 instructional facilities allotments in accordance with this  
4 section if:

5 (1) any campus of a public charter district for which  
6 the charter holder has been granted a license has for two  
7 consecutive school years been rated exemplary or recognized  
8 under Subchapter D, Chapter 39, or has performed at a comparable  
9 level, as determined by the commissioner for purposes of this  
10 section; and

11 (2) on the most recent audit of the financial  
12 operations of the district conducted pursuant to Section  
13 11A.210, the district has satisfied generally accepted  
14 accounting standards of fiscal management as evidenced by an  
15 unqualified opinion in the standard report issued and filed  
16 pursuant to Section 11A.210.

17 (c) Once a public charter district satisfies the initial  
18 eligibility requirements under Subsection (b) and receives an  
19 allotment under this section, the district continues to remain  
20 eligible until the district receives an accountability rating of  
21 unacceptable under Subchapter D, Chapter 39, at which point the  
22 district is again subject to the eligibility requirements of  
23 Subsection (b).

24 (d) The commissioner annually shall review the eligibility  
25 of a public charter district campus for purposes of this  
26 section.

27 (e) Except as otherwise provided by this section, a charter

1 holder is entitled to an annual allotment in an amount  
2 determined by the commissioner, not to exceed \$1,000 or a  
3 different amount provided by appropriation, for each student in  
4 average daily attendance during the preceding year at a campus  
5 of a public charter district for which the charter holder has  
6 been granted a charter that is eligible for an allotment under  
7 this section.

8 (f) A charter holder who receives funds under this section  
9 may use the funds only to:

10 (1) purchase real property on which to construct an  
11 instructional facility for a public charter district campus for  
12 which the funds were paid under Subsection (e);

13 (2) purchase, lease, construct, expand, or renovate  
14 instructional facilities for a public charter district campus  
15 for which the funds were paid under Subsection (e);

16 (3) pay debt service in connection with instructional  
17 facilities purchased or improved for a campus of the public  
18 charter district that meets the requirements under Subsection  
19 (b); or

20 (4) maintain and operate public charter district  
21 instructional facilities.

22 (g) A decision of the commissioner under Subsection (e) is  
23 final and may not be appealed.

24 (h) The commissioner shall by rule establish procedures to  
25 ensure that funds a charter holder claims to be using for  
26 purposes of Subsection (f)(3) are used only for that purpose.

27 Sec. 11A.203. STATUS AND USE OF FUNDS. (a) Funds received

1 under Section 11A.201 or 11A.202 by a charter holder:

2 (1) are considered to be public funds for all purposes  
3 under state law;

4 (2) are held in trust by the charter holder for the  
5 benefit of this state and the students of the public charter  
6 district;

7 (3) may be used only for a purpose for which a school  
8 may use local funds under Section 45.105(c) in the case of funds  
9 received under Section 11A.201, and may be used only for a  
10 purpose specified under Section 11A.202(f) in the case of funds  
11 received under Section 11A.202; and

12 (4) pending their use, must be deposited into a bank,  
13 as defined by Section 45.201, with which the charter holder has  
14 entered into a depository contract under Section 11A.204.

15 (b) Funds deposited under Subsection (a)(4) may be directly  
16 deposited into an account controlled by a bond trustee acting  
17 for the charter holder pursuant to a bond indenture agreement  
18 requiring direct deposit.

19 (c) The commissioner shall adopt rules for identifying  
20 public funds in accordance with Subsection (a).

21 (d) The commissioner may bring an action in district court  
22 in Travis County for injunctive or other relief to enforce this  
23 section. In identifying public funds held by a charter holder,  
24 the court shall use the criteria adopted by the commissioner  
25 under Subsection (c). Except as otherwise provided by this  
26 subsection, the court shall enter any order under this  
27 subsection concerning public funds held by the charter holder

1 necessary to best serve the interests of the students of a  
2 public charter district. In the case of a public charter  
3 district that has ceased to operate, the court shall enter any  
4 order under this subsection concerning public funds held by the  
5 charter holder necessary to best serve the interests of this  
6 state.

7 Sec. 11A.204. DEPOSITORY CONTRACT; BOND. (a) Each bank  
8 selected as a school depository and the charter holder shall  
9 enter into a depository contract, bond, or other necessary  
10 instrument setting forth the duties and agreements pertaining to  
11 the depository, in a form and with the content prescribed by the  
12 State Board of Education.

13 (b) The depository bank shall attach to the contract and  
14 file with the charter holder a bond in an initial amount equal  
15 to the estimated highest daily balance, determined by the  
16 charter holder, of all deposits that the charter holder will  
17 have in the depository during the term of the contract, less any  
18 applicable Federal Deposit Insurance Corporation insurance. The  
19 bond must be payable to the charter holder and must be signed by  
20 the depository bank and by a surety company authorized to engage  
21 in business in this state. The depository bank shall increase  
22 the amount of the bond if the charter holder determines the  
23 increase is necessary to adequately protect the funds of the  
24 charter holder deposited with the depository bank.

25 (c) The bond shall be conditioned on:

26 (1) the faithful performance of all duties and  
27 obligations imposed by law on the depository;

1           (2) the payment on presentation of all checks or  
2 drafts on order of the charter holder, in accordance with its  
3 orders entered by the charter holder according to law;

4           (3) the payment on demand of any demand deposit in the  
5 depository;

6           (4) the payment, after the expiration of the period of  
7 notice required, of any time deposit in the depository;

8           (5) the faithful keeping of school funds by the  
9 depository and the accounting for the funds according to law;  
10 and

11           (6) the faithful paying over to the successor  
12 depository all balances remaining in the accounts.

13           (d) The bond and the surety on the bond must be approved by  
14 the charter holder. A premium on the depository bond may not be  
15 paid out of charter holder funds related to operation of the  
16 public charter district.

17           (e) The charter holder shall file a copy of the depository  
18 contract and bond with the agency.

19           (f) Instead of the bond required under Subsection (b), the  
20 depository bank may deposit or pledge, with the charter holder  
21 or with a trustee designated by the charter holder, approved  
22 securities, as defined by Section 45.201, in an amount  
23 sufficient to adequately protect the funds of the charter holder  
24 deposited with the depository bank. A depository bank may give  
25 a bond and deposit or pledge approved securities in an aggregate  
26 amount sufficient to adequately protect the funds of the charter  
27 holder deposited with the depository bank. The charter holder

1 shall periodically designate the amount of approved securities  
2 or the aggregate amount of the bond and approved securities  
3 necessary to adequately protect the charter holder. The charter  
4 holder may not designate an amount less than the balance of  
5 charter holder funds on deposit with the depository bank from  
6 day to day, less any applicable Federal Deposit Insurance  
7 Corporation insurance. The depository bank may substitute  
8 approved securities on obtaining the approval of the charter  
9 holder. For purposes of this subsection, the approved  
10 securities are valued at their market value.

11 Sec. 11A.205. EFFECT OF ACCEPTING STATE FUNDING. A charter  
12 holder who accepts state funds under Section 11A.201 or 11A.202  
13 agrees to be subject to all requirements, prohibitions, and  
14 sanctions authorized under this chapter.

15 Sec. 11A.206. PROPERTY PURCHASED OR LEASED WITH STATE  
16 FUNDS. (a) Property purchased or leased with funds received by  
17 a charter holder under Section 11A.201 or 11A.202:

18 (1) is considered to be public property for all  
19 purposes under state law;

20 (2) is held in trust by the charter holder for the  
21 benefit of this state and the students of the public charter  
22 district; and

23 (3) may be used only for a purpose for which a school  
24 district may use school district property.

25 (b) The commissioner shall:

26 (1) take possession and assume control of the property  
27 described by Subsection (a) of a public charter district that

1 ceases to operate; and

2 (2) supervise the disposition of the property in  
3 accordance with law.

4 (c) This section does not affect the priority of a security  
5 interest in or lien on property established by a creditor in  
6 compliance with law if the security interest or lien arose in  
7 connection with the sale or lease of the property to the charter  
8 holder.

9 (d) The commissioner shall adopt rules for identifying  
10 public property in accordance with Subsection (a).

11 (e) The commissioner may bring an action in district court  
12 in Travis County for injunctive or other relief to enforce this  
13 section. In identifying public property held by a charter  
14 holder, the court shall use the criteria adopted by the  
15 commissioner under Subsection (d). Except as otherwise provided  
16 by this subsection, the court shall enter any order under this  
17 subsection concerning public property held by the charter holder  
18 necessary to best serve the interests of the students of a  
19 public charter district. In the case of a public charter  
20 district that has ceased to operate, the court shall enter any  
21 order under this subsection concerning public property held by  
22 the charter holder necessary to best serve the interests of this  
23 state. The court may order title to real or personal public  
24 property held by the charter holder transferred to a trust  
25 established for the purpose of managing the property or may make  
26 other disposition of the property necessary to best serve the  
27 interests of this state.

1       Sec. 11A.207. USE OF MUNICIPAL FUNDS FOR PUBLIC CHARTER  
2 DISTRICT LAND OR FACILITIES. A municipality to which a charter  
3 is granted under this chapter may borrow funds, issue  
4 obligations, or otherwise spend its funds to acquire land or  
5 acquire, construct, expand, or renovate school buildings or  
6 facilities and related improvements for its public charter  
7 district within the city limits of the municipality in the same  
8 manner the municipality is authorized to borrow funds, issue  
9 obligations, or otherwise spend its funds in connection with any  
10 other public works project.

11       Sec. 11A.208. TEXTBOOK FUNDING. A public charter district  
12 is entitled to funding for textbooks under Chapter 31 and is  
13 subject to that chapter as if the public charter district were a  
14 school district.

15       Sec. 11A.209. ANNUAL BUDGET. The governing body of a  
16 public charter district shall annually adopt a budget for the  
17 district in compliance with Subchapter A, Chapter 44.

18       Sec. 11A.210. ANNUAL AUDIT. The governing body of a public  
19 charter district shall conduct an annual audit in a manner that  
20 complies with Section 44.008.

21       [Sections 11A.211-11A.250 reserved for expansion]

22       SUBCHAPTER F. OPERATION OF PUBLIC SCHOOL CHARTER DISTRICT

23       Sec. 11A.251. ADMISSION POLICY. (a) A public charter  
24 district may not discriminate in admission policy on the basis  
25 of sex, national origin, ethnicity, religion, disability, or  
26 academic, artistic, or athletic ability or the district the  
27 child would otherwise attend in accordance with this code.

1       (b) A public charter district admission policy may provide  
2 for the exclusion of a student who has a documented history of a  
3 criminal offense, a juvenile court adjudication, or discipline  
4 problems under Subchapter A, Chapter 37.

5       Sec. 11A.252. ADMISSION OF STUDENTS. (a) For admission to  
6 a public charter district campus, the governing body of the  
7 district shall:

8           (1) require the applicant to complete and submit an  
9 application not later than a reasonable deadline the district  
10 establishes; and

11           (2) on receipt of more acceptable applications for  
12 admission under this section than available positions in the  
13 school:

14                   (A) fill the available positions by lottery; or

15                   (B) subject to Subsection (b), fill the available  
16 positions in the order in which applications received before the  
17 application deadline were received.

18       (b) A public charter district may fill applications for  
19 admission under Subsection (a)(2)(B) only if the district  
20 published a notice of the opportunity to apply for admission to  
21 the district. A notice published under this subsection must:

22           (1) state the application deadline; and

23           (2) be published in a newspaper of general circulation  
24 in the community in which the district campus is located not  
25 later than the seventh day before the application deadline.

26       Sec. 11A.253. STUDENT ENROLLMENT. (a) Except as provided  
27 by Subsection (b) or as otherwise determined impracticable by

1 the commissioner, during a public charter district's first year  
2 of operation, the district must have a student enrollment of at  
3 least 100 and not more than 500 at any time during the school  
4 year.

5 (b) A public charter district may have a student enrollment  
6 of less than 100 if approved by the commissioner.

7 (c) Not later than a public charter district's third year  
8 of operation, at least 25 percent of the district's students  
9 must be enrolled in one or more grade levels for which  
10 assessment instruments are administered under Section 39.023(a).

11 (d) The commissioner may grant a waiver from the  
12 requirements of Subsection (c) for a public charter district  
13 that opens a campus serving prekindergarten or kindergarten  
14 students and agrees to:

15 (1) add at least one higher grade level class each  
16 school year after opening the campus; and

17 (2) until the campus complies with Subsection (c),  
18 adopt accountability measures to assess the performance of the  
19 students not assessed under Section 39.023(a).

20 Sec. 11A.254. TUITION AND FEES RESTRICTED. (a) A public  
21 charter district may not charge tuition to an eligible student  
22 who applies for admission to the district under this chapter.

23 (b) The governing body of a public charter district may  
24 require a student to pay any fee that the board of trustees of a  
25 school district may charge under Section 11.158(a). The  
26 governing body may not require a student to pay a fee that the  
27 board of trustees of a school district may not charge under

1 Section 11.158(b).

2 Sec. 11A.255. TRANSPORTATION. A public charter district  
3 shall provide transportation to each student attending the  
4 school to the same extent a school district is required by law  
5 to provide transportation to district students.

6 Sec. 11A.256. REMOVAL OF STUDENTS TO DISCIPLINARY  
7 ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The  
8 governing body of a public charter district shall adopt a code  
9 of conduct for the district or for each campus in the district.

10 (b) The code of conduct must include:

11 (1) standards for student behavior, including the  
12 types of prohibited behaviors and the possible consequences of  
13 misbehavior; and

14 (2) the district's due process procedures regarding  
15 expulsion of a student.

16 (c) A final decision of the governing body of a public  
17 charter district regarding action taken under the code of  
18 conduct may not be appealed.

19 (d) A public charter district may not expel a student for a  
20 reason that is not authorized by Section 37.007 or specified in  
21 the district's code of conduct as conduct that may result in  
22 expulsion.

23 (e) Section 37.002 does not apply to a public charter  
24 district except to the extent specified by the governing body of  
25 the public charter district in the district's code of conduct.

26 [Sections 11A.257-11A.300 reserved for expansion]

27 SUBCHAPTER G. PUBLIC CHARTER DISTRICT EMPLOYEES

1       Sec. 11A.301. MINIMUM TEACHER QUALIFICATIONS. Except as  
2 otherwise required by this chapter, a person employed as a  
3 teacher by a public charter district must hold a high school  
4 diploma.

5       Sec. 11A.302. NOTICE OF PROFESSIONAL EMPLOYEE  
6 QUALIFICATIONS. (a) Each public charter district shall provide  
7 to the parent or guardian of each student enrolled at a campus  
8 in the district written notice of the qualifications of each  
9 professional employee, including each teacher, employed at the  
10 campus.

11       (b) The notice must include:

12           (1) any professional or educational degree held by the  
13 employee;

14           (2) a statement of any certification under Subchapter  
15 B, Chapter 21, held by the employee; and

16           (3) any relevant experience of the employee.

17       Sec. 11A.303. COLLECTION OF FINGERPRINTS REQUIRED. The  
18 governing body of a public charter district shall obtain a  
19 complete set of fingerprints from each person described by  
20 Section 21.0032(a).

21       Sec. 11A.304. CRIMINAL HISTORY AND DISCIPLINARY HISTORY OF  
22 CERTAIN APPLICANTS. A public charter district must comply with  
23 Section 21.0032 before employing or otherwise securing the  
24 services of a person as a teacher, teacher intern or trainee,  
25 librarian, educational aide, administrator, or counselor,  
26 regardless of whether the applicant is certified under  
27 Subchapter B, Chapter 21.

1       Sec. 11A.305. MEMBERSHIP IN TEACHER RETIREMENT SYSTEM OF  
2 TEXAS. (a) An employee of a public charter district who  
3 qualifies for membership in the Teacher Retirement System of  
4 Texas shall be covered under the system to the same extent a  
5 qualified employee of a school district is covered.

6       (b) For each employee of a public charter district covered  
7 under the system, the public charter district is responsible for  
8 making any contribution that otherwise would be the legal  
9 responsibility of a school district, and the state is  
10 responsible for making contributions to the same extent it would  
11 be legally responsible if the employee were a school district  
12 employee.

13       [Sections 11A.306-11A.350 reserved for expansion]

14       SUBCHAPTER H. POWERS AND DUTIES OF COMMISSIONER

15       Sec. 11A.351. AUDIT. (a) To the extent consistent with  
16 this section, the commissioner may audit the records of:

17           (1) a public charter district or campus;

18           (2) a charter holder; and

19           (3) a management company.

20       (b) An audit under Subsection (a) must be limited to  
21 matters directly related to the management or operation of a  
22 public charter district, including any financial, student, and  
23 administrative records.

24       (c) Unless the commissioner has specific cause to conduct  
25 an additional audit, the commissioner may not conduct more than  
26 one on-site audit of a public charter district under this  
27 section during any fiscal year, including any audit of

1 financial, student, and administrative records. For purposes of  
2 this subsection, an audit of a charter holder or management  
3 company associated with a public charter district is not  
4 considered an audit of the district.

5 Sec. 11A.352. SUBPOENA. (a) The commissioner may issue a  
6 subpoena to compel the attendance and testimony of a witness or  
7 the production of materials relevant to an audit or  
8 investigation under this chapter.

9 (b) A subpoena may be issued throughout the state and may  
10 be served by any person designated by the commissioner.

11 (c) If a person fails to comply with a subpoena issued  
12 under this section, the commissioner, acting through the  
13 attorney general, may file suit to enforce the subpoena in a  
14 district court in Travis County or in the county in which the  
15 audit or investigation is conducted. The court shall order  
16 compliance with the subpoena if the court finds that good cause  
17 exists to issue the subpoena.

18 (d) This section expires September 1, 2007.

19 Sec. 11A.353. SANCTIONS. (a) The commissioner shall take  
20 any of the actions described by Subsection (b) or by Section  
21 39.131(a), to the extent the commissioner determines necessary,  
22 if a public charter district, as determined by a report issued  
23 under Section 39.076(b):

24 (1) commits a material violation of the district's  
25 charter;

26 (2) fails to satisfy generally accepted accounting  
27 standards of fiscal management; or

1           (3) fails to comply with this chapter or another  
2 applicable rule or law.

3           (b) The commissioner may temporarily withhold funding,  
4 suspend the authority of a public charter district to operate,  
5 or take any other reasonable action the commissioner determines  
6 necessary to protect the health, safety, or welfare of students  
7 enrolled at a district campus based on evidence that conditions  
8 at the district campus present a danger to the health, safety,  
9 or welfare of the students.

10           (c) After the commissioner acts under Subsection (b), the  
11 public charter district may not receive funding and may not  
12 resume operating until a determination is made that:

13           (1) despite initial evidence, the conditions at the  
14 district campus do not present a danger of material harm to the  
15 health, safety, or welfare of students; or

16           (2) the conditions at the district campus that  
17 presented a danger of material harm to the health, safety, or  
18 welfare of students have been corrected.

19           (d) Not later than the third business day after the date  
20 the commissioner acts under Subsection (b), the commissioner  
21 shall provide the charter holder an opportunity for a hearing.  
22 This subsection does not apply to an action taken by the  
23 commissioner under Chapter 39.

24           (e) Immediately after a hearing under Subsection (d), the  
25 commissioner must cease the action under Subsection (b) or  
26 initiate action under Section 11A.108.

27           Sec. 11A.3531. SUPERVISION OF ADMINISTRATION OF CERTAIN

1 ASSESSMENT INSTRUMENTS. (a) Using funds appropriated for  
2 compensatory education programs under Section 42.152, the  
3 commissioner shall adopt and implement a program for supervising  
4 the administration of assessment instruments under Section  
5 39.023 during the 2005-2006 school year at an open-enrollment  
6 charter school, other than a school operated by an entity  
7 described by Section 11A.1041(a)(2), (3), or (4), at which less  
8 than 25 percent of all students enrolled at the school and  
9 administered an assessment instrument under Section 39.023(a),  
10 (c), or (l) performed satisfactorily on:

11 (1) the assessment instrument in mathematics, as  
12 determined by the school's assessment instrument results for the  
13 2004-2005 school year; or

14 (2) the assessment instrument in reading or English  
15 language arts, as applicable, as determined by the school's  
16 assessment instrument results for the 2004-2005 school year.

17 (b) The program adopted under Subsection (a) must be  
18 designed to:

19 (1) ensure that the location at which an assessment  
20 instrument is administered is secure and under the supervision  
21 of persons who do not have any interest in the results of the  
22 assessment instrument; and

23 (2) provide direct supervision of:

24 (A) the transportation of the assessment  
25 instrument materials to and from the location at which the  
26 instrument is administered; and

27 (B) the administration of the assessment

1 instrument to students.

2 (c) The commissioner may adopt rules necessary to  
3 administer this section and may take any action that the  
4 commissioner determines necessary to ensure the integrity of the  
5 results of an assessment instrument administered at an open-  
6 enrollment charter school described by Subsection (a).

7 (d) After deducting the amount withheld under Subsection  
8 (a) from the total amount appropriated for allotments under  
9 Section 42.152, the commissioner shall reduce each district's  
10 allotment under Section 42.152 proportionately.

11 (e) An open-enrollment charter school's failure to fully  
12 cooperate with the commissioner under this section is sufficient  
13 grounds for revocation of the district's charter, as determined  
14 by the commissioner.

15 (f) This section expires September 1, 2006.

16 Sec. 11A.354. CONSULTATION WITH CHARTER HOLDERS. The  
17 commissioner shall periodically consult with representatives of  
18 charter holders regarding the duties and mission of the agency  
19 relating to the operation of public charter districts. The  
20 commissioner shall determine the frequency of the consultations.

21 Sec. 11A.355. EFFECT ON COMMISSIONER'S AUTHORITY. Nothing  
22 in this chapter may be construed to limit the commissioner's  
23 authority under Chapter 39.

24 Sec. 11A.356. RULES. The commissioner may adopt rules for  
25 the administration of this chapter.

26 [Sections 11A.357-11A.400 reserved for expansion]

27 SUBCHAPTER I. BLUE RIBBON CHARTER CAMPUS PILOT PROGRAM

1       Sec. 11A.401. AUTHORIZATION. (a) In this section,  
2 "eligible entity" means an organization that is exempt from  
3 taxation under Section 501(a), Internal Revenue Code of 1986, as  
4 an organization described by Section 501(c)(3) of that code.

5       (b) In accordance with this subchapter, the commissioner  
6 may authorize not more than three charter holders to grant a  
7 charter to an eligible entity to operate a blue ribbon charter  
8 campus if:

9           (1) the charter holder proposes to grant the blue  
10 ribbon charter to replicate a distinctive education program;

11           (2) the charter holder has demonstrated the ability to  
12 replicate the education program;

13           (3) the education program has been implemented by the  
14 charter holder for at least seven school years; and

15           (4) the charter school in which the charter holder has  
16 implemented the program has been rated recognized or exemplary  
17 under Section 39.072 for at least five school years, including  
18 the two school years preceding the proposed issuance of the blue  
19 ribbon charter.

20       (c) A charter holder may grant a blue ribbon charter only  
21 to an applicant that meets any financial, governing, and  
22 operational standards adopted by the commissioner under this  
23 subchapter.

24       (d) A charter holder may grant not more than two blue  
25 ribbon charters under this subchapter.

26       Sec. 11A.402. APPLICABILITY OF CERTAIN LAWS. (a) A blue  
27 ribbon charter campus is considered a public charter district

1 campus for purposes of state and federal law.

2 (b) A blue ribbon charter granted under this subchapter is  
3 not considered for purposes of the limit on the number of public  
4 charter districts imposed by Section 11A.002.

5 Sec. 11A.403. RELATIONSHIP BETWEEN CHARTER HOLDER AND BLUE  
6 RIBBON CHARTER CAMPUS. (a) The governing body of the public  
7 charter district authorizing a blue ribbon charter is  
8 responsible for the management and operation of the campus  
9 operated under a blue ribbon charter. A blue ribbon charter  
10 campus is subject to the rules and policies of the governing  
11 body of the charter holder that granted the blue ribbon charter.

12 (b) For purposes of academic and financial accountability  
13 and all other purposes under this chapter and Chapter 39, a blue  
14 ribbon charter campus is considered a campus of the public  
15 charter district operated by the charter holder that granted the  
16 blue ribbon charter.

17 (c) A charter holder is entitled to receive funding for a  
18 blue ribbon charter campus as if the blue ribbon charter campus  
19 were a campus of the public charter district operated by the  
20 charter holder.

21 Sec. 11A.404. APPLICATION FOR AUTHORIZATION. (a) The  
22 commissioner by rule shall adopt an application form and  
23 procedures for a charter holder to apply for authorization to  
24 grant a blue ribbon charter to an eligible entity under this  
25 subchapter.

26 (b) The application must specify:

27 (1) the criteria that will be used to grant blue

1 ribbon charters;

2 (2) procedures for governance and management of  
3 campuses operating under a blue ribbon charter; and

4 (3) the performance standard by which continuation of  
5 a blue ribbon charter will be determined.

6 (c) A determination by the commissioner regarding an  
7 application under this section is final and may not be appealed.

8 Sec. 11A.405. REVOCATION OF AUTHORIZATION. (a) The  
9 commissioner may revoke a charter holder's authorization to  
10 grant a blue ribbon charter or operate a campus granted a blue  
11 ribbon charter if the commissioner determines that the purposes  
12 of this subchapter are not being satisfied.

13 (b) On revocation of a charter holder's authority under  
14 this section, the charter holder shall:

15 (1) operate a campus granted a blue ribbon charter as  
16 a standard campus of the charter holder under this chapter; or

17 (2) close the campus effective at the end of the  
18 school year in which the commissioner revokes the authorization.

19 Sec. 11A.406. CONTENT. (a) Each blue ribbon charter  
20 granted under this subchapter must:

21 (1) describe the educational program to be offered,  
22 which may be a general or specialized education program;

23 (2) provide that continuation of the charter is  
24 contingent on satisfactory student performance under Subchapter  
25 B, Chapter 39, and on compliance with other applicable  
26 accountability provisions under Chapter 39;

27 (3) specify any basis, in addition to a basis

1 specified by this subchapter, on which the charter may be placed  
2 on probation or revoked;

3 (4) prohibit discrimination in admission on the basis  
4 of national origin, ethnicity, race, religion, or disability;

5 (5) describe the governing structure of the blue  
6 ribbon charter campus;

7 (6) specify any procedure or requirement, in addition  
8 to those under Chapter 38, that the campus will follow to ensure  
9 the health and safety of students and employees; and

10 (7) describe the manner in which the campus and  
11 charter holder granting the blue ribbon charter will comply with  
12 financial and operational requirements, including requirements  
13 related to the Public Education Information Management System  
14 (PEIMS) under Section 11A.158 and the audit requirements under  
15 Section 11A.210.

16 (b) A charter holder may reserve the right to approve  
17 contracts, governance alterations, personnel decisions, and  
18 other matters affecting the operation of the blue ribbon charter  
19 campus.

20 (c) A blue ribbon charter must specify the basis and  
21 procedure to be used by the charter holder for placing the blue  
22 ribbon charter campus on probation or revoking the charter,  
23 which must include an opportunity for an informal review of the  
24 blue ribbon charter campus and governing body of the campus by  
25 the charter holder. A charter holder's decision to place on  
26 probation or revoke a blue ribbon charter is final and may not  
27 be appealed.



1           (1) is not authorized to operate as a public charter  
2 district under this chapter; or

3           (2) elects not to operate as a public charter district  
4 under this chapter.

5           Sec. 11A.453. APPOINTMENT OF RECEIVER; BOND REQUIRED. (a)

6 The commissioner shall appoint a receiver to protect the assets  
7 and direct the dissolution of open-enrollment charter schools  
8 subject to this subchapter.

9           (b) The receiver shall execute a bond in an amount set by  
10 the commissioner to ensure the proper performance of the  
11 receiver's duties.

12           (c) Until discharged by the commissioner, the receiver  
13 shall perform the duties that the commissioner directs to  
14 preserve the assets and direct the dissolution of the open-  
15 enrollment charter school under this subchapter.

16           Sec. 11A.454. POWERS AND DUTIES OF RECEIVER. (a) After  
17 appointment and execution of bond under Section 11A.453, the  
18 receiver shall take possession of:

19           (1) assets and records in the possession of the open-  
20 enrollment charter school specified by the commissioner; and

21           (2) any Foundation School Program funds and any other  
22 public funds received by the school's charter holder.

23           (b) On request of the receiver, the attorney general shall  
24 file a suit for attachment, garnishment, or involuntary  
25 bankruptcy and take any other action necessary for the  
26 dissolution of an open-enrollment charter school under this  
27 subchapter.

1       (c) If the charter holder of an open-enrollment charter  
2 school or an officer or employee of such a school refuses to  
3 transfer school assets or records to a receiver under this  
4 subsection, the receiver may ask the attorney general to  
5 petition a court for recovery of the assets or records. If the  
6 court grants the petition, the court shall award attorney's fees  
7 and court costs to the state.

8       (d) A record described by this section is a public school  
9 record for purposes of Section 37.10(c)(2), Penal Code.

10       Sec. 11A.455. DISPOSITION OF ASSETS. (a) A receiver shall  
11 wind up the affairs of an open-enrollment charter school and,  
12 except as provided by Subsection (b), reduce its assets to cash  
13 for the purpose of discharging all existing liabilities and  
14 obligations of the school. In winding up the affairs of a  
15 school, the receiver shall cooperate in any bankruptcy  
16 proceeding affecting the school. The receiver shall distribute  
17 any remaining balance to the commissioner.

18       (b) A receiver shall offer free of charge any equipment and  
19 supplies of an open-enrollment charter school dissolved under  
20 this subchapter to school districts, giving priority to  
21 districts based on the percentage of the charter school's  
22 students that reside in the districts.

23       (c) The commissioner shall use money in the foundation  
24 school fund and money received under this section to pay the  
25 costs described by Section 11A.458 and discharge liabilities and  
26 obligations of open-enrollment charter schools under this  
27 subchapter. The commissioner shall deposit any remaining

1 balance in the foundation school fund.

2 Sec. 11A.456. DISPOSITION OF RECORDS. (a) The records of  
3 an open-enrollment charter school subject to this subchapter  
4 shall be transferred in the manner specified by the commissioner  
5 to a custodian designated by the commissioner. The commissioner  
6 may designate any appropriate entity to serve as custodian of  
7 records, including the agency, a regional education service  
8 center, or a school district. In designating a custodian, the  
9 commissioner shall ensure that the transferred records,  
10 including student and personnel records, are transferred to a  
11 custodian capable of:

12 (1) maintaining the records;

13 (2) making the records readily accessible to students,  
14 parents, former school employees, and other persons entitled to  
15 access; and

16 (3) complying with applicable state or federal law  
17 restricting access to the records.

18 (b) The commissioner is entitled to access to any records  
19 transferred to a custodian under this section as the  
20 commissioner determines necessary for auditing, investigative,  
21 or monitoring purposes.

22 Sec. 11A.457. LIABILITY. A receiver is not personally  
23 liable for actions taken by the receiver under this subchapter.

24 Sec. 11A.458. COSTS OF RECEIVERSHIP. The commissioner may  
25 authorize reimbursement of reasonable costs related to the  
26 receivership, including:

27 (1) payment of fees to the receiver for the receiver's

1 services; and

2 (2) payment of fees to attorneys, accountants, or any  
3 other person that provides goods or services necessary to the  
4 operation of the receivership.

5 Sec. 11A.459. EXEMPTION FROM COMPETITIVE BIDDING. The  
6 competitive bidding requirements of this code and the  
7 contracting requirements of Chapter 2155, Government Code, do  
8 not apply to the appointment of a receiver, attorney,  
9 accountant, or other person appointed under this subchapter.

10 SECTION 4.03. Subchapter D, Chapter 12, Education Code, is  
11 amended by adding Section 12.1058 to read as follows:

12 Sec. 12.1058. APPLICABILITY OF PUBLIC CHARTER DISTRICT  
13 PROVISIONS. (a) An open-enrollment charter school is subject to  
14 Sections 11A.201, 11A.204, 11A.205, 11A.206, 11A.210, 11A.303,  
15 11A.304, 11A.352, 21.0032, and 21.058.

16 (b) The commissioner may bring an action for injunctive or  
17 other relief as provided by Section 11A.203(d) to enforce  
18 Section 12.107.

19 (c) For purposes of this section, a reference in a law  
20 described by this section to a public charter district means an  
21 open-enrollment charter school.

22 SECTION 4.04. Sections 12.152 and 12.156, Education Code,  
23 are amended to read as follows:

24 Sec. 12.152. AUTHORIZATION. [~~a~~] In accordance with this  
25 subchapter and Chapter 11A [~~Subchapter D~~], the State Board of  
26 Education may grant a charter on the application of a public  
27 senior college or university for a public [~~an open-enrollment~~]

1 charter district [~~school~~] to operate on the campus of the public  
2 senior college or university or in the same county in which the  
3 campus of the public senior college or university is located.

4 Sec. 12.156. APPLICABILITY OF CERTAIN PROVISIONS. (a)  
5 Except as otherwise provided by this subchapter, Chapter 11A  
6 [~~Subchapter D~~] applies to a college or university charter school  
7 as though the college or university charter school were granted  
8 a charter under that chapter [~~subchapter~~].

9 (b) A charter granted under this subchapter is not  
10 considered for purposes of the limit on the number of public  
11 [~~open-enrollment~~] charter districts [~~schools~~] imposed by Section  
12 11A.002 [~~12.101(b)~~].

13 (c) A college or university charter school is not subject  
14 to a prohibition, restriction, or requirement relating to:

15 (1) open meetings and public information under Section  
16 11A.053;

17 (2) maintenance of records under Section 11A.054;

18 (3) purchasing and contracting under Section 11A.055;

19 (4) conflict of interest under Section 11A.056;

20 (5) nepotism under Section 11A.057;

21 (6) composition of governing body under Section  
22 11A.152;

23 (7) restrictions on serving as a member of a governing  
24 body or as an officer or employee under Section 11A.153;

25 (8) liability of members of governing body under  
26 Section 11A.154;

27 (9) training for members of governing body under

1 Section 11A.155;

2 (10) bylaws and annual reports under Section 11A.156;

3 (11) quarterly financial reports under Section  
4 11A.157; and

5 (12) depository bond and security requirements under  
6 Section 11A.204.

7 (d) A college or university charter school and the  
8 governing body of the school are subject to regulations and  
9 procedures that govern a public senior college or university  
10 relating to open meetings, records retention, purchasing,  
11 contracting, conflicts of interest, and nepotism.

12 SECTION 4.05. Section 5.001, Education Code, is amended by  
13 adding Subdivision (5-a) and amending Subdivision (6) to read as  
14 follows:

15 (5-a) "Public charter campus" means a campus operated  
16 by a public charter district.

17 (6) "Public charter district [~~Open-enrollment charter~~  
18 ~~school~~]" means a public school authorized by [~~that has been~~  
19 ~~granted~~] a charter under Chapter 11A [~~Subchapter D, Chapter 12~~].

20 SECTION 4.06. Section 7.003, Education Code, is amended to  
21 read as follows:

22 Sec. 7.003. LIMITATION ON AUTHORITY. An educational  
23 function not specifically delegated to the agency or the board  
24 under this code is reserved to and shall be performed by school  
25 districts or [~~open-enrollment~~] charter schools.

26 SECTION 4.07. Section 7.027(b), Education Code, as added by  
27 Chapter 201, Acts of the 78th Legislature, Regular Session,

1 2003, is amended to read as follows:

2 (b) The board of trustees of a school district or the  
3 governing body of a public charter district [~~an open-enrollment~~  
4 ~~charter school~~] has primary responsibility for ensuring that the  
5 district [~~or school~~] complies with all applicable requirements  
6 of state educational programs.

7 SECTION 4.08. Section 7.055(b)(17), Education Code, is  
8 amended to read as follows:

9 (17) The commissioner shall distribute funds to public  
10 charter districts [~~open-enrollment charter schools~~] as required  
11 under Chapter 11A [~~Subchapter D, Chapter 12~~].

12 SECTION 4.09. Section 7.102(c)(9), Education Code, is  
13 amended to read as follows:

14 (9) The board may grant a charter for a public charter  
15 district [~~an open-enrollment charter or approve a charter~~  
16 ~~revision~~] as provided by Chapter 11A [~~Subchapter D, Chapter 12~~].

17 SECTION 4.10. Section 12.002, Education Code, is amended to  
18 read as follows:

19 Sec. 12.002. CLASSES OF CHARTER. The classes of charter  
20 under this chapter are:

21 (1) a home-rule school district charter as provided by  
22 Subchapter B;

23 (2) a campus or campus program charter as provided by  
24 Subchapter C; or

25 (3) a college or university [~~an open-enrollment~~]  
26 charter as provided by Subchapter E [~~D~~].

27 SECTION 4.11. Subchapter A, Chapter 21, Education Code, is

1 amended by adding Section 21.0032 to read as follows:

2 Sec. 21.0032. CLEARANCE REQUIRED FOR CERTAIN PUBLIC CHARTER  
3 DISTRICT PERSONNEL; APPEAL. (a) A person may not be employed  
4 by or serve as a teacher, teacher intern or teacher trainee,  
5 librarian, educational aide, administrator, educational  
6 diagnostician, or counselor for a public charter district unless  
7 the person has been cleared by the State Board for Educator  
8 Certification following a national criminal history record  
9 review and investigation under this section.

10 (b) Before or immediately after employing or securing the  
11 services of a person described by Subsection (a), a public  
12 charter district shall send to the State Board for Educator  
13 Certification the person's fingerprints and social security  
14 number. The person may be employed or serve pending action by  
15 the board.

16 (c) The State Board for Educator Certification shall review  
17 and investigate the person's national criminal history record  
18 information, educator certification discipline history in any  
19 state, and other information in the same manner as a review or  
20 investigation conducted regarding an initial application for  
21 educator certification. If the board finds the person would not  
22 be eligible for educator certification, the board shall notify  
23 the public charter district in writing that the person may not  
24 be employed or serve in a capacity described by Subsection (a).

25 (d) On receipt of written notice under Subsection (c), a  
26 public charter district may not employ or permit the person to  
27 serve unless the person timely submits a written appeal under

1 this section. The State Board for Educator Certification shall  
2 conduct an appeal under this subsection in the same manner as an  
3 appeal regarding the denial of an initial application for  
4 educator certification.

5 SECTION 4.12. Sections 21.058(b) and (c), Education Code,  
6 are amended to read as follows:

7 (b) Notwithstanding Section 21.041(b)(7), not later than  
8 the fifth day after the date the board receives notice under  
9 Article 42.018, Code of Criminal Procedure, of the conviction of  
10 a person described by Section 21.0032 or who holds a certificate  
11 under this subchapter, the board shall:

12 (1) revoke the certificate or clearance held by the  
13 person; and

14 (2) provide to the person and to any school district  
15 or public charter district [~~open-enrollment charter school~~]  
16 employing the person at the time of revocation written notice  
17 of:

18 (A) the revocation; and

19 (B) the basis for the revocation.

20 (c) A school district or public charter district [~~open-~~  
21 ~~enrollment charter school~~] that receives notice under Subsection  
22 (b) of the revocation of a certificate issued under this  
23 subchapter shall:

24 (1) immediately remove the person whose certificate  
25 has been revoked from campus or from an administrative office,  
26 as applicable, to prevent the person from having any contact  
27 with a student; and

1           (2) as soon as practicable, terminate the employment  
2 of the person in accordance with the person's contract and with  
3 this subchapter.

4           SECTION 4.13. Sections 22.083(b)-(d), Education Code, are  
5 amended to read as follows:

6           (b) A public charter district may [~~An open-enrollment~~  
7 ~~charter school shall~~] obtain from the Department of Public  
8 Safety [~~any law enforcement or criminal justice agency~~] all  
9 criminal history record information that relates to:

10           (1) a person whom the district [~~school~~] intends to  
11 employ in any capacity; or

12           (2) a person who has indicated, in writing, an  
13 intention to serve as a volunteer with the district [~~school~~].

14           (c) A school district, public charter district [~~open-~~  
15 ~~enrollment charter school~~], private school, regional education  
16 service center, or shared services arrangement may obtain from a  
17 federal or state [~~any~~] law enforcement or criminal justice  
18 agency all criminal history record information that relates to:

19           (1) a volunteer or employee of the district, school,  
20 service center, or shared services arrangement; or

21           (2) an employee of or applicant for employment by a  
22 person that contracts with the district, school, service center,  
23 or shared services arrangement to provide services, if:

24           (A) the employee or applicant has or will have  
25 continuing duties related to the contracted services; and

26           (B) the duties are or will be performed on school  
27 property or at another location where students are regularly

1 present.

2 (d) The superintendent of a district or the director of a  
3 public charter district [~~an open-enrollment charter school~~],  
4 private school, regional education service center, or shared  
5 services arrangement shall promptly notify the State Board for  
6 Educator Certification in writing if the person obtains or has  
7 knowledge of information showing that an applicant for or holder  
8 of a certificate issued under Subchapter B, Chapter 21, has a  
9 reported criminal history.

10 SECTION 4.14. Section 22.084, Education Code, is amended to  
11 read as follows:

12 Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL  
13 BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as  
14 provided by Subsections (c) and (d), a school district, public  
15 charter district [~~open-enrollment charter school~~], private  
16 school, regional education service center, or shared services  
17 arrangement that contracts with a person for transportation  
18 services shall obtain from the Department of Public Safety [~~any~~  
19 ~~law enforcement or criminal justice agency~~] all criminal history  
20 record information that relates to:

21 (1) a person employed by the person as a bus driver;  
22 or

23 (2) a person the person intends to employ as a bus  
24 driver.

25 (b) Except as provided by Subsections (c) and (d), a person  
26 that contracts with a school district, public charter district  
27 [~~open-enrollment charter school~~], private school, regional

1 education service center, or shared services arrangement to  
2 provide transportation services shall submit to the district,  
3 school, service center, or shared services arrangement the name  
4 and other identification data required to obtain criminal  
5 history record information of each person described by  
6 Subsection (a). If the district, school, service center, or  
7 shared services arrangement obtains information that a person  
8 described by Subsection (a) has been convicted of a felony or a  
9 misdemeanor involving moral turpitude, the district, school,  
10 service center, or shared services arrangement shall inform the  
11 chief personnel officer of the person with whom the district,  
12 school, service center, or shared services arrangement has  
13 contracted, and the person may not employ that person to drive a  
14 bus on which students are transported without the permission of  
15 the board of trustees of the district or service center, the  
16 governing body of the public charter district [~~open-enrollment~~  
17 ~~charter school~~], or the chief executive officer of the private  
18 school or shared services arrangement.

19 (c) A commercial transportation company that contracts with  
20 a school district, public charter district [~~open-enrollment~~  
21 ~~charter school~~], private school, regional education service  
22 center, or shared services arrangement to provide transportation  
23 services may obtain from a federal or state [~~any~~] law  
24 enforcement or criminal justice agency all criminal history  
25 record information that relates to:

26 (1) a person employed by the commercial transportation  
27 company as a bus driver, bus monitor, or bus aide; or

1           (2) a person the commercial transportation company  
2 intends to employ as a bus driver, bus monitor, or bus aide.

3           (d) If the commercial transportation company obtains  
4 information that a person employed or to be employed by the  
5 company has been convicted of a felony or a misdemeanor  
6 involving moral turpitude, the company may not employ that  
7 person to drive or to serve as a bus monitor or bus aide on a  
8 bus on which students are transported without the permission of  
9 the board of trustees of the district or service center, the  
10 governing body of the public charter district [~~open-enrollment~~  
11 ~~charter school~~], or the chief executive officer of the private  
12 school or shared services arrangement. Subsections (a) and (b)  
13 do not apply if information is obtained as provided by  
14 Subsection (c).

15           SECTION 4.15. Section 22.085, Education Code, is amended to  
16 read as follows:

17           Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES.  
18           A school district, public charter district [~~open-enrollment~~  
19 ~~charter school~~], private school, regional education service  
20 center, or shared services arrangement may discharge an employee  
21 if the district or school obtains information of the employee's  
22 conviction of a felony or of a misdemeanor involving moral  
23 turpitude that the employee did not disclose to the State Board  
24 for Educator Certification or the district, school, service  
25 center, or shared services arrangement. An employee discharged  
26 under this section is considered to have been discharged for  
27 misconduct for purposes of Section 207.044, Labor Code.

1 SECTION 4.16. Section 22.086, Education Code, is amended to  
2 read as follows:

3 Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The State  
4 Board for Educator Certification, a school district, a public  
5 charter district [~~an open-enrollment charter school~~], a private  
6 school, a regional education service center, a shared services  
7 arrangement, or an employee of the board, district, school,  
8 service center, or shared services arrangement is not civilly or  
9 criminally liable for making a report required under this  
10 subchapter.

11 SECTION 4.17. Section 25.088, Education Code, is amended to  
12 read as follows:

13 Sec. 25.088. SCHOOL ATTENDANCE OFFICER. The school  
14 attendance officer may be selected by:

15 (1) the county school trustees of any county;

16 (2) the board of trustees of any school district or  
17 the boards of trustees of two or more school districts jointly;  
18 or

19 (3) the governing body of a public charter district  
20 [~~an open-enrollment charter school~~].

21 SECTION 4.18. Section 25.089(a), Education Code, is amended  
22 to read as follows:

23 (a) An attendance officer may be compensated from the funds  
24 of the county, independent school district, or public charter  
25 district [~~open-enrollment charter school~~], as applicable.

26 SECTION 4.19. Section 25.090(b), Education Code, is amended  
27 to read as follows:

1 (b) If the governing body of a public charter district [~~an~~  
2 ~~open-enrollment charter school~~] has not selected an attendance  
3 officer for a district campus, the duties of attendance officer  
4 shall be performed by the peace officers of the county in which  
5 the campus [~~school~~] is located.

6 SECTION 4.20. Sections 25.093(d) and (e), Education Code,  
7 are amended to read as follows:

8 (d) A fine collected under this section shall be deposited  
9 as follows:

10 (1) one-half shall be deposited to the credit of the  
11 operating fund of, as applicable:

12 (A) the school district in which the child  
13 attends school;

14 (B) the public charter district [~~open-enrollment~~  
15 ~~charter school~~] the child attends; or

16 (C) the juvenile justice alternative education  
17 program that the child has been ordered to attend; and

18 (2) one-half shall be deposited to the credit of:

19 (A) the general fund of the county, if the  
20 complaint is filed in the justice court or the constitutional  
21 county court; or

22 (B) the general fund of the municipality, if the  
23 complaint is filed in municipal court.

24 (e) At the trial of any person charged with violating this  
25 section, the attendance records of the child may be presented in  
26 court by any authorized employee of the school district or  
27 public charter district [~~open-enrollment charter school~~], as

1 applicable.

2 SECTION 4.21. Sections 25.095(a) and (b), Education Code,  
3 are amended to read as follows:

4 (a) A school district or public charter district [~~open-~~  
5 ~~enrollment charter school~~] shall notify a student's parent in  
6 writing at the beginning of the school year that if the student  
7 is absent from school on 10 or more days or parts of days within  
8 a six-month period in the same school year or on three or more  
9 days or parts of days within a four-week period:

10 (1) the student's parent is subject to prosecution  
11 under Section 25.093; and

12 (2) the student is subject to prosecution under  
13 Section 25.094 or to referral to a juvenile court in a county  
14 with a population of less than 100,000 for conduct that violates  
15 that section.

16 (b) A school district or public charter district shall  
17 notify a student's parent if the student has been absent from  
18 school, without excuse under Section 25.087, on three days or  
19 parts of days within a four-week period. The notice must:

20 (1) inform the parent that:

21 (A) it is the parent's duty to monitor the  
22 student's school attendance and require the student to attend  
23 school; and

24 (B) the parent is subject to prosecution under  
25 Section 25.093; and

26 (2) request a conference between school officials and  
27 the parent to discuss the absences.

1 SECTION 4.22. Sections 25.0951(a) and (b), Education Code,  
2 are amended to read as follows:

3 (a) If a student fails to attend school without excuse on  
4 10 or more days or parts of days within a six-month period in  
5 the same school year, a school district or public charter  
6 district shall:

7 (1) file a complaint against the student or the  
8 student's parent or both in a county, justice, or municipal  
9 court for an offense under Section 25.093 or 25.094, as  
10 appropriate, or refer the student to a juvenile court in a  
11 county with a population of less than 100,000 for conduct that  
12 violates Section 25.094; or

13 (2) refer the student to a juvenile court for conduct  
14 indicating a need for supervision under Section 51.03(b)(2),  
15 Family Code.

16 (b) If a student fails to attend school without excuse on  
17 three or more days or parts of days within a four-week period  
18 but does not fail to attend school for the time described by  
19 Subsection (a), the school district or public charter district  
20 may:

21 (1) file a complaint against the student or the  
22 student's parent or both in a county, justice, or municipal  
23 court for an offense under Section 25.093 or 25.094, as  
24 appropriate, or refer the student to a juvenile court in a  
25 county with a population of less than 100,000 for conduct that  
26 violates Section 25.094; or

27 (2) refer the student to a juvenile court for conduct

1 indicating a need for supervision under Section 51.03(b)(2),  
2 Family Code.

3 SECTION 4.23. Section 26.006(c), Education Code, is amended  
4 to read as follows:

5 (c) A student's parent is entitled to request that the  
6 school district or public charter district [~~open-enrollment~~  
7 ~~charter school~~] the student attends allow the student to take  
8 home any textbook used by the student. Subject to the  
9 availability of a textbook, the school district or public  
10 charter district [~~or school~~] shall honor the request. A student  
11 who takes home a textbook must return the textbook to school at  
12 the beginning of the next school day if requested to do so by  
13 the student's teacher. In this subsection, "textbook" has the  
14 meaning assigned by Section 31.002.

15 SECTION 4.24. Sections 26.0085(a), (c), (d), and (e),  
16 Education Code, are amended to read as follows:

17 (a) A school district or public charter district [~~open-~~  
18 ~~enrollment charter school~~] that seeks to withhold information  
19 from a parent who has requested public information relating to  
20 the parent's child under Chapter 552, Government Code, and that  
21 files suit as described by Section 552.324, Government Code, to  
22 challenge a decision by the attorney general issued under  
23 Subchapter G, Chapter 552, Government Code, must bring the suit  
24 not later than the 30th calendar day after the date the school  
25 district or public charter district [~~open-enrollment charter~~  
26 ~~school~~] receives the decision of the attorney general being  
27 challenged.

1 (c) Notwithstanding any other law, a school district or  
2 public charter district [~~open-enrollment charter school~~] may not  
3 appeal the decision of a court in a suit filed under Subsection  
4 (a). This subsection does not affect the right of a parent to  
5 appeal the decision.

6 (d) If the school district or public charter district  
7 [~~open-enrollment charter school~~] does not bring suit within the  
8 period established by Subsection (a), the school district or  
9 public charter district [~~open-enrollment charter school~~] shall  
10 comply with the decision of the attorney general.

11 (e) A school district or public charter district [~~open-~~  
12 ~~enrollment charter school~~] that receives a request from a parent  
13 for public information relating to the parent's child shall  
14 comply with Chapter 552, Government Code. If an earlier  
15 deadline for bringing suit is established under Chapter 552,  
16 Government Code, Subsection (a) does not apply. This section  
17 does not affect the earlier deadline for purposes of Section  
18 552.353(b)(3), Government Code, [532.353(b)(3)] for a suit  
19 brought by an officer for public information.

20 SECTION 4.25. Section 28.0211(j), Education Code, is  
21 amended to read as follows:

22 (j) A school district [~~or open-enrollment charter school~~]  
23 shall provide students required to attend accelerated programs  
24 under this section with transportation to those programs if the  
25 programs occur outside of regular school hours.

26 SECTION 4.26. Section 29.010(f), Education Code, is amended  
27 to read as follows:

1 (f) This section does not create an obligation for or  
2 impose a requirement on a school district [~~or open-enrollment~~  
3 ~~charter school~~] that is not also created or imposed under  
4 another state law or a federal law.

5 SECTION 4.27. Sections 29.012(a) and (c), Education Code,  
6 are amended to read as follows:

7 (a) Except as provided by Subsection (b)(2), not later than  
8 the third day after the date a person 22 years of age or younger  
9 is placed in a residential facility, the residential facility  
10 shall:

11 (1) if the person is three years of age or older,  
12 notify the school district in which the facility is located,  
13 unless the facility is a public charter district [~~an open-~~  
14 ~~enrollment charter school~~]; or

15 (2) if the person is younger than three years of age,  
16 notify a local early intervention program in the area in which  
17 the facility is located.

18 (c) For purposes of enrollment in a school, a person who  
19 resides in a residential facility is considered a resident of  
20 the school district or geographical area served by the public  
21 charter district campus [~~open-enrollment charter school~~] in  
22 which the facility is located.

23 SECTION 4.28. Sections 29.062(c)-(e), Education Code, are  
24 amended to read as follows:

25 (c) Not later than the 30th day after the date of an on-  
26 site monitoring inspection, the agency shall report its findings  
27 to the school district [~~or open-enrollment charter school~~] and

1 to the division of accreditation.

2 (d) The agency shall notify a school district [~~or open-~~  
3 ~~enrollment charter school~~] found in noncompliance in writing,  
4 not later than the 30th day after the date of the on-site  
5 monitoring. The district [~~or open-enrollment charter school~~]  
6 shall take immediate corrective action.

7 (e) If a school district [~~or open-enrollment charter~~  
8 ~~school~~] fails to satisfy appropriate standards adopted by the  
9 commissioner for purposes of Subsection (a), the agency shall  
10 apply sanctions, which may include the removal of accreditation,  
11 loss of foundation school funds, or both.

12 SECTION 4.29. Sections 29.087(a)-(c), (e), (k), and (l),  
13 Education Code, are amended to read as follows:

14 (a) The agency shall develop a process by which a school  
15 district or public charter district [~~open-enrollment charter~~  
16 ~~school~~] may apply to the commissioner for authority to operate a  
17 program to prepare eligible students to take a high school  
18 equivalency examination.

19 (b) Any school district or public charter district [~~open-~~  
20 ~~enrollment charter school~~] may apply for authorization to  
21 operate a program under this section. As part of the application  
22 process, the commissioner shall require a school district or  
23 public charter district [~~or school~~] to provide information  
24 regarding the operation of any similar program during the  
25 preceding five years.

26 (b-1) A school district or public charter district [~~open-~~  
27 ~~enrollment charter school~~] authorized by the commissioner on or

1 before August 31, 2003, to operate a program under this section  
2 may continue to operate that program in accordance with this  
3 section.

4 (c) A school district or public charter district [~~open-~~  
5 ~~enrollment charter school~~] may not increase enrollment of  
6 students in a program authorized by this section by more than  
7 five percent of the number of students enrolled in the similar  
8 program operated by the school district or public charter  
9 district [~~or school~~] during the 2000-2001 school year.

10 (e) A school district or public charter district [~~open-~~  
11 ~~enrollment charter school~~] shall inform each student who has  
12 completed a program authorized by this section of the time and  
13 place at which the student may take the high school equivalency  
14 examination. Notwithstanding any provision of this section, a  
15 student may not take the high school equivalency examination  
16 except as authorized by Section 7.111.

17 (k) The board of trustees of a school district or the  
18 governing body [~~board~~] of a public charter district [~~an open-~~  
19 ~~enrollment charter school~~] shall:

20 (1) hold a public hearing concerning the proposed  
21 application of the school district or public charter district  
22 [~~or school~~] before applying to operate a program authorized by  
23 this section; and

24 (2) subsequently hold a public hearing annually to  
25 review the performance of the program.

26 (l) The commissioner may revoke a school district's or  
27 public charter district's [~~open-enrollment charter school's~~]

1 authorization under this section after consideration of relevant  
2 factors, including performance of students participating in the  
3 school district's or public charter district's [~~or school's~~]  
4 program on assessment instruments required under Chapter 39, the  
5 percentage of students participating in the school district's or  
6 public charter district's [~~or school's~~] program who complete the  
7 program and perform successfully on the high school equivalency  
8 examination, and other criteria adopted by the commissioner. A  
9 decision by the commissioner under this subsection is final and  
10 may not be appealed.

11 SECTION 4.30. Sections 29.155(a)-(d), (i), and (j),  
12 Education Code, are amended to read as follows:

13 (a) From amounts appropriated for the purposes of this  
14 section, the commissioner may make grants to school districts  
15 and public charter districts [~~open-enrollment charter schools~~]  
16 to implement or expand kindergarten and prekindergarten programs  
17 by:

18 (1) operating an existing half-day kindergarten or  
19 prekindergarten program on a full-day basis; or

20 (2) implementing a prekindergarten program at a campus  
21 that does not have a prekindergarten program.

22 (b) A school district or public charter district [~~open-~~  
23 ~~enrollment charter school~~] may use funds received under this  
24 section to employ teachers and other personnel for a  
25 kindergarten or prekindergarten program and acquire curriculum  
26 materials or equipment, including computers, for use in  
27 kindergarten and prekindergarten programs.

1           (c) To be eligible for a grant under this section, a school  
2 district or public charter district [~~open-enrollment charter~~  
3 ~~school~~] must apply to the commissioner in the manner and within  
4 the time prescribed by the commissioner.

5           (d) In awarding grants under this section, the commissioner  
6 shall give priority to districts and public charter districts  
7 [~~open-enrollment charter schools~~] in which the level of  
8 performance of students on the assessment instruments  
9 administered under Section 39.023 to students in grade three is  
10 substantially below the average level of performance on those  
11 assessment instruments for all school districts in the state.

12           (i) In carrying out the purposes of Subsection (g), a  
13 school district or public charter district [~~open-enrollment~~  
14 ~~charter school~~] may use funds granted to the school district or  
15 public charter district [~~or school~~] under this section  
16 [~~subsection~~] in contracting with another entity, including a  
17 private entity.

18           (j) If a school district or public charter district [~~open-~~  
19 ~~enrollment charter school~~] returns to the commissioner funds  
20 granted under this section, the commissioner may grant those  
21 funds to another entity, including a private entity, for the  
22 purposes of Subsection (g).

23           SECTION 4.31. Section 29.905(b), Education Code, is amended  
24 to read as follows:

25           (b) The agency shall make the program available to a school  
26 on the request of the board of trustees of [~~or~~] the school  
27 district of which the school is a part, or if the school is a a

1 public charter district [~~an open-enrollment charter school~~], on  
2 the request of the governing body of the public charter district  
3 [~~school~~].

4 SECTION 4.32. Section 31.021(b), Education Code, is amended  
5 to read as follows:

6 (b) The State Board of Education shall annually set aside  
7 out of the available school fund of the state an amount  
8 sufficient for the board and[~~r~~] school districts[~~, and open-~~  
9 ~~enrollment charter schools~~] to purchase and distribute the  
10 necessary textbooks for the use of the students of this state  
11 for the following school year. The board shall determine the  
12 amount of the available school fund to set aside for the state  
13 textbook fund based on:

14 (1) a report by the commissioner issued on July 1 or,  
15 if that date is a Saturday or Sunday, on the following Monday,  
16 stating the amount of unobligated money in the fund;

17 (2) the commissioner's estimate, based on textbooks  
18 selected under Section 31.101 and on attendance reports  
19 submitted under Section 31.103 by school districts [~~and open-~~  
20 ~~enrollment charter schools~~], of the amount of funds, in addition  
21 to funds reported under Subdivision (1), that will be necessary  
22 for purchase and distribution of textbooks for the following  
23 school year; and

24 (3) any amount the board determines should be set  
25 aside for emergency purposes caused by unexpected increases in  
26 attendance.

27 SECTION 4.33. Section 31.027(a), Education Code, is amended

1 to read as follows:

2 (a) A publisher shall provide each school district [~~and~~  
3 ~~open-enrollment charter school~~] with information that fully  
4 describes each of the publisher's adopted textbooks. On request  
5 of a school district, a publisher shall provide a sample copy of  
6 an adopted textbook.

7 SECTION 4.34. Section 31.030, Education Code, is amended to  
8 read as follows:

9 Sec. 31.030. USED TEXTBOOKS. The State Board of Education  
10 shall adopt rules to ensure that used textbooks sold to school  
11 districts [~~and open-enrollment charter schools~~] are not sample  
12 copies that contain factual errors. The rules may provide for  
13 the imposition of an administrative penalty in accordance with  
14 Section 31.151 against a seller of used textbooks who knowingly  
15 violates this section.

16 SECTION 4.35. Section 31.101, Education Code, is amended to  
17 read as follows:

18 Sec. 31.101. SELECTION AND PURCHASE OF TEXTBOOKS BY SCHOOL  
19 DISTRICTS. (a) Each year, during a period established by the  
20 State Board of Education, the board of trustees of each school  
21 district [~~and the governing body of each open-enrollment charter~~  
22 ~~school~~] shall:

23 (1) for a subject in the foundation curriculum, notify  
24 the State Board of Education of the textbooks selected by the  
25 board of trustees [~~or governing body~~] for the following school  
26 year from among the textbooks on the appropriate conforming or  
27 nonconforming list; or

1           (2) for a subject in the enrichment curriculum:

2           (A) notify the State Board of Education of each  
3 textbook selected by the board of trustees [~~or governing body~~]  
4 for the following school year from among the textbooks on the  
5 appropriate conforming or nonconforming list; or

6           (B) notify the State Board of Education that the  
7 board of trustees [~~or governing body~~] has selected a textbook  
8 that is not on the conforming or nonconforming list.

9           (b) If a school district [~~or open-enrollment charter~~  
10 ~~school~~] selects a textbook for a particular subject in the  
11 enrichment curriculum and grade level that is not on the  
12 conforming or nonconforming list, the state shall pay to the  
13 district [~~or school~~] an amount equal to the lesser of:

14           (1) 70 percent of the cost to the district of the  
15 textbook, multiplied by the number of textbooks the district [~~or~~  
16 ~~school~~] needs for that subject and grade level; or

17           (2) 70 percent of the limitation established under  
18 Section 31.025 for a textbook for that subject and grade level,  
19 multiplied by the number of textbooks the district [~~or school~~]  
20 needs for that subject and grade level.

21           (c) A school district [~~or open-enrollment charter school~~]  
22 that selects a textbook that is not on the conforming or  
23 nonconforming list:

24           (1) is responsible for the portion of the cost of the  
25 textbook that is not paid by the state under Subsection (b); and

26           (2) may use funds received from the state under  
27 Subsection (b) only for purchasing the textbook for which the

1 funds were received.

2 (d) For a textbook that is not on the conforming or  
3 nonconforming list, a school district [~~or open-enrollment~~  
4 ~~charter school~~] must use the textbook for the period of the  
5 review and adoption cycle the State Board of Education has  
6 established for the subject and grade level for which the  
7 textbook is used.

8 SECTION 4.36. Section 31.102(c), Education Code, is amended  
9 to read as follows:

10 (c) The board of trustees of a school district [~~or the~~  
11 ~~governing body of an open-enrollment charter school~~] is the  
12 legal custodian of textbooks purchased as provided by this  
13 chapter for the district [~~or school~~]. The board of trustees  
14 shall distribute textbooks to students in the manner that the  
15 board [~~or governing body~~] determines is most effective and  
16 economical.

17 SECTION 4.37. Section 31.103, Education Code, is amended to  
18 read as follows:

19 Sec. 31.103. TEXTBOOK REQUISITIONS. (a) Not later than  
20 the seventh day after the first school day in April, each  
21 principal shall report the maximum attendance for the school to  
22 the superintendent. Not later than April 25, the superintendent  
23 of a school district [~~or the chief operating officer of an open-~~  
24 ~~enrollment charter school~~] shall report the district's [~~or~~  
25 ~~school's~~] maximum attendance to the commissioner.

26 (b) A requisition for textbooks for the following school  
27 year shall be based on the maximum attendance reports under

1 Subsection (a), plus an additional 10 percent, except as  
2 otherwise provided. A school district [~~or open-enrollment~~  
3 ~~charter school~~] shall make a requisition for a textbook on the  
4 conforming or nonconforming list through the commissioner to the  
5 state depository designated by the publisher or as provided by  
6 State Board of Education rule, as applicable, not later than  
7 June 1 of each year. The designated state depository or, if the  
8 publisher or manufacturer does not have a designated textbook  
9 depository in this state under Section 31.151(a)(6)(B), the  
10 publisher or manufacturer shall fill a requisition approved by  
11 the agency at any other time in the case of an emergency. As  
12 made necessary by available funds, the commissioner shall reduce  
13 the additional percentage of attendance for which a district [~~or~~  
14 ~~school~~] may requisition textbooks. The commissioner may, on  
15 application of a district [~~or school~~] that is experiencing high  
16 enrollment growth, increase the additional percentage of  
17 attendance for which the district [~~or school~~] may requisition  
18 textbooks.

19 (c) In making a requisition under this section, a school  
20 district [~~or open-enrollment charter school~~] may requisition  
21 textbooks on the conforming or nonconforming list for grades  
22 above the grade level in which a student is enrolled, except  
23 that the total quantity of textbooks requisitioned under this  
24 section may not exceed the limit prescribed by Subsection (b).

25 SECTION 4.38. Sections 31.104(a), (b), and (d), Education  
26 Code, are amended to read as follows:

27 (a) The board of trustees of a school district [~~or the~~

1 ~~governing body of an open-enrollment charter school~~ may  
2 delegate to an employee the authority to requisition,  
3 distribute, and manage the inventory of textbooks in a manner  
4 consistent with this chapter and rules adopted under this  
5 chapter.

6 (b) A school district [~~or open-enrollment charter school~~]  
7 may order replacements for textbooks that have been lost or  
8 damaged directly from:

9 (1) the textbook depository; or

10 (2) the textbook publisher or manufacturer if the  
11 textbook publisher or manufacturer does not have a designated  
12 textbook depository in this state under Section 31.151(a)(6)(B).

13 (d) Each student, or the student's parent or guardian, is  
14 responsible for each textbook not returned by the student. A  
15 student who fails to return all textbooks forfeits the right to  
16 free textbooks until each textbook previously issued but not  
17 returned is paid for by the student, parent, or guardian. As  
18 provided by policy of the board of trustees [~~or governing body~~],  
19 a school district [~~or open-enrollment charter school~~] may waive  
20 or reduce the payment requirement if the student is from a low-  
21 income family. The district [~~or school~~] shall allow the student  
22 to use textbooks at school during each school day. If a  
23 textbook is not returned or paid for, the district [~~or school~~]  
24 may withhold the student's records. A district [~~or school~~] may  
25 not, under this subsection, prevent a student from graduating,  
26 participating in a graduation ceremony, or receiving a diploma.

27 SECTION 4.39. Section 31.105, Education Code, is amended to

1 read as follows:

2       Sec. 31.105. SALE OF TEXTBOOKS. The board of trustees of a  
3 school district [~~or governing body of an open-enrollment charter~~  
4 ~~school~~] may sell textbooks, other than electronic textbooks, to  
5 a student or another school at the state contract price. The  
6 district shall send money from the sale of textbooks to the  
7 commissioner as required by the commissioner. The commissioner  
8 shall deposit the money in the state textbook fund.

9       SECTION 4.40. Section 31.106, Education Code, is amended to  
10 read as follows:

11       Sec. 31.106. USE OF LOCAL FUNDS. In addition to any  
12 textbook selected under this chapter, a school district [~~or~~  
13 ~~open-enrollment charter school~~] may use local funds to purchase  
14 any textbooks.

15       SECTION 4.41. Section 31.151(a), Education Code, is amended  
16 to read as follows:

17       (a) A publisher or manufacturer of textbooks:

18           (1) shall furnish any textbook the publisher or  
19 manufacturer offers in this state, at a price that does not  
20 exceed the lowest price at which the publisher offers that  
21 textbook for adoption or sale to any state, public school, or  
22 school district in the United States;

23           (2) shall automatically reduce the price of a textbook  
24 sold for use in a school district [~~or open-enrollment charter~~  
25 ~~school~~] to the extent that the price is reduced elsewhere in the  
26 United States;

27           (3) shall provide any textbook or ancillary item free

1 of charge in this state to the same extent that the publisher or  
2 manufacturer provides the textbook or ancillary item free of  
3 charge to any state, public school, or school district in the  
4 United States;

5 (4) shall guarantee that each copy of a textbook sold  
6 in this state is at least equal in quality to copies of that  
7 textbook sold elsewhere in the United States and is free from  
8 factual error;

9 (5) may not become associated or connected with,  
10 directly or indirectly, any combination in restraint of trade in  
11 textbooks or enter into any understanding or combination to  
12 control prices or restrict competition in the sale of textbooks  
13 for use in this state;

14 (6) shall:

15 (A) maintain a depository in this state or  
16 arrange with a depository in this state to receive and fill  
17 orders for textbooks, other than on-line textbooks or on-line  
18 textbook components, consistent with State Board of Education  
19 rules; or

20 (B) deliver textbooks to a school district [~~or~~  
21 ~~open-enrollment charter school~~] without a delivery charge to the  
22 school district[~~, open-enrollment charter school,~~] or state, if:

23 (i) the publisher or manufacturer does not  
24 maintain or arrange with a depository in this state under  
25 Paragraph (A) and the publisher's or manufacturer's textbooks  
26 and related products are warehoused or otherwise stored less  
27 than 300 miles from a border of this state; or

1                   (ii) the textbooks are on-line textbooks or  
2 on-line textbook components;

3                   (7) shall, at the time an order for textbooks is  
4 acknowledged, provide to school districts [~~or open-enrollment~~  
5 ~~charter schools~~] an accurate shipping date for textbooks that  
6 are back-ordered;

7                   (8) shall guarantee delivery of textbooks at least 10  
8 business days before the opening day of school of the year for  
9 which the textbooks are ordered if the textbooks are ordered by  
10 a date specified in the sales contract; and

11                   (9) shall submit to the State Board of Education an  
12 affidavit certifying any textbook the publisher or manufacturer  
13 offers in this state to be free of factual errors at the time  
14 the publisher executes the contract required by Section 31.026.

15                   SECTION 4.42. Section 31.201(c), Education Code, is amended  
16 to read as follows:

17                   (c) The State Board of Education shall adopt rules under  
18 which a school district [~~or open-enrollment charter school~~] may  
19 donate discontinued textbooks, other than electronic textbooks,  
20 to a student, to an adult education program, or to a nonprofit  
21 organization.

22                   SECTION 4.43. Subchapter C, Chapter 32, Education Code, is  
23 amended by adding Section 32.1011 to read as follows:

24                   Sec. 32.1011. APPLICABILITY TO PUBLIC CHARTER DISTRICTS.  
25 This subchapter applies to a public charter district as if the  
26 public charter district were a school district.

27                   SECTION 4.44. Section 32.102, Education Code, is amended to

1 read as follows:

2       Sec. 32.102. AUTHORITY.     (a)     As provided by this  
3 subchapter, a school district [~~or open-enrollment charter~~  
4 ~~school~~] may transfer to a student enrolled in the district [~~or~~  
5 ~~school~~]:

6             (1) any data processing equipment donated to the  
7 district [~~or school~~], including equipment donated by:

8                     (A) a private donor; or

9                     (B) a state eleemosynary institution or a state  
10 agency under Section 2175.128, Government Code;

11             (2) any equipment purchased by the district [~~or~~  
12 ~~school~~], to the extent consistent with Section 32.105; and

13             (3) any surplus or salvage equipment owned by the  
14 district [~~or school~~].

15       (b) A school district [~~or open-enrollment charter school~~]  
16 may accept:

17             (1) donations of data processing equipment for  
18 transfer under this subchapter; and

19             (2) any gifts, grants, or donations of money or  
20 services to purchase, refurbish, or repair data processing  
21 equipment under this subchapter.

22       SECTION 4.45. Section 32.103, Education Code, is amended to  
23 read as follows:

24       Sec. 32.103. ELIGIBILITY; PREFERENCE. (a) A student is  
25 eligible to receive data processing equipment under this  
26 subchapter only if the student does not otherwise have home  
27 access to data processing equipment, as determined by the

1 student's school district [~~or open-enrollment charter school~~].

2 (b) In transferring data processing equipment to students,  
3 a school district [~~or open-enrollment charter school~~] shall give  
4 preference to educationally disadvantaged students.

5 SECTION 4.46. Section 32.104, Education Code, is amended to  
6 read as follows:

7 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before  
8 transferring data processing equipment to a student, a school  
9 district [~~or open-enrollment charter school~~] must:

10 (1) adopt rules governing transfers under this  
11 subchapter, including provisions for technical assistance to the  
12 student by the district [~~or school~~];

13 (2) determine that the transfer serves a public  
14 purpose and benefits the district [~~or school~~]; and

15 (3) remove from the equipment any offensive,  
16 confidential, or proprietary information, as determined by the  
17 district [~~or school~~].

18 SECTION 4.47. Section 32.105, Education Code, is amended to  
19 read as follows:

20 Sec. 32.105. EXPENDITURE OF PUBLIC FUNDS. A school  
21 district [~~or open-enrollment charter school~~] may spend public  
22 funds to:

23 (1) purchase, refurbish, or repair any data processing  
24 equipment transferred to a student under this subchapter; and

25 (2) store, transport, or transfer data processing  
26 equipment under this subchapter.

27 SECTION 4.48. Section 32.106, Education Code, is amended to

1 read as follows:

2       Sec. 32.106. RETURN OF EQUIPMENT. (a) Except as provided  
3 by Subsection (b), a student who receives data processing  
4 equipment from a school district [~~or open-enrollment charter~~  
5 ~~school~~] under this subchapter shall return the equipment to the  
6 district [~~or school~~] not later than the earliest of:

7           (1) five years after the date the student receives the  
8 equipment;

9           (2) the date the student graduates;

10          (3) the date the student transfers to another school  
11 district [~~or open-enrollment charter school~~]; or

12          (4) the date the student withdraws from school.

13       (b) Subsection (a) does not apply if, at the time the  
14 student is required to return the data processing equipment  
15 under that subsection, the district [~~or school~~] determines that  
16 the equipment has no marketable value.

17       SECTION 4.49. Section 33.007, Education Code, is amended to  
18 read as follows:

19       Sec. 33.007. COUNSELING REGARDING HIGHER EDUCATION. (a)  
20 Each counselor at an elementary, middle, or junior high school,  
21 including a public charter district [~~an open-enrollment charter~~  
22 ~~school~~] offering those grades, shall advise students and their  
23 parents or guardians regarding the importance of higher  
24 education, coursework designed to prepare students for higher  
25 education, and financial aid availability and requirements.

26       (b) During the first school year a student is enrolled in a  
27 high school or at the high school level in a public charter

1 district [~~an open-enrollment charter school~~], and again during a  
2 student's senior year, a counselor shall provide information  
3 about higher education to the student and the student's parent  
4 or guardian. The information must include information  
5 regarding:

6 (1) the importance of higher education;

7 (2) the advantages of completing the recommended or  
8 advanced high school program adopted under Section 28.025(a);

9 (3) the disadvantages of taking courses to prepare for  
10 a high school equivalency examination relative to the benefits  
11 of taking courses leading to a high school diploma;

12 (4) financial aid eligibility;

13 (5) instruction on how to apply for federal financial  
14 aid;

15 (6) the center for financial aid information  
16 established under Section 61.0776;

17 (7) the automatic admission of certain students to  
18 general academic teaching institutions as provided by Section  
19 51.803; and

20 (8) the eligibility and academic performance  
21 requirements for the TEXAS Grant as provided by Subchapter M,  
22 Chapter 56[~~, as added by Chapter 1590, Acts of the 76th~~  
23 ~~Legislature, Regular Session, 1999~~].

24 SECTION 4.50. Section 33.901, Education Code, is amended to  
25 read as follows:

26 Sec. 33.901. BREAKFAST PROGRAMS. If at least 10 percent of  
27 the students enrolled in one or more schools in a school

1 district or enrolled in a public charter district campus [~~an~~  
2 ~~open-enrollment charter school~~] are eligible for free or  
3 reduced-price breakfasts under the national school breakfast  
4 program provided for by the Child Nutrition Act of 1966 (42  
5 U.S.C. Section 1773), the governing body of the district or the  
6 public charter district [~~open-enrollment charter school~~] shall  
7 participate in the program and make the benefits of the program  
8 available to all eligible students in the schools or campus  
9 [~~school~~].

10 SECTION 4.51. Section 37.007(e), Education Code, is amended  
11 to read as follows:

12 (e) In accordance with 20 U.S.C. Section 7151, a local  
13 educational agency, including a school district, home-rule  
14 school district, or public charter district [~~open-enrollment~~  
15 ~~charter school~~], shall expel a student who brings a firearm, as  
16 defined by 18 U.S.C. Section 921, to school. The student must  
17 be expelled from the student's regular campus for a period of at  
18 least one year, except that:

19 (1) the superintendent or other chief administrative  
20 officer of the school district or of the other local educational  
21 agency, as defined by 20 U.S.C. Section 7801, may modify the  
22 length of the expulsion in the case of an individual student;

23 (2) the district or other local educational agency  
24 shall provide educational services to an expelled student in a  
25 disciplinary alternative education program as provided by  
26 Section 37.008 if the student is younger than 10 years of age on  
27 the date of expulsion; and

1           (3) the district or other local educational agency may  
2 provide educational services to an expelled student who is 10  
3 years of age or older in a disciplinary alternative education  
4 program as provided in Section 37.008.

5           SECTION 4.52. Section 37.008(j), Education Code, is amended  
6 to read as follows:

7           (j) If a student placed in a disciplinary alternative  
8 education program enrolls in another school district before the  
9 expiration of the period of placement, the board of trustees of  
10 the district requiring the placement shall provide to the  
11 district in which the student enrolls, at the same time other  
12 records of the student are provided, a copy of the placement  
13 order. The district in which the student enrolls may continue  
14 the disciplinary alternative education program placement under  
15 the terms of the order or may allow the student to attend  
16 regular classes without completing the period of placement. A  
17 school district may take any action permitted by this subsection  
18 if:

19           (1) the student was placed in a disciplinary  
20 alternative education program by a public charter district [~~an~~  
21 ~~open-enrollment charter school~~] under Section 11A.256 [~~12.131~~]  
22 and the public charter district [~~school~~] provides to the school  
23 district a copy of the placement order; or

24           (2) the student was placed in a disciplinary  
25 alternative education program by a school district in another  
26 state and:

27           (A) the out-of-state district provides to the

1 school district a copy of the placement order; and

2 (B) the grounds for the placement by the out-of-  
3 state district are grounds for placement in the school district  
4 in which the student is enrolling.

5 SECTION 4.53. Section 37.021(a)(2), Education Code, as  
6 added by Chapter 631, Acts of the 78th Legislature, Regular  
7 Session, 2003, is amended to read as follows:

8 (2) "District or school" includes an independent  
9 school district, a home-rule school district, a campus or campus  
10 program charter holder, or a public charter district [~~an open-~~  
11 ~~enrollment charter school~~].

12 SECTION 4.54. Section 39.072(c), Education Code, is amended  
13 to read as follows:

14 (c) The agency shall evaluate against state standards and  
15 shall, not later than August 1 of each year, report the  
16 performance of each campus in a district and each public charter  
17 district [~~open-enrollment charter school~~] on the basis of the  
18 campus's performance on the indicators adopted under Sections  
19 39.051(b)(1) through (7). Consideration of the effectiveness of  
20 district programs under Subsection (b)(2) or (3) must be based  
21 on data collected through the Public Education Information  
22 Management System for purposes of accountability under this  
23 chapter and include the results of assessments required under  
24 Section 39.023.

25 SECTION 4.55. Section 39.131(a), Education Code, is amended  
26 to read as follows:

27 (a) If a district does not satisfy the accreditation

1 criteria, the commissioner shall take any of the following  
2 actions, listed in order of severity, to the extent the  
3 commissioner determines necessary:

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

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

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

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

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

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

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

27 (8) appoint a management team to direct the operations

1 of the district in areas of unacceptable performance or require  
2 the district to obtain certain services under a contract with  
3 another person;

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

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

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

12 (B) in the case of a home-rule school district or  
13 public charter district [~~open-enrollment charter school~~], order  
14 closure of all programs operated under the district's [~~or~~  
15 ~~school's~~] charter; or

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

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

22 (B) restructuring the district or appropriate  
23 school campuses to improve identification of and service to  
24 students who are at risk of dropping out of school, as defined  
25 by Section 29.081;

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

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

4           SECTION 4.56. Section 39.182(a), Education Code, is amended  
5 to read as follows:

6           (a) Not later than December 1 of each year, the agency  
7 shall prepare and deliver to the governor, the lieutenant  
8 governor, the speaker of the house of representatives, each  
9 member of the legislature, the Legislative Budget Board, and the  
10 clerks of the standing committees of the senate and house of  
11 representatives with primary jurisdiction over the public school  
12 system a comprehensive report covering the preceding school year  
13 and containing:

14                   (1) an evaluation of the achievements of the state  
15 educational program in relation to the statutory goals for the  
16 public education system under Section 4.002;

17                   (2) an evaluation of the status of education in the  
18 state as reflected by the academic excellence indicators adopted  
19 under Section 39.051;

20                   (3) a summary compilation of overall student  
21 performance on academic skills assessment instruments required  
22 by Section 39.023 with the number and percentage of students  
23 exempted from the administration of those instruments and the  
24 basis of the exemptions, aggregated by grade level, subject  
25 area, campus, and district, with appropriate interpretations and  
26 analysis, and disaggregated by race, ethnicity, gender, and  
27 socioeconomic status;

1           (4) a summary compilation of overall performance of  
2 students placed in an alternative education program established  
3 under Section 37.008 on academic skills assessment instruments  
4 required by Section 39.023 with the number of those students  
5 exempted from the administration of those instruments and the  
6 basis of the exemptions, aggregated by district, grade level,  
7 and subject area, with appropriate interpretations and analysis,  
8 and disaggregated by race, ethnicity, gender, and socioeconomic  
9 status;

10           (5) a summary compilation of overall performance of  
11 students at risk of dropping out of school, as defined by  
12 Section 29.081(d), on academic skills assessment instruments  
13 required by Section 39.023 with the number of those students  
14 exempted from the administration of those instruments and the  
15 basis of the exemptions, aggregated by district, grade level,  
16 and subject area, with appropriate interpretations and analysis,  
17 and disaggregated by race, ethnicity, gender, and socioeconomic  
18 status;

19           (6) an evaluation of the correlation between student  
20 grades and student performance on academic skills assessment  
21 instruments required by Section 39.023;

22           (7) a statement of the dropout rate of students in  
23 grade levels 7 through 12, expressed in the aggregate and by  
24 grade level, and a statement of the completion rates of students  
25 for grade levels 9 through 12;

26           (8) a statement of:

27           (A) the completion rate of students who enter

1 grade level 9 and graduate not more than four years later;

2 (B) the completion rate of students who enter  
3 grade level 9 and graduate, including students who require more  
4 than four years to graduate;

5 (C) the completion rate of students who enter  
6 grade level 9 and not more than four years later receive a high  
7 school equivalency certificate;

8 (D) the completion rate of students who enter  
9 grade level 9 and receive a high school equivalency certificate,  
10 including students who require more than four years to receive a  
11 certificate; and

12 (E) the number and percentage of all students who  
13 have not been accounted for under Paragraph (A), (B), (C), or  
14 (D);

15 (9) a statement of the projected cross-sectional and  
16 longitudinal dropout rates for grade levels 9 through 12 for the  
17 next five years, assuming no state action is taken to reduce the  
18 dropout rate;

19 (10) a description of a systematic, measurable plan  
20 for reducing the projected cross-sectional and longitudinal  
21 dropout rates to five percent or less for the 1997-1998 school  
22 year;

23 (11) a summary of the information required by Section  
24 29.083 regarding grade level retention of students and  
25 information concerning:

26 (A) the number and percentage of students  
27 retained; and

1 (B) the performance of retained students on  
2 assessment instruments required under Section 39.023(a);

3 (12) information, aggregated by district type and  
4 disaggregated by race, ethnicity, gender, and socioeconomic  
5 status, on:

6 (A) the number of students placed in a  
7 disciplinary [~~an~~] alternative education program established  
8 under Section 37.008;

9 (B) the average length of a student's placement  
10 in a disciplinary [~~an~~] alternative education program established  
11 under Section 37.008;

12 (C) the academic performance of students on  
13 assessment instruments required under Section 39.023(a) during  
14 the year preceding and during the year following placement in a  
15 disciplinary [~~an~~] alternative education program; and

16 (D) the dropout rates of students who have been  
17 placed in a disciplinary [~~an~~] alternative education program  
18 established under Section 37.008;

19 (13) a list of each school district or campus that  
20 does not satisfy performance standards, with an explanation of  
21 the actions taken by the commissioner to improve student  
22 performance in the district or campus and an evaluation of the  
23 results of those actions;

24 (14) an evaluation of the status of the curriculum  
25 taught in public schools, with recommendations for legislative  
26 changes necessary to improve or modify the curriculum required  
27 by Section 28.002;

1           (15) a description of all funds received by and each  
2 activity and expenditure of the agency;

3           (16) a summary and analysis of the instructional  
4 expenditures ratios and instructional employees ratios of school  
5 districts computed under Section 44.0071;

6           (17) a summary of the effect of deregulation,  
7 including exemptions and waivers granted under Section 7.056 or  
8 39.112;

9           (18) a statement of the total number and length of  
10 reports that school districts and school district employees must  
11 submit to the agency, identifying which reports are required by  
12 federal statute or rule, state statute, or agency rule, and a  
13 summary of the agency's efforts to reduce overall reporting  
14 requirements;

15           (19) a list of each school district that is not in  
16 compliance with state special education requirements, including:

17                   (A) the period for which the district has not  
18 been in compliance;

19                   (B) the manner in which the agency considered the  
20 district's failure to comply in determining the district's  
21 accreditation status; and

22                   (C) an explanation of the actions taken by the  
23 commissioner to ensure compliance and an evaluation of the  
24 results of those actions;

25           (20) a comparison of the performance of public charter  
26 districts [~~open-enrollment charter schools~~] and school districts  
27 on the academic excellence indicators specified in Section

1 39.051(b) and accountability measures adopted under Section  
2 39.051(g), with a separately aggregated comparison of the  
3 performance of public charter districts [~~open-enrollment charter~~  
4 ~~schools~~] predominantly serving students at risk of dropping out  
5 of school, as defined by Section 29.081(d), with the performance  
6 of school districts; and

7 (21) any additional information considered important  
8 by the commissioner or the State Board of Education.

9 SECTION 4.57. Section 42.005(f), Education Code, is amended  
10 to read as follows:

11 (f) A public charter district [~~An open-enrollment charter~~  
12 ~~school~~] is not entitled to funding based on an adjustment under  
13 Subsection (b)(2).

14 SECTION 4.58. Section 42.152(c), Education Code, is amended  
15 to read as follows:

16 (c) Funds allocated under this section shall be used to  
17 fund supplemental programs and services designed to eliminate  
18 any disparity in performance on assessment instruments  
19 administered under Subchapter B, Chapter 39, or disparity in the  
20 rates of high school completion between students at risk of  
21 dropping out of school, as defined by Section 29.081, and all  
22 other students. Specifically, the funds, other than an indirect  
23 cost allotment established under State Board of Education rule,  
24 which may not exceed 15 percent, may be used to meet the costs  
25 of providing a compensatory, intensive, or accelerated  
26 instruction program under Section 29.081 or an alternative  
27 education program established under Section 37.008 or to support

1 a program eligible under Title I of the Elementary and Secondary  
2 Education Act of 1965, as provided by Pub. L. No. 103-382 and  
3 its subsequent amendments, and by federal regulations  
4 implementing that Act, at a campus at which at least 40 percent  
5 of the students are educationally disadvantaged. In meeting the  
6 costs of providing a compensatory, intensive, or accelerated  
7 instruction program under Section 29.081, a district's  
8 compensatory education allotment shall be used for costs  
9 supplementary to the regular education program, such as costs  
10 for program and student evaluation, instructional materials and  
11 equipment and other supplies required for quality instruction,  
12 supplemental staff expenses, salary for teachers of at-risk  
13 students, smaller class size, and individualized instruction. A  
14 home-rule school district or a public charter district [~~an open-~~  
15 ~~enrollment charter school~~] must use funds allocated under  
16 Subsection (a) for a purpose authorized in this subsection but  
17 is not otherwise subject to Subchapter C, Chapter 29.  
18 Notwithstanding any other provisions of this section:

19 (1) to ensure that a sufficient amount of the funds  
20 allotted under this section are available to supplement  
21 instructional programs and services, no more than 18 percent of  
22 the funds allotted under this section may be used to fund  
23 disciplinary alternative education programs established under  
24 Section 37.008;

25 (2) the commissioner may waive the limitations of  
26 Subdivision (1) upon an annual petition, by a district's board  
27 and a district's site-based decision making committee,

1 presenting the reason for the need to spend supplemental  
2 compensatory education funds on disciplinary alternative  
3 education programs under Section 37.008, provided that:

4 (A) the district in its petition reports the  
5 number of students in each grade level, by demographic subgroup,  
6 not making satisfactory progress under the state's assessment  
7 system; and

8 (B) the commissioner makes the waiver request  
9 information available annually to the public on the agency's  
10 website; and

11 (3) for purposes of this subsection, a program  
12 specifically designed to serve students at risk of dropping out  
13 of school, as defined by Section 29.081, is considered to be a  
14 program supplemental to the regular education program, and a  
15 district may use its compensatory education allotment for such a  
16 program.

17 SECTION 4.59. Section 44.008(a), Education Code, is amended  
18 to read as follows:

19 (a) The board of school trustees of each school district  
20 shall have its school district fiscal accounts audited annually  
21 at district expense by a certified or public accountant holding  
22 a permit from the Texas State Board of Public Accountancy.  
23 Except as determined impracticable by the commissioner, the  
24 accountant must have completed at least one peer-reviewed audit  
25 of a school district, governmental entity, quasi-governmental  
26 entity, or nonprofit corporation and received an unqualified  
27 opinion from the peer review. The audit must be completed

1 following the close of each fiscal year.

2 SECTION 4.60. Section 46.012, Education Code, is amended to  
3 read as follows:

4 Sec. 46.012. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
5 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district  
6 [~~An open-enrollment charter school~~] is not entitled to an  
7 allotment under this subchapter.

8 SECTION 4.61. Section 46.036, Education Code, is amended to  
9 read as follows:

10 Sec. 46.036. APPLICABILITY TO PUBLIC CHARTER DISTRICTS  
11 [~~OPEN-ENROLLMENT CHARTER SCHOOLS~~]. A public charter district  
12 [~~An open-enrollment charter school~~] is not entitled to an  
13 allotment under this subchapter.

14 SECTION 4.62. Section 53.02(13), Education Code, is amended  
15 to read as follows:

16 (13) "Authorized charter school" means a public  
17 charter district [~~an open-enrollment charter school~~] that holds  
18 a charter granted under Chapter 11A [~~Subchapter D, Chapter 12~~].

19 SECTION 4.63. The heading to Section 53.351, Education  
20 Code, is amended to read as follows:

21 Sec. 53.351. BONDS FOR AUTHORIZED [~~OPEN-ENROLLMENT~~] CHARTER  
22 SCHOOL FACILITIES.

23 SECTION 4.64. Sections 53.351(a), (c), (d), (f), and (g),  
24 Education Code, are amended to read as follows:

25 (a) The Texas Public Finance Authority shall establish a  
26 nonprofit corporation to issue revenue bonds on behalf of  
27 authorized [~~open-enrollment~~] charter schools for the

1 acquisition, construction, repair, or renovation of educational  
2 facilities of those schools.

3 (c) The corporation has all powers granted under the Texas  
4 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's  
5 Texas Civil Statutes) for the purpose of aiding authorized  
6 [~~open-enrollment~~] charter schools in providing educational  
7 facilities. The corporation may make expenditures from the fund  
8 described by Subsection (e) and may solicit and accept grants  
9 for deposit into the fund. In addition, Sections 53.131, 53.15,  
10 53.31, 53.32, 53.331, 53.34, 53.35, 53.36(a), and 53.37-53.42  
11 apply to and govern the corporation and its procedures and  
12 bonds.

13 (d) The corporation shall adopt rules governing the  
14 issuance of bonds on behalf of an authorized [~~open-enrollment~~]  
15 charter school.

16 (f) A revenue bond issued under this section is not a debt  
17 of the state or any state agency, political corporation, or  
18 political subdivision of the state and is not a pledge of the  
19 faith and credit of any of these entities. A revenue bond is  
20 payable solely from the revenue of the authorized [~~open-~~  
21 ~~enrollment~~] charter school on whose behalf the bond is issued.  
22 A revenue bond issued under this section must contain on its  
23 face a statement to the effect that:

24 (1) neither the state nor a state agency, political  
25 corporation, or political subdivision of the state is obligated  
26 to pay the principal of or interest on the bond; and

27 (2) neither the faith and credit nor the taxing power

1 of the state or any state agency, political corporation, or  
2 political subdivision of the state is pledged to the payment of  
3 the principal of or interest on the bond.

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

6 (1) is owned by an authorized [~~open-enrollment~~]  
7 charter school;

8 (2) is held for the exclusive benefit of the school;  
9 and

10 (3) is held for the exclusive use of the students,  
11 faculty, and staff members of the school.

12 SECTION 4.65. Section 411.097(c), Government Code, is  
13 amended to read as follows:

14 (c) A public charter district [~~An open-enrollment charter~~  
15 ~~school~~] is entitled to obtain from the department criminal  
16 history record information maintained by the department that  
17 relates to a person who:

18 (1) is a member of the governing body of the public  
19 charter district [~~school~~], as defined by Section 11A.001  
20 [~~12.1012~~], Education Code; or

21 (2) has agreed to serve as a member of the governing  
22 body of the public charter district [~~school~~].

23 SECTION 4.66. Sections 2175.128(a) and (b), Government  
24 Code, are amended to read as follows:

25 (a) If a disposition of a state agency's surplus or salvage  
26 data processing equipment is not made under Section 2175.125 or  
27 2175.184, the state agency shall transfer the equipment to:

1           (1) a school district or public charter district  
2 [~~open-enrollment charter school~~] in this state under Subchapter  
3 C, Chapter 32, Education Code;

4           (2) an assistance organization specified by the school  
5 district or public charter district; or

6           (3) the Texas Department of Criminal Justice.

7           (b) If a disposition of the surplus or salvage data  
8 processing equipment of a state eleemosynary institution or an  
9 institution or agency of higher education is not made under  
10 other law, the institution or agency shall transfer the  
11 equipment to:

12           (1) a school district or public charter district  
13 [~~open-enrollment charter school~~] in this state under Subchapter  
14 C, Chapter 32, Education Code;

15           (2) an assistance organization specified by the school  
16 district or public charter district; or

17           (3) the Texas Department of Criminal Justice.

18           SECTION 4.67. Section 2306.630(a), Government Code, is  
19 amended to read as follows:

20           (a) Subject to Subsection (b), the following entities may  
21 apply to receive a grant for an eligible project under this  
22 subchapter:

23           (1) a private, nonprofit, tax-exempt organization  
24 listed in Section 501(c)(3), Internal Revenue Code of 1986 (26  
25 U.S.C. Section 501(c)(3));

26           (2) a public agency that operates a community-based  
27 youth employment training program;

1 (3) a community housing development organization  
2 certified by the state;

3 (4) an educational facility approved by the Texas  
4 Youth Commission;

5 (5) a corps-based community service organization;

6 (6) a public charter district [~~an open-enrollment~~  
7 ~~charter school~~] approved by the State Board of Education [~~Texas~~  
8 ~~Education Agency~~]; or

9 (7) another entity authorized by board rule.

10 SECTION 4.68. Section 1575.002(6), Insurance Code, is  
11 amended to read as follows:

12 (6) "Public school" means:

13 (A) a school district;

14 (B) another educational district whose employees  
15 are members of the Teacher Retirement System of Texas;

16 (C) a regional education service center  
17 established under Chapter 8, Education Code; or

18 (D) a public charter district [~~an open-enrollment~~  
19 ~~charter school~~] established under Chapter 11A [~~Subchapter D,~~  
20 ~~Chapter 12~~], Education Code.

21 SECTION 4.69. Section 1579.002(3), Insurance Code, is  
22 amended to read as follows:

23 (3) "Charter school" means a public charter district  
24 [~~an open-enrollment charter school~~] established under Chapter  
25 11A [~~Subchapter D, Chapter 12~~], Education Code.

26 SECTION 4.70. Section 140.005, Local Government Code, is  
27 amended to read as follows:

1           Sec. 140.005. ANNUAL FINANCIAL STATEMENT OF SCHOOL, ROAD,  
2 OR OTHER DISTRICT. The governing body of a school district,  
3 public charter district [~~open-enrollment charter school~~], junior  
4 college district, or a district or authority organized under  
5 Article III, Section 52, or Article XVI, Section 59, of the  
6 Texas Constitution, shall prepare an annual financial statement  
7 showing for each fund subject to the authority of the governing  
8 body during the fiscal year:

9           (1) the total receipts of the fund, itemized by source  
10 of revenue, including taxes, assessments, service charges,  
11 grants of state money, gifts, or other general sources from  
12 which funds are derived;

13           (2) the total disbursements of the fund, itemized by  
14 the nature of the expenditure; and

15           (3) the balance in the fund at the close of the fiscal  
16 year.

17           SECTION 4.71. Section 140.006(c), Local Government Code, is  
18 amended to read as follows:

19           (c) The presiding officer of a school district shall submit  
20 a financial statement prepared under Section 140.005 to a daily,  
21 weekly, or biweekly newspaper published within the boundaries of  
22 the district. If a daily, weekly, or biweekly newspaper is not  
23 published within the boundaries of the school district, the  
24 financial statement shall be published in the manner provided by  
25 Subsections (a) and (b). The financial statement of a public  
26 charter district [~~an open-enrollment charter school~~] shall be  
27 made available in the manner provided by Chapter 552, Government

1 Code.

2 SECTION 4.72. Section 375.303(2), Local Government Code, is  
3 amended to read as follows:

4 (2) "Eligible project" means a program authorized by  
5 Section 379A.051 and a project as defined by Sections 2(11) and  
6 4B(a)(2), Development Corporation Act of 1979 (Article 5190.6,  
7 Vernon's Texas Civil Statutes). Notwithstanding this definition,  
8 seeking a charter for or operating a public charter district [~~an~~  
9 ~~open-enrollment charter school~~] authorized by Chapter 11A  
10 [~~Subchapter D, Chapter 12~~], Education Code, is [~~shall~~] not [~~be~~]  
11 an eligible project.

12 SECTION 4.73. Sections 375.308(b) and (c), Local Government  
13 Code, are amended to read as follows:

14 (b) An authority may not:

15 (1) issue bonds or notes without the prior approval of  
16 the governing body of the municipality that created the  
17 authority;

18 (2) seek a charter for or operate, within the  
19 boundaries of the authority, a public charter district [~~an open-~~  
20 ~~enrollment charter school~~] authorized by Chapter 11A [~~Subchapter~~  
21 ~~D, Chapter 12~~], Education Code; or

22 (3) levy ad valorem property taxes.

23 (c) A municipality may not seek a charter for or operate a  
24 public charter district [~~an open-enrollment charter school~~]  
25 authorized by Chapter 11A [~~Subchapter D, Chapter 12~~], Education  
26 Code, within the boundaries of the authority.

27 SECTION 4.74. Section 541.201(15), Transportation Code, is

1 amended to read as follows:

2 (15) "School activity bus" means a bus designed to  
3 accommodate more than 15 passengers, including the operator,  
4 that is owned, operated, rented, or leased by a school district,  
5 county school, public charter district [~~open-enrollment charter~~  
6 ~~school~~], regional education service center, or shared services  
7 arrangement and that is used to transport public school students  
8 on a school-related activity trip, other than on routes to and  
9 from school. The term does not include a chartered bus, a bus  
10 operated by a mass transit authority, or a school bus.

11 SECTION 4.75. Section 57.042(9), Utilities Code, is amended  
12 to read as follows:

13 (9) "Public school" means a public elementary or  
14 secondary school, including a public charter district [~~an open-~~  
15 ~~enrollment charter school~~], a home-rule school district school,  
16 and a school with a campus or campus program charter.

17 SECTION 4.76. Section 4(2), Chapter 22, Acts of the 57th  
18 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's  
19 Texas Civil Statutes), is amended to read as follows:

20 (2) "Educational institution" means a school district  
21 or a public charter district [~~an open-enrollment charter~~  
22 ~~school~~].

23 SECTION 4.77. The following laws are repealed:

24 (1) Section 12.106, Education Code; and

25 (2) Section 40, Chapter 1504, Acts of the 77th  
26 Legislature, Regular Session, 2001.

27 SECTION 4.78. Notwithstanding the repeal of Sections 12.107

1 and 12.128, Education Code, by this Act, those sections continue  
2 to apply to state funds and property received or purchased by an  
3 open-enrollment charter school before September 1, 2006.

4 SECTION 4.79. The changes in law made by Sections 4.04-4.78  
5 of this article apply beginning August 1, 2006, except that  
6 Sections 4.11, 4.12, 4.59, and 4.77 apply beginning September 1,  
7 2005.

8 ARTICLE 5. CONFORMING AMENDMENTS

9 PART A. CONFORMING AMENDMENTS EFFECTIVE

10 SEPTEMBER 1, 2005

11 SECTION 5A.01. Section 22.004(c), Education Code, is  
12 amended to read as follows:

13 (c) The cost of the coverage provided under the program  
14 described by Subsection (a) shall be paid by the state, the  
15 district, and the employees in the manner provided by Chapter  
16 1579 [~~Article 3.50-7~~], Insurance Code. The cost of coverage  
17 provided under a plan adopted under Subsection (b) shall be  
18 shared by the employees and the district using the contributions  
19 by the state described by Subchapter F, Chapter 1579 [~~Section 9,~~  
20 ~~Article 3.50-7~~], Insurance Code [~~, or by Article 3.50-8,~~  
21 ~~Insurance Code~~].

22 SECTION 5A.02. Section 822.201(c), Government Code, is  
23 amended to read as follows:

24 (c) Excluded from salary and wages are:  
25 (1) expense payments;  
26 (2) allowances;  
27 (3) payments for unused vacation or sick leave;

- 1 (4) maintenance or other nonmonetary compensation;
- 2 (5) fringe benefits;
- 3 (6) deferred compensation other than as provided by
- 4 Subsection (b)(3);
- 5 (7) compensation that is not made pursuant to a valid
- 6 employment agreement;
- 7 (8) payments received by an employee in a school year
- 8 that exceed \$5,000 for teaching a driver education and traffic
- 9 safety course that is conducted outside regular classroom hours;
- 10 (9) the benefit replacement pay a person earns as a
- 11 result of a payment made under Subchapter B or C, Chapter 661;
- 12 and
- 13 (10) [~~contributions to a health reimbursement~~
- 14 ~~arrangement account received by an employee under Article 3.50-~~
- 15 ~~8, Insurance Code; and~~
- 16 [~~(11)~~] any compensation not described by Subsection
- 17 (b).

18 SECTION 5A.03. Section 1581.702, Insurance Code, is amended

19 to read as follows:

20 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide

21 additional support for a school district to which this section

22 applies in an amount computed by multiplying the total amount of

23 supplemental compensation that district employees would have

24 received [by district employees] under Chapter 1580, as it

25 existed on January 1, 2005, by 0.062.

26 SECTION 5A.04. This part applies beginning with the 2005-

27 2006 school year.

1 PART B. CONFORMING AMENDMENTS

2 RELATED TO EDUCATION FUNDING AND STATE PROPERTY TAX

3 SECTION 5B.01. Section 12.013(b), Education Code, is  
4 amended to read as follows:

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

6 (1) a provision of this title establishing a criminal  
7 offense;

8 (2) a provision of this title relating to limitations  
9 on liability; and

10 (3) a prohibition, restriction, or requirement, as  
11 applicable, imposed by this title or a rule adopted under this  
12 title, relating to:

13 (A) the Public Education Information Management  
14 System (PEIMS) to the extent necessary to monitor compliance  
15 with this subchapter as determined by the commissioner;

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

18 (C) criminal history records under Subchapter C,  
19 Chapter 22;

20 (D) student admissions under Section 25.001;

21 (E) school attendance under Sections 25.085,  
22 25.086, and 25.087;

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

25 (G) elementary class size limits under Section  
26 25.112, in the case of any campus in the district that is  
27 considered academically unacceptable [~~low-performing~~] under

1 Section 39.132;

2 (H) high school graduation under Section 28.025;

3 (I) special education programs under Subchapter  
4 A, Chapter 29;

5 (J) bilingual education under Subchapter B,  
6 Chapter 29;

7 (K) prekindergarten programs under Subchapter E,  
8 Chapter 29;

9 (L) safety provisions relating to the  
10 transportation of students under Sections 34.002, 34.003,  
11 34.004, and 34.008;

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

14 (N) extracurricular activities under Section  
15 33.081;

16 (O) health and safety under Chapter 38;

17 (P) public school accountability under  
18 Subchapters B, C, D, and G, Chapter 39;

19 (Q) [~~equalized wealth under Chapter 41;~~

20 [~~R~~] a bond or other obligation or tax rate  
21 under Chapters 42, 43, and 45; and

22 (R) [~~S~~] purchasing under Chapter 44.

23 SECTION 5B.02. Section 12.029(b), Education Code, is  
24 amended to read as follows:

25 (b) If [~~Except as provided by Subchapter H, Chapter 41, if~~]  
26 two or more school districts having different status, one of  
27 which is home-rule school district status, consolidate into a

1 single district, the petition under Section 13.003 initiating  
2 the consolidation must state the status for the consolidated  
3 district. The ballot shall be printed to permit voting for or  
4 against the proposition: "Consolidation of (names of school  
5 districts) into a single school district governed as (status of  
6 school district specified in the petition)."

7 SECTION 5B.03. Section 21.410(h), Education Code, is  
8 amended to read as follows:

9 (h) A grant a school district receives under this section  
10 is in addition to any funding the district receives under  
11 Chapter 42. The commissioner shall distribute funds under this  
12 section with the Foundation School Program payment to which the  
13 district is entitled as soon as practicable after the end of the  
14 school year as determined by the commissioner. [~~A district to  
15 which Chapter 41 applies is entitled to the grants paid under  
16 this section.~~] The commissioner shall determine the timing of  
17 the distribution of grants to a district that does not receive  
18 Foundation School Program payments.

19 SECTION 5B.04. Section 21.411(h), Education Code, is  
20 amended to read as follows:

21 (h) A grant a school district receives under this section  
22 is in addition to any funding the district receives under  
23 Chapter 42. The commissioner shall distribute funds under this  
24 section with the Foundation School Program payment to which the  
25 district is entitled as soon as practicable after the end of the  
26 school year as determined by the commissioner. [~~A district to  
27 which Chapter 41 applies is entitled to the grants paid under~~

1 ~~this section.]~~ The commissioner shall determine the timing of  
2 the distribution of grants to a district that does not receive  
3 Foundation School Program payments.

4 SECTION 5B.05. Section 21.412(h), Education Code, is  
5 amended to read as follows:

6 (h) A grant a school district receives under this section  
7 is in addition to any funding the district receives under  
8 Chapter 42. The commissioner shall distribute funds under this  
9 section with the Foundation School Program payment to which the  
10 district is entitled as soon as practicable after the end of the  
11 school year as determined by the commissioner. [~~A district to  
12 which Chapter 41 applies is entitled to the grants paid under  
13 this section.]~~ The commissioner shall determine the timing of  
14 the distribution of grants to a district that does not receive  
15 Foundation School Program payments.

16 SECTION 5B.06. Section 21.413(h), Education Code, as added  
17 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular  
18 Session, 2003, is amended to read as follows:

19 (h) A grant a school district receives under this section  
20 is in addition to any funding the district receives under  
21 Chapter 42. The commissioner shall distribute funds under this  
22 section with the Foundation School Program payment to which the  
23 district is entitled as soon as practicable after the end of the  
24 school year as determined by the commissioner. [~~A district to  
25 which Chapter 41 applies is entitled to the grants paid under  
26 this section.]~~ The commissioner shall determine the timing of  
27 the distribution of grants to a district that does not receive

1 Foundation School Program payments.

2 SECTION 5B.07. Section 29.014(d), Education Code, is  
3 amended to read as follows:

4 (d) The accreditation [~~basic~~] allotment for a student  
5 enrolled in a district to which this section applies is adjusted  
6 by:

7 (1) the cost of education adjustment under Section  
8 42.102 for the school district in which the district is  
9 geographically located; and

10 (2) the weight for a homebound student under Section  
11 42.151(a).

12 SECTION 5B.08. Section 29.087(j), Education Code, is  
13 amended to read as follows:

14 (j) For purposes of funding under Chapters [~~41~~] 42[~~7~~] and  
15 46, a student attending a program authorized by this section may  
16 be counted in attendance only for the actual number of hours  
17 each school day the student attends the program, in accordance  
18 with Sections 25.081 and 25.082.

19 SECTION 5B.09. Section 29.203(b), Education Code, is  
20 amended to read as follows:

21 (b) A school district is entitled to the allotment provided  
22 by Section 42.157 for each eligible student using a public  
23 education grant. [~~If the district has a wealth per student~~  
24 ~~greater than the guaranteed wealth level but less than the~~  
25 ~~equalized wealth level, a school district is entitled under~~  
26 ~~rules adopted by the commissioner to additional state aid in an~~  
27 ~~amount equal to the difference between the cost to the district~~

1 ~~of providing services to a student using a public education~~  
2 ~~grant and the sum of the state aid received because of the~~  
3 ~~allotment under Section 42.157 and money from the available~~  
4 ~~school fund attributable to the student.]~~

5 SECTION 5B.10. Section 30.003, Education Code, is amended  
6 by adding Subsection (f-1) to read as follows:

7 (f-1) The commissioner shall determine the total amount  
8 that the Texas School for the Blind and Visually Impaired and  
9 the Texas School for the Deaf would have received from school  
10 districts pursuant to this section if H.B. No. 2, Acts of the  
11 79th Legislature, Regular Session, 2005, had not reduced the  
12 districts' share of the cost of providing education services.  
13 That amount, minus any amount the schools do receive from school  
14 districts, shall be set apart as a separate account in the  
15 foundation school fund and appropriated to those schools for  
16 educational purposes.

17 SECTION 5B.11. Section 37.0061, Education Code, is amended  
18 to read as follows:

19 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
20 JUVENILE RESIDENTIAL FACILITIES. A school district that  
21 provides education services to pre-adjudicated and post-  
22 adjudicated students who are confined by court order in a  
23 juvenile residential facility operated by a juvenile board is  
24 entitled to count such students in the district's average daily  
25 attendance for purposes of receipt of state funds under the  
26 Foundation School Program. ~~[If the district has a wealth per~~  
27 ~~student greater than the guaranteed wealth level but less than~~

1 ~~the equalized wealth level, the district in which the student is~~  
2 ~~enrolled on the date a court orders the student to be confined~~  
3 ~~to a juvenile residential facility shall transfer to the~~  
4 ~~district providing education services an amount equal to the~~  
5 ~~difference between the average Foundation School Program costs~~  
6 ~~per student of the district providing education services and the~~  
7 ~~sum of the state aid and the money from the available school~~  
8 ~~fund received by the district that is attributable to the~~  
9 ~~student for the portion of the school year for which the~~  
10 ~~district provides education services to the student.]~~

11 SECTION 5B.12. Section 87.208, Education Code, is amended  
12 to read as follows:

13 Sec. 87.208. SEABORNE CONSERVATION CORPS. If the board of  
14 regents of The Texas A&M University System administers a program  
15 that is substantially similar to the Seaborne Conservation Corps  
16 as it was administered by the board during the 1998-1999 school  
17 year, the program is entitled, for each student enrolled, to  
18 allotments from the Foundation School Program under Chapter 42  
19 as if the program were a school district, except that:

20 (1) the program has a local share applied that is  
21 equivalent to the local fund assignment of the school district  
22 in which the principal facilities of the program are located;  
23 and

24 (2) the district enrichment tax rate under Section  
25 42.302 is the average district enrichment tax rate for the  
26 state.

27 SECTION 5B.13. Section 96.707(k), Education Code, is

1 amended to read as follows:

2 (k) For each student enrolled in the academy, the academy  
3 is entitled to allotments from the Foundation School Program  
4 under Chapter 42 as if the academy were a school district,  
5 except that:

6 (1) the academy has a local share applied that is  
7 equivalent to the local fund assignment of the Beaumont  
8 Independent School District; and

9 (2) the district enrichment tax rate under Section  
10 42.302 is the average district enrichment tax rate for the  
11 state.

12 SECTION 5B.14. Section 105.301(e), Education Code, is  
13 amended to read as follows:

14 (e) The academy is not subject to the provisions of this  
15 code, or to the rules of the Texas Education Agency, regulating  
16 public schools, except that:

17 (1) professional employees of the academy are entitled  
18 to the limited liability of an employee under Section 22.0511,  
19 22.0512, or 22.052;

20 (2) a student's attendance at the academy satisfies  
21 compulsory school attendance requirements; ~~and~~

22 (3) for each student enrolled, the academy is entitled  
23 to allotments from the foundation school program under Chapter  
24 42 as if the academy were a school district without a basic  
25 program ~~[tier one]~~ local share for purposes of Section 42.253;  
26 and

27 (4) in determining funding for the academy:

1                   (A) the adjustment under Section 42.102 is the  
2 adjustment of the school district in which the principal  
3 facilities of the academy are located; and

4                   (B) the district enrichment tax rate under  
5 Section 42.302 is the average district enrichment tax rate for  
6 the state.

7           SECTION 5B.15. Section 317.005(f), Government Code, is  
8 amended to read as follows:

9           (f) The governor or board may adopt an order under this  
10 section withholding or transferring any portion of the total  
11 amount appropriated to finance the foundation school program for  
12 a fiscal year. The governor or board may not adopt such an  
13 order if it would result in an allocation of money between  
14 particular programs or statutory allotments under the foundation  
15 school program contrary to the statutory proration formula  
16 provided by Section 42.253(h), Education Code. The governor or  
17 board may transfer an amount to the total amount appropriated to  
18 finance the foundation school program for a fiscal year and may  
19 increase the accreditation [~~basic~~] allotment. The governor or  
20 board may adjust allocations of amounts between particular  
21 programs or statutory allotments under the foundation school  
22 program only for the purpose of conforming the allocations to  
23 actual pupil enrollments or attendance.

24           SECTION 5B.16. Section 403.302(a), Government Code, is  
25 amended to read as follows:

26           (a) The comptroller shall conduct an annual study using  
27 comparable sales and generally accepted auditing and sampling

1 techniques to determine the total taxable value of all property  
2 in each school district. The study shall determine the taxable  
3 value of all property and of each category of property in the  
4 district and the productivity value of all land that qualifies  
5 for appraisal on the basis of its productive capacity and for  
6 which the owner has applied for and received a productivity  
7 appraisal. [~~The comptroller shall make appropriate adjustments~~  
8 ~~in the study to account for actions taken under Chapter 41,~~  
9 ~~Education Code.~~]

10 SECTION 5B.17. Section 2175.304(c), Government Code, is  
11 amended to read as follows:

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

27 SECTION 5B.18. Section 1579.251(a), Insurance Code, is

1 amended to read as follows:

2 (a) The state shall assist employees of participating  
3 school districts and charter schools in the purchase of group  
4 health coverage under this chapter by providing for each covered  
5 employee the amount of \$900 each state fiscal year or a greater  
6 amount as provided by the General Appropriations Act. The state  
7 contribution shall be distributed through the school finance  
8 formulas under Chapter [~~Chapters 41 and~~] 42, Education Code, in  
9 a manner the commissioner of education determines appropriate  
10 [~~and used by school districts and charter schools as provided by~~  
11 ~~Sections 42.2514 and 42.260, Education Code]~~.

12 SECTION 5B.19. Section 6.02(b), Tax Code, is amended to  
13 read as follows:

14 (b) A taxing unit that has boundaries extending into two or  
15 more counties may choose to participate in only one of the  
16 appraisal districts. In that event, the boundaries of the  
17 district chosen extend outside the county to the extent of the  
18 unit's boundaries. To be effective, the choice must be approved  
19 by resolution of the board of directors of the district chosen.

20 [~~The choice of a school district to participate in a single~~  
21 ~~appraisal district does not apply to property annexed to the~~  
22 ~~school district under Subchapter C or G, Chapter 41, Education~~  
23 ~~Code, unless:~~

24 [~~(1) the school district taxes property other than~~  
25 ~~property annexed to the district under Subchapter C or G,~~  
26 ~~Chapter 41, Education Code, in the same county as the annexed~~  
27 ~~property; or~~

1           ~~[(2) the annexed property is contiguous to property in~~  
2 ~~the school district other than property annexed to the district~~  
3 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

4           SECTION 5B.20. Section 21.01, Tax Code, is amended to read  
5 as follows:

6           Sec. 21.01. REAL PROPERTY. Real property is taxable by a  
7 taxing unit if located in the unit on January 1~~[, except as~~  
8 ~~provided by Chapter 41, Education Code].~~

9           SECTION 5B.21. Section 21.02(a), Tax Code, is amended to  
10 read as follows:

11           (a) Except as provided by ~~[Subsection (b) and]~~ Sections  
12 21.021, 21.04, and 21.05, tangible personal property is taxable  
13 by a taxing unit if:

14           (1) it is located in the unit on January 1 for more  
15 than a temporary period;

16           (2) it normally is located in the unit, even though it  
17 is outside the unit on January 1, if it is outside the unit only  
18 temporarily;

19           (3) it normally is returned to the unit between uses  
20 elsewhere and is not located in any one place for more than a  
21 temporary period; or

22           (4) the owner resides (for property not used for  
23 business purposes) or maintains the owner's ~~[his]~~ principal  
24 place of business in this state (for property used for business  
25 purposes) in the unit and the property is taxable in this state  
26 but does not have a taxable situs pursuant to Subdivisions (1)  
27 through (3) ~~[of this section]~~.

1 SECTION 5B.22. Section 39.901(d), Utilities Code, is  
2 amended to read as follows:

3 (d) Not later than May 1 of each year, subject to Section  
4 39.903(b), the commission shall transfer from the system benefit  
5 fund to the foundation school fund the amount determined by the  
6 Texas Education Agency under Subsection (b) to the extent that  
7 funds are available. Amounts transferred from the system benefit  
8 fund under this section may be appropriated only for the support  
9 of the Foundation School Program and are available, in addition  
10 to any amounts allocated by the General Appropriations Act, to  
11 finance actions under Section [~~41.002(b) or~~] 42.2521, Education  
12 Code.

13 SECTION 5B.23. This part applies beginning with the 2006-  
14 2007 school year.

15 ARTICLE 6. REPEALER; TRANSITION; EFFECTIVE DATE

16 SECTION 6.01. Effective September 1, 2005, the following  
17 laws are repealed:

18 (1) Sections 1-3 and 57, Chapter 201, Acts of the 78th  
19 Legislature, Regular Session, 2003;

20 (2) Chapter 313, Acts of the 78th Legislature, Regular  
21 Session, 2003;

22 (3) Section 1.01, Chapter 366, Acts of the 78th  
23 Legislature, Regular Session, 2003;

24 (4) Sections 7.006, 29.056(h), 37.004(g), 39.027(b),  
25 (c), and (f), and 42.253(e-1), Education Code;

26 (5) the following provisions of the Insurance Code:

27 (A) Section 1579.253(b); and

1                   (B) Chapter 1580; and  
2                   (6) Sections 401.314(e), (f), and (g), Occupations  
3 Code.

4           SECTION 6.02. Effective September 1, 2006, the following  
5 laws are repealed:

6           (1) the following provisions of the Education Code:

7                   (A) Chapter 41;

8                   (B) Subchapter F, Chapter 42, as it existed on  
9 November 1, 2005;

10                   (C) Sections 7.055(b)(34), 21.402(b), 29.203(c)  
11 and (g), 30.003(b)-(f), 31.025, 31.1031, 42.103(e), 42.158(e),  
12 42.2514, 42.2517, 42.259, 42.260, and 42.4101; and

13                   (D) Sections 42.2512(a-1) and 42.2541, as added  
14 by Part A, Article 1, of this Act;

15           (2) the following provisions of the Insurance Code:

16                   (A) Section 1581.053(b); and

17                   (B) Subchapter C, Chapter 1581; and

18           (3) Sections 6.02(g), 6.03(m), 21.02(b) and (c), and  
19 25.25(k), Tax Code.

20           SECTION 6.03. (a) Except as provided by Subsection (b) of  
21 this section, a school district maintenance tax rate imposed  
22 under Sections 45.002 and 45.003, Education Code, before  
23 November 8, 2005, is void.

24           (b) An election held before November 8, 2005, authorizing a  
25 maintenance tax at a rate of at least \$0.25 on the \$100  
26 valuation of taxable property in a school district is sufficient  
27 to authorize a rate not to exceed \$0.25.

1 SECTION 6.04. (a) Except as provided by Subsection (b) of  
2 this section, if two or more sections of this Act amend the same  
3 provision of law, the sections of the Act should be harmonized,  
4 if possible, so that effect may be given to each section.

5 (b) If a section of this Act repeals a provision of Chapter  
6 12, Education Code, that section prevails over a section of this  
7 Act that amends the same provision.

8 SECTION 6.05. Except as otherwise specifically provided by  
9 this Act, this Act applies beginning with the 2005-2006 school  
10 year.

11 SECTION 6.06. (a) The following provisions of this Act  
12 take effect only if the constitutional amendment proposed by  
13 \_\_\_\_J.R. No. \_\_\_\_, 79th Legislature, Regular Session, 2005, is  
14 approved by the voters:

- 15 (1) Part B, Article 1;
- 16 (2) Section 2A.10;
- 17 (3) Article 3;
- 18 (4) Part B, Article 5; and
- 19 (5) Sections 6.02 and 6.03.

20 (b) If the constitutional amendment proposed by \_\_\_\_J.R.  
21 No. \_\_\_\_, 79th Legislature, Regular Session, 2005, is not  
22 approved by the voters, a provision of this Act described by  
23 Subsection (a) of this section has no effect.

24 (c) Except as otherwise specifically provided by this Act,  
25 this Act takes effect September 1, 2005, but only if H.B. No. 3,  
26 Acts of the 79th Legislature, Regular Session, 2005, becomes  
27 law. If H.B. No. 3 does not become law, this Act has no effect.